

<b>JRPP No.</b>	2013STH017
<b>DA No.</b>	<b>DA-2013/1007</b>
<b>Proposal</b>	Integrated Development - Demolition of existing structures and construction of 3 stage mixed use development comprising of 160 residential units over 6 retail suites and parking for 264 vehicles
<b>Property</b>	Lots 1 & 2 DP 1081086, Lot 6 DP 655316, Part Lot 7 & Lot 8 DP 13378, Lot 2 DP 507556, Lot 1 DP 1089581 and Lot 30 DP 1148605 34-48 and Lot 1 Flinders Street, Wollongong.
<b>Applicant</b>	ADM Architects
<b>Responsible Team</b>	City Planning City Centre Team

## Executive Summary

### Reason for consideration by Joint Regional Planning Panel

The proposed development must be considered by the Joint Regional Planning Panel (JRPP) as it has a capital investment value of more than \$20 million [Clause 3 in Schedule 4A of the Environmental Planning and Assessment Act 1979]. (Development value: \$40,582,867).

### Proposal

The proposal is for the demolition of all structures on site, and the construction of a mixed use development incorporating ground floor commercial/retail space, basement parking, and 160 residential units within three (3) towers.

### Permissibility

The site is zoned B6 Enterprise Corridor pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a **shop top housing** and is permissible in the zone with development consent.

### Consultation

The proposal was notified in accordance with Council's Notification Policy received two (2) submissions, one (1) in support and one (1) objecting, which are discussed at Section 2.9 of the assessment report.

### Main Issues

The main issues are:

- Stormwater/flooding/watercourse at rear
- Contamination
- Minor variations to building depth and building separation requirements contained within SEPP 65.
- Minor variations to the WDCP 2009 are proposed including building depth, side setbacks and driveway width.

## RECOMMENDATION

It is recommended that deferred commencement approval be granted to DA-2013/1007 subject to the draft conditions at attachment 4.

## 1. APPLICATION OVERVIEW

### 1.1 PLANNING CONTROLS

The following planning controls apply to the development:

#### State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP No. 65 – Design Quality of Residential Flat Development
- SEPP 71 – Coastal Protection
- SEPP (Infrastructure) 2007
- SEPP (Building Sustainability Index: BASIX) 2004

#### Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

#### Development Control Plans:

- Wollongong Development Control Plan 2009

#### Other policies

- Wollongong Section 94A Development Contributions Plan 2013

#### Other comments / matters to be addressed

RMS – Concurrence

Office of Water – Integrated Development

Sydney Water

Endeavour Energy

## 1.2 PROPOSAL

The development is integrated pursuant to Section 91 of the Water Management Act 2000, being development within 40 metres from the top of bank of any watercourse, lake or estuary.

The proposed development incorporates:

- demolition of the existing structures on site,
- the construction of a mixed use development including;
  - ground floor podium comprising 1,000m<sup>2</sup> of commercial and retail space with frontage to Flinders Street;
  - 160 residential units atop the ground floor podium split between three (3) towers;
    - **Building A:** 9 storeys containing 62 units comprising 7 x 1 bedroom, 45 x 2 bedroom and 10 x 3 bedroom apartments;
    - **Building B:** 9 storeys containing 60 units comprising 44 x 2 bedroom and 16 x 3 bedroom apartments;
    - **Building C:** 8 storeys containing 38 units comprising 12 x 1 bedroom, 6 x 2 bedroom and 20 x 3 bedroom apartments;
  - Two levels of basement car parking.

All vehicular access to the development will be via driveway access from Gips Street only.

It is proposed also to stage the development as follows:

#### Stage 1:

- Basement carpark
- Ground floor (including road access and footpath)
- Level 1 deck
- Building A (with associated external landscaping areas)

#### Stage 2:

- Building B (with associated external landscaping areas)

#### Stage 3:

- Building C (with associated external landscaping areas)

The photomontage below shows the proposed development looking west.



Plans can be found at Attachment 3 to this report.

### 1.3 BACKGROUND

DA-2006/1419 for the 'Demolition of all existing buildings and structures and erection of mixed use development was withdrawn on 18 December 2006.

DA-2007/348 for the 'Demolition of existing buildings and structures and the construction of a multi-storey mixed use development was conditionally approved as a deferred commencement consent on 21 January 2008.

