

JRPP No:	Item No. 2010STH022
DA No:	DA-2010/905
PROPOSED DEVELOPMENT:	15 Storey mixed use development
APPLICANT:	Cnr Harbour and Burelli Streets, Wollongong
REPORT BY:	PRD Architects

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Joint Regional Planning Panel

The JRPP is the determining authority pursuant to Clause 13B(1)(a) State Environmental Planning Policy (Major Development) 2005 as the proposed development has a capital investment value of more than \$10.

Proposal

The demolition of the existing two dwellings and the construction of a 15 storey mixed use development incorporating 2 ground floor commercial/retail units with 14 levels of residential including 41 residential apartments over 2 levels of basement parking. The basement and ground floor car park contains a total of 101 visitor and resident parking spaces.

Permissibility

The site is zoned B4 Mixed Use pursuant to Wollongong Local Environmental Plan 2009 (WLEP 2009). The proposal falls under the definition of a 'mixed use development' comprising 'shop to housing' and 'retail premises' and is permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with appendix 1 (public notification procedures for development applications) of Wollongong Development Control Plan 2009 and no submissions were received.

Main Issues

The main issues arising from the assessment of the application are:-

- A variation is sought in relation to Clause 8.6 of WLEP 2009 which requires minimum building separation distances. There are residential components below the street frontage height that are at the same level as the adjoining properties to the north and south. As a result, the development is required to be setback 20m.

The applicant has submitted a submission seeking a departure in relation to Clause 8.6. The concurrence of the Director-General of the Department of Planning has been obtained in accordance with the requirements of WLEP 2009 (see attachment 6). The departure is discussed at 2.2.5 below.

- Minor variations to the WDCP 2009 are proposed including side setbacks, building depth and driveway width. The departures are discussed at 3.4.1 below

CONCLUSION

The application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and is considered to have merit and is considered worthy of support.

RECOMMENDATION

It is recommended that conditional approval be granted to DA-2010/905 subject to the draft conditions contained in Attachment 5.

2. Application overview

2.1 Proposal

The proposal is for the demolition of the existing two dwellings and associated structures and the construction of a fifteen (15) storey 'mixed use' building over ground floor and basement parking. The building has a proposed height of 47.6m and an FSR of 2.58:1.

The building comprises 4 x 1 bedroom and study units, 19 x 2 bedroom units and 18 x 3 bedroom units. Each unit has been provided with at least one car parking space and storage space within the secure car parking area. A total of 77 parking spaces have been allocated to the units. Whilst 16 parking spaces have been allocated to the retail component and 8 visitor parking spaces have been provided on site that are not secured and are accessible at all times.

Entry to the development is via a single driveway along the southern boundary from Burelli Street. Separate pedestrian entry has been provided to the ground floor lift. The proposed development provides for significant landscaping along the northern and western side boundaries. Common open space is provided in two locations of levels 2 and 5 facing north.

2.2 Background

The proposed development incorporates 4 lots: Lot 100, DP 1036149, Lot B, DP 154804 and Lots 2 and 3 DP 152369.

Lot 100, DP 1036149 H/N 46 Harbour Street

No relevant prior development history.

Lot B, DP 154804 H/N 2 Burelli Street

No relevant prior development history.

Lots 2 and 3 DP 152369 H/N 4-6 Burelli Street

No relevant prior development history.

Customer service actions

The property does not have any outstanding customer service actions.

2.3 Site description

The site is located at the corner of Harbour and Burelli Street, Wollongong. The proposed development incorporates 4 lots known as 2-6 Burelli Street and 46 Harbour Street with title reference as Lot 100, DP 1036149, Lot B, DP 154804 and Lots 2 and 3 DP 152369.

The subject property located directly on the corner is 2 Burelli which is currently occupied by a single storey dwelling house with ancillary structures and is currently used as an office premises. Number 4 Burelli Street and 46 Harbour Street are both used by the Steelers Club and utilised as overflow car parking. Number 6 Burelli Street currently contains a single storey dwelling.

The site is zoned B4 Mixed Use under the provisions of Wollongong Local Environmental Plan 2009. The site area is 2,347sqm, with a frontage to Burelli Street of 46.8m and 50m to Harbour Street.

Adjoining development to the north comprises retail food and drink premises and an older style three storey residential flat building development. Located to the west is an older style three storey residential flat building. WIN Stadium is located to the east and the Steelers Club is located to the south. The large vacant parcel of land within the same street block with

a frontage to Burelli Street, Corrimal Street and Crown Street including the existing Salvation Army building fronting Burelli Streets are currently proposed to be redeveloped as large mixed use development the subject of a Part 3A Major Project being considered by the department of Planning

Site constraints

The site is listed as being affected by acid sulphate soils. Relevant draft conditions are proposed in this regard (attachment 5).

2.4 Consultation

2.4.1. Internal consultation

Geotech

Council's geotechnical section reviewed that application and raises no objection to the proposal. Whilst the area directly to the south (including Win Stadium) has a high ground water table, the subject area has a low water table due to a very shallow soil profile over hard sandstone bedrock which is difficult to excavate. In this regard due consideration should be given the selection of rock excavation equipment to minimise noise and vibration. Council's geotechnical engineer has also advised that the earthworks need to be undertaken with geotechnical advice and supervision to ensure that cut faces are suitably protected during and after construction for the protection of adjoining structures.

Draft Conditions have been proposed in this regard (attachment 5).

Stormwater

Council's Traffic Section has assessed the application and provided conditions (attachment 5).

Heritage

Council's Heritage Officer has reviewed the proposed development and considers it to be satisfactory.

Landscaping

Council's Landscape section has assessed the application and provided conditions (attachment 5).

Traffic

Council's Traffic section has assessed the application and provided conditions (attachment 5).

