

JRPP No:	2010STH039
DA No:	DA-2010/1682
PROPOSED DEVELOPMENT:	Demolition of existing commercial building and construction of a multi-storey commercial/residential building and land subdivision (rationalisation of existing allotment boundaries)
APPLICANT:	Martin Morris and Jones Pty Ltd
REPORT BY:	Theresa Whittaker, Senior Development Project Officer, Wollongong City Council (02) 4227 7481

Assessment Report and Recommendation

Executive Summary

Reason for consideration by Joint Regional Planning Panel

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

Proposal

This development application seeks consent for the demolition of existing buildings on the site and the construction of a multi-storey commercial/residential building housing commercial spaces over 10 levels and two residential units contained within the upper 2 storeys. The proposal also involves subdivision which will result in a rationalisation of existing allotment boundaries.

The proposal includes four (4) basement levels which will accommodate storage areas, shower and change room facilities; garbage storage; 206 car spaces, 8 motorcycle spaces and storage for 60 bicycles. The development is to form a second stage in the overall 'Mid City Square' development scheme proposed for land located at the western end of the block bounded by Stewart, Kembla and Burelli Streets, identified in Attachment 1. The first stage of this scheme was approved by Council in 2008, involving an allotment to the south with frontage to Stewart Street. The application is not staged for the purposes of the Act. Once constructed, it is proposed that the buildings will be interconnected at the basement level to enable the provision of one large shared servicing area for loading/unloading and waste collection.

The proposed building comprises sixteen (16) storeys inclusive of 4 basement levels and a mezzanine level above the ground floor. The applicant indicates that the overall height from existing ground level is 46m which is within the maximum 48m height limit that applies to the site.

Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan 2009. The proposed development is defined as a 'shop top housing' development which is permissible with consent.

Consultation

Neighbour notification and advertising has been carried out in accordance with the requirements of the Council's Public Notification & Advertising Procedures. Consultation with the NSW Roads & Traffic Authority, Department of Planning & Infrastructure and internal divisions of Council has also occurred.

There was one (1) submission of objection received from a nearby business operator which raised concerns in relation to car parking and construction impacts.

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 provides minimum building separation distances. The development does not comply with this development standard to its eastern and southern boundaries. The building is setback from the eastern boundary of the site in order to enable the provision of the pedestrian plaza. The building observes a building separation to the east of 12m to the Corporate Square building and 5m to the eastern site boundary. A separation distance of 20m has been provided to the Mission Australia building to the south and 2m to the southern site boundary.

The variation in respect of the setback provided to the eastern boundary is supported as it has merit and will provide the required pedestrian link. The setback to the southern boundary however is not supported as it is inconsistent with the objective of the development standard and will not have a sound planning outcome.

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 & Infrastructure been obtained in accordance with the requirements of the LEP.

- Whether the proposal exhibits design excellence as required by Clause 8.5 of WLEP 2009. In this regard, it is noted that a Design Review Panel has considered the design in accordance with the provisions of the LEP and a number of concerns were raised. The Panel consider that the proposal does not exhibit design excellence as required by the LEP. An independent review of the proposal has been undertaken by an Urban Designer who also considers the design to be unsatisfactory;
- DCP variations – the applicant has requested variations in relation to some of the provisions of Chapter D13 of DCP 2009 which relates to the Wollongong City Centre. The variations requested relate to street setbacks, building depth, side setbacks/building separation and waste collection arrangements. Some of the variations proposed are not supported; and
- Whether the development is safe having regard to Safer by Design principles.

RECOMMENDATION

It is recommended that Development Application 2010/1682 be refused pursuant to Section 80 of the Environmental Planning & Assessment Act, 1979 for the reasons outlined in Section 3 of this report.

1. APPLICATION OVERVIEW

1.1 PROPOSAL

The six allotments comprising the subject landholding are held in common ownership and the property owner has indicated that this land will be redeveloped for commercial purposes in the foreseeable future. A landholding plan and site plan indicating the landowner's future development scheme are attached to this report (see Attachment 1). Council granted consent to DA-2007/675 for the construction of a commercial building within the subject site, though with frontage to Stewart Street, in January 2008. This consent applies to what the applicant refers to as 'Stage 1 of the Mid City Square project'. This previous consent also incorporated a re-subdivision of the subject allotments though this consent has not yet been enacted.

The current development application seeks consent for 'Stage 2' of the 'Mid City Square' proposal, which relates to the north-western corner of the holding adjacent to the intersection of Burelli and Kembla Streets. The applicant indicates that Stage 3 of the project will apply to the south-western corner of the landholding and will be the subject of a future development application. The application is not staged for the purposes of the Act

The proposed building includes:-

- Four levels of basement car parking accommodating a total of 206 car spaces, 8 motorcycle spaces and 60 bicycle spaces. Areas for storage, waste management and services are also located within the basement;
- Ground floor retail/ commercial tenancies totalling 1110sqm in area with associated mezzanine floor area;
- Eight (8) levels of commercial tenancies having a combined floor area of 7700sqm; and
- Two levels of residential apartments (2 in total) in the upper two floors with a total floor space of 719.43sqm.

It is intended that the basement level car parks between this proposed building, that approved with frontage to Stewart Street (approved pursuant to DA-2007/675) and a future building to be erected within the south-west portion of the site) will be interconnected. This will facilitate vehicle connectivity and sharing of the basement service areas which were approved as part of the 'Stage 1' development.

Vehicular access is currently gained to the site from a number of points on both Burelli and Kembla Streets. This proposal incorporates access to the site from the Kembla Street frontage which will provide access to the basement car park within the proposed building and the existing surface car park which services the commercial building to be retained on the south-western portion of the holding.

The proposal also involves a re-subdivision of the existing holding. This re-subdivision will include:-

- Consolidation of Lot 1 DP 509597 and Lot 10 DP 540641;
- The relocation of the common boundary between Lot 1 and Lot 502 a distance of 2m to the south.

The plan of re-subdivision is attached to this report. The works are being proposed to facilitate the relocation of the existing electrical substation and also implement reciprocal rights of carriageway to accommodate the shared access arrangements to Kembla Street.

The building comprises 16 storeys, inclusive of 4 basement levels. The applicant indicates that the overall height from existing ground level is 46m which is below the maximum 48m height limit which applies to the site.

A paved and landscaped pedestrian plaza area is proposed to be constructed on the eastern side of the proposed building, between its eastern wall and the neighbouring Corporate Square building. The main entry foyer to the building will open onto the plaza.

Proposed finishing materials include predominantly frameless glass curtain walling. A sloped glass façade is proposed to the northern elevation of the building as depicted in the attached elevations.

1.2 BACKGROUND

Development history of Lot 1 DP 509597 and Lot 10 DP 540641 - 47 Burelli Street, Wollongong	
BA-1964/2415	Office Block
BA-1971/2765	Extension to Inspection Bay
BA-1997/920	Commercial office alterations
DA-1964/29 and DA-1971/85	2 storey office building
DA-1977/329	Installation of underground petrol tank and pump
DA-2007/675	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation
DA-2007/675/A	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial

	tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation – modification to subdivision plan, modification to conditions
--	---

Development history of Lot 301 DP 709353 - 43 Burelli Street, Wollongong

BA-1998/896	Office tenancy fit out
DA-1985/118	Construction of library, administration building and multi-level car park
DA-1986/223	Federal Office Block
DA-2007/675	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation
DA-2007/675/A	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation – modification to subdivision plan, modification to conditions
DA-2007/705	Internal fitout of ground floor and part of first floor

Development History of Lot 201 DP 706250, 43 Burelli Street, Wollongong

BC-1998/1256	Office building
DA-1985/118	Construction of library, administration building and multi-level car park
DA-1986/223	Federal Office Block
DA-2007/675	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation
DA-2007/675/A	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation – modification to subdivision plan, modification to conditions
DA-2007/705	Internal fitout of ground floor and part of first floor

Development History of Lot 502 DP 845275, 71 – 77 Kembla Street, Wollongong

DA-1977/55	Temporary office building
DA-2004/454	Demolition of office buildings
DA-2007/675	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation
DA-2007/675/A	Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation – modification to subdivision plan, modification to conditions

	conditions
--	------------

1.3 SITE DESCRIPTION

The site is comprised of six allotments which are legally described as Lot 201 DP 706250, Lot 1 DP 509597, Lot 301 DP 709353, Lot 10 DP 540641 and Lots 501 and 502 DP 845275. The site is known as No.43-47 Burelli Street and 71-77 Kembla Street, Wollongong. The site is irregular in shape with a combined area of 9866.1sqm and frontages to Burelli, Kembla and Stewart Streets. The site is generally level.

The site is currently occupied by a number of office buildings and car parking areas, some of which are proposed to be demolished as part of this application. The existing 'Corporate Square' building located within Lot 301 is to be retained. The site on which the proposed building is to be situated forms only part of the above holding, and has an area of approximately 1908sqm.

The site is zoned B3 Commercial Core in accordance with Wollongong Local Environmental Plan 2009. The surrounding area is occupied by a range of land uses including the Woolworths supermarket, Wollongong City gallery, commercial buildings, the Illawarra Retirement Trust Allocations office and 'Howard Court' residential building, and St Andrews Presbyterian church.

There are a number of easements and rights of way crossing the subject allotments and some trees which may be affected by the proposed development.

An aerial photograph of the site can be found at Attachment 1.

1.4 CONSULTATION

1.4.1 INTERNAL CONSULTATION

Stormwater

This application has been assessed with respect to stormwater, flooding, and civil matters, and found to be unsatisfactory in its current form. However, further consideration will be given to this application subject to the following items being satisfactorily addressed:

"Stormwater/Flooding Matters:

- The concept stormwater drainage plan does not indicate how stormwater from the proposed glass awnings will be collected and conveyed to Council's existing stormwater drainage system. This shall be addressed on the amended plans. Note this is likely to alter the design of proposed on-site stormwater detention (OSD) system.
- Provision has not been made in the design of the OSD system for stormwater flows from the proposed glass awnings and basement driveway (incl. basement pump-out flows). It appears that these areas cannot be drained to the proposed OSD facility. This shall be addressed by the applicant's engineering consultant. Also, a plan must be provided clearly indicating the eventual discharge point for each different subcatchment within the development site (incl. glass awnings).
- It appears that the proposal will increase the amount of impervious area and total catchment area draining to the existing stormwater system to Stewart Street. Stormwater to this existing system must be limited to pre-development flow conditions using OSD. Alternatively, it will need to be demonstrated that this existing system has sufficient excess capacity to cater for the additional runoff generated from the proposed development, and also that discharges to the street kerb of Stewart Street will be limited to 55 L/s. The analysis of the existing stormwater system must be inclusive of all contributing catchment areas draining to this pipeline in the pre-development state.
- Clarification must be provided on how overflows from the OSD facility (i.e. to glass awning below) will be conveyed to Council's existing stormwater drainage system. A dedicated overflow path must be provided to convey these flows in a controlled manner.
- The stormwater plan must indicate the proposed method of transition from the 225mm OSD outlet pipe to the 2 x 150mm x 100mm kerb outlet pipe. Note that this transition must be formed entirely within the boundary of the development site.

- The stormwater plan indicates downpipes within Level 1 (i.e. below the OSD facility). Note that water pumped from the basement car park shall be limited to sub-soil drainage, vehicle wash water, and runoff from the driveway that drains towards the basement.

Civil Matters

- Surveyed levels shall be provided along the crown of the road and kerb invert on Burelli and Kembla Streets for the entire extent of the property frontage (including the road intersection). This survey shall be undertaken by a registered surveyor to Australian Height Datum (AHD). Note that final kerb and footpath levels may need to be altered based on this survey information.
- Provide finished surface levels for all pedestrian areas surrounding the proposed building including top of kerb, edge of building, and proposed civic plaza area. Note that a uniform footpath is required adjacent to all street frontages, with a maximum grade of 2.5 % from the top of kerb to the property line. Also, all building entrance adjustments for access and transitions to finished floor levels must be developed within the property in accordance with AS1428.1 and the Building Code of Australia. No adjustments to the longitudinal grade of the footpath at the boundary line will be permitted for access points to buildings. Sufficient detail shall be provided on the amended plans to demonstrate compliance with these requirements.
- There are a number of additional building entrance points that were not previously shown on the plans. The proposed ground floor level (i.e. RL 6.00 m AHD) is up to 600mm below the adjacent footpath levels along the Kembla Street frontage. It must be clearly demonstrated on the plans how the proposed finished floor level at each building entrance, including the fire passage exit point, will transition to the adjacent footpath level entirely within the property boundary in accordance with the above requirements. Also, the elevation, cross-section, and typical section details provided must be reflective of the true adjacent footpath pavement levels at the north western corner and along the eastern side of the building. It is suggested that consideration be given to raising the finished floor level adjacent to the Kembla Street frontage to enable a better transition to the surrounding footpath levels."

Landscaping

The amended plans and additional information submitted by the applicant has not satisfactorily addressed the concerns initially raised by Council's Landscape Officer. The proposal is considered to be unsatisfactory for the following reasons:-

- The direction of the footpath paving pattern addressing Burelli Street is required to be perpendicular to the kerb for the entire development frontage. The current design is a departure from the Public Domain Technical Manual (PDTM). Although the design intent is to emphasise the pedestrian link from Burelli to Stewart Street, the angled pavements will create multiple cuts along the kerb edge, and detract from the Burelli Street streetscape by creating a break in the pavement pattern and pedestrian desire lines. If the developer desires to emphasise the future link, the departure from the PDTM paving pattern must occur on the development site only and may also include the placement of appropriate public signage as outlined in the PDTM signage strategy.
- The proposed level changes on the Burelli Street frontage are not acceptable as they break up the expanse of civic space visually as well as reducing the physical width of the footpath, in turn not allowing for the placement of public furniture such as bins or bus shelters. In addition, the lower level will create a litter trap.
- All level anomalies are to be addressed within the building envelope. That is, if the footpath along the Burelli Street frontage extends from the corner of Burelli Street from RL 6.66m eastward down to RL 6.16m on the north east corner of the building, internal ramps/stairs are to be provided within the building, rather than the public domain be cut up to accommodate the building floor levels.
- The vehicular entry/exit on the Kembla street frontage does not comply with the PDTM or the Australian Standards.
- If the design is resubmitted with the above design issues addressed, then the proposed footpath design should also attempt to retain the existing Magnolia located on the council property. The tree is currently in a planting bed, therefore, the developer's landscape architect is to work with a qualified arborist to investigate the tree's retention.

Traffic

Concerns initially raised in relation to the proposed development have been satisfactorily resolved through plan amendments. The proposal is now satisfactory to Council's Traffic Section subject to the imposition of conditions if consent is granted.

Civil Works on Road Reserve

The proposal was considered to be satisfactory subject to conditions.

Geotechnical Engineer

Council's Geotechnical Engineer has reviewed the proposal and considers it to be satisfactory subject to conditions relating to matters such as the requirement to undertake a site-specific geotechnical investigation to support the structural design of the development and its construction; and drainage measures to ensure acid sulphate impacted groundwater is not mobilised from outside the site.

