

JRPP No:	2011NTH013
DA No:	Armidale Dumaresq Council DA-108-2011
PROPOSED DEVELOPMENT:	<p>Development: New Courthouse Building.</p> <p>Address: Part of property known as 96-98 Faulkner Street being Part Lots 7 & 8, Section 2 DP 758032.</p>
APPLICANT:	NSW Department of Attorney General and Justice c/- Thinc Projects.
REPORT BY:	Stephen Gow, FPIA, Director Planning and Environmental Services, Armidale Dumaresq Council.

Further Application Details:

DA Lodgement Date:	27 April 2011
Additional Information received? / date?	Yes, up to and including 25 May 2011 (note Applicant approval for Crown DA conditions was outstanding at this date)
Estimated Construction Value of Development:	\$10,901,670
Capital Investment Value:	\$12,177,333 (excl. GST)

Glossary of terms used in this report:

BCA – Building Code of Australia

DA – Development Application

DCP - Armidale Dumaresq Development Control Plan 2007, as amended

DAGJ - NSW Department of Attorney General and Justice

EP& A Act – Environmental Planning and Assessment Act 1979 as amended

LEP – Armidale Dumaresq Local Environmental Plan 2008, as amended

SEE – Statement of Environmental Effects

SEPP – State Environmental Planning Policy

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Assessment Report and Recommendations

DA-108-2011 / JRPP Ref 2011NTH013

Executive Summary

Consideration by Joint Regional Planning Panel

The Joint Northern Region Planning Panel is the determining authority for this DA pursuant to Part 3 Divn 2, cl.13B of State Environmental Planning Policy (Major Development) 2005, as the proposed development is a Crown development for a public administration building with a capital investment value of more than \$5 Million. The capital investment value of the project, as estimated by the Applicant, is \$12,177,333 (excl. GST).

Proposal

This DA involves the construction of a new Courthouse on the site, adjoining and inter-connected to the existing Armidale Police Station complex immediately to the east.

The development is intended to provide a new Court facility for Armidale and region in place of the existing Courthouse complex nearby (Beardy, Faulkner and Moore Streets), although no future use for that complex is yet known.

The new building would have frontage to Moore Street Armidale and provide approximately 3000 square metres of accommodation and ancillary facilities on lower ground, ground and 1st floor levels.

Permissibility

The proposed development is considered to be a public administration building that is permissible with development consent pursuant to cl.23 of Armidale Dumaesq LEP 2008.

Key Issues

From the attached Assessment Report, key issues for this project can be summarised as follows:

The development involves a major investment by the NSW Government in providing new community justice infrastructure for Armidale and region. This is welcomed, as there are concerns that the current Courthouse nearby experiences significant space and other constraints for Court officials and users. Security is also of concern, especially with the separation of the current Court complex from the Police Station. Removal of the Court function from the main pedestrian thoroughfare in town is also considered advantageous by Court staff from a privacy and security viewpoint.

The development complies with statutory planning controls and is generally considered satisfactory from a policy viewpoint, except in relation to the limited provision of off-street car parking. Only six such spaces are provided and the development in any case will result in the loss of six adjacent kerbside parking spaces in Moore Street. While a public building of this size would normally require 50 parking spaces under Council's Parking Code, the assessment staff have been advised that the DAGJ's approach to parking is a non-negotiable policy of the NSW Government for new Courthouse developments throughout the State.

A further concern, although not one that it is felt can be addressed within the context of this DA, is the future fate of the heritage listed Armidale Courthouse, which is an iconic building with the Beardy Street Mall dating from 1860. No future use for that building has yet been established and this may have significant consequences for the vitality of the CBD's main street.

One submission was received as a result of public notification of the Application, raising concerns about the urban design impact of the proposed development, which features a highly contemporary design. This submission has been considered as part of the assessment and no objection has been raised by Council's Heritage and Urban Design Advisor in the context of this site.

As a result of this assessment, the proposed development is recommended for conditional consent. **Appendix 3** to this report contains all relevant conditions identified throughout the assessment process and as discussed in this report.

Recommendation

- (a) That having regard to the assessment of the Application and the concurrence of the Applicant to the proposed conditions of consent, DA-108-2011 (JRPP ref 2011NTH013) be granted conditional consent in the terms set out in Appendix 3 to this report, subject to the approval of the Applicant as required pursuant to s.89(1)(b) of the EP & A Act.**
- (b) That the person that submitted an objection in relation to the Application be notified of the determination in writing.**

Subject site and locality

The site lies within the property known as 96-98 Faulkner Street Armidale, being land immediately adjacent to (west of) the Armidale Police Station complex. The site for this application comprises Part Lot 7 and part Lot 8 in DP 758032 and has a total area of approximately 1,700 square metres, with frontage to Moore Street of approximately 34 metres and a depth of 50 metres.

The site and locality has been inspected as part of this assessment. Scanned survey plans (not to scale) and photographs of the site and locality are included in **Appendix 1**.

Lots 7 and 8 are both owned by the State of NSW. The Director of the Asset Management Branch of the DAGJ has indicated to Council in writing on 2 May 2011 that he is authorised to act as owner of the land for the purposes of endorsing owner's consent for the DA. The submitted SEE indicates that lots 7 and 8 were created as Crown reserves in 1912 for Police purposes, adjacent to the original Police Lot (Lot 6), at the corner of Moore and Faulkner Streets. Previously the land is understood to have been part of the town's market reserve.

The property is not affected by any known easements, rights of way or any other known title restrictions. However, re-alignment of the boundaries of the existing lots will be required to reflect the current and proposed future land uses in the event of the proposed development proceeding. Revised title arrangements by the Crown would not require Council's subdivision certificate. Nevertheless, in making revised title arrangements the Applicants must ensure that:

- (i) The relationship between buildings and title boundaries is in accordance with the requirements of the Building Code of Australia;
- (ii) Provision is made for necessary easements to benefit relevant utility services providers, as advised by those providers and including where required by Council as the water, sewer and road authority for the land and adjoining road reserves, pursuant to the Local Government and Roads Acts 1993;
- (iii) Provision is made for a necessary stormwater drainage easement(s) to benefit the site of the proposed development, in conjunction with an approved connection between the development and the public stormwater drainage system;
- (iv) Proposed connections between the development and adjacent property (eg the proposed link between the development and the adjacent Police Station) are legally effective and recognised.

The site slopes down in a northerly direction from Moore Street (approx 975m AHD) to its northern boundary (972m AHD). The site is largely cleared with the exception of one mature tree in the south-eastern corner and has no other topographical features of note that are likely to constrain the development.

Following the adjacent redevelopment for a new Police Station in 2005-6, when a series of single storey Police buildings on the subject site were demolished, the site was sealed and has since been used as an overflow car park and impounded vehicles yard for the Police Station to the east. A metal carport, which appears to have predated the 2005 redevelopment, remains in the middle of the site in association with this use. Current parking on the site of the proposed development, which is understood to exist by an informal arrangement with the Police, is to be relocated elsewhere when the Courthouse development proceeds.

Although the site has frontage to Moore Street, that frontage is currently fenced and access to the land is currently provided through the Police complex on lot 6, to the east, via security gates. Public utility services, including reticulated water and sewer, electricity, telecommunications and gas are available to the site.

The site is situated on the northern side of Moore Street in the Armidale CBD, between Dangar and Faulkner Streets. Moore Street runs east-west and is located in the middle of the Armidale CBD between Dumaresq Street to the north and the Beardy Street Mall to the south.

