

**Panorama Towers
91-95 John Whiteway Drive
Strata Plan 35094
GOSFORD NSW 2250
18 July 2018**

**Chief Executive Officer
Gosford City Council
49 Mann Street
PO Box 21 GOSFORD
2250**

Dear Sir

**Development Application No: 54602/2018 (011.2018.00054602.001)
Land Zoned: R1 GENERAL RESIDENTIAL
Property: LOT DP: 45551, LOT: 100 DP: 1075037 No 87
John Whiteway Drive GOSFORD, 89 John
Whiteway Drive GOSFORD**

Thank-you for your letter of 26 June 2018 advising of the above Development Application.

The attached submission of concerns and objections has been prepared in respect of the above Development Application.

As ordinary members of the public, having been given only 3 weeks to respond and with no expertise in these matters, we trust that our submission will be given equal consideration as that afforded to the applicant.

It is important to acknowledge that the John Whiteway Drive (JWD) Precinct is a "Special" control that was created within the Gosford Development Control Plan (DCP) 2013. This DCP supports the objectives identified by the Gosford Local Environmental Plan (LEP) 2014. The JWD Precinct is identified as "Special" and must be afforded consideration accordingly. A document outlining restrictions on the use of the land created pursuant to section is **88B of the Conveyancing Act 1919 over this site of DP1075037**. This restriction closely resembles the zero HOB limit set in the LEP and also the "Non-buildable Area" identified in the DCP.

It is against the backdrop of these controls and restrictions that we have invested in our apartment, safe in the knowledge that such investment would not be subject to any adverse privacy, view loss (front and back), scenic or overshadowing and amenity impacts.

With reference to the document "**Statement of Environmental Affects**".

This document has reference to a large number of Appendices in its proposal as to why this development should be approved. If the public are to be afforded equal opportunity to evaluate the proposal it would be expected that all relevant documents should be made available on the commencement date of public exhibition. It is noted however that this has not been the case.

* Please note that extracts from "Statement of Environmental Affects" appear in *italics* in this submission. These reference the relevant section numbers/titles and page numbers of concern to us.

3.3 Excavation and Site Preparation (Pgs.12-13)

According to Appendix I *"the ridge is unstable"*.

The ridge instability is only an issue if the DA is allowed to proceed in contention with the following restrictions and controls:

- In the Gosford LEP "Height of Building Map" for the site, the ridges have a zero "0" maximum building height.
- In the Gosford DCP there is a similar additional control where this is identified as a Non-buildable area.
- The restrictions on the use of the land created pursuant to section 88B of the Conveyancing Act 1919 over this site of DP1075037.

"It should be noted that excavation for the approved development application would necessitate removal of much of the headland down to existing / approved ground level. Figure 3 below shows the comparison between the approved DA19601/2003 excavation and the proposed excavation for this development application, there is not significant variation."

- We disagree with the statement that the existing approved DA would remove most of the headland – this is inaccurate as the remainder of the headland is a much taller mass. As such there is still a significant variation between the approved and proposed DA.
- The figure 3 claims that it shows the previous DA excavation and as such we request that this extent be verified as it is not evident in available documentation.
- The previous excavation area, if correct, has already surpassed existing controls and the statement that there is not any significant variation, is not fully represented in figure 3.
- Any excavation of the ridge may cause structural damage to adjacent buildings and threatens the safety of people and their property.
- Figure 4 and Geotechnical comments – *"Partial excavation and removal of the rocky outcrop would therefore not be practical, visually appealing or financially viable over the long term."*
 - These problems would not exist in the first place if the development was designed according to existing restrictions and controls.

4.3 Local Environmental Plans – GLEP 2014 (Pg. 19)

Clause 4.3 Height of Buildings

- As a response to the whole development, but more specifically Block A, Block C and Block D.
 - We would expect that proposed building height changes would not only be reviewed in relation to the approved previous DA heights but also in relation to the actual LEP height controls to fully appreciate the full impact.
 - Surely a building of any height above where the height limit is 0 is therefore non-compliant and removing the ridge line does not make the height restriction inapplicable?
 - AHD Heights taken from Notification Plan (Elevations Plans), for blocks A, C and D are 84.10m, 85.10m and 90.05m respectively.

The height at the base of the cliff for blocks A and C on Panorama Towers property is 49m AHD (Site Plan). This would result in the near-vertical face behind Panorama Towers being at heights ranging from 35 to 47 m. From a visual and aesthetic stand-point the overbearing impact of this is totally unacceptable.

- *"Strict compliance with the building height standard will result in a bulky building that does not provide substantive building separation and landscaped areas."*
 - How can this be used as an argument against the height restrictions in favour of a design that has been created as if the controls do not exist in the first place?
- *"The increased building height will not cause adverse privacy; view loss; scenic; or overshadowing impacts. "*

According to the SEPP – Apartment Design Guide – Part 3F – Visual Privacy:

"Visual privacy allows residents within an apartment development and on **adjacent properties to use their private spaces without being overlooked**. It balances the need for views and outlook with the need for privacy. In higher density developments it also assists to increase overall amenity."