#### Customer service actions

The property does not have any outstanding customer service actions.

### 1.4 SITE DESCRIPTION

The combined site is known as Lots 1 & 2 DP 1081086, Lot 6 DP 655316, Part Lot 7 & Lot 8 DP 13378, Lot 2 DP 507556, Lot 1 DP 1089581 and Lot 30 DP 1148605 and located at 34-48 and Lot 1 Flinders Street, Wollongong.

The subject site has a total area of 6,008.9sq.m as identified within the SEE and applicants survey. The main Flinders Street frontage is approximately 130.27m, the Gipps Street frontage is approximately 25.19m, and the corner splay 4.515m. The allotment is generally regular in shape, with the exception of the south-western corner of the site that does not include the two adjoining allotments. The site is on the western side of Smith's Hill and has a fall of approximately 4m from the Flinders Street frontage to the western boundary of the site. The site currently contains a number of one and two storey commercial and retail buildings.

The site contains minimal vegetation and comprises impervious surfaces surrounding the existing buildings.

The location plan/aerial photograph can be found at Attachment 1 to this report. The WLEP 2009 zoning map can be found at Attachment 2 to this report.

#### Property constraints

Council records list the site as being affected by the following constraints:

- Acid sulphate soils (Classes 4 & 5)
- Flooding (Low & Medium risk)
- Road widening proposals
- Coastal hazards

There are no restrictions on the title.

## 1.5 CONSULTATION

### 1.5.1 INTERNAL CONSULTATION

#### Geotechnical Engineer

Council's Geotechnical Engineer has reviewed the application and given a satisfactory referral subject to conditions of consent.

#### Stormwater Engineer

Council's Stormwater Engineer has reviewed the application and given a satisfactory referral subject to conditions of consent.

#### Landscape Architect

Council's Landscape Architect has reviewed the application and given a satisfactory referral subject to conditions of consent.

#### Traffic Engineer

Council's Traffic Engineer has reviewed the application and has queried the application of the 30% reduction waiver of car parking to the residential portion of the development. If one was to apply the reduction to retail parking only the proposed development would result in a shortfall of 41 car parking spaces.

Section 7.4, of Chapter E3 in WDCP 2009, provides for a car parking reduction (city wide) if:

- The site is within 400m of a bus stop (10% reduction),
- The site is within 800m of a railway station (20% reduction).

There is no specification or notation indicating that the reduction excludes residential uses and therefore in this regard the reduction can be applied to the development as a whole. As the proposed site is within 400m of several bus stops, a bus stop is proposed at the frontage of the development, and North Wollongong railway station is located approximately 500m to the north, a cumulative 30% reduction applies. As such, the amended parking requirement equates to:

<b>TOTAL REQUIRED</b>	312 spaces
<b>30% Reduction</b>	-93.6 spaces
<b>TOTAL REQUIRED (after 30% Reduction)</b>	219 spaces
<b>TOTAL PROVIDED</b>	264 spaces

In this regard the proposed development is not relying entirely on the allowable reduction of parking and has provided greater parking numbers equating to a reduction of 15.4% only.

Other non-compliant traffic matters raised by the traffic engineer are discussed further within the DCP section of this report. Conditions have been provided addressing these matters and the development.

#### Property Officer

Council's Property Officer has reviewed the application and given a satisfactory referral subject to the inclusion of a condition of consent requiring the subject portion of land affected by road widening within Lot 8 DP 13378 is to be dedicated to Council as public road prior to the issue of the Construction Certificate.

#### Environment Officer

Council's Environment Officer has reviewed the application and subsequent reports and given a satisfactory referral subject to conditions of consent.

#### Community Services – Social Planning

Council's Social Planner has reviewed the application and subsequent reports and given a satisfactory referral subject to conditions of consent.

## SCAT Team

Council's Safe Community Action Team has reviewed the application and subsequent reports and given a satisfactory referral subject to conditions of consent.

## 1.5.2 EXTERNAL CONSULTATION

### Roads and Maritime Services

The application was referred to RMS as it is located on a classified road and is also considered traffic generating development pursuant to the provisions of clause 102 and 104 of SEPP Infrastructure. After numerous requests for details and changes the RMS provided conditions to Council on the 11 June 2014. These matters are discussed further within the report.

