

# JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

## Council Assessment Report

Panel Reference	Panel Reference No. 2016HCC023																				
DA Number	49558/2016																				
Local Government Area	Central Coast Council																				
Proposed Development	Residential Flat Development; Demolition of Existing Structures; Construction of Two Towers (99 Units).																				
Street Address	Lot: 23 SEC: 2 DP: 1591, LOT: 1 DP: 874151, Lot: 26 SEC: 2 DP: 1591, Lot: 24 SEC: 2 DP: 1591, Lot: 25 SEC: 2 DP: 1591, 34-36, 38, 40, 42 and 44 Hills Street NORTH GOSFORD																				
Applicant	Beraldo Design																				
Owner	Eclipse on Hills Street Pty Ltd																				
Date of DA Lodgement	31/03/2016																				
Number of Submissions	One (1)																				
Recommendation	Approval - subject to conditions																				
Regional Development Criteria (Schedule 4A of the Act)	Development with a capital investment value over \$20m																				
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"><li>• Environmental Planning &amp; Assessment Act 1979</li><li>• State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65)</li><li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)</li><li>• Gosford Local Environmental Plan 2014</li><li>• Gosford Development Control Plan 2013</li></ul>																				
List all documents submitted with this report for the Panel's consideration	<b>Plans</b> <table><tr><th>Drawing</th><th>Description</th><th>Date</th></tr><tr><td>DA000</td><td>Site Analysis</td><td>2/02/17</td></tr><tr><td>DA001</td><td>Existing Site Survey</td><td>2/02/17</td></tr><tr><td>DA002</td><td>Site Cover Plan</td><td>2/02/17</td></tr><tr><td>DA003</td><td>Cut and Fill Plan</td><td>2/02/17</td></tr><tr><td>DA002</td><td>Schedule</td><td>2/02/17</td></tr></table>			Drawing	Description	Date	DA000	Site Analysis	2/02/17	DA001	Existing Site Survey	2/02/17	DA002	Site Cover Plan	2/02/17	DA003	Cut and Fill Plan	2/02/17	DA002	Schedule	2/02/17
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DA100	Basement Floor Plan	2/02/17
DA101	Basement Upper Plan	2/02/17
DA102	Ground Floor- Site Plan	2/02/17
DA103	L1 Plan	2/02/17
DA104	Level 2 Plan	2/02/17
DA105	Level 3 Plan	2/02/17
DA106	Level 4 Plan	2/02/17
DA107	Level 5 Plan	2/02/17
DA108	Level 6 Plan	2/02/17
DA109	Level 7 Plan	2/02/17
DA110	Level 8 Plan	2/02/17
DA111	Roof Plan	2/02/17
DA200	East Elevation	2/02/17
DA201	South Elevation	2/02/17
DA202	West Elevation	2/02/17
DA203	North Elevation	2/02/17
DA201	Building B South Elevation	2/02/17
DA201	Building A North Elevation	2/02/17
DA300	Section A-A	2/02/17
DA100	Section B-B	2/02/17
DA302	Section C-C, D-D 25	2/02/17
DA303	Section E-E 26	2/02/17
DA304	Sections F-F, G-G 21	2/02/17
DA500	Typical Adaptable Layouts	14/03/16
DA600	L 1-3 Adaptable Layouts	2/02/17
DA601	L4-7 Adaptable Plans	2/02/17
1A	Stormwater Detention Tank	3/11/16
15/1822	Landscape Site Plan	27/10/16
15/182	Landscape Planting Plan	27/10/16
-	Building A; Building B 22	
-	Section 23 -	
SW1A	Basement 2 Stormwater Drainage Layout Plan	2/12/15
SW2A	Basement 1 Stormwater Drainage Layout Plan	2/12/15
SW3a	Ground Floor Stormwater Drainage Layout Plan	2/12/15
SW4A	Stormwater Details	2/12/15
SW5A	Stormwater Details	2/12/15
19017A	Detailed Survey Plan	21/07/15
15128	External Finishes Schedule – P1	Nov 2015
15128	External Finishes Schedule – P2	Nov 2015
<b>Supporting Documentation</b>		
No.	Title	Date
1	Statement of Environmental Effects	December 2015
2	Traffic and Parking Impact Assessment	15/03/15
3	Access Report	March 2015

	4	SEPP 65 Design Statement	December 2015
	5	Quantity Surveyors Report	3 March 2016
	6	Noise and Vibration Intrusion Assessment	17 December 2015
	7	Environmental Noise Assessment	17 December 2015
	8	Photomontage -	
	9	3D Models (sheets 31-21)	2/02/17
	10	Shadow Diagrams (sheet 33 only)	2/02/17
	11	FSR Calculation Plans (Sheets 37-39)	2/02/17
	12	Solar/ Ventilation Plans (Sheet 40-43)	2/02/17
	13	Erosion and Sediment Control Plans	20/11/15
	14	Landscape Calculation Plan	2/02/17
	15	BASIX Certificate	7/02/16
	16	Water Cycle Management Plan	8/12/15
	17	Waste Management Plan	20 May 2016
	18	Bin Lifter Specification	8/08/15
	19	BCA Compliance Assessment	23/03/16
	20	Arboricultural Assessment	13 November 2015
	21	Clause 4.6 Variation (Height)	December 2015
Report prepared by	A Stuart		
Report date	15 March 2017		

#### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

#### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?

Yes

*e.g. Clause 7 of SEPP 55 – Remediation of Land, Clause 4.6(4) of the relevant LEP*

#### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Not Applicable

#### Conditions

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable comments to be considered as part of the assessment report.*

Yes

**Title:** Development Application No. 49558/2016, Proposed Residential Flat Building - Two Towers (101 Units) & Demolition of Existing Structures on Lot: 23 SEC: 2 DP: 1591, LOT: 1 DP: 874151, Lot: 26 SEC: 2 DP: 1591, Lot: 24 SEC: 2 DP: 1591, Lot: 25 SEC: 2 DP: 1591, 34-36, 38, 40, 42 and 44 Hills Street NORTH GOSFORD

**Department:** Environment and Planning

### Report Purpose:

To enable the determination of a development application.

Applicant	Beraldo Design
Owner	Eclipse on Hills Street Pty Ltd
Application Number	49558/2016
Description of Land	Lot: 23 SEC: 2 DP: 1591, LOT: 1 DP: 874151, Lot: 26 SEC: 2 DP: 1591, Lot: 24 SEC: 2 DP: 1591, Lot: 25 SEC: 2 DP: 1591, 34-36, 38, 40, 42 and 44 Hills Street NORTH GOSFORD
Proposed Development	Residential Flat Development; Demolition of Existing Structures; Construction of Two Towers (99 Units)
Zoning	R1 General Residential
Site Area	3284m <sup>2</sup>
Existing Use	Three single storey dwellings and vegetation.
Value of Works	\$25,250,000.00

DRAFT

### Summary:

An application has been received wherein approval is sought for an apartment building development containing ninety-nine (99) dwellings to be located within two (2) buildings. The application has been assessed against the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application proposes a variation to the height development standard applicable under Gosford Local Environmental Plan 2014 (GLEP 2014). The application also seeks a number of variations to Gosford Development Control Plan 2013 (GDGP 2013) and the Apartment Design Guide, the extent of which are supportable.

It is considered the proposal will not detract from the character or scenic qualities of the area to an unacceptable extent, or have unreasonable impacts on the environment.

All relevant matters under Section 79C of the EP&A 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**.

<b>Application Type</b>	Development Application – Local
<b>Application Lodged</b>	31/03/2016
<b>Delegation level</b>	Joint Regional Planning Panel
<b>Reason for delegation level</b>	Value greater than \$20 million

<b>Advertised and Notified</b>	Exhibition period closed on 06/05/2016
<b>Submissions</b>	One (1)
<b>Disclosure of Political Donations &amp; Gifts</b>	No

### Recommendation:

- A JRPP assume the concurrence of the Secretary of the Department of Planning and Environment for the use of Clause 4.6 within Gosford Local Environmental Plan 2014 to vary Clause 8.9(3)(a) (Height of Buildings) of the Gosford Local Environmental Plan 2014 to permit the proposed development.
- B JRPP as consent authority grant consent to Development Application No 49558/2016 for Residential Flat Building - Two Towers (99 Units) & Demolition of Existing Structures on Lot: 23 SEC: 2 DP: 1591, LOT: 1 DP: 874151, Lot: 26 SEC: 2 DP: 1591, Lot: 24 SEC: 2 DP: 1591, Lot: 25 SEC: 2 DP: 1591, 34-36, 38, 40, 42 and 44 Hills Street North Gosford, subject to the conditions attached.
- C In accordance with Section 95(1) of the *Environmental Planning and Assessment Act 1979*, this consent shall be valid for a period of two (2) years.
- D The objector is notified of decision.

### Summary of Non Compliance:

Policy	Details
GLEP 2014	Building Height – supported.
GDCP 2013	Street Frontage Height – minor, supported. Building Depth and Bulk – supported. Setbacks – minor, supported. Site Cover – minor, supported. Deep Soil Zones – minor, supported. Street address – minor, supported. Vehicle Access- supported. On-site Car parking – minor, supported. Wind Mitigation –supported. Housing Choice & Mix –minor, supported. Storage – minor, supported.
State Environmental Planning Policy No. 65/ Apartment Design Guide	Apartment Size –minor, supported. Common Circulation–minor, supported. Deep Soil Zones – supported. Storage - minor, supported. Balconies – minor, supported. Room depths – minor, supported. Visual Privacy – minor, supported.

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## Background:

Council's records show no prior applications have been lodged on this site relevant to this matter.

## Site & Surrounds:

The site is known as Lot: 23 SEC: 2 DP: 1591, LOT: 1 DP: 874151, Lot: 26 SEC: 2 DP: 1591, Lot: 24 SEC: 2 DP: 1591, Lot: 25 SEC: 2 DP: 1591 34-36, 38, 40, 42 and 44 Hills Street North Gosford. The site is located on the western side of Hills Street between Etna Street and Lindsey Street.



**Figure 1 – Site Location Aerial (site shown edged heavy black)**

The immediate locality is characterised by a mix of land use and building types. To the west of the site, the land is zoned B4 Mixed Use and is occupied by commercial building and associated car parking areas. To the north, south and east of the site, the land is zoned R1 General Residential, and is generally occupied by low scale dwelling houses. North- east of the site on the opposite side of Hills Street, a multi storey residential flat development has recently been constructed.





**Figure 2 - Zoning Map (site shown edged heavy black)**

The site is not identified as being "bushfire prone land" on Council's bushfire maps.

### **The Proposal:**

The proposal comprises:

- Clearing and excavation of the site.
- A total of ninety- nine (99) apartments are proposed, with a total of one hundred and twenty-five (125) car spaces, including twenty- one (21) visitor and sixteen (16) adaptable spaces. Forty – three (43) bicycle storage spaces and seven (7) motorcycle spaces are proposed.
- This is broken into two residential flat buildings comprised as follows:
  - Building A is located at the southern end of the site, is nine (9) storeys in height and contains sixty-six (66) apartments and eighty-one (81) car spaces:
    - Basement Lower: Non adaptable car spaces (42); Adaptable car spaces (2); Motorcycle spaces (2).
    - Basement Upper: Non adaptable car spaces (13); Adaptable car spaces (10); Visitor car spaces (14); Bicycle spaces (28); Motorcycle spaces (3).
  - Building B is located at the northern end of the site, is eight (8) storeys in height and contains thirty-three (33) apartments and forty-four (44) car spaces:
    - Basement Lower: Non adaptable car spaces (25); Motorcycle spaces (1).
    - Basement Upper: Non adaptable car spaces (8); Adaptable car spaces (4); Visitor car spaces (7); Bicycle spaces (15); Motorcycle spaces (1).

- At the ground level of Building B is a common room, gym, swimming pool and associated facilities.
- Landscaping on the site is proposed in accordance with the landscape plan accompanying the application.
- A screening device composed of perforated metal and vertical aluminium blades encompasses the external façade of levels 1-4 in both Buildings A and B. Louvres and obscured glass are also proposed in accordance with the external finishes schedule accompanying the application.
- Waste collection will take place in the Ground Level Waste Enclosure of Building A. Two driveways will serve Building A. One reserved for Heavy Rigid Vehicles – primarily the Council's waste collection truck, and the other for residents vehicles.
- Each apartment block will have its own separate accessible two level basement carpark.
- Each building will have its own exclusive pedestrian access points from Hill Street. Basement access is via lift cores and stairwells after entering the respective lobbies.
- Communal outdoor open space and landscaping is proposed on site at ground level and on the roof tops of each basement carpark. Further communal facilities are provided internally at the ground level of Building B.
- On site detention has been located at the rear of the development behind each of the buildings. Building A has a below ground detention tank and some above ground detention. Building B has above ground detention only.
- 15% of apartments (16 units) are capable of being modified to create adaptable units.
- The following table indicates the proposed unit mix:

<b>Residential Units (Building A and B)</b>			
	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>
<b>Ground Floor</b>	2	2	-
<b>First Floor</b>	3	6	2
<b>Second Floor</b>	5	9	1
<b>Third Floor</b>	5	9	1
<b>Fourth Floor</b>	4	7	1
<b>Fifth Floor</b>	4	7	1
<b>Sixth Floor</b>	4	7	1
<b>Seventh Floor</b>	4	7	1
<b>Eighth Floor</b>	0	5	1
<b>Total Units</b>	<b>31 (31.3%)</b>	<b>59 (59.6%)</b>	<b>9 (9.1%)</b>

- A photomontage of the proposal, viewed from south of the site on Hill Street, orientated north-west, is provided below (Figure 3).