It was noted that basement excavation up to 12m in depth is proposed. There is no known history of slope instability in this area so no geotechnical information is required to demonstrate feasibility of the project from a geotechnical perspective. The depth of excavation will encroach into the zone of influence of foundations of other structures. Therefore the site preparation works need to be undertaken with geotechnical supervision to ensure that adequate support is provided during and after construction to protect adjoining development. Furthermore some hard bedrock will need to be removed. Geotechnical guidance is recommended for the selection of excavation techniques to minimise noise and vibration nuisance.

Subdivision

The proposal is satisfactory to Council's Subdivision Section subject to conditions if consent is granted.

Heritage Officer

The following concerns were initially raised in relation to the proposed development:-

"The site of the proposed development is not of heritage interest in its own right, however, it is in the City Centre area, in the vicinity of the Crown Street area and in the vicinity of several heritage items, notably the St Andrews Church located on the opposite corner.

The current proposal has several readily apparent non-compliances with the requirements of Wollongong DCP, which cause it to visually conflict the surrounding buildings and the area, and to cause undue visual cluttering.

The current proposal fails to comply with a number of the DCP requirements largely due to the inclined façade to Burelli Street. This element has an inconsistent setback which produced a number of non-compliances with controls and objectives. The doubtful functionality of floor space created behind this façade and the visually challenged outcome contribute to the same effect. The effect is augmented by un-necessary details such as extended and cantilevered façade glass and metal roofing elements that are out of proportion with the overall building and may present hazard in case of strong wind or other extreme weather conditions.

The Wollongong DCP, Chapter D13 (Wollongong City Precinct) provides a detailed set of guidelines for design of new buildings. The subject building is located in the commercial core zone.

In this zone, the buildings are required to be built "to the street alignment or specified setback with 4m minimum further setback above street frontage height" (DCP Ch. D13, Section 2.2.3 –Controls, particularly the Control (a) shown in the Table 2.2), however, due to the variable setback, the proposal fails to meet this control. It also fails to meet the objectives of this part of the DCP (as outlined in the Ch. D13, Section 2.2.2 –Objectives), particularly the objective (b): "To establish the desired spatial proportions of the street and define the street edge".

The proposal generally fails to meet the other objectives of the Ch D13, Sec. 2.2.2, particularly objectives (d) "To locate active uses, such as shopfronts, closer to pedestrian activity areas" and (f): "To create good quality entry spaces to lobbies, foyers or individual dwelling entrances".

The proposal generally fails to meet the other controls of the DCP Ch. D13, Section 2.2.3 – Controls, particularly the Control (e): "The Commercial Core, Mixed Use (city edge) and Enterprise

Corridor zones are subject to a requirement for corner properties to provide a 6m x 6m corner splay”.

It is unclear from the submitted documents what is the area of the Levels 6 and 7 and whether they comply with the DCP Ch.D13, Section 2.4.3.

The proposal fails to meet the Objectives of the DCP Ch. D13, Section 2.4.2 (Building depth and bulk –Objectives), particularly the objective (c): “To provide viable and useable commercial floor space”; the objective (e): “To achieve a city skyline sympathetic to the topography and context”; and the objective (g): “To reduce the apparent bulk and scale of buildings by breaking up expanses of building wall with modulation of form and articulation of facades”.

Under the circumstances, there appears to be little point in providing further detailed assessment. It is recommended to remodel the proposal so as to eliminate the elements that are out of DCP regulation and out of characteristic for the area. This may include rectifying the street elevation to Burelli Street, providing a 6m splay corner, and removing un-necessarily cantilevered glass and iron elements.”

The following comments were provided in relation to the amended plans and additional information submitted by the applicant:-

“The proposal is in the vicinity of several heritage items and in the sensitive city centre area.

The requirements of this sensitive heritage context were purposely translated into DCP controls for the area, in order to avoid undue adverse impact of any potential new development. These controls are thus relevant for establishing the level of heritage impact and are not to be disrespected or, alternatively, any encroachment on the limits and standards prescribed by these controls is to be justified. The DCP controls can also be used to define whether a proposal is *reasonable* in planning terms, i.e. whether it is feasible attempting to modify it to a better solution in order to minimise the adverse impact.

Further to the review of available documents, I am of opinion that the latest changes are of relatively minor nature and would have quite similar if not identical level of heritage impact as the originally proposed development. The comments of my Memo dated 25 January 2011 therefore remain.”

Works Division

The proposal was considered to be satisfactory subject to conditions.

Safer Community Action Team

The following comments were provided in relation to the proposed development:-

“While each of the three staged developments (Stage 1, Stage 2 & Stage 3) remain independent of each other, the future north south link between Stage 1 & Stage 2 is significant.

It was noted in correspondence from the applicant that the plaza area in Stage 2 will be gated at night to prevent antisocial behaviour from occurring in this area – see below

‘Crime Prevention Through Environmental Design

The proposed plaza has been included and designed to address active frontages, safety, security, amenity and the like. The layout and visual exposure of this plaza has been created mindful of the CPTED principles, to ensure appropriate safety and security will be provided when in operation. To alleviate any loitering and antisocial behaviour, the area will be patrolled by a security guard during the day (similar to the existing security patrols for the adjacent Corporate Square). At night (after general business hours), the plaza will be gated to restrict any public access, thereby eliminating those opportunities for such behaviour/acts during this period.’

The applicant also noted Council’s concern with respect to pedestrian access and thoroughfares.

SCAT has future concerns and questions in relation to how the north south linkage will operate after business hours once both developments (Stage 1 & Stage 2) are built. A gated off plaza will no longer be effective, nor safe, should access be available via another route.”

Environment

The proposal was reviewed with regard to potential land contamination. The proposal is considered to be acceptable subject to conditions being imposed in relation to the management and disposal of hazardous and other building/demolition materials; site contamination assessment, site remediation and validation; management of acid sulphate soils; management of construction impacts such as dust, stormwater pollution, soil erosion and sedimentation mobilisation, noise etc; and discharge of groundwater.

1.4.2 EXTERNAL CONSULTATION

NSW Department of Planning & Infrastructure (DoP)

The proposed development was referred to the DoP as it involves a variation in respect of Clause 8.6 of Wollongong Local Environmental Plan 2009 (WLEP 2009). Pursuant to Clause 4.6(4) of WLEP 2009, the proposal requires the concurrence of the Director-General of the DoP. This concurrence has been provided.

NSW Roads & Traffic Authority (RTA)

NSW Roads & Traffic Authority (RTA) was consulted in regard to the proposed development as it is traffic generating development pursuant to SEPP (Infrastructure) 2007. The Regional Development Committee reviewed the proposed development and, whilst not objecting to the proposal in principle, identified a number of concerns. These issues have been resolved through the submission of additional information. Council's Traffic Section and the RTA are now satisfied with the proposal.

Integral Energy

The proposed development was referred to Integral Energy under the provisions of Clause 45 of SEPP (Infrastructure) 2007 as it may have an impact on electricity infrastructure. No objection was raised in relation to the proposed development.

Urban Design Review

As outlined in Section 2.2.5 below, a design review was conducted in accordance with the requirements of Clause 8.5(5) of WLEP 2009. The comments of the Design Review Panel are attached to this report.

An independent review was conducted by an Urban Designer. The report outlining this review is also attached to the report at Attachment 6.

2. 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),*
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),*
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.

2.2 SECTION 79C 1(A)(I) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.2.1 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

Part 3 sets out the aims of the SEPP and states that Regulations under the Act have established a scheme to encourage sustainable residential development under which applications for certain types of development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out.

A “BASIX Certificate” was submitted in relation to the two (2) residential apartments as required by Clause 50 of the Environmental Planning & Assessment Regulation 2000.

2.2.2 STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) 2005

The Joint Regional Planning Panel is the determining authority for this proposal as it has a capital investment value of more than \$10 million [Clause 13B(1)(a)].

2.2.3 STATE ENVIRONMENTAL PLANNING POLICY NO.55 – REMEDIATION OF LAND

The land is not identified on Council records as being contaminated however there is a record of consent being granted for the installation of an underground petrol tank at the site.

The issue of potential site contamination has been considered by Council’s Environment Division and appropriate conditions have been recommended for imposition in relation to this issue, if consent is granted.

2.2.4 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposal is traffic generating development for the purposes of the SEPP, necessitating referral to the RTA. Clause 104 of the SEPP states that the consent authority must take into consideration any submission that the RTA provides as well as the following issues:-

- The accessibility of the site concerned, including:
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- Any potential traffic safety, road congestion or parking implications of the development.

The Regional Development Committee and the RTA reviewed the proposed development and initially raised concerns which have since been resolved through plan amendments and additional information. The proposal is now satisfactory to the RTA.

2.2.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

The site is zoned B3 Commercial Core pursuant to WLEP 2009. The proposed development comprises a *shop top housing* development for the purposes of the LEP, which is permitted with consent in the B3 zone.

Clause 1.4 – Definitions

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or

(b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Note: Business premises are a type of **commercial premises**.

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

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Note. Retail premises are a type of **commercial premises**.

commercial premises means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

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 wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling*
- *To strengthen the role of the Wollongong city centre as the regional business, retail and cultural centre of the Illawarra region.*
- *To provide for high density residential development within a mixed use development if it:*
 - (a) *is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and*
 - (b) *contributes to the vitality of the Wollongong city centre*

The proposal has regard to the zone objectives.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The height of building map identifies a maximum building height of 48m as applicable to the subject site. The proposed building has a maximum overall height of 46m.

The proposal complies with Clause 4.3.

Clause 4.4A Floor space ratio

The maximum FSR allowable for the proposed site (based on the area of the proposed allotment which will result from the land rationalisation/ boundary adjustments) based on the mixture of land uses proposed, is 5.625:1.

The proposed FSR is 5.20:1.

The proposal complies with Clause 4.4A.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 provides for some flexibility in applying development standards and identifies the requirements which apply to development involving departures from the development standards outlined in the LEP. It provides that 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.

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.

This development involves a variation in respect of Clause 8.6 of the LEP which relates to building separation requirements. The applicant has provided a written request which seeks to justify the contravention of the development standard. This is outlined below. The concurrence of the Director-General of the Department of Planning & Infrastructure has been obtained for the variation. This variation is discussed at Clause 8.6 below.

Miscellaneous provisions

Clause 5.5 Development within the coastal zone

The matters identified within Clause 5.5(2) have been considered and no concerns are raised. The development is not located directly on or near to the coastal foreshore. The proposal will not restrict public access to recreation areas or the coast. The proposal is not expected to have adverse impacts on flora or fauna and no overshadowing or loss of views in regard to the coastal environment is expected. Coastal processes are unlikely to adversely impact the proposal in the future given the distance of the site from the foreshore.

Clause 5.5(c) of the LEP requires the consent authority to be satisfied that:-

- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and

- (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
- (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

The consent authority can be satisfied of these matters.

Clause 5.10 Heritage conservation

The site is not heritage listed nor is it located within a heritage conservation area, however there are a number of nearby heritage items which may be affected by development of the subject site. The listed heritage items within proximity of the site include St Andrews Presbyterian Church and hall located on the north-western corner of Kembla and Burelli Streets; Wollongong town hall and former Council chambers (now art gallery) located on the north-eastern corner of Kembla and Burelli Streets, and a row of Hills Figs located on the southern side of Burelli Street adjacent to the Woolworths car park.

The proposal has been considered by Council's Heritage Adviser and a number of concerns have been raised in relation to the design of the proposed development. These are outlined above in Section 1.4.1.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

Existing infrastructure is in place for the supply of water, electricity, and the disposal and management of sewerage. These utilities can be extended to service the proposed development. If the consent authority was of a mind to approve the application, conditions should be imposed requiring the developer to make the required arrangements with the relevant servicing authorities.

Clause 7.5 Acid Sulphate Soils

The subject site is classified as Class 5 acid sulphate soils. The applicant has submitted an acid sulphate soils management plan which concludes that it is unlikely that acid sulphate soils will be encountered during construction of the development. There is the potential for the development to impact in the groundwater table and as such groundwater control measures are considered to be necessary to ensure that there are minimal effects on groundwater levels away from the site. If the consent authority was of a mind to approve this application, conditions of consent should be imposed in relation to these issues.

Clause 7.6 Earthworks

The proposal incorporates earthworks to accommodate the basement car park. The matters for consideration in Clause 7.6(3) have been considered and no significant concerns are raised.

7.13 Ground floor development on land within business zones

This clause seeks to ensure active uses are provided at the street level to encourage the presence and movement of people. Clause 7.13(3) states that development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:

- (a) will not be used for the purpose of residential accommodation, and
- (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.

The proposed development satisfies this clause.

Part 8 Local provisions—Wollongong city centre

The site is located within the area identified as the Wollongong City Centre. Accordingly Part 8 of the LEP applies.

Clause 8.1 Objectives for development in Wollongong city centre

The proposed development is considered to be generally consistent with the LEP objectives for the Wollongong City Centre, however as detailed below, the development is not considered to exhibit design excellence appropriate to a regional city as sought by the objectives.

Clause 8.4 Minimum building street frontage

A street frontage width of at least 20m is required for the development of land within the B3 Commercial Core zone. The subject site satisfies this clause as it has street frontages longer than 20m.

Clause 8.5 Design excellence

Clause 8.5 requires the consent authority to be satisfied that the proposal exhibits design excellence prior to granting development consent. The objective of this clause is to deliver the highest standard of architectural and urban design.

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.

The above matters have been considered in detail by both the Design Review Panel on two occasions and by an Urban Designer engaged by Council to undertake an independent review of the development. The following comments have been extracted from the design reviews in relation to the above matters:-

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,***

“The architectural design of a building is a broad and inclusive term. It includes response to context, functional performance, environmental performance and aesthetic quality. There are some aspects of the design which are not considered acceptable. On this basis the standard of architectural design is considered passable, but not high.

The predominant external material of the proposed building is glass, framed and frameless and in various finishes and colours. Coloured zinc sheeting is used to clad the roof and sloping plane behind the northern sloping glass facade. These are good quality materials which should resist weathering and maintain the appearance of the building over time.

The extent and variety of glass framing types is considered excessive. The free-standing columns supporting the building's street canopies also detract from the potential elegance of the architectural composition and add clutter to Burelli Street.”

- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,***

“The building envelope controls in Chapter 13 of DCP 2009 create a building base between 12 and 24 metres high with a tower above. The base creates a scale at street level which is appropriate for

Wollongong City Centre. It “humanises” development. To ensure that the base is clearly legible and has sufficient presence to achieve its urban function, the tower above must be setback significantly. Clause 2.2.3 of DCP 2009, Chapter D13 requires a 4 metre setback.

As detailed in Sub-section (v) below, the proposed development has lesser setbacks on Burelli Street, the minimum being 1.27 metres at Level 6. It is clear from examining Section B-B on Drawing DA-16 and the photomontages that the visual presence of the base is substantially diminished by the sloping facade above.

This shortcoming is of particular concern in the building’s Burelli Street context. The proposed base has a scale which is compatible with the civic buildings on the other side of the street and it lessens the visual impact of the development on Civic Square. The reduced setbacks resulting from the sloping facade compromise these outcomes. There appears to be no compensating benefit to be derived from the tilted facade. It is recommended that the building should comply with the 4 metre tower setback required in the DCP.

