JRPP No.	2011STH012
DA No.	DA-2011/437
Proposal	Upgrade works to Crown Street Mall
Property	Crown Street and Church Street, WOLLONGONG NSW 2500
Applicant	Wollongong City Council
Responsible Team	City Planning - City Centre Team

## Addendum Report

## **Purpose of Report**

This report has been prepared by Planning Ingenuity Pty Ltd, Independent Planning Consultants, in response to matters raised at the Southern Region Joint Regional Planning Panel (JRPP) public briefing meeting on 5 August, 2011 in relation to the above Development Application (DA 2011/437). The application relates to the upgrade of Crown Street Mall within Wollongong CBD. These works form part of an integrated public domain strategy to enhance the City Centre.

At the request of the Panel, this report summarises and responds to submissions made by the public at the 5 August, 2011 meeting and also responds to questions raised by the Panel in relation to the following matters:

- The proposal's consistency with the Wollongong City Centre Strategy;
- Whether a cost-benefit analysis formed part of the application and its assessment;
- Whether peer review of the Review of Environmental Factors (submitted as supporting information with the development application and dealing with matters that do not require development consent) has been undertaken and whether the REF considers public submissions;
- Whether proposed demolition can be undertaken without development consent.

This addendum report is intended to assist further consideration of the Development Application by the Panel and should be read in conjunction with the original development assessment report that was made available for the public briefing meeting on 5 August, 2011.

### Background

On August 5, 2011 a public briefing session was held at Wollongong Council Chambers in relation to the subject development application. The session was attended by the JRPP, Planning Ingenuity Pty Ltd (independent planning consultant), council representatives, the applicant and general community. The session was intended to clarify the proposal and process for assessment for the community's benefit. The session was attended by approximately 30 community members.

At that meeting, the proposal was summarised by Planning Ingenuity Pty Ltd and the public were given the opportunity to address the Panel. Questions and comments were taken on notice by the Panel with the undertaking to formally respond by way of an addendum report. The responses to submissions are contained in the *Submissions* section below. As indicated above, the Panel also sought clarification on certain aspects of the assessment of the application, which is also provided in this report.

# **Response to Submissions**

The Panel was addressed by 8 members of the community, 7 opposing the proposal and 1 speaking in favour of the proposal in principle. The majority of these issues have been addressed in the original development assessment report however the following table summarises the issues raised and provides a planning comment in response:

Issue	Planning Comment
The proposed design is boring and sterile; proposal is better than what exists but, not sure it goes far enough to be "human friendly"	The subject development application has attracted a significant level of public interest and comment, which is to be expected for a public domain project of this scale in a commercial centre. The submissions have included several comments in relation to the proposed design of the works and some of the design choices made by the applicant have been criticised. The assessment of these comments is made more difficult by the fact that the applicable planning controls do not provide specific directions on the actual design of public domain works within the centre but rather include several planning objectives. We note that the proposal is the result of a significant level of public consultation and several iterations of the plan have been advanced in relation to community input.
	It is considered on the whole, that the proposal meets the planning objectives for the subject site and locality and that planning assessment under Section 79C of the EP&A Act, 1979 does not require or warrant assessment of various alternatives to a development scheme. Rather, assessment must be made of the submitted development application. In the current case, it is concluded that the proposal meets the relevant planning objectives and controls. That the design is "boring and sterile" are value laden comments and do not warrant detailed assessment outside of the planning controls. Notwithstanding, as with the current Mall layout, design trends and objectives change over time. In this regard, the proposal is considered to provide for robustness in that none of the design components will set in place an urban form that cannot be modified and enhanced in the future. Therefore, whilst the design choices made for the proposal are not without debate, the proposal is considered to be an appropriate design solution that meets the planning intent for the Mall and CBD.

