

Development Consent

Section 4.38 of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission (the Commission), as the declared consent authority under clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, determines:

- a) that, pursuant to section 4.38 of the *Environmental Planning and Assessment Act 1979*, to grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2 and Schedule 3
- b) that any subsequent part of the development that is not State significant development pursuant to the *State Environmental Planning Policy (State and Regional Development) 2011* is to be determined by the relevant consent authority and that part of the development ceases to be State significant development.

These conditions are required to:

- prevent, minimise, and/or offset environmental impacts
- set standards and performance measures for acceptable environmental performance
- require regular monitoring and reporting
- provide for the ongoing environmental management of the development.

Sydney

2020

File: EF19/4965

SCHEDULE 1

Application No.:

SSD 10114

Applicant:

The Trustee for the SH Gosford Residential Trust

Consent Authority:

Independent Planning Commission

Land:

26 & 32 Mann Street, Gosford
Lot 469 DP 821073
Lots 2-7 DP 14761
Lot 1 DP 1235203

Development:

Concept Proposal for

- a building envelope including a podium and three towers, comprising:
 - maximum tower heights including:
 - Northern Tower up to RL 71.3m and RL 81.4m
 - Southern Tower up to RL 52.6m, RL 58.8m and RL 65.1m
 - Eastern Tower up to RL 71.3m
 - maximum of 39,244 m² GFA for residential, hotel and commercial / retail uses
 - site-wide concept landscape plan including through site links
 - design guidelines and design excellence strategy.

DEFINITIONS

Advisory Notes	Advisory information relating to the consent but do not form a part of this consent
Applicant	The Trustee for the SH Gosford Residential Trust, or any person carrying out any development to which this consent applies
Application	The development application and the accompanying drawings, plans and documentation described at Condition A2
Concept Proposal	A staged development application in accordance with the EP&A Act
Construction	Any works, including earth and building works
Council	Central Coast Council
DAP	Gosford Design Advisory Panel
Design Guidelines	Design Guidelines contained within the document titled ' <i>Central Coast Quarter 26 Mann Street Gosford Design Guidelines Revision B</i> prepared by St Hilliers and dated 12 March 2020'
Department	NSW Department of Planning, Industry and Environment
EIS	Environmental Impact Statement and attachments, prepared by Urbis Pty Ltd and dated September 2019
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
ESD	Ecologically Sustainable Design
FEAR	Future Environmental Assessment Requirement
Feasible	Means what is possible and practical in the circumstances
Future development application(s)	Subsequent development application(s) for detailed proposal(s) pursuant to this consent in accordance with the EP&A Act
GFA	Gross floor area
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: <ul style="list-style-type: none"> • involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or • results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	NSW Minister for Planning (or delegate)
Mitigation	Activities associated with reducing the impacts of the development prior to or during those impacts occurring
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation, benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
Response to Submissions / RtS	Response to Submissions report and attachments, prepared by Urbis Pty Ltd and dated 23 March 2020
RRFI	Response to request for information
Site	The site as described at Schedule 1
ToA	Terms of Approval

SCHEDULE 2
PART A - TERMS OF APPROVAL

Obligation to minimise harm to the environment

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and, if prevention is not reasonable and feasible, minimise any material harm to the environment that may result from the construction and operation of the development.

Development description

- A2. Consent is granted to the Concept Proposal as described in **Schedule 1** and the EIS (as amended by the RtS and RRFI) and does not authorise the carrying out of any physical works, including construction works, which must be the subject of future development application(s).

Development in accordance with plans and documents

- A3. The development may only be carried out:
- a) in compliance with the conditions of this consent
 - b) in accordance with all written directions of the Planning Secretary
 - c) generally in accordance with the EIS, RtS and RRFI
 - d) in accordance with the approved plans in the table below (as may be amended by the conditions in Schedule 2):

Concept Proposal Drawings by DKO Architecture (NSW) Pty Ltd			
Drawing No.	Revision	Title	Date
DA3	P5	Envelope Plan	March 2020
DA4	P3	Western Elevation	March 2020
DA5	P3	Eastern Elevation	March 2020
DA6	P3	Northern Elevation	March 2020
DA7	P3	Southern Elevation	March 2020

Determination of future development application(s)

- A4. In accordance with section 4.22 of the EP&A Act, all development under the Concept Proposal must be subject of future development application(s).
- A5. In accordance with section 4.24 of the EP&A Act, the determination of future development application(s) cannot be inconsistent with the terms of this development consent (SSD 10114) as described in Schedule 1, and subject to the conditions in Schedule 2.
- A6. For the avoidance of doubt, the consent authority for any future development applicant(s) pursuant to this consent shall be in accordance with Clause 1.6 of the State Environmental Planning Policy (Gosford City Centre) 2018 or the *State Environmental Planning Policy (State and Regional Development)*.