**Figure 3 - Photomontage (showing Hill Street perspective)**

#### **Applicable Planning Controls:**

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

- Environmental Planning & Assessment Act 1979 - Section 79C
- Roads Act 1997
- Water Management Act 2000
- State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Apartment Development
- State Environmental Planning Policy (SEPP) No 71 - Coastal Protection
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Gosford Local Environmental Plan 2014
- Gosford Development Control Plan 2013

#### **Draft Environmental Planning Instruments:**

There are no draft environmental planning instruments relevant to the site.

#### **Permissibility:**

The subject site is zoned R1 General Residential under GLEP 2014 (Figure 3). The proposed development is defined residential flat buildings which is permissible in the zone with consent.

#### **Public Submissions:**

One public submission was received in relation to the application. The submission did not raise any objections specific to the proposal but raised the following general points:

- *Infrastructure should be prioritised over developments*

#### **Response**

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Council has a range of infrastructure and services within the locality, including hard infrastructure such as roads, drainage and footpaths but also softer infrastructure such as social services, parks and libraries.

Council is unable to refuse private development in favour of the carrying out of public infrastructure work. The development is proposed within Gosford City Centre area, is highly accessible to public transport, services, retail and open space facilities and is considered to be adequately serviced by infrastructure.

It is noted that the development will be subject to Section 94 charges which contribute to improving and providing infrastructure items related to the increasing growth of population.

- *All new developments should have environmentally sustainable building materials and architectural design*

**Response**

Council has assessed the proposal against the design quality principles which apply under SEPP 65 and conclude that the proposal meets the principles to a satisfactory degree.

The design incorporates design elements including balconies, shading screens which provide architectural interest and perform an environmental management role through passive solar screening.

Further, the application is also supported by a BASIX certificate which confirms the proposal will meet the NSW government's requirements for sustainability.

- *Development should ensure transport, water supply and energy requirements are met into the future.*

**Response**

The development application was supported by a traffic impact assessment which has been considered in the assessment. The application is not traffic generating development under Clause 104 of the Infrastructure SEPP. The site is within walking distance of both bus and train stations in addition to the range of retail, commercial and services available with the Gosford City Centre. Adequate parking is provided within the development in line with the RMS guidelines. Appropriate conditions are imposed in relation to servicing the development with utilities.

The proposed development has been assessed against relevant planning legislation and controls and has been found to be worthy of support. The matters raised in the objection have been addressed.

**Assessment:**

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information.

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## **Provisions of Relevant Instruments/Plans/Policies**

### **State Environmental Planning Policies:**

#### State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

The proposal is subject to the requirements of SEPP 65. The application is supported by a Design Verification Statement prepared by Maurice Beraldo, Reg. Architect No. 6354 and an assessment of compliance against the Apartment Design Guide (ADG) design criteria.

Council's Architect has provided assessment advice in relation to the SEPP 65 Design Quality Principles which is provided in detail elsewhere in this report. Several concerns were raised and are summarised below:

- Context:
  - The non-compliance with height controls, particularly when combined with non-complying deep soil zones will result in a building inconsistent with the existing and likely future character of the area.
- Built form and scale:
  - The non-complying deep soil zones results in excessive scale and the appearance of a wall of buildings at street level.
  - The parking podium forms a 3-4 metre high blank wall at the rear and sides of the site. The ADG recommends parking levels are located within the building footprint.
  - The use of two vehicle access points and a separate garbage collection dock results in 14 metres or over 19% of the site frontage being occupied by roller doors. As a minimum the access to Building B should be reduced to a single lane and setback to further reduce the impact. Details of a decorative style of door rather than industrial roller shutters should be provided.
  - The use of perforated metal overlays is innovative and may be successful if used for climbing plants, but it appears to obstruct outlook and solar access to many balconies.
- Density:
  - The FSR complies but non-complying height and deep soil zones suggests the application is an over development of the site.
- Landscape:
  - The application achieves 7% area but proposes minimum dimensions of 3 metres on both sides and only 600mm at the rear.

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- The wider section between the buildings is in permanent shade and is largely occupied by paving. This results in generally inadequate areas for the significant landscaping necessary to screen the building and provide outlook and visual separation between this and future adjoining developments.
  - Parking and OSD should be amended to provide some complying areas of deep soil in all corners of the site to ensure adequate soil volume and area for large trees that do not interfere with the building.

With regard to the Design Quality Principles contained within Schedule 1 of SEPP 65, the following additional consideration is provided.

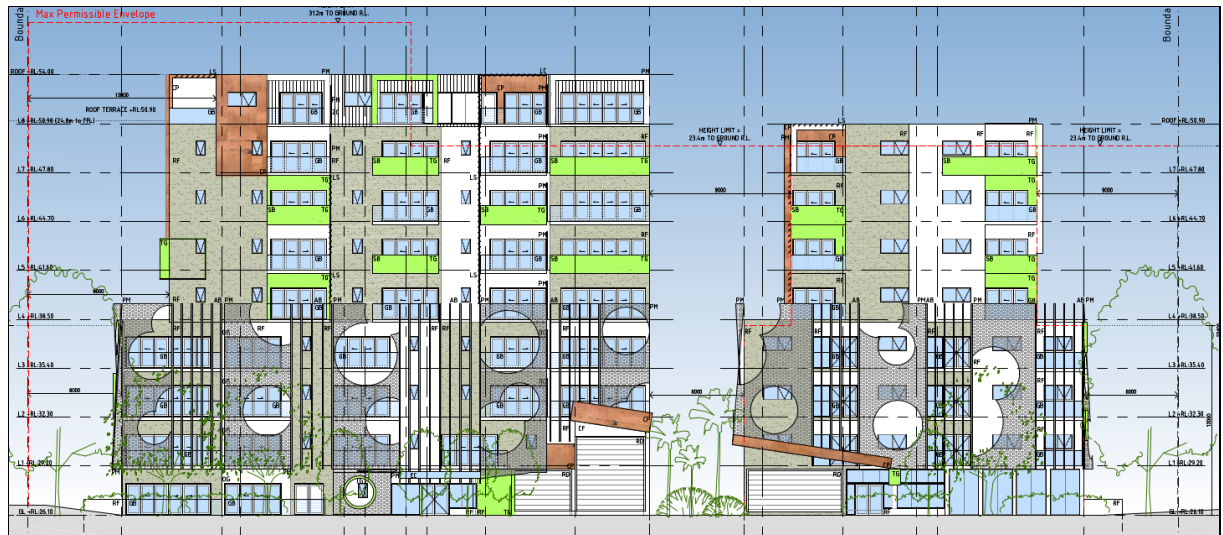
*Principle 1: Context and neighbourhood character*

Development within the locality is currently of a low density residential scale. However, the area is in transition with higher density residential flat developments starting to emerge along the street.

The site is subject to two height controls being 18m and 24m, and these controls extend to properties surrounding the site. Into the future, these properties are capable of achieving a similar form as the proposed development (excluding the bonus provisions).

It is noted that the proposed FSR is less than that which is achievable with the 30% bonus provisions which apply to this development application. The proposed development provides a less bulky development compared to what the controls allow..

In relation to the concerns raised regarding the two vehicle access points and a separate garbage collection dock, it is confirmed that a common car park with a single entry is not possible because of the drainage easement through the middle of the site. Whilst a common carpark with a single entry would be preferred it is not considered the development currently proposed will adversely impact the desired quality of the street scape and neighbourhood character. The street frontage of the property spans approximately 72 metres, of which approximately 14 metres or 19% is occupied by vehicular access, located centrally to the development. It is not considered these elements of the development dominate the streetscape. The ground floor level street façade of the development is also occupied by two (2) apartments, multiple pedestrian entries and other features articulating the developments street façade such as two (2) water features, planter beds occupying over 100m<sup>2</sup>, and a common room.



**Figure 4 - Street Façade**

It is also noted that the proposed access has been specifically designed to meet the Council's requirements for waste and is otherwise considered acceptable.

The treatment of the roller doors to the vehicular access on Hills Street has been reviewed. The Applicant has raised no objection to the imposition of a condition of consent that requires the subject doors to have a similar decorative treatment to the perforated screens used on the building façade. **Refer to Condition 2.11.**

#### *Principle 3: Density*

It is noted that a portion of the buildings exceed the height limit and that the proposal is under the available FSR. As such, it is considered that the design results in a more slender and less bulky design response. The site is generally compliant with setbacks and provides an appropriate landscaped frontage to the street.

The deep soil provision is considered appropriate as discussed elsewhere in this report.

In view of the above, the density of the proposal is considered to be appropriate.

#### *Principle 4: Sustainability*

The proposal complies with BASIX provisions and incorporates solar screening and shading elements which improve the environmental performance of the building.

The development is also within walking distance of shops, services and public transport which promotes reduced reliance on vehicles. The proposal meets passive solar access requirements and provides a water tank for re-use of roof water in landscaped areas.

#### *Principle 5: Landscape*

The proposal provides a deep soil area equivalent to 14% of the site area which is double that required by the ADG. Despite the minimum dimension being less than the 6 metres required, this and other landscaping proposed is considered appropriate having regard to the Design Guidance provisions of Part 3E of the ADG as follows:

- 
- Almost 15% of the site is deep soil area.
  - The proposed setbacks of 3m -5m are adequate to provide appropriate planting.
  - The site is within a desired high density area and significant landscaped area is difficult to achieve.
  - Significant areas of landscaping are provided on the podium which adequately supplements the proposed deep soil planting.
  - Acceptable stormwater management and water reuse is provided.

*Principle 6: Amenity*

The proposal generally provides for building setbacks/separation as required by the ADG. However, where buildings are closer than the recommended minimums, appropriate privacy screening is proposed to ensure that no direct viewing is possible.

With regard to the obstruction of solar access and views from balconies and window opening directly adjoining the perforated metal overlay and blades to the exterior of the building, the following comments are provided: -

- Balconies are generally located at varying distances from the perforated metal overlay and blades to the exterior of the building.
- Those sections of the blade elements to the exterior of the building have been placed at wide intervals to minimise view loss of residents.
- It is considered these distances and location of openings will main adequate solar and light access.

Whilst the ADG recommends parking levels are located within the building footprint, in this instance, no objection is made to the parking podium for the following reasons:

- The topography of the site falls from the Hills Street alignment of the rear of the site by approximately 4 metres (Refer to Section B-B).
- It is considered the development has been appropriately setback back to maintain the amenity of surrounding properties:
  - Within the five (5) metre setback from the carpark wall to the rear boundary, low level planting is proposed adjacent to Building A, with large predominantly indigenous trees provided in the deep soil zone the rear of Building B to offset the direct visual impact of the development. Refer to Figure 5.
  - At the podium level above the carpark, the development is set a further 6 metres back from the car park alignment, resulting in a setback of over 11 metres from the rear boundary on site. In these common areas located above the car park podium over 120m<sup>2</sup> of planters are proposed, wherein the landscape plan identifies these planters to be occupied by mixed deciduous and evergreen small to medium trees.



**Figure 5 - Rear Facade**

- The sites to the rear are zoned B4 Mixed Use and are likely to redevelop in a similar fashion over time.

*Principle 7: Safety*

The development locates balconies and windows toward the street and open space areas to achieve passive surveillance. The pedestrian entryways are clear and public and private space is divided appropriately through landscaping definition.

*Principle 8: Housing diversity and social interaction*

The development is located within the developing fringe of a regional city. The addition of apartments through developments such as these, increase housing choice within the locality in line with State and local strategic plans. The development provides a further mix of unit sizes to meet a range of market demands and community needs.

The proposal provides space internal and external which can be utilised by residents and facilitate social interaction.

*Principle 9: Aesthetics*

The aesthetics of the proposal has been considered by the internal architect and include stepping of the built form, roofing and entry elements, blades and screens and variation of colour and materials. The proposal is considered to be acceptable subject to the imposition of **Condition 2.11**, relating to the provision of appropriate material for the roller doors.

