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Statement of Environmental Effects

Section 4.55(1A) Modification to DA 10132

Proposed part 7 / part 8 storey residential flat building (as in-fill affordable housing under *State Environmental Planning Policy (Affordable Rental Housing) 2009*)

56 Beane Street, Gosford

Prepared for Mono Constructions on behalf of
NSW Land and Housing Corporation

June 2021

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Vers 1.1	Final with Updated Plan Versions	28.06.2020

1. INTRODUCTION

This Statement of Environmental Effects has been prepared for Mono Constructions on behalf of NSW Land and Housing Corporation in support of a section 4.55(1A) application to the Department of Planning, Industry and Environment to modify Development Consent DA 10132 at 56 Beane Street, Gosford.

Development Consent 10132 was granted by the delegate for the Minister for Planning and Public Spaces on 15 July 2020 for construction of a part 7 / part 8 storey residential flat building (as in-fill affordable housing under *State Environmental Planning Policy (Affordable Rental Housing) 2009*) containing 41 apartments, 19 basement level car parking spaces and tree removal, stormwater infrastructure and landscaping works.

The modification is to make minor alterations to the stormwater requirements of the consent, to provide additional absorption/ infiltration in lieu of using semi-pervious materials on the driveway, and which will provide greater stormwater infiltration capacity compared to the consent requirements. The proposal does not otherwise change the approved development, which is under construction.

The site is zoned R1 General Residential under *State Environmental Planning Policy (Gosford City Centre) 2018*, and the proposal remains substantially the same as the development for which consent was originally granted.

This Statement considers the proposal against the requirements of section 4.55(1A) of the *Environmental Planning & Assessment Act*, and relevant planning instruments including Gosford City Centre SEPP 2018, the Affordable Rental Housing SEPP, Gosford City Centre DCP 2018, SEPP 65 - Design Quality of Residential Apartment Development (and the SEPP 65 Apartment Design Guide) and other relevant state planning controls. The assessment also addresses relevant matters for consideration under Section 4.15(1) of the *Environmental Planning & Assessment Act, 1979*.

The assessment of the proposal concludes that it remains substantially the same as the development for which consent was originally granted and makes a minor change to the stormwater arrangements that will maintain on-site infiltration consistent with the consent requirements. The proposal does not result in adverse impacts on surrounding properties and will not result in adverse environmental impacts.

This Statement should be read in conjunction with the supporting information submitted with the development application, and in particular revised stormwater plans prepared by Quantum Engineers.

2. THE PROPOSED MODIFICATION

The proposal is to modify development consent 10132 to delete condition B9(e) of the consent requiring the use of semi-pervious materials for all uncovered parts of the driveway, and to include amended stormwater plans that provide additional on-site absorption/ infiltration in lieu of using non-porous materials on the driveway.

The modification to consent conditions would be as follows:

Condition B9

OTHER MINOR AMENDMENTS TO PLANS
B9. Prior to commencement of construction, amended plans prepared by a suitability qualified Architect, must be submitted to the satisfaction of the Certifier showing:
……..
~~(e) all uncovered parts of the driveway are constructed of semi-pervious materials~~

Table to Condition A2

Stormwater drawings prepared by Quantum Engineers			
Drawing No.	**Revision**	**Name of Plan**	**Date**
D1	~~A~~ **H**	Details, Notes & Legend	~~06/12/19~~ **28/06/21**
D2	~~A~~ **H**	Lower Ground Floor Plan & Details	~~06/12/19~~ **28/06/21**
D3	~~A~~ **H**	Site/Level 1 Floor Plan	~~06/12/19~~ **28/06/21**
D4	~~A~~ **H**	Roof Plan	~~06/12/19~~ **28/06/21**
D5	~~A~~ **H**	Combined Stormfilter/ OSD & Rainwater Tank Details/ Calculations	~~06/12/19~~ **28/06/21**
D6	~~A~~ **H**	Water Quality Catchment Details & Calculations	~~06/12/19~~ **28/06/21**
D7	~~A~~ **H**	Sediment Control Plan	~~06/12/19~~ **28/06/21**
D8	~~A~~ **H**	Stormwater & Sediment Control Details	~~06/12/19~~ **28/06/21**

A copy of the amended Stormwater Plans prepared by Quantum Engineers is submitted with the application, and with the proposed changes shown with pink clouding.

