

From: [Brendon Roberts](#)
To: [Heather Warton](#)
Cc: [Stephen Barry](#); [Louise Starkey](#); [Keiran Thomas](#)
Subject: RE: SSD Mann Street proposed draft conditions for review
Date: Thursday, 20 August 2020 4:37:06 PM
Attachments: [image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

Hi Heather

Many thanks for your email.

The Department has reviewed the proposed changes to conditions in terms of workability, and has the following comments:

1. a) the intended outcome of the proposed addition to the condition is not clear and will be difficult to implement (e.i the Planning Secretary will need to consider how the amended envelope plans have been reduced by 15%, with an additional 5% added in order to be satisfied that the condition has been satisfied). In particular, which elements of the building envelope should be reduced by 15% (does this apply to the height, towers and/or the podium) and how is the 15% calculated. Noting that a loose envelope provides some flexibility for design excellence, the Commission may consider specific changes to inform the detailed building design, such as amendments to the guidelines to ensure specific performance criteria (such as for slender towers) or numeric requirements for the buildings within the envelope (such as having a horizontal width or depth no greater than ?m).

e) while the addition to the condition provides an intended outcome, it is unclear what changes are required to the building envelope or through site link to achieve the outcome (e.i where is the view point location on Mann Street) and the extent to which the site topography and detailed design within the through site link (pedestrians, landscaping and outdoor dining, etc) may restrict views

It is also not clear how the 'articulation zone' is calculated as a % of the building envelope, when the detail in the definition is more relevant to the detailed building design – see below standard definitions of articulation zone from the ADG and the Codes SEPP.

2. Noting the condition as drafted is workable, the Department notes the consequential potential loss of employment opportunities as a result of reducing the minimum commercial / retail GFA and maximum GFA.
3. No comment
4. Site contamination should be considered as part of the assessment of future DA(s), and the information requested in amended Condition B4 should be a FEAR. As currently drafted it is an unnecessary administrative burden on the Department, where as the Stage 2 contamination reports and any associated remediation could be assessed and determined as part of the assessment of DA(2) which will include consultation with relevant stakeholders.
5. No comment

6. See response to 1 above
7. No comment
8. No comment
9. Definition is overly complicated – see examples from the ADG and Codes SEPP below.
10. No comment
11. No comment
12. No comment
13. Yes, C4(a) should be FEAR C1
14. No comment
15. No comment
16. No comment
17. No comment
18. Suggest removing “where necessary”, as the suggested addition includes “if necessary”
19. See response to 4 above

ADG define articulation zone as :

‘an area in front of the building line that may contain porticos, balconies, bay windows, decks, patios, pergolas, terraces, verandahs, window box treatments, window bays, awnings and sun shading features’

SEPP (Exempt and Complying Development Codes) 2008 define articulation zone as:

‘articulation zone means an area of a lot forward of the building line within which building elements are permitted to be located, being an area measured from—

(a) one side boundary of the lot to the opposite side boundary of the lot, or

(b) if the lot is a corner lot—the secondary road boundary of the lot to the boundary opposite the secondary road boundary.’

Brendon Roberts

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From: Heather Warton <Heather.Warton@ipcn.nsw.gov.au>

Sent: Wednesday, 19 August 2020 12:34 PM

To: Brendon Roberts <brendon.roberts@planning.nsw.gov.au>

Cc: Stephen Barry <Stephen.Barry@ipcn.nsw.gov.au>

Subject: SSD Mann Street proposed draft conditions for review

Dear Brendon

The proposed conditions for the Mann Street Gosford SSD 1100 have been finalised by the Panel.

It would be appreciated if the Department could review the proposed amended and new conditions below for ease of understanding and workability.

These are an amendment to the draft Instrument provided by the Department.

Please give me call to to discuss or clarify as required.

Regards

Heather

Heather Warton

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New South Wales Government

Independent Planning Commission

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Firstly, the main changes, being new modifications to be inserted into Schedule 2 are (generally shown in red), other minor changes are shown further below

1. Additional Modifications in B1.

Amendments to the concept proposal drawings

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) for the Southern and Northern components of the proposal, a 15% reduction in the proposed envelope with the provision of an additional 5% allowance as an 'articulation zone'
- b) a minimum additional 3m setback for the Northern Tower building envelope (both halves) 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)
- c) 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
- d) increased 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.
- e) amendment to the northern through site link or building envelope to ensure that a view is retained from the footpath on Mann Street to the waterfront/Rugby League Field.