In addition, a detailed assessment of the ADG design criteria is set out in the following table:

Design Criteria	Required	Proposed	Compliance
<b>3D-1 Communal Open Space</b>	Minimum communal open space area 25% of the site	Communal open space has been provided at <b>1115m<sup>2</sup> or 34%</b> of the site area.	Yes
	50% direct sunlight to principal usable part for min 2 hrs between 9am and 3pm mid-winter	The development will comply, with the required <b>50%</b> of direct sunlight to the principle useable area, receiving a minimum of 2	Yes



Design Criteria	Required	Proposed	Compliance
		hours direct sunlight on the 21 June between 9am and 3pm.	
<b>3E-1 Deep Soil Zone</b>	Minimum <b>7%</b> of the site, with minimum dimension 6m for a site greater than 1,500m <sup>2</sup>	<p>The development provides the following deep soil zones:</p> <ul style="list-style-type: none"> <li>The deep soil area between the two towers is at width of approximately 5.2 metres.</li> <li>The deep soil area adjoining the rear boundary, and to the rear of Building B, is at width of approximately 5 metres. Whilst the same setback is proposed to the rear of Building A, on site detention is proposed to the majority of the setback, and the resultant 600mm deep soil zone is considered too limited so as to be included, despite providing landscaped elements.</li> <li>The deep soil area adjoining the southern and northern boundary is at approximately 3.1 metres.</li> </ul> <p>Whilst the above areas adjacent to the southern and northern boundaries do not achieve the minimum dimension of 6 metres, they have been included as deep soil areas in that they meet objective 3E-1 of the ADG. Objective 3E-1 of the ADG, aims at <i>"providing areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality."</i></p> <p>In view of the above, it is considered the proposed deep soil planting provided to the northern and southern boundaries, between the two towers, and to the rear of Building B complies by providing approximately <b>14%</b>.</p>	<p><b>No,</b> minimum dimension of 6 metres is not provided for all deep soil zones proposed. However, no objection is made in that <b>14%</b> of the site will be occupied by deep soil zones which is double that required and the landscaped area achieve an appropriate minimum dimension.</p>

Design Criteria	Required	Proposed	Compliance
	On some sites, it may be possible to provide a greater area for deep soil zones. Sites between greater than 1500m <sup>2</sup> 15% should be achieved, if possible.	<b>14%</b> of the site is provided as deep soil zones, this does not include the area used for on site stormwater management at the rear of building A. As mentioned elsewhere in this report, this area does provide for low level landscaping. If this area was included, the proposal would comply with this design guidance.	<b>No</b> , however no objection is made in this instance. Given the minor variation.
<b>3F-1 Visual Privacy</b>	<p>Separation from boundaries (habitable rooms and balconies):</p> <p>6m (up to 12m in height)  9m (up to 25m in height)  12m (over 25m in height)</p>	<p><u>Northern (side) boundary:</u></p> <ul style="list-style-type: none"> <li>L1- L4: 5.7m- 5.9m (minor non-compliance)</li> <li>L4- L7: 9m (complies)</li> </ul> <p><u>Southern (side) boundary:</u></p> <ul style="list-style-type: none"> <li>Ground Floor: <ul style="list-style-type: none"> <li>3.6m (balconies) (non-compliance)</li> <li>&gt;6m (building alignment) (complies)</li> </ul> </li> <li>L1- L4: 5.9m (minor non-compliance)</li> <li>L4- L7: 9m (complies)</li> <li>L8: <ul style="list-style-type: none"> <li>9.1m (roof terrace) (minor non-compliance)</li> <li>&gt;12 (building alignment) (complies)</li> </ul> </li> </ul> <p><u>Western (rear) boundary:</u></p> <ul style="list-style-type: none"> <li>&gt;9 metres (complies)</li> </ul> <p><u>Internal Separation:</u></p> <ul style="list-style-type: none"> <li>Ground – L1 (complies)</li> <li>L2-L3: 6m- 9m (complies) Blank Wall scenarios and Habitable to non-habitable</li> <li>L4-L8: 9m-12m (complies) Blank Wall scenarios and Habitable to non-habitable</li> </ul> <p>There are no privacy issue to the sites to the north and south or between the two proposed buildings as the apartments are orientated to the east and west and so have only secondary</p>	<b>No</b> , however no objection is made in this instance, due to the minor nature of the non-compliance.

Design Criteria	Required	Proposed	Compliance
		windows on the side elevations. These windows can accommodate privacy screens that will prevent direct viewing between windows.  The setback to the rear boundary is over 11m meaning that adequate separation can be provided to any future development west of the site.	
<b>3J-1 Bicycle and Car Parking</b>	Minimum parking provided in accordance with the RMS Parking Guide for Metropolitan Sub-Regional Centres: <ul style="list-style-type: none"><li>0.6 spaces per 1 bedroom unit (35 units)</li><li>0.9 spaces per 2 bedroom unit (54 units)</li><li>1.40 spaces per 3 bedroom unit (10 units)</li><li>1 space per 5 units (visitor parking).</li></ul>	Vehicle parking is provided in excess of RMS requirements: - <ul style="list-style-type: none"><li>A minimum of 84 vehicle spaces are required for residential units, wherein 104 are provided.</li><li>A total of 20 visitor spaces are required, wherein 21 are proposed.</li></ul>	Yes
<b>4A-1 Solar and Daylight Access</b>	Living rooms and private open space of at least 70% of apartments receive a minimum of 3hr sun between 9am and 3pm mid-winter	<b>81%</b> of apartments receive minimum 2 hours direct sunlight on the 21 June between 9am and 3pm when assessing the building form.	Yes
	Maximum of 15% of apartments receive no direct sun between 9am and 3pm mid-winter	Complies. One (1) unit will not receive any direct solar access during mid-winter.	Yes
<b>4B-3 Natural Ventilation</b>	Min 60% of apartments cross ventilated	The development will comply with <b>61%</b> achieving cross ventilation.	Yes
<b>4C-1 Ceiling Heights</b>	Minimum 2.7m	Provided.	Yes
<b>4D-1 Apartment Size</b>	1 bedroom: 50m <sup>2</sup>  2 bedroom: 75m <sup>2</sup> (5m <sup>2</sup> per additional bathroom)  3 bedroom – 90m <sup>2</sup> (5m <sup>2</sup> per additional bathroom)	Sixteen (16) of the ninety-nine (99) units do not comply with this provision, resulting in a variance of <b>16%</b> , noting all non-compliant units are two bedrooms.  The minimum internal areas required only account for one (1) bathroom. All two bedroom units in the development provide for two (2) bathrooms, wherein 80m <sup>2</sup> is required as a minimum.	<b>No</b> , however no objection is made in this instance.

Design Criteria	Required	Proposed	Compliance
		The sixteen (16) non-compliant apartments range from 75.3m <sup>2</sup> to 79.9m <sup>2</sup> . Despite this, no objection is made given the non-compliance is considered relatively minor, ranging from 0.1m <sup>2</sup> to 4.7m <sup>2</sup> . In addition, it is not considered that the internal amenity of the non-compliant apartments are unreasonably compromised.	
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	All habitable rooms have a window within the external wall.	Yes
<b>4D-2 Room depths</b>	Habitable room depths and maximum 8m depth for open plan layouts.	<p>34 of the 99 apartments (34%) have a depth marginally in excess of 8 metres for their open plan layout. Whilst not desirable, it is considered that the internal amenity of the affected apartments will not be unreasonably impacted for the following reasons: -</p> <ul style="list-style-type: none"> <li>• All affected single aspect apartments (except G.02), receive adequate solar access, and provide internal living space in excess of the required minimum.</li> <li>• The only affected single aspect apartment which receives no solar access is G.02 (ground floor). However, this unit provides an internal living space of 64.7m<sup>2</sup>, in excess of that required for a 1 bedroom apartment, being a minimum of 50m<sup>2</sup>. Furthermore, Unit G.02 is benefitted by a 15.8m<sup>2</sup> terrace area, with a landscaped outlook.</li> </ul>	<b>No</b> , however no objection is made in this instance.
<b>4D – 3 Layout</b>	Bedroom and living room sizes – 9 & 10m <sup>2</sup> bedrooms with min 3m width, 3.6m-4m width living rooms	Complies	Yes

Design Criteria	Required	Proposed	Compliance
<b>4E-1 Balconies</b>	1 bedroom: 8m <sup>2</sup> , min 2m depth 2 bedroom: 10m <sup>2</sup> , min 2m depth 3 bedroom: 12m <sup>2</sup> , min 2.4m depth	All primary balconies comply with this requirement.	Yes
	Podium/ground level private open space minimum 15m <sup>2</sup> , minimum depth 3m	Apartments at ground level achieve the minimum required area of private open space of <b>15m<sup>2</sup></b> , however, it is noted Apartments G.01 and G.02 provide a 2.5m width instead of the require 3m width. Despite this no objection is made given the usability of the subject space associated with the 1 bedroom apartments, as well its future vegetated outlook.	<b>No</b> , however no objection made as minor non-compliance with 2 apartments.
<b>4F-1 Common Circulation</b>	Maximum of 8 apartments off a circulation core (although design guidance allows up to 12 apartments)	The proposed development complies with this requirement in that the maximum number of apartments sharing a circulation zone is does not exceed 8, with the exception of two levels (2 and 3) in Building A, where nine (9) apartments are proposed off a circulation core.  Despite this non-compliance, no objection is made given the entries to the units maintain privacy through orientation.	<b>No</b> , however no objection is made in this instance.
<b>4G-1 Storage</b>	1 bedroom: 6m <sup>3</sup> 2 bedroom: 8m <sup>3</sup> 3 bedroom: 10m <sup>3</sup>  Note: Minimum 50% within unit	The development provides the following storage in response to the requirements of this provision: <ul style="list-style-type: none"><li>• 1 bedroom: 6.7m<sup>3</sup> per unit averaged</li><li>• 2 bedroom: 7.3m<sup>3</sup> per unit averaged</li><li>• 3 bedroom: 11.1m<sup>3</sup> per unit averaged</li></ul> 100% of the storage proposed is provided within the apartments. There is a minor non-compliance with regard to the provision of storage for 2 bedroom units (0.7m <sup>3</sup> per unit averaged) however this is considered acceptable	<b>No</b> , however no objection is made in this instance.

Design Criteria	Required	Proposed	Compliance
		<p>given the provision of adequate bicycle parking facilities on site.</p> <p>A condition of consent is recommended ensuring compliance with the stated storage areas. <b>Refer to Condition 2.11.</b></p> <p><u>Note A:</u> If so required at a later date, it is considered additional storage solutions can be achieved in the basement levels of the development in the form of storage cages or over the car bonnet storage (an additional 3-4m<sup>3</sup> of storage space per car parking allocation).</p> <p><u>Note B:</u> It is anticipated additional storage compartments will be provided in the change rooms associated with the intended usage of the common facilities on the ground floor (Building B). In order to ensure appropriate storage is provided, <b>Condition 2.11</b> is recommended for imposition.</p>	

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## 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. However, pursuant to Clause 2A of GLEP 2014, SEPP 71 does not apply to the Gosford City Centre (which the site forms part of) and therefore does not apply to the assessment of the proposed development.

## State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is supported by a BASIX certificate which confirms the proposal will meet the NSW government's requirements for sustainability, if built in accordance with the commitments in the certificate. The proposal is considered to be consistent with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

### **Gosford Local Environmental Plan 2014:**

#### Compliance Table

<b>Development Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance with Controls</b>	<b>Variation</b>	<b>Compliance with Objectives</b>
<b>4.3 Height of Buildings</b>	24m (Area S)	31.2 metres (Area S: (Section B-B)	No - see comments below	30% (Area S)	Yes
	18m (Area P2)	29 metres (Area P2: (Section A-A)	No - see comments below	61% (Area P2)	Yes
<b>4.4 Floor Space Ratio</b>	2.75:1 (Area U2)	2.91:1 (Area U2)	No - see comments below	5.8% (Area U2)	Yes
	2.25:1 (Area T2)	2.72: 1 (Area T2)	No - see comments below	21% (Area T2)	Yes
<b>8.9 (3)(a) Height of Buildings</b>	31.2m (Area S)	31.2 metres (Area S: (Section B-B)	Yes	0% (Area S)	Yes
	23.4m (Area P2)	29 metres (Area P2: (Section A-A)	No - see comments below	24% (Areas P2)	Yes
<b>8.9(3)(b) Floor Space Ratio</b>	3.5:1 (Area U2)	2.91:1 (Area U2)	Yes	0% (Arear U2)	Yes
	2.9:1 (Area T2)	2.72: 1 (Area T2)	Yes	0% (Area T2)	Yes



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## Zone R1 General Residential

The objectives for the R1 General Residential are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is compatible with the desired future character of the zone.*
- *To promote best practice in the design of multi dwelling housing and other similar types of development.*
- *To ensure that non-residential uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for multi dwelling housing or other similar types of development.*

The proposed development meets the objectives of the zone in that the development will increase the housing mix of the locality, the development is of a form which is consistent with the regional city fringe locality and provides for additional population within walking distance of the shops, services and public transport. The proposal does not adversely affect residential amenity.

### 4.3 Height of buildings

The provisions of Clause 4.3 GLEP 2014 establish a maximum height limit for buildings. The applicable height control indicated on the GLEP Height of Buildings map is 24m (Area S - light pink) and 18m (Area P2 - beige).