In addition to a variety of glass finishes and colours, the building’s architectural expression relies in part on a multiplicity of external elements – columns, spandrels and shading devices. It is considered that these elements are deployed to excess and that a more restrained articulation of the facades and the elimination of the columns supporting the canopies on Burelli Street would produce a more elegant and dignified architectural expression. The integrity of some of the facade elements is also of concern. In particular, the sloping glass element facing Burelli Street above the building base is treated as a floating glass plane, but the applied framing and sun shading is not compatible with this concept.

Taken altogether, the sloping facade elements and excessive articulation of the proposed building make an assertive and prominent statement. The building seems deliberately intended to call attention to itself. In this location, with civic uses across the street and given that the building contains primarily commercial uses, its external appearance is overly exuberant. Because it is not sufficiently respectful of its civic neighbours, the proposal will not improve the quality of the public realm”.

In addition to the above comments, concerns have been raised in relation to the relationship between the proposed building and the public domain as well as in relation to the proposed public domain works. Specifically:-

- The floor levels proposed do not relate well to the existing footpath levels. The footpath levels are as much as 600mm higher than the proposed floor levels. All level changes/transitions should occur within the site;
- Proposed footpath paving will not comply with the Wollongong City Centre Public Domain Technical Manual (PDTM). The paving works proposed will detract from the Burelli Street streetscape by creating a break in the pavement pattern and pedestrian desire lines;
- The proposed level changes on the Burelli Street frontage are unacceptable as they break up the expanse of civic space visually as well as reducing the physical width of the footpath, in turn not allowing for the placement of public furniture such as bins or bus shelters. In addition, the lower level will create a litter trap;
- The vehicular entry/exit on the Kembla street frontage does not comply with the PDTM or relevant Australian Standards.
- The footpath design should accommodate the existing Magnolia located on the footpath.

(c) whether the proposed development detrimentally impacts on view corridors,

The proposal will not impact upon view sharing or view corridors. The site is located outside of the nominated distant view corridor identified in Figure 3.12 in the DCP (from the lighthouse to the escarpment) and there are no designated view corridors identified along Burelli or Kembla Streets.

(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,

The proposed development will not overshadow an area identified on the Sun Plane Protection map.

(e)

<i>How the proposed development addresses the following matters:</i>	Urban Designer's comment	Additional comments
<i>(i) the suitability of the land for development,</i>	"The site is considered suitable for development from an urban design perspective. There is a clear opportunity to improve the quality of built form on the site."	The land is appropriately zoned for the development type proposed.
<i>(ii) existing and proposed uses and use mix,</i>	<p>"The existing use on the site is commercial. The proposed development contains commercial, retail/commercial and residential uses. These uses are permissible under the zoning and are appropriate in urban design terms.</p> <p>Figure 3.4 of DCP 2009, Chapter D13 indicates that the Burelli and Kembla Street frontages of the site are to have "active street frontages". It is indicated in the application documents that the ground floor of the proposal may be occupied by a bank. This use will not contribute significantly to the vitality of Burelli and Kembla Streets. Whilst the difficulties associated with mandating uses are understood, it is noted that an agreement with the Applicant to provide active ground floor uses is highly desirable. A coffee shop on the northeast corner of the ground floor, opening out onto Burelli Street and the plaza would receive winter sun and significant commercial exposure.</p> <p>The inclusion of residential floor space, albeit only two penthouse units, is a positive feature of the development. Whilst its contribution to a more vibrant city centre will be marginal in itself, it is to be hoped that this gesture will encourage other developers to include residential floor space in their future projects."</p>	The mix of uses proposed is consistent with the B3 zoning of the site and the nature of land uses on neighbouring sites.
<i>(iii) heritage issues and streetscape constraints,</i>	"There are two locally designated heritage items on Burelli Street opposite the proposed development -- St Andrews Presbyterian church and Wollongong City Gallery (formerly Council's offices). To the northeast are Civic Plaza and the Illawarra Performing Arts Centre. The proposed development, in its form and architectural expression, would draw attention to itself and thereby lessen the prominence of the heritage and civic items it faces."	A number of concerns have been raised in relation to the design by Council's Heritage Adviser. These are outlined in Section 1.4.1 of this report.
<i>(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</i>	<p>"The proposed development adjoins Corporate Square, an existing 6 storey building to the east, and a proposed 7 storey building to the south known as Mid City Square Stage 3.</p> <p>Clause 2.5.3 of DCP 2009, Chapter D13</p>	The applicant has sought a variation in respect of the building separation control contained within Clause 8.6 of WLEP 2009. This is

<p><i>same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i></p>	<p>requires a minimum side and rear setback above the building base for commercial uses of 6 metres. To the east the proposal provides 10.5 metres. For the residential uses at the top of the building to the east (which are above the top of the Corporate Square building) the requirement of 12 metres is also met.</p> <p>To the south the proposal just satisfies the 6 metre requirement for the commercial floors of the building. For the top two residential floors, however, where a 12 metre setback is required, the setbacks are approximately 10 metres and 11.5 metres. Given that each of the two units has two other aspects, this non-compliance is considered acceptable.”</p>	<p>outlined below.</p>
<p><i>(v) bulk, massing and modulation of buildings,</i></p>	<p>“The proposed development complies with the Floor Space Ratio and Height controls of WLEP 2009. The general massing of the building takes the form of a base surmounted by a tower, consistent with the “build to” lines, street frontage heights and setbacks in Chapter 2 of DCP 2009, Chapter D13.</p> <p>There is an important non-compliance with the front setback control on Burelli Street, however, where the DCP controls require a 4 metre setback above the base. At the first level above the base (Level 5), the setback is 2.7 metres. At Level 6, it is 1.27 metres. It then increases consistently up to Level 10, where it is 3.59 metres. Substantially greater setbacks occur on the next two levels, which contain two penthouse apartments.</p> <p>The substantially reduced setback of the lower part of the tower on Burelli Street (1.27 metres versus the DCP’s 4 metres) blurs the distinction between base and tower and reduces the visual prominence of the base. In addition, the effect of the progressive setback from Burelli Street is to create a sloping facade, which is a prominent feature of the proposed development.</p> <p>Clause 2.4.3 of DCP 2009, Chapter D13 sets a maximum building depth for commercial floorplates of 27 metres. The proposal exceeds this standard by as much as 2.6 metres at Level 6. If the proposal complied with the 4 metre setback on Burelli Street it would satisfy the building depth standard.</p> <p>Apart from the sloping Burelli Street facade, the form of the building is relatively straightforward. The facades, however, are heavily modulated as discussed under section (b) above.”</p>	<p>The proposal features a number of departures in respect of the bulk, depth and setback controls of the DCP chapter relating to the city centre. These departures are discussed further below.</p>

<i>(vi) street frontage heights,</i>	<p>“The proposed development has streetwalls fronting Burelli and Kembla Streets which are 4 storeys and 15 metres high. This height satisfies the DCP requirement for street frontage heights of between 12 and 24 metres (Clause 2.3.3 of DCP 2009, Chapter D13). It is an appropriate response to the civic buildings on the opposite side of Burelli Street.”</p>	<p>The street frontage height proposed is compliant.</p>
<i>(vii) environmental impacts such as sustainable design, overshadowing wind and reflectivity,</i>	<p>“It is understood that the Applicant has submitted an Energy Efficiency report which indicates that the building will achieve a 4 star rating. This satisfies Council’s requirement under Clause 5.2.2 of DCP 2009, Chapter D13. It is proposed that rainwater will be retained on site for reuse. Council should urge the Applicant to aim for a higher star rating.</p> <p>Overshadowing, discussed in Clause (d) above, is not a significant concern.</p> <p>It is understood that a wind effects report has been submitted by the Applicant, but this has not been sighted. It is noted that 1.2 metre high glazed screens have been added to the outer edge of all sides of the building at the top of its base (Level 5). These screens are presumably intended to mitigate wind effects on the streets and ground level open spaces around the development. Whilst it would appear that the screens may be effective on the east, west and south sides of the building, where the tower is setback from the base 4 metres, their efficacy on the north side is a concern. Because the tower portion of the north facade slopes outwards and is setback only 1.27 metres at its bottom edge (Level 6), the proposed screen on Level 5 may have little effect in blocking wind blowing down the face of the building. This could have adverse consequences at ground level on Burelli Street.</p> <p>Reflectivity needs to be addressed, given the predominance of glass as a facade material. It is understood that reflectivity is to be limited to a maximum of 20%.”</p>	<p>These issues are addressed in further detail below in relation to Chapter D13 of DCP 2009.</p>
<i>(viii) the achievement of the principles of ecologically sustainable development,</i>	<p>“Clause 2.4.3 of DCP 2009, Chapter D13 requires any residential floor plate to have a maximum depth of 18 metres. The proposal slightly exceeds this dimension, but because the building core is relatively large, this is not an issue. Depths from windows to core are typically 5 metres or less.</p> <p>In general, the proposal’s two penthouse apartments enjoy high levels of internal amenity and follow accepted ESD principles. The exception is passive solar heat gain in</p>	<p>Concerns were raised in relation to the configuration and orientation of the residential units by the Design Review Panel.</p> <p>An energy efficiency report has been submitted as required by the DCP which indicates that the building</p>

	<p>winter. One unit faces south, with relatively minor exposure to the east and west.</p> <p>This shortcoming can be addressed by reconfiguring the floor layout so that one unit occupies the eastern half of the floor plate and the other the western half. It is recognised that only one unit would then enjoy ocean views. One way to address this might be to flip the units over on the floor above.</p> <p>Lack of shading of glazed areas in summer is also a concern. A visually prominent canopy is provided on the north side of the building above the upper residential storey, but this would be entirely inadequate to exclude summer sun. There is no indication of screening to east and west facing glazed areas.”</p>	will achieve a 4 star rating.
<i>(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,</i>	<p>“The base of the proposed building is set back 4 metres from the Burelli Street boundary, in accordance with the requirements of Figure 2.2 of DCP 2009, Chapter D13. This results in a generous footpath which extends the existing wider footpath to the east of the site to Kembla Street. The enhanced width is compatible with the civic uses and plaza on the other side of Burelli Street.</p> <p>A 12 metre wide plaza is proposed between the eastern facade of the new building and the Corporate Square building to its east. It is intended that the southern end of this plaza will connect to the lobby entrance on the north side of the approved Stage 1 development and then, via the lobby, to Stewart Street to the south. In addition, a drawing in the current Stage 2 application indicates a “Future pedestrian link in Stage 3”, running north-south adjacent to Stage 1 and connecting the proposed plaza to Stewart Street. This north-south connection between Burelli and Stewart Streets accords with Figure 3.1 of DCP 2009, Chapter D13. A connection is logical and reasonable, but to be truly public it will need to be completed in Stage 3 as a pedestrian link which is open to the sky or a public arcade.</p> <p>The potential for an east-west connection to the south of the proposed development has also been raised. It is difficult to comment on this idea in the absence of any drawings depicting it, however it would seem in principle that this connection may be unnecessary and even unwise. It is not shown on Council’s diagram. Its amenity may be questionable if it adjoins the vehicle ramp which is part of the current Stage 2 proposal.</p>	<p>The RTA and Council’s Traffic Section initially raised concerns with the proposal however these have been resolved through the submission of amended plans.</p> <p>An interim service/waste collection arrangement is proposed until such time as the ‘Stage 1’ building is constructed fronting Stewart Street which will contain a large waste collection and service area to be shared by the 2 buildings.</p> <p>The north-south pedestrian link proposed is generally consistent with the requirements of DCP 2009 though the plans do not detail how the pedestrian walkway will continue on through the site to Stewart Street.</p> <p>The east-west link shown on the concept plan for the holding is problematic and does not appear to be necessary or desirable.</p> <p>As noted above, some concerns were raised in relation to the footpath levels and treatment/landscaping of the public domain adjacent to the site.</p>

	<p>And it may pose a safety and security risk because of limited visibility.</p> <p>The current Stage 2 proposal includes a two storey high Lobby which runs along the full length of the eastern side of the ground floor and varies in width from 6 metres at its northern (Burelli Street) end to 7.5 metres at its southern end. It has single storey doors and an external canopy along its eastern edge adjoining the plaza. The value of this lobby is questioned. Whilst it would provide weather protection to pedestrians walking past the building, it is clearly not part of the public realm and will not animate the plaza. As shown on the Eastern Elevation (Drawing DA-18) it will present as a “closed” wall of glazing to the plaza. This may exacerbate the lifelessness of the ground floor facade of the Corporate Square building on the eastern side of the plaza. If the lobby space was allocated to active uses opening out directly onto the plaza a more dynamic public space would result. The proposed canopy along the eastern facade would still provide a measure of weather protection. An alternative approach would be to redesign the lobby as a colonnade, with two storey openings, no external awning and active uses adjoining it. The plaza would be less activated, however.</p> <p>Only one entrance is provided to the main foyer, off the plaza and via the lobby discussed above. Whilst access from the plaza is desirable and should be retained, a main building entrance off Burelli Street or at the corner of Burelli and Kembala Streets should also be provided. Loss of ground floor commercial space would be compensated for if the eastern lobby were partially or totally allocated to active uses as suggested above. The main building core would need to be redesigned, but this appears feasible.</p> <p>It is proposed that access to the two penthouse apartments will be via the main foyer and one of the lifts which serve the commercial floors. Whilst this arrangement is not ideal, it is acceptable given that there are only two apartments in the development.</p> <p>Vehicular access onto the site occurs at one point only, off Kembala Street. A kerb crossing leads directly to a ramp along the southern boundary of the site which takes all vehicles down to the basement levels of the development. This arrangement is considered optimal. Bicycle riders must use the same ramp to access the bicycle parking area on Basement</p>	
--	--	--

	Level 1. Subject to applicable Australian Standards and any other relevant regulations, this arrangement is considered acceptable.”	
<i>(x) impact on, and any proposed improvements to, the public domain.</i>	<p>“A new plaza is located between the proposed development and the existing Corporate Square building to the east. The provision of this open space requires the waiver of the requirement in Clause 2.5.3 of DCP 2009, Chapter D13 for nil side setback for a building base, presumably intended to create a continuous streetwall. Because the Corporate Square building is set back from the common side boundary, a continuous streetwall on Burelli Street cannot be achieved. Waiver of the nil side setback control for the proposed development is necessary to create the new plaza and is considered to be justified.</p> <p>Although the plaza is located on private land, it will effectively become part of the public domain. It is noted that Drawing DA-01 shows “Security Gates” across the plaza at its northern (Burelli Street) end. Council will need to ensure that appropriate opening hours are maintained.</p> <p>The plaza includes large planters, trees, benches and steps which form a “spine” running down the centre of the space. It is understood that this device allows differing levels between the two buildings to be reconciled and that planters or other furniture cannot be placed against the Corporate Square building because its ground floor wall facing the plaza is fully glazed.</p> <p>The plaza is part of a full block pedestrian connection and will improve the public domain. Some of the elements furnishing it (most notably the planters which measure as much as 12 metres by 3.5 metres) are over-scaled, however, and should be significantly reduced in size. It may also be possible to reduce the number of steps in some locations by regrading the plaza surfaces. It is also suggested that the planter which is currently located on the central axis of the foyer extended out into the plaza be replaced by steps, to allow unimpeded access from the foyer to the plaza area adjoining the Corporate Square building.</p> <p>Two narrow linear planters are located in front of the building along Burelli Street. These appear tokenistic and may attract litter. It is suggested that they be replaced with steps or low walls.”</p>	<p>Concerns regarding the treatment of the pedestrian footpath have been raised by Council’s Landscape Section.</p> <p>The building’s proposed floor levels do not relate well to the footpath levels. Appropriate transitions between the two cannot be achieved with the design proposed.</p>

Clause 8.5(5)

As the height of the building is greater than 35m, Clause 8.5(5) requires that consent must not be granted unless a Design Review Panel has reviewed the design. A design review panel has reviewed the design and provided a number of comments. These are outlined in Attachment 5 to this report. The applicant was advised of the concerns raised by the Panel and submitted amended plans and additional information which were again reviewed by the Panel. The Panel advised that a number of the concerns initially raised remain unresolved and provided the following concluding comments:-

“Some additional contextual information has been provided, however there is no evidence that this information has been used to inform the proposal. It also remains unclear as to how the proposal responds to its immediate context as a revised master plan has not been submitted.

