

27 July 2021

2190460
Mr Jim Betts
Secretary
NSW Department of Planning, Industry and Environment
12 Darcy Street
PARRAMATTA NSW 2150

Attention: Kieran Thomas

Dear Mr Betts,

**89 JOHN WHITEWAY DRIVE, GOSFORD (SSD-10321)
REQUEST FOR ADDITIONAL INFORMATION**

We refer to your letter requesting additional information dated 1 July 2021 in which the Department of Planning, Industry and Environment (the Department) has requested some additional information to inform the Department's assessment of the State Significant Development Application (SSD).

A response to your query is provided in the table and sections below and includes design amendments made in accordance with Clause 55 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) for which approval is now sought.

1.0 Executive Summary

A detailed review of the proposal has been carried out to assist the Department's ongoing assessment. In summary the proposal achieves high quality solar amenity and significant iconic views to Brisbane Water and Rumbalara Reserve, including:

- 66.1% of units receive 3 hours solar amenity mid-winter or a significant view to Brisbane Water;
- 86.3% of units receive 2 hours solar amenity mid-winter or a significant view to Brisbane Water;
- 86.7% of units receive 3 hours solar amenity mid-winter or a significant view to Brisbane Water and Rumbalara Reserve;
- 90% of units receive 2 hours solar amenity mid-winter or a significant view to Brisbane Water and Rumbalara Reserve;
- Between 43% - 49%¹ of units receive 3 hours solar amenity mid-winter; and
- 70.6% of units receive 2 hours solar amenity mid-winter.

The project meets the design guidance of Objective 4A-1 of the ADG which states that achieving the design criteria may not be possible on some sites including, on south facing slopes and, where significant views are oriented away from the desired aspect for daylight. Accordingly, the proposals solar performance has been shaped by the site's unique constraints to reduce visual bulk and scale as established by Gosford Design Advisory Panel process. Its solar performance is also informed by the orientation of buildings and site constraints by:

- nestling built form into the north corner of the site to be screened by tree canopy;
- building orientation to align with John Whitley Drive; and
- orienting to the south facing water views that are highly valued by residents and offer amenity in their own right.

¹ Subject to per minute analysis of 12 units solar access – however the units achieve 3 hours or close to (i.e 2 hours 55 minutes).

It is consistent with the Planning Principles agreed with the Department (December 2020) including Tree Canopy, Views and Solar Analysis.

The proposal builds on the core qualities of the site, which focuses built development within the areas of the former quarry that has left parts of the site largely denuded and unsightly, while preserving the unique natural qualities of the remainder of the site while enhancing the degraded portion of the site with approximately 15,000m² (66%) of green space across the site and 57% tree canopy which is rarely found on a site with over 200 apartments in Gosford City Centre.

The Department has received a significant volume of information to inform and complete its assessment and to realise the goals of the Gosford City Centre SEPP, which seeks to facilitate development and the realisation of Gosford as a Regional Centre. We trust this additional information will enable the finalisation of the assessment in a timely manner and to enable this project to contribute to the recovery of the Gosford economy.

1.1 Department's Request for Information

A consolidated response to the Department's request for information is provided at **Table 1** below.