**Figure 6 - Mapped Height (subject site shown edged green)**

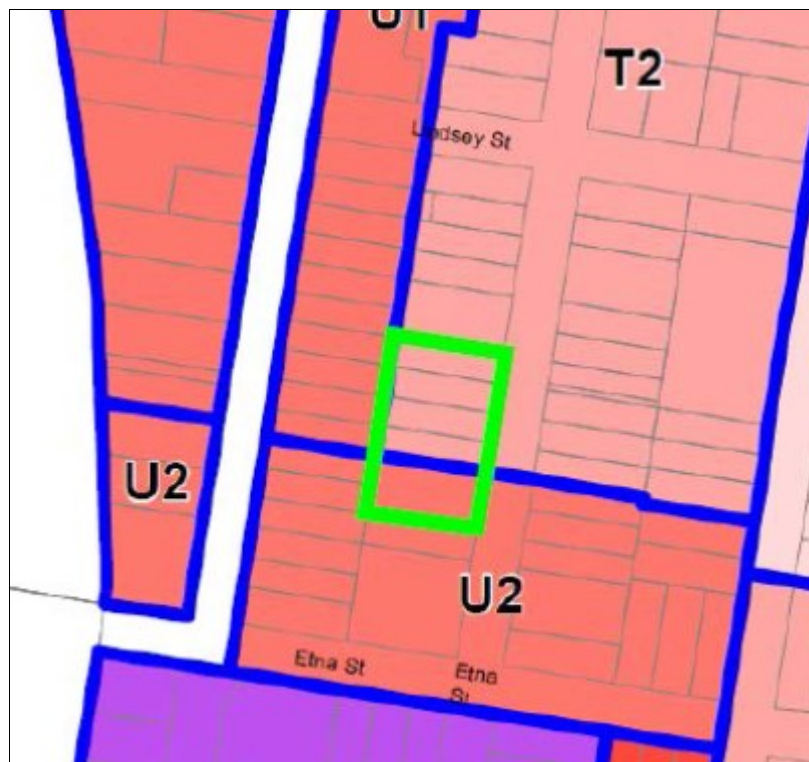
The proposed development has a maximum height of 31.2 metres in Area S (Section B-B) and a maximum height of 29 metres in Area P2 (Section A-A). This represents a variance of 30% (Areas S) and 61% (Area P2) to the mapped building height.

To promote development within Gosford and surrounds, the GLEP 2014 was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under Clause 8.9.

In relation to building height, Clause 8.9(3)(a) (30% bonus) establishes a maximum height of 31.2m (Area S) and 23.4m (Area P2). The proposed development results in maximum building heights of 31.2m (Area S) and 29m (Area P2). This represents a 24% variation of Clause 8.9(3)(a)(Area P2 only). A clause 4.6 variation has been provided in this case.

#### 4.4 Floor space ratio

The provisions of Clause 4.4 GLEP 2014 establish a maximum floor space ratio (FSR) for buildings. The applicable FSR control indicated on the GLEP map maximum floor space ratio is 2.75:1 (Area U2 – dark pink) and 2.25:1 (Area T2 – pink).



**Figure 7 - Mapped FSR (subject site shown edged green)**

The proposed development has a maximum FSR of 2.91:1 in Area U2 and a maximum FSR of 2.72:1 in Area T2. This represents a variance of 5.8% (Area U2) and 21% (Area T2) to the mapped maximum FSR. However, similarly to the above discussion in relation to height, Clause 8.9 provided a 30% bonus to incentivise development which is applicable to this application.

Clause 8.9 (3)(b) (30% bonus) establishes a maximum FSR of 3.5:1 (Area U2) and 2.9:1 (Area T2). The proposed development results in an FSR of 2.9:1 (Area U2) and 2.72:1 (Area T2), therefore complies with this development standard.

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#### 4.6 Exceptions to Development Standards

As discussed above, in April 2015 GLEP 2014 was amended to promote development within Gosford and surrounds, via Amendment 12. This amendment sought to extend the 30% bonus height and floor space provisions under Clause 8.9. The subject application seeks to invoke these provisions as they relate to the maximum building height and FSR.

A Clause 4.6 variation was provided for the non-compliance associated with building height (Cl.8.9 (3)(a) of GLEP 2014).

In accordance with Clause 4.6(4), development consent must not be granted for a development that contravenes a development standard unless:

- *The consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated in subclause (3)*

#### **Response**

The Clause 4.6 request submitted by the applicant has addressed in detail how strict compliance with the development standards is unreasonable or unnecessary (having regard to the decision in *Wehbe v Pittwater Council [2007] NSW 827*) and how there are sufficient environmental planning grounds to justify the contravention.

The 4.6 Variation Request outlines that the proposal as made results in a better design outcome, through stepping the buildings down, responding to topography and provides for a reduced overshadowing outcome compared to a compliant design.

Council is satisfied that the matters required to be demonstrated in subclause (3) have been adequately addressed for the variation to the building height development standards.

- *The consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

#### **Response**

In order to demonstrate if the proposal has merit, consideration of the proposed building height non-compliance has been provided with regard to the objectives of the control contained within Clause 4.3(1) of GLEP 2014:

##### *a) to establish maximum height limits for buildings*

The maximum height limit for buildings has been identified for this property.

##### *b) to permit building heights that encourage high quality urban form*

In this instance, it is considered that the additional building height proposed does not detract from the attainment of providing quality urban form in accordance with the character of the zone. The design incorporates various design elements which activate the design as viewed from the public domain.

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

Shadow diagrams for midwinter and the equinox have been submitted which illustrate the overshadowing generated by the proposal. No objection has been made to this proposal, as the shadows are cast predominantly toward the B4 zoned land or Hills Street for most of the year. This is discussed further in this Assessment Report.

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

The desired height transition from higher buildings in the city core, to lower buildings at the periphery of the incentive area will be maintained as a result of the proposed development.

- 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*

The subject site has not been identified as being located within a protected view corridor.

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

The proposal does not cause overshadowing to public open space areas.

It is also relevant to assess the proposed height variation against the objectives of Part 8.1 of the GLEP 2014 as follows: -

- a) *to promote the economic and social revitalisation of Gosford City Centre-*

The proposed development does not hinder the attainment of the objective to promote the economic and social revitalisation of Gosford City Centre. The proposed scale of the development continues to contribute to the economic revitalisation of Gosford. The height of the building is closely connected to achieving an economically viable development.

The provision of additional dwellings proximate to the city centre contributes positively to the vibrancy and commercial vitality of the centre.

- b) *to strengthen the regional position of Gosford City Centre as a multi-functional and innovative centre for commerce, education, health care, culture and the arts, while creating a highly liveable urban space with design excellence in all elements of its built and natural environments-*

It is considered an appropriate unit mix has been provided to cater for a variety of residents. Further, the additional population adds to the activity and vitality of the centre. The design addresses the public domain and contributes positively to the design of the centre.

- 
- c) *to protect and enhance the vitality, identity and diversity of Gosford City Centre-*

This site and the surrounding area in general, has aged considerably and as not taken advantage of the areas ideal location in terms of the train station and city core. The proposed development will not only revitalise this site but it will have a flow on effect through increased activity to the area in general. The proposal is considered consistent with the objective to revitalise the city centre.

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

In allowing for the proposal to be built to the additional height proposed, the project will be economically viable. The construction of a development of this scale will have employment benefits and these will continue through the ongoing management and maintenance of the building. The additional population will increase demand for local goods and services and will support local business.

- e) *to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes-*

The intensity and associated height of the development will contribute to employment generation in the city centre, providing employment generating uses and residential accommodation within walking distance to Gosford Train Station. In addition to this, all units have been designed generally in accordance with SEPP 65, the objectives of which include "providing sustainable housing in social and environmental terms", and to "minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions". This is directly supported by state and local policies related to density near centres and encourages use of public transport.

- f) *to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Gosford City Centre for the benefit of present and future generations-*

The subject site is not located within an environmentally sensitive area.

- g) *to help create a mixed use place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive and efficient for, and inclusive of, its local population and visitors alike-*

The site is located within an area generally dominated by older style buildings which are slowly being developed in accordance with Council's incentive goals. The proposed building will add to this growth. The slow improvement of properties along this street will bring a sense of pride and safety to the area and this in turn will encourage walkability, activation and patronage of business within the city core and open spaces along the waterfront. Again, the increased local population will also support local business and services.

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*h) to enhance the Gosford waterfront-*

The additional height of the proposed development will not have any adverse overshadowing effects on Gosford waterfront. Additionally, it will not impact on any views gained from or to this point given the orientation of the site.

*i) to provide direct, convenient and safe pedestrian links between Gosford City Centre and the Gosford waterfront-*

The development of the site and similar developments occurring within the area will create a more attractive and active street and one which encourages pedestrian activity within the locality.

The Clause 4.6 request submitted by the applicant also provides assessment of the proposal against the relevant development standard and zone objectives, and Council is satisfied that the applicant has demonstrated consistency with these objectives such that the proposal is in the public interest.

- *The concurrence of the Secretary has been obtained.*

**Response**

Planning Circular PS 08-033 issued 9 May 2008 states that the concurrence of the Director-General may be assumed when considering exceptions to development standards under clause 4.6.

This assessment has been carried out having regard to the relevant principles identified in the following case law:

- *Wehbe v Pittwater Council [2007] NSWLEC 827*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248*

The Clause 4.6 request submitted by the applicant appropriately addresses the relevant principles and exhibits consistency with the relevant objectives under GLEP 2014.

This assessment concludes that the Clause 4.6 variation provided and pursuant to Clause 8.9(3)(a) is well founded and is worthy of support.

5.5 Development within the coastal zone

The provisions of Clause 5.5 GLEP 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 development will not impact on foreshore access, coastal processes or hazards and will not impact on scenic quality, water quality or coastal waterbodies.







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**Figure 8 - Isolated Flooding shown blue (subject site shown edged in green)**

8.5 Design Excellence

The provisions of Clause 8.5 require Council to consider that the development exhibits design excellence. Consideration of the proposal against the matters attributed to design excellence pursuant to Clause 8.5(3) is provided below:

- a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

It is considered the proposed design achieves a built form and scale appropriate to the R 1 General Residential zone objectives and those of the City Centre as detailed within this Assessment Report. The design incorporates a range of materials and detailing which provide for internal amenity and design variation.

- b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*

Communal amenity will be provided at Ground Level and will include an internal swimming pool, gymnasium, common room and a landscaped area with integrated BBQ facilities.

The external skewed privacy screen, comprised of perforated aluminium and vertical metallic elements bands across the east and west elevations of levels 1 through to 4. Balustrading, louvered screens and canopies also add to the articulation of all elevations of the development. The development will contribute positively to the streetscape which is due for and undergoing renewal.

- c) whether the proposed development detrimentally impacts on view corridors,*

The proposed site it is not located in any identified view corridor pursuant to GDCP 2013 and is not considered likely to unreasonably impact on views.

- d) whether the proposed development detrimentally overshadows Kibble Park, William Street Plaza, Burns Park and the waterfront open space adjoining The Broadwater,*

The proposed development does not overshadow these areas.

- e) Any relevant requirements of applicable development control plans,*

GDCP 2013 has been considered in detail further within this Assessment Report and the proposal is considered worthy of support.

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f) *how the proposed development addresses the following matters:*

- i. *the suitability of the land for development,*
- ii. *existing and proposed uses and use mix,*
- iii. *heritage issues and streetscape constraints,*
- iv. *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
- v. *bulk, massing and modulation of buildings,*
- vi. *street frontage heights,*
- vii. *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
- viii. *the achievement of the principles of ecologically sustainable development, with particular emphasis on water saving and recycling,*
- ix. *pedestrian, cycle, vehicular and service access, circulation and requirements,*
- x. *the impact on, and any proposed improvements to, the public domain.*

The development is consistent with the zoning and the city fringe locality. The additional apartments will add to the local development mix and contribute to housing choice. The development is not in the vicinity of a heritage item and will contribute positively to streetscape amenity. The setbacks and massing of the development has been considered and impacts minimised where possible. The building presents well to the street through articulation and landscaped areas. The design incorporates elements in response to environmental matters, such as solar access, stormwater management and shadowing. The development allows for water reuse in landscaped areas and provides adequate deep soil zones. The development is considered worthy of support and will contribute positively to the locality.

These matters have been considered in detail throughout this Assessment Report, wherein no objection has been made.

### 8.9 Development Incentives

The development seeks to utilise the bonus provisions under Clause 8.9:

- In relation to building height, Clause 8.9(3)(a) (30% bonus) establishes a maximum of 31.2m (Area S) and 23.4m (Area P2). The proposed development results in maximum building heights of 31.2 metres (Area S) and 29 metres (Area P2). As such, the development complies with the height set under Area S. The development seeks a 24% variation of Clause 8.9(3)(a) for Area P2 only.
- In relation to FSR, Clause 8.9 (3)(b) (30% bonus) establishes a maximum of 3.5:1 (Area U2) and 2.9:1 (Area T2). The proposed development results in an FSR of 2.9:1 (Area U2) and 2.72:1 (Area T2), therefore complying with this development standard.

In view of the above, a Clause 4.6 variation to Clause 8.9(3)(a) of GLEP 2014 has been provided and discussed earlier in this report.