Lapsing of approval

- A7. This consent will lapse five years from the date of consent unless works the subject of future development application(s) have physically commenced by the date.

Legal notices

- A8. Any advice or notice to the consent authority shall be served on the Planning Secretary.

Inconsistency between documents

- A9. In the event of any inconsistency between conditions of this approval and the drawings / documents referred in Term of Approval (**ToA**) **A3**, the conditions of this approval prevail.

Gross floor area control

- A10. The maximum gross floor area (GFA) for the development shall not exceed 39,242 m², and shall comprise:
- a) a maximum of 26,369 m² residential GFA
 - b) a maximum of 9,660 m² hotel GFA
 - c) a minimum of 3,213 m² commercial / retail GFA

Building height control

- A11. The maximum building heights for the development are shown on the concept drawings listed in **Condition A3** and shall not exceed maximum:
- a) podium height RL 14.7 m (Northern and Southern envelopes) and RL 21.6 (Eastern envelope)
 - b) northern tower heights RL 71.3 m and RL 81.4 m
 - c) southern tower height RL 52.6 m, 58.8m and 65.1 m
 - d) eastern tower height RL 71.3 m.

Car parking

- A12. Car parking shall be provided at a rate no more than the requirements of the Gosford City Centre Development Control Plan 2018 and no less than the requirements of the Roads and Maritime Guide to Traffic Generating Developments 2002, to be determined in future development application(s) in accordance with the requirements of Future Environmental Assessment Requirements (**FEAR**) **C22** to **C24**.

Airspace protection

- A13. Prior to the lodgement of any future development application(s) the Applicant shall prepare an Aviation Impact Assessment (AIA) to assess the potential impact of building height(s) and construction crane height(s) on helicopter flight paths including management and mitigation measures where necessary. The AIA shall be prepared in consultation with NSW Central Coast Health.

Development contribution levies

- A14. Development contribution levies will be required in accordance with the Central Coast Council 7.12 Contributions Plan for Gosford City Centre and/or the Gosford City Centre Special Infrastructure Contribution Levy, as determined in the relevant future development applications(s).

END OF PART A

PART B – MODIFICATIONS TO THE CONCEPT PROPOSAL

Amendments to the concept proposal drawings

- B1. Prior to the lodgement of any future development application(s), revised concept proposal drawings shall be submitted to, and approved by, the Planning Secretary that include the following amendments:
- a) the Northern Tower building envelope (both halves) shall be setback an additional 3m from the western podium street-wall edge providing for the following minimum setbacks:
 - i) 5.7m setback (northern half of the Northern Tower envelope)
 - ii) 8.7m setback (southern half of the Northern Tower envelope)
 - b) the chamfering of the south-west corner of the Northern Tower podium as shown at page 10 of the Applicant's document titled '*Central Coast Quarter 26 Mann Street Gosford*' prepared by DKO Architecture and dated 26 June 2020
 - c) explore opportunities to further increase solar access to the southern through site link (i.e. the north-west oriented component, located between the Eastern Tower and the Southern Tower) in mid-winter (having regard to any visual, view and heritage impacts of any proposed change), which may include:
 - i) re-orientation, chamfering and/or setback of the Northern Tower envelope above podium level
 - ii) reduction of the height of the western end of the Eastern Tower envelope podium from three to one storey
 - iii) other option(s) that may achieve the aim of increasing solar access to the through site link as may be agreed with the Planning Secretary.

END OF PART B

PART C – FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

CONDITIONS TO BE MET IN FUTURE DEVELOPMENT APPLICATIONS

Design excellence

- C1. In addition to the requirements of the *State Environmental Planning Policy (Gosford City Centre) 2018*, all future development application(s) shall be carried out in accordance with the Design Excellence Strategy prepared by Ethos Urban, dated 17 May 2018 and as amended by the RTS dated March 2020, except as may be amended by this consent, and shall be reviewed by the City of Gosford Design Advisory Panel (DAP).

