



Community Environment Network Inc.

An alliance of community and environment groups from Lake Macquarie and the Central Coast.

3rd September 2020

Professor Mary O’Kane AC
Chair
Independent Planning Commission
201 Elizabeth Street
Sydney NSW 2000

Re. Donnison Street, Gosford (SSD 9813)

Dear Professor O’Kane

This is a submission from the Community Environment Network regarding the development application for 136 – 146 and 148 Donnison Street, Gosford. In particular, this submission concerns the application for approval of a State Significant Development in accordance with State Environmental Planning Policy (State and Regional Development) 2011 and State Environmental Planning Policy (Gosford City Centre) 2018.

The Community Environment Network is an alliance of community and environment groups from the Central Coast and Lake Macquarie LGAs. We are a not-for-profit, community based organisation that works for ecologically sustainable development and against threats to it. Our membership is approximately 400 including 90 groups with an affiliated membership of approximately 5,000.

CEN is a non-political organisation and has not made any donation to a political party in the last two years.

Strategic context

The Department’s Assessment Report (section 6.4) argues that:

New developments, including tall buildings, have been approved and constructed along the central spine of the Gosford City Centre (Mann Street), which establishes a new built form character and an evolution away from the low-rise valley-floor character of Gosford. These approvals and developments reinforce the new strategically planned direction/vision for Gosford established by the Gosford SEPP and outlined within the GUDF and the GDCP.

CEN disputes the argument that the SEPP has established a new strategically planned direction for the Gosford City Centre. As explained previously to the Independent Planning Commission, the development standards for height of buildings and floor space ratios in the Gosford SEPP are virtually identical to those in Gosford LEP 2014.

Council’s Statement of Strategic Intent (December 2014) summarised the planning strategy for the CBD :

Generally, the CBD is zoned a mix of B3 – Commercial Core; B4 – Mixed Use; and peripherally R1 – General Residential. The B3 and B4 zones offer the greatest development opportunity which is reflected in higher building heights (ranging from 24m to 72m) and FSRs (ranging from 3:1 to 6:1).

The B3 and B4 zones are located generally along the corridor of which Mann Street forms the spine. The areas with the greater height limits and FSRs are generally those within walking distance of the railway station. It should be noted that there are specific development controls for those areas adjacent to Kibble Park, in order to restrict development that might overshadow the Park or block views of Rumbalara Reserve or President's Hill.

The new developments that have been approved and constructed along the Mann spine were approved under Gosford LEP 2014 (although several benefited from the 30% height and floorspace bonus available until April 2016). So it is not reasonable to claim that these developments demonstrate "the new strategically planned direction/vision ... established by the Gosford SEPP".

Why do we have development standards in Gosford CBD?

The State Environmental Planning Policy (Gosford City Centre) adopted the following objectives for height limits in Gosford CBD (which are the same objectives as in Gosford LEP 2014):

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

It is worth noting that four of the objectives explicitly apply to the relationship between a proposed development and its context, whether it is the relationship to other buildings, the impacts on public areas and open space, or views of natural topography.

The SEPP also adopted the following objectives for limits to floor space ratios in Gosford CBD:

- (a) to establish standards for the maximum development density and intensity of land use,*
- (b) to control building density and bulk in relation to site area in order to achieve the desired future character for different locations,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (f) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.*

Similarly, three of the objectives for floor space ratio limits apply to the relationship between the proposed development and the character of the area and the environmental impact of the development on the adjoining areas.

The achievement of these objectives is fundamental to the assessment of development proposals under the Environmental Planning and Assessment Act. So any proposal to override the development standards for height and floor space ratio in a planning instrument needs to be weighed against the objectives of those development standards.

Exceedance of development standards

The Department's Assessment Report states:

Clause 8.4(4) of Part 8 of the Gosford SEPP provides that exceptions to the height and FSR development standards (Table 5) may be granted to developments zoned B4 Mixed Use located within the Gosford City Centre where they meet the specified exceptions criteria (Table 6).

The Assessment Report goes on to state:

The Department is satisfied the proposal meets the criteria in clause 8.4(4) for the height and FSR development standard exception and therefore the exceedances of the height and FSR development standards can be considered.

When this development application was exhibited in October-November 2019, however, both Central Coast Council and the Community Environment Network objected to the proposal because it would exceed the development standards for height and floor space ratio. Both submissions argued that the exceedance of development standards could not be justified under clause 8(4) because the proposal does not exhibit design excellence.

Lack of design excellence

Clause 8.3 requires that development consent must not be granted to development involving the erection of a new building unless the consent authority considers that the development exhibits design excellence (cl. 8.3(2) and 8.3(3)). CEN considers, however, that the proposed development fails to achieve design excellence in relation to a number of issues (under cl.8.3(4)):

- (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) whether the development is consistent with the objectives of clauses 8.10 and 8.11,*
- (d) any relevant requirements of applicable development control plans,*
- (e) how the development addresses the following matters:*
 - *the relationship of the development with other development on the same site or on neighbouring sites in terms of separation, setbacks amenity and urban form,*
 - *bulk, massing and modulation of buildings,*
 - *street frontage heights,*
 - *environmental impacts such as overshadowing, wind and reflectivity,*
 - *pedestrian, cycle, vehicular and service access, circulation and requirements.*

It will be argued in the following sections that the form of the proposed development will detract from the quality of the public domain because of its excessive height and bulk. In particular, the development will block views of Rumbalara Reserve and cause overshadowing of nearby public domain development.