## Gosford Development Control Plan 2013:

The application has been assessed against GDCP 2013 requirements, including setbacks, privacy, views and overshadowing, and the proposal generally meets the objectives of these controls as detailed below.

Development Control	Required	Proposed	Compliance
<b>4.1.1.4 City Centre Character</b>	<p><u>General Residential Zone:</u> It is intended that new development within this zone will consist of medium to high density with heights allowing for 5 to 7 storeys.</p> <p><u>Mixed Use (City Edge):</u> The rear (western) boundary of the site borders the Mixed Use (City Edge) character area, and is zoned B4.</p> <p>The Mixed Use Zone at the city edge complements the commercial core but also allows for residential units thereby providing for a walkable city for residents to work in.</p> <p>Those properties to the rear of the site are benefited by the same mapped height development controls as the subject site.</p>	<p>The maximum height control within the City Centre is 72 (AA2) metres and this is located along Mann Street, 150 metres south of the train station. Significantly taller buildings are envisaged within the city centre, and then generally reduce in height to a maximum of 8.5 metres at the extremities of Gosford and the surrounding suburbs.</p> <p>Whilst the height control for the subject site is identified at 31.2 metres (southern end of the site) the maximum height proposed for this development results in a non-compliance at the northern end of the site where the height control is 23.4 metres.</p> <p>In terms of providing an appropriate transition in built form and land use intensity, it is considered the development will provide an appropriate transition, as it steps down appropriately. It is noted that surrounding properties are capable of being redeveloped in close proximity of the site on Hill Street and so, the character is considered to be in transition.</p> <p>The general residential zone within the City Centre identifies that new development within this zone will consist of medium to high density with heights allowing for 5 to 7 storeys. However, a maximum of nine (9) and eight (8) storeys in height is proposed. When taking into consideration the additional height permitted with the development incentives</p>	Yes

Development Control	Required	Proposed	Compliance
		contained within Clause 8.9 and that part of the site is compliant with the required height. These additional storeys are considered acceptable.	
<b>4.1.2.2 Building to street alignment and street setback</b>	2-2.5m range (min. 2m and max 2.5m)	The proposed development provides a front setback compliant with this requirement.	Yes
	Balconies may project up to 600mm into front building setbacks.	All balconies are located behind the 2.5m street setback.	Yes
<b>4.1.2.3 Street Frontage Height</b>	The street frontage height of buildings must comply with the minimum and maximum heights, being 10.5m- 16 m	The proposal does not step back at the street frontage, however, it is well articulated by the use of the external design feature wall which falls within the minimum and maximum height specified in this provision. The design is considered to incorporate a strong architectural expression and the desired street frontage height is achieved.	<b>No</b> , however minor variances are considered acceptable.
<b>4.1.2.4 Building Depth &amp; Bulk</b>	<p>Maximum floor plate up to a 500m<sup>2</sup> max above 12m</p> <p>Maximum building depth (excluding balconies) – 18m</p> <p>No building above 24m in height is to have a building dimension in excess of 45m.</p>	<p>Building A has a depth of 28m and a width of 30m.</p> <p>Building B has a depth of 31m and a width of 15m.</p> <p>The floor plate for all floors above 12 metres (L4 +) is as follows:</p> <p><u>Building A (approximate)</u>  4th floor = 750m<sup>2</sup>  5th floor = 750m<sup>2</sup>  6th floor = 750m<sup>2</sup>  7th floor = 750m<sup>2</sup>  8th floor = 700m<sup>2</sup></p> <p><u>Building B (approximate)</u>  4th floor = 415m<sup>2</sup>  5th floor = 415m<sup>2</sup>  6th floor = 415m<sup>2</sup>  7th floor = 415m<sup>2</sup></p> <p>The depths of both buildings exceed 18 metres. Furthermore, Building A has floor plates in excess of 500m<sup>2</sup>.</p> <p>No building elements, above 24m in height, have building dimensions in excess of 45m.</p>	<b>No</b> , but considered acceptable as those floors exceeding the depth and floor plate criteria provide appropriate side and rear setbacks, and adequate internal amenity as discussed elsewhere in this report.

Development Control	Required	Proposed	Compliance
<b>4.1.2.5 Side Setback (up to 12m height)</b>	Habitable - 6m min.	<u>Northern (side) boundary:</u> <ul style="list-style-type: none"> <li>L1- L4: 5.7m- 5.9m (minor non-compliance)</li> </ul> <u>Southern (side) boundary:</u> <ul style="list-style-type: none"> <li>Ground Floor: <ul style="list-style-type: none"> <li>3.6m (balconies) (non-compliance)</li> <li>&gt;6m (building alignment) (complies)</li> </ul> </li> <li>L1- L4: 5.9m (minor non-compliance)</li> </ul> <u>Internal Separation:</u> <ul style="list-style-type: none"> <li>Ground – L1 (complies)</li> <li>L2-L3: 6m- 9m (complies) Blank Wall scenarios and Habitable to non-habitable</li> <li>L4-L8: 9m-12m (complies) Blank Wall scenarios and Habitable to non-habitable.</li> </ul>	<b>No</b> , however minor variances are considered acceptable.
<b>4.1.2.5 Side Setback (above 12m height)</b>	Habitable - 9m min.	<u>Northern (side) boundary:</u> <ul style="list-style-type: none"> <li>L4- L7: 9m (complies)</li> </ul> <u>Southern (side) boundary:</u> <ul style="list-style-type: none"> <li>L4- L7: 9m (complies)</li> <li>L8: <ul style="list-style-type: none"> <li>9.1m (roof terrace) (minor non-compliance)</li> <li>&gt;12 (building alignment) (complies)</li> </ul> </li> </ul> <u>Internal Separation:</u> <ul style="list-style-type: none"> <li>L4-L8: 9m-12m (complies) Blank Wall scenarios and Habitable to non-habitable.</li> </ul>	<b>No</b> , however minor variances are considered acceptable.
<b>4.1.2.5 Rear Setback (up to 12m height)</b>	Habitable - 6m min.	Complies	Yes
<b>4.1.2.5 Rear Setback (above 12m height)</b>	Habitable - 9m min.	Complies	Yes
<b>4.1.2.7 Site Cover</b>	50%	Proposed at 53% (1766.4m <sup>2</sup> )	<b>No</b> , however

Development Control	Required	Proposed	Compliance
			minor variation is considered acceptable.
<b>4.1.2.7 Deep Soil Zones</b>	15% min.  Min. Dimension 6m	<p>All of the deep soil zones proposed have dimensions less than 6 metres (width or length).</p> <p>The proposed deep soil planting does not comply with the DCP requirement (15%) with only 14% of the total site provided as DCP deep soil zone. It is noted the 600mm zone of deep soil to the rear of Building A has not been included given its limited dimensions. However, all remaining deep soils zones adjacent to the rear and side boundaries and between the two towers have been included. The merits of which have been discussed previously.</p> <p>It is considered the proposed deep soil zones meet the objective of CI 4.1.2.7 of the DCP in that the development provides an area on site that enables soft landscaping and deep soil planting, permitting the retention and/or planting of trees that will grow to a large or medium size.</p>	<b>No</b> , however minor variation is considered acceptable.
<b>4.1.2.8 Landscape Design</b>	<p>Landscaped areas are to be irrigated with recycled water.</p> <p>A long-term landscape concept plan must be provided for all landscaped areas, in particular the deep soil landscape zone.</p>	<p>An underground water tank is proposed to the southern portion of the site (Building A). It will take water from a roof area of 1500m<sup>2</sup>. This water will be used for the watering of the landscaped areas as required by BASIX.</p> <p>A landscape plan was submitted with the application and is otherwise considered acceptable by Councils Tree Assessment Officer.</p>	Yes
<b>4.1.2.9 Planting on Structures</b>	Constraints on the location of car parking structures due to water table conditions may mean that open spaces and courtyards might need to be provided over parking	<p>The provisions within this section only apply to the Commercial Core, Mixed Use and Enterprise Corridor Zones.</p> <p>Regardless, the minimum</p>	Yes

Development Control	Required	Proposed	Compliance
	structures.	<p>standards for soil depth and area have been considered in order to ensure plant establishment and growth can occur.</p> <p>At the podium level above the carpark, 120m<sup>2</sup> of planters are proposed, wherein the landscape plan identifies these planters to be occupied by mixed deciduous and evergreen small to medium trees.</p> <p>Section A-A indicate the planters in Building B will be at a depth of 1 metre. The stated areas are therefore considered appropriate to accommodate shrubs, small trees and medium trees (2m to 8m high) in accordance with this provision. A condition is recommended confirming a depth of one (1) metre to all landscape planters located above the carpark podium at the rear of the site. <b>Refer to Condition 2.11.</b></p>	
<b>4.1.2.10 View Corridors</b>	Protect significant view corridors	Figure 2.1.4 within the Gosford City Centre Development Control Plan nominates significant views which are considered integral to the character of the area and which require protection and consideration with regard to new development. The site is not located in any identified view corridor.	Yes
<b>4.1.3.3 Street Address</b>	Clear Street address	Units fronting Hills Street are provided with balconies overlooking the street. In addition to this, the majority of units in general have views towards the street. Primary access to the building is provided via the ground floor lobbies from Hills Street.	Yes
	Direct front door access for ground floor units.	The two (2) ground floor units (Building A) are not provided with direct access from Hills Street. Despite this, no objection is made given that adequate internal access is provided and a substantial portion of the ground	<b>No,</b> but supported.



Development Control	Required	Proposed	Compliance
		floor façade is occupied by active pedestrian entries and views of common areas.	
	Residential buildings are to provide not less than 65% of the lot width as street address.	<b>80%</b> provided. The only aspect of the street frontage which would not be considered to be providing street address is the 14m wide driveway. The remaining building, and significant landscaping all add to the street presentation.	Yes
<b>4.1.3.5 CPTED Principles</b>	Address Safer by Design and CPTED principles	<p>Passive Surveillance is prevalent throughout the development. The vast majority of the units have their private open spaces facing east or west.</p> <p>Eastern facing balconies allow for surveillance to Hills Street. The west facing balconies allow residents to observe activity taking place within the communal open space and the rear of the site.</p> <p>The northern and southern facades provide window openings which will also provide casual surveillance to the side boundaries. The main entry points to both buildings will be clearly articulated and well lit.</p> <p>The public and private domain is well articulated via landscaping treatments.</p> <p>Compliance with recognised CPTED principles will be confirmed via the imposition of <b>Condition 4.17.</b></p>	Yes
<b>4.1.3.7 Vehicle Access</b>	<p>One access point only.</p> <p>Max. 2.7m width (or up to 5.4m wide for safety reasons)</p>	The vehicular crossing provided is acceptable given the density of the development.	<b>No,</b> but supported.
<b>4.1.3.9 Building Exteriors</b>	Various controls, similar to clause 8.5 of GLEP.	Details of materials and colours are provided in the plans within the application documentation will be endorsed via consent <b>Conditions 1.1 and 2.11.</b>	Yes
<b>4.1.4.2 Pedestrian</b>	Building Entry Points - Clearly visible from street	Considered acceptable.	Yes

Development Control	Required	Proposed	Compliance
<b>Access and Mobility</b>	Design for disabled persons	Appropriate conditions are recommended for imposition requiring compliance with the BCA.	
	Barrier free access to not less than 20% of dwellings		
	At least 1 main pedestrian entrance with convenient barrier frees access to ground floor		
	Continuous access paths of travel from all public roads		
	Access paths of durable materials (slip resistant materials, tactile surfaces and contrasting colours)		
<b>4.1.4.3 Vehicle Footpath Crossings and Vehicular Driveways and Manoeuvring</b>	Located 6m min. from the perpendicular of any intersection	The vehicle access crossings are considered acceptable and appropriate, given the need to provide for garbage truck and vehicular access.  Appropriate conditions required by Councils Development Engineer are recommended for imposition.	Yes
	Minimum driveway setback 1.5m from side boundary		
	Enter and leave in forward direction		
	Compliance with Council's standard Vehicle Entrance Design & subject to Roads Act approval		
	Compliance with AS2890.1		
	Use semi-pervious materials for driveways open car spaces		
<b>4.1.4.4 On-Site Parking</b>	1 space/1-bed (31 units) = 31	<u>Total Proposed:</u>  <ul style="list-style-type: none"> <li>Residential spaces: 104 <b>(9% non-compliance)</b></li> <li>Visitor spaces: 21 (complies)</li> <li>Accessible spaces: 16 (complies)</li> <li>Motorcycle parking: 7 (complies)</li> <li>Bicycle parking: 43 (complies)</li> </ul>	<b>No,</b> however minor non-compliance with the amount of residential car spaces is considered acceptable.
	1.2 space/2-bed (59 units) = 71  1.5 space/ 3- bed (9 units)= 13.5  Visitor parking (0.2 per unit) =20  Disability accessible car parking, Not less than 10% of the required resident and visitor spaces: 27  Motorcycle parking 1 space/15 dwellings (or part thereof): 7  Bicycle parking: 1 resident's space/3dwellings + 1 visitor space/12 dwellings (or part thereof): 41		

