

## **Submission and Objection to SSD 10321 89 John Whiteway Drive Gosford – 27 April 2021**

### **Plus Traffic Addendum**

As a Strata Committee member of Rumbalara Apartments 117 John Whiteway Drive and a non-resident Owner I should like to re-iterate the objections raised in my submission dated 20.5.2020 not sufficiently addressed by the amended plans.

### **Excessive height** – over Council's DCP and LEP

In a letter dated 25 March 2019 Central Coast Council's Andrew Roach, Manager Developer Assessment wrote inter alia:

"Development Control Plans (DCP's) are specifically established within the planning system to be guidelines and, as a result, are notionally flexible provided that such variation can be justified or where strict adherence to the standards is unreasonable or unnecessary. Please note that the EP&A Act 1979 specifies that the principal purpose of DCP's is to '*provide guidance*' on planning matters (please see Clause 3.42 of the EP & A Act, 1979).

The Land & Environment Court also plays a key role in how planning requirements are implemented, with a body of case law providing an indication on how the Court would view reasonable variation to Council policies. Previous Court decisions provide precedence on the application of development standards.

Some examples of where flexibility in the planning system may be appropriate include situations where one Environmental Planning Instrument is inconsistent with another, or irregular shaped parcels of land, or where planning policy is superseded by other matters (such as new construction technology, or the evolving character of an area) or simply situations where a slight variation to development standards would lead to superior community outcome.....

..... In summary, the planning system is designed to provide flexibility and appropriate consideration development applications against a wide range of considerations, including the standards set out in Environmental Planning Instruments and Development Control Plans, but also the suitability of the site, submissions, and matters raised through consultation with the community along with the public interest."

Gosford Council's DCP 57 for the John Whiteway precinct was formulated to ensure that unstable areas were not built upon, and heights were restricted so that buildings would not exceed the vegetation on the ridgelines. (Gosford Council chose to build along the valley floors and not on the top of hillsides). This has been adhered to, with minimal breaches, by all previous developments within the JWD precinct. This SSD however proposes to not only alter the ridgeline, but also to exceed the height limits by a huge margin. If this was to be allowed it could create an unacceptable precedent and cause development applications for surrounding hilltops eg. Presidents Hill.

### **Excessive FSR**

Despite removal of one floor from Building C and 3 floors from Building D the FSR is misleading as the 'Non Build' area has not been excluded from the calculation.

### **Excessive Excavation** including **Risk of Rockfall**

Attached are a suite of photos\*\* showing the rear of 117 JWD - sent previously with a submission in objection to the CCC DA54602.18. Photo #1 shows the 117 JWD communal washing line area on our

southern cliff face above which is a Security fence to safeguard against rockfall. This fence replaced the original which was demolished some years prior by rockfall. Also attached are two emails of two separate rockfall events onto garages at the western end of the complex. Over the years there have been a number of this type of event from the southern and western cliff/escarpment faces to the north of proposed SDD Buildings C and D.

From documentation available we do not believe sufficient geotechnical investigation has taken place to persuade us that our buildings will not be adversely affected by 62 weeks of rock excavation. Neither is it reasonable to expect our Building Insurance to cover any subsequent damage.

The Barker Ryan Stewart SSD Preliminary Construction Management Plan dated 12.8.2020 does not demonstrate how adjoining properties will not be compromised by the proposed excavation works. It is after all *only* a 'preliminary' Construction Management Plan – 2.2 Page 6 showing not even the amended number of proposed Units (204) updated from 260 . *“The quietest and least vibration causing suitable plant reasonably available will be selected for each works activity. This will include review of documentation provided by manufacturers, suppliers, hire companies in relation to equipment prior to delivery to site”*. This hardly inspires confidence. It is noted that *“Neighbouring properties will be notified about potential excessively noisy construction works”* but does not explain how – by mail, telephone and to whom – and *“such activities which may impact on the amenity of neighbouring properties will be notified about potentially excessively noisy construction works”*? A name and phone number of the various daily Site Managers should be an essential provision.

#### **Ethos Urban – Clause 4.6 Variation**

We do not believe the SSD DA should be approved with the variation as proposed in accordance with the flexibility allowed under Clause 4.6 of the Gosford City Centre SEPP 2018 for the reasons given in the CCC's Andrew Roach's letter dated 25.3.2019 – see under “Excessive Height” above.

There are insufficient environmental planning grounds to justify the contravention of the height of building development. We do not agree that:

*“The variation will enable the provision of a new elevated walkway and public viewing platform, which will improve the relationship between the Gosford City centre and the Rumbalara Reserve”*.

The walkway along the north western end has thankfully been removed, and connectivity will be via JWD and Donnison Street to the east, and to the west via JWD across Henry Parry Drive and down Georgiana Terrace.

*“The variation will not result in any unacceptable view impacts and will preserve views to Rumbalara Reserve”*. We agree that the variation may not result in many unacceptable view impacts to neighbouring blocks as it is the only development on top of a hill – however it will impact views from Kariong and buildings will inevitably replace the current natural ridgeline rather than the natural tree cover as presently.