Building design

- C2. All future development applications for new built form must include:
- detailed plans, elevations and sections
 - artist's perspectives and photomontages
 - a design statement demonstrating the design quality of the proposed development and having regard to the character of surrounding development
 - consideration of the Design Guidelines.
- C3. Any proposed built form must be contained within the approved building envelopes illustrated in the approved plans referenced at **ToA A3** as amended by **Modification B1**.
- C4. Future development application(s) shall demonstrate consistency with the:
- advice of the DAP (**ToA C1**)
 - Design Guidelines
 - building efficiency target of 85% volumetric fill of the building envelope, unless
 - future development application(s) can demonstrate that an increase above 85% would maximise building articulation and does not have an adverse architectural design, visual, amenity or heritage impact; and
 - the DAP has confirmed that a higher building efficiency volumetric fill is acceptable.
- C5. Future development application(s) shall ensure the design of:
- all podiums provide active frontages to streets and the through site link and minimises the occurrence of long inactive facades
 - the Baker Street podium(s) relates appropriately to the Baker Street extension and the Leagues Club Field redevelopment and provide for an appropriate transition between the Baker Street entrance to the through site link and adjoining public domain and open space.
- C6. In the event that a porte-cochere is proposed for the hotel use, future development application(s) for the hotel use shall consider the porte-cochere location and design and impact on streetscape, heritage, pedestrian amenity and traffic considerations at **FEAR C22**.
- C7. Future development application(s) shall include a Reflectivity Analysis demonstrating that the external treatments, materials and finishes of the development do not cause adverse or excessive glare.
- C8. Future development application(s) shall include an Access Report demonstrating that the development achieves an appropriate degree of accessibility.

Public domain and landscaping

- C9. Future development application(s) shall include a Public Domain and Landscape Report (Landscape Plan) providing details and justification for the design and treatment of all areas of public domain, through site links and landscaping and the relationship of these spaces with existing and proposed buildings, spaces, structures and connections.

The Landscape Plan must:

- be generally in accordance with the:
 - concept landscape report titled '*Central Coast Quarter 26 Mann Street Masterplan Report Issue A*' prepared by Turf Design Studio and dated August 2019

- ii) arboricultural report titled '*Arboricultural Impact Assessment*' prepared by Urban Forestry Australia and dated December 2019
- b) include relevant details of the species to be planted (preferably species indigenous to the area), landscape treatments, including any paving and seating areas, soil depths and volumes and any other relevant information
- c) consider, and incorporate where necessary, the recommendations of the Public Art Strategy (**FEAR C17**)
- d) confirm method(s) / arrangement(s) to ensure the on-site through site links are publicly accessible 24 hours-a-day 7 days-a-week
- e) demonstrate the Mann Street entrance to the through site link (northern arm) is no narrower than 5m.

Biodiversity

C10. Future development application(s) shall consider biodiversity impacts, including the removal of existing vegetation on the site and the requirement to address ecosystem credits in accordance with the Biodiversity Development Assessment Report prepared by Niche Environment and Heritage and dated 29 August 2019.

The Port Jackson Fig Tree

C11. Future development application(s) shall include an Arboricultural Impact Assessment (AIA) prepared generally in accordance with the recommendations of the '*Arboricultural Impact Assessment*' prepared by Urban Forestry Australia and dated December 2019. The AIA shall:

- a) detail the retention of the existing Port Jackson Fig tree, located adjacent to the intersection of Vaughan Avenue and Mann Street
- b) demonstrate the location, excavation and construction of the basement would not adversely encroach on the roots of the Port Jackson Fig tree or impact on that tree's vigour or structural condition
- c) provide detail of the protection of the Port Jackson Fig tree during construction phase of the development including management and mitigation measures

Crime prevention through environmental design

C12. Future development application(s) shall include a Crime Prevention Through Environmental Design Report (CPTED) including method(s) / treatment(s) to ensure that all buildings, spaces and places within and around the development are safe and secure and the opportunity for crime has been minimised in accordance with CPTED principles.