Table 1 Response Table

Comment	Response
Department of Planning, Infrastructure and Environment	
<p>Views The Amended DA and RtS nominates 40 units as receiving water views in order to justify flexibility in the solar access requirements under the Apartment Design Guide (ADG).</p> <p>It is unclear whether all of the nominated units actually receive significant water views. For example, the finished floor level of the nominated level 1 units is below the existing ground level along the western edge of the non-buildable boundary, therefore obstructing any views from these units.</p> <p>Further, there appears to be nominated units with an outlook obstructed by other buildings proposed on the site, or they face away from the water and would only benefit from less significant district views.</p> <p>Further information is required demonstrating primary view lines from living room and balcony areas to confirm these units benefit from significant water views, having regard to site topography, site levels and the proposed building layout.</p>	See Section 1.3 below.
<p>Solar Access The Amended DA and RtS outlines that 71.6% of units receive 3 hours of sunlight midwinter and /or will have a view to water but less than 3 hours sunlight, noting that only 52% of units within the development achieve solar access when not taking into account views. Further, it is noted that solar access has been calculated based on the development as a whole, rather than per building, as prescribed by the ADG.</p> <p>An analysis of the sun eye view diagrams has found that only 32% of units achieve 3 hours sunlight, when accounting for all units that have been nominated as receiving 'significant water views'.</p> <p>Whilst this is a significant variation to the ADG, it also has implications in the consideration of the variation to the height of buildings under Clause 4.6 of the Gosford SEPP, as well as the proposal's ability to achieve Design Excellence under Clause 8.3 of the Gosford SEPP.</p> <p>When having regard to the above, the Department requests that further consideration be given to achieving solar access in accordance with the ADG, noting that amendments to the design and layout may be required. The revised solar analysis will need to demonstrate compliance with the ADG for each building.</p>	See Section 1.2 below.
<p>Communal Open Space The communal open space areas nominated in the shadow analysis include areas which are not considered to be principal areas of communal open space. The Objective 3D-1 of the Apartment Design Guide refers to principal communal open space as a 'consolidated part of</p>	See additional solar analysis diagrams of the principal areas of common open space at Appendix C . The proposal

Comment	Response
<p>the communal open space that is designed as the primary focus of recreational activity and social interaction’.</p> <p>The Department requests that the shadow analysis be updated to identify the principal areas of communal open space and demonstrate solar access compliance in accordance with the ADG. Please note that inaccessible vegetated areas, the front setback and the public walkway are not considered to be principal communal open space, in accordance with the definition.</p>	<p>achieves greater than the 2 hours required under Objective 3D-1 of the ADG, being 3 hours solar access in mid-winter.</p>
<p>Excavation</p> <p>The Department requests further clarification on areas of excavation across the site. Further details of cut and fill across the site is required, clearly identifying areas of excavation, existing and finished ground levels, as well as RL’s beyond the excavated area. This detail must be shown on a cut and fill plan, as well as section plans, showing the extent of excavation across the site, including (but not limited to) to the following areas:</p> <ul style="list-style-type: none"> • Northern and western boundaries and the eastern boundary adjoining units C1-05 to C1-08. • The north facing level 1 units within Blocks C and D, so the interface of these units with the northern cut and batter can be adequately considered. • The proposed landscaping area adjoining the western side of the communal swimming pool (Drawing No. 10-19.32), which encroaches beyond the non-buildable area. • Any other areas of excavation that fall outside of the buildable zone. 	<p>A consolidated cut and fill information drawing set is provided at Appendix D.</p>
<p>Basement Entry</p> <p>Please indicate the location of the security door to the basement entry on the architectural plans.</p>	<p>See Section 1.4 below and Appendix E.</p>
<p>Tree Canopy Survey</p> <p>As requested previously, please provide a copy of the tree canopy survey to inform the Departments assessment. It is noted that a copy of the survey was provided by Ethos with the RtS, however due to the file type it could not be opened. Please provide the survey in a PDF format.</p>	<p>The tree canopy survey is cloud based information and not capable of being printed in 2 dimension or PDF format. The survey was a request of the Department to inform the built form massing, and the Planning Principles for the site.</p>
<p>BASIX</p> <p>The BASIX certificate provided with the amended DA states ‘this is not a valid certificate’. Please provide a valid certificate to support the amended DA or any future amended plans.</p>	<p>See Appendix F.</p>

1.2 Solar Analysis

A detailed review of the proposal has been carried out, including a peer review of the proposal’s masterplan and solar analysis by Marchese Partners (Marchese) to provide the Department with further information on solar access (See **Appendix A**). A summary of the findings is provided below.

Solar Amenity

Marchese have conducted an independent solar analysis to the apartments to understand solar access optimisation as per Objective 4A-1 of the ADG.

Objective 4A-1 of the ADG is:

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space

Design Guidance states:

Achieving the design criteria may not be possible on some sites. This includes:

...