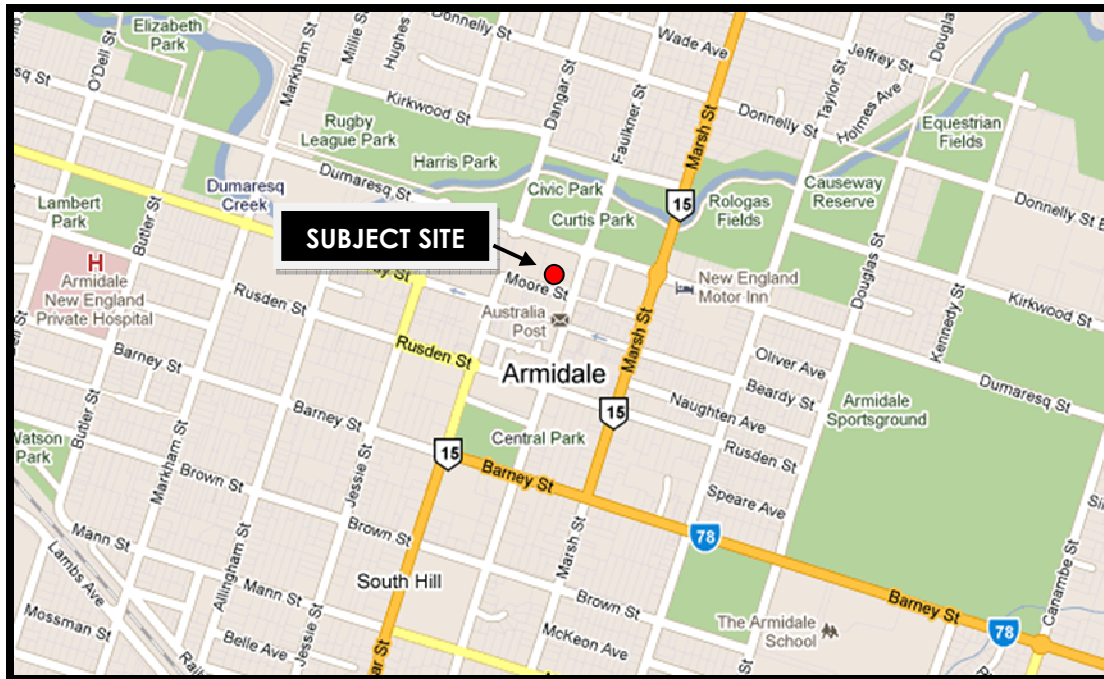
As indicated previously, the site is located immediately to the west of the Armidale Police Station, and is immediately to the east of a major (partially decked) car park for the Armidale Plaza retail centre, which occupies the entire block between Moore and Dumaresq Streets. A mixture of single and multi-storey commercial and retail buildings are located on the opposite side of Moore Street, whilst the site is bounded to the north by a Telstra exchange complex, inclusive of a mobile phone tower just adjacent to the site's northern boundary.

The site lies just north-west of the existing Armidale Courthouse complex which dates from 1860. This has frontages to Beardy, Faulkner and Moore Streets, and like the subject site is convenient to Faulkner Street and central Beardy Street, where most of the town's legal practices are located. The State Office Building lies a short distance to the north-east of the site at the intersection of Faulkner and Dumaresq Streets.

A locality air photo and plan provided by the Applicant are reproduced below.



LOCATION PLAN
NTS



LOCATION PLAN
NTS

Proposed development

The proposed development comprises:

- Preparation of the site, including removal and/or demolition of existing structures and the undertaking of earthworks and excavation as required;
- Construction of a new Courthouse building of 3,000 square metres, consisting of the following components:
 - Lower ground floor of 1,005 square metres comprising six (6) car parking spaces for departmental vehicles, internal loading area, plant room, storage areas, rain water tank, person-in-custody transfer, non-contact interview rooms and seized goods areas;
 - Ground floor of 1,515 square metres comprising three (3) courtrooms, jury assembly facilities, registry, interview rooms, public foyer and waiting areas, jury rooms and offices; and
 - First floor of 480 square metres comprising magistrates and judges' chambers, multi-purpose meeting room and ancillary offices and facilities.
- Ancillary landscaping and footpath/road works (including footpath widening works and tree planting in Moore Street), the detail of which is to be subject of a separate application under s.138 of the Roads Act 1993; and
- Connection to and relocation of utility services as necessary.

The current Armidale Court is understood to operate as a Local Court each alternate week, a District Court 12-14 weeks of the year and as a Supreme Court 2-4 venue weeks of the year. The Court also provides a venue for visiting jurisdictions such as the Land and Environment Court and other tribunals as required.

This project has been funded and is being pursued by the DAGJ in view of current space constraints for Court officials and users, security issues, especially with the separation of the current Court complex from the Police Station, as well as the outdated nature of the current Court accommodation. Removal of the Court function from the main pedestrian thoroughfare in town is also considered advantageous by Court staff from a privacy and security viewpoint.

Submitted Documents and Plans

Plans for the development including a site analysis and finishes schedule have been prepared by Suters Architects and McGregor Coxall. These are provided in **Appendix 2**. The Applicant has requested that the internal floor plans of the new Court House are not displayed in any public forum, as they are considered sensitive from a security viewpoint. The plans contained in this Appendix and used in connection the public notification of the Application have therefore had internal floor layouts blanked out. Internal layout plans provided by the DAGJ have however been consulted for assessment purposes and have been provided on a confidential basis for Panel members to consider.

In addition, a range of specialist sub-consultants reports addressing contamination, geotechnical issues, stormwater management, BCA compliance and access requirements for people with disabilities have also been provided to Council as part of the project SEE.

Specific documents and plans relied upon for this assessment are listed below.

- Architectural plans drawn by Suters Architects, numbered N22080 / DA101D, 102D, DA103E, DA201D, DA202D, DA203D, DA301D, DA302D, DA303D, DA401D, DA402D, and DA601C.
- Statement of Environmental Effects dated April 2011 prepared by ADW Johnson Pty Ltd, incorporating:
 - Survey plans by Hawkins Hook Pty Ltd;
 - Capital Investment Value Quantity Surveyor Statement;
 - Letter Certifying BCA Compliance by Design Confidence (Sydney) Pty Ltd;
 - Disability Access Report by Lindsay Perry Access and Architecture;
 - Soil and Stormwater Management Concept by Northrop Engineers Pty Ltd;
 - Preliminary Contamination Geotechnical Reports by Regional Geotechnical Solutions;
 - Landscape / Moore Street Forecourt Design by McGregor Coxall including their plans 01C and 02A.

Referrals undertaken and other approvals required

The following agencies were notified of the DA on 29 April 2011:

Referral Agency:	Response Date:	Summary of Advice / Issues:
NSW Police (CPTED)	24 May 2011	No objection.
Essential Energy	N/A	No response.

This proposal will also require separate Council approval under the Roads Act 1993 and for work in Council's road reserves. Council's acceptance of required water, sewerage and drainage work connected with the proposal is also required, as the local Water and Sewer Authority, noting however that s.69 of the Local Government Act 1993 provides that "*Section 68 [which normally requires Council approval of water, sewer and stormwater work] does not require the Crown . . . to obtain the approval of a council to do anything that is incidental to the erection or demolition of a building*".

Political Donations

At the time of lodging the Development Application the Applicant indicated, pursuant to Section 147(4) of the Environmental Planning and Assessment Act 1979, that no reportable political donation or gift had been made by the Applicant or any person with a financial interest in this Application to a local Councillor or employee of Armidale Dumaresq Council.

Assessment - Matters for Consideration

The assessment of this Development Application has been undertaken in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979, as amended. 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 application:

Section 79C(1)(a) the provisions of the following that apply to the land to which the development application relates:

(i) the provisions of any environmental planning instrument

State Environmental Planning Policies (SEPPs):

The following SEPPs have been considered in connection with this development:

SEPP No.55 – Remediation of Land

This Policy requires Council to consider whether land is suitable for a proposed use having regard to any known or potentially contaminating land use activities.