SCAT

Council's Safe Community Action Team assessed the application and provided conditions (attachment 5).

2.4.2. External consultation

Department of Planning

The proposed development departs from the building separation controls contained within clause 8.6 of the Wollongong Local Environmental Plan 2009 (WLEP 2009). This variation has been discussed further at 2.2.5 below. The Director-General of the DoP granted his concurrence to the building separation controls on the 7 October 2010 (see attachment 6).

RTA

The RTA has indicated that they are legislatively not required to comment on the application. The RTA has however, advised that a Road Occupancy Licence (ROL) will be required if during construction harbour Street is to be occupied. Additionally a Traffic Management Plan (TMP) is also required to be undertaken.

Draft Conditions have been proposed in this regard (attachment 5).

Police

The Police requested that the application be forwarded to the Local Traffic Committee for comment in relation to the closure of Harbour for large events being held in WIN Stadium or Entertainment Centre. The traffic management and the operation of WIN Stadium events are dealt with via the Traffic Management Plan in place for WIN Stadium including surrounding land users. Council's Traffic Manager advises that as this plan was developed in consultation with the Local Traffic Committee the application was not required to be further considered by the Committee.

The Police indicated that they are also concerned in relation to noise issues and complaints from future residents when events are being held at the Win Entertainment Centre and Win Stadium. The subject premises are also opposite the Steelers Club which is a late night licensed premises venue which may also result in noise complaints by residents.

The statement of environmental effects indicates that CCTV surveillance and appropriate lighting will be located to cover the residential and commercial car park access points and the toilet area. The police advise that the CCTV should be of a standard that allows facial recognition to assist Police with identification of any offenders.

Draft Conditions have been proposed in this regard (attachment 5).

3. Environmental Planning and Assessment Act 1979

Section 79C Assessment

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
that apply to the land to which the development application relates, (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) *the public interest.*

These matters are addressed below.

3.2 Section 79C 1(a)(i) any environmental planning instrument

3.2.1. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 commenced on 1 July 2004 and applies to all land in NSW. A BASIX certificate is required to be submitted in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000.

A BASIX Certificate dated 6 July 2010 has been provided for the proposed development. Commitments have been shown on the development application plans.

3.2.2. State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Under Clause 7 of *State Environmental Planning Policy No.55 – Remediation of Land*, a consent authority is required to consider whether a proposed development site is affected by soil or other contaminants before granting consent. The subject site is zoned for residential development and is currently being used for residential purposes. There is no previous history of other uses that could be considered to be potentially contaminating. It is considered that the subject site has a low contamination risk. The site is considered unlikely to be contaminated and is suitable for the proposed development. Therefore the proposal is considered to be consistent with SEPP 55

3.2.3. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The application is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65). Residential flat buildings are defined:

"residential flat building" means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),*

The Policy came into effect on 26 July 2002.

Clause 50 of the Environmental Planning and Assessment Regulation 2000 states:

(1A) A development application that relates to a residential flat development, and that is made on or after 1 December 2003, must be accompanied by a design verification from a qualified designer, being a statement in which the qualified designer verifies:

- (a) that he or she designed, or directed the design, of the residential flat development, and*
- (b) that the design quality principles set out in Part 2 of State Environmental Planning Policy No 65-Design Quality of Residential Flat Development are achieved for the residential flat development.*

The application was accompanied by a Design Verification Statement in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000. The proposal

must be evaluated in accordance with the design quality principles, and the Residential Flat Design Code.

Clauses 9-18 of the SEPP set out ten (10) design quality principles which must be considered in the preparation of the design of the building (Schedule 1(2)(5)(a) EP&A Regulation 2000).

These principles are addressed below in relation to the proposed building:

1. Context – The desired context is expressed in WLEP 2009. The proposed development is has regard to the relevant planning controls and is considered to be compatible with the future developments within the area.
2. Scale – The proposed development has regard to the relevant planning controls and is within the permitted maximum height and floor space ratio.
3. Built form – The building will contribute to the streetscape via its contemporary and modern design. The surrounding B4 Mixed Use is in transition, this building will complement future development but also enhances the locality.

The building contains sufficient articulation through a combination of different building materials and offset of building walls and the delineation via different balcony designs. To this end, the proposed building is regarded as being an appropriate in its design in terms of building alignment, proportions and building elements.

The proposed building generally meets DCP external design criteria. A schedule of external finishes has been provided.

4. Density – The proposed development complies with the maximum allowable FSR for the site.
5. Resource, energy and water efficiency – A BASIX certificate has been provided and the building has been designed so as to achieve a 5 star energy rating.
6. Landscape – The development is proposed to be surrounded by landscaping in accordance with WDCP 2009. It also provides for quality common open space.
7. Amenity – The proposed units are designed to incorporate sufficient natural light and cross ventilation providing favourable levels of internal amenity to future residents. The internal floor plan provides a practical layout with a spacious living area and separate laundry. All units benefit from private recreation areas in the form of balconies that are directly accessible from the internal areas.
8. Safety and security – Balconies provide opportunities for passive surveillance. Lighting within common driveways, parking areas and the common open spaces will be subject to draft condition of approval which will provide for the safety of residents and visitors at night.
9. Social dimensions and housing affordability – The proposed building is located within walking distance of public bus and train transport and support services such as medical and retail facilities. The building contains adaptable units and offers a mix of 1, 2 and 3 bedroom units.
10. Aesthetics – The proposed building exhibits adequate aesthetics and responds to the desired character of the surrounding Mixed Use area and adjoining Commercial Core area.

30 Determination of development applications

(2) *In determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

- (a) the advice (if any) obtained in accordance with subclause (1), and*
- (b) the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*
- 1 the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).*

An assessment of the application against the Residential Flat Design Code has been undertaken. The application complies with all aspects for the code. The table of compliance against the Residential Flat Design Code is at Attachment 4 to this report.

