

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 Building - Two Towers (85 Units) & Demolition of Existing Structures (JRPP)
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, 44 Hills Street NORTH GOSFORD, 34-36 Hills Street NORTH GOSFORD, 38 Hills Street NORTH GOSFORD, 42 Hills Street NORTH GOSFORD, 40 Hills Street NORTH GOSFORD
Applicant	Beraldo Design
Owner	Brighton Landing Pty Ltd
Date of DA Lodgement	31/03/2016
Number of Submissions	One (1) (Re – exhibited)
Recommendation	Approval - subject to conditions
Regional Development Criteria - Schedule 7 of the State Environment Planning Policy (State and Regional Development) 2011	Capital Investment Value > \$20M and lodged before 1 March 2018.
List of all relevant 4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979 (EP&A Act)</i> • <i>Local Government Act 1993 (LG Act)</i> • <i>Roads Act 1997 (Roads Act)</i> • <i>State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)</i> • <i>State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65)</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)</i> • <i>State Environmental Planning Policy (Coastal Management) 2018 (SEPP Coastal Management)</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i>

	<p>(SEPP Infrastructure)</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 (SEPP State and Regional Development) • Gosford Local Environmental Plan 2014 (GLEP 2014) • Gosford Development Control Plan 2013 (GDGP 2013) • Apartment Design Guide. Tools for improving the design of residential apartment development (ADG) 				
List all documents submitted with this report for the Panel's consideration	Drawing	Description	Sheets	Issue	Date
	DA000	Cover Page	1	A	10/10/2017
	DA001	Site Analysis	2	A	10/10/2017
	DA002	Cut and Fill Plan	3	A	10/10/2017
	DA100	Basement Lower Plan	4	B	20/12/2017
	DA101	Basement Upper Plan	5	B	20/12/2017
	DA102	Ground Floor-Site Plan	6	B	19/03/2018
	DA103	Level 1 Plan	7	A	10/10/2017
	DA104	Level 2 Plan	8	A	10/10/2017
	DA105	Level 3 Plan	9	A	10/10/2017
	DA106	Level 4 Plan	10	A	10/10/2017
	DA106	Level 5 Plan	11	A	10/10/2017
	DA108	Level 6 Plan	12	A	10/10/2017
	DA108	Level 7 Plan	13	A	10/10/2017
	DA110	Level 8 Plan	14	A	10/10/2017
	DA111	Roof Plan	15	A	10/10/2017
	DA200	West Elevation	16	A	10/10/2017
	DA201	North Elevation	17	A	10/10/2017
	DA202	East Elevation	18	B	09/05/2018
	DA203	South Elevation	19	A	10/10/2017
	DA204	North Easement Elevation	20	A	10/10/2017
	DA204	South Elevation Building B	21	A	10/10/2017
	DA300	Section A-A	22	A	10/10/2017
	DA301	Section B-B	23	B	20/12/2017
	DA302	Section C-C	24	A	10/10/2017
	DA303	Section D-D	25	A	10/10/2017
	DA304	Sections E-E	26	B	20/12/2017
	Traffic and Parking Impact Assessment				5 April 2018
	SEPP 65 Design Verification Statement				October 2017
	Design Excellence Report				13 October 2017
	Peer Review				13 October 2107
	Quantity Surveyors Report				3 March 2016
	Noise and Vibration Intrusion Assessment				17 December

(contd)

		2015
	Environmental Noise Assessment	17 December 2015
	Stormwater Drawings	20/11/2015 06/12/2016
	Landscape Plans	10/10/2017
	Access Report	March 2016
	Erosion and Sediment Control Plans	20/11/15
	BASIX Certificate	16/10/2017
	Water Cycle Management Plan	14/12/2017
	Waste Management Plan	20 May 2016
	Arboricultural Assessment	13 November 2015
	Clause 4.6 of GLEP 2014 (Exceptions to Development Standards) (Height of Buildings) Variation	June 2018
	Shadow Diagrams, 3D View, Compliance Plans	10/10/2017
Report prepared by	A Stuart	
Report date	10 June 2018	

Summary of s.4.15 matters

Have all recommendations in relation to relevant s. 4.15 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

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?