Issue	Planning Comment
The presence of cars in the mall has been opposed for years. The design appears to facilitate future vehicular traffic	The proposal does not involve opening of the roadway (It should be noted however that Crown Street remains a proclaimed road) to vehicular traffic. Any future plan for this to occur would be the subject of a separate development application which would be assessed on its merits. It is not considered appropriate or necessary that the current design guard against certain outcomes that are not proposed under this application and in any case would be the subject of further assessment prior to occurring.
The "arches" should remain and be refurbished/treated as a design feature	The removal of the 'arches' will assist in removing clutter from the western portion of the Mall and will improve sightlines and emergency vehicle access. The application has been considered by Council's Heritage Officer and has been found to be acceptable subject to conditions of consent.
The design of the mall should be the result of a design competition	There is no formal requirement under the applicable planning controls that design be the subject of a design competition. This approach has not been chosen by the applicant however it is noted that the proposal is the result of an extensive formal public consultation program.
Stage is too small and poorly located and has no backstage facilities; the stage design should be guided by artistic consultation	Many events held on the current stage are small scale (such as schools for performance and singing). These types of events can be accommodated on the proposed stage. The proposed stage area will include anchor points for a temporary shelter to be installed over the stage for weather protection for programmed events.
	The size and location of the proposed stage is considered acceptable in planning terms. Its location will allow good visibility in an east west direction (whereas the existing stage blocks views), provide formalised seating and is essentially a better urban design outcome in regards to its role within the overall Mall.

Issue	Planning Comment
Poor tree species choice; trees will be a maintenance issue	Tree selection has been discussed in the original development assessment report. Again, the proposed design is the subject of extensive consultation. Trees will be planted in a specially constructed tree trench approximately 9m wide and 1m deep. The trenches will perform like large planters and will provide a nutrient and moisture rich medium for trees, these trenches will include the provision of root barriers at their bottom. The refurbished stormwater management system will ensure trees are consistently well watered through the year to avoid trees extending their root system in search of water elsewhere. Further, the sides of the tree trench will be lined with a root barrier to prevent tree roots from damaging services or building foundations. The proposed trees are not known for being particularly attractive to pests, including borers or termites. Spotted Gums are known as a hardwood with inert/ natural termite resistance. Due to its hardness, it is not a timber of choice for termites.
	The selected tree species is known to be an unfavoured environment for roosting birds. Furthermore, the proposed pavers have been tested by independent laboratories and conform to the highest slip rating category as per the Australian Standards.
Existing trees should not be removed	The proposed tree removal and replacement with new trees is intended to enable more effective on- ongoing maintenance, minimisation of root damage to public domain surfaces and surrounding buildings and consistency in design and aesthetic appearance. The Landscape Concept is supported by Council's Landscape Architect.
Fire risk of trees	It is considered that fire risk from the proposed planting is minimal and is not different to typical urban settings throughout Australia.
Globe Lane should be included in proposal	Globe Lane does not form part of the application under Part 4 or Part 5. Notwithstanding, the applicant states that a concept design for the upgrade of Globe Lane has been considered that is consistent with and will tie in with the design for Crown Street Mall. However, detailed design and refurbishment of Globe Lane is not currently included in the construction program for 2012/13. The applicant states that it would be Council's intention to retain the NSW Government Architect's to prepare the detailed design for Globe Lane to ensure consistency with the Crown Street refurbishment.

Issne	Planning Comment
Proposal will interfere with structural stability of buildings	The proposal will be reviewed by geotechnical engineers and landscape architects in detailed design to ensure no impact on adjoining properties. Conditions to this effect can be imposed.
Drains may produce odour	Drain grates will be accessible and heel-proof which will prevent litter entering and accumulating inside the drains. The channels below the drains are designed to be self-cleaning. This means that water flows will have sufficient velocity (speed) to flush away any particles/ fine material that may enter the drains. This will ensure that no materials such as organic matter build up inside the channels. If required, grate lids will be able to be removed to allow periodic inspection by Council.
Trees will limit sight lines	The proposed tree selection is based on the premise that foliage will be above eye height and trunk size will be slender in order to allow for views through the mall. The proposal will enhance sight lines through removal of the existing stage and other obstructions through the mall.
Congratulate Council or moving forward with investment in revitalisation	Noted.
Need for more active transport	Encouragement of transport improvements is a plausible aim. Whilst not including any such elements, the proposal will in no way preclude the future attainment of improved public transport within the city centre.
Cost is excessive	This not a matter for assessment however is discussed in further detail elsewhere in this addendum report.
Existing mall is OK	The proposal seeks to upgrade the existing mall in accordance with the City Centre Plan. Several design and maintenance issues have been identified in relation to the exiting mall. The proposal responds to a strategic policy position of Council that has been formulated over years of community consultation. It is considered that the proposal represents a significant improvement on the existing mall from an urban design and public domain point of view.
Proposal is for a bleak, windswept space	The proposal is not considered to incorporate any elements that would significantly alter wind patterns within the Mall.