Clause	Subject	Comments
7	Contamination and need for remediation to be considered in determining development applications	<p>The site is recorded in Council's Contaminated Land Information System, however this is a historic record as a result of the remediation and validation of a former fuel storage facility on the site (lot 7) as part of the Police Station redevelopment in 2005-6.</p> <p>As part of the current DA, the Applicants engaged Regional Geotechnical Solutions which undertook a further Preliminary Contamination Assessment, including further soil sampling. The Assessment found that the site is not subject to any known contamination issues and is therefore suitable to accommodate the proposed Court.</p> <p>Thus no further investigation or remediation requirements are identified.</p>

SEPP No.64 – Advertising and Signage

No details have been provided at this time but are expected to be confined to building identification signage when information is available. This can be assessed separately at the appropriate time.

SEPP (Major Development) 2005

SEPP (Major Development) 2005 applies and Part 3 – Regional Development is relevant to this development application, as outlined below.

Clause	Subject	Comments
13B	General development to which Part applies	Part 3 – Regional Development applies pursuant to clause 13B(1)(b) as the development is a Crown project for a public administration building with a capital investment value (including design costs, as defined in the EPA Regulation, 2000) of more than \$5 million.
13F	Council consent functions to be exercised by regional panels	Pursuant to Clause 13F(1)(a), the Northern Region Joint Regional Planning Panel is the determining authority for this application.

SEPP (Infrastructure) 2007

The Application has been considered having regard to the relevant provisions of this SEPP, as follows.

Clause	Subject	Comments
45	Development likely to affect an electricity transmission or distribution network	<p>Essential Energy has been consulted in writing and has not responded within the 21 day time frame provided for response.</p> <p>An existing padmount substation/kiosk is located just outside the site boundary next to the Moore Street frontage within the adjacent car park. The project SEE advises (p.26):</p> <p><i>“existing mains running from the [electricity] kiosk in the corner of the adjoining site to the west (i.e. the public car park) across lot 7 to the Police Station will require relocation within the footpath reservation around the front of the proposed building. Council’s Engineer has advised that such an arrangement is satisfactory, subject to an easement being provided over this main in favour of the police land as part of the future boundary re-alignment of the three lots.”</i></p> <p>This issue can be addressed through a condition of consent.</p>
6 and 74, 76	Public Administration Buildings and Buildings of the Crown	<p>Divn 14 of Part 3 of this SEPP, read together with cl.6, provides for new Court buildings (as “public administration buildings”) to be permissible with consent on land in certain equivalent land use zones where designated by the Director General of the Department of Planning and Infrastructure or by the “relevant authority”, in this case the DAGJ.</p> <p>This approach has not been utilised in this case, however the development is permissible under Council’s LEP in any case (see below).</p>

Local Environmental Plans (LEPs):

Armidale Dumaresq Local Environmental Plan 2008 has been considered in connection with this development. Note this LEP is not a Standard Instrument LEP.