3.2.4. State Environmental Planning Policy No. 71 – Coastal Protection

State Environmental Planning Policy No. 71 – Coastal Protection does not apply to land within the Wollongong City Centre pursuant to Clause 1.9(2A) of WLEP 2009.

3.2.5. Wollongong Local Environmental Plan 2009

The site is zoned B4 Mixed Use pursuant to this plan and the proposal is categorised as a 'mixed use development' comprising 'retail premises' and 'shop top housing' and is permissible with development consent.

Clause 1.4 – Definitions

mixed use development means a building or place comprising 2 or more different land uses.

shop top housing means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

Part 2 Permitted or prohibited development

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.*

It is considered that the application has regard to the objectives of the zone.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The maximum permissible height for the site is 48m.

The proposal has a maximum height of 47.6m and therefore complies with the maximum height

Clause 4.4A Floor space ratio – Wollongong city centre

The maximum FSR permitted for a wholly residential building is 2.5:1 or for a wholly commercial building the permitted FSR 3.5:1. When a development combines the two uses then the percentage based formula of each component applies. In this regard the maximum permitted FSR for the site with a development that proposes 92% residential and 8% commercial is 2.58:1

The development proposes an FSR of 2.58:1 and as such complies with the maximum allowable FSR.

Clause 4.6 Exceptions to development standards

This clause allows for variations to development standards if they satisfy the requirements outlined in Clause 4.6(3) & (4) as indicated below

(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

A variation is sought in relation to Clause 8.6 of WLEP 2009 being the building separation development standard and as such this clause is required to be considered.

In this regard the applicant submitted a written request to vary clause 8.6 that incorporated the requirements of Clause 4.6(3) which is discussed at clause 8.6 below. It is considered that the written request adequately identifies that the building separation control is unnecessary in this case and there is sufficient environmental planning grounds to justify contravening the development standard.

Concurrence from the Director General of the Department of Planning was requested and obtained on the 6 October 2010 (see attachment 6).

Miscellaneous provisions

Clause 5.5 Development within the coastal zone

The site is located within the NSW Coastal Zone. Consent cannot be granted to development on land within the coastal zone unless the consent authority has considered:

(a)	existing public access to and along the coastal foreshore for pedestrians or persons who are less mobile, with a view to: (i) maintaining existing public access and, where possible, improving that access, and (ii) identifying opportunities for new public access, and	The proposal will have no impact on public access to the coastal foreshore
(b)	the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account: (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and (ii) the location, and (iii) the bulk, scale, size and overall built form design of any building or work involved, and	The site is suitably zoned for the proposed development.
(c)	the impact of the proposed development on the amenity of the coastal foreshore including: (i) any significant overshadowing of the coastal foreshore, and (ii) any loss of views from a public place to the coastal foreshore, and	The proposal is not envisaged to impact on the coastal foreshore. It will not result in any overshadowing of the foreshore or loss of views from a public place to the coast.
(d)	how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and	The proposal is not envisaged to impact on the visual amenity and scenic qualities of the coast.
(e)	how biodiversity and ecosystems, including: (i) native coastal vegetation and existing wildlife corridors, and (ii) rock platforms, and (iii) water quality of coastal water bodies, and (iv) native animals, fish, plants and marine vegetation, and their habitats, can be conserved, and	The proposal is not envisaged to adversely impact on the biodiversity and ecosystems.
(f)	the effect of coastal processes and coastal hazards and potential impacts, including sea level rise: (i) on the proposed development, and (ii) arising from the proposed development, and	The proposal will not give rise to any coastal hazards and will not be affected by coastal hazards due to its distance from the coast (>300m) and the elevation of the site.
(g)	the cumulative impacts of the proposed development and other development on the coastal catchment.	No adverse cumulative impacts are expected. The proposal is permissible with consent and is consistent with the zone objectives.

Clause 5.10 Heritage conservation

The site is not listed as a heritage item and is not located within a conservation area however 7-9 Burelli Street contains locally listed heritage item being 'Californian flats'. This item is identified as having local heritage significance. There are other locally significant heritage items in the vicinity but all at some distance. Any potentially adverse impact will be predominantly due to overshadowing, and thus a direct consequence of the current planning controls. Views to other heritage items will not be impacted upon, albeit the skyline background in some views will be modified.

The grounds of the wider area, including the grounds within the site, are likely to be highly disturbed in the surface layers and extremely unlikely to contain evidence of European presence, other than inseparably mixed with the evidence of recent residential uses.

However, given the level of excavation of the site for the basement carpark, there is a possibility of disturbing deeper layers of grounds that may, potentially, contain non-European archaeological relics. Should any potentially significant archaeological material be discovered during the excavations on the site, works shall immediately stop and the Council shall be contacted for advice.

Draft Conditions have been proposed in this regard (attachment 5).

Urban release areas

Not applicable

Local provisions – general

Clause 7.1 – Public Utility Infrastructure

Development consent must not be granted on unless the consent authority is satisfied that suitable arrangements can be made for the supply of water, electricity and disposal of sewage. The site is connected to Sydney water and as such has access to water supply and sewage disposal. Electricity is also available to the site.

Clause 7.5 Acid Sulfate Soils

The site is classified as Class 5 acid sulfate soils. The development does not require the prepare of an Acid Sulfate Soils Management Plan pursuant to Clause 7.5 however conditions are recommended for imposition in relation to the management of acid sulfate soils during construction.

Part 8 Local provisions—Wollongong city centre

Clause 8.1 Objectives for development in Wollongong city centre

The proposed mixed use development would further promote residential opportunities, housing choice, and housing affordability and additional commercial space within the Wollongong City Centre and therefore has regard to the objectives for development within the Wollongong City Centre.