- *on south facing sloping sites*

- *where significant views are oriented away from the desired aspect for direct sunlight*

Detailed sun eye diagram analysis has been carried out at 15-minute intervals under the following conditions:

- Between 9am – 3pm mid-winter (as required by the ADG); and
- Between 8am – 4pm mid-winter (as outlined in the Design and Place SEPP on exhibition April 2021)

In addition to shaping the built form to respond to the site context, the development seeks to orient units to maximise views to Brisbane Water, which are highly desired by residents and offer significant amenity to the occupants. Accordingly, the solar analysis also accounts for water views of units that do not achieve 3 hours sunlight.

It is noted that the 15 minute interval sun eye diagram analysis has resulted in 12 units either achieving or being very close to achieving minimum 3 hours solar amenity for the living room and balcony (i.e between 2 hours 45 min – 3 hours). Many of these units achieve significant solar amenity to the balcony (6 hours in some instances) however per minute analysis would be required to clarify these units which is considered unnecessary as the proposal overall achieves significant amenity in accordance with the Objective of 4A-1 and its design guidance. These units are shown as a range for the 3 hour compliance summary for completeness. The results are shown at **Table 2** and **Table 3**. In summary:

Between 9am – 3pm mid-winter

- 66.1% of units receive 3 hours solar amenity mid-winter or a significant view to Brisbane Water;
- 86.3% of units receive 2 hours solar amenity mid-winter or a significant view to Brisbane Water;
- A range of units 43% - 49%² receive 3 hours solar amenity mid-winter; and
- 70.6% of units receive 2 hours solar amenity mid-winter.

Between 8am – 4pm mid-winter

- 66.1% of units receive 3 hours solar amenity mid-winter or a significant view to Brisbane Water;
- 89% of units receive 2 hours solar amenity mid-winter or a significant view to Brisbane Water;
- 82.3% of units receive 3 hours solar amenity mid-winter.
- 76.5% of units receive 2 hours solar amenity mid-winter.

Based on the above the proposal is considered to *optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space* as required by Objective 41-D of the ADG.

² Subject to per minute analysis of 12 units solar access – however the units achieve 3 hours or close to (i.e 2 hours 55 minutes).

Table 2 9am to 3pm mid-winter

	BLOCK A	BLOCK B	BLOCK C	BLOCK D	TOTAL	%/204
2 hours solar compliance analysis						
SOLAR min. 2 HR (2 hours or more)	22	31	47	44	144	70.6%
2 hours solar compliance analysis + water views						
WATER VIEW AND SOLAR min. 2 HR (2 hours or more)	27	41	48	60	176	86.3%
3 hours solar compliance analysis						
SOLAR min. 3 HR (3 hours or more)	19 (69%)	14 (29%)	31 (55%)	24 (35- 47%)	88	43%
SOLAR min. 3 HR + almost 3 hours (~2hours 50min or more)	20	17	31	32	100	49%
3 hours solar compliance analysis + water views						
WATER VIEW AND LESS THAN 3 HR SOLAR	6	10	7	24	47	23%
WATER VIEW AND SOLAR min. 3 HR (3 hours or more)	25	24	38	48	135	66.1%
WATER VIEW AND SOLAR min. 3 HR + almost 3 hours (~2hours 50min or more)	26	27	38	56	147	72%

Table 3 8am to 4pm mid -winter

	BLOCK A	BLOCK B	BLOCK C	BLOCK D	TOTAL	%/204
2 hours solar compliance analysis						
SOLAR min. 2 HR (2 hours or more)	23	40	49	44	156	76.5%
2 hours solar compliance analysis + water views						
WATER VIEW AND SOLAR min. 2 HR (2 hours or more)	28	46	50	58	182	89%
3 hours solar compliance analysis						
SOLAR min. 3 HR (3 hours or more)	22 (69%)	33 (69%)	39 (70%)	33 (49%)	127	62.3%
3 hours solar compliance analysis + water views						
WATER VIEW AND LESS THAN 3 HR SOLAR	5	10	6	20	41	20%
WATER VIEW AND SOLAR min. 3 HR (3 hours or more)	27	43	45	53	168	82.3%