To be read with this is a new definition of 'articulation zone' in the Definitions:

"The residual dimension between the inside face of an external wall and the limit of the permissible external envelope in which to develop material architectural and or structural expression and includes building components that do not count as floor space such as balconies, lifts, stairs and open circulation space. "

Reason:

The Panel wishes to reduce the size of the envelope 85% of that proposed. The Department's Draft FEAR C4 (c) proposed an 85% volumetric fill requirement, allowing extra GFA if clauses in C4(c) (i) and (ii) were met. The Panel is of the view that the proposed envelope is too bulky and creates consequential adverse amenity and environmental impacts. It is noted that the original draft conditions referred to the Applicant by the Department (the Applicant provided the Commission with a copy of its Response to the draft conditions) proposed a 75% volumetric fill. The Panel has read the Applicant's response to this proposed initial draft; and the Assessment Report.

Within the envelope as amended, will be an additional area of 5% for articulation.

In effect, this will be a similar outcome as recommended by the Department in FEAR C4c) except there will not be the ability to extend from 85% to 100% of the envelope, as FEAR C4c) would have potentially allowed. At most the GFA will be 85% of that proposed (see below), and the building will only be able to extend to the 95% line (compared to the proposal). The effect will be to 'slim' the Northern and Southern towers (and podium).

This amendment does not apply to the Hotel, as that envelope is satisfactory, and it is understood that the hotel envelope is somewhat fixed due to a tenant having been chosen by the Applicant.

Condition B1 f) is added as it is not clear to the Panel that there will be a view line from Mann Street to the water/open space in the current proposal)

f) Amendment to the northern through site link or building envelope to ensure that a view is retained from the footpath on Mann Street to the waterfront/Rugby League Field.

2. New Modification B2

The GFA changes accordingly due to B1a) and this has been moved from being a ToA to being a Modification (the amendment in B1a) modifying the Application.)

This now reads as below and ToA A10 is deleted. The GFA represents a 15% reduction for the Northern and Southern envelopes only (no change to the hotel and hotel retail GFA).

Amendment to GFA

B2 The maximum gross floor area (GFA) for the development shall not exceed 34,861 m², and shall comprise:

- a) a maximum of 22,414 m² residential GFA
- b) a maximum of 9,660 m² hotel GFA
- c) a minimum of 2,413 m² commercial / retail GFA.

3. New modification B3

Proposed ToA A12 referring to the approved car parking rates is now expressed as a Modification to read as follows:

Car Parking

B3

- a) Car parking for **residential apartments must** be provided at a rate of 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 C25**.
- b) Car parking for 'commercial activities' as defined in State Environmental Planning Policy Gosford City Centre 2018 (GSEPP) must be in accordance with clause 8.5 of the GSEPP.

Reason:

On the basis that it was intended in this condition that the car parking for the

hotel/commercial/retail uses in the proposal would be the between the RMS rate and the DCP rate, the proposal has been modified to state the possible rate set between the RMS rate and the DCP rate applies only to the residential component. This could stay as a TOA but it appears that the applicant intended to apply the RMS rate to the commercial component including the hotel (this is the case in the car parking table shown in the Reference Scheme). If the intent was to comply with the GSEPP for the hotel and other commercial/retail, and have a range of parking between the ADG/RMS and the DCP for the residential component, then this could stay as a ToA.

The Panel is of the view that the rate in clause 8.5 of the GSEPP must apply to the 'commercial activities' uses ie the hotel, commercial and retail.

The Panel is of the understanding that the GSEPP rate cannot be overridden by an RMS Guideline, noting that the GSEPP rate will require more parking for the hotel.

As this is a modification of the proposal (assuming the Applicant sought the RMS rate for the commercial component including the hotel), the new Modification C3 will read as above (and ToA A12 deleted).

4. Modification for Site contamination

Proposed new Modification B4:

Site Contamination

B4 Prior to the lodgment of any future development application(s), an updated Stage 2 Detailed Site Contamination Report must be submitted to, and approved by, the Planning Secretary. The report should review the history of the site prior to 1954 and 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*.

Reason:

From the Assessment Report it appears that the Stage 1 site investigation was not based on boreholes or actual testing, and the history of the site was only reviewed back as far as 1954.