Clause 8.4 Minimum building street frontage

Development consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres or more on land within the B4 Mixed Use zone. The site has a frontage of 50m to Harbour Street and as such complies.

Clause 8.5 Design excellence

Consent must not be granted unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) *whether the proposed development detrimentally impacts on view corridors,*
- (d) *whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,*
- (e) *how the proposed development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *impact on, and any proposed improvements to, the public domain.*

Consideration has been given to these matters. In relation to (a), it is considered that the development provides for a high standard of design, materials and detailing appropriate for the building type and its location. In relation to (b), it is considered that the form and appearance of the development will improve the quality of the public domain. In relation to (c), the development does not detrimentally impact on view corridors and complies with the building height control allowable within this area. In relation to (d), the development will not overshadow any key site. In relation to (e), the site is considered to be suitable for the development, it provides for appropriate uses, there are no heritage issues which constrain the site and the height, form and design is considered to appropriately relate to the streetscape. The tower has a acceptable relationship with the neighbouring residential buildings, noting that a building separation variation is proposed. It is also consistent with the proposed mixed use building located to the west of the site within the same street block. The bulk, mass and modulation of the building are considered to be reasonable. The street frontage height of the building complies with relevant controls. In relation to (vii), the proposal will not have an unreasonable environmental impact. Specifically, the building has been designed so as to achieve a 5 star rating and complies with BASIXs and is considered to represent sustainable design. Overshadowing impacts are not unreasonable.

Clause 8.5(5) Design review panel

Clause 8.5(5)(a) specifies that a design review panel must review the design of the proposed development in respect of a building that is or will be greater than 35m in height.

The design review panel of the proposed development was held on the 17 November 2010. The Panel provided a number of comments in relation to the proposed development and the following summary from the panel is indicated below:

The unit layouts of the proposal are generally well considered, the aesthetics' of the building are also generally successful but would benefit from further refinement. The base of the building has the potential to relate well to the street with further detail development. It is recommended that a nil set back is allowed to the northern boundary at ground floor level to facilitate a continuous retail strip to address Harbour Street.

Solar access to units has not been adequately demonstrated in the documents provided. Further information should be provided to demonstrate compliance with

SEPP 65. If compliance is not achieved it is recommended that the form of tower element of building (levels 6 -16) is developed to provide compliant solar access to all units in the tower.

In this regard the applicant was requested to provide further detail in regards to the ground floor interface with the street and the solar access. The applicant has provided the following comments:

Street Frontage Treatment

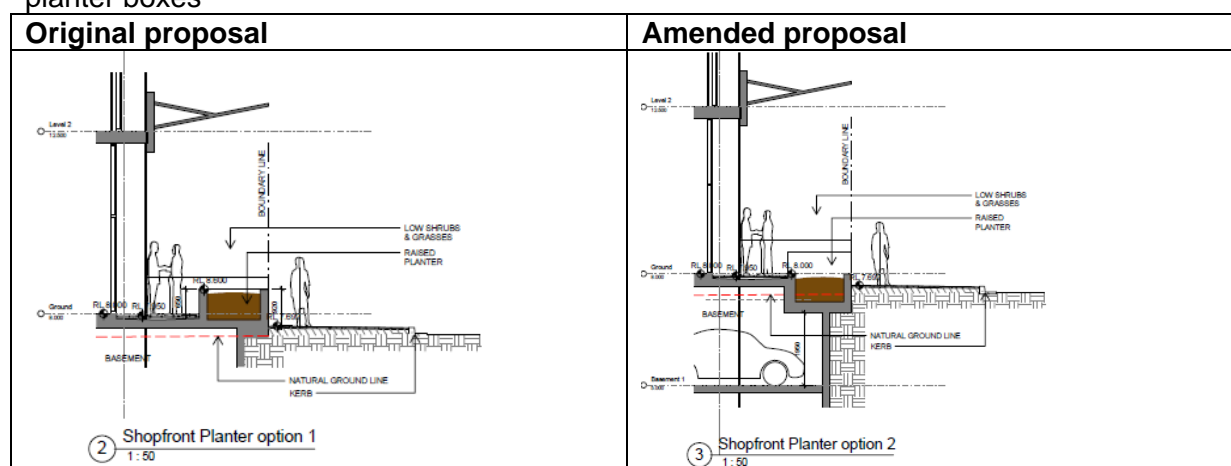
Applicants comment:

Even though we believe that our treatment to the Harbour Street frontage is the appropriate one, we have provided an additional sectional diagram to illustrate another alternative treatment which could be pursued if Council deems it more appropriate. An alternative treatment could be a Condition of Consent. We provided the central planter for both aesthetic and safety reasons, due to the slope of the frontage. We do not believe that the planter should have any impact on the activation of the street frontage.

In terms of the Burelli Street frontage, we still believe that this street is contextually a secondary street which does not require any additional commercial or retail space. Our point is strengthened by the fact that the proposal for the large mixed use project on the Dwyers site, which is only 3 sites to our west incorporates parking access and predominantly service areas to the Burelli Street frontage.

Comment:

The applicant provided the following two options with regard to the proposed Harbour Street planter boxes



It is noted that there is a change in levels along the Harbour Street frontage and that the planter box were included for safety reasons. Whilst the design review panel considers the 650mm raised planter bed as a visual obstruction to the commercial/street interface it is considered that the level planter bed will not allow for sufficient safety. Additionally a planter bed being level with the commercial could encourage people to use the planter boxes as access and over time killing the landscaping within it. It is considered that a combination these two options could be conditioned by providing for a planter box that is 400mm high and allow for a physical barrier but not a visual barrier as the panel suggested. In this regard a condition is proposed (attachment 5) requiring amended plans allowing for a 400mm high planter box prior to the issue of a Construction Certificate.