It is important to recognise the significant attention put to this project to ensuring the proposal's built form and scale is sensitive to the visual relationship to Rumbalara Reserve due to the significance of the Reserve being visible from Gosford CBD. The proposal is fortunate that the Reserve is visible from many units and for completeness the methodology applied to water views has been applied to the units that achieve significant views to Rumbalara Reserve (see **Table 4**). In summary:

- 86.7% of units receive 3 hours solar amenity mid-winter or a significant view to Brisbane Water and Rumbalara Reserve; and
- 90% of units receive 2 hours solar amenity mid-winter or a significant view to Brisbane Water and Rumbalara Reserve.

Based on the above the proposal is considered to optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space as required by Objective 41-D of the ADG.

Table 4 8am to 4pm (incl. water views and Rumbalara)

	BLOCK A	BLOCK B	BLOCK C	BLOCK D	TOTAL	%/204
WATER & RUMBALARA VIEW AND SOLAR min. 3 HR (3 hours or more)	28	43	51	55	177	86.7%
WATER & RUMBALARA VIEW AND LESS THAN 3 HR SOLAR	6	10	12	22	50	
WATER & RUMBALARA VIEW AND SOLAR min. 2 HR (2 hours or more)	28	46	52	58	184	90%
WATER & RUMBALARA VIEW AND LESS THAN 2 HR SOLAR	5	6	3	14	28	

Masterplan Considerations

Buildings A, B and C are sited to clearly address the street following the desired Urban Design outcome responding to the future streetscape character as per Objective 3B-1 of the ADG. As part of this Objective 3B-1, the design must do so “while maximising solar access to apartments”.

From a Master Plan perspective, the orientation of the site and the street alignment, penalises the solar access performance for some of the buildings fronting John Whiteway Drive due to its alignment with the street. In particular, Building B is oriented to 12:30 pm (as well as the street at that point) and therefore the units facing west in this building are not capable of reaching 3 hours of sunlight to their living rooms, however the design choice to enhance amenity has been to provide large balconies to enjoy outdoor living and sunlight after 12:30 pm which Marchese have found to be a good strategy. Overall, Building B solar performance has been balanced in the Master Plan by intensifying the number of north aspect units in Building C & D, which have that capability. Per building solar performance is provided within **Table 2** and **Table 3**.

Marchese have also assessed whether Building C and D bulk and scale are impacting on Building B's solar performance and concluded there is negligible impact to the solar access compliance to the apartments of building B except for unit B3-05 after 2 pm, which is overshadowed by Building D. However, this unit already complies with 3 hours sunlight to living areas and balcony from 11 am to 2 pm. Accordingly, the height variation does not have an effect to the performance of Building B, which is the lowest performing building for solar performance. Further it is noted that the parts of the proposal above the height limit are typically high performing in terms of their solar access and removing this height and redistributing below the height limit would significantly reduce solar access and be contrary to the objective 4A-1 of the ADG.

1.3 Views

ADG Architects have modelled each view of the units that do not achieve a minimum 3 hours solar access mid-winter but that have a water view (see **Appendix B**). The site is situated on a hill with views to the substantial Brisbane Water extent that broadly surrounds the site. While 48 units with less than 3 hours solar achieve a water view, the project has not included the view of unit D1-03 in the project's calculations. Accordingly, 47 units are identified in the model analysis. It is noted that a further 40 units also have water views that are not included in the analysis because they receive a minimum 3 hour solar access.

The modelled views identify the direction of view from each unit. Each unit view is generally taken from a central point of the balcony or terrace. The proposal is designed to feature indoor/outdoor living and has accordingly provided large covered outdoor living spaces as an extension to the indoor living spaces to enable year round enjoyment of the outdoors, including water views. Views from the primary living space would be largely similar to the model view as the living space is generally located off the balcony area.