The relationship between the building entry lobby and the adjacent plaza does not facilitate a positive civic link through the site. Insufficient landscape information has been provided to show how the proposal links with the other stages of the development and in particular creates a positive link (in a north south direction) with the approved stage 1 development.

The necessity and viability of the proposed east / west pedestrian link has not been clarified by the additional contextual information provided. It remains a concern that this space will not be conducive to a desirable and safe pedestrian environment.

The removal of the blade wall from the base of the building has helped to simplify the building form and relate the building to its corner location.

The amenity of the south facing residential unit remains poor. Additional detail information is also required to demonstrate how the proposed façade addresses concerns raised solar screening, maintenance and reflectivity.

The proposed building is not considered to satisfy the objectives the design excellence clause required by Wollongong LEP 2009.”

Council engaged an independent Urban Designer to conduct an urban design review of the proposed development having regard to the applicable controls contained within WLEP 2009 and WDCP 2009. The Urban Designer provided the following concluding comments regarding the proposal:-

“Whilst the proposed development meets the fundamental development controls of WLEP 2009, it faces a more difficult and complex test under Clause 8.5 of the LEP. Design excellence may at first sight seem highly subjective, but there are a variety of issues which can be explored in order to arrive at a more informed judgement. This report examines all of the measures identified in Clause 8.5 in order to facilitate an overall assessment of design excellence.

The proposed development has many positive aspects and addresses many of the matters under Clause 8.5 satisfactorily. However, there are concerns which call into question the design excellence of the proposal. They include:-

- § Inadequate setback of the tower on Burelli Street, which diminishes the presence of the building base. The base is a crucial urban design element. It has a scale which is compatible with the civic buildings on the other side of the street and it lessens the visual impact of the development on Civic Square. It is recommended that the building should comply with the 4 metre tower setback required in the DCP.
- § The sloping elements of the Burelli Street facade and the excessive articulation of the facades generally. Taken together, these create an assertive architectural statement which is considered inappropriate in relation to the heritage buildings and civic realm opposite. A more restrained approach to the building’s architectural expression is encouraged.
- § Uncertainty about the provision of active street frontages at grade along Burelli and Kembla Streets and the proposed plaza on the eastern side of the building.
- § The potential for adverse wind effects on Burelli Street, given the configuration of the sloping tower portion of the north facade and the windscreens below it at Level 5.

- § The poor configuration of the proposal's two penthouse apartments for passive solar heat gain in winter. They can be replanned to resolve this issue.
- § The value of the Lobby along the eastern side of the ground floor. It will not animate the plaza and may be better allocated to active uses opening out directly onto the plaza to create a more dynamic public space.
- § The provision of only one entrance to the main foyer, off the plaza. A main building entrance off Burelli Street or at the corner of Burelli and Kembla Streets should also be provided.
- § The design of the new plaza between the proposed development and the existing Corporate Square building to the east. It should be simplified, over-scaled elements should be reduced in size and the number of steps reduced where possible."

The Urban Design report is attached in full at Attachment 6.

In conclusion, having regard to the comments provided by the Design Review Panel and the independent Urban Designer who examined the proposal, the consent authority cannot be satisfied that the development exhibits design excellence.

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

This clause provides that buildings must be erected so that:-

- (a) there is no separation between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and
- (b) there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and
- (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.

Clause 8.6(3) provides that, despite the above provisions, if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than:

- (a) 20 metres from any habitable part of a dwelling contained in any other building, and
- (b) 16 metres from any other part of any other building.

For the purposes of this clause, **street frontage height** means the height of that part of a building that is built to the street alignment.

- The development does not comply with this development standard to its eastern and southern boundaries. The building is setback from the eastern boundary of the site in order to enable the provision of the pedestrian plaza.
- In relation to (a), the building observes a building separation to the east of 12m to the Corporate Square building and 5m to the eastern site boundary. A separation distance of 20m has been provided to the Mission Australia building to the south and 2m to the proposed southern site boundary.
- In relation to (b), to the east the building is separated from the neighbouring Corporate Square building by 18m (above street frontage height and below 45m in height) and 20m for the upper level residential component. To the south, the building is separated from the neighbouring Mission Australia building by 25m (above street frontage height and below 45m in height) and 28m for the upper level residential component.

The applicant has provided a variation statement in respect of Clause 8.6(a) as required by Clause 4.6 of the LEP. This variation statement is attached in full to this report (refer to Attachment 4). The applicant states that the primary reasons for the variation are as follows:-

- The buildings on the neighbouring sites are setback from their site boundaries and accordingly 'no separation between neighbouring buildings' cannot be physically achieved;
- The setback proposed to the eastern boundary of the site is to facilitate the pedestrian link which is required to be provided in accordance with Clause 3.2.3 of Chapter D13 of Wollongong DCP 2009;
- The 2m wide setback provided to the proposed southern site boundary has been provided to enable a single vehicular access point to the proposed basement car park and to the existing surface parking

area associated with the Mission Australia building located within the south-western portion of the holding. The proposed shared access arrangement will minimise footpath crossing points into the development thus improving pedestrian amenity;

- Buildings within the immediate locality feature side setbacks similar to that proposed in this development. Accordingly the proposal will be consistent with the pattern of development in this precinct.

The variation statement submitted has been considered in relation to the matters set out in Clause 4.6. Clause 4.6(4) states:-

“Development 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.”

In relation to (a)(i), the applicant’s variation statement generally addresses the matters outlined in the clause and seeks to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

In relation to (a)(ii), the following comments are provided:

- The existing setbacks of neighbouring buildings preclude compliance with the standard in any event and the design of the Corporate Square building located to the immediate east of the site prevents a building being erected on the subject site with a zero eastern boundary setback. The proposed eastern setback enables the provision of an open pedestrian walkway as required by WDCP 2009. This will also maintain solar entry to the western wall of the Corporate Square building. The eastern setback is also supported because it reflects the pattern of development fronting Burelli Street in this section of the city centre, where separation exists between buildings.
- The increased setback to the proposed southern boundary facilitates vehicular entry to the basement car park. It is acknowledged that entry to the site from Kembla Street is preferable to vehicular entry being obtained from the Burelli Street frontage of the site, as pedestrian traffic is much heavier along the Burelli Street footpath. The design of the building will however preclude the future possibility of a continuous street wall being achieved to the Kembla Street frontage of the holding, which is one of the primary objectives of Clause 8.6(2)(a). A design could be arrived at which provides vehicular entry to the building whilst still providing a zero setback to the southern boundary for the base of the building.
- The increased separation provided to the southern boundary is not supported as it is inconsistent with the objective of Clause 8.6(2)(a).

In accordance with Clause 4.6(4)(b), the concurrence of the Director-General has been obtained for the variation.

2.3 SECTION 79C 1(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

2.4 SECTION 79C 1(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.4.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER B3 – MIXED USE DEVELOPMENT

Chapter B3 of the DCP does not relate to the development as per Clause 1.1 which states that it only applies to mixed use development on lands outside the Wollongong City Centre.

CHAPTER B4 - DEVELOPMENT IN BUSINESS ZONES

Section 3.3 of this chapter states that business or commercial office development should be located within the corridor formed by Crown Street between Corrimal Street to the east and the railway line to the west. And further, that the retail and commercial activity of the city centre should remain contained along Crown Street (i.e. bounded to the north by Market Street and to the south by Burelli Street). This proposal is consistent with this objective.

Clause 5.1 states that the specific planning requirements for development upon any land within the Wollongong City Centre are contained in Part D13 of the DCP.

CHAPTER D13 - WOLLONGONG CITY CENTRE PRECINCT

Character Areas

The DCP states that the Commercial Core provides for a wide range of retail, business, office, civic and cultural entertainment and community uses, including tourism and leisure uses, and residential uses within mixed use developments.

The commercial core is the 'heart of the city', where the focus is on high quality buildings, streetscapes, public art, outdoor eating and a collection of attractive public spaces such as a new forecourt to the railway station, rejuvenated MacCabe Park and Crown Street Mall, new civic square on Crown Street and an attractive collection of laneways and arcades. The primary retail focus is Crown Street Mall. The core retail area along Crown Street is generally characterised by street enclosing buildings forming continuous building facades that provide for an active street frontage to all commercial core streets. Streets are to have continuous awnings to give weather protection to concentrated pedestrian street activity.

The proposal is not consistent with this character statement as the development does not exhibit design excellence expected for a significant site in the city centre.

The following tables provide a summary of the assessment of the proposal against the applicable controls contained within Chapter D13.

(* denotes that applicant has provided a written submission seeking a variation)

Part 2 - Building Form

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>2.1 General</u>		
<u>2.2 Building to street alignment and street setbacks</u>		
<ul style="list-style-type: none"> Build to specified setback with 4m minimum further setback above street frontage height. The specified setback for this site is 4m to Burelli Street and to the street alignment on Kembla Street. 	<p>Burelli Street frontage - 4m setback; increases to 6.70m to L5 and then reduces to 5.27m to L6. Setback incrementally increases due to the sloping façade through Levels 6-12. Setback to that part of the building above street frontage height does not comply.</p> <p>Kembla St frontage – 0m setback measured to front wall of building; L5 is setback an additional 4m from the street frontage</p>	No to Burelli Street *

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<ul style="list-style-type: none"> Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible 	<p>Awnings project further towards both street frontages. These are to be supported by sculptural steel columns located approx. 2.5m from the face of the building. Minor projections are only permitted where there is a public benefit – refer to Clause 3.5 below.</p>	No
<ul style="list-style-type: none"> Corner properties to provide a 6m x 6m corner splay. 	<p>Site is a corner property. 6m x 6m corner splay has not been provided</p>	No
<p><u>2.3 Street frontage heights in commercial core</u></p> <ul style="list-style-type: none"> Street frontage height of buildings in the Commercial Core are not to be less than 12m or greater than 24m above mean ground level on the street 	<p>Street frontage height approx 14m (measured to Level 5)</p>	Yes
<p><u>2.4 Building depth and bulk</u></p> <ul style="list-style-type: none"> Maximum floor plate size 1200sqm above 24m in height; Maximum depth 25m excluding balconies Residential apartments in the commercial core – max floor plate 900sqm above 24m in height; max depth 18m All points on an office floor should be no more than 10m from a source of daylight (eg. window, lightwell or skylight) in buildings less than 24m in height, and no more than 12.5m from a window in buildings over 24m in height. 	<ul style="list-style-type: none"> Maximum floor plate approx 840sqm - complies Maximum depth 27m – 29.5m – does not comply Residential floor plate is 400sqm; max depth 18.950m – does not comply Distance from windows – all areas of the office floor plate excluding some parts of the lift and lobby core comply with the control. 	<p>No *</p> <p>No *</p>
<p><u>2.5 Side and rear building setbacks and building separation</u></p> <p><u>Side Setbacks – Eastern Boundary</u></p> <p><u>Required</u></p> <ul style="list-style-type: none"> 0m up to street frontage height 6m between street frontage height and 45m 12m setbacks to residential 14m above 45m height <p><u>Rear setbacks – Southern Boundary</u></p> <p><u>Required</u></p> <ul style="list-style-type: none"> 0m up to street frontage height 6m between street frontage height and 45m 	<p><u>Side Setbacks – Eastern Boundary</u></p> <p><u>Proposed:</u></p> <ul style="list-style-type: none"> 7.620m setback provided to eastern boundary 10.4m to L5 – L10; 12.45m to L11 & L12 (setback provided between street frontage height and 45m); 12.450m to residential <p><u>Rear setbacks – Southern Boundary</u></p> <p><u>Proposed: (to proposed southern boundary)</u></p> <ul style="list-style-type: none"> 2.0m up to street frontage height 	<p>No</p> <p>Variations sought *</p>

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<ul style="list-style-type: none"> 12m setbacks to residential 14m above 45m height 	<ul style="list-style-type: none"> 6.825m and 6.0m between street frontage height and 45m 9.925m to residential unit from southern boundary * 	
<u>2.6 Mixed used buildings</u>		
<ul style="list-style-type: none"> Provide flexible building layouts which allow variable tenancies or uses on the first two floors of a building above the ground floor. Minimum floor to ceiling heights are 3.3 metres for commercial office and 3.6 metres for active public uses, such as retail and restaurants in the B3 Commercial Core zone. Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook. Locate clearly demarcated residential entries directly from the public street. Clearly separate and distinguish commercial and residential entries and vertical circulation. Provide security access controls to all entrances into private areas, including car parks and internal courtyards. Provide safe pedestrian routes through the site, where required. Front buildings onto major streets with active uses. Avoid the use of blank building walls at the ground level. For mixed use buildings that include food and drink premises uses, the location of kitchen ventilation systems shall be indicated on plans and situated to avoid amenity impacts to residents. 	<ul style="list-style-type: none"> Variety of uses could be accommodated Open vaulted ceiling available to large part of the ground floor due to mezzanine 3.5m from floor to floor above; ie expected floor to ceiling heights of 3.3m Vehicular access to be gained from same entry point on Kembla Street – shared between residential and commercial activities. Communal garbage room; shared lobby and lift access; shared pedestrian access from street level No separate residential entry provided. Applicant indicates that this is unnecessary given that only 2 units are proposed. Security access to be provided Some concerns raised by SCAT in relation to pedestrian plaza Ground floor retail and commercial uses are proposed; no blank walls but glazing proposed. No specific food and drink premises are proposed 	<p>Separate access and facilities not available to residential units.</p> <p>Concerns regarding safety and management of walkway</p>
<u>2.7 Deep soil zone</u>		
<ul style="list-style-type: none"> For residential components in mixed use developments in the Commercial Core, the amount of DSZ may be reduced commensurate with the extent of non-residential uses. Where non-residential components result in full site coverage and there is no capacity for water infiltration, the deep soil component must be provided on structure, in accordance with the provisions of 	<ul style="list-style-type: none"> No deep soil zone proposed. Small residential component (2 units only) proposed. Some landscaping proposed within the pedestrian plaza on the eastern side of the building 	Yes

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
Section 2.8. In such cases, compensatory stormwater management measures must be integrated within the development to minimise stormwater runoff. <u>2.8 Landscape design</u>	<ul style="list-style-type: none"> The proposed landscape plan has been assessed by Council Landscape Section and some concerns were raised. Refer to Section 1.4.1. 	No
<u>2.9 Planting on structures</u>	<ul style="list-style-type: none"> Some landscaping is proposed within landscape planter beds within the pedestrian plaza on the eastern side of the proposed building and within the street setback to Burelli Street. The landscaping scheme has been reviewed by Council's Landscape Section. It is not acceptable. 	No
<ul style="list-style-type: none"> The following controls apply in the Commercial Core for planting on roof tops or over car park structures, particularly for communal open space required as a component of mixed use residential development, and in non-residential developments where the landscaping proposed is not on natural ground 	<ul style="list-style-type: none"> No impact on sun access to parks or community spaces is anticipated. 	Yes
<u>2.10 Sun access planes</u>		
<u>2.11 Development on classified roads</u>	<ul style="list-style-type: none"> The site not located on a classified road. 	N/A

Variations Sought:-***1. Clause 2.2 Building to street alignment and street setbacks***

The applicant has provided the following justification in relation to reduced setbacks provided above street frontage height to the Burelli Street frontage:-

"The relevant development control to be considered in this instance is the 4 metre minimum further setback above street frontage height. In this regard, the proposed building observes a 4 metre setback to the Burelli Street boundary and a zero setback to the Kembla Street boundary as required for that part of the building up to street frontage height. Above the street frontage height to the Burelli Street side, a further 4 metre setback has been achieved over a transitional scaling up the building from Levels 5 to 11 with the proposed angled façade (ie. 1m setback at Level 5, to a 4m setback at Level 11).