Yes

Title: Development Application No. 49558/2016, Proposed Residential Flat Building - Two Towers (85 Units) & Demolition of Existing Structures (JRPP) 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, 44 Hills Street NORTH GOSFORD, 34-36 Hills Street NORTH GOSFORD, 38 Hills Street NORTH GOSFORD, 42 Hills Street NORTH GOSFORD, 40 Hills Street NORTH GOSFORD

Department: Environment and Planning

SUMMARY

A development application has been received for a residential flat building and the demolition of existing structures at No. 34- 44 Hills Street, North Gosford. The proposal has been examined having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Beraldo Design
Owner	Brighton Landing Pty Ltd
Application No	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, 44 Hills Street NORTH GOSFORD, 34-36 Hills Street NORTH GOSFORD, 38 Hills Street NORTH GOSFORD, 42 Hills Street NORTH GOSFORD, 40 Hills Street NORTH GOSFORD
Proposed Development	Residential Flat Building - Two Towers (85 Units) & Demolition of Existing Structures (JRPP)
Site Area	3284m ²
Zoning	R1 GENERAL RESIDENTIAL
Existing Use	Three single storey dwellings ; Vacant
Employment Generation	Yes
Estimated Value	\$25,250,000.00

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RECOMMENDATION

- 1** *Joint Regional Planning Panel grant consent subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act and other relevant issues.*
- 2** *In accordance with section 4.53 of the Environmental Planning and Assessment Act 1979, this consent shall be valid for a period of five (5) years.*
- 3** *That Council advise those who made written submissions of the Joint Regional Planning Panels decision.*

VARIATIONS TO POLICIES

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. Vehicle Access- supported. On-site Car parking – minor, supported. Wind Mitigation –supported. Housing Choice & Mix –minor, supported.
State Environmental Planning Policy No. 65/ Apartment Design Guide	Apartment Size –minor, supported. Common Circulation–minor, supported. Deep Soil Zones – supported. Room depths – minor, supported. Visual Privacy – minor, supported. Bicycle and Car Parking – minor, supported

THE SITE

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 (No. 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. Three of the five properties contained within the site are occupied by single storey detached dwellings, with the remaining two lots being vacant.

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

The site is zoned R1 General Residential under *Gosford Local Environmental Plan 2014* (GLEP 2014).



Figure 3: Site Location Aerial (site shown edged heavy black)

BACKGROUND

The development application was referred for consideration to the Joint Regional Planning Panel (JRPP) on 30 March 2017, where the matter was deferred for the following reasons:

- *'The proposed massing did not provide appropriate transition both within the site and the surrounding area (both existing and likely future development), particularly to the north of the site, noting the objectives of the height control encouraged a high quality urban form and an appropriate transition in built form, and the current height controls provide for a two storey height transition down to the north;*
- *'While there are adjoining and surrounding development approvals, the 30% height and FSR bonus has lapsed for any new development and redevelopment in the area is neither overwhelming nor consistent. Where it has occurred in the same street, lower street wall heights are provided;*
- *'The Clause 4.6 variation request as submitted was not well – founded (or appropriately thorough) and the overall height needed to ensure that any rooftop plant was included;*
- *'The façade composition, materials, colours, fenestration and details lacked cohesion and warranted review and change;*
- *'The proposal as submitted was not considered to exhibit design excellence. However, with amendments and refinement (including to the height), the Panel was of the view this may be achievable, given the general site planning was acceptable;*
- *'Further consideration of parking allocation with this development was warranted.'*

The terms of the JRPP's deferral invited the applicant to submit an amended proposal for subsequent consideration by Council staff and the Panel, addressing the following matters:

- *'Removal of the top level of the northern building.*
- *A fresh and independent review of the façade composition being undertaken (with suggestion this occur by a separate architectural practice akin to an independent peer review), addressing the following matters:*
 - *Seeking a cohesive and simpler design aesthetic and solution, particularly at the street elevation and side elevations;*
 - *Revision of the front screening element, which if retained in any form, be detailed to ensure appropriate internal amenity, neutrality of colour, longevity and a maintenance regime;*
 - *Measures to ensure an appropriate definition of the base of the building and modulation, façade treatment and measures for an appropriate visual relationship between the upper and lower levels of the buildings;*
 - *A review of materials and proposed colours;*

-
- *Differential treatment of the northern and southern buildings to provide some visual separation and interest, yet in a complimentary way;*
 - *Review of the presentation of the development at street level, including walls, entries and detailing to appropriately activate the street, while addressing internal amenity;*
 - *Provision of a brief report associated with the above review to address the provisions related to design excellence in Clause 8.5 of Gosford LEP explain the design philosophy and approach, with plan, sketches and details to ensure realisation of design excellence in construction.*
 - *Provision of a revised and comprehensive Clause 4.6 Variation Request following the amendment to the northern building and also ensuring any rooftop plant is considered.*
 - *Consideration of the parking allocation, having regard to the nature of the site and applicable controls.'*

On 17 October 2017, in response to the Joint Regional Planning Panel's Terms of Deferral, dated 30 March 2017, amended plans and additional information were received at Council. These amended plans were re-exhibited from 26 October until 16 November 2017.

On 29 November 2017, correspondence was forwarded to the applicant, requesting further information relating to traffic, water cycle management and other engineering related matters.

On 5 April 2018, all outstanding information was received at Council.

As detailed within this report and **Attachment 3**, it is considered the terms of deferral have been addressed.

A photomontage of the proposal previously referred to JRPP, viewed from south of the site on Hill Street, orientated north-west, is provided below (figure 1):



Figure 1: Photomontage (Hill Street perspective)

A photomontage of the amended proposal, viewed from south of the site on Hill Street, orientated north-west, is provided below (figure 2):



Figure 2: Photomontage (Hill Street perspective)

SURROUNDING DEVELOPMENT

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 under GLEP 2014 and is occupied by commercial buildings and associated car parking areas. To the north, south and east of the site, the land is zoned R1 General Residential under GLEP 2014, and is occupied by low scale dwelling houses. Details of recent development consents in close proximity of the site are provided below:

1. Development Application No.46176/ 2014

Proposal: Residential Flat Building (24 Units)

Property: No. 47 Hills Street, NORTH GOSFORD

Status: Lapses 9 February 2019



Figure 4: DA 46176/2014 located at No. 47 Hills Street, North Gosford

2. Development Application No. 46236/2014

Proposal: Residential Flat Building (48 Units)

Property: 69-71 Hills Street, NORTH GOSFORD.

Status: Lapses 8 May 2020



Figure 5: DA No. 46236/2014 located at No. 69-71 Hills Street, North Gosford

3. Development Application No. 49522/2016

Proposal: Residential Flat Building (50 Units)
 Property: 73-75 Hills Street, NORTH GOSFORD
 Status: Lapses 27 April 2019



Figure 6: DA No. 49522/2016 located at No. 75-75 Hills Street, North Gosford

4. Development Application No. 46224/2014

Proposal: Residential Flat Building (48 Units)
 Property: 66-70 Hills Street, NORTH GOSFORD
 Status: Completed



Figure 7: Completed development at No. 66-70 Hills Street, North Gosford

5. Development Application No. 43268/2014

Proposal: Mixed Use Development (38 Units) with Ground Floor Commercial Premises
and Demolition of Existing Structures

Property: 357 & 359 Mann Street, NORTH GOSFORD

Status: Lapses 30 March 2020



Figure 8: DA 43268/2014 located at No. 357 & 359 Mann Street, North Gosford

6. Development Application No. 46259/2014

Proposal: Mixed Use Development comprising 31 Boarding House Rooms, 16 Residential Units and Retail Shop

Property: 47 Beane Street GOSFORD

Status: Under construction



Figure 9: DA 43268/2014 located at No. 47 Beane Street, North Gosford



Figure 10: DA 43268/2014 located at No. 47 Beane Street, North Gosford

THE PROPOSED DEVELOPMENT

Development Application No. 49558/2016 seeks approval for the following:

- Clearing and excavation of the site.
- Eighty five (85) apartments, with one hundred and five (105) car spaces, including seventeen (17) visitor and twelve (12) adaptable spaces; thirty nine (39) bicycle storage spaces and seven (7) motorcycle spaces located within Buildings A and B.
- Building A is located at the southern end of the site, is nine (9) storeys in height and contains sixty (60) apartments and sixty nine (69) car spaces:
 - Basement Lower: Residential non adaptable car spaces (35); Residential adaptable car spaces (2); Motorcycle spaces (3); Bicycle spaces (8);
 - Basement Upper: Residential non-adaptable car spaces (14); Residential adaptable car spaces (6); Visitor car spaces (12); Bicycle spaces (7).
 - At the ground level of Building A is a pool area and adjoining indoor communal area and associated facilities.
- Building B is located at the northern end of the site, is seven (7) storeys in height and contains twenty five (25) apartments and thirty six (36) car spaces:
 - Basement Lower: Residential non adaptable car spaces (18); Residential adaptable car space (1); Bicycle spaces (10); Motorcycle spaces (4).
 - Basement Upper: Residential non-adaptable car spaces (9); Residential adaptable car spaces (3); Visitor car spaces (5); Bicycle spaces (14).
 - At the ground level of Building B is a gym and associated facilities.
- The following table indicates the proposed unit mix:

Residential Units (Building A and B)			
	1 bed	2 bed	3 bed
Ground Floor	0	0	0
First Floor	4	5	1
Second Floor	5	9	1
Third Floor	2	4	2
Fourth Floor	4	8	0
Fifth Floor	4	8	0
Sixth Floor	4	8	0
Seventh Floor	3	5	0
Eighth Floor	3	5	0
Total Units	29 (34%)	52 (61%)	4(5%)

Figure 11: Proposed Unit Mix

- Landscaping on the site is proposed in accordance with the landscape plan accompanying the development application:

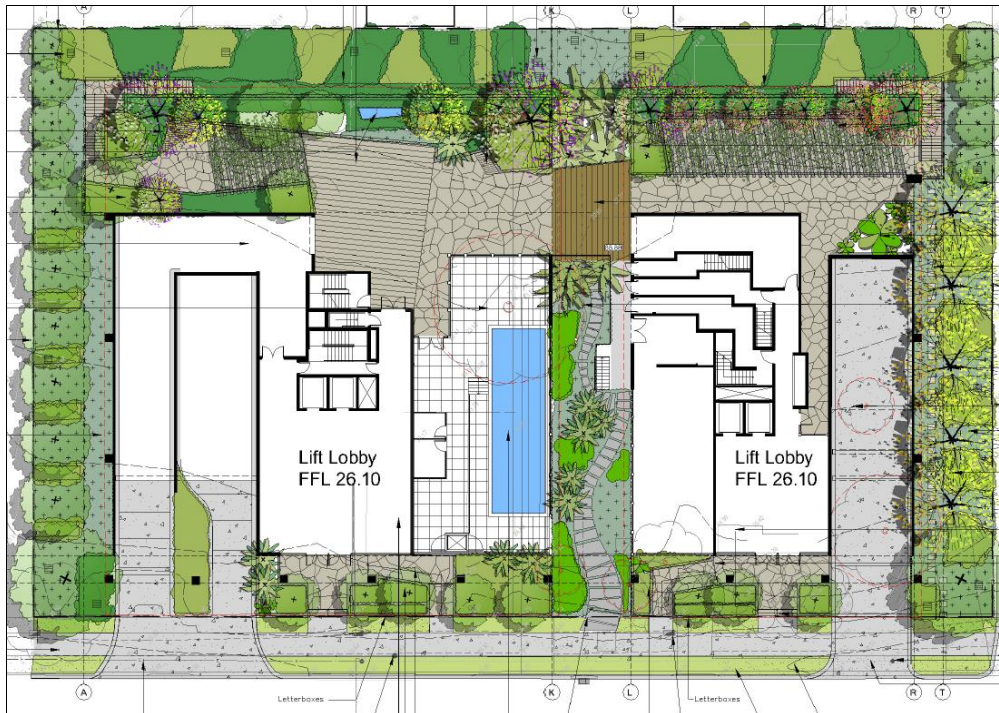


Figure 12: Proposed Landscaping Plan

- 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 A and 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 as well as above ground detention. Building B has above ground detention only.
- 15% of apartments (12 units) are capable of being modified to create adaptable units.