Development Control	Required	Proposed	Compliance
	<u>Total Required:</u> <ul style="list-style-type: none"> <li>Residential spaces: 115</li> <li>Visitor spaces: 20</li> <li>Accessible spaces: 13</li> <li>Motorcycle parking: 7</li> <li>Bicycle parking: 41</li> </ul>		
	Provided car parking wholly underground unless unique site conditions prevent achievement.	<p>Complies, with the exception of the car parking podium at the rear of the site.</p> <p>However, given the unique site constraints, setbacks and nature of the development, no objection is raised.</p>	Yes
	Compliance with AS2890.1	Capable of complying via condition	Yes
	Uncovered parking areas are prohibited	Not applicable	Not applicable
	Bicycle parking secure and accessible with weather protection	Complies	Yes
<b>4.1.4.5 Site Facilities</b>	Mail boxes in one location, integrated into a wall, similar building materials and secure and of sufficient size	Capable of complying via condition. Refer to <b>Condition 2.11.</b>	Yes
	Locate ancillary structures (e.g. satellite dish and air conditioning units) away from street. Integrated into roof scape design. One master antenna per residential apartment buildings.		
	Size, location and handling procedures for all waste to satisfaction of Council's Waste & Emergency Staff	<p>Considered acceptable.</p> <p>Appropriate conditions required by Waste Servicing are recommended for imposition.</p>	Yes
	Waste storage not to impact on neighbours in terms of noise, and be screened from the public and neighbouring properties		
	Waste storage area well lit, easily accessible and on level grade, free of obstructions		
	Waste storage area behind main building setback and facade		
<b>4.1.4.5 Fire &amp; Emergency</b>	Compliance with Fire Brigades Code of Practice – Building Construction – NSWFB Vehicle	Considered acceptable.	Yes

Development Control	Required	Proposed	Compliance
<b>Vehicles</b>	Requirements		
<b>4.1.5.2 Energy Efficiency and Conservation</b>	Compliance with BASIX	Acceptable.	Yes
<b>4.1.5.3 Water Conservation</b>	Efficient best practice management of water resources	A Water Cycle Management Plan was provided and deemed acceptable. Water recycling within the landscaped areas is proposed.	Yes
<b>4.1.5.4 Reflectivity</b>	Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.	Elevations will be shaded by balconies and vertical louvres. It is considered glare will not pose a problem to surrounding road users. In any instance, in order to ensure compliance, <b>Condition 2.11</b> is recommended for imposition.	Yes
<b>4.1.5.5 Wind Mitigation</b>	Wind Effects Report for buildings over 14m	The height of the proposed development and those surrounding negate the requirement to prepare a wind effects report.	<b>No</b> , not considered necessary.
<b>4.1.5.6 Waste and Recycling</b>	Length of storage area 0.65 x no of bins	Considered acceptable.	Yes
	Width of storage area 2.5m min.	Appropriate conditions required by Waste Servicing are recommended for imposition.	
	SEPP 65 & ADC		
<b>4.1.5.7 Noise and Vibration</b>	Effective management of noise and vibration in a city centre environment	An Environmental Noise Assessment and Noise and Vibration Intrusion Assessment accompany the application, as supporting information.  The recommendations of these reports are to be implemented at the required stages of construction. Refer to <b>Condition 2.13</b> .	Yes
<b>4.1.6.1 Residential Development Controls</b>	3.3.3.5.2 Sunlight and Overshadowing	Solar diagrams have been provided and this issue is discussed in detail below.	Yes
<b>4.1.6.2 Housing Choice &amp; Mix</b>	1 bed units 10% min to max 25%  2 Bed not more than 75%	The proposed development generates the following unit mix:  <ul style="list-style-type: none"> <li>• 1 bed: 31.3%</li> <li>• 2 bed: 59.6%</li> <li>• 3 bed: 9.1%</li> </ul>	<b>No</b> , however minor variation is considered acceptable.

Development Control	Required	Proposed	Compliance
	15% of dwellings (for sites with slope less 20%) capable of adaption for disabled or elderly residents = 15 accessible dwellings	<p>SEPP 65 - states that:</p> <p><i>(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:</i></p> <p><i>(a) the design quality principles, and</i></p> <p><i>(b) the objectives specified in the Apartment Design Guide for the relevant design criteria.</i></p> <p>Objective 4Q-1 of the Apartment Design Guide states that:</p> <p><i>"Universal design features are included in apartment design to promote flexible housing for all community members"</i></p> <p>Sixteen adaptable (16) dwellings are provided which is 15% of the development..</p>	Yes
	Where possible provide adaptable dwellings on the ground level	Provided, where possible.	Yes
	Application to be accompanied by an Access Consultant report	Provided.	Yes
	Car parking to adaptable dwelling to comply with AS	Provided.	Yes
<b>4.1.6.3 Storage</b>	<p>7.5m<sup>3</sup> for 1 bed units 10m<sup>3</sup> for 2 bed units 12.5m<sup>3</sup> for 3 bed plus</p> <p>Min 50% of required storage areas within dwelling</p>	<p>The development provides the follows storage in response to the requirements of this provision:</p> <ul style="list-style-type: none"> <li>1 bedroom: 6.7m<sup>3</sup> per unit averaged</li> <li>2 bedroom: 7.3m<sup>3</sup> per unit averaged</li> <li>3 bedroom: 11.1m<sup>3</sup> per unit averaged</li> </ul> <p>100% of the storage proposed is provided within the apartments. There are minor non-compliances with regard to the provision of</p>	<b>No</b> , however minor variation is considered acceptable.

Development Control	Required	Proposed	Compliance
		storage for all units (however this is considered acceptable given the provision of adequate bicycle parking facilities on site, and the proposal generally complies with the ADG in this regard.	

### Sunlight and Overshadowing

Shadow diagrams for midwinter and the equinox have been submitted which illustrate the overshadowing generated by the proposal.

During the equinox, the shadows cast by the development do not affect any internal or external principal space of any neighbouring residential property. However, at 9am during this period, additional shadows are cast upon the commercial buildings and associated car parking areas located to the west of the site. During the afternoon period, shadows are cast upon Hills Street and the front setback of dwellings on the opposite side of Hills Street.

During midwinter the shadows cast by the proposed development have a greater impact on neighbouring properties than during the equinox. At 9am during this period, additional shadows are cast upon the commercial buildings and associated car parking areas located to the west and south of the site. The directly adjoining site located at No. 32 Hills is predominantly overshadowed throughout the midwinter period.

The only other properties which are impacted by the proposed development in terms of overshadowing are those on the opposite side of Hills Street. In this regard, the overshadowing caused by the proposed development is generally located over the roof areas which would be covered by shadow but just to a lesser extent with a height compliant development.

The development of the subject site, being positioned within a growing residential area located inside of the city centre incentive region, does present difficulties in designing a development which continues to allow full solar access to the existing dwelling at 32 Hills Street. With regard to the additional shadows cast upon No.32 Hills Street, no objection is made given the shadow impact to this property would remain the same were the proposed development of a compliant building height. Furthermore, given the R1 General Residential zoning of No.32 Hills Street, it is likely this property will be amalgamated with 32 Etna Street, and / or those B4 Mixed Use zoned properties fronting Mann Street in a potential development.

In line with the Planning Principle related to solar access, (Parsonage), the expectation to retain solar access reduces proportionate to the increasing density. As such, proposal is considered to retain access to a reasonable level of sunlight for a substantial portion of the year given the permissible dwelling density.

In view of the above consideration, no objection has been made with regard to the additional shadows cast by the proposal.

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## Other Matters for Consideration:

### Isolated Site

It is not considered that any adjoining site will be left isolated as a result of the proposed development. In particular, reference is made to No.32 Hills Street, located directly south of the site. It is considered that No.32 Hills Street is capable of being amalgamated with No. 32 Etna Street, and / or those B4 Mixed Use zoned properties fronting Mann Street in any future redevelopment. In this regard, the applicant was not requested to specifically address the Land and Environment Court planning principle from *Melissa Grech v Auburn Council* [2004] NSWLEC 40.

## Planning Agreements:

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

## Development Contribution Plan:

Contributions may be applicable to development which is subject to section 94A Contributions Plan - Gosford City Centre. Development contributions are only levied where the proposed cost of works exceeds \$250,000 and the gross floor area of the development is increased. In this instance, the proposed development increases the gross floor area and the proposed cost of works is \$25,250,000. A standard condition of consent has been imposed requiring the development contribution to be paid prior to the issue of any Construction Certificate. **(Refer to Condition 2.12)**

## Referrals:

Internal Referral Body	Comments
Water and Sewer	<p>Supported, subject to conditions.</p> <p>It was noted that Councils sewer mains are contained within the development site and will need to be relocated in accordance with Councils Building Over Sewer guidelines.</p> <p>A condition of development consent is recommended requiring the developer to submit sewer relocation plans in accordance with the relevant guidelines prior to the issuing of any Construction Certificate. <b>Refer to Condition 2.2)</b></p>
Tree Protection	<p>Supported, no conditions required:</p> <p>The subject application has been considered and noted that the proposal appears to require removal of all trees within the property.</p> <p>The Landscape Plan shows removal of five (5) trees, however many others located within building footprints and new landscape areas are expected to be removed.</p> <p>Trees consist of mostly planted ornamentals such as Mulberry, Palms</p>

	<p>and Crape Myrtle. Weed species such as Privet and Lantana, and small Cheese tree along the rear boundary.</p> <p>Landscape plan proposes a suitable mix of native evergreen and deciduous trees in available areas around the perimeter of the property. Small native street trees (Water Gum) are nominated along the road reserve.</p> <p>The proposal is supported without conditions</p>
Engineering	Supported, subject to conditions.
Architectural	These comments were addressed earlier in this report.
Waste	Supported, subject to conditions.

### **Political Donations:**

No political donations were declared by the applicant, applicant's consultant, owner, objectors and residents.

### **Financial Impact:**

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

### **Ecologically Sustainable Principles:**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### **Climate Change:**

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts. The proposed development is considered satisfactory in relation to climate change.

### **Likely Impacts of the Development (s79c (1)(b)):**

#### **a) Context and Setting**

The site is located within the R1 General Residential Zone, which currently comprises dwelling houses. The impacts of the proposal have been considered in the assessment of the



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application. The proposal will introduce residential development of a scale which, while different to the current scale of development, is considered to be in line with the desired future character of the area.

**b) Built Environment**

It is considered the development has been designed so as to be sustainable and limit the impact of the development on the built development. It is also considered appropriate for the regional city fringe locality.

**c) Access and Transport**

The development is not a traffic generating development. The locality is within walking distance of public transport, and a range of commercial, service and retail opportunities. The proposal is compliant with the RMS parking standards and so, is supported.

**d) Natural Environment**

The site is within the established urban area and it is not considered that the development will result in unacceptable impacts on the natural environment.

**Suitability Of The Site For The Development (s79c (1)(c)):**

The site is zoned R1 General Residential which permits higher density development. The development is considered to be in accordance with the desired future character of the area as envisaged by the GDCP 2013. As such the site is considered suitable for this type of development.

**The Public Interest (s79c (1)(e)):**

The approval of the application is considered to be in the public interest. The development will provide additional housing choice, including a range of apartment sizes in a locality which is highly accessible to Gosford city centre and related employment services and transport options.

**Conclusion:**

The application has been considered in light of the variations and is considered acceptable.

This application has been assessed under the heads of consideration of section 79C of the *Environmental Planning and Assessment Act 1979* and all relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.

Subject to the imposition of appropriate conditions, the proposed development is not expected to have any adverse social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

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Accordingly, the application is recommended for approval pursuant to Section 80 of the *Environmental Planning and Assessment Act*.

**Plans for Stamping:**

Plans ECM Doc No. 23980981

**Supporting Documents for Binding with consent:**

Statement of Environmental Effects	ECM Doc No. 22430017
Traffic and Parking Impact Assessment	ECM Doc No. 22422213
Access Report	ECM Doc No. 22422271
SEPP 65 Design Statement	ECM Doc No. 22422157
Quantity Surveyors Report	ECM Doc No. 22422263
Noise and Vibration Intrusion Assessment	ECM Doc No. 22422205
Environmental Noise Assessment	ECM Doc No. 22422201
Photomontage	ECM Doc No. 22422110
3D Models (sheets 31-21)	ECM Doc No. 23946287
Shadow Diagrams (sheet 33 only)	ECM Doc No. 23946287
FSR Calculation Plans (Sheets 37-39)	ECM Doc No. 23946287
Solar/ Ventilation Plans (Sheets 40-43)	ECM Doc No. 23946287
Erosion and Sediment Control Plan	ECM Doc No. 22614986
Landscape Calculation Plan	ECM Doc No. 23509592
BASIX Certificate	ECM Doc No. 23925922
Water Cycle Management Plan	ECM Doc No. 23722872
Waste Management Plan	ECM Doc No. 22684288
Bin Lifter Specification	ECM Doc No. 22694546
BCA Compliance Assessment	ECM Doc No. 22666185
Arboricultural Assessment	ECM Doc No. 22666184
Clause 4.6 Variation (Height)	ECM Doc No. 22666182

**Attachments:**

NIL

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**Proposed Conditions of Consent:****1. PARAMETERS OF THIS CONSENT****1.1. Approved Plans and Supporting Documents**

Implement the development 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.