Solar Access

In terms of the solar access, we attach diagrams which demonstrate the solar access for the units noted. As you will note from the diagrams, we believe that all the units, bar the 3 south facing apartments, receive adequate solar access as required for the 21st June winter solstice.

We base our figures on the fact that it has been shown that effective sunlight should be counted between 7.30am-4.30pm, when the horizontal angle between the sun's rays and the plane of the window is more than 22.5 degrees and the sun has an altitude above the horizon of more than 5 degrees. This is indicated in Technical Bulletin 13 Sunlight Indicators (TB13) published by the New South Wales Planning and Environmental Commission. In terms of the quantum of solar access, Sepp65 and the DCP note 3 hours, although in a higher density urban area, such as ours, 2 hours is permissible.

We believe that the design of our building provides for a high level of amenity for all units. The main reference document for SEPP65 is the Residential Flat Design Code (RFDC). In terms of solar access, the appropriate section is Daylight Access. The title is important, as it describes the importance of Daylight Access, which is comprised of skylight and sunlight, not just direct sunlight.

"The objectives of this section are:

- To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development.
- To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours.
- To provide residents with the ability to adjust the quantity of daylight to suit their needs."

The assessment of the sunlight entering a room or open space is dependant on the time of day. In the early morning it may strike a wall and project sunlight onto it and if there is a window sill, it may not strike the floor until the sun is higher in the sky. The determination of sunlight in a room or private open space is related to both the vertical and horizontal sun projection, as both will be effective at various times of the day.

The SEPP, as it should be, is mainly concerned with the availability of daylight, which should be measures in lumens, as it is a more ambient light and is brighter as you approach window openings, and conversely fades the deeper you go into the unit.

The SEPP also states that the rear of a living area should be no more than 8m from a light sources such as a window or door, so as to comply with this provision.

Another important aspect to consider in terms of amenity is Basix, which is designed to make sure that units provide an acceptable level of energy efficiency and Thermal Comfort throughout the year. Our Basix assessor told us that for the units nominated here, we achieved Basix star ratings from 5.5 to 9, which is a range from acceptable to exceptional or world class as the assessor put it.

We have also included a report from our Basix assessors Efficient Living, which provides a clear indication of the efficiency and level of amenity that will be provided as a consequence of our design.

We have proposed solar access diagrams for the units nominated in the Design Review Panel report, with the exception of units 5, 11 and 17, which are single aspect south facing units. It is obvious that these don't comply, but form less than 10% of the total unit numbers. The results are as follows:

Type A – units 3, 9, 15, 21 – 2.5 hours from 7.30am – 10.00am

Type B- units 4, 10, 16, 22 - 2.5 hours from 7.30am – 10.00am

Type C- units 27, 29, 31, 33, 35, 37, 39, 41 – 3.5 hours from 7.30am – 11.00am

Type D- unit 23 - 3.5 hours from 1.00pm – 4.30pm

We believe that the results of the above analysis, combined with the results of our Basix assessment, clearly shows that the units mentioned provide more than adequate daylight access to all units, which in turn provides for a high level of amenity to those units and as a consequence, excellent Basix ratings.

With these results, we can say that 92% of our units achieve adequate levels of solar access in line with the intent of SEPP 65."

Comment:

The applicant submitted additional daylight access diagrams for the units on the southern side of the building that also have an aspect to the east or west. The applicant has calculated the daylight access from 7.30am however the RFDC does not contemplate daylight access until 9am. When the period of 7.30 to 9am is excluded all the units receive a minimum of 2 hours daylight access to the balcony's and the main living area and 61% of units receive at least 3 hours of daylight. The RFDC code allows for a 2 hour minimum within dense urban areas such as a city centre and when incorporated within the calculation increases the number of units with adequate daylight access to 90%.

It is considered that residential flat buildings with east or west facing balconies will obtain adequate daylight access, this methodology has been consistently applied across the LGA. Additionally the WDCP 2009 specifically states that *'developments must maximise the number of apartments with a dual orientation. Single aspect, single storey apartments should preferably have a northerly or easterly'*. In this regard Council's controls do not discount eastern balconies and in fact encourages such locations. It is also considered that daylight access is satisfactory irrespective of whether the spread of hours is between 8am and 4pm or 9am and 3pm. Further consideration should also be given to the available view corridors, the main views within the city centre area are views to the east to the ocean or the west to the escarpment. The proposal takes advantage of these views and further improves the amenity of the units.

Having regard to the assessment provided to the matters for consideration outlined in Clause 8.5, and the applicant's response to the comments provided by the Design Review Panel, the proposed development as proposed (subject to the additional landscape condition) is considered to satisfy the design excellence criteria identified in the LEP.

Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use

The proposed development does not comply with the building separation requirements contained within the Clause. The effect of the clause is to encourage commercial development on the ground floor by allowing reduced setbacks. However, once there are residential components on adjoining properties that also contain residential at the same level then part (3) of this Clause is required to be met.

As the subject commercial component is only located on the ground floor and does not extend above the height of the adjoining residential buildings then the residential components of the subject building do not enjoy such a reduced setback. In this regard, the proposed residential section of the proposed building is required to be setback 20m as it has an interface with the adjoining residential development to the north and west. The proposed development does not comply with this control.

The applicant submitted a written request as to why compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

- *Compliance would restrict residential uses up to and including Level 4 and require a greater dependency on the provision of commercial space which would not be a good planning outcome for the site, the precinct or the commercial promotion of the CBD; The fact the strict compliance will adversely impact upon the amenity of residents in surrounding development and the streetscape/public domain due to potential overshadowing impacts, dominance of the streetscape and separation distances in relation to the Residential Flat Design Code and Wollongong LEP 2009; and*
- *The objectives relating to building separation in the LEP will be met. On review of the current controls and objectives for the mixed use zone and the applicant s*

justification it is agreed that compliance with the development standard in this case is considered unreasonable and unnecessary.