HISTORY

Council's records show that the following development applications were previously lodged on this site:

- Development Application No. 16309/2001 seeking consent for a residential flat building on No. 34-36 Hills Street, North Gosford was refused on 12 November 2002.
- Development Application No. 18383/2002 seeking consent for a residential flat building on No. 34-36 Hills Street, North Gosford was approved on 21 January 2003.
- Development Application No. 23978/2004 seeking consent for a residential flat building containing 32 units located over 3 storeys on the subject site was approved on 20 February 2007.

s. 4.15 (1)(d) of the EP & A Act: Consultation

Public Consultation

In accordance with Chapter 7.3.2 Notification of Development Proposals of *Gosford Development Control Plan 2013* (GDGP 2013), the amended development application was notified between Thursday, 26 October 2017 until Thursday, 16 November 2017, where one (1) submission was received.

The issues raised in the submission received are discussed below.

The proposed development will exacerbate the existing car parking problems in the city centre.

Comment: The development application is supported by a Traffic and Parking Impact Assessment, prepared by McLaren Traffic Engineering, dated 5 April 2018. Council's Traffic and Transport Planner reviewed this documentation and raised no objection.

Residential parking is provided on site exceeding the RMS Parking Guide for Metropolitan Sub-Regional Centres. A minimum of 70 vehicle spaces are required for residential units, where 88 are proposed. A total of 17 visitor spaces are proposed, as required.

The development application is not traffic generating development in accordance with cl. 104 of *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure).

The site is within walking distance of both bus and train stations in addition to a range of retail, commercial and services available with the Gosford City Centre. Appropriate conditions are imposed in relation to servicing the development with utilities.

Loss of privacy from the development to surrounding properties.

Comment: Complying setbacks and building separation minimises all adverse environmental and amenity impacts such as overshadowing, solar access, outlook and privacy on adjoining sites and the public domain.

Internal Consultation

The development application was referred to the following internal officers for comment:

- Architect

The development application has been assessed by Council's Architect , no objection was raised subject to recommended conditions. Referral comments provided at **Attachment 3**.

- Development Engineer

The development application has been assessed by Council's Development Engineer in relation to access, drainage and water/sewer and no objection was raised subject to recommended conditions.

- Traffic and Transport Planner

The development application has been assessed by Council's Traffic and Transport Planner, no objection was raised.

- Waste Services (Garbage)

The development application has been assessed by Council's Waste Services Division where no objection was raised subject to recommended conditions.

- Water and Sewer

The development application has been assessed by Council's Water and Sewer Division where no objection was raised subject to recommended conditions.

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 the retention of vegetation where possible 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 development 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.

Assessment:

Having regard for the matters for consideration detailed in Section 4.15 of the EP & A Act and other statutory requirements, the assessment has identified the following key issues, which are elaborated upon for Council's information.

s. 4.15 (1)(a)(i) of the EP & A Act: Provisions of Relevant Instruments/ Plans/ Policies:

State Environmental Planning Policies

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

The development 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*.

State Environmental Planning Policy (Coastal Management) 2018 (SEPP Coastal Management)

The provisions of SEPP Coastal Management require Council consider the aims and objectives of the SEPP when determining a development application within the Coastal Management Area. The Coastal Management Area is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone. The relevant matters have been considered in the assessment of this development application. The development application is consistent with the stated aims and objectives of SEPP Coastal Management.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The provisions of this SEPP technically apply however, the site has a history of residential use and so contamination is not likely to be present. In accordance with cl. 7(2) of the SEPP, no further consideration is required in this regard.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)

The proposal is subject to the requirements of SEPP 65.