**Plans**

<b>Drawing</b>	<b>Description</b>	<b>Sheets</b>	<b>Issue</b>	<b>Date</b>
DA000	Site Analysis	1	F	2/02/17
DA001	Existing Site Survey	2	F	2/02/17
DA002	Site Cover Plan	3	F	2/02/17
DA003	Cut and Fill Plan	4	F	2/02/17
DA002	Schedule	5	F	2/02/17
DA100	Basement Floor Plan	6	F	2/02/17
DA101	Basement Upper Plan	4	F	2/02/17
DA102	Ground Floor- Site Plan	7	F	2/02/17
DA103	L1 Plan	8	F	2/02/17
DA104	Level 2 Plan	9	F	2/02/17
DA105	Level 3 Plan	10	F	2/02/17
DA106	Level 4 Plan	11	F	2/02/17
DA107	Level 5 Plan	12	F	2/02/17
DA108	Level 6 Plan	13	F	2/02/17
DA109	Level 7 Plan	14	F	2/02/17
DA110	Level 8 Plan	15	F	2/02/17
DA111	Roof Plan	16	F	2/02/17
DA200	East Elevation	17	F	2/02/17
DA201	South Elevation	18	F	2/02/17
DA202	West Elevation	19	F	2/02/17
DA203	North Elevation	20	F	2/02/17
DA201	Building B South Elevation	21	F	2/02/17
DA201	Building A North Elevation	22	F	2/02/17
DA300	Section A-A	23	F	2/02/17
DA100	Section B-B	24	F	2/02/17
DA302	Section C-C, D-D	25	F	2/02/17
DA303	Section E-E	26	F	2/02/17
DA304	Sections F-F, G-G	21	F	2/02/17
DA500	Typical Adaptable Layouts	22	-	14/03/16
DA600	L 1-3 Adaptable Layouts	23	F	2/02/17
DA601	L4-7 Adaptable Plans	24	F	2/02/17
1A	Stormwater Detention Tank	25	-	3/11/16
15/1822	Landscape Site Plan	26	C	27/10/16
15/182	Landscape Planting Plan	21	C	27/10/16

-	Building A; Building B	22	-	-
-	Section	23	-	-
15111-SW1A	Basement 2 – Stormwater Drainage Layout Plan	24	A	2/12/15
15111-SW2A	Basement 1 – Stormwater Drainage Layout Plan	25	A	2/12/15
15111-SW3a	Ground Floor– Stormwater Drainage Layout Plan	26	A	2/12/15
15111-SW4A	Stormwater Details	27	A	2/12/15
15111-SW5A	Stormwater Details	28	A	2/12/15
19017A	Detailed Survey Plan	29	B	21/07/15
15128	External Finishes Schedule – P1	30	-	Nov 2015
15128	External Finishes Schedule – P2	31	-	Nov 2015

### Supporting Documentation

Document	Title	Date
1	Statement of Environmental Effects	December 2015
2	Traffic and Parking Impact Assessment	15/03/15
3	Access Report	March 2015
4	SEPP 65 Design Statement	December 2015
5	Quantity Surveyors Report	3 March 2016
6	Noise and Vibration Intrusion Assessment	17 December 2015
7	Environmental Noise Assessment	17 December 2015
8	Photomontage	-
9	3D Models (sheets 31-21)	2/02/17
10	Shadow Diagrams (sheet 33 only)	2/02/17
11	FSR Calculation Plans (Sheets 37-39)	2/02/17
12	Solar/ Ventilation Plans (Sheet 40-43 )	2/02/17
13	Erosion and Sediment Control Plans	20/11/15
14	Landscape Calculation Plan	2/02/17
15	BASIX Certificate	7/02/16
16	Water Cycle Management Plan	8/12/15
17	Waste Management Plan	20 May 2016
18	Bin Lifter Specification	8/08/15
19	BCA Compliance Assessment	23/03/16
20	Arboricultural Assessment	13 November 2015
21	Clause 4.6 Variation (Height)	December 2015

1.2. Carry out all building works in accordance with the Building Code of Australia.

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## 2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

All conditions under this section must be met prior to the issue of any Construction Certificate

- 2.1. No activity is to be carried out on site until any Construction Certificate has been issued, other than:
  - a. Site investigation for the preparation of the construction, and / or
  - b. Implementation of environmental protection measures, such as erosion control etc that are required by this consent.
- 2.2. Submit engineering details prepared and certified by a practising structural engineer to the Council (Water Authority) for development constructed near or over the sewer main and / or adjacent to Council's water mains. The engineering details must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains" and must be approved by Council. A fee for engineering plan assessment must be paid when submitting the engineering details.

Additional fees for the submission of contractor's documentation and sewer inspection fees apply for the adjustment or encasement of Council's sewer main. Subject to approval of the engineering plans, and payment of the prescribed fees, the developer must contact Council's Water and Sewer Quality Inspector on mobile phone 0419 412 725 a minimum of one week prior to commencement of any work involving building over and / or adjacent to sewer mains.

- 2.3. Apply for and obtain from Council (Water Authority) a Section 307 Certificate of Compliance under the *Water Management Act 2000*. Conditions and contributions may apply to the Section 307 Certificate.

The 'Application for 307 Certificate under Section 305 *Water Management Act 2000*' form can be found on Council's website [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au). Early application is recommended.

- 2.4. Submit an application to Council under Section 138 of the *Roads Act, 1993*, for the approval of required works to be carried out within the road reserve.

Submit to Council Engineering plans for the required works within a public road that have been designed by a suitably qualified professional in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control. The Engineering plans must be included with the Roads Act application for approval by Council.

Design the required works as follows:

- a. Footway formation graded at +2% from the top of kerb to the property boundary, across the full frontage of the site in Hills Street. The footway formation shall be retained at the northern and southern ends of the development's frontage. Handrails shall be provided atop the retaining walls where the change in level creates a trip hazard.

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- b. 1.5m wide reinforced (SL72 steel fabric, 100mm thick) concrete footpath located behind the kerb and gutter across the full frontage of the site in Hills Street.
  - c. Retaining walls. Retaining walls must be designed by a practising Civil / Structural engineer and must not conflict with services.
  - d. Tapered heavy-duty vehicle crossing servicing building A that has a minimum width of 8.5m at the boundary and 11.5m behind the heavy-duty layback and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom. The vehicle crossing is to have the splay placed on the northern side.
  - e. Heavy-duty vehicle crossing that has a minimum width of 5.5m and constructed with 200mm thick concrete reinforced with 1 layer of SL72 steel fabric top and bottom.
  - f. Heavy-duty laybacks to suit the widths of the heavy-duty vehicle crossings.
  - g. All redundant dish crossings and / or damaged kerb and gutter must be removed and replaced with new kerb and gutter.
  - h. All redundant vehicular crossings are to be removed and footway formation reinstated.
  - i. Tie-in works.
  - j. Modification of the existing sag pit to a double v- grated pit to accommodate the tapered heavy-duty vehicle crossing and heavy-duty layback.
  - k. Construction of a new stormwater inlet pit having a 1.8m extended kerb inlet and 900mm x 450mm heavy-duty hinged grate, and located adjacent to the northern side of the existing sag pit.
  - l. Erosion and sedimentation control plan.

The Roads Act application must be approved by Council.

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.

- 2.5. Submit a dilapidation report to Council with the Roads Act application and / or Construction Certificate application. 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.
- 2.6. Pay a security deposit of \$100,000 into Council's trust fund. 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.

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- 2.7. Submit an application to Council, under Section 68 of the Local Government Act, for the approval of required drainage works associated with public stormwater / watercourse works.

Engineering plans for the works must be prepared and designed by a suitably qualified professional in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control, and submitted to Council for approval with the Local Government Act application.

The required works to be designed are as follows:

- a. Connection of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in the drainage easement.

The Local Government Act application must be approved by Council.

A fee for the approval of engineering plans under the Local Government Act applies. The amount of this fee can be obtained by contacting Council's Customer Services on (02) 4325 8222.

- 2.8. Submit design details of the following engineering works within private property:

- a. Driveways / ramps and car parking areas must be designed according to the requirements of AS2890: *Parking Facilities* for the geometric designs, and industry Standards for pavement designs.
- b. The driveways located on each side of the secondary flow path shall have a minimum crest level of RL 27.01m AHD (i.e., 500mm above the 1% AEP flood level in the secondary flow path).
- c. A stormwater detention system must be designed in accordance with the Gosford DCP 2013 Chapter 6.7 - Water Cycle Management and Council's Civil Works Specification. The stormwater detention system must 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 must be used. An on-site stormwater detention report including an operation and maintenance plan must accompany the design. On-site stormwater detention is not permitted within private courtyards, drainage easements, and/or secondary flowpaths.
- d. Nutrient/pollution control measures must be designed in accordance with Gosford DCP 2013 Chapter 6.7 - Water Cycle Management. A nutrient / pollution control report including an operation and maintenance plan must accompany the design.
- e. On-site stormwater retention measures must be designed in accordance with Council's DCP Chapter 6.7 - *Water Cycle Management*. A report detailing the method of stormwater harvesting, sizing of retention tanks for re-use on the site and an operation and maintenance plan must accompany the design.

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- f. The secondary stormwater flow path as shown on the approved plans must be capable of conveying 1% AEP flood flow based on a 50% blockage factor of the piped system and must be designed in accordance with Civil Works Specification. The secondary flow shall be designed to ensure the provision of 500mm of freeboard above the 1% AEP flood level to any adjoining habitable floor areas, and 300mm freeboard above the 1% AEP flood level to any adjoining non-habitable floor areas.
  - g. Piping of all stormwater from impervious areas within the site via an on-site stormwater detention structure to Council's drainage system located in the drainage easement.
  - h. Open type fences within the secondary flow path that are of a height and type as not to restrict the flow of water or cause an accumulation of debris.
  - i. The bottom section of the boundary fence at the western end of the secondary flow path shall be of a type that does not restrict the flow of water or cause an accumulation of debris, for at least 6.4m wide and 600mm in height.
  - j. Pool safety fencing around the above ground on-site detention facilities.

These design details and any associated reports must be included in the construction certificate.

- 2.9. Submit engineering details prepared by a practising structural engineer to Council for structures constructed adjacent to a Council stormwater system and/or drainage easement and within the zone of influence. Engineering details must have footings designed in accordance with Council's "Guidelines for Building Adjacent to a Drainage Easement" and be approved and form part of the Construction Certificate.
- 2.10. Submit to council, the accredited certifier and relevant adjoining property owners a dilapidation report, prepared by a practising structural engineer, detailing the structural characteristics of all buildings located on No.32 Hills Street, North Gosford, and 46-48 Hills Street, North Gosford. The report must indicate the structure's ability to withstand the proposed excavation, and any measures required to ensure that no damage to these structures will occur during the course of works.

In the event that access to an adjoining property(s) for the purpose of undertaking the dilapidation report is denied, the applicant must demonstrate in writing that all steps were taken to obtain access to the adjoining property(s).

- 2.11. Submit amendments to the approved plans to the accredited certifier pursuant to Clause 139 of the *Environmental Planning Regulation 2000: Applications for construction certificates* that must detail:

- a. Mail boxes:
  - i. Provide mail boxes for each residential building in one accessible location adjacent to the main entrance to the development;



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- ii. They should be integrated into a wall where possible and be constructed of materials consistent with the appearance of the building;
    - iii. Mail boxes shall be secure and large enough to accommodate articles such as newspapers;
  - b. Locate satellite dish and telecommunication antennae, air conditioning units, ventilation stacks and any ancillary structures:
    - i. away from the street frontage;
    - ii. integrated into the roof-scape design and in a position where such facilities will not become a skyline feature at the top of any building;
    - iii. adequately setback from the perimeter wall or roof edge of buildings;
  - c. A master antenna must be provided for residential apartment buildings. This antenna shall be sited to minimise its visibility from surrounding public areas;
  - d. The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%;
  - e. All garage doors must have a similar decorative treatment as detailed on the perforated metal overlay approved to the exterior of Level 1 – 4;
  - f. A depth of one (1) metre must be provided to all landscape planters located above the carpark podium at the rear of the site;
  - g. Storage areas are to be in accordance with the following average rates:
    - i. 6.7m<sup>3</sup> for studio and one bedroom units;
    - ii. 7.3m<sup>3</sup> for two bedroom units;
    - iii. 11.1m<sup>3</sup> for three plus bedroom units; and

At least 50% of the required storage areas are to be provided within each dwelling;

- h. Additional storage compartments must be provided to accommodate the intended usage of the common facilities on the Ground Floor (Building B).