According to the SEPP – Apartment Design Guide Part - 3B – Orientation:

"Orientation is the position of a building and its internal spaces in relation to its site, the street, the subdivision and **neighbouring buildings**. Building orientation influences the urban form of the street and building address. Building orientation directly affects **residential amenity** including solar access and influences other matters including **visual and acoustic privacy** to both the development and **neighbouring sites**".

- With reference to the proposed blocks A, C and D all three overlook Panorama Towers and as such invade the privacy of bedrooms, studies, lounge rooms and back balconies of all rear-facing apartments. These spaces comprise approximately 65% of window openings, natural lighting and views for these apartments.

Clause 5.1 Heritage Conservation –

- **Appendix K not provided** – There is currently a draft heritage item that should be formalized as part of the response to this DA as opposed to being overlooked. If this is not done it would be lost forever if the ridge is allowed to be removed.

Clause 8.5 Design Excellence -

- **Appendix U not provided** –
 - Table 1: Design Excellence considerations. Requirements – from LEP Clause 8.5(3)
 - (a) *"whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved"* –
 - From the documentation and drawings provided, this development looks to consist of unattractive, stereotypical squares and rectangular towers that look

as if they were taken from a template library. These designs are what one would expect to see in an ordinary city centre street block.

- The curving shape and topography of the JWD site presents a wonderful opportunity to be more creative. It should take full advantage of, and be reflected in, similar curved and stepped building design and architecture across the site.

(b) "*whether the proposed development detrimentally impacts on view corridors*" –

- The view from existing apartments towards the ridge and of the ridge are an appealing and naturally significant part of the John Whiteway Drive Precinct and should be preserved. The impact of this development should be considered as having a detrimental effect to the views of neighbouring residents, notably Panorama Towers.

○ (e) "*any relevant requirements of applicable development control plans*" – Yes see 4.4 – below DCP.

○ (f) "*how the proposed development addresses the following matters*":

(i) "*the suitability of the land for development*" –

- The existence of building platforms provided by quarrying should be the extent of the development without removing the ridge.

(ix) "*pedestrian, cycle, vehicular and service access, circulation and requirements*" –

- The entrance to the under-ground car parking appears to be located on a blind rise and blind bend in JWD. In addition to this it is directly opposite the entrance/exit of the large and busy Rumbalara Sanctuary Complex. This is not only dangerous but would impact on the free flow of traffic on JWD.
- The underground entrance would mean that the headlights of vehicles entering the site would shine diagonally across the back windows of bedrooms, studies, lounge rooms and balconies of Panorama Towers.

According to the SEPP – Apartment Design Guide Part – 3H – Vehicle Access – Objective 3H1:

"Access point locations should **avoid headlight glare to habitable rooms.**"

- The traffic flow of the open-ended under-ground car park will also result in vehicle headlights and brake lights shining directly into the same above-mentioned windows.
- The transport study is lacking in its evaluation of the outflow of vehicles from "The Sanctuary, Rumbalara" when it is at its highest volume, this being between 6 and 7am. The proposed development will likely have a similar demographic of working people needing to exit

the property at the same time of day. The problems this will cause are obvious and should have been considered.

- How it could be stated that a further 600+ vehicles on an already congested road will have no foreseeable impact, is unrealistic.

4.4 Development Control Plans DCP 2013 (Pg. 26)

Noise and Vibration-**Appendix V not provided**

- It is unrealistic to assume that 600 + vehicles entering and exiting a cavernous space with an opening facing Panorama Towers will not create substantial noise pollution as stated in Table 3: Development Control Matrix – Gosford DCP 2013 - 4.1.5 Environmental Management.

4.6 Rural Fires Act 1997 & Planning for Bushfire Protection (Pg. 32)

- In the event of a fire or emergency the opposing entrance/exits of “The Sanctuary Rumbalara” complex and that of the proposed development is serious cause for concern in an evacuation.

5.7 (b) The Likely Impacts of That Development (Pg. 35)

Environmental Responsibility and Land Capability

Scenic Values – Already discussed above.

View Loss – Already discussed above.

Acoustic Impact

- The entrance way and basement car-park and the open side of the basement parking are exposed to Panorama Tower’s living spaces. This renders these areas subject to engine, exhaust, tyre and hooting noises, as well as the noise made by the garbage collection trucks. These noises would be further amplified as this area is lower than the proposed block A and is facing Panorama Towers.

Erosion Prevention and Sediment Control.

Geotechnical Requirements

"We cannot advise on the stability of the western face of the headland as access for inspection was not readily available."

"Clearly the decision as to how much of the headland to remove is not solely a geotechnical matter."

- This is a glaring omission and something that requires further clarity. It is surprising that for a geotechnical study of this magnitude, that greater effort was not made to access the adjacent property. The western face of the headland is on Panorama Towers property and is set above underground parking and storage space. It also overlooks the pool, garden and parking areas. Any work that seeks to destabilize this rock face would have a severely detrimental effect on Panorama Towers property, to say nothing of public safety.

Privacy – Already discussed above.

Owners of unit 49/91-95 John Whiteway Drive
BT & HC Steyn.

Owner of 50/91-95 John Whiteway Drive
Nola Smith.

END.