The objective for building separation within the Wollongong LEP 2009 is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access. To assist in the assessment of the application, each component of the objective is examined as follows:

Visual appearance

The proposed development has been architecturally designed and it considered to have significant design merit. The external appearance of the building has been designed to be reflective of the immediate context. The proposed concept is compatible and sympathetic with surrounding development, including the heritage listed 'California Flats'. The proposed development will also be compatible with the proposed WIN Stadium grandstand in terms of modernity and height. It is considered that the 0m separation distance would not enhance the visual appearance of the development as it will dramatically increase the bulk and scale of the building and no landscaping could be provided at grade. This would result in a harsh and clinical development which is suitable for the commercial core, but not the context of the immediate area.

Privacy

The proposed development will not adversely impact upon privacy of surround development or internal units due to the design of the building and general compliance with setbacks.

Solar access

The submitted shadow diagrams indicate that more than 70% of residential units have 3 hours or more of direct sunlight between 9am and 3pm on 21 June. Furthermore, the shadow diagrams also indicate all surrounding development will achieve at least 3 hours or more of direct sunlight between 9am and 3pm on 21 June. The 0m separation distance would significantly increase the bulk and scale of the development which would result in a larger shadow footprint on surrounding development. This would result in a reduction in solar access throughout the day, particularly at the winter solstice.

The applicant further justifies the variation by addressing how there is sufficient environmental planning grounds to justify contravening the development standard. This can be seen below from extracts form the applicant's statement:

Despite not meeting the separation distance required in the LEP, the proposal has planning merit in that:

- It is considered that the development is appropriately scaled for the area;*
- There will be no adverse impacts with regards to the amenity of future building occupants or residents in surrounding sites;*
- Relaxation of the 0m separation distance allows more residential occupation which is in demand, appropriate for the area and is consistent with the Illawarra Regional Strategy;*
- The proposal provides the best outcome in terms of solar access.*
- This report addresses the issues of daylight, outlook, view sharing, ventilation, wind mitigation and privacy.*

Comment:

The application complies with the setback controls contained within SEPP 65 and Residential Flat Design Code at the interface level with the adjoining residential development. The application also complies with setback requirements contained within WDCP 2009 at the interface level to the adjoining residential development. However, these controls are inconsistent with the provisions of Clause 8.6 of WLEP 2009. Clause 6 of SEPP 65 states:

In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

It is considered that the development is appropriately designed for the area, there will be no adverse impacts on the amenity of future building occupants in surrounding sites; and there are no adverse impacts in terms of access to daylight, outlook, view sharing, ventilation, wind mitigation and privacy.

The proposal is not expected to result in any significant negative impacts on the locality and will promote revitalisation of the city centre, which is consistent with the objectives of development in the zone and of a type envisaged by the relevant controls. As such, there are considered to be sufficient grounds to justify the variation in this instance

Clause 8.7 Shops in Zone B4 Mixed Use

The objective of this clause is to limit the size of shops in Zone B4 Mixed Use to ensure that land within Zone B3 Commercial Core remains the principal retail area. In this regard development consent must not be granted for development for the purpose of a shop on land in Zone B4 Mixed Use if the gross floor area of the shop is to be more than 400 square metres. The two proposed retail spaces are not larger than 400sq.m and as such comply.

3.3 Section 79C 1(a)(ii) any proposed instrument

None applicable.

3.4 Section 79C 1(a)(iii) any development control plan

3.4.1. Wollongong Development Control Plan 2009

B3: MIXED USE DEVELOPMENT

As the proposed development is classified as mixed use Chapter B3 is applicable. However, as the site is also located within the City Centre precinct Chapter D13 Wollongong City Centre will also apply. Within chapter B3 there are numerous controls that are repeated within the D13 Chapter. As chapter D13 will prevail where there are any inconsistencies only the controls that are not repeated have been discussed.

The proposal generally complies with the requirements of Chapter B3. The table of compliance can be seen at Attachment 4 to this report.

CHAPTER B4 – DEVELOPMENT IN BUSINESS ZONES

Whilst Chapter B4 applies to development with business zones Clause 5.1 states that *the specific planning requirements for development upon any land within the Wollongong City Centre are contained in Part D (Locality Based/ Precinct Plan) of this DCP*. In this regard the controls contained within Chapter B4 do not apply to the city centre and only Chapter D13 applies.

CHAPTER D13 – WOLLONGONG CITY CENTRE

The site is located within the Wollongong City Centre, as defined in WLEP 2009 and WDCP 2009. Chapter D13 applies to the development and prevails over other parts of the DCP where there is any inconsistency.

The site is located within the Wollongong City Centre, as defined in WLEP 2009 and WDCP 2009. Chapter D13 applies to the development and prevails over other parts of the DCP where there is any inconsistency.

The application generally complies with the controls contained within this chapter. The table of compliance can be found at Attachment 4 to this report. However variations have been

sought to the building depth, side setback control, deep soil zone, driveway width and internal solar access which are discussed below.

Clause 2.4 - Building Depth

The WDCP 2009 has maximum depth control for commercial uses outside of the commercial core. Additionally the WDCP 2009 does not have a building depth control for residential uses below the 12m street frontage height. Above the 12m height as building is to have a maximum depth of 18m. Above this 12m height the building depth has two floors being Levels 4 and 5 which are deeper than 18m.

Given the furthest wall from a window or opening is 10m the objectives of the control being achieve living environments with good internal amenity and minimise the need for artificial heating, cooling and lighting are met.

In this regard it is considered that the variation to this control is acceptable in this case.