### Department of Primary Industries Office of Water

The development is integrated pursuant to Section 91 of the Water Management Act 2000, being development within 40 metres from the top of bank of any watercourse, lake or estuary. The Department of Primary Industries - Office of Water provided their General Terms of Approval (GTA's) on the proposed development on the 2 October 2013.

### Sydney Water

The proposed development contains 160 residential dwellings within the residential flat buildings and as such under the requirements of Section 78 of the *Sydney Water Act 1994* the consent authority must give the Corporation notice of the application.

Sydney Water provided comments on the 24 October 2013 indicating that services are available to the site and a condition for Section 73 Certificate is to be placed on the consent.

### Endeavour Energy

The proposed development is within 5m of an exposed overhead electricity power line. Pursuant to the provisions of Clause 45 of SEPP Infrastructure, before determining an application a consent authority must advise the electricity supply authority of the application. Endeavour Energy advised in writing on the 3 March 2014 that they raised no objection to the application and indicated that whilst they have many electricity assets affected by the proposal any required rearrangement of the electricity network will be the subject of discussion and consultation with the developer.

## 2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

### SECTION 79C ASSESSMENT

#### (1) Matters for consideration—general

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

(a) <i>the provisions of:</i>	
(i) <i>any environmental planning instrument, and</i>	See section 2.1
(ii) <i>any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	See section 2.2
(iii) <i>any development control plan, and</i>	See section 2.3
(iiia) <i>any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and</i>	See section 2.4
(iv) <i>the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,</i>	See section 2.5

(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),	See section 2.6
that apply to the land to which the development application relates,	
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	See section 2.7
(c) the suitability of the site for the development,	See section 2.8
(d) any submissions made in accordance with this Act or the regulations,	See section 2.9
(e) the public interest.	See section 2.10

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

### 2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

#### 7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

- (a) land that is within an investigation area,
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:
  - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
  - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

SEPP 55 requires that, when assessing a development application, the consent authority must give consideration to whether the land to which the development application relates is contaminated. If so, consideration must be given to whether the land is suitable (in either its contaminated state or after remediation), for the purpose for which the development is proposed to be carried out.

The SEPP requires the consent authority to consider a preliminary investigation of the land as there may have been previous land uses which may have resulted in contamination. In this case the site has a history of land uses that are known to be associated with contamination. The site is currently used as commercial business and light industry including areas with underground fuel storage tanks.

Due to inaccessibility of the entire area limited site assessment (Stage-II) was carried out which revealed a number of areas of environmental concern (AEC). The site also contains hazardous material such as asbestos and acid sulphate soils. Limited groundwater sampling also indicated potential leaching of contaminant into groundwater.

The Stage –II (detail site assessment report) prepared by Clearsafe Environmental Solutions dated February 2014 has recommended a further site assessment and groundwater monitoring after the demolition of all structures (buildings) which will inform a remediation action plan (RAP).

Appropriate conditions relating to underground storage tanks, waste classification, site validation report and site auditor's statement have been recommended.

## 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

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

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

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

The Policy came into effect on 26 July 2002.

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

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

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

The application was accompanied by a Design Verification Statement in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000. The proposal must be evaluated in accordance with the design quality principles, and the Residential Flat Design Code.

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

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

### Principle 1: Context

*Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.*

The proposal is considered to be consistent with the desired future character of the area as identified through the development standards and controls applicable to the land.

### Principle 2: Scale

*Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.*

*Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.*

Whilst the development is significantly larger than adjoining developments and some others in the locality, the bulk and scale of the development is consistent with the applicable planning controls for the area. The development is not considered to be out of context with regard to the desired future character of the area and the likely impacts of the development on the locality and adjoining development.

### Principle 3: Built form

*Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

The design of the development is considered to positively contribute to the public domain and provide high level of amenity for the occupants by way of landscaped areas, private open space and the like.

#### **Principle 4: Density**

*Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).*

*Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.*

The density of the development is within FSR permitted for the land. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. Contributions applicable to the development will go towards local infrastructure and facilities. The site is well situated with regard to existing public open space and services.