Issue	Planning Comment
Proposal does not form part of an overall plan	As discussed elsewhere in this report, Council's Wollongong CBD Action Plan identifies the first of 10 priority projects as being Crown Street Mall upgrades including "new <i>pavement</i> , <i>furniture</i> , <i>lighting and planting for the core retail area. It is further envisaged to 'de-clutter' the public domain and bring more light and air to the Mall'</i> .
	The proposed development will do precisely these things and will form part of a wider public domain strategy to enhance the City Centre and contribute to the realisation of Wollongong as a major regional centre.
	In addition the strategic planning framework for the subject proposal is set by a suite of documents that have been prepared by or on behalf of Council in recent years. The City Centre Plan comprises four primary documents including <i>The City Centre Vision</i> , <i>Wollongong City Centre LEP</i> , <i>Wollongong City Centre</i> <i>DCP (now incorporated into WDCP2009)</i> and the <i>Civic</i> <i>Improvement Plan. This is outlined below at "City centre</i> <i>strategy"</i> .
Public toilets are needed	Whilst this submission is supported, public amenities do not form part of the current proposal and are not a matter for assessment. This is a matter for further consideration by Council separate to this development application.
Need to link Mall with surrounds	As discussed below in the context of the City Centre Strategy, the proposal is considered to maintain effective connections with the surrounding locality. When other identified projects within the locality are completed, these connections could be further realised. The proposal in no way precludes any future linkages with the surrounding locality.
Provision for disabled access not clear	The application was accompanied by an Access Report. The recommendations of that report are to be included as a condition of development consent should the application be approved.
Connection to McCabe Park should be made	The proposal in no way affects the existing connection with McCabe Park or precludes an improved connection in the future.
Mall is empty 16 hours a day. The proposal seeks to encourage night activity	The proposal intends to improve security within the Mall with improved lighting and surveillance technology and foreshadows more night time use such as markets and other entertainment. Accordingly, the proposal makes positive steps in this regard.
Proposal isolates mall from wider vision	The proposal's consistency with the City Centre Strategy is discussed elsewhere in this report. The proposal is considered to be entirely consistent with the "wider vision" for the CBD.

Issue	Planning Comment
Further investigation needed to see what would work best in terms of design	The proposal has been the result of extensive public consultation. Whilst the proposal has been criticised by some members of the community, it has clearly been arrived at through a well considered and inclusive design process. This assessment must consider the application that has been submitted against the relevant planning controls. In this regard the proposal is considered to be acceptable.
Does not meet economic objectives of the LEP or zone objectives	Compliance with LEP and zone objectives is addressed in detail in Section 2.1.3 of the original development assessment report. In essence, the proposal is considered to be consistent with the zoning objectives as it will enhance and modernise the public domain which will have a positive social and economic impact for the locality. The proposal will also contribute to strengthening the role of the City Centre as a regional centre through improving aesthetic and functional characteristics of the Mall. There is no evidence to suggest that the proposal will have negative economic consequences for the locality. The proposal will provide for significant economic benefits during construction in terms of construction employment and other flow-on impacts.
Need for cost-benefit analysis	This matter is discussed specifically below in this addendum report.
Potential cost blow-outs in construction	This is not a matter for development assessment.
How does the proposal achieve employment growth (which is an objective of the LEP)	The proposal will provide for significant economic benefits during construction in terms of construction employment and other flow-on impacts. There is no evidence to suggest that the proposal will have a negative impact on employment growth post construction. The proposal seeks to facilitate longer opening hours within the Mall (subject to required approvals being in place) through upgrading of lighting and surveillance which will potentially have positive impacts on retailers. The design changes will also facilitate outdoor dining areas and aims to create a pleasant environment to encourage extended use of the public domain which will have positive flow on effects for retailers.
The mall should include wi-fi	The current proposal does not include wi-fi facilities. This is not a matter for assessment and is a matter for further consideration by Council separate to this development application.
Potential noise impact of children's musical play feature	This is a matter for on-going management. The facility will be capable of having volume control or sound eliminated if any negative impacts eventuate.