Clause	Subject	Comments
2	Aims	<p>Relevant aims of the LEP considered in this assessment include:</p> <p><i>(c) to ensure that development is sensitive to both the economic and social needs of the community, and</i></p> <p><i>(f) to ensure that development has regard to the principles of ecologically sustainable development.</i></p> <p>These issues are addressed in this assessment report.</p>
7	Adoption of Model Provisions	<p>The following clauses of <i>Environmental Planning and Assessment Model Provisions 1980</i> are adopted and are relevant to the proposed development:</p> <ul style="list-style-type: none">• 5(2) requires in relation to development likely to cause increased vehicular traffic on any road in the vicinity of the site, consideration of the adequacy of vehicular entrance / exit, parking, loading / unloading and pick-up / set-down of passengers.• 13 requires provision of (vehicle) loading and unloading facilities satisfactory to the consent authority.• 30 requires the availability of services (water supply and facilities for removal or disposal of sewage and drainage) or satisfactory arrangement for provision of such services. <p>Relevant comments on the likely impact of the development and the suitability of the site are included in this assessment, below.</p>
10	Zones indicated on the (LEP) map	<p>The site of the proposed development is within Zone 3(a) General Business.</p>
13	13(6) Zone objectives	<p>This clause provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land in the zone (see below).</p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
23	Zone objectives	<p>The objectives for development in Zone No. 3(a) are as follows [emphasis relevant to this DA added]:</p> <ul style="list-style-type: none"> (a) <i>to provide for the development and expansion of business activities that will contribute to local economic growth and employment opportunities, and</i> (b) <i><u>to identify the Central Business District and other established commercial business precincts in the City of Armidale as the appropriate location for retail, commercial, service and other compatible activities, in a way that respects the City's environmental attributes and heritage significance, and</u></i> (c) <i>to ensure that the Central Business District of Armidale is the main focus for commercial and retail activity and that development in other established business precincts does not compromise the role and diminish the viability of the Central Business District, and</i> (d) <i>to protect ground floor premises with street frontages in this zone for use as shops and commercial premises, and</i> (e) <i><u>to encourage a diversity of financial, commercial, civic administration, cultural and entertainment uses in the Central Business District of Armidale that contribute to its vitality as a precinct for business and community activities, and</u></i> (f) <i>to allow industry in commercial areas if it is compatible with the character of the locality and will not cause loss of amenity to occupants of nearby land, and</i> (g) <i>to allow residential development that is compatible with or benefits from its proximity to business and community activities in the town centre.</i> <p>The proposed development has been assessed having regard to these objectives. The purpose of the development is for a new public administration facility and is considered compatible with the relevant objectives for the Zone.</p>
	Development permissible with development consent	<p>A courthouse or public administration building is an innominate use under the LEP. However, any use not specifically listed as permissible without consent or as prohibited under this clause, is permissible "only with development consent", under cl. 23(3).</p>
58	Tree Preservation	<p>The proposed development would result in the loss of one tree on site subject to the LEP's tree preservation controls, being a 'Tree of Heaven' (<i>Ailanthus altissima</i>) near the site's south-east corner adjoining Moore Street.</p> <p>This is not addressed in the submitted SEE. However Council's responsible officer who advises on arboricultural matters has inspected and assessed the tree and reported on the matter on the DA file which will be tabled at the Panel meeting.</p> <p>Having regard to the matters for consideration in cl. 58(3) of the LEP, the following advice is provided:</p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
58	Tree Preservation (cont)	<p>(a) <i>the reason for the proposed work,</i> The work is necessitated by the footprint of the proposed development.</p> <p>(b) <i>the visibility and contribution of the tree or trees in the local landscape or streetscape,</i></p> <p>(c) <i>the type and rarity of the species,</i> Council's officer advises that the tree is attractive and contributes in a positive way to the streetscape, however it is also a female and has the potential to be a repository of seed that has been known to find its way into bushland.</p> <p>(d) <i>the number of trees in the vicinity,</i> This is the only tree of its size on site.</p> <p>(e) <i>whether the tree may become dangerous or damage property or utility services,</i> N/A</p> <p>(f) <i>whether new plantings are proposed or are desirable,</i> Council officer advises that the loss of this tree will be adequately compensated for by the establishment of proposed new street trees and landscaping in connection with the development.</p> <p>(g) <i>the effect of the tree or trees on local views, on solar access to properties and on local amenity,</i> Council's officer advises that the existing tree is attractive and contributes in a positive way to the streetscape</p> <p>(h) <i>any heritage significance of the tree, and</i></p> <p>(i) <i>soil conservation and erosion issues.</i> N/A.</p> <p>Council's assessment concludes that the loss of the tree would be adequately compensated for by the establishment of proposed new street trees and landscaping (see cl.59 below).</p>
59	Road and related works	<p>This clause confirms that development consent is not required for the works proposed on Moore Street as part of this project, including footpath widening and landscaping.</p> <p>This work (including new street trees) is shown on two plans lodged by the Applicant's Landscape Consultants. In the project SEE (p.19) it is indicated that a separate application under the Roads Act is envisaged for this work. The SEE also indicates:</p> <p><i>"the proponent proposes to delete six (6) on-street carparking spaces in front of the site (a security measure common to all courthouses) to then allow Council to undertake widening of the footpath and narrowing of the [road] pavement. DAGJ would then co-operate with Council to undertake other works within the road reserve in front of the site such as street tree planting and the provision of paving and street furniture."</i></p> <p>This element of the proposal, while not requiring consent in its own right, is considered critical in terms of pedestrian amenity and safety adjacent to the development site. Council is not intending to contribute to this work beyond new kerbing and guttering.</p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
61	Waste management	<p>Under this clause, the consent authority must take into consideration any of the following matters relating to waste management that are relevant to the application before granting consent to any development:</p> <p>(a) <i>re-use and recycling of building and construction materials,</i> (b) <i>re-use and recycling of household, commercial and industrial waste,</i> (c) <i>site storage requirements for construction, and for managing household, commercial and industrial waste.</i></p> <p>The project SEE states that where waste is generated, the amount of material able to re-used or recycled will be maximised, with local recyclers to be used for construction waste.</p> <p>A Construction Management Plan is required as a condition of any consent to address waste and other site management issues during the construction phase of the project.</p>
63	Solar access	<p>Under clause 63:</p> <p><i>“consent must not be granted for the purposes of erecting a building on land if, in the opinion of the consent authority, the building would significantly affect the access of solar radiation between the hours of 9 am and 3 pm Eastern Standard Time (as measured on 21 June) to existing or likely developments on adjoining land or on other land in the locality.”</i></p> <p>Midwinter shadows cast by the proposed building at the nominated times would not affect any domestic or (recreational) open space areas of the adjoining Police and car park properties, which are also zoned for commercial development. This is considered acceptable. However Moore Street will inevitably be shaded by the building given its siting and orientation. The use of a recessed colonnade at the site frontage and reduced roof height at the eastern end of the façade will help to mitigate this to a degree.</p>
67(4)	Heritage Conservation	<p>The consent authority may require a heritage impact statement in connection with a development proposal in the vicinity of a heritage item or conservation area.</p> <p>The site is located outside, but just north of, the Central Conservation Area of Armidale, and is located within 100 metres of a number of heritage items listed in Council’s LEP. These include the federation Police Station building at the corner of Moore and Faulkner Streets (96 Faulkner Street); the existing Court House complex at 100 Beardy Street; Legacy House at 89 Faulkner Street; “The Stables” at the corner of Moore and Dangar Streets; as well as several other buildings fronting Beardy Street.</p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
67(4)	Heritage Conservation (cont)	<p>Accordingly, an assessment of the impact of the proposed development on the heritage characteristics of the former Police Station was undertaken by Suters Architects and is cited at pp.17-18 of the SEE. This assessment indicates that the proposed development is unlikely to adversely impact upon the heritage significance of the former Police Station.</p> <p>The SEE notes that <i>“whilst the subject site is outside the Heritage Conservation Area, the site does have a direct visual link to a number of heritage buildings, and as such, integration of a modern building is a key aspect of the design. As outlined in the architectural statement in section 5.1, the overall composition of materials, integration of natural colour, and the scale of built form are the fundamental design elements that will ensure a modern building is successful within a heritage town and is compatible with the character of the adjacent Heritage Conservation Area.</i></p> <p><i>As agreed by Council at the pre-lodgement meeting, it is intended to use “Armidale blue” brickwork as the primary skin to the building, which will provide a contextual response to and consistency with the character of the surrounding heritage precinct. The integration of other complementary materials – such as metal, concrete and timber – then adds a modern slant to the traditional finishes of the precinct and assists in identifying the entry to the Courthouse and provides the building with its own individual character.”</i></p> <p>In his assessment of the DA, Council's Heritage and Urban Design Advisor Mr Ian Kirk has advised in a report dated 6 May 2011, which is on the Council file to be tabled at the Panel meeting:</p> <p><i>“The bulk and scale of the proposed building is consistent with the adjacent new Police Station. It is set back from the Old Police Station and will clearly be read as new work. Moore St is a commercial street of mixed scale with buildings from different periods.</i></p> <p><i>The proposed building uses a palette of colours, materials and finishes which are consistent with the character of Armidale which includes the blue brick, copper and zinc cladding and clearly contrasting contemporary materials such as concrete, steel and glass.</i></p> <p><i>The proposed building will have no impact on the Heritage significance of the adjacent Old Police Station or the Heritage Conservation Area.”</i></p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
67(4)	Heritage Conservation (cont)	<p>The SEE further notes (p.18):</p> <p><i>“ . . . a draft Archaeological Management Plan for Armidale was recently prepared by Pam Watson for Council. This was done to consolidate and expand upon previous studies done throughout the district to provide a comprehensive historic archaeological database of the city. It was also designed to identify a procedural framework to assist Council in their strategic planning and processing of development applications. Under the draft plan, the subject site is located within a precinct of archaeological sensitivity that generally conforms to central Armidale (the CBD). The plan recommends that any redevelopment within this area would require an archaeological assessment before approval.</i></p> <p><i>Whilst there are no known sites of Aboriginal heritage significance within the site as listed on the National Parks and Wildlife data base, the report also indicates that Armidale is a major centre for contemporary aboriginal people. Official and unofficial camp sites existed in different areas of the town and these need to be further researched and listed as places of significance as necessary.</i></p> <p><i>Whilst the plan has no statutory weight as yet, the proponent will consider (from a best practice and due diligence point of view) undertaking a further assessment prior to any works commencing to ensure any sites are identified and protected. This however would be subject to further discussion with Council and also subject to the agreement of the Police as owner of the land.”</i></p> <p>A recommended condition of consent is for the developer to retain the services of an archaeologist on site during any excavation works.</p> <p>Further, Council's Heritage Advisor has recommended that a Heritage and Public Art Strategy be developed for the site which also includes the existing Old Court House in Beardy Street. The strategy should include the history of Court Houses and the Legal system in Armidale and should be illustrated with plans/photographs/artefacts. This is also recommended as a condition of consent.</p> <p><i>Note:</i> <i>The issue of urban design for the project has also been raised in the objection received following public notification of the DA. This is discussed under s.79C(d), below.</i></p>

(ii) the provisions of any draft environmental planning instrument

No relevant draft instruments apply.

(iii) the provisions of any development control plan

Armidale Dumaresq Development Control Plan (DCP) 2007 applies to the land.

The Introduction – Part A - of this DCP provides that:

“We assess all applications having regard to relevant legal requirements and the merits and circumstances of each case. Where an applicant can demonstrate that strict compliance with any of our local policy requirements would be unreasonable or unnecessary, Council may vary the DCP provisions to enable specific development activity to proceed.”

The following Table outlines the relevant Chapters / provisions of the DCP that have been considered in connection with this assessment.