Overshadowing

C13. Future development application(s) shall include an Overshadowing Impact Assessment (OIP), including shadow studies and diagrams showing the likely overshadowing impact of the development on surrounding proposed spaces, existing open spaces and neighbouring residential properties (including existing and approved residential developments). Buildings shall:

- a) be consistent with amendment(s) to building envelopes as endorsed by the Secretary (**Modification B1**)
- b) minimise overshadowing to adjoining public open spaces and proposed through site links within the site.

Public and private views

C14. Future Development Application(s) shall include a Visual and View Loss Assessment, which assesses public and private view impacts and demonstrates how consideration has been given to minimising such impacts, where feasible.

Future Residential Amenity

C15. Future development application(s) relating to residential use shall consider residential amenity including any relevant requirements of the:

- a) State Environmental Planning Policy 65 – Residential Apartment Development and the residential guidelines within the associated Apartment Design Guide
- b) Gosford City Centre Development Control Plan 2018.

Social and Economic Impact

- C16. Future development application(s) shall include a Social and Economic Impact Assessment (SEIA) that considers the social and economic impacts of the proposal, including cumulative impacts, including health impacts, of the development in context with other existing/approved large developments within the Gosford City Centre. In addition, the SEIA shall investigate the potential for the development to accommodate
- a) affordable housing and/or community facilities
 - b) a childcare centre.

Public art

- C17. Future Development Application(s) shall include a Public Art Strategy (PAS) for the inclusion of public art within the development. The PAS shall be prepared in consultation with Council.

Heritage

- C18. Future development application(s) shall include a detailed Heritage Impact Statement (HIS), which considers the heritage impact of the development, including any visual and view impacts on adjoining and nearby heritage items.

Aboriginal Archaeology

- C19. Future development application(s) shall include an Aboriginal Archaeological Assessment (AAA) to assess the impacts of the development on the Aboriginal archaeological resources. The AAA shall be prepared in consultation with the Biodiversity and Conservation Division of the Department of Premier and Cabinet, the local Aboriginal community and shall be generally in accordance with the recommendations of the '*Aboriginal Cultural Heritage Assessment Report*' prepared by Streat Archaeological Services and dated February 2020.

Environmental performance

- C20. Future development application(s) for new built form must demonstrate how the principles of Ecologically Sustainable Development have been incorporated into the design, construction and on-going operation of the new buildings, and demonstrate equivalent to the following minimum environmental standards:
- c) 4-star Green Star Design and As Built rating
 - d) 4-star NABERS Energy and Water rating
 - e) BASIX certification
- C21. Future development application(s) shall explore opportunities to exceed the minimum environmental standards (**FEAR C20**).

Traffic and transport

- C22. Future development application(s) shall be accompanied by a Traffic Impact Assessment (TIA) that assesses the traffic, transport and pedestrian impacts on the road and footpath networks and nearby intersection capacity. The TIA shall also address:
- a) traffic generation impacts and any necessary road infrastructure upgrades to adjoining and nearby roads and intersections
 - b) vehicle and pedestrian safety within and around the site
 - c) loading / unloading, servicing, coach, pick-up/drop-off arrangements
 - d) on-site car parking provision, location, access and operation
 - e) the impact of the removal of any existing on-street car parking spaces
 - f) pedestrian and bicycle infrastructure and facilities
 - g) the development's relationship to, and impact on, the Baker Street extension
 - h) access, use and safety of any hotel porte-cochere (if proposed)
 - i) any Gosford City Centre Transport Plan (including draft plan).

- C23. Future development application(s) shall include a Car Parking Assessment Report (CPAR) that includes a detailed assessment of car parking demand and impacts to confirm the most appropriate number of on-site car parking spaces for the development. In proposing the final car parking rate for the site, the CPAR shall:
- a) consider any existing or draft car parking study or guideline applying to the Central Coast Council local government area
 - b) provide on-site car parking at a rate no more than the requirements of the Gosford City Centre Development Control Plan 2018 and no less than the requirements of the Roads and Maritime Guide to Traffic Generating Developments 2002
 - c) undertake a needs-based car parking assessment for the development
 - d) undertake parking surveys (or consider existing recent surveys that may have been undertaken) examining the existing parking pressure on surrounding streets and parking facilities
 - e) analyse existing and projected car ownership details of residents within Gosford and the development
 - f) compare the proposal with other existing and approved developments within Gosford and other similar NSW regional centres
 - g) consider green travel plan initiatives
 - h) consider any Gosford City Centre Transport Plan (including draft plan).
- C24. Future development application(s) shall propose on-site car parking at a rate consistent with the findings / conclusions of the CPAR (**FEAR C23**), with the final parking rate to be determined by the consent authority.
- C25. Future development application(s) shall include green travel plans, identifying opportunities to maximise the use of sustainable transport choices.