Issue	Planning Comment
Delete water features	This assessment is limited to considering the application before Council against the relevant planning controls. Alternative proposals do not necessitate or warrant comment.
Keep children's playground	Whilst the existing play area will be removed it will be replaced with 2 new interactive play areas including a musical play space and a water feature. These are modern play spaces that are known to successfully operate within similar urban areas and form part of an integrated urban design theme for the Mall.
	The proposed modification of the children's play areas are considered acceptable in planning terms. Functionally, the water feature can be manually controlled to switch off the flow of water in the event of adverse weather and events such as markets or church functions. Whilst several design preferences for children's play areas has been stated in response to notification, it is noted that no planning controls guide these design choices and where objectives of the zone and public domain provisions are met planning assessment is not required to assess alternatives.
	It is noted that removal of the play area was not raised as a concern during the consultation process.
Disappointing that only 39 submissions were received	Noted.
Consultation has not been extensive enough	As detailed in the original development assessment report, an extensive community consultation program was undertaken during development of the Concept Plan for the Mall. This included presentations to stakeholders, an information kiosk within the Mall and a neighbourhood forum.
	The proposal was notified in accordance with Council's Notification Policy and received 39 submissions in response which are discussed in Section 2.9 of the original assessment report. The proposal did not require any referral to or concurrence from external government agencies.

## Response to questions raised by the JRPP

## **City Centre Strategy**

The strategic planning framework for the subject proposal is set by a suite of documents that have been prepared by or on behalf of Council in recent years. The City Centre Plan comprises four primary documents including *The City Centre Vision, Wollongong City Centre LEP, Wollongong City Centre DCP (now incorporated into WDCP2009)* and the *Civic Improvement Plan.* 

The overarching *Vision* document identifies, in Chapter 10, the revitalisation of Crown Street as a major opportunity, stating:

"Crown Street provides an opportunity for an upgrade to establish the street as the main active spine of the city centre and realise the potential of the street to become a premier main street of retail and commercial activity with a high level of vitality and amenity in a shared pedestrian streetscape. The upgrade will involve improving the commercial vitality and function of the street as well as improvements to the amenity of the streetscape with various landscape design elements and the revitalisation if the mall will be a specific project"

Chapter 11 states the following Action:

#### "Develop options for the revitalisation of the Crown Street Mall

Rationale: The Crown Street Mall is the centre of Wollongong city and it symbolises the city's aspirations. The current structures are looking tired and safety has become an issue at night. In America, a survey of 200 pedestrian malls constructed in the 1970s found that 194 have been reopened to slow moving traffic with improved retail sales and improved safety.

Council should develop a range of options for revitalising the mall and work with stakeholders to achieve a satisfactory proposal. The project has been listed in the Civic Improvements Plan as one that can attract funding from major developments in the city centre."

In November 2010 a further document was released by Council entitled *Wollongong CBD Action Plan – Implementation Strategy for the Next 5+ Years.* The purpose of this Implementation Strategy is to provide a framework for delivery of projects earmarked by the other City Centre documents. The Implementation Strategy identifies ten priority projects which includes the Crown Street Mall upgrade as the first "CBD Priority Project". The project summary is described as follows (full extract provided as Attachment 1):

"The Proposed staged upgrade of the Crown Street Mall includes the following:

- Refurbish Wollongong's main shopping and commercial centre to create a space that is fresh, open and inviting.
- Remove existing structures including the 'birdcage' to increase sightlines and reduce clutter.
- Improve lighting to create ambience and increase safety
- Maintain and improve the CCTV security system
- Replace exiting worn pavers with modern durable surfacing
- Install a new performance space
- Replace 1980s water fountains with a modern children's play water feature
- Encourage cafes, outdoor dining and markets though the Mall
- Introduce colour, greenery and modern furniture to breathe new life into the city centre."

The current proposal is considered to be entirely consistent with the list of works that is outlined in the Implementation Strategy. We note that the Strategy does not contain any specific design guidance or criteria however does include some objectives such as "to create a space that is fresh, open and inviting" and "to breathe new life into the city centre". Whilst the actual design of the proposal has drawn differing opinions, particularly from the general community, it is considered that the proposal will achieve these objectives.