#### **Principle 5: Resource, energy and water efficiency**

*Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.*

*Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.*

The proposal is considered acceptable with regard to sustainable design as follows:

- BASIX Certificates provided indicating minimum requirements are met.
- A Site Waste Management and Minimisation Plan has been provided indicating recycling of materials from the demolished dwellings.
- The proposal does not impact on any heritage items or environmentally sensitive areas
- The proposal is an efficient use of land in a location that is close to services and public open space.

#### **Principle 6: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.*

*Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.*

*Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.*

The proposal provides suitable landscaped areas and communal open space that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain.

#### **Principle 7: Amenity**

*Good design provides amenity through the physical, spatial and environmental quality of a development.*

*Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.*

The proposal meets the minimum requirements for solar access, private and communal open space, storage, visual and acoustic privacy, access and the like.

#### **Principle 8: Safety and security**

*Good design optimises safety and security, both internal to the development and for the public domain.*

*This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

The proposal is satisfactory with regard to safety and security.



## Principle 9: Social dimensions

*Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.*

*New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.*

*New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*

The proposal provides a mix of unit sizes and layouts appropriate to the locality

## Principle 10: Aesthetics

*Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.*

The proposal is considered to be of a high quality with regard to its appearance. A mixture of materials and finishes is provided and the bulk of the development is suitably articulated.

### 30 Determination of development applications

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

(a) *the advice (if any) obtained in accordance with subclause (1), and*

(b) *the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*

*I the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).*

An assessment of the application against the Residential Flat Design Code is contained below.

### **Residential Flat Design Code**

An assessment of the application against the Residential Flat Design Code (RFDC) is contained within the Compliance table at Attachment 5. Variations to the rules of thumb are discussed in detail below:

#### Building depth

All three buildings are greater than the maximum depth requirement of 18m. Building A has a depth of 18.9m, Building B has a depth of 21m and Building C has a depth of 20.5m. These depths are only marginally greater than the suggested 18m.

Whilst this is above the maximum all apartments have good access to natural light and ventilation with the maximum depth of largest apartment is 10m. In addition satisfactory daylight access is available to all units assisted by the orientation of the towers coupled with building separation.

The proposal is within the maximum height and FSR for the site. The bulk of the development is considered to be consistent with the zoning and relevant planning controls. There are not expected to be unreasonable impacts arising from the proposal on adjoining developments.

#### Building separation Building A and B - 9<sup>th</sup> storey

Buildings or a component of a building with a height up to 12m are required to be separated from existing buildings surrounding the site and buildings within the same development. Between habitable rooms or balconies a separation of 12m is required. Where there are habitable rooms or balconies with an interface with non-habitable rooms, a separation of 9m is required. Where there is an interface between non-habitable rooms between buildings a 6m separation is required. This is extended to 18m between habitable rooms/balconies and 9m between non-habitable rooms over a height of 12m (4 storeys) and below 24m (8 storeys). This is extended further once the building is greater than 24m in height to a separation of 24m between habitable rooms/balconies.

Due to the slope of land being 3m and greater in parts from Flinders Street towards the creek, buildings A and B have the appearance of a 9 storey building at Flinders street however the western elevation has the appearance of a 10 storey building as the basement is no longer underground at this point.

Between buildings A and B the buildings achieve the required setback of 18m up to the 8 storey.

The 9th stories are required to achieve a 24m separation distance. The 9th storey on building A has an 18m setback to the 9th storey of building B. The interface between the two buildings consists of balconies and habitable rooms on building A and the common open space of building B. Whilst the common open space is technically not a balcony it may be considered similar in which case the separation is required to be 24m.

Reduced separation can be considered when proposed developments can demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved.

It is considered that the impact of the reduced separation in this location is minimal; it is not considered that privacy is diminished. The applicant has also demonstrated that adequate solar access to buildings A and B being on the southern side of a building is available. In this regard it is considered that this building separation variation is considered satisfactory.

### 2.1.3 STATE ENVIRONMENTAL PLANNING POLICY NO. 71 – COASTAL PROTECTION

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

### 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

#### **Division 5 Electricity Transmission or Distribution**

The following provision of this division applies to this application:

#### **Clause 45**

Before determining an application a consent authority must advise the electricity supply authority of the application where development proposed is within 5m of an exposed overhead electricity power line. Endeavour Energy advised in writing on the 3 March 2014 that they raised no objection to the application and indicated that whilst they have many electricity assets affected by the proposal any required rearrangement of the electricity network will be the subject of discussion and consultation with the developer.