As required by the JRPP terms of deferral, the amended development application is supported by:

- A Design Verification Statement prepared by Maurice Beraldo, Reg. Architect No. 6354, dated October 2017.
- A Design Excellence Statement, prepared by Ingham Planning, dated 13 October 2017; and
- A Peer Review (Façade Composition), prepared by GMU Urban design & Architecture, dated 13 October 2017 provided at **Attachment 6**.

The development application has been assessed by Council's Architect where no objection was raised subject. Referral comments are provided at **Attachment 3**.

The Apartment Design Guide: Tools for improving the design of residential apartment development (ADG) provides objectives, design criteria and design guidance on how residential development proposals can meet the Design Quality Principles contained within Schedule 1 of SEPP 65, through good design and planning practice.

The proposal is considered not without merit having regard to the requirements of the ADG. For further consideration, refer to the ADG Compliance Table contained within **Attachment 4**.

Gosford Local Environmental Plan 2014 (GLEP 2014)

Compliance Table

Development Standard	Required	Proposed	Compliance with Controls	Variation	Compliance with Objectives
4.4 Floor Space Ratio	2.75:1 (Area U2)	2.14:1 (Area U2)	Yes	0%	Yes
	2.25:1 (Area T2)	2.08: 1 (Area T2)	Yes	0%	Yes
8.9 (3)(a) Height of Buildings	31.2m (Area S)	31.2m (Section A-A)	Yes	0%	Yes
	23.4m (Area P2)	23.6m -31.4m (Section A-A)	No - see comments below	0.85% - 34%	Yes

	31.7m (Section C- C)		35.5%	
	24.8m (Section D- D)		6%	

Figure 13 - LEP 2014 Compliance Table

Clause 2.3 Zoning and Permissibility

The site is zoned R1 General Residential under GLEP 2014. The proposed use is defined as a "residential flat building" within GLEP 2014 and is permitted with the consent of Council. 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 R1 General Residential zone in that upon completion the housing mix of the locality will be increased. Furthermore, the development is consistent with the regional city fringe locality, provides for additional population accommodation within walking distance of the shops, services and public transport, and does not affect residential amenity.

Clause 4.3 Height of Buildings

The provisions of cl. 4.3 (Height of Buildings) within GLEP 2014 establish a maximum height limit for buildings. The applicable height control indicated on the GLEP Height of Buildings map is 24 metres (Area S - light pink) and 18 metres (Area P2 - beige) as per Figure 14:



Figure 14 - Mapped Height (subject site shown edged green)

To promote development within Gosford and surrounds, GLEP 2014 was amended in April 2015 via Amendment 12 to extend the 30% bonus height and floor space provisions under cl. 8.9 (Development Incentives). In relation to building height, cl. 8.9(3)(a) (30% bonus) establishes a maximum height of 31.2 metres (Area S) and 23.4 metres (Area P2).

The proposed development has a maximum height of 31.2 metres in Area S (Section A-A) and a maximum height of 31.7 metres in Area P2 (Section A-A). This represents a variance of 35.5% (Area P2) to the mapped building height.

A variation request having regard to cl. 4.6 (Exceptions to Development Standards) of GLEP 2014 has been provided and is contained within **Attachment 7**.

Clause 4.4 Floor Space Ratio

The provisions of cl. 4.4 (Floor Space Ratio) within GLEP 2014 establish a maximum floor space ratio (FSR) for buildings. The applicable FSR control is 2.75:1 (Area U2 – dark pink) and 2.25:1 (Area T2 – light pink) as per Figure 15:



Figure 15 - Mapped FSR (subject site shown edged green)

The proposed development has a maximum FSR of 2.14:1 in Area U2 and a maximum FSR of 2.08:1 in Area T2, complying with this development standard.

Clause 8.9 (Development Incentives) within GLEP 2014 provides a 30% bonus to incentivise development, which is applicable to this development 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 does not seek to invoke this bonus development standard.