Included at Attachment 2 is a plan showing "the strategy at a glance" which shows the interaction between various priority projects in the City Centre. It is considered that the current proposal clearly forms part of a wider Strategy for the City Centre and that in no way will the proposed design preclude the long term achievement of the overall Vision.

The Civic Improvement Plan provides further direction for the Crown Street Upgrade, stating:

#### "<u>3.1 Crown Street Upgrade</u>

The upper part of Crown Street accommodates one of the city's most significant retail areas. It is currently closed to traffic and treated as a pedestrian mall. The purpose of the Crown Street Upgrade is to establish the street as the

main active corridor/ spine of the city centre and to realise the potential of the street to become a premier main/high street of retail and commercial activity with a high level of vitality and amenity in a shared pedestrian streetscape.

The civic improvements in Crown Street would assist in the re-focussing of the major civic and public spaces to the Civic Precinct, MacCabe Park, City Beach Foreshore, Heritage Port, and Rail Station which are also special projects described in the plan.

The main planning and design principles for the Crown Street Upgrade are:

- Revitalising the mall
- Improved retail and commercial vitality and function of the street;
- Better access through the city centre, particularly between east and west;
- Improvements to the amenity of the streetscape with urban landscape with urban landscape elements and furniture of high quality design including generous outdoor dining areas, awnings, narrow street tree planting, street furniture and lighting;
- Reduced opportunities for crime and improved sense of safety and security;
- Incorporation of ESD measures where practical (e.g. water sensitive urban design, solar power lights);
- Opportunity to create pedestrian only environments for major events, markets, and 'lunchtime' activities; and
- Co-ordination with planning and design controls for development on adjoining private lands.

The Crown Street Upgrade is estimated to cost \$12 million."

The proposal is also considered to meet these overriding objectives as discussed in detail throughout the original development assessment report.

It is also noted that the CBD Action Plan contains cost estimates for the proposed Mall upgrade works, totalling approximately \$14.5 million.

Based on the above summary of strategic planning documents applying to the site, it is considered that the current proposal is consistent with the strategic intent for the locality. The components of the proposal are entirely consistent with the list of works outlined in the CBD Action Plan and the area covered by the proposal is also consistent with the Plan. Whilst the proposal constitutes only 1 of 10 priority projects, it will not preclude and is not contradictory to the intent of the other projects. Accordingly, the proposal is seen as an integral, yet incremental, part of achieving the City Vision.

## **Cost-Benefit Analysis**

Several submissions from the general community raised concern as to the cost of the proposed development works and questioned whether these works would generate a reasonable economic return, that is, a benefit to retailers and the local economy generally. It is considered that such an analysis is not typical for development assessment of public domain projects of this nature, particularly where works relate to upgrade of an existing facility rather than a major change to that facility, for example if the Mall was proposed to be opened to traffic. Further, whilst an important matter for Council to consider from a budgetary point of view, the cost of a project is not a relevant consideration for development assessment. This distinction between development assessment of the project and authority to proceed with the capital works must be made clear.

In any case the question of whether cost-benefit analysis had been undertaken for this project has been conveyed to the applicant and it has been confirmed that this has not, and will not, be prepared for this application

Notwithstanding the fact that a cost-benefit analysis has not been undertaken, the economic impacts of the proposal have been considered. At the outset, it must be acknowledged that the proposed works are public domain works that have been earmarked and form an integral part of the City Centre Plan. Cost

estimates of the works have been included in these documents and there has been a clear policy position for several years that these works be pursued by Council. It is unknown whether cost-benefit or other economic analysis led to this policy position however this is considered irrelevant to the current assessment. In any case, the decision to proceed with construction should development consent be granted is obviously still open to Council.

In terms of assessment of the proposal under the EP&A Act, 1979, Section 79C(b) states that "the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality" must be considered. In this case, the locality is considered to be the Mall itself, and perhaps adjoining laneways and connecting streets.