#### **Division 17 Roads and Traffic**

The following provisions of this Division apply to the application

#### **Clause 101(2) Development with Frontage to Classified Road**

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- a) *where practicable, vehicular access to the land is provided by a road other than the classified road*
- b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land, or the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

#### **Section 104 Traffic Generating Development**

The application is subject to the provisions contained with section 104 of State Environmental Planning Policy (Infrastructure) 2007 relating to traffic generating development. Schedule 3 of the SEPP indicates that a development having ancillary parking accommodation 200 or more motor vehicles is considered a traffic generating development. The proposed development provides parking for a total of 264 motor vehicles within two levels of basement.

Before determining a development application for development to which this clause applies, the consent authority must take into consideration any submission that the Roads and Maritime Service (RMS) provides in response to that proposed development.

The application was referred to RMS regarding the above two matters. The RMS requested numerous changes which the applicant provided. The original proposal involved a slip lane on Flinders Street, however this slip lane was not supported by the RMS or Council and as such the proposed development was redesigned and the slip lane removed with all access to the site being from Gipps Street only. The RMS provided conditions to Council on the 11 June 2014.

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

SEPP BASIX applies to the development.

In accordance with Schedule 1 of the Regulations and SEPP 2004 a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

## 2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

### Part 2 Permitted or prohibited development

#### Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B6 Enterprise Corridor

#### Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To promote businesses along main roads and to encourage a mix of compatible uses,*
- *To provide a range of employment uses (including business, office, retail and light industrial uses),*
- *To maintain the economic strength of centres by limiting retailing activity,*
- *To encourage activities which will contribute to the economic and employment growth of Wollongong,*
- *To allow some diversity of activities that will not:*
  - a) *significantly detract from the operation of existing or proposed development, or*
  - b) *significantly detract from the amenity of nearby residents, or*
  - c) *have an adverse impact upon the efficient operation of the surrounding road system.*

The proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

*Advertising structures; Bulky goods premises; Business premises; Car parks; Child care centres; Community facilities; Depots; Entertainment facilities; Environmental facilities; Garden centres; Hardware and building supplies; Heavy industrial storage establishments; Hotel or motel accommodation; Industrial retail outlets; Landscaping material supplies; Light industries; Office premises; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreational facilities (outdoor); Registered clubs; Respite day care centres; Roads; Service stations; Serviced apartments; Sex services premises; **Shop top housing**; Storage premises; Take away food and drink premises; Timber yards; Transport depots; Truck depots; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres*

The proposal is categorised as a **shop top housing** as described below and is permissible in the zone with development consent.

#### Clause 1.4 Definitions

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

**Note.** Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

Clarification from Councils Counsel was sought regarding the above definition. Counsel advised that the definition merely requires dwellings above ground floor retail or business premises. It does not require, at least from the definition, ancillary or related uses, such as parking or residential lobbies, to be also located above retail or business premises. There are many examples of shop top housing with ground level lobbies and car parking.

Council is unaware of any recent case that has particular bearing on this question. The Court has recently referred for separate determination (15 November 2013) a question as to whether shop top housing can also be residential accommodation for the purposes of the Canterbury City EPI (*Hrsto v Canterbury City Council* [2013] NSWLEC 195). However, to date that decision has not been handed down, and it would appear to have limited application to the Wollongong LEP in any event

## **Part 4 Principal development standards**

### Clause 4.3 Height of buildings

The proposed variable building heights of up to 30.7m do not exceed the maximum of 32m permitted for the site.

### Clause 4.4A Floor space ratio – Wollongong city centre

The maximum FSR permitted for a wholly residential building is 2.5:1 and for a wholly commercial building the permitted FSR 3:1. On land within a business zone when a development combines the two uses then the formula contained with the LEP applies. The FSR is determined by way of percentage of each component.

The proposed development incorporates 93.7% residential and 6.3% commercial. In this regard the formula for devising the maximum permitted FSR for the site is as follows:

$$(3.0 \times 93.7/100) + (2.5 \times 6.9/100) = (2.811) + (0.1725) = 2.9835:1$$

An FSR of 2.9835:1 allows for a maximum of 17,927sq.m of gross floor area.