Clause 2.5 Side and rear building setbacks and building separation

As specified in WDCP 2009 the required side and rear setbacks is increased the taller the building. Levels below 12m in height with habitable areas with openings are required to be setback 6m from a boundary. Between 12m and 24m habitable areas are required to be setback 9m from a boundary. Between 24m and 45m the habitable areas are required to be setback 12m from a boundary and all uses above 45m are required to be setback 14m from boundaries.

The building complies on all levels with the required setback with the exception of the Level 4 and its setback to the western boundary. Level 4 is at a height requiring a 9m setback to boundaries. Whilst the balcony is setback the required 9m the building is setback 8.66m. Within this section of building there are proposed openings (windows) to habitable rooms being a bedroom and study. This results in a numerical non-compliance of 340mm. The applicant has proposed small windows, being windows that are only approximately 30cm wide and 50cm high. Given the window is extremely small the incidence of overlooking of adjoining buildings is considered minimal. In this regard the 340mm variation the setback is considered acceptable in this case.

2.7 Deep soil zone

The WDCP 2009 requires the provision of an area of 13.8% (figure is commensurate with the percentage of residential compared to commercial) equating to an area of 323.9sq.m however the application only provides for 261.1sq.m equating to 11.1%. Deep soil zones also require a minimum dimension of 6m.

In regards to the provision of deep soil zones within commercial areas there is conflict in the DCP in that it allows for either 0m or 3m setbacks to commercial uses as it aims to encourage continuous active street frontages on the ground floor. The DCP does not permit residential uses on the ground floor to encourage this active street thereby making it virtually impossible to provide for a 6m deep soil zone on the ground level. The applicant however has provided a 6m garden bed along the western bed some of which can accommodate deep soil planting as well as 1.6m garden bed along the northern boundary. Podium planting within the development is also proposed. The applicant indicates that 32% of the site is landscaped providing for a combination of deep soil planting and soft landscaping.

Whilst the application does not specifically comply with the deep soil requirements it is considered that the landscaping proposed is adequate and considered satisfactory in this regard. Council's Landscape section has assessed the application and provided a satisfactory referral subject to conditions.

4.3 Vehicular footpath crossings

The driveway width in this location is required to be no greater than 5.4m in width. In the proposed driveway is 6.9m in width.

The applicant has indicated that *“the driveway width has been specifically designed to ensure compatibility with pedestrian movements and the public domain; and the vehicular entrance has strong design merit and is integrated into the overall southern façade design”*.

Council's Traffic section has reviewed the plans and have agreed that the driveway in this case is suitable at 6.9m in width. In this regard the variation to the maximum width of the driveway is considered acceptable in this case.

6.10 Solar Access

As discussed earlier within this report the Design Review Panel raised the issue of non-compliance with internal access to units that have a single balcony located either on the east or west of the building. The applicant provided additional daylight access diagrams to indicate that the units will achieve a minimum of at least 2 hours between 9am to 3pm on the 21 June and 3 hours between 8am and 4pm.

Council considers that daylight access to the residential units is acceptable.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This application has been considered against the requirements of this chapter and found to be acceptable. The application will be conditioned to comply with the BCA and relevant Australian Standards in regards to access.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Council's Safe Community Action Team has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

Parking for residential development is specified in Part 4 of WDCP 2009, where parking is required at the following rate: 1.2 spaces per 2 bedroom unit, 2 spaces per 3 bedroom unit + 0.2 visitor space per unit. Bicycles are required at a rate of 1 space per 3 units + 1 visitor space per 12 units. Motorbikes are required at a rate of 1 space per 15 units. Commercial car parking is to be provided at a rate of 1 space per 30sq.m of retail area.

Car parking calculations are provided in the following table:

	Car parking rate	No. spaces required
Commercial	1 space per 30sq.m	16
4 x 1 bedroom	1space per 1 bedroom unit	4
19 x 2 bedroom	1.2 spaces per 2 bedroom unit	23
18 x 3 bedroom	2 spaces per 3 bedroom unit	36
Visitor spaces	9 visitor space	9
Total no. of car spaces required		88
Car Spaces provided		101

In addition to the parking provided the proposal also provides for 18 bicycle spaces and 5 motorcycle spaces.

The proposed parking provision therefore complies with WDCP 2009. Numerically an additional 13 parking spaces are proposed. The applicant has chosen to allocate an

additional space to each of the 2 bedroom units. Car parking is required to be provided at a rate of 1.2 spaces per 2 bedroom unit. The applicant has chosen to use this 'part therefore of' for each unit and provided each unit with 2 spaces. The applicant has indicated that this is in keeping with the market demand. There is also minimal on street parking within this location and the site is located opposite WIN Stadium and Entertainment Centre, the increased parking will help alleviate any such parking issues. The allocation of parking spaces is equitable in this case and as such the additional spaces are not considered to form part of the Gross Floor Area.

Council's Traffic section has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

CHAPTER E5: BASIX (BUILDING SUSTAINABILITY INDEX)

A BASIX Certificate was submitted with the application.

CHAPTER E6: LANDSCAPING

Council's Landscape section has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

CHAPTER E7: WASTE MANAGEMENT

The waste management arrangement within the basement is considered satisfactory in regards to the requirements of this chapter. Council's Traffic Section has assessed the application for access and found it to be satisfactory.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development. Appropriate conditions have been recommended.

CHAPTER E14 STORMWATER MANAGEMENT

Council's stormwater section has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

Council's Geotechnical Engineer has reviewed the application and found it be acceptable subject to conditions being imposed if consent is granted.. In this regard the requirements contained within this chapter have been considered and the proposal is compliant.

CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT

The application involves demolition and as such the provisions of AS 2601-1991 apply. Conditions have been recommended for imposition in relation to demolition and asbestos management.