Bicycle parking and facilities

- C26. Future development application(s) shall include bicycle parking for residents / employees / visitors and end of trip facilities (toilets, change/locker rooms and showers) in accordance with the Gosford City Centre Development Control Plan 2018. Wayfinding / signage shall be provided as appropriate.
- C27. Future development application(s) shall explore opportunities to exceed the Gosford City Centre Development Control Plan 2018 visitor bicycle parking requirements to encourage sustainable modes of transport.

Wind assessment

- C28. Future development application(s) shall include a Wind Impact Assessment, including wind tunnel testing, which:
- a) assesses the existing and proposed wind environment including the cumulative impact of existing and proposed (approved) tower developments adjoining and nearby the site
 - b) demonstrates spaces within and around the site are suitable for their intended purpose
 - c) includes mitigation measures to address adverse wind conditions, where necessary. In the event that the Wind Impact Assessment recommends landscaping / planting mitigation measures, these shall be shown on the Landscape Plan (**FEAR C9**).

Waste

- C29. Future development applications shall include an Operational Waste Management Plan to address storage, collection, and management of waste and recycling within the development.

Utilities

- C30. Future development application(s) shall include a Utility Services Infrastructure Assessment (USIA) which addresses the existing capacity and any augmentation requirements of the development for the provision of utilities, including staging of infrastructure. The USIA shall be prepared in consultation with relevant agencies and service providers.
- C31. Future development application(s) shall consider the location of any existing drainage / sewer infrastructure on the site and the impact of the development on that infrastructure in consultation with Council and/or relevant service owner/provider

Operational noise and vibration

C32. Future development application(s) shall be accompanied by a Noise and Vibration Impact Assessment (NVIA) that identifies and provides a quantitative assessment of the main noise generating sources and activities during operation. The NVIA shall include details of any mitigations measures to ensure the amenity of sensitive land uses are protected during the operation of the development.

Hydrology

C33. Future development application(s) shall consider potential flooding, stormwater, climate change/sea level rise and water quality impacts. Buildings shall be designed to appropriately respond to any constraints and address water sensitive urban design principles and the Gosford Development Control Plan 2013 water cycle management requirements.

Land Contamination

C34. Future development application(s) shall include a Site Contamination Assessment and, as necessary, a Remedial Action Plan reviewed and approved by a site auditor accredited under the *Contamination Land Management Act 1997*.

Structure

C35. Future development application(s) shall include a Structural Report that demonstrates the proposal can be constructed in accordance with the Building Code of Australia.

Construction

C36. All future development application(s) must provide an analysis and assessment of the impacts of construction and include:

- a) Construction Pedestrian and Traffic Management Plan (CPTMP), prepared in consultation with Transport for NSW. The CPTMP must detail vehicles routes, numbers of trucks, hours of operation, access arrangements and traffic control measures and cumulative construction impacts (i.e. arising from concurrent construction activity)
- b) Construction Noise and Vibration Impact Assessments that identifies and provides a quantitative assessment of the main noise generating sources and activities during construction. Details are to be provided outlining any mitigation measures to ensure the amenity of adjoining sensitive land uses is protected throughout the construction period(s)
- c) Community Consultation and Engagement Plans
- d) Construction Waste Management Plan
- e) Air Quality Management Plan
- f) Water Quality Impact Assessments and an Erosion and Sediment Control Plan (including water discharge and dewatering considerations)
- g) Geotechnical and Structural Investigation Report
- h) Acid Sulphate Soil Assessment and Management Plan
- i) Sediment and Erosion Management Plan.

END OF PART C

ADVISORY NOTES

Appeals

AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

Other Approvals and Permits

AN2. The Applicant shall apply to the Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

Responsibility for Other Consents / Agreements

AN3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Prescribed Conditions

AN4. The Applicant shall comply with all relevant prescribed conditions of the development consent under Part 6, Division 8A of the Regulation.

Disability Discrimination Act

AN5. This application has been assessed in accordance with the EP&A Act. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the BCA which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

AN6.

- a) The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.
- b) This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of the Environment and Energy to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.