The site has an area of 6,008.9sq.m and the proposed development proposes a gross floor area of 14,762sq.m which equates to an FSR of 2.456:1 which is below the maximum allowable.

## **Part 5 Miscellaneous provisions**

### Clause 5.5 Development within the coastal zone

Whilst the site is located within the Coastal Zone the land is not identified as being impacted by coastal hazards. However, consent cannot be granted to development on land within the coastal zone unless the consent authority has considered the following matters:

Consent must not be granted unless Council has considered clause (2) and (3) of clause 5.5.

*(2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:*

*(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*

*(i) maintaining existing public access and, where possible, improving that access, and*

*(ii) identifying opportunities for new public access, and*

The proposal will not affect public access to the foreshore.

*(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*

*(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*

*(ii) the location, and*

*(iii) the bulk, scale, size and overall built form design of any building or work involved, and*

The site is zoned B6 Enterprise Corridor. The area is characterised by small scale commercial buildings on the western and eastern sides fronting Flinders Street with multi dwelling buildings also to the east on Smiths Hill. The proposed building is considered suitable for the site in regards to bulk and scale and comparable with the surrounding area.

The design of the bulk and scale of the proposed building is compatible with other development in the locality.

- (c) the impact of the proposed development on the amenity of the coastal foreshore including:*
  - (i) any significant overshadowing of the coastal foreshore, and*
  - (ii) any loss of views from a public place to the coastal foreshore, and*

The proposal would have minimal impact on the amenity of the coastal foreshore.

- (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

It is considered the proposal would have minimal impact on the visual amenity and scenic quality of the coast.

- (e) how biodiversity and ecosystems, including:*
  - (i) native coastal vegetation and existing wildlife corridors, and*
  - (ii) rock platforms, and*
  - (iii) water quality of coastal waterbodies, and*
  - (iv) native fauna and native flora, and their habitats, can be conserved, and*

The proposal would have minimal impact on biodiversity and ecosystems. The proposal does not involve any tree removal and is not known to contain any areas mapped Natural Resource Sensitivity – Biodiversity. The proposal would have no impact on ecosystems within the beach environment.

- (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:*
  - (i) on the proposed development, and*
  - (ii) arising from the proposed development, and*

The site is not mapped Coastal Hazards.

- (g) the cumulative impacts of the proposed development and other development on the coastal catchment.*

The proposal would have minimal cumulative impact on the coastal catchment.

*(3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*

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

The proposal will not affect public access to or along the coastal foreshore.

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

The site is sewered.

- (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.*

Stormwater drainage from the development will be connected to existing drainage system.

#### Clause 5.6 Architectural roof features

No architectural roof features are proposed.

### **Part 6 Urban release areas**

Not applicable

### **Part 7 Local provisions – general**

#### Clause 7.1 Public utility infrastructure

The development is adequately serviced by electricity, water and sewage services.

Pursuant to the provisions of Section 78 of the Sydney Water Act 1994, the proposal has been referred to Sydney Water for pre-approval as the development exceeds one hundred (100) dwelling units.

Pursuant to the provisions contained with SEPP Infrastructure that application was referred to Endeavour Energy in regards to the impact on the electricity network

### Clause 7.3 Flood planning area

Before determining an application for consent to carry out development on flood prone land, the consent authority must consider a number of matters relating to flooding including the impact of the proposed development on flood behaviour, the risk of flood damage to property and persons, the safety in time of flood of the site of the development and of any buildings or works intended to be erected or carried out, and the provisions of any floodplain management plan adopted by the Council that apply to the land. These matters have been considered by Council's Stormwater Section and no concerns are raised.

### Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by acid sulphate soils (Class 4 – Works more than 2 metres below the natural ground surface/works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface & Class 5 – Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. Council's Environment Officer has reviewed the application and no concerns are made. Appropriate conditions of consent are recommended in this regard.

## **Part 8 Local provisions—Wollongong city centre**

### Clause 8.1 Objectives for development in Wollongong city centre

The objectives of this part are as follows:

*(a) to promote the economic revitalisation of the Wollongong city centre,*

The proposal is considered to contribute to revitalisation of the Wollongong city centre by Providing efficient use of space for a mixture of compatible uses in close proximity to services.