The proposed construction works related to the proposal will potentially impact retailers in the Mall. This matter is dealt with in the original assessment report and it is recommended that conditions of consent are imposed to require detailed planning of how this project phase will be approached to minimise impacts. In terms of post-construction impacts, it is considered that there is no evidence to suggest that the proposed works will have a negative economic impact on the locality. The proposal seeks to "declutter" the Mall, remove obstructions to pedestrian movement, upgrade security features, improve pedestrian surfaces and provide some new facilities to encourage recreation, entertainment and night time activity. It is considered that post construction, these elements are very unlikely to detract from the overall economic potential of the locality, if at worst the work has a neutral impact. This approach to assessment purposely does not seek to assess the overall economic rationale for the project, but rather is limited to the economic impacts on the locality. In this regard, it is considered that the proposal will be acceptable.

## Part V Assessment

In response to queries of the Panel related to the assessment process for the Part 5 works associated with the overall subject proposal, we are instructed that a Review of Environmental Factors (REF) was undertaken by Council's Design & Technical Services Environmental Management Group and was also peer reviewed within that Group. Advice was provided to the Group by Council's General Counsel.

The REF was exhibited at the same time as the Part 4 works, subject of this assessment, to provide an explanation of the complete works. The REF does not consider specific submissions but did refer to the consultation process completed to date. The REF contains conditions of approval (or Safeguards), detailed in Section 4 of the REF.

It is noted that the original development assessment report and this addendum report are not intended to address the Part 5 works. Whilst the proposal under assessment has essential links to the works that do not require consent and these relationships have been considered throughout the assessment report in order to understand the overall project, detailed assessment of the Part 5 works and REF that deals with those has not been undertaken by Planning Ingenuity Pty Ltd.

## Demolition

The Panel posed questions relating to the whether the proposed demolition works fall within the category of "exempt development" under SEPP (Infrastructure) 2007. The applicant has sought further advice on this matter from Council's General Counsel. This advice confirms that the proposed demolition works fall within the category of exempt development". In summary, the following is provided:

- Clause 94 of the ISEPP states that "development for the purpose of a road or road infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land."
- Clause 93 defines "road infrastructure facilities". Clause 93 is not meant to be exhaustive, by use of the word "includes". The items listed in that definition generally involve more impact than "pedestrian and cyclist facilities", which are listed as exempt development at clause 97, that is, can

be carried out with no assessment. However, like pedestrian and cyclist facilities, they all relate to providing access and/or transport.

- Further, "pedestrian and cyclist facilities" are exempt development under clause 97 where they are carried out in connection with road infrastructure facilities. This reinforces the integrated nature of "road infrastructure facility" development and "pedestrian and cyclist facilities."
- Given therefore that the definition of "road infrastructure facilities" is not exhaustive and that "pedestrian and cyclist facilities" have been characterised in Division 17 as creating less impact than "road infrastructure facilities" as listed, it is considered that Clause 97 assumes that "road infrastructure facilities" and "pedestrian and cyclist facilities" can be connected (and ultimately in a manner that a distinction cannot be practically drawn between them, that is, when built);
- Therefore, "pedestrian and cyclist facilities" are capable of falling within the list of items contained at the definition of "road infrastructure facilities", and thus clause 94(2) is enlivened, which references "construction works".
- Clause 5(3) of the ISEPP, which confirms that a reading of the phrase "construction works" is to include demolition, is brought into operation.

Accordingly, demolition falls within the works that are covered by Part 5 assessment, undertaken separately in a Review of Environmental Factors.

### Conclusion

This report has been prepared by Planning Ingenuity Pty Ltd, Independent Planning Consultants, in response to matters raised at the Southern Region Joint Regional Planning Panel (JRPP) public briefing meeting on 5 August, 2011 in relation to the above Development Application (DA 2011/437). The application relates to the upgrade of Crown Street Mall within Wollongong CBD. These works form part of an integrated public domain strategy to enhance the City Centre.

It is our opinion that from a development assessment point of view, the clarifications contained within this report adequately respond to the questions raised in the public briefing. We reiterate our recommendation that Development Application 002011/437 be approved pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, subject to recommended conditions, as detailed in Attachment A of the original development assessment report.

# Attachment 1

CBD Priority Project – Wollongong CBD Action Plan

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# Attachment 2

The strategy at a glance – Wollongong CBD Action Plan





The main elements of the Priority Projects are depicted below:

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