3.4.2. Wollongong Section 94A Development Contributions Plan (2010)

The proposal has been assessed against this plan and a contribution fee of \$191,770 applies to the proposal.

3.5 Section 79C 1(a)(iia) Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F

There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.

3.6 Section 79C 1(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

92 What additional matters must a consent authority take into consideration in determining a development application?

(1) For the purposes of section 79C (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:

(a) in the case of a development application for the carrying out of development:

(i) in a local government area referred to in the Table to this clause, and

(ii) on land to which the Government Coastal Policy applies, the provisions of that Policy,

(b) in the case of a development application for the demolition of a building, the provisions of AS 2601.

The application involves demolition and as such the provisions of AS 2601-1991: The Demolition of Structures apply.

The site is located on land to which the Government Coastal Policy applies however the NSW Coastal Policy 1997 only applies to the seaward part of the LGA.

3.7 Section 79C 1(b) the likely impacts of development

Context and Setting:

The building is much higher than existing development immediately surrounding the development to the north, and west, however the height is consistent with the controls contained within the City Centre LEP.

The form, character and finishing materials and colours are consistent with the contemporary building proposed within the same street block to the west the subject of a Part 3A Major Project under consideration by the Department of Planning.

Access, Transport and Traffic:

The proposal has been assessed by Council's Traffic Engineer and found to be acceptable subject to conditions.

Public Domain:

The development will not have an unreasonable impact on the public domain.

Utilities:

The applicant indicates that existing utility services are available to the subject site and will be adequate to service the proposal.

Heritage:

An item of heritage significance is located within the vicinity of the site. Council's heritage advisor has assessed the application and has indicated that the impact on this item will be minimal and as such is considered satisfactory.

Other land resources:

The proposal is not envisaged to impact upon any valuable land resources subject to appropriate management being employed during construction.

Water:

The site is presently serviced by Sydney Water. It is expected that services can be extended and augmented to meet the requirements of the proposed development. Sydney Water approval will be required prior to construction.

No adverse water quality impacts are expected as a result of approval of the proposed development subject to soil and water management measures being implemented during construction.

The proposal is not expected to involve excessive water consumption. The applicant indicates that water efficient fixtures will be used. This will assist in reducing reliance on potable water.

Soils:

Impacts on soil resources through erosion and sedimentation during construction can be mitigated. Conditions have been imposed in relation to the implementation of erosion and sedimentation controls.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

It is proposed to remove the Cocos Palm from the footpath which has been endorsed by Council's landscape officer subject to conditions including compensatory street tree planting. Adequate onsite landscaping has been provided to the satisfaction of council.

Waste:

A condition has been inserted on the draft consent that an appropriate receptacle be in place for any waste generated during the construction. All waste will be collected internally via the regular Council service. The collection point is at the loading dock area adjacent to the waste storage area at ground floor area with sufficient capacity. A waste vehicle will be capable of entering and exiting the site in a forward direction. It is noted that a compaction system will be in operation.

Energy:

The proposal is not expected to involve unreasonable energy consumption.

Noise and vibration:

The proposal will only generate noise and vibration impacts during construction. These will be limited in duration and can be mitigated through compliance with consent conditions. Conditions have been imposed on the draft consent in this regard.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

Safety, Security and Crime Prevention:

The application was considered by Council Safe Community Action Team who have provided conditions to the application

Social Impact:

The proposal is not expected to create any negative social impacts.

Economic Impact:

The proposal is not expected to result in any negative economic impacts. The proposal will provide additional commercial floor area within the CBD of Wollongong which will support economic growth and the creation of additional employment opportunities.

Site Design and Internal Design:

The application seeks consent for a number of departures from the WLEP 2009 and WDCP 2009, as outlined previously within this report. The variations sought are considered to be reasonable in this instance.

A condition is within the draft consent that all works are to be in compliance with the Building Code of Australia.

Sufficient arrangements have been made in relation to access/egress, car parking, servicing and waste management.

Construction:

Construction impacts are likely to be significant given the size of the site and the scale of development proposed. Construction impacts can be managed however and conditions have been imposed in relation to matters such as excavation, hours of work, implementation of erosion and sedimentation controls, impacts on the road reserve, protection of excavations, impacts on neighbouring buildings, and the like.

If consent is granted, an additional condition will be attached to any consent granted that WorkCover be contacted for use of any crane, hoist, plant or scaffolding.

Cumulative Impacts:

The proposal is not expected to have any negative cumulative impacts.

3.8 Section 79C 1(c) the suitability of the site for development

Does the proposal fit in the locality?

The proposal is considered appropriate with regards to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

3.9 Section 79C 1(d) any submissions made in accordance with this Act or the regulations

The application was notified to surrounding owners and occupiers in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising between 9 August and 30 August 2010 during which time no objections were received. The application was required to be re-notified due to incorrect property description from 30 August to the 14 September 2010. No submissions were received.

Submissions from public authorities

Concurrence received from the Department of Planning in regards to the variation to development standard 8.6 building separation.

The Police and the RTA have also provided comments on the application which have discussed above

3.10 Section 79C 1(e) the public interest

The application is not expected to have any negative impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

4. RECOMMENDATION

Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and is considered to have merit.

The proposed development has regard to WLEP 2009 including the objectives of the B4 Mixed Use zone and is permissible in the zone with Council consent. The proposal also generally complies with the WDCP 2009 and is considered satisfactory with regard to relevant matters such as setbacks, privacy, noise, overshadowing, traffic and parking.

Appropriate conditions will be imposed in the manner outlined at attachment 5.

RECOMMENDATION

It is recommended that conditional approval be granted to DA-2010/905 subject to the draft conditions contained in Attachment 5.

ATTACHMENTS

1. Aerial Photograph
2. Zoning map
3. Plans
4. Table of Compliance
5. Draft Conditions
6. Concurrence of Director General