Are the proposed towers tall and slender buildings?

It is argued in the EIS that the proposed towers should be exempt from the development standards for height and floor space ratio because the towers will be tall and slender buildings. Thus it is claimed that the impacts of these towers on the public domain will be somehow reduced.

The relevant section of the Gosford City Centre DCP (5.2.5) provides the following controls to achieve slender buildings:

1. For development within the B zones (B3, B4 and B6), the maximum floorplate size for towers is:
 - a. **750sqm GFA for residential uses, serviced apartments and hotels.**
 - b. 1500sqm GFA for commercial uses (office space)
2. In other zones, the maximum GFA of a tower level is 20% of the total GFA and up to 500sqm GFAm^{ax}
3. **The maximum building length for towers in any direction is 45m.**
4. **All tower forms must be set back a minimum 8m from the street wall frontage**

Towers 1,2,4 and 5 all have Concept Envelope Floorplate areas far in excess of the maximum floorplate size of 750 sq.m. Although the Indicative Floorplate sizes listed in Table 11 of the Department's Assessment Report are about 750 sq.m., these Indicative Floorplates are much less than 85% of the Concept Envelope areas.

If the IPC approves the Concept Envelope Floorplate areas and 85% efficiency, it would be feasible for the applicant to build towers with the following floorplate areas:

Tower 1: 938 sq.m. (25% excess)

Tower 2: 1094 sq.m. (46% excess)

Tower 4: 887 sq.m. (18% excess)

Tower 5: 785 sq.m. (5% excess).

Furthermore, Towers 1 and 2 have concept envelopes that have a maximum dimension of 48 metres, which is a significant excess of the DCP maximum dimension of 45 metres. The concept envelopes for Towers 4 and 5 only just comply with the DCP maximum dimension.

The Concept Proposal shown in Fig. 9 of the Assessment Report appears to have assumed that the minimum setback of each tower from the street wall is only 6 metres. However, section 5.2.5 of the DCP states:

All tower forms must be set back a minimum 8m from the street wall frontage, however reductions may be accepted (from 8m to 6m) on some sites where it is demonstrated that this control would compromise the ability to design the podium or tower appropriately.

The visual impacts of the reduced setback will be exacerbated on the Williams Street and Donnison Street frontages where the podium wall is proposed to be setback from the street frontage. On the Williams Street frontage Towers 1 and 3 will be only set back 3.5 metres from the podium wall. So the visual impact will be that the towers and the podiums will appear to be a continuous wall, making them even more dominant on the streetscape.

It is apparent that the applicant has just fed the DCP criteria for setbacks, building separation etc. into their drafting software and produced a Concept Proposal that maximises the floorspace with little consideration of the visual impacts on the public domain. There is no justification for Towers 1, 2, 4 or 5 to be considered slender towers; the impacts of these proposals are considered further below.

Clause 8.11 Key vistas and view corridors

- (1) *The objective of this clause is to protect and enhance key vistas and view corridors in Gosford City Centre.*
- (2) *Development consent must not be granted to development unless the consent authority is satisfied that the development is consistent with the objectives of this clause.*

Section 4.4 of the Gosford City Centre DCP sets out objectives and controls for protecting Views and Vistas. The controls include:

Key views are those existing views of the ridgelines of Presidents Hill, Rumbalara Reserve and views of Brisbane Water from important locations, including the centre of Kibble Park, Leagues Club Field and Brian McGowan Bridge.

Section 3.3 of the DCP summarises importance of Kibble Park and its visual connections:

Geographically in the centre of the city, the Civic Heart focuses around Kibble Park. Kibble Park is a central meeting place that brings the character of the bushland into the city.

Clause 4.3 of the SEPP sets height limits on the block east of Kibble Park with the aim of preserving the view of the Rumbalara Reserve ridgeline from most parts of Kibble Park. Development on the eastern side of Henry Parry Drive (the site of Towers 1 and 2) has a height limit of 15 metres to preserve the view and minimise overshadowing of the Park's eastern end. Development in the centre of the site (the site of Towers 3 and 4) has a height limit of 30 metres and development on the Albany street frontage (the site of Tower 5) has a height limit of 48 metres.

The Assessment Report claims that a satisfactory visual connection to the Rumbalara Reserve will be achieved through a 24 metre wide canyon between five towers that are 70 to 90 metres high. If the Reserve is visible through the canyon, the ridgeline view that is preserved is estimated to be 28% of what could be seen over a development that complied with the height limits. Furthermore, this view would only be available from a narrow corridor down the centre of Kibble Park; for people on the northern third of Kibble Park or the southern third (each section over 30 metres wide) there would only be a view of the side of the towers.