The Panel is of the view that a Stage 1 or a Stage 2 report is needed before the next stage DAs are lodged.

5. Add in reference to possible design competition in FEAR 1

In FEAR C1, the Panel wishes to add in reference to a possible design competition being held for the future stages of the development.

FEAR 1 has therefore been amended with additional part b) to reflect this:

1.

a) 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 titled *St Hilliers, Gosford – Design Excellence Strategy* prepared by Urbis in March 2020, except as may be amended by this consent, and shall be reviewed by the City of Gosford Design Advisory Panel (DAP).

b) Prior to the lodgment of any future development application(s), the Applicant

must conduct a design competition for each development application unless the DAP agrees it is not required.

6. Amendment to FEAR C4 – as a consequence of new Modification B1 a) and b)

It is proposed to amend FEAR C4 (c) to reflect the amendment made to the building envelope in B1 a) and b)

This will read:

C4 Future development application(s) shall demonstrate consistency with the:

- (a) advice of the DAP (~~FEAR ToA C1~~)
- (b) Design Guidelines
- (c) ~~building efficiency target of 85% volumetric fill of the building envelope, unless~~
 - (i) ~~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~~
 - (ii) ~~the DAP has confirmed that a higher building efficiency volumetric fill is acceptable.~~

Condition C4 c) has been deleted as the envelope as been amended to be cut back to 85% of that proposed plus 5% for articulation zone in Modification B1. Unless it is necessary to say that all future DAs must comply with the new envelope as amended, then this provision is not required.

Minor changes

7. Reasons for conditions tailored to the development, to read:

These conditions are required to:

- prevent, minimise, and/or offset environmental and amenity impacts
- ensure future buildings can achieve design excellence
- set standards and performance measures for acceptable environmental performance
- provide for the ongoing environmental management of the development.

8. Applicant name amended to SH Gosford Residential P/L The Trustee for SH Gosford Residential Trust (based on clarification from the Applicant)

DEFINITIONS

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9. *Definition of 'articulation zone' added:*

See above

10. *Definition added of GSEPP*

11. 'Minister for Planning' to be 'Minister for Planning and Public Spaces'

TERMS OF APPROVAL

12. In A11. Reference to Condition A3 amended to read ToA A3

FEARS

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13. *In C4 (a) reference to ToA C1 amended to read FEAR C1 (there is no TOA C1 so it is assumed this should read FEAR C01, or can you please advise assuming this is a typo, which condition this was referring to?)*
14. *In C9 public domain and landscaping, reference new f) is added f) 'show that all publicly accessible areas will have all abilities access'.*
15. *Under C18 Heritage Add the words 'and the need for any additional mitigation measures' at the end of the sentence*
16. *Under C20 Environmental Performance, reword to add in reference to combined C20 and 21 (delete C21) and add in reference to NCC 2019. Condition to read:*
Environmental performance
C.20 Future development application(s) for new built form must address the National Construction Code of Australia 2019 and demonstrate how the principles of Ecologically Sustainable Development have been incorporated into the design, construction and on-going operation of the new buildings. The development must meet or exceed environmental standards including those equivalent to the following:
- a) 4-star Green Star Design and As Built rating
 - b) 4-star NABERS Energy and Water rating
 - c) BASIX certification
17. *In C22 (was C23), Traffic and transport amend b) and add in new condition c) (and renumber d) to i)) to provide parking for 'commercial activities' as defined in the GSEPP at a rate no less than in clause 8.5 of the GSEPP:*
- a. provide on-site car parking for residential apartments 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
 - b) provide on-site car parking for 'commercial activities' as defined in the GSEPP, at a rate no less than in clause 8.5 of the GSEPP.
18. *In C27 (was C28) Wind assessment, amend c) to add additional words to read as follows:*
- c. includes mitigation measures to address adverse wind conditions, where necessary including amendment to the building elements within the envelope if necessary to provide for planting on the site. In the event that the Wind Impact Assessment recommends landscaping / planting mitigation measures, these shall be shown on the Landscape Plan (FEAR C9).
19. *Amend FEAR C33 (was C34) to be consistent with Modification B4:*
- C33 Future development application(s) must include any measures to implement the outcomes of the approved Site Contamination Assessment, and in accordance with SEPP 55, and as necessary, a Remedial Action Plan reviewed and approved by a site auditor accredited under the Contamination Land Management Act 1997.
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