Chapter	Comment
B3 – Development Applications and Assessment	<p>The Application was publicly exhibited in accordance with Chapter B3. This included public advertisement in the local print media, notification a sign placed on the Moore Street frontage of the site and notification by mail to the owners of properties in the vicinity of the site.</p> <p>At the closing date for submissions on 20 May 2011, one letter of objection had been received. This is discussed under s.79C (d) below.</p>
B4 – Vehicle Parking Code	<p>Relevant objectives of this Code at Part 1.1 include:</p> <ul style="list-style-type: none">(a) <i>To ensure that adequate provision is made for off-street parking of passenger and service vehicles commensurate with the volume and turnover of all traffic likely to be generated by a development.</i>(b) <i>To reduce dependency on kerb-side parking, particularly within the Armidale Central Business District, to assist in safe pedestrian and vehicle movement.</i>(c) <i>To ensure that parking areas are safely and attractively constructed, designed and landscaped, to encourage their use by both vehicles and pedestrians.</i>(d) <i>To apply parking standards so as to recognise historic deficiencies in the provision of off-street parking on individual sites.</i>(e) <i>To encourage the provision of facilities for parking of vehicles used by people with disabilities and of cycles, within appropriate developments.</i> <p>The submitted internal plans for the proposed development show six (6) off street vehicle parking spaces on the lower ground level, including two spaces and related circulation area for use by people with disabilities, with a lift connection to the ground floor. The parking area is accessed via a single lane ramp off Moore Street and would be operated as a secure parking facility, in accordance with DAGJ policy, for “official departmental vehicles only” (including Magistrates’ vehicles - <i>Kerry Marshall, DAGJ Director Asset Management Branch, pers comm., 24/5/11</i>).</p> <p>Because of the proposed single lane ramp access, the development would need to incorporate a vehicle management system to prevent vehicle conflicts between vehicles entering or leaving the building. This could take the form of lights and/or mirrors and can be conditioned in any consent. Priority should be given to incoming vehicles.</p>

Armidale Dumaresq Development Control Plan (DCP) 2007 (cont)

Chapter	Comment
B4 – Vehicle Parking Code	<p>Council's Code normally requires 1 parking space per 40m² gross floor area for public buildings, plus one loading space per 4,000m², plus bicycle parking at 1 space per 200m² for staff and 750m² for visitors.</p> <p>Based on the floorspace of the two upper levels of the proposed building (approximately 2000m²), the following provision would be required:</p> <ul style="list-style-type: none"> • 50 off-street parking spaces; • 1 loading bay; • 10 bicycle spaces and facilities for staff use; • 3 bicycle spaces for visitors/public use. <p>The dimensional standards for parking spaces in the development would be required to comply with the relevant Australian Standard 2890 and 1428 series.</p> <p>The development clearly falls short of these requirements in terms of off street car parking provision, by 44 spaces. However the Applicant (SEE pp24-25) and the DAGJ have made it clear that for security reasons no public / visitor parking is provided in any NSW Courthouse developments, and that parking provision on site is strictly limited to a secure facility for official departmental vehicles only, as a matter of NSW Government policy.</p> <p>The effect of this policy, however, is that local public and private parking infrastructure, already subject to significant demand, will have to absorb the shortfall.</p> <p>Bicycle parking is not specifically shown on the submitted plans and it is understood would not be entertained in the secure parking area in any case. However there is the potential to provide bike racks as part of the street furniture installations proposed adjacent to the site in Moore Street and this can be appropriately conditioned in any consent.</p> <p>It is understood that routine (DAGJ) loading and unloading in connection with the use of the Courthouse would be undertaken from the secure parking area (only suitable for small vans) or in relation to prisoner transit or larger vehicles, via the adjacent Police Station car park, with provision made in the design for interconnection between the two buildings.</p> <p>Garbage and recyclables collection from the premises are to be undertaken from within the site or by other arrangement to the satisfaction of Council's Director Engineering and Works or nominee (eg kerbside wheelie bin collection by Council's contractor), to minimise potential interference with the use of Moore Street during business hours</p> <p>The issue of traffic and parking for this development generally is discussed further under s.79C (b) in relation to the impacts of the development, below.</p>

Armidale Dumaresq Development Control Plan (DCP) 2007 (cont)

Chapter	Comment
B5 – Design for Access and Mobility Code	<p>A detailed access report for the project has been prepared by Mr Lindsay Perry, and Architect and Accredited Access Consultant.</p> <p>This report addresses the relevant provisions of the Building Code of Australia (BCA) in terms of access by and facilities for people with disabilities, including consideration of the 2009 editions of the relevant Australian Standards now referenced in BCA 2011.</p> <p>As a new public building the development is expected to be fully compliant with the BCA, which is now linked to the Access to Premises Standard under the Commonwealth Disability Discrimination Act 1992. Several design issues have been identified in the consultant's report which will need to be addressed in the construction of the building to ensure compliant design is achieved.</p> <p>The proposed development provides for access between floors by lift as well as a BCA compliant stairway. Two accessible parking spaces are proposed in the lower ground floor, which complies with Council's Code requirement in relation to the proportion of accessible parking spaces provided. While these are in the secure parking area, it is understood from discussions with Mr Kerry Marshall, DAGJ Director Asset Management Branch (pers comm., 24/5/11) that arrangements can be made for jurors or other persons attending Court with a disability to have access to the basement spaces by prior arrangement. At present there are also several kerbside spaces reserved for use by people with disabilities close to the site in Moore Street.</p> <p>The Application was referred to Council's volunteer Access Advisor, who has provided a report dated 12 May 2011, which is on the Council file to be tabled at the Panel meeting. Mr Austin has noted the approach taken in the design of the new building, noting however that as this is a Crown development it will be a matter for the DAGJ and their consultants to ensure compliance in construction.</p>
B7 - Stormwater Drainage Code	<p>The submitted stormwater concept plan lodged with the SEE envisages as gravity stormwater drainage system for the site with a piped drainage line running to the north-east via a future easement north of the Police Station building to connect with the Council's stormwater system in Faulkner Street. Detailed design for this system requires Council's acceptance as the responsible authority for the public stormwater system, consistent with Code requirements. Relevant issues are addressed by proposed conditions of consent.</p> <p>Within the site, a 20,000 litre rain water tank will be provided beneath the building to capture stormwater and facilitate its re-use within the development for toilets and irrigation.</p>

Armidale Dumaresq Development Control Plan (DCP) 2007 (cont)

Chapter	Comment
D1 – Summary of Development Standards for LEP Land Use zones	<p>The proposal complies with the relevant development standards for new buildings in the 3(a) Residential zone under this Chapter, in relation to available infrastructure and building height (at 986m AHD, below the main roof ridge height of St Peter's Cathedral at 999.126m AHD).</p>
D5 - Code for Development in Armidale CBD and surrounds	<p>The Code seeks to guide future development of the Armidale CBD and surrounding Precincts, including preserving and enhancing the character of each precinct, and identifying the matters which developers and Council should take into account when considering development proposals.</p> <p>The aims of this Code are:</p> <ul style="list-style-type: none"> • <i>To encourage and facilitate development in the Armidale CBD and surrounding precincts which achieve desirable built forms;</i> • <i>To provide quality urban design solutions that complement and enhance those features of the area that provide the attraction and unique character of the area;</i> • <i>To encourage similar land uses to group together in precincts which reflect their existing land use patterns and to enhance their character and features.</i> <p>Relevant objectives of this Code are in turn concerned with the built form; Economic vitality of the area; accessibility for drivers, pedestrians, cyclists, and people with disabilities. These issues are addressed throughout this report.</p> <p>This Code has been addressed by this project including a site analysis and specifically at pp. 20-22 of the SEE. That report considers that “... <i>the proposed development is consistent with the overall aims of the DCP and achieves a high quality architectural building which fulfils the needs of the Department of Justice and Attorney-General.</i>”</p> <p>Overall, the assessment officer's analysis against the Code, an annotated copy of which is on the Council file to be tabled at the Panel meeting, is acceptable.</p> <p>Specific provisions of the Code relating to height and setback are achieved and while the Council has no FSR controls for the CBD, the density of the building, as required by Part 2 of the Code, is considered consistent with that of surrounding development.</p> <p>Following discussions with Council's Engineering and Works staff, it is also intended that the proposed improvements to the public domain adjoining the site in Moore Street would be consistent with the current Armidale C.B.D. Streetscape Design Project – Masterplan Report.</p>