Whilst this transitional setback does not directly comply with Council's numerical standards in this instance, it does meet the intent of those objectives identified and provides a more positive urban design outcome than if strict compliance was achieved. In this regard, the following is noted:-

- The receding facade is a deliberate urban design feature by the project architects (PRD) to give the tower good proportioning, and diminish the mass at the top of the tower to open the street to the sky and enhances the view corridor along Burelli Street;
- The proposed angular façade to Burelli Street will accord with the stated DCP objective to "...*encourage urban design excellence*" The exceedance of the above street frontage height criteria assists this design excellence without compromising the building aesthetics and internal amenity to which this development standard applies;

- The proposed built form is consistent with the established spatial proportions of the street and the defined street edge. Whilst adjoining buildings do not even have a podium base and present a blank façade to the street, the proposed podium street frontage is sympathetic with those buildings as a diminishing line of height recedes from the Council building down the corner of Kembala Street;
- The street frontage height of the Burelli Street façade is only at 14m, however, Council's provisions allow up to 24m in this instance. The proposed lower podium and transitional façade will help articulate and soften the street edge; and
- This angled encroachment to the upper levels will not result in significant visual impact, nor will not compromise the outlook and solar access to the public domain.
- Accordingly, it is considered that the urban design of this proposal will be suitable for the environment within which it is to be situated and, thus, strict compliance with the 'above street frontage height' provision is unreasonable and unnecessary in this instance."

Comment:-

As noted elsewhere within this report, an Urban Designer was engaged by Council to undertake an independent review of the proposal. One of the key concerns raised in relation to the design is the sloping façade to Burelli Street and the reduced setback proposed to this element of the building (being the tower which extends above street frontage height). The following specific comments were provided in this regard:-

"The building envelope controls in Chapter 13 of DCP 2009 create a building base between 12 and 24 metres high with a tower above. The base creates a scale at street level which is appropriate for Wollongong City Centre. It "humanises" development. To ensure that the base is clearly legible and has sufficient presence to achieve its urban function, the tower above must be setback significantly. Clause 2.2.3 of DCP 2009, Chapter D13 requires a 4 metre setback.

....the proposed development has lesser setbacks on Burelli Street, the minimum being 1.27 metres at Level 6. It is clear from examining Section B-B on Drawing DA-16 and the photomontages that the visual presence of the base is substantially diminished by the sloping facade above.

This shortcoming is of particular concern in the building's Burelli Street context. The proposed base has a scale which is compatible with the civic buildings on the other side of the street and it lessens the visual impact of the development on Civic Square. The reduced setbacks resulting from the sloping facade compromise these outcomes. There appears to be no compensating benefit to be derived from the tilted facade. It is recommended that the building should comply with the 4 metre tower setback required in the DCP.

The substantially reduced setback of the lower part of the tower on Burelli Street (1.27 metres versus the DCP's 4 metres) blurs the distinction between base and tower and reduces the visual prominence of the base. In addition, the effect of the progressive setback from Burelli Street is to create a sloping facade, which is a prominent feature of the proposed development."

On the basis of the above comments and the broader concerns raised regarding the overall design quality of the development by both the Urban Designer and the Design Review Panel, the reduced setback to the tower is not supported.

2. Clause 2.4 building depth and bulk variation – commercial component

The applicant has provided the following justification in relation to the bulk of the commercial component of the building, which exceeds the controls outlined in Clause 2.4:-

"The objectives of the development standard are:-

- a) To promote the design and development of sustainable buildings.*
- b) To achieve the development of living and working environments with good internal amenity and minimise the need for artificial heating cooling and lighting*
- c) To provide viable and useable commercial floor space.*
- d) To achieve usable and pleasant streets and public domain at ground level by controlling the size of upper level floor plates of buildings.*
- e) To achieve a city skyline sympathetic to the topography and context.*

- f) To allow for view sharing and view corridors.*
g) To reduce the apparent bulk and scale of buildings by breaking up expanses of building wall with modulation of form and articulation of facades."

The relevant development control to be considered in this instance is the need to maintain a maximum building depth for the non residential component of the development above street frontage height of 25 metres. The proposed development has depths above street frontage of between 27 metres to 29.5 metres which marginally exceed the stated development standard.

Variations to development controls can be considered by Council in accordance with Section 9 of Chapter A1 of the DCP and, in this regard, the following is advised:

- The building depths adopted for the proposed development provide for a suitable and reasonable use of available space within the site and reflects the angular urban sign outcome sought for the Burelli Street façade. This building depth will achieve a 12.5 metre light penetration for the proposed usable office space areas (exclusive of the infrastructure core) as detailed in the Daylight Penetration diagram as required. In doing so, the proposed building depths adopted will not compromise any of the stated objectives for this development standard identified above;
- The proposed development is to be situated within a commercial/ cultural based environment that does not contain any residential accommodation immediately adjacent. Therefore this proposal will have no adverse impact upon residential amenity;
- Support for the variation proposed will maintain consistency with the objectives of the B3 Commercial Core zone;
- The proposed development design, including the angular façade to Burelli Street, will accord with the stated DCP objective to "... encourage urban design excellence...". The exceedance of the 25 metre depth criteria assists this design excellence without compromising the building aesthetics and internal amenity to which this development standard applies; and
- Compliance with the 25 metre depth criteria in this instance will provide no perceivable benefits to the proposed development whilst the minor variation to this control will provide:
 - o Viable and usable commercial floor space;
 - o An appropriate working environment with good internal amenity; and
 - o A building having suitable bulk and scale to sit comfortably within the locational streetscape.

It is therefore considered that strict compliance with the 25 metre depth criteria is both unreasonable and unnecessary in this instance in accordance with the above justification."

Comment:

The variation by itself is not considered to be objectionable, however if the reduced setback to the tower provided to Burelli Street was increased, the depth of the commercial component of the building would comply with the controls. It is noted that despite the depth of the building exceeding the maximum permitted by the DCP, plans have been provided demonstrating that all areas of the office floors will be within the required distance of a window.

2. Clause 2.4 building depth and bulk variation – residential component

The applicant has provided the following justification in relation to the depth of the residential component of the building, which exceeds the controls outlined in Clause 2.4:-

"The relevant development control to be considered in this instance is the need to maintain a maximum building depth of 18m for the residential component of the development above street frontage height. The proposed residential floor plate (Levels 11 and 12) has a depth above street frontage of 18.95 metres, which marginally exceeds the stated development standard. In light of this minor variation, the following is noted:-

- the residential floor plate depth adopted provide for a suitable and reasonable use of available space within the units, and partly reflects the angular urban design outcome sought for the Burelli Street

façade. The adopted depth will not compromise any of the stated objectives for this development standard identified above;

- the proposed floor plate is only over two levels (Levels 11 and 12) and will be visually softened by the existing floor plate depth of Level 10 below;
- the proposed development is to be situated within a commercial/cultural based environment that does not contain any residential accommodation immediately adjacent. Therefore this proposal will have no adverse impact upon residential amenity;
- support for the variation proposed will maintain consistency with the objectives of the *Zone B3 Commercial Core* and
- strict compliance with the 18 metre depth criteria in this instance will provide no perceivable benefits to the proposed development, whilst the minor variation to this control will provide:
 - o viable and usable residential floor space;
 - o an appropriate living environment with good internal amenity; and
 - o a unit layout having suitable bulk and scale to sit comfortably upon the building's top and within the locational streetscape.

Again, it is therefore considered that strict compliance with the development standard is both unreasonable and unnecessary in this instance in accordance with the above justification.

Being mindful of the above, it is considered that this proposal is still in keeping with the provisions and objectives of Council's DCP and, therefore, will accord with the objectives and guidelines of the planning controls applying to the site. As such, we respectfully ask that Council give particular consideration in this instance and favourable consider the justification for these variations sought."

Comment:

Concerns are raised in relation to the configuration and orientation of the residential units, however the depth of the units in isolation is not a significant issue as the building core is relatively large. Depths from windows to the core are typically 5 metres or less. The variation is considered to be acceptable.

3. *Clause 2.5 - Side and rear building setbacks and building separation*

The applicant has provided the following justification in relation to the setbacks provided to the residential component of the building, which are less than the minimum required by Clause 2.5:-

"The objectives of this development standard are:

- a) *To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing ventilation, wind mitigation, and privacy.*
- b) *To achieve usable and pleasant streets and public domain areas in terms of wind mitigation and daylight access.*

The relevant development control in this instance is the need to maintain a side/rear boundary setback for the residential component of the development of 12 metres (ie between street frontage height and 45 metres). The proposed development has a setback to the proposed southern side boundary of 10 metres to 11.4 metres.

A variation to this control is also sought in accordance with Section 9 of Chapter A1 of the DCP and, in this regard, the following is advised:-

- The existing development to the south of the proposed building is a low level commercial building with no residential accommodation. The building setback for the upper levels only of the proposed building will have minimal impact upon the adjoining development;
- The orientation and internal design of the residential units will provide an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, privacy and the like;
- The proposed building line variation at the upper levels will have no adverse impact upon the existing streetscape and public domain areas;
- Support for the variation proposed will maintain consistency with the objective of the B3 Commercial Core zone aforementioned.

Again, it is therefore considered that strict compliance with the development standard is both unreasonable and unnecessary in this instance in accordance with the above justification.”

Comment: The above justification is considered to be reasonable and the variation is supported in this instance. The reduced building setback from the residential unit to the southern boundary will have minimal impact on the amenity of the residential unit and is unlikely to impact on either existing or future development of the neighbouring allotment to the south.

It is noted that the applicant has provided justification for the reduced setbacks to the southern and eastern boundaries of the site within the variation statement relating to Clause 8.6 (building separation) of WLEP 2009. This is addressed above in Section 2.2.5.

Part 3 - Pedestrian Amenity

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 General</u>		
<u>3.2 Permeability</u>		
<ul style="list-style-type: none"> Through site links to be provided in accordance with Fig 3.1 of DCP – identifies an existing site link north-south through the site linking Stewart and Burelli Streets connecting into the Civic Square. Pathways must have active frontages; be clear and direct; provide access during business trading times; have a minimum width of 4m clear of all obstructions (including columns, stairs and escalators); where practicable, have access to natural light for at least 30% of their length; where air conditioned, have clear glazed entry doors comprising at least 50% of the entrance, and have signage at street entries indicating public accessibility and the street to which the through site link connects. 	<ul style="list-style-type: none"> A pedestrian walkway is proposed adjacent to the eastern boundary of the site, between the building and the neighbouring Corporate Square building. The open plaza area is approx 12m wide and will featuring paving, furniture and landscaping. The neighbouring development approved by Council to the immediate south (DA-2007/675) provides the link as an arcade located on the ground floor of the building, providing for north-south pedestrian movement. No details have been provided of how the area between the 2 buildings will be treated; therefore the link is not continuous. The Urban Design review indicated that the plaza would benefit from improved activation of the ground floor through more active uses than proposed. The lobby of the building will not animate the plaza area 	<p>Yes</p> <p>No</p> <p>No</p>
<u>3.3 Active street frontages</u>		
<ul style="list-style-type: none"> Active street frontage (entrance to retail, shop front, glazed entries to commercial lobbies, café/restaurant, active office uses such as reception) required along streets, lanes and through site links for all buildings; Active ground floor uses are to be on the same level as the footpath and be accessible directly from the street; Provide multiple entrances for large developments including an entrance on each 	<ul style="list-style-type: none"> Commercial uses occupy the ground floor of the development. Glazing proposed to street frontages of lower levels and some openings to both street frontages, though the applicant indicates that the primary pedestrian entry to the building will be via the glazed lobby located on the eastern side of the building. The lobby will do little to activate the plaza and may be better 	<p>No</p>

street frontage.

allocated to active uses opening out directly onto the plaza to create a more dynamic public space. The design review suggested that the development could be improved through the provision of only one entrance to the main foyer, off the plaza; and also through the provision of a main building entrance off Burelli Street or at the corner of Burelli and Kembala Streets.

- Plans indicate that the building is accessible from the street however an examination of the levels indicates that the floor levels are significantly different to the existing footpath levels. Level changes are proposed within the front setback area and within the footpath. As noted by Council's Landscape and Engineering officers, the transitions between the levels should be made within the building rather than within the footpath area as this will have an impact on accessibility and the quality of the public domain.

3.4 Safety and security

- Building design to provide for casual surveillance of access ways, entries and driveways
- Avoid providing concealment opportunities
- Provide entrances in visually prominent positions; easily identifiable;
- Provide adequate lighting of pedestrian accessways, parking areas and entries
- Provide clear lines of sight and well-lit routes through the development
- Casual surveillance of public pathway
- For large scale retail and commercial development with a GFA of over 5,000m², provide a 'safety by design' assessment in accordance with the CPTED principles.
- Security controls where appropriate
- Ensure building entrance(s) including pathways, lanes and arcades for larger scale retail and commercial developments are directed to signalised intersections rather than mid-block in the Commercial zone, Mixed Use (city edge) and Enterprise Corridor zones.