2.12. Pay to council a contribution amount of **\$1,010,000** that may require adjustment at time of payment, in accordance with the Section 94A Development Contribution Plan - Gosford City Centre.

The total amount to be paid must be indexed each quarter in accordance with the Consumer Price Index (All Groups index) for Sydney issued by the Australian Statistician as outlined in the contribution plan.

Contact council's Contributions Planner on Tel 4325 8222 for an up-to-date contribution payment amount.

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Any Construction Certificate must not be issued until the developer has provided the accredited certifier with a copy of a receipt issued by council that verifies that the Section 94 contributions have been paid. A copy of this receipt must accompany the documents submitted by the certifying authority to council under Clause 104 of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the Contributions Plan may be inspected at the office of Central Coast Council, 49 Mann Street Gosford or on council's website:

[www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan](http://www.gosford.nsw.gov.au/building-and-development/planning-guidelines-and-forms/contributions-plan)

- 2.13. The recommendations of the Environmental Noise Assessment and Noise and Vibration Intrusion Assessment, prepared by Day Design Pty Ltd, dated 12 December 2015, must be included in the Construction Certificate.

### **3. PRIOR TO COMMENCEMENT OF ANY WORKS**

All conditions under this section must be met prior to the commencement of any works

- 3.1. Appoint a Principal Certifying Authority after the construction certificate for the building work has been issued.
- a. The Principal Certifying Authority (if not 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 two (2) days before the building work commences.
  - b. Submit to Council a *Notice of Commencement of Building Works* or *Notice of Commencement of Subdivision Works* form giving at least two (2) days notice of the intention to commence building or subdivision work. The forms can be found on Council's website [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au)
- 3.2. Keep a copy of the stamped approved plans on site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 3.3. Do not commence site works until the sediment control measures have been installed in accordance with the approved plans / Gosford DCP 2013 Chapter 6.3 - *Erosion Sedimentation and Control*.
- 3.4. Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must 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

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- c. That unauthorised entry to the work site is prohibited.

Remove the sign when the work has been completed.

- 3.5. Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the *Plumbing and Drainage Act 2011* (to be provided by licensed plumber). These documents can be found on Council's website at: [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au).

Contact Council prior to submitting these forms to confirm the relevant fees.

- 3.6. Provide toilet facilities at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
  - a. Be a standard flushing toilet connected to a public sewer, or
  - b. Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - c. Be a temporary closet approved under the *Local Government Act 1993*
- 3.7. Prevent public access to the construction site as required by Clause 298 of the *Work Health and Safety Regulation 2011* when building work is not in progress or the site is unoccupied. Site fencing specifications are outlined under Australian Standard AS1725.1-2010 - *Chain-link fabric fencing - Security fencing and gates*. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

A separate application made under the *Roads Act 1993* will need to be lodged with Council If a hoarding or construction site fence must be erected on the road reserve or a public place.

- 3.8. Install a hoarding or construction site fence between the work site and any public place to prevent any materials from or in connection with the work falling onto the public place. The use of barbed wire and/or electric fencing is not to form part of the hoarding or construction site fence.

A separate application made under the *Roads Act 1993* will need to be lodged with council If the hoarding or construction site fence must be erected on the road reserve or a public place.

- 3.9. Disconnect and cap the property's sewer at the inspection shaft.
- 3.10. Undertake demolition involving asbestos in accordance with the *Work Health and Safety Act 2011*.

The person having the benefit of this consent must ensure that the removal of:

- a. more than 10m<sup>2</sup> of non-friable asbestos or asbestos containing material is carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist, and

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- b. friable asbestos of any quantity is removed by a licensed removalist with a friable (Class A) asbestos removal licence.

The licensed asbestos removalist must give notice to the regulator before work commences in accordance with Clause 466 of the *Work Health and Safety Regulation 2011*.

#### **4. DURING WORKS**

All conditions under this section must be met during works

- 4.1. Clearing of land, excavation, and / or earthworks, building works, and the delivery of building materials must only 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. Undertake and maintain Erosion and Siltation control measures in respect to any part of the land where the natural surface is disturbed or earthworks are carried out. The controls must comply with Gosford DCP 2013 Chapter 6.3 - *Erosion and Sedimentation Control*.
  - 4.3. Keep a copy of the stamped approved plans on site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
  - 4.4. Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the *Plumbing and Drainage Act 2011*.
  - 4.5. Construct the works within the road reserve that required approval under the Roads Act. The works must be constructed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control.
  - 4.6. Construct the public stormwater / watercourse works that required approval under the Local Government Act 1993. The works must be constructed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control.

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- 4.7. Locate all external electrical fixtures and/or gas outlets adjacent to the secondary flow path and on-site detention system at a minimum height of 500mm above the adjacent corresponding 1% AEP flood level within the secondary flow path or on-site detention system.
- 4.8. Compliance with all demolition and construction commitments as detailed in the Waste Management Plan dated 20 May 2016 signed by M. Beraldo.
- 4.9. Ensure no obstructions to the wheel out of the waste bins are permitted including grills, speed humps, barrier kerbs etc.
- 4.10. Ensure a minimum of 4.0m height clearance in all areas accessed by the residential waste vehicle.
- 4.11. Do not carry out construction work or store building materials on the road reserve unless they are associated with a separate approval under the *Roads Act 1993*.
- 4.12. Action the following when an excavation extends below the level of the base of the footings of any building, structure or work on adjoining land:
- a. notify the owner of the adjoining land, and
  - b. protect and support the building, structure or work from possible damage from the excavation, and
  - c. underpin the building, structure or work where necessary, to prevent any such damage.
- These actions must be undertaken by the person having the benefit of the development consent at their own expense.
- 4.13. Implement the requirements of the Waste Management Plan listed as supporting documentation in this development consent.
- 4.14. Demolish buildings in a safe and systematic manner in accordance with AS2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.
- 4.15. No fill other than as shown on the approved plans is permitted.
- 4.16. Submit a report prepared by a registered Surveyor to the Principal Certifying Authority at each floor level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.
- 4.17. Incorporate the following Crime Prevention Through Environmental Design (CPTED) principles and strategies to minimize the opportunity for crime:
- a. Provide adequate lighting to common areas as required under AS1158: *Lighting for roads and public spaces*.

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- b. Paint the ceiling of the car park white.
  - c. Design of landscaping, adjacent to mailboxes and footpaths, must not provide concealment opportunities for criminal activity.
  - d. Design the development to avoid foot holes or natural ladders so as to minimise unlawful access to the premises.
  - e. Provide signage within the development to identify all facilities, entry/exit points and direct movement within the development.

4.18. Provide mail receptacles appropriately numbered for each dwelling unit in the development, as well as for the managing body, in consultation with Australia Post.

## **5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE**

All conditions under this section must be met prior to the issue of any Occupation Certificate

- 5.1. Submit an application for the Occupation Certificate to the Principal Certifying Authority for approval.
- 5.2. Do not occupy the premises until the Occupation Certificate has been issued.
- 5.3. Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the *Plumbing and Drainage Act 2011*.
- 5.4. Complete works within the road reserve that required approval under the Roads Act. The works must be completed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control, and documentary evidence for the acceptance of such works must be obtained from the Roads Authority.
- 5.5. Rectify any damage not shown in the dilapidation report submitted to Council before site works had commenced. Any damage will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense.
- 5.6. Complete public stormwater / watercourse works that required approval under the Local Government Act 1993. The works must be completed in accordance with Council's Civil Works Specification and Gosford DCP 2013 Chapter 6.3 - Erosion Sedimentation Control, and documentary evidence for the acceptance of such works must be obtained from Council.
- 5.7. Complete the internal engineering works within private property in accordance with the plans and details approved with the construction certificate.
- 5.8. Amend the Deposited Plan (DP) 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

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authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan.

- a. 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.
- b. Create a 'Restriction as to User' over all land affected by a secondary flow path to ensure:
  - (i) The shape of the flow path is not altered.
  - (ii) No structure is erected within the flow path, excluding fences that are flood compatible.
  - (iii) The minimum floor level of any dwelling is defined by a reduced level related to AHD being 500mmm above the 1% AEP flood level.

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.

Submit, to the Principal Certifying Authority, copies of registered title documents showing the restrictive and positive covenants.

- 5.9. Submit certification from a consulting engineer to Council stating that all slabs and / or footings within the zone of influence associated with the Council stormwater system and / or drainage easement have been constructed in accordance with the Construction Certificate.
- 5.10. Amend the deposited plan (DP) to include a Section 88B instrument under the *Conveyancing Act 1919* to indemnify Council against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service, at the applicant's cost.

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- 5.11. Provide certification to the Principal Certifying Authority that the requirements of the BASIX certificate listed as supporting documentation in this development consent have been complied with.
  - 5.12. Erect a warning notice in a prominent position in the immediate vicinity of the swimming pool in accordance with the *Swimming Pools Act 1992*. The warning notice must contain the information prescribed by Clause 10 of the *Swimming Pools Regulation 2008*.
  - 5.13. Install a swimming pool fence in accordance with the *Swimming Pools Act 1992* and the requirements of AS1926.1-2012: *Swimming pool safety: Safety barriers for swimming pools*.
  - 5.14. Dispose the backwash from the pool filter and overflow system to the sewer.

## 6. ONGOING OPERATION

- 6.1. Maintain the on-site stormwater detention facility in accordance with the operation and maintenance plan.
- 6.2. Maintain the nutrient / pollution control facilities in accordance with the operation and maintenance plan.
- 6.3. Comply with all on-going use commitments as detailed in the Waste Management Plan by Elephants Foot Recycling Solutions, dated 15 March 2016 signed by E. Saidi.
- 6.4. A bin lifter to be provided within the waste storage enclosure/s to facilitate transfer of recyclables from MGB's into bulk waste bins.
- 6.5. Garden/landscaping waste to be removed off site by the garden/landscaping contractor.
- 6.6. Bulk waste bins from Building B to be transferred to the principal waste storage room in Building A the evening before collection.
- 6.7. Waste vehicle manoeuvring to be in accordance with the Traffic Report by McLaren Traffic Engineering Reference No. 15355.01FA dated 15 March 2016.
- 6.8. Locate the approved waste storage enclosure/area as indicated on Project Number 15128, Drawing No. DA102, revision F, dated 2 February 2017, prepared by Beraldo Design.
- 6.9. Construct and manage the waste storage enclosure in accordance with the provisions of Gosford DCP 2013, Part 7: Chapter 7.2 - *Waste Management, Appendix D and Appendix G*, as applicable.
- 6.10. Construct and manage garbage chutes in accordance with the provisions of Gosford DCP 2013, Part 7: Chapter 7.2 - *Waste Management, Appendix F*.
- 6.11. Insulate and / or isolate the motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system so as not to create an offensive



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noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.

- 6.12. Do not install cooking facilities or sanitary fittings other than those indicated on the approved plans.
- 6.13. Operate all mechanical plant equipment and machinery (ie. air conditioning unit and/or heat pump) in accordance with the *Protection of the Environment Operation Act 1997*.
- 6.14. Operate and maintain all external lights in accordance with the *AS4282-1997: Control of the obtrusive effects of outdoor lighting*.
- 6.15. Do not store materials, waste matter or products outside the building or the approved waste storage area at any time
- 6.16. Maintain all works associated with the approved Landscape Plans for a period of 12 months from the date of the issue of any Occupation Certificate to ensure the survival and establishment of the landscaping.
- 6.17. Replace all damaged or missing areas of lawn and plantings at the completion of the landscaping maintenance period, including adjoining road reserve areas that are in a state of decline, to a healthy and vigorous condition in accordance with the approved detailed Landscape Plans and Development Consent Conditions.

## 7. ADVICE

- 7.1. Consult with public authorities who may have separate requirements 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. *Central Coast Council* in respect to the location of water, sewerage and drainage services.
- 7.2. Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.

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7.3. Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

- 7.4. Separate application is required should the applicant require a new or upsized water supply connection to Council's water supply system.
- 7.5. Install and maintain backflow prevention device(s) in accordance with Council's *WS4.0 Backflow Prevention Containment Policy*. This policy can be found on Council's website at: [www.gosford.nsw.gov.au](http://www.gosford.nsw.gov.au)
- 7.6. The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.
- 7.7. Payment of a maintenance bond may be required for civil engineering works associated with this development. This fee is calculated in accordance with Council's fees and charges.
- 7.8. The inspection fee for works associated with approvals under the Local Government Act is calculated in accordance with Council's current fees and charges policy.
- 7.9. Ensure the proposed building or works comply 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. This development consent does not indicate nor confirm that the application complies with the requirements of the DDA.

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## 8. PENALTIES

Failure to comply with this development consent and any condition of this consent may be a ***criminal offence***. Failure to comply with other environmental laws may also be a ***criminal offence***.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

### **Warnings as to Potential Maximum Penalties**

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

## 9. REVIEW OF DETERMINATION

- 9.1. Subject to provisions of Section 82A of the Act the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

## 10. RIGHT OF APPEAL

- 10.1. Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court within six (6) months, from the date of determination.
- 10.2. To ascertain the date upon which the determination becomes effective refer to Section 83 of the Act.