Armidale Dumaresq Development Control Plan (DCP) 2007 (cont)

Chapter	Comment
D5 - Code for Development in Armidale CBD and surrounds (cont)	<p>In terms of Access and Circulation (part 2.4 of the Code) again relevant issues are discussed throughout this report, particularly under s.79C (b) below in relation to the traffic and parking impacts of the development; and in relation to the proposed pedestrian improvements adjoining the site which are intended to be undertaken in conjunction with Council programmed works in Moore Street.</p> <p>The issue of DAGJ's approach to off-street parking for Court buildings has been discussed above under Council's Parking Code. This is understood to represent Government Policy for such developments and is applicable throughout NSW.</p> <p>The site is located within the Retail Core precinct identified in Part 3 of the Code. The development is considered acceptable in terms of relevant Code provisions in particular by provide shade and shelter and a widened paved and landscaped footpath with appropriate street furniture on Moore Street.</p>

(iia) the provisions of 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

Not applicable.

(iv) the provisions of the regulations

Pursuant to clause 92(1)(b) of the Environmental Planning and Assessment Regulation 2000, the demolition of existing structures on the site is required to comply with Australian Standard AS 2601: The Demolition of Structures. This can be addressed by condition of consent.

79c (a) (v) the provisions of any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

Not applicable.

79C (b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

This assessment has been undertaken having regard to various issues, as follows:

Construction Impacts

As the project is expected to involve a lengthy construction phase and is located in a busy CBD location, with nearby residential uses in Moore Street, a detailed construction management plan should be required as a condition of any consent. This would need to address issues such as:

- Hours of building work (to be consistent with NSW State Guidelines);
- Parking and Traffic Management;
- Waste storage and management;
- Toilet facilities for builders;
- Noise and dust management and control of other potential pollutants;
- Site hoardings and public/worker safety;
- Signage.

Urban and Building Design

The proposed building is of contemporary design and the urban design impact of the proposed development has been the subject of the one objection to the application received by Council.

As discussed above the proposal has been considered by Council's Heritage and Urban Design Advisor Mr Ian Kirk, who does not object to the proposal. Although it is altogether different from the existing Courthouse, it necessarily involves contemporary architectural design input for a 21st century judicial building.

The project SEE contains the following statements of relevance on this issue:

"Design – Architectural Concept

The strength of the existing formal and rectilinear urban grid of the Armidale CBD is the primary driver for development of the buildings form and footprint. Suters' strategy seeks to embed a conceptual framework that creates a dialogue between the urban grid and the unique natural landscape of Armidale. A play on materiality, light, colour and texture of the surrounding tablelands, in particular the gorges surrounding Armidale, has allowed for the assembly of an intuitive civic building focused on user experience.

The changing nature of court buildings is represented in the hierarchy of elements in the new building. The public space, both internal and external and other ancillary spaces, have been brought to the fore and given the prominence previously reserved for the courtroom. The new local and district courtrooms are set towards the northern end of the building and while still having a strong vertical (height) presence, do not dominate the building form.

Built Form and Streetscape

An in-depth brief / site analysis was carried out to determine whether a single storey outcome could be achieved or would be appropriate. Due to the physical constraints on all sides of the site (Police Station, vehicle access, public carpark and depot) and the need to make the project viable, it was determined that the scheme would require a predominantly two storey response.

The composition of materials, balance of texture and colour, the establishment of horizontal datums and introduction of depth in key areas provides a strong and inviting civic facade to Moore Street. The appropriate integration of no less than 7 different entry/exit points and the need to limit opportunity for public loitering are key aspects of the design intent. All facades of the building have been considered to have an important contextual response 'in the round' with many views to the building from near and afar. The particularly difficult east, west and northern fringes of the site have been well considered in both their current and potential future format.

Spatial Planning

The buildings functions are clearly identified via the public access spine which links the activity of Moore Street with the aspect of the expansive views to the north. The plan is highly rational and functional in its composition and has considered both the current needs and potential future demands of the court. The conceptual framework is self evident in the plan diagrams', with the strategic location of window openings and internalised courtyards / light wells providing a quality of environment to all spaces within the building.

Urban and Building Design (cont)

External Finishes

The building will be inherently robust with the use of textured solid materials at the key public interface nodes reflecting both the solidity of the existing natural and built landscapes and the symbol of justice within the community. The use of brickwork as the primary skin to the building address provides a contextual response. The modern detailing and integration with complementary materials identifies the entry to the Courthouse and provides a modern slant on the traditional nature of the material.

The introduction of secondary materials assist with spatial definition, identity and public way-finding. The development of both artificial and natural lighting concepts in line with materials and form will further enhance the spatial quality that a civic building of this type demands.

*A materials sample palette has been prepared and is included within the architectural drawing set [contained within **Appendix 2.**] In addition, the architectural plans provide a detailed background of the design process and a graphical representation of each of the factors informing the design of the development."*

Consideration of Crime Prevention through Environmental Design (CPTED)

The Application has been assessed having regard to the CPTED Guidelines issued by the former Department of Urban Affairs and Planning (2001) and the current NSW Police "Safer by Design" Manual (2010). These documents promote the key principles of effective surveillance from buildings, access control, territorial reinforcement through design, and effective space management.

Given the nature of the building it is appropriate that detailed consideration has been given in the design to CPTED principles and security issues. Part 5.5 of the project SEE (pp.27-28) provides the following information:

"The fact the site is located immediately next to a Police Station and will be frequented by Police staff quite obviously reduces the risk of crime and improves safety for the users of the building. Nonetheless, it considered that the potential crime risk can be further minimised through the design and management of the building and by the incorporation of the following measures, which are based on the four principles outlined above:

- natural surveillance of the perimeter of the building by staff;*
- the installation of closed circuit television cameras;*
- security card access for the basement to prohibit unsupervised access by the public;*
- well located lighting and creation of clear sightlines around the building;*
- minimisation of physical barriers and entrapment spots;*
- clear signage to control pedestrian flow to inside the building;*
- provision of seating and other facilities in open, well lit areas of the building forecourt facing the street;*
- low level landscaping to avoid concealment near entrances; and*
- self-closing doors.*

Consideration of Crime Prevention through Environmental Design (CPTED) (cont)

With respect to controlling pedestrian flow, it is a requirement of DAGJ (as identified in stakeholder meeting and in the scope from DAGJ) to bring people into the site to avoid them spilling out onto street. To this end, the design of the building naturally directs people into the building. In this regard, it is generally considered that 50 square metres of forecourt/waiting area is required per courtroom, equating to 150 square metres for this development. In this instance however, over 250-300 square metres has been provided, thereby more than satisfying this criteria.

Previous discussions with the local Police Force have indicated that these measures are recognised in achieving the objectives outlined in the DoP's guidelines and as such, their incorporation into the design of the development is considered to satisfactorily address any potential crime risk posed by the proposed development.

The DA was referred to the Crime Prevention Officer at the Armidale Police Station. In her response received on 24 May 2011, which is on the Council file to be tabled at the Panel meeting, the Officer indicates that the Police have no objection to the development proposal. Certain standard recommendations are provided and have been forwarded to the Applicant for information.

Utility Infrastructure Impacts

See also 79C (c) re the suitability of the site for the development, below.

Council utility service capacity at the site is considered adequate for the project and connection to relevant services can be subject of an appropriate consent condition. Electricity and telecommunications services are also available to the site and arrangements for connection subject to negotiation with relevant providers.