The Department has requested information to clarify if the tree canopy would interrupt water views. While a tree survey was completed to inform the building massing as required by the Planning Principles, the survey is 3D and not capable of providing in 2 dimension (i.e by PDF). The survey has been provided to the Department in its original .dxf file previously. Accordingly, the Department should refer to the Landscape Plan (Drawing 10-19.16, Site Tree Canopy Coverage Plan, dated 27.05.2021) that identifies the tree canopy, as shown on the reference plans submitted with the View Model (i.e the Dark Green Circles) see **Figure 1**.



Figure 1 Site Tree Canopy Coverage Plan

Source: Distinctive

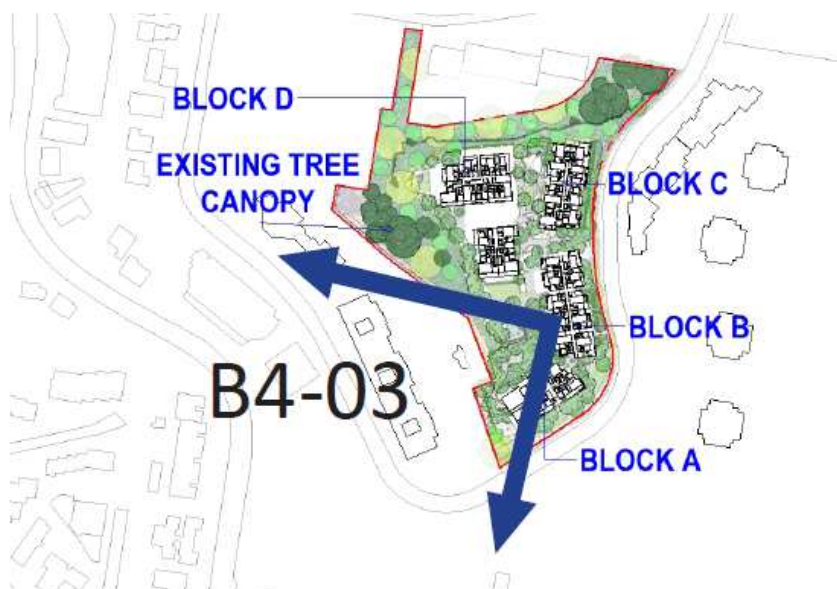


Figure 2 Representative view details in Plan (see View Model appended)

Source: ADG Architects

This query has resulted in Unit D1-3 from being excluded from the view analysis to be conservative. It is clear from the model views that 47 units have water views and the Department should be satisfied that the existing Tree Canopy will not interrupt these.

1.4 Basement Entry

Architectural Plans DA002.1 and DA002.2 (**Appendix E**) have been amended to better identify garage doors, as shown at **Figure 3** and **Figure 4** below.