- Design generally provides for casual surveillance of adjacent pedestrian footpaths
- Some concerns have been raised by Council's Community Safety Officer and the Design Review Panel in relation to the safety of the pedestrian plaza area. The design review concluded that the lobby will not activate the plaza and this space may be better allocated to active uses opening out directly onto the plaza to create a more dynamic public space.
- Detailed CPTED assessment provided with DA, prepared by architect
- Secure access to residential units and car parking proposed

No

3.5 Awnings

<ul style="list-style-type: none"> • Continuous street awning required across both frontages • Awning design to match building facades and be complementary to adjoining buildings • Min soffit height 3.3m; low profile, slim vertical fascias not to exceed 300mm height; setback 1.2m from the kerb; min 2.4m deep. • Provide under awning lights to facilitate night-time use and improve public safety. 	<ul style="list-style-type: none"> • Awning has been provided to both street elevations of the building and over part of the width of the pedestrian plaza on the eastern side of the building. The functionality of the awning is questioned due to its height and angle, which will reduce its effectiveness in providing weather protection. Supporting columns clutter Burelli Street and awning structure adds an additional layer of visual complexity to the building. • Neighbouring buildings do not have awnings. Corporate Square building features a colonnade supported by large columns. • Concerns have been raised in relation to the proposed awning materials and detailing by the Design Review Panel and in the urban design review 	No
--	--	----

3.6 Vehicular footpath crossingsLocation of Vehicle Access

<ul style="list-style-type: none"> • No additional vehicle entry points will be permitted along Burelli Street • One vehicle access point only generally permitted. • Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts. • Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date. 	<ul style="list-style-type: none"> • Single vehicular entry point proposed on Kembla Street frontage. This will provide access to a two way ramp into the basement car park and into the on grade car park servicing the Mission Australia building to the south. 	Yes
--	--	-----

Design of Vehicle Access

<ul style="list-style-type: none"> • A double lane crossing with a maximum width of 5.4m may be permitted for safety reasons • Doors to vehicle access points are to be roller shutters or tilting doors fitted behind the building façade. • Vehicle entries are to have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes are to be visible from the street. 	<ul style="list-style-type: none"> • 9.0m wide crossing proposed which is excessive, however may be an interim arrangement only until such time as 'Stage 3' is redeveloped. • Roller shutter proposed to secure basement ramps. 	No Yes
---	--	---------------

3.7 Pedestrian overpasses, underpasses and encroachments

No overpasses, underpasses, or encroachments are proposed. N/A

3.8 Building exteriors

Objectives

To ensure that new buildings in Wollongong:

- a) Contribute positively to the streetscape and public domain by means of high quality architecture and robust selection of materials and finishes.
- b) Provide richness of detail and architectural interest especially at visually prominent parts of buildings such as lower levels and roof tops.
- c) Present appropriate design responses to nearby development that complement the streetscape.
- d) Clearly define the adjoining streets, street corners and public spaces and avoid ambiguous external spaces with poor pedestrian amenity and security.
- e) Maintain a pedestrian scale in the articulation and detailing of the lower levels of the building.
- f) Contribute to a visually interesting skyline.

Controls

- Consider new buildings in terms of appropriate alignment and street frontage heights; setbacks, appropriate finishes and materials; façade proportions
- Balconies and terraces should be provided on low rise parts of buildings; gardens encouraged
- Articulate facades
- External walls should be constructed of high quality and durable materials and finishes with 'self-cleaning' attributes, such as face brickwork, rendered brickwork, stone, concrete and glass.
- Avoid expanses of any one material
- Finishes with high maintenance costs, those susceptible to degradation or corrosion from a coastal or industrial environment or finishes that result in unacceptable amenity impacts, such as reflective glass, are to be avoided.
- Limit opaque or blank walls for ground floor uses to 30% of the frontage
- Break glazing into sections to avoid large expanses

- Building alignment to building base is consistent with DCP setback controls, though tower is not appropriately setback as detailed above.
- Finishes are contemporary though concerns are raised in relation to the number and combination of finishes and architectural details proposed – refer to comments provided by Design Review Panel and in urban design assessment.
- Durable finishes proposed.
- Bulk of finishing materials comprise glazing – framed, semi-framed and frameless curtain glazing.
- Applicant indicates that reflectivity will be limited to 20%
- No blank or opaque treatment to ground floor proposed
- Colour schedule and sample board provided
- Awning supports extend into front

**No;
objectives
not
satisfied**

<ul style="list-style-type: none"> Highly reflective finishes and curtain wall glazing are not permitted above ground floor level Materials sample board to be provided with DA Minor projections up to 450mm from building walls may extend into public space but only if it does not contribute to gross floor area and there is a public benefit such as expressed cornice lines that assist in enhancing the streetscape, protections such as entry canopies that add visual interest and amenity. Projections should not detract from significant views and vistas Roof plant rooms and lift overruns to be integrated into overall design of building 	<p>setback on Burelli Street frontage. Supporting columns will clutter Burelli Street. Awning and associated structures add an unnecessary layer of visual complexity to the building.</p> <ul style="list-style-type: none"> Plant rooms and lift overrun are contained within roof envelope. 	
<p><u>3.9 Advertising and signage</u></p> <ul style="list-style-type: none"> A signage strategy shall be submitted with a development application for a building where the signage details are not known for future uses within the building. The strategy shall include elevations that indicate signage zones on the building into which future signs will be located and details of other controls relating to theme, illumination and size, where appropriate. 	<ul style="list-style-type: none"> No advertising or signage is proposed. Signage strategy has not been provided 	No
<p><u>3.10 Views and view corridors</u></p> <ul style="list-style-type: none"> Existing views identified in the DCP to be protected where practical 	<ul style="list-style-type: none"> The proposal will not impact upon view sharing or view corridors. The site is located outside of the nominated distant view corridor identified in Fig 3.12 in the DCP (from the lighthouse to the escarpment). 	Yes

Part 4 - Access, parking and servicing

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.1 General</u>		
<p><u>4.2 Pedestrian access and mobility</u></p> <ul style="list-style-type: none"> Main building entry points should be clearly visible from primary street frontages and enhanced as appropriate with awnings, building signage or high quality architectural features that improve clarity of building address and contribute to visitor and occupant amenity. The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standard 	<ul style="list-style-type: none"> Main building entry is not readily identifiable from both street frontages. The primary pedestrian access is to be obtained via the lobby located on the eastern side of the building. Steps and landscaping beds within the footpath/building setback area reduce permeability and add clutter. Transitions in levels should be 	No

<p>(AS 1428 Pt 1 and 2, AS 2890 Pt 1, or as amended) and the Disability Discrimination Act 1992 (as amended).</p> <ul style="list-style-type: none"> The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor. The development must provide continuous access paths of travel from all public roads and spaces as well as unimpeded internal access. Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain (street) with appropriate slip resistant materials, tactile surfaces and contrasting colours in accordance with Council's Public Domain Technical Manual. Building entrance levels and footpaths must comply with the longitudinal and cross grades specified in AS 1428.1:2001, AS/NZS 2890.1:2004 and the Disability Discrimination Act. 	<p>provided within the building rather than within the footpath and building setback area.</p> <ul style="list-style-type: none"> 2 disabled car spaces proposed within basement. Vertical circulation available throughout building via lifts. Barrier-free access available to lobby. Unclear how access will be provided to Kembala Street frontage given difference in levels between building and footpath. Treatment of footpath is in part inconsistent with the Wollongong City Centre Public Domain Technical Manual. Levels and treatment of pathway and pedestrian plaza could be improved as recommended by Design Review Panel and independent Urban Designer. 	
<p><u>4.3 Vehicular driveways and manoeuvring areas</u></p>	<ul style="list-style-type: none"> Vehicular driveways and manoeuvring areas are adequate. 	Yes
<p><u>4.4 On-site parking</u></p>	<ul style="list-style-type: none"> Car parking and vehicular manoeuvring complies with relevant standards. Sufficient car parking, disabled persons' parking, bicycle and motorbike parking has been provided within the basement. The applicant indicates that access to the car park will be secured. It is not clear how visitors and customers will access on-site car parking. The applicant indicates that a security swipe card and intercom system is to be utilised. Secure parking is to be provided to the 2 residential units within the basement. 	Yes
<ul style="list-style-type: none"> Compliance with relevant standards. Council may require a geotechnical report. Above ground level car parking is to have a min floor to ceiling height of 2.8m so it can be adapted to another use in the future. On-site vehicle, motorcycle and bicycle parking is to be provided in accordance with Part E of the DCP. 		Yes
<p><u>Residential flat buildings:-</u></p> <ul style="list-style-type: none"> On-site parking is to be accommodated underground, or otherwise integrated into the design of the building. 		No

4.5 Site facilities and services

<ul style="list-style-type: none"> • Mail boxes • Communication structures, air conditioners and service vents • Waste (garbage) storage and collection • Fire service and emergency vehicles • Utility Services 	<ul style="list-style-type: none"> • The proposal complies with applicable controls. The applicant indicates that mailboxes will be located within the entry lobby. Communication and plant rooms will be located on the roof as required; • A communal waste storage area has been provided within Basement L1. Access to this area not available to larger service vehicle. Basement levels are proposed to link into development of allotments to the south, in which a large service area/dock is proposed, which is to be shared once constructed. An interim waste collection arrangement is proposed until such time as 'Stage 1' development is constructed. • It is assumed that existing utility services can be augmented to support the development. Integral Energy was consulted in regards to the proposal and raised no concerns. 	Yes
---	--	-----

Part 5 - Environmental management

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.2 Energy efficiency and conservation</u>		
<ul style="list-style-type: none"> • New dwellings are to demonstrate compliance with SEPP (BASIX). • Efficient control of mechanical spaces heating and cooling • Efficient hot water systems • Reduce reliance on artificial lighting • Energy efficiency report to be provided which demonstrate a commitment to achieve no less than a 4 star rating under the Australian Building Greenhouse Rating Scheme 	<ul style="list-style-type: none"> • A BASIX certificate has been provided in relation to the two apartments. • One apartment has been orientated facing north and the other south. The living room of the south facing unit receives less than 2 hours of solar access per day in mid winter and the extent of solar access received is restricted to a small corner of the living room for much of this time. Given that the building contains only two units over two floors and is not overshadowed by any adjoining buildings, the extent of mid winter sunlight received by the southern unit is poor. • The Design Review Panel 	Yes No

	<p>recommended that the units be redesigned in a manner that will allow some northern orientation to facilitate good solar access.</p> <ul style="list-style-type: none"> Energy Efficiency report has been provided in relation to the proposed development which indicates that the building will achieve a 4 star rating 	
<p><u>5.3 Water conservation</u></p> <ul style="list-style-type: none"> New dwellings are to demonstrate compliance with SEPP (BASIX). Incorporate water saving measures – energy efficient fixtures, taps, appliances; stormwater capture and reuse; select water efficient plants for landscaping; use non-potable water for watering landscaping and landscape features; operating details for pools and water features. <p><u>5.4 Reflectivity</u></p> <ul style="list-style-type: none"> Visible light reflectivity from building materials used on facades of new buildings should not exceed 20%. New buildings should not result in glare that causes discomfort or threatens safety to drivers or pedestrians <p><u>5.5 Wind mitigation</u></p> <ul style="list-style-type: none"> To ensure public safety and comfort, the following maximum wind criteria shall be met by new buildings – 13 metres/second along major pedestrian streets, parks and public places, and 16 metres/second in all other streets. Site design for new buildings shall include:- setback tower from lower structures to protect pedestrians from strong wind downdrafts at the base of the tower; ensure that tower buildings are well spaced to allow breezes to penetrate the city centre; ensure usability of open terraces and balconies. Wind effects report to be submitted for all buildings greater than 32m in height and for buildings over 50m, results of a wind tunnel test are to be included in the report 	<ul style="list-style-type: none"> A BASIX certificate has been provided in relation to the two residential apartments. OSD is proposed with potential for rainwater reuse within the development Glazing report provided with the DA. If approved, a condition should be imposed limiting reflectivity from finishing materials to a maximum of 20% Wind effects report has been lodged with the DA which considers the impact of the development of the ground level pedestrian thoroughfares along Kembla and Burelli Streets; the proposed pedestrian plaza to the east of the building; terrace areas on level 5 and the private residential terrace areas on Level 11. Pedestrian wind conditions on the pedestrian footpaths within Burelli and Kembla Street are expected to be similar to existing conditions. Some wind mitigation measures are recommended to ensure that the wind conditions on the Level 5 and 11 terrace areas and within the pedestrian plaza are satisfactory. Urban Designer has noted that the wind screen proposed on L5 may not mitigate wind blowing down the sloping northern face of the building; this may have adverse 	<p>Yes</p> <p>Yes, with condition</p> <p>Yes</p> <p>No</p>

<p><u>5.6 Waste and recycling</u></p> <ul style="list-style-type: none"> • DAs for non-residential development must be accompanied by a waste management plan that addresses best practice recycling and reuse of construction and demolition materials, use of sustainable building materials that can be reused or recycled at the end of their life, handling methods and location of waste storage areas in accordance with the provisions of Section 4.4.3 of this DCP; procedures for the on-going sustainable management of green and putrescible waste, garbage, glass, containers and paper, including estimated volumes, required bin capacity and on-site storage requirements. • The waste management plan is to be prepared by a specialist waste consultant. 	<p>impacts on pedestrian amenity</p> <ul style="list-style-type: none"> • A waste management plan has been prepared by the architect which deals with demolition waste, construction waste; ongoing waste generation and outlines the waste management strategy to be implemented at the building. The waste storage room will be managed by the building janitor. Bins will be trolleyed to the collection point for collection by a private contractor. 	<p>Yes</p>
--	--	------------

Part 6 - Residential development standards

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>6.1 SEPP 65 and residential flat design code</u>	The residential component of the development is not defined as a residential flat building for the purposes of the SEPP; therefore SEPP and Residential Flat Design Code are not applicable.	N/A
<u>6.2 Housing choice and mix</u>	N/A – two units only proposed	N/A
<u>6.3 Dwelling houses</u>	N/A	N/A
<u>6.4 Multi dwelling housing</u>	N/A	N/A
<u>6.5 Dual occupancy</u>	N/A	N/A
<p><u>6.6 Basement Carparks</u></p> <ul style="list-style-type: none"> • The roof of any basement podium, measured to the top of any solid wall located on the podium, must not be greater than 1.2m above natural or finished ground level, when measured at any point on the outside walls of the building. On sloping sites, a change in level in the basement must be provided to achieve this maximum 1.2m height. • Setbacks from front, side and rear boundaries to basement podiums - where height of basement podium is less than 1.2m above natural or finished ground level, basement 	<ul style="list-style-type: none"> • Basement is located below ground and extends to boundaries 	<p>Yes</p>

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
podium may extend to the property boundary.		
<ul style="list-style-type: none"> Ventilation grills must be integrated into the design of the façade of the building to minimise their visual impact. 	<ul style="list-style-type: none"> Mechanical ventilation to the roof proposed 	
<u>6.7 Communal open space</u>	Not required	N/A
<u>6.8 Private open space</u>		
<ul style="list-style-type: none"> Private open space (POS) should be sited in a location which provides privacy, solar access, and pleasing outlook and has a limited impact on neighbours. Design private open spaces so that they act as direct extensions of the living areas of the dwellings. Clearly define private open space through planting, fencing or landscaping features. Screen private open space to ensure privacy. <p>Where POS is provided in the form of a balcony, the following requirements must also be met:</p> <ul style="list-style-type: none"> Avoid facing side setbacks; min area of 12sqm and minimum depth of 2.4 metres. primary balcony of at least 70% of the dwellings must receive a min 3 hours of direct sunlight between 9.00am and 3.00pm on June 21. Balconies must be designed and positioned to ensure sufficient light can penetrate into the building at lower levels. 	<ul style="list-style-type: none"> Proposed POS is provided on L11 in the form of terrace areas. These are accessible from main living areas and are large. Impermeable screens are required around the perimeter of the POS areas to provide comfortable wind conditions for users. Mid winter solar access to southern unit POS will be insufficient 	No
<u>6.9 Overshadowing</u>	<ul style="list-style-type: none"> The shadow diagrams supplied with the application indicate that the development will cast shadows towards the south-west through to south-east on 21 June. No nearby dwellings/units will be unreasonably affected by overshadowing. 	Yes
<u>6.10 Solar access</u>		
<ul style="list-style-type: none"> Maximise the number of apartments with a dual orientation Living rooms and POS of at least 70% of apartments should receive a minimum of 3 hours of direct sunlight between 9.00am and 3.00pm 	<ul style="list-style-type: none"> Levels 11 and 12 are split from east-west so that the units have either a northern or southern orientation. Southern unit will not receive sufficient mid winter solar access to living areas or external terrace area. 	No