Council has a Development Servicing Plan for water and sewer services, which provides for developer contributions in connection with related works/increased loading on these services, pursuant to Chapter 6 of the Water Management Act 2000 and s.64 of the Local Government Act 1993. However in State Government Guidelines on Developer Charges on Water Supply, Sewerage and Stormwater (DLWC, 2002) the NSW Government has advised that Crown development for community services including law and order projects are exempt from general developer charges of this nature. While this may be viewed as cost shifting or local community subsidisation of State infrastructure, I understand the argument from Government to be that this effective subsidy recognises the local community benefit of the facilities being provided.

Traffic and parking impacts

Moore Street is a local through-road within the CBD providing access between Faulkner and Dangar Streets. It is kerb and guttered and has a pavement of approximately 12 metres in width. Traffic volumes along the road are relatively minor in the context of other roads within the CBD, and relatively few buildings front it (essentially only those on the southern side). Given these existing conditions and the fact that only six (6) car parking spaces are to be provided within the courthouse, it is considered that only negligible traffic will be generated from within the proposed development, which can be easily accommodated by Moore Street (even taking into account the proposed narrowing of the pavement adjacent to the site) and the surrounding road network.

The location of the proposed vehicle access to the Courthouse has good sight distance in both directions, whilst the width of the road pavement in Moore Street should allow through traffic to pass vehicles turning into the site.

The proposal to remove kerbside parking from in front of the site would further improve access into the building, whilst narrowing of the Moore Street pavement in conjunction with Council should assist in slowing traffic moving past the site, thereby improving safety conditions for pedestrians. A pedestrian crossing is being considered by the parties at this point and is shown on the submitted 'Forecourt Plan' in **Appendix 2**.

However, as raised previously in connection with the assessment under Council's Parking Code, the minimal amount of parking to be provided for this project is of concern.

The current (temporary) parking for the Police vehicle holding purposes on the site of the development is to be relocated elsewhere and was not part of the formal (27 space) parking requirements for the Police redevelopment in 2005-6 (DA0405/0171). However this development would result in the loss of approximately 6 kerbside parking spaces. In that sense the project would result in a net change of zero spaces in local parking capacity.

The SEE has sought to justify this approach on behalf of the Applicant as follows (pp24-25) – in italics with assessment comments following:

- *Lack of parking for the existing Courthouse* – note that this building dated from 1860 so this is hardly a reasonable argument. Moreover that building will remain and the minimal parking there will be an ongoing constraint for future use of that building. The addition of as new Court with minimal parking will add to the existing deficiency in this area;
- *"Ample" car parking in the adjacent "public" car park to the west and in the CBD generally.* This statement is not accepted. Although there is a large car park adjacent to the site, which is available for use by the public, it is privately leased by the owners of the Armidale Plaza shopping centre from the Crown and primarily intended for use for retail customers of that complex. Moreover during weekdays it is heavily used and there is little spare capacity evident.
- *The DAGJ Policy restricting off-street parking to departmental vehicles only.* This is noted and as discussed previously in this report. The DAGJ Policy is understood to be for security reasons and also because Court traffic generation is highly variable (Mr Kerry Marshall, DAGJ Director Asset Management Branch pers comm., 24/5/11).

Once again, the approach proposed in this DA towards parking may be viewed as cost shifting or local community subsidisation of State infrastructure, as it effectively results in increased demand on other existing parking facilities in the area. This is not in accordance with the intention of Council's DCP, under which a shortfall of 44 spaces has been identified. It is accepted that not all Court areas may be used concurrently and that the site has good public transport facilities (see s79C(c) below).

Overall, the Armidale CBD has a reasonable parking provision but this is locality specific and a significant contribution is made by current free long term parking provided by retailers. That situation may not persist.

The Government's position in relation to this development also creates an unsatisfactory precedent when Council comes to require parking of other projects.

Social and Economic impacts

The Applicant's SEE advises (p.28) that the proposed development would have a positive social and economic impact on the Armidale community. Firstly, employment to be created by the project (both during construction and once operational) would be likely to result in a positive economic and social impact, although the quantum of this employment is not specified and it is not clear if staff numbers employed at the Court are intended to increase, at least initially.

However, the new, larger courthouse and associated facilities also will provide expanded judicial services in Armidale, thereby entrenching its function as a regional justice centre. The design of the first floor of the building includes voids for potential expansion of Court rooms in the future.

The new facility would provide modern accommodation for Court staff and the public, addressing contemporary security standards which, from pre-DA forums held in relation to this project, have been of concern to the DAGJ and related agencies such as Police and Correctional Services.

The SEE also argues that *"additional staff and public visiting this site will result in a multiplier effect on the local economy via the increased demand and patronage for support retail, commercial and civic services, particularly for businesses in the immediate vicinity of the site."*

The Moore Street locality will also be enhanced by road and footpath upgrading works to be undertaken by the proponent and Council, including additional street trees and street furniture.

Having said this, it must be remembered that the proposal is intended to replace the existing heritage listed Courthouse nearby in Beardy Street which Council recently resolved to nominate for inclusion on the State Heritage Register. As a result of this project and with no future occupant for the existing Courthouse yet known, there will be a potential adverse social and economic impact on the city through potential vacancy of an iconic building in the Beardy Street Mall.

This is a consequential impact of the development not addressed as part of the DA. This issue is of major concern to Council, although it appears doubtful if this alone would represent a sufficient "social and economic impact in the locality" under the Act to warrant opposing this DA. Nevertheless it is hoped the State Government will accept its responsibility as custodian of a major heritage asset in its future dealings with, or disposal strategy for, the current Court complex.

Cumulative impacts

Concern has been raised as part of this assessment in relation to the cumulative impacts of low parking provision on the site in relation to other public or private parking infrastructure in the CBD. However as advised to the assessment officer this is a matter of State Government Policy for Court developments.

Other potential environmental impacts

No other impacts of significance have been identified as part of this assessment.

79C (c) the suitability of the site for the development

The subject site is considered suitable for the proposed development for the following reasons:

- The site is zoned to permit the proposed development and is within a short distance of the existing Courthouse complex and most of the town's legal offices, so in that sense the site is considered an appropriate one being very centrally located within the Armidale CBD. Moreover the development has been specifically designed to relate closely to and interconnect with the adjoining Police complex.
- Being so centrally located, the site is well served by both public bus and taxi services which are available nearby near the intersection of Faulkner/Beardy Streets. These local services connect with the Armidale Railway Station, suburban areas of Armidale, the University and Airport. The Armidale bus interchange is also nearby at the Visitor Information Centre at the corner of Dumaresq and Marsh Streets.
- The site is likewise well served by utility service infrastructure, with electricity and telecommunications services both available to the site. Council's water main runs along Moore Street while sewerage and stormwater infrastructure are available for connection by gravity to the north/north-east. Detailed arrangements for connection to these utility services will need to be made as part of the development process.
- There are no known site hazards from Council's records. The site is not bush fire or flood prone having regard to the current flood planning level designated in cl. 37 of Council's LEP. The issue of potential contamination has been addressed earlier in this report under SEPP 55. Likewise, the site is not identified as subject to slip or spring hazard in Council's Geotechnical Code. However a geotechnical report has been provided as part of the SEE and will inform the construction process. No substantial geotechnical issues or constraints that would preclude the development have been identified in this report.

79C (d) any submissions made in accordance with the Act or the Regulations

Agency submissions

As noted previously, a submission (no objection) was received from the Police in relation to Crime Prevention issues.

Public submissions

The submitted DA was publicly exhibited in accordance with Council's DCP 2007 – Chapter B3. This included public advertisement in the local print media, a notification sign being placed on the site frontage as well as notification by mail to owners of properties in the vicinity of the site.