The reason for the modification is to provide a more suitable driveway pavement finish for the driveway, given its slope, and to avoid possible trip hazards and assist with ongoing maintenance of the driveway. In conjunction with removing the requirements for semi-pervious materials, an additional absorption/ infiltration trench is proposed so that the change provides an alternative means of achieving the objectives of the standard.

The approved driveway from Gertrude Street has a maximum grade of 1 in 4, or 25%, which is relatively steep, and advice has been sought from a provider of semi-pervious pavement materials in relation to impacts of slope on pavements and arising from abrasion from vehicle braking or

acceleration. A copy of the advice received from HydroCON is attached to this Statement as ***Appendix 1***.

The modification does not otherwise change any aspect of the approved development, which will remain the same development as the development for which consent was originally granted under DA 10132.

3. PLANNING CONSIDERATIONS

Under section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* Development Consent 10132 is able to be modified, in accordance with the following requirements:

> ***(1A) Modifications involving minimal environmental impact***
>
> *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*
> *(a) it is satisfied that the proposed modification is of minimal environmental impact, and*
> *(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
> *(c) it has notified the application in accordance with:*
> *(i) the regulations, if the regulations so require, or*
> *(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
> *(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
> *Subsections (1), (2) and (5) do not apply to such a modification.*
>
> ……..
>
> *(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

The requirements of section 4.55(1A) are addressed below, together with an assessment of the proposal and its impacts against relevant considerations under section 4.15(1) of the Act.

3.1 Whether the proposed modification is of minimal environmental impact

The proposed modifications will have a minimal environmental impact, being for internal stormwater changes that will be neutral in terms of on-site stormwater absorption/ infiltration compared to the requirements of the condition, and will satisfy the objectives of the standard, as addressed in the assessment against Section 4.15 of the Act below.

3.2 Whether the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted

The proposal does not change the nature of the development for which consent was originally granted, either qualitatively or quantitatively. The proposal will remain a part 7 / part 8 storey residential flat building (as in-fill affordable housing under *State Environmental*

Planning Policy (Affordable Rental Housing) 2009) containing 41 apartments, 19 basement level car parking spaces and tree removal, stormwater infrastructure and landscaping works. The modification will not result in any other changes to the approved development, which is currently under construction

The proposed absorption/ infiltration trench is located below ground in the communal open space area, and will not result in any reduction in the area or surface treatment of the communal open space area compared to the already approved plans

The proposed modifications will not alter the characterisation of the land use or the proposed development. As established in *Sydney City Council v Ilenace Pty Ltd* [1984] 3 NSW LR 414 the term "*modify*" means "*to alter without radical transformation*", and the changes as proposed involve minor changes compared to the approved development, and these could not be characterised as being a "radical transformation" of the approved development.

An assessment of the impacts of the changes has been undertaken and the impacts will remain consistent with those of the approved development.

3.3 Notification of the application and consideration of any submissions

This is a matter for the Department's consideration, having regard to the requirements of Appendix B of Gosford City Centre DCP 2018. It is noted the DCP does not prescribe notification requirements for modification applications, and the DCP identifies that "*where the assessing authority is of the opinion a proposal will have little or no environmental impact, public notification will not be required*."

It is submitted that the proposed modifications are very minor, and will result in no additional environmental impact, and on this basis the Department could reasonably determine that public notification of the application is not required.

3.4 Consideration of relevant matters under section 4.15(1)

Section 4.15(1) of the *Environmental Planning & Assessment Act* sets out a number of considerations in the assessment of development applications, including relevant planning controls and the impacts of the development.

The following matters are relevant to the proposed modification.

3.4.1 Gosford City Centre DCP 2018

The requirement in Condition B9(e) for semi-pervious driveway materials has its origin in Part 7.3 of the DCP relating to Vehicular Driveways and Manoeuvring areas, and in particular Control 8, which requires:

> 8. *For residential development in the General Residential zone, use semi-pervious materials for all uncovered parts of driveways and parking areas to assist with storm water infiltration.*

and the objectives of the controls in Part 7.3 of the DCP are:

> *A To minimise the impact of vehicle access points on the quality of the public domain.*
> *B To minimise impact of driveway crossovers on pedestrian safety and streetscape amenity.*
> *C Minimise storm water runoff from uncovered driveways and parking areas.*

Due to the slope of the driveway it is proposed to use permeable pavement, to assist in the ongoing maintenance of the driveway, and to avoid any potential for future pavement damage or trip hazards. This is supported by expert advice provided by HydroCON (at Appendix 1) and will be consistent with the (former) Gosford City Council *Water Cycle Management Guidelines (February 2007)*, which at page 21 identifies that porous paving is not suitable for slopes greater than 5%. The Council guidelines also identify that a suitable treatment for stormwater diversion for driveways is "*Flow from the driveway or parking area is captured by pits and grated drains and transported by pipes to an infiltration trench or stabilised soft landscaped area - a stabilised soft landscaped area is one that will not erode where an outlet pipe releases water*".