CEN has some doubt whether the through site link will provide a 24 metre wide corridor, because the Concept Proposal in Fig.9 has so much variability in its parameters. The corridor between Towers 1 and 2 could be as much as 5 metres off-line from the corridor between Towers 3 and 4 and, consequently, the viewing corridor could be less than 20 metres wide.

It should be noted that the photograph used for the montage in Figs. 22 and 23 was not taken from the centre of Kibble Park; it was taken from a point near the Library building, i.e. about three-quarters of the way down the Park. The montage is designed to reduce the apparent visual impact of the proposal by maximising the field of view.

The impacts of the proposed development on the significant views from Kibble Park can only be mitigated by reducing the height and bulk of the towers and increasing the separation between the towers.

Quality and amenity of the public domain

Overshadowing the Court and TAFE

The Department's Assessment Report has argued that the potential overshadowing of Kibble Park can be minimised by the requirement that the towers should be "tall and slender". Although it appears that the mid-winter shadow on the Park will be minimal, the design concept will result in serious overshadowing of the Gosford Court and TAFE precinct.

The shadow diagrams indicate that a major TAFE building will be in shadow from 9 a.m. until 3 p.m. in mid-winter. The overshadowing of the Court building should be less serious because the north-south through site link will allow sunlight through in the middle of the day.

The Assessment Report suggests that the shadow impact on the TAFE building is manageable because the shadow will move quickly. However, the shadow diagrams indicate that there will be shadow on a major part of the building during every hour of daylight. No consideration has been given to the type of activity in that building and the need for natural light.

The problem is basically caused by the excessive floorplates of Tower 2 and 4; they may be relatively slender in the north-south dimension, but not in their east-west dimension. The impacts on the Court and TAFE could be mitigated by reducing the east-west length of these towers and locating the through site links to reduce the overshadowing on the public buildings south of Donnison Street.

Podium height and design

The original podium design with 4 levels of above ground parking was totally unacceptable. Although the podium design has been modified to reduce the number of parking levels, there are still a number of design issues that have not been resolved.

There is still far more above ground parking than is necessary, with as much as 3 levels above ground in some sections. The applicant does not appear to have made a serious effort to increase the number of parking levels underground. This will potentially cause impacts on the streetscape and amenity in Donnison Street and William Street.

Section 5.2.9 of the DCP states:

Car parking is to be provided wholly underground unless the determining authority is satisfied unique site conditions prevent achievement of parking in basements. The determining authority may require the provision of a supporting report (for example, a geotechnical report), prepared by an appropriately qualified professional as information to accompany a development application to the determining authority.

It was indicated in an appendix of the EIS that there is not a high water table at this site. It should be feasible for the applicant to provide at least two levels of underground parking on most of the site. This would then allow the height of the podium to be reduced to 14 metres in those areas of Donnison Street where the Assessment Report has accepted a podium height of 17 metres.

Section 5.2.2 of the DCP recommends a maximum height for podium walls of 14 metres in Donnison Street and an active frontage. The Assessment Report has accepted a frontage use of townhouses/SOHO development in this section of the podium. It is difficult to envisage townhouse style development in

Gosford that would be 14 metres high, i.e. up to 4 storeys. The Assessment Report suggestion of 17 metre high frontage townhouse development would be ridiculous.

Pedestrian, cycle and vehicular access

The Assessment Report appears to have relied on the traffic study submitted with the EIS to reach a conclusion that the development will not have a major impact on the surrounding road network. However, Roads and Maritime Services have advised the Department that: "RMS has reviewed the operation of Henry Parry Drive between Donnison Street and Erina Street, and note that the intersection of Henry Parry Drive and Donnison Street is approaching capacity."

The Assessment Report has not recommended any specific infrastructure improvement to facilitate pedestrians and cyclists who wish to cross Henry Parry Drive in the vicinity of the development. It is likely that there would be significant numbers of pedestrians and cyclists who would wish to gain access to/from the Imperial Centre, the Railway Station or Gosford Waterfront. If the intersections on Henry Parry Drive are operating near capacity, with increased turning movements into Donnison Street and William Street, the delays for pedestrians and cyclists are likely to increase to unacceptable levels.

Council officers have proposed a pedestrian overbridge between the development and Kibble Park. It would appear that such a proposal would be needed if this development proceeds, unless there is an alternative proposal that would increase the turning capacity at the key intersections on Henry Parry Drive. The SIC for this development should be allocated for infrastructure improvements for pedestrians and cyclists crossing Henry Parry Drive.

Conclusion

This submission has identified a number of significant issues that indicate that the Concept Proposal does not exhibit Design Excellence. The deficiencies are so serious that adjustment of the Concept Proposal will not resolve these issues. The proponent should be advised to produce a new concept that is consistent with the objectives of the SEPP and the DCP.

Yours sincerely



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Community Environment Network