The period for response was from 4 until 20 May 2011.

One public submission was received during this period and in turn forwarded to the Applicant for consideration and to the Panel Secretariat for the information of Panel members. Matters raised in this submission (in italics below) and comments thereon are as follows:

1. The design of the proposed development is not in character with the general retail and office development in the Armidale CBD.

It is accepted that the proposed building has a unique and distinctive design. The new Court House is not within the Heritage Conservation Area. The context of the new building is a carpark to the west, the old Police Station further to the east and New Police Station to the North-East. Council's Heritage and Urban Design Advisor does not object to the design in this context.

2. As a consequence we are of the view the proposed development will clash with surrounding developments.

Noted, but not accepted as part of this assessment.

3. Property owners and developers in the Armidale CBD have, in the past, been required to ensure the design of developments and/or the renewal or refurbishment of existing buildings is sympathetic to the general ambience of the surrounding area and Government should also have similar requirements placed upon it.

The new Court House is not within the Heritage Conservation Area where heightened design standards are applied. Having said that, the proposal for infill development on a currently vacant site is considered to be a high quality, albeit highly contemporary, response. The modern nature of the design should not in itself preclude the approval of the project, which is likely to add visual interest and vitality to the environment in Moore Street.

4. As owners of a heritage building in the precinct of the Courthouse we consider the proposed development will detrimentally affect the value of our property.

The proposed building does not adjoin the submitter's property in Beardy Street and it is not accepted that the development would, due to its appearance, detrimentally affect the value of the other property as claimed.

5. In addition we have serious concerns as to the future utilisation of the existing Courthouse building and believe that this issue should be taken into consideration as the same time.

This concern has also been raised in this assessment. However the planning process cannot in itself prevent the potential vacancy of the existing Courthouse complex. As to its future use and further development, that is likely to be the subject of a separate development application where Council will endeavour to ensure that any new use is compatible with and respects the Heritage Significance of the existing building.

79C (e) the public interest

State Plan 2010

The development is considered consistent with the current State Plan which includes, inter alia, Provisions for "Keeping People Safe" including targeting crime, anti-social behaviour and improving the efficiency of the Court System, including improved court room technology. To the extent that a new facility will enable court services to be delivered more efficiently and with a greater capacity than the existing Court, the proposed development would assist in the achievement of such priorities.

NSW Social Justice Principles

In addition the proposal, which involves a major upgrade to the region's criminal justice infrastructure, is considered acceptable on the basis of the four principles of social justice outlined initially in the NSW Government's Social Justice Directions Statement (2000), encompassing:

- Equity – There should be fairness in decision making, prioritising and allocation of resources, particularly for those in need or in vulnerable circumstances.
- Access – All people should have fair access to services, resources and opportunities to improve their quality of life.
- Participation – Everyone should have the maximum opportunity to genuinely participate in decisions which affect their lives.
- Rights – Everyone's rights to participate in community life should be established and promoted.

Other Local Plans

The project is not specifically identified in local plans such as Council's Community Safety or Social Plans, but would not be considered inconsistent with the intention of these.

Building Code of Australia requirements

The Building has been assessed as a Class 9b, 7a and 7b building under the BCA by Council's Building Surveyor. Section 109R(2) of the EP& A Act provides that:

"Crown building work cannot be commenced unless the Crown building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws in force as at:

- (a) the date of the invitation for tenders to carry out the Crown building work, or*
- (b) in the absence of tenders, the date on which the Crown building work commences, except as provided by this section."*

Under cl.227 of the Regulation to the Act the provisions of the *Building Code of Australia* are prescribed as technical provisions of the State's building laws. The submitted SEE includes a BCA Capability Statement which indicates that the works are capable of complying with the provisions of the BCA, subject to rectifying *"some minor prescriptive non-compliances, where resolution is readily achievable."* Likewise some similar minor adjustments in relation to access for people with disabilities to and within the building have also been identified in the Access Report provided by the Applicant in support of the DA.

Certification of compliance with the BCA for this project before and during construction will be the responsibility of the Crown.

Ecologically Sustainable Development

A relevant aim of the Council's LEP (clause 2(f)) is to ensure that development has regard to the principles of ecologically sustainable development (ESD). ESD is defined in NSW Legislation (for example the Dictionary to the Local Government Act 1993), and involves consideration of the following principles and programs:

- (a) the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
 - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
 - (ii) an assessment of the risk-weighted consequences of various options,*
- (b) inter-generational equity - namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) conservation of biological diversity and ecological integrity - namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*
- (d) improved valuation, pricing and incentive mechanisms - namely, that environmental factors should be included in the valuation of assets and services, such as:*
 - (i) polluter pays - that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
 - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including*

market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

In this case while the issue of ESD has not been specifically addressed in the DA documents provided for Council's assessment, it is evident that the proposed building will meet contemporary construction standards including compliance with Part J of the BCA in relation to energy efficiency. Stormwater recycling is also proposed as part of the development.

The building design has a northerly orientation providing for access through its length by the public to a major north facing waiting area with good solar access, with views to the Creeklands. This offers a significant improvement in waiting conditions for users of the building in comparison with the current south-facing portico of the current Courthouse, while also providing improved privacy.

Although not yet detailed as part of the proposal, there appears ample room for roof mounted solar infrastructure to support the development, although this in itself may not require consent.

The development is a major investment in community justice infrastructure for Armidale and region and is supported on that basis. However the concerns raised in this report in relation to some of the consequential impacts of the development under s79C(b) above must be noted as, to a degree, offsetting the potential benefits of the project.

Assessment Conclusion - Key Issues

The proposed development is for a use which is permissible with consent under the Council's LEP. Key issues arising from the assessment of the submitted application can be summarised as follows:

The development involves a major investment by the NSW Government in providing new community justice infrastructure for Armidale and region. This is welcomed, as there are concerns that the current Courthouse nearby experiences significant space and other constraints for Court officials and users. Security is also of concern, especially with the separation of the current Court complex from the Police Station. Removal of the Court function from the main pedestrian thoroughfare in town is also considered advantageous by Court staff from a privacy and security viewpoint.

The development complies with statutory planning controls and is generally considered satisfactory from a policy viewpoint, except in relation to the limited provision of off-street car parking. Only six such spaces are provided and the development in any case will result in the loss of six adjacent kerbside parking spaces in Moore Street. While a public building of this size would normally require 50 parking spaces under Council's Parking Code, the assessment staff have been advised that the DAGJ's approach to parking is a non-negotiable policy of the NSW Government for new Courthouse developments throughout the State.

A further concern, although not one that it is felt can be addressed within the context of this DA, is the future fate of the heritage listed Armidale Courthouse, which is an iconic building with the Beardy Street Mall dating from 1860. No future use for that building has yet been established and this may have significant consequences for the vitality of the CBD's main street.

One submission was received as a result of public notification of the Application, raising concerns about the urban design impact of the proposed development, which features a highly contemporary design. This submission has been considered as part of the assessment and no objection has been raised by Council's Heritage and Urban Design Advisor in the context of this site.

As a result of this assessment, the proposed development is recommended for conditional consent. **Appendix 3** to this report contains all relevant conditions identified throughout the assessment process and as discussed in this report.

Recommendation

- (a) That having regard to the assessment of the Application and the concurrence of the Applicant to the proposed conditions of consent, DA-108-2011 (JRPP ref 2011NTH013) be granted conditional consent in the terms set out in Appendix 3 to this report, subject to the approval of the Applicant as required pursuant to s.89(1)(b) of the EP & A Act.
- (b) That the person that submitted an objection in relation to the Application be notified of the determination in writing.

Stephen Gow FPIA
Director Planning and Environmental Services, Armidale Dumaresq Council

Armidale, 25 May 2011