*“The variation will facilitate a high quality built form which that provides high quality residential amenity, while respecting the natural landscape features of Gosford.”*

This can be achieved without exceeding the CCC DCP height limits.

*“The variation will enable the provision of additional open space and deep soil landscaping compared to a scheme that would have lower scale buildings with greater ground cover due to the site's constraints”*. We disagree: It is proposed to excavate 200,000 tonnes of sandstone for the building

footprints from across the quarry site – a site on which there is already no deep soil for planting. The minuscule ‘public pocket park’ provided is no justification for such a huge variation.

### 3.3.3 Overall Public Interest

We do not agree therefore that the proposed development and Variation to the development standard is in the public interest because in its current form it does not achieve the objectives of the height of building and bulk and scale development standards.

**Background** - As a footnote or final paragraph I should like to copy the final paragraph of my “Objections to Central Coast Council to the approval of Development Application 54602/2018 for 299 Units on site designated 87-89 John Whiteway Drive Gosford owned by Pinnacle Construction Group (Council Submission Ref: 5b4f6052e1dba)”

“5. Finally, SEE 3.1 Background includes the statement: “DA19601.2003 was previously granted by GCC on 13 February 2004 for a residential flat building comprising 178 Units. It was confirmed at the pre-lodgement meeting held with Council on 19 January 2018 that this consent has physically commenced and is still current. Refer to Appendix P for a copy of the pre-lodgement Minutes”. Not only is this Appendix not included in documents available on the website, but I believe it is erroneous. The Report to Council by Planner Mr. Robert Eyre on the Australand’s DA 36221/2009 regarding the site (an application that was refused) stated on Page 2: “*DA No. 19601 granted consent for 178 residential units on site on 13 February 2004. Development did not commence and this consent has lapsed*”. During that period (2009) I had frequently walked over the Australand site to assess how that proposed development might impact on Rumbalara. There were no visible site pegs or signs of ‘prior commencement’. I later learned that the De la Vega family had sold the site finding the exorbitant cost of excavation made their proposed development uneconomic. There is further mention in the SEE assuming prior commencement which states: “As requested in the CCC pre-lodgement minutes, the table compares the DCP controls against the approved DA1601/2003 for 178 Units and the proposed DA DCP requirements”.

The writer therefore believes “That all is not well in the State of Denmark / aka Gosford” and therefore rests her case.

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**First Photo:** Communal Clothes Line area immediately adjacent to the benched cliff face where some years ago a substantial rock fall destroyed part of the original security fence so requiring replacement and strengthening. Note also garage at left of photo in close proximity to cliff.

**Second Photo:** View of the SW of Rumbalara Apartments and western visitors’ car parking. Note: benched sandstone with rock bolts.

**Third Photo:** U29 double garage (also garages 28 and 33) at corner of RA south western boundary. Right of picture U20 garage with U29 balcony above.

**Fourth Photo:** View from U29 garage looking east towards U3 garage at end. Rear balcony U29 on left of photo. On right, garages of U33, 36, 22 clothes-line area etc., with trees on cliff face, or in narrow gap to rear of garages on top of 20 year old decomposed rock falls. *Note no trees visible on ridgeline.*

**Fifth Photo:** Same view of U3 garage but taken below the eastern Visitors’ car parking.

**Sixth Photo:** View of cliff face taken from the eastern visitors’ car parking behind the rear of my ground floor U5. Note: (a) barely discernible 87-89 JWD fence line atop the ridgeline and (b)

evidence of rocks that have fallen on top of the garage (c) If Block E 87-89 JWD were to be built as proposed on the non- buildable land, instead of sky there will be a 6 storey building.

**Seventh Photo:** Extreme SE corner of RA showing benched sandstone.

**Eighth Photo:** Same rock face showing quarry cliff support.

**Ninth Photo:** SE corner of RA. Note edge of brick path

**Tenth Photo:** Brick path continuation looking towards U29 garage i.e opposite view to 4th Photo.

**Eleventh Photo:** Same view looking west taken from the end of RA SE car park.

Note proximity of cliff face surrounding end garage, heavy timbered land on RA western boundary on non-buildable land within Lot 1 87-89 JWD from whence rocks have frequently fallen onto the garage roof of U29. and trees have fallen onto the end roof of the RA apartments.

**Twelfth Photo :** Close up of photo no 6 showing 87-89 fence line on ridgetop. Note some small rocks on garage roofs, most having fallen into the gap behind.

**Final Photo:** View of a rear external staircase to Units and side of carwash area.

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PS.

## **Addendum**

### **Traffic:**

We **object** to the developer's response regarding the current oversaturated conditions and that:  
*"action needs to be initiated now by TfNSW and Central Coast Council to increase capacity and introduce measures to manage travel demand";*

The Applicant is shifting the problem of the proposed developments' increased traffic volumes onto Central Coast Council and TfNSW to sort out.

The Applicant may not be aware of the Central Coast Council's \$565 Million budget shortfall.

This proposed development, with its potential for increased traffic volumes, should therefore not be approved until such time as the CBD network can accommodate the extra volume.