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>6.11 Natural ventilation</u> <ul style="list-style-type: none"> • Building depth of between 10 and 18m; maximum depth of 21m measured from the outside of the balcony. • Minimum of 60% of all units shall be naturally cross ventilated • 25% of kitchens within a development must have access to natural ventilation • Single aspect units must be limited in depth to 8m from a window 	<ul style="list-style-type: none"> • The maximum depth of the building through L11 and L12 is 18.950m measured north-south from the external enclosing walls. Depth is greater than 21m inclusive of terrace areas. Natural cross ventilation available to both units. Kitchens have access to natural ventilation. 	Yes
<u>6.12 Visual privacy</u> <ul style="list-style-type: none"> • New buildings should be sited and oriented to maximise visual privacy between buildings through compliance with minimum front, side and rear setback / building separation requirements • Internal layout of buildings should be designed to minimise any direct overlooking impacts occurring upon habitable rooms and private balcony / open space courtyards 	<ul style="list-style-type: none"> • The layout of the units prevents internal overlooking between units. POS areas are divided by common wall 	Yes
<u>6.13 Acoustic Privacy</u> <ul style="list-style-type: none"> • Residential apartments should be arranged in a mixed use building, to minimise noise transition between apartments by: <ul style="list-style-type: none"> - Locating busy, noisy areas next to each other and quieter areas, next to other quieter areas (eg living rooms with living rooms and bedrooms with bedrooms); - Using storage or circulation zones within an apartment to buffer noise from adjacent apartments, mechanical services or corridors and lobby areas; and - Minimising the amount of party (shared) walls with other apartments. • All residential apartments within a mixed use development should be designed and constructed with double-glazed windows and / or laminated windows, solid walls, sealing of air gaps around doors and windows as well as insulating building elements for doors, walls, roofs and ceilings etc; to provide satisfactory acoustic privacy and amenity levels for occupants within the residential and / or serviced apartment(s). • Noise transmission from common corridors or outside the building is to be minimised by providing seals at entry doors. 	<ul style="list-style-type: none"> • Units may have an acceptable level of acoustic privacy subject to appropriate insulation etc being employed • Acoustic treatment between floors will be in accordance with the requirements of the BCA. Entry seals should be provided to prevent noise entry from lobby – this could be conditioned if consent was granted. • Noise transmission from neighbouring roadways and public areas not expected to unreasonably impact on residential amenity 	Yes

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>6.14 Storage</u> <ul style="list-style-type: none"> 3 bedroom or larger units require 5sqm area/ 10 cubic metres of storage. 	<ul style="list-style-type: none"> Provision has been made for large storage areas within the basement (B2 and B3) to service the two residential units. 	Yes

Part 7 – Planning Controls for Special Areas

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>7.1 Special areas with heritage items</u> <ul style="list-style-type: none"> Development within the curtilage of a listed item or which will impact upon the setting of a heritage item is subject to the following provisions:- <p>Objectives</p> <p>a) To facilitate the conservation and protection of heritage items and Heritage Conservation Areas and their settings.</p> <p>b) To reinforce the special attributes and qualities of heritage items by ensuring that development has regard to the fabric and prevailing character of the item or special area e.g., scale, proportions, materials and finishes.</p> <p>c) To conserve, maintain and enhance existing views and vistas to buildings and places of historic and aesthetic significance.</p> <p>Controls</p> <ul style="list-style-type: none"> For sites in the vicinity of heritage items or Heritage Conservation Areas, an assessment of the impact of the proposal on the setting of nearby heritage items or Heritage Conservation Areas is to be undertaken. Relevant criteria to be considered will vary for each proposal depending on the nature of development, the proximity of the development to surrounding heritage items and conservation areas as well as other factors. For this reason, each proposal will need to be considered on a case by case basis using the following general principles: <ul style="list-style-type: none"> a) Scale. The scale and bulk of any new building or work must be in scale with the original building and new development must not obstruct important views or vistas of the item. b) Siting. If the existing street façade of the building is sympathetic to the character of the street, then alteration must be avoided. New work is best located to the rear or side of the building. c) Architectural form. The basic architectural form of any new work needs to respect what exists. Issues to consider are the roof form, proportion and location of windows and doors. 	<ul style="list-style-type: none"> The subject site is located within the vicinity of a number of heritage items. The proposal has been considered by Council's Heritage Advisor who considers the design to be unacceptable. This view is shared by the Design Review Panel and the independent urban designer engaged by Council to consider the design. 	No

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<p>d) Architectural detailing. It is important to be aware of the particular era and architectural style of the building or buildings and make sure that any proposed changes are contextual to the period. Overuse of historical architectural features on new work should be avoided, with preference given to uncomplicated interpretive forms and detailing.</p> <p>e) Materials and finishes. New materials and detailing must be compatible with the original and consideration must be given to the colour, texture and type of materials and finishes.</p> <p>f) Use. The best use for a building is usually the one for which it is built. Where this is not possible, a use sympathetic to the layout of the building and requiring minimal alterations will be more compatible.</p> <p>g) Original fabric. Minimise alterations to the original fabric and where possible, repair rather than replace individual elements, such as windows and doors.</p> <p>h) The aging process. The patina of age on a building must be retained wherever this does not present a public safety risk.</p> <p>i) Curtilage. It is necessary to identify a curtilage that enables the heritage significance of the item to be retained.</p> <p>j) Infill development. The key to successful infill development adjacent to a heritage item is reflected in design where the infill is of similar mass and character to the adjacent heritage building/s. This may comprise use of the vertical (versus square) windows, verandas, balconies, positive roof pitches (i.e. 25 to 35 degrees) and general façade detailing. Buildings and landscaping may establish a character of an area and provide a sense of continuity and recognised community value. Unsympathetic infill will disrupt the unity of a group of buildings and may spoil the existing character. Architectural 'good manners' are important in areas of special character. An infill building must not precisely imitate its neighbour but use recognisable tools such as massing, scale, setback and orientation, detailing and materials, roof forms and coursing lines to complement adjacent heritage items.</p> <p><u>7.2 Special areas and Development Standards</u></p> <p><u>7.5 Design Excellence</u></p> <p><u>7.5.1 Design Review Panel</u></p> <ul style="list-style-type: none"> Design review required for buildings >35m in 	<ul style="list-style-type: none"> N/A – site is not located within an identified special area within the DCP A Design Review was conducted. The report of the Panel forms Attachment 5. 	<p>N/A</p>

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
height. • Design Review Panel will consider whether the development exhibits design excellence having regard to the matters identified in Clause 8.5 of WLEP 2009.		

Part 8 – Works in the Public Domain

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
Any development requiring works to be carried out within the public domain in the Wollongong City Centre will be subject to compliance with the requirements of the Wollongong City Centre Public Domain Technical Manual at Appendix 2 to this DCP and any other specific Council requirements.	The works proposed within the two street frontages are inconsistent with the provisions of the Public Domain Technical Manual.	No

PART E – GENERAL (CITY WIDE) CONTROLS**CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY**

The development has been designed to meet the requirements of the BCA and relevant standards. Compliant access may be available from the street frontages to the ground floor of the building if footpath/building level transitions are resolved.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The principles of CPTED, being natural surveillance, access control and ownership (territorial reinforcement) have been considered. The applicant has provided a CPTED report which addresses casual surveillance and sight lines, use mix and activity generators, territorial reinforcement and space management.

As outlined in Section 1.4.1, Council's Community Safety Officer has some concerns regarding the pedestrian links proposed. The urban design review recommends a reconfiguration of ground floor activities/ uses to improve activation of the north-south pedestrian link which may reduce crime risk and improve amenity in this area.

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.1 Lighting</u>	The applicant indicates that lighting of the pedestrian plaza located on the eastern side of the building will be provided – inclusive of high level and low level lighting. The vehicular entry and main lobby area will also be illuminated at night time Consent can be conditioned to ensure appropriate lighting including under-awning lighting, lighting of pedestrian plaza and the like. Lighting within the car park should also be required.	Yes, with conditions
<u>5.2 Natural surveillance and sightlines</u>	The landscape plan provides for low level planting and 'clean stem' trees within the pedestrian	Could be improved

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
	<p>plaza to maintain adequate visibility throughout the plaza. Applicant's CPTED report refers to surveillance being provided from neighbouring Corporate Square building, from the street frontage and from within the building. As noted elsewhere, only limited activation of the plaza from the lobby and Corporate Square is likely. Limited natural surveillance from lobby into plaza is expected</p> <p>The indicative east-west pedestrian link to the south of the building is not desirable.</p>	

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.3 Signage</u>	<ul style="list-style-type: none"> No signage is identified. 	N/A
<u>5.4 Building design</u> <ul style="list-style-type: none"> Building Entrances Building Design Material and Fixtures Storage Areas Sightlines Lighting Car Parking 	<ul style="list-style-type: none"> The applicant indicates that appropriate lighting will be utilised. Surveillance of the front pedestrian entrances will be provided from the street frontage and from inside the building. Security swipe card system to be used to access commercial/residential levels and basement car park Finishing materials will be durable. Main pedestrian entrance not located on primary street frontages. Access to residential units will be via common lift/lobby. This is not ideal but acceptable given only 2 units are proposed. Disabled car spaces are located near to the lifts. 	Yes and no
<u>5.5 Land use mix</u>	<ul style="list-style-type: none"> Business/retail premises and shop top housing are appropriate uses for the B3 zone. 	Yes
<u>5.6 Landscaping</u>	<ul style="list-style-type: none"> Landscape plan submitted with the DA provides for some street tree planting as well as planting within the pedestrian plaza area to provide shade and ambience without providing concealment opportunities. 	Yes
<u>5.7 Spaces safe from entrapment</u>	<ul style="list-style-type: none"> The pedestrian plaza could be improved Potential entrapment area near basement ramp 	No
<u>5.8 Management and maintenance</u> <ul style="list-style-type: none"> Graffiti Protection Robust Materials Protective Coatings Sturdy Hardware Hardwearing lighting Regular prompt maintenance 	<ul style="list-style-type: none"> Durable finishing materials proposed. Regular and ongoing management of landscape beds will be required. 	Yes

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.9 Public open space and parks.</u>	N/A	N/A
<u>5.10 Community facilities</u>	N/A	N/A
<u>5.11 Bus stops and taxi ranks</u>	N/A	N/A
<u>5.12 Public toilets</u>	N/A	N/A

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

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>7.1 Car Parking, Motor Cycle, Bicycle Requirements and Delivery /Servicing Vehicle Requirements</u> <ul style="list-style-type: none"> Schedule 1 parking rates; all car parking, motorcycle and bicycle requirements must be fully provided on-site. 	<ul style="list-style-type: none"> Car parking has been addressed above. Motor cycle, bicycle and car parking provision is compliant. On-site access is not provided for a large rigid truck into the basement as required. Smaller service vehicles can access basement. Interim service/waste collection arrangement proposed within allotment to the south until such time as 'Stage 1' building is constructed. 	Yes
<u>7.2 Disabled Access and Parking</u>	<ul style="list-style-type: none"> 3 disabled parking spaces are provided; within easy access of lift core. 	Yes
<u>7.3 Bicycle Parking</u> <ul style="list-style-type: none"> Provision of bicycle parking 	<ul style="list-style-type: none"> 60 bicycle spaces have been provided. Unclear where/how customer/visitor bikes will be stored 	Yes
<u>7.6 Car Parking Layout and Design</u> <ul style="list-style-type: none"> The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard. Vehicles must be able to enter and leave the site in a forward direction. Pedestrian and vehicular entrances are to be separated 	<ul style="list-style-type: none"> Car parking dimensions, manoeuvring arrangements etc have been designed in compliance with AS2890.1. All vehicles are able to enter and exit the site in a forward direction. Separate pedestrian access available via main lobby. 	Yes
<u>7.7 Basement Car Parking</u> <ul style="list-style-type: none"> A min 2.4m headroom height shall be provided. If waste collection vehicles will be entering the basement, the basement needs to be designed with the appropriate height and manoeuvring space to allow vehicles to exit in a forward manner. 	<ul style="list-style-type: none"> A basement height of 3.25m is proposed No waste collection vehicles will be entering the basement 	Yes
<u>Section 9: Loading/Unloading Facilities and Service Vehicle Manoeuvring</u>		

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>9.1 General</u> <ul style="list-style-type: none"> The minimum loading dock requirements are: Residential flat building: 1 designated loading/unloading area Schedule 1 identifies the requirement of a large rigid vehicle for the servicing of the proposed development. The dimensions of the loading area for a large rigid vehicle are: Min length: 12.5m, Min height: 4.5m <u>9.2 Loading/ Unloading and Manoeuvring Area Requirements</u> <ul style="list-style-type: none"> All servicing vehicles must be able to manoeuvre entirely on-site and enter and leave the site in a forward direction. All truck turning or manoeuvring areas must be separate from areas of normal pedestrian or vehicular traffic. All loading dock facilities must guarantee satisfactory on-site manoeuvring areas for trucks in accordance with AS2890.2. 	<ul style="list-style-type: none"> Loading dock not proposed. As noted elsewhere, a large communal waste collection and service area is to be provided within the 'Stage 1' building fronting Stewart St. Once constructed, this will service the overall development holding. Interim waste collection area proposed to south of building; sufficient large vehicle manoeuvring available 	No - interim arrangement however proposed

CHAPTER E5 - BASIX (BUILDING SUSTAINABILITY INDEX)

BASIX certificates have been provided in respect of the residential units as required by the SEPP.

CHAPTER E6 - LANDSCAPING

A landscape plan has been submitted with the development application, prepared by a qualified landscape architect. Some aspects of the landscape scheme have been criticised by Council's Landscape Division and in the urban design review.