The DCP objective relevant to semi-pervious driveway materials is to "minimise storm water runoff", and Control 8 refers to assisting with "storm water infiltration". In response to these requirements, the modification proposes an additional absorption/ infiltration trench as part of the stormwater management system, which will provide additional on-site stormwater infiltration, and will offset infiltration that would otherwise be achieved through a semi-pervious driveway areas, notwithstanding this treatment would be less suited for a driveway of this grade in any case.

The modification responds to the slope of the driveway as proposed, and having regard to pavement requirements, and will still meet the objectives of the DCP control through the provision of additional on-site stormwater infiltration.

3.4.2 Other Planning Requirements and Considerations under Section 4.15

The modification will not impact on, or be inconsistent with the requirements of either the Gosford City Centre SEPP 2018 or the Affordable Rental Housing SEPP, and will remain consistent with the requirements of SEPP 65 - Design Quality of Residential Apartment Development and the SEPP 65 Apartment Design Guide.

The modification is very minor, and will not lead to adverse impacts, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality. The site is suitable for the modification as proposed and support for the modification would be in the public interest.

4. CONCLUSION

In conclusion, the proposal is for a minor modification to the stormwater requirements of the consent, which will provide additional absorption/ infiltration in lieu of using semi-pervious materials on the driveway, and which will provide greater stormwater infiltration capacity compared to the consent requirements. The proposal does not otherwise change the approved development, which is under construction.

An assessment under sections 4.55(1A) and 4.15 of the *Environmental Planning & Assessment Act 1979* has been undertaken which demonstrates the proposal will be substantially the same as the development for which consent was originally granted, and the modification will not result in adverse impacts on adjoining properties or the surrounding area.

APPENDIX 1 – Letter from HydroCON

HydroCon
Managing water in the urban environment

HydroSTON
MADE AT COWRA NSW

29 April 2021

Logendra Pillay
Executive Project Manager
McNally Management
Level 12, 49 York Street, Sydney NSW 2000

Dear Logendra

Further to our phone discussion earlier this week, I refer you to the following FAQ in the Specifications section of the HydroSTON website at https://hydroston.com.au/specifications/.

The principal effect of slope on any permeable pavement is the degree of infiltration of rain and stormwater. The greater the slope, the faster will water move over the pavement hindering infiltration through the pavement. This applies particularly, of course, to periods of heavy rainfall.

Unlike permeable pavers that rely for infiltration on gaps in the paver structure, HydroSTON is porous and free draining across the full face and body of the paver. While HydroSTON functions best in terms of permeability when laid at zero gradient, HydroSTON permeable pavements may be constructed on slopes up to at least 7% (gradient of approx 1:14) without adverse effect on infiltration performance. Nonetheless, a number of HydroSTON driveways have been installed in high gradient situations and appear to be effectively capturing and infiltrating rainfall. Light rainfall should be infiltrated regardless of slope.

Another issue with steep driveways is abrasion. HydroSTON is manufactured using a special formulation of -3mm +1mm quartz aggregate, sand and cement to create interconnected voids through which water will flow. It is a very strong and durable product. When installed on steep driveways, however, the pavement surface may be subject over time to abrasion from vehicle braking or acceleration. Should extreme damage occur, however, the segmental paving units can be lifted and turned over or replaced with new units.

Pavement substructure design needs to take account of slope and the depth of the base course or sub-base increased to offset the reduced useable storage volume when subgrade infiltration rates are exceeded. If substructure depths are not increased, the higher portions of the pavement may not fill while water may run out of the lower portion of the pavement. Water flows within steep pavements can be managed by substructure design.

We greatly value the support of the NSW Land & Housing Corporation for our HydroSTON product, which the Corporation has used in a number of its property developments. While permeable paving systems, and HydroSTON in particular, can be designed for and used effectively for steep driveways, given your concerns it may be better that alternative paving surfaces be specified in this instance.

Kind regards

John Wells
Director

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