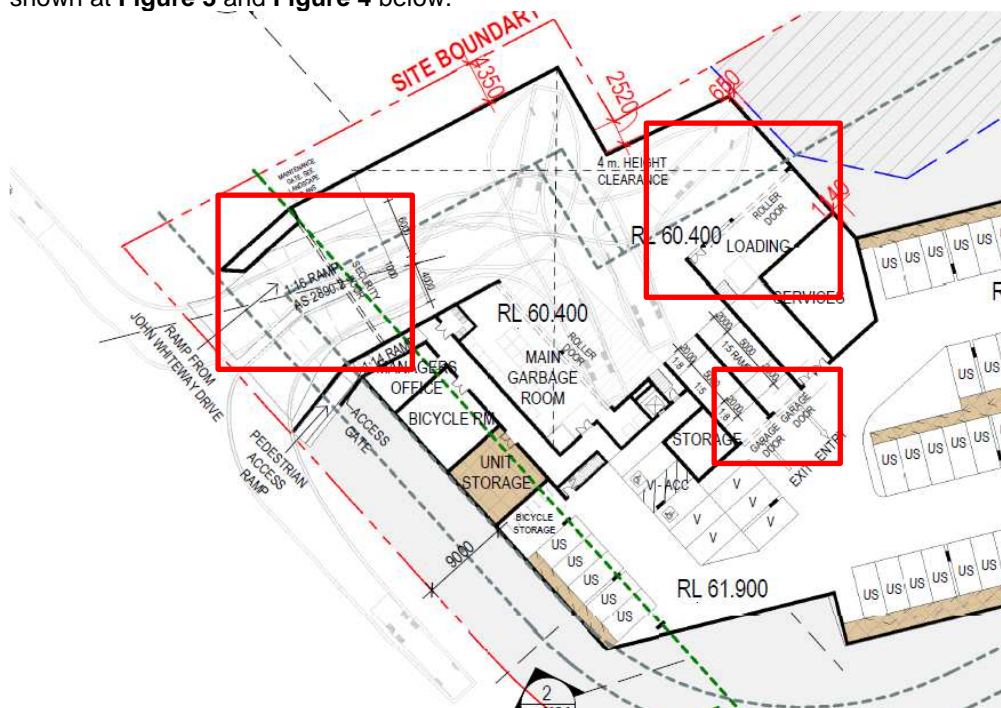


Figure 3 Basement Level (Garage Security Doors)

Source: ADG Architects

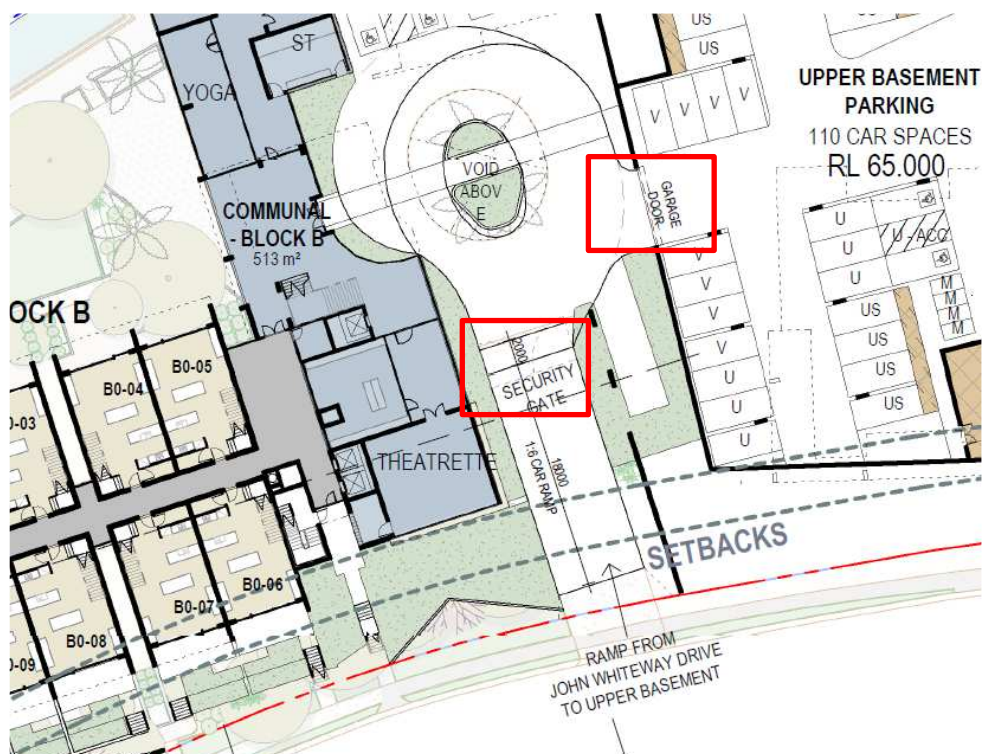


Figure 4 Ground Level (Garage Security Doors)

Source: ADG Architects

We trust that the responses provided above will enable the Department to finalise their assessment of the SSDA. Given the environmental planning merits (and the ability to suitably manage and mitigate any potential impacts) and significant public benefits proposed, it is requested that the application be approved in a timely manner.

Should you have any queries about this matter, please do not hesitate to contact me on 0411047748 or cmcgillick@ethosurban.com.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris McGillick', written in a cursive style.

Chris McGillick
Associate Director, Planning