CHAPTER E7 - WASTE MANAGEMENT

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
----------------------------	----------------	-------------------

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.1 General</u> <ul style="list-style-type: none"> Site Waste Minimisation and Management Plan (SWMMP) required to be submitted 	<ul style="list-style-type: none"> A SWMMP accompanies the DA as required. 	Yes
<u>5.1 Demolition</u> <ul style="list-style-type: none"> A completed Site Waste Minimisation and Management Plan (SWMMP) shall accompany any DA proposing demolition. Pursue adaptive reuse opportunities of buildings/structures. Sorting etc of materials to encourage recycling or reuse Identify all waste likely to result from the demolition and opportunities for reuse of materials. Minimise site disturbance, limiting unnecessary excavation. 	<ul style="list-style-type: none"> SWMMP provided 	Yes
<u>5.2 Construction of Buildings or Structures</u> <ul style="list-style-type: none"> A SWMMP required. Encourage reuse and recycling of materials Minimise site disturbance and limit unnecessary excavation. Lawful disposal of waste materials 	<ul style="list-style-type: none"> SWMMP provided 	Yes
<u>5.6 Mixed Use Development</u> <ul style="list-style-type: none"> A complete Site Waste Minimisation and Management Plan shall accompany the development application. Controls for Residential Flat Buildings apply to the residential component of mixed-use development; the controls for Commercial Developments apply to the non-residential component of mixed-use development. Mixed Use development must incorporate separate and self-contained waste management systems for the residential component and the non-residential component. In particular, the development must incorporate separate waste/recycling storage rooms/areas for the residential and non-residential components. A garbage storage room at the basement level must be provided for mixed use developments The garbage storage room must be designed to accommodate the number of bins required for the development. The storage room must be located in a position which is accessible by all residents for the depositing of waste and for the relocation of bins to the collection position. 	<ul style="list-style-type: none"> A SWMMP accompanies the DA as required by the DCP. Refer to assessment of residential units above A communal waste storage room is to be provided within the basement for the commercial and residential components of the development. The room contains a waste compactor and the applicant indicates that waste will be managed by the building janitor who will be responsible for moving bins to the collection area. Applicant contends that it is not necessary to provide separate waste storage and collection arrangements for the residential component of the development given that only 2 residential units are proposed. 	Yes

CHAPTER E11 - HERITAGE CONSERVATION

As mentioned elsewhere within this report, the site is located within close proximity of a number of heritage items.

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<p>14 Development in the vicinity of a heritage item</p> <ul style="list-style-type: none"> • Development on land adjacent to or within the vicinity of a heritage item or a heritage conservation area should not detract from the identified significance or setting of the heritage building or the heritage conservation area. • Where development is proposed adjacent to or within the vicinity of a heritage site or heritage conservation area, the following matters must be taken into consideration:- <ul style="list-style-type: none"> ○ The character, siting, bulk, scale, height and external appearance of the development; ○ The visual relationship between the proposed development and the heritage item or heritage conservation area; ○ The potential for overshadowing of the adjoining heritage item or any building within a heritage conservation area; ○ The colours and textures of materials proposed to be used in the development; ○ The landscaping and fencing of the proposed development; ○ The location of car parking spaces and access ways into the development; ○ The impact of any proposed advertising signs or structures; ○ the maintenance of the existing streetscape, where the particular streetscape has significance to the heritage site; ○ The impact the proposed use would have on the amenity of the heritage site; and ○ The effect the construction phase will have on the well being of a heritage building. 	<ul style="list-style-type: none"> • The proposal has been considered by Council's Heritage Advisor who has raised numerous concerns in relation to the proposal. These views are shared by the Design Review Panel and the independent urban designer who undertook an appraisal of the proposal. 	No

Development in the vicinity of a heritage item should give strong regard to any significant views to and from the heritage item or heritage conservation area and any public domain area.

CHAPTER E13 - FLOODPLAIN MANAGEMENT

The site is identified as being flood prone. Council's Stormwater Division has considered the issue of flooding and has raised no concerns in respect of this issue.

CHAPTER E14 - STORMWATER MANAGEMENT

A Stormwater Drainage Plan has been submitted with the DA. The stormwater plan has been considered by Council's Stormwater Division – refer to Section 1.4.1.

CHAPTER E20 - CONTAMINATED LAND MANAGEMENT

Discussion on this issue is contained within Section 2.2.3 in relation to SEPP 55.

CHAPTER E21 - DEMOLITION AND ASBESTOS MANAGEMENT

A demolition plan has been submitted along with a site waste minimisation and management plan.

The applicant indicates that any potential hazardous material will be removed in accordance with WorkCover and any other applicable requirements.

CHAPTER E22 - SOIL EROSION AND SEDIMENT CONTROL

If the application were to be approved, conditions could be imposed in relation to the employment of erosion and sedimentation controls during construction.

2.4.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2010)

A Section 94A levy will apply if this application is approved.

2.5 SECTION 79C 1(A)(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

There are no planning agreements entered into or any draft agreement offered to be entered into under Section 93F of relevance to the proposed development.

2.6 SECTION 79C 1(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

Clause 92 of the Regulation prescribe the following 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 would apply if the consent authority was of a mind to approve the application.

The site is located within the NSW Coastal Zone however the NSW Coastal Policy 1997 only applies to the seaward part of the LGA.

2.7 SECTION 79C 1(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT 1979),

None applicable.

2.8 SECTION 79C 1(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

The proposed development does not relate well to its setting and does not exhibit design excellence as discussed at length throughout this report.

Access, Car parking, Transport and Traffic:

The site is well located with regard to public transport. Sufficient car parking is proposed within the development and provision has been made for motorbike and bicycle parking as required. Interim servicing arrangements are generally acceptable.

The proposal is likely to generate significant traffic volumes, however this can be readily absorbed into the local network without adverse impact on the performance of nearby intersections.

Public Domain:

The development will have some positive impacts on the public domain. Firstly, no additional vehicular crossings are proposed, with vehicular access to be obtained via the Kembla Street frontage of the site. This will be shared with the vehicle entry into the Mission Australia building and car park located in the south-western corner of the site. Other redundant footpath crossings will be removed, which will assist in improving pedestrian safety and amenity.

The proposal does not exhibit a high standard of architectural design as required by the LEP.

Wind effects from the north-facing sloping façade may impact on pedestrian amenity.

Awnings are proposed to the street frontages though the effectiveness of these in providing weather protection is questioned.

Transitions between existing footpath levels and the proposed ground floor levels are not well resolved. The use of planter beds and steps within the front building setback is undesirable.

Some street tree planting is proposed, and some existing trees located within the footpath will be retained by the proposal.

Shadow diagrams were provided with the proposal which indicate that the development will cast a lengthy shadow. The public footpath on Kembla Street will be in shadow for most of the morning during Winter. This is not considered to be unreasonable however given the height limits permitted in this area.

Provision of a north-south pedestrian plaza will improve permeability however the link will not be complete and may not be sufficiently activated by uses proposed within the building. Management of the space has not been sufficiently explored and concern is that the space will become a security / crime risk.

Utilities:

It is expected that existing utilities available to the site can be augmented to support the proposal. It is noted that an existing substation within the site is proposed to be relocated – no concerns have been raised in relation to this aspect of the proposal by Integral Energy.

Heritage:

There are a number of heritage items within close proximity of the site, the setting of which may be affected by the proposal. The form and architectural expression of the proposal will draw attention to itself and thereby lessen the prominence of the heritage and civic items it faces.

Water:

Servicing- 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 would be required prior to construction.

Water quality impacts - no adverse water quality impacts are expected as a result of the proposed development. If the consent authority was of a mind to approve the application, conditions could be imposed in this regard. Suitable conditions should also be imposed to prevent adverse impacts on groundwater.

Usage - in terms of water usage, if the consent authority was of a mind to approve the application, conditions could be imposed requiring the use of water efficient fittings and fixtures and the implementation of rainwater harvesting.

Soils:

Soil resources may be impacted during construction. If the consent authority was of a mind to approve the application conditions could be imposed requiring the implementation of suitable erosion and sedimentation controls during construction.

Specific conditions should be imposed also in relation to protection of excavations and the like to prevent any impacts on neighbouring buildings and public safety.

Air and Microclimate:

Some changes to wind conditions can be expected in the immediate area as a result of the proposed building. Mitigation measures are proposed to ensure that wind conditions remain acceptable however as noted above, the wind screen proposed on the edge of the building base may have little effect in blocking wind blowing down the face of the northern façade. This may impact on pedestrian amenity.

Overshadowing impacts of the development will not be unreasonable.

Flora and Fauna:

There is no suitable habitat on site for any significant flora or fauna.

Some street trees are proposed to be removed and replaced.

Construction Waste:

The applicant has provided a waste management plan in relation to the demolition and construction phases.

Ongoing Waste Management:

The applicant has provided an operational waste management plan.

Energy:

The applicant indicates that the building has been designed to achieve 4 stars under the National Australian Built Environment Rating System (NABERS). If the consent authority was of a mind to approve the application, conditions could be imposed requiring the use of energy efficient fittings, fixtures and appliances.

Noise and vibration:

Noise and vibration impacts are likely to be significant during the construction of the building. Excavation is expected to encounter hard bedrock; geotechnical guidance is recommended for the selection of excavation techniques to minimise noise and vibration nuisance.

Long term noise impacts are not expected once the development is complete.

Natural hazards:

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

The site is known to be flood affected. This issue has been considered by Council's Stormwater Section who has raised no concerns in this regard.

Safety, Security and Crime Prevention:

This issue has been discussed at length above.

Social & Economic Impacts:

The proposal will provide additional commercial floor area within the Wollongong CBD which will support economic growth and the creation of additional employment opportunities. The form and finish of the development however does not respond adequately to its setting or the city centre controls which seek to achieve high quality development in the CBD.

Similar floor area (and thus job opportunities) could be achieved with a redesign which responds to the controls contained within the city centre chapter of the DCP and addresses the concerns raised by the Design Review Panel and in the urban design appraisal. This would have improved social and economic outcomes for the city centre which is sought by the Wollongong City Centre Vision 2007, WLEP 2009 and WDCP 2009. The Vision statement for the city centre identifies that economic development within the city could be bolstered through improving the quality of building stock and urban design within the city, making it an attractive and desirable place to work and live.

Construction:

Construction impacts are likely to be significant given the scale of development proposed. Construction impacts can be managed however and if the consent authority was of a mind to approve the application, it is recommended that conditions be imposed in relation to matters such as hours of work, construction vehicles parking, implementation of erosion and sedimentation controls, impacts on the road reserve, protection of excavations, impacts on neighbouring buildings, and the like.

Acid sulphate impacted groundwater is expected to be encountered during excavation which will require management. The depth of excavation will encroach into the zone of influence of foundations of neighbouring structures and for this reason, if the consent authority was of a mind to approve the application, conditions could be imposed in relation to protection of nearby buildings. Some hard bedrock will need to be removed; geotechnical guidance is recommended for the selection of excavation techniques to minimise noise and vibration nuisance.

If the consent authority was of a mind to approve the application, an additional condition could be attached to any consent granted that WorkCover be contacted for any demolition or use of any crane, hoist, plant or scaffolding.

2.9 SECTION 79C 1(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposed uses are permissible in the B3 zone. The design however does not appropriately relate to the setting and due to its form and architectural expression will lessen the prominence of the heritage and civic items it faces.

The design is not of a sufficiently high standard as expected for a significant site within the CBD.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.10 SECTION 79C 1(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising Procedures. There was one (1) objection received at the conclusion of the notification period from Aldi Stores, the owner of a nearby supermarket. The main issues identified in the submission are discussed below:-

1. Car parking

Car parking is limited within the CBD and the Aldi car park is often used by non-Aldi customers. Aldi seeks to ensure that sufficient car parking is provided within the development, and appropriately sign

posted, to minimise any over flow parking car parking requirements that may result in the use of the nearby Aldi car park which may be considered as a convenient alternative. The submission notes that car parking provision within this development and that approved within 'Stage 1' is compliant with applicable controls.

Aldi requests that a condition be imposed requiring the provision of 206 car spaces and that car parking conflicts be minimised within the car park through the appropriate allocation of car parking to separate uses, use of appropriate signage identifying car parking allocation and a car parking management plan.

2. Construction Impacts

Construction of the development will extend over a lengthy period of time and may impact on Aldi if insufficient provision is made for construction car parking. Aldi requests that a condition be imposed requiring a construction traffic management plan to be submitted to and approved by Council.

Comment:

If the consent authority was of a mind to approve the application, the conditions requested by Aldi could be imposed.

2.11 SECTION 79C 1(E) THE PUBLIC INTEREST

The proposal departs in numerous respects from the controls contained within Chapter D13 of Wollongong DCP 2009 and does not exhibit a sufficiently high standard of design as required for the Wollongong City Centre within WLEP 2009. On this basis, the proposal is not considered to be in the public interest.

3. CONCLUSION & RECOMMENDATION

The proposed development has been assessed having regard to the relevant matters for consideration prescribed by Section 79C of the Environmental Planning & Assessment Act 1979. The proposed development is permitted with consent and is generally consistent with relevant environmental planning instruments. The numerical provisions of Wollongong LEP 2009 are satisfied by the proposal however the development does not exhibit a sufficiently high standard of design excellence to warrant support. The Design Review Panel's concerns regarding the proposal remain largely unresolved and an independent urban designer engaged by Council to examine the proposal has identified numerous design flaws which require a redesign of the development.

The proposal does not comply in full with the relevant chapters of Wollongong DCP 2009 and departs in a number of respects from the controls contained with the chapter relating to the Wollongong City Centre. The site is large and in a significant position in relation to numerous heritage items and the civic precinct of the city centre. An improved design could be arrived out without compromising floor area, whilst improving the public domain and the relationship with nearby buildings.

The applicant has been provided with the opportunity to amend the proposal to address the design concerns raised however made minimal changes to the plans. It is now appropriate for the application to be determined.

It is recommended that the Joint Regional Planning Panel refuse Development Application 2010/1682 pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, for the following reasons:-

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the proposed development is inconsistent with the objectives development in the Wollongong City Centre [specifically objectives (e) and (h)] identified in Clause 8.1 of Wollongong Local Environmental Plan 2009.
2. Pursuant to Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the consent authority is not satisfied, pursuant to Clause 8.5 of Wollongong Local Environmental Plan 2009, that the proposal exhibits design excellence.

3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the proposal does not comply with Clause 8.6(2)(a) of Wollongong Local Environmental Plan 2009. The consent authority is not satisfied, pursuant to Clause 4.6(a)(ii) of WLEP 2009, that the proposed development will be in the public interest because it is consistent with the objectives of the standard contained within Clause 8.6(2)(a). The variation to the southern boundary is unjustified and is inconsistent with the objectives of Clause 8.6(2)(a).
4. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development does not comply in full with the provisions of Chapter D13 (Wollongong City Centre) of Wollongong Development Control Plan 2009 in the following regards:-
 - Clause 2.2 - Building to street alignment and street setbacks
 - Clause 2.4 - Building depth and bulk
 - Clause 2.5 - Side and rear building setbacks and building separation
 - Clause 2.6 - Mixed use buildings
 - Clause 2.8 - Landscape design
 - Clause 3.2 - Permeability
 - Clause 3.3 - Active street frontages
 - Clause 3.4 - Safety and security
 - Clause 3.5 - Awnings
 - Clause 3.8 - Building exteriors
 - Clause 4.2 - Pedestrian access and mobility
 - Clause 6.8 - Private open space
 - Clause 6.10 - Solar access
 - Clause 7.1 - Special areas with heritage items.
5. Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposal does not comply in full with Chapter E2 (Crime Prevention Through Environmental Design) of Wollongong Development Control Plan 2009.
6. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposal does not comply in full with Chapter E11 (Heritage Conservation) of Wollongong Development Control Plan 2009.
7. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will not enhance the vitality, character or appearance of the built environment within the city centre.
8. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development is unsatisfactory with regard to stormwater management.
9. Pursuant to Section 79C(1)(d) and (e) of the Environmental Planning & Assessment Act 1979, having regard to the above reasons for refusal, the proposed development is considered to be contrary to the public interest.

4. ATTACHMENTS

1. Aerial Photograph of the Site and Surrounds
 2. Zoning Extract
 3. Plans
 4. Applicant's Variation Statement in relation to Clause 8.6 of WLEP 2009
 5. Design Review Panel's comments
-

6. Independent Urban Design Review