Clause 4.6 Exceptions to Development Standards

As discussed above, in April 2015 the 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 cl. 8.9 (Development Incentives). The subject development application seeks to invoke these provisions as they relate to the maximum building height.

In accordance with the JRPP's terms of deferral, an amended cl. 4.6 (Exceptions to Development Standards) variation for the non-compliance associated with building height (cl. 8.9 (3)(a) of GLEP 2014) was provided and is provided at **Attachment 7**.

In accordance with cl. 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).

Subclause 3 provides:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The cl. 4.6 of GLEP 2014 request submitted by the applicant (refer to attachment 7) states 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, is summarised below:

- *The proposal represents a better outcome than complying height as it allows a more gentle transition between the two height zones on the site than would otherwise occur.*
- *The proposed distribution of building heights will have no different impact on views that would occur from a height compliant scheme.*
- *Due to the location of the split in the height limit relative to the development parcel, adherence to the height control would result in a building of split height. The proposal represents a better outcome as the proposed gap between buildings is necessary as it is an overland flow path and it creates the opportunity to vary the height of the two buildings rather than having a single building with a significant 'step' in it.*
- *The non-compliance also relates to the slope of the land, with the building being below the control at the highest, most prominent part of the site at the Hills Street frontage, and slightly above the control at the rear of the building as the site falls. The proposal provides a balanced approach to this issue rather than adopting a less appealing stepped form that would introduce an incongruous element into the architectural language of the building.*

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

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 cl. 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.

During the equinox, 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, 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 Street, North Gosford is overshadowed throughout the midwinter period.

The only other residential 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 located over the roof areas of these dwellings, which would be cast in 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 the city centre incentive region, does present difficulties in designing a

development which continues to allow full solar access to the existing dwelling at No. 32 Hills Street, North Gosford.

With regard to the additional shadows cast upon No. 32 Hills Street, North Gosford, 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, North Gosford, it is likely this property will be amalgamated with 32 Etna Street, North Gosford and/or those B4 Mixed Use zoned properties fronting Mann Street in a potential future development.

In view of the above considerations, no objection has been made with regard to the additional shadows cast by height non-complying elements. .

- 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 consider the proposed height variation against the objectives of cl. 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*

An appropriate unit mix is proposed 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 Gosford city 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 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 consistent with the objective to revitalise the city centre.

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

In allowing 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 and residential accommodation within walking distance to Gosford Train Station. In addition to this, all units have been designed 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"*.

- 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 characterised by older style buildings, which are being developed in accordance with Council's incentive goals. The proposed building will add to this growth. The improvement of properties along this street 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.

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 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 cl.4.6 of GLEP 2014 variation 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.*

Planning Circular PS 18-003 issued 21 February 2018 states the concurrence of the Director-General may be assumed when Joint Regional Planning Panels consider exceptions to development standards under cl.4.6 of GLEP (Exceptions to Development Standards) 2014 for regionally significant development.

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 cl. 4.6 (Exceptions to Development Standards) of GLEP 2014 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 cl. 4.6 (Exceptions to Development Standards) of GLEP 2014 variation provided having regard to cl. 8.9(3)(a) of GLEP 2014 is well founded and is worthy of support.

Clause 7.2 Flood planning

The site is identified as having minor isolated flood impacts (See Figure 16).

The development is considered satisfactory in respect to cl. 7.2 of GLEP 2014 subject to the imposition of appropriate flood mitigating conditions as recommended by Council's Development Engineer.



Figure 16 - Isolated Flooding shown blue (subject site shown edged in green)

Clause 8.5 Design Excellence

The provisions of cl. 8.5 (Design Excellence) of GLEP 2014 require Council to consider that the development exhibits design excellence. Consideration of the proposal against the matters attributed to design excellence, having regard to cl. 8.5(3) of GLEP 2014 are 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 R1 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 indoor swimming pool, gymnasium, common room and a landscaped area with integrated BBQ facilities.

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 identified in 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 within this Assessment Report and the proposal is considered worthy of support.

- 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,*

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- 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 near a heritage item and will contribute positively to streetscape amenity.

The setbacks and massing of the development is appropriate having regard to the desired character of the Gosford city centre. 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.

In response to the Joint Regional Planning Panel's Terms of Deferral, dated 30 March 2017, amended plans and additional information were received at Council on 17 October 2017. Regarding design excellence, JRPP requested the applicant address the following:-

- *Provision of a brief report associated with the above review to address the provisions related to design excellence in Clause 8.5 of Gosford LEP explain the design philosophy and approach, with plan, sketches and details to ensure realisation of design excellence in construction.*

Further consideration relating to the obtainment of design excellence with regard to the JRPPs deferral request is provided in **Attachment 3**.

Clause 8.9 Development Incentives

The development seeks to utilise the bonus provisions under cl. 8.9 (Development Incentives) within GLEP 2014 in relation to building height. Clause 8.9(3)(a) of GLEP 2014 (30% bonus) establishes a maximum of 31.2m (Area S) and 23.4m (Area P2).

The proposed development results in maximum building height of 31.2 metres (Area S) and 31.7 metres (Area P2). The development complies with the height of building in Area S. However, the development seeks a 35.5% variation of cl. 8.9(3)(a) for Area P2 only.

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

s. 4.15(1)(a)(ii) of the EP& A Act: Draft Environmental Planning Instruments:

No draft Environmental Planning Instruments apply to this development application.

s. 4.15(1)(a)(iii) of the EP& A Act: Provisions of any development control plan:

Gosford Development Control Plan 2013 (GDCP 2013)

GCDP 2013 provides objectives, design criteria and design guidance on how development proposals can achieve good design and planning practice. The proposal is considered acceptable having regard to the requirements of GCDP 2013. For a detailed consideration, refer to the GDCP 2013 Compliance Table contained within **Attachment 5**.

s. 4.15(b) of the EP & A Act: The Likely Impacts of the Development:

Built Environment

The proposed built form is considered acceptable in the context of the site.

Natural Environment

The proposal is satisfactory in relation to impacts on the natural environment as identified throughout this report.

Economic Impacts

The proposed scale of the development continues to contribute to the economic revitalisation of Gosford. The provision of additional dwellings proximate to the city centre contributes positively to the vibrancy and commercial vitality of the centre.

Social Impacts

This site and the surrounding area in general, has aged considerably and as not taken advantage of the areas location in terms of its proximity to 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 improvement of properties along this street 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.

s. 4.15 (1)(c) of the EP & A Act: Suitability of the Site for the Development:

The development is in accordance with the desired future character of the area as envisaged by the GDCP 2013.

s. 4.15 (1)(e) of the EP & A Act: The Public Interest:

Approval of the development 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.

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. No. 32 Hills Street, North Gosford, located directly south of the site is capable of being amalgamated with No. 32 Etna Street, North Gosford and / or those B4 Mixed Use zoned properties fronting Mann Street in any future redevelopment.

In view of the above considerations, the applicant was not requested to specifically address the Land and Environment Court planning principle from *Melissa Grech v Auburn Council* [2004] NSWLEC 40.

Development Contribution Plan

Development contributions are applicable to the subject development application, which is subject to Section 94A Contributions Plan - Gosford City Centre. **Condition 2.12** is recommended requiring the development contribution to be paid prior to the issue of any Construction Certificate.

Water and Sewer Contributions

The proposed development is subject to Water and Sewer Contributions. The requirement to pay the contributions has been imposed as a condition of consent.

CONCLUSION

This development application has been assessed under the heads of consideration of section 4.15 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. Accordingly, the development application is recommended for approval in accordance with section 4.16 of the *Environmental Planning and Assessment Act*.

Attachments

- 1** Proposed Conditions of Consent
- 2** Development Plans
- 3** Council's Architect Referral Comments
- 4** ADG Compliance Table
- 5** GDCP 2013 Compliance Table
- 6** Peer Review, dated 13 October 2017, prepared by GMU Urban Design and Architecture
- 7** Clause 4.6 (Exceptions to Development Standards) of GLEP 2014 Variation Request