*(b) to strengthen the regional position of the Wollongong city centre as a multifunctional and innovative centre that Encourages employment and economic growth,*

The proposal will contribute to employment and economic growth through construction and Eventual use.

*(c) to protect and enhance the vitality, identity and diversity of the Wollongong city centre,*

The proposal provides a mixture of commercial and residential uses and is considered satisfactory With regards to this objective.

*(d) to promote employment, residential, recreational and tourism opportunities within the Wollongong city centre,*

The proposal provides employment opportunities and a range of residential dwelling types.

*(e) to facilitate the development of building design excellence appropriate to a regional city,*

The design of the building is considered to be of high quality. The site is considered to be a significant site due to its location as the gateway to the main retail area of the Wollongong CBD and the corner elements of the building suitably define the importance of the site and location.

*(f) to promote housing choice and housing affordability,*

The proposal provides a mixture of 2 and 3 bedroom units that are expected to contribute towards housing choice and affordability in Wollongong.

*(g) to encourage responsible management, development and conservation of natural and man-made resources and to ensure That the Wollongong city centre achieves sustainable social, economic and environmental outcomes,*

The proposal is an efficient use of space in an accessible location that is considered to encourage use of public transport and existing services.

*(h) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of the Wollongong city Centre for the benefit of present and future generations.*

The proposal is not expected to result in any negative impacts on natural or cultural heritage.

#### Clause 8.4 Minimum building street frontage

The objective of the clause is to ensure that buildings have a minimum width to provide for the efficient development of land and design of buildings. Development consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres within the B6 Enterprise Corridor zone. The site has a combined frontage of approximately 130m.

#### Clause 8.5 Design excellence

The objective of this clause is to deliver the highest standard of architectural and urban design.

This clause applies to development involving the construction of a new building or external alterations to an existing building. Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the matters outlined in Clause 8.5.4 as follows:

- (1) *The objective of this clause is to deliver the highest standard of architectural and urban design.*
- (2) *This clause applies to development involving the construction of a new building or external alterations to an existing building.*
- (3) *Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.*
- (4) *In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:*
  - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

The design is considered to be of high quality.
  - (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*

The development is considered to positively contribute to the public domain through an aesthetically pleasing façade, extensive landscaping and provision of street trees and upgraded footpaths for the frontage of the site.
  - (c) *whether the proposed development detrimentally impacts on view corridors,*

No significant view corridors are impacted.
  - (d) *whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,*

Not applicable.
  - (e) *how the proposed development addresses the following matters:*
    - (i) *the suitability of the land for development,*

The land is zoned for the type of development proposed and the development complies with the relevant planning controls. There are no site constraints that would prevent the proposal.
    - (ii) *existing and proposed uses and use mix,*

The development is considered to be consistent with current and desired future development in the locality.
    - (iii) *heritage issues and streetscape constraints,*

None applicable.
    - (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

Separation, setbacks, amenity and urban form matters have been satisfactorily addressed as discussed elsewhere in this report.
    - (v) *bulk, massing and modulation of buildings,*

The bulk and scale of the development is considered to be consistent with the applicable planning controls and the future desired character of the area.

*(vi) street frontage heights,*

Not applicable.

*(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*

BASIX Certificates have been provided in accordance with requirements.

The proposal retains satisfactory solar access to adjoining developments in accordance with Council controls.

A Wind Effects Report is not required as the building is not over 32m in height.

*(viii) the achievement of the principles of ecologically sustainable development,*

The proposal is considered to be satisfactory in regard to ESD as follows:

- The proposal is not expected to impact on biological diversity or essential ecological processes.
- The proposal does not raise any concerns with regard to the precautionary principle.
- The community were appropriately consulted with regard to the likely impacts of the proposal.

*(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*

The proposal provides the necessary parking and suitable manoeuvring areas

Satisfactory waste servicing arrangements have been provided.

Direct pedestrian access is provided to entry to the building

The building is well located close to the CBD and public transport.

*(x) impact on, and any proposed improvements to, the public domain.*

Street trees and footpath upgrades are to be provided for the frontage of the development.

The development provides suitable boundary landscaping to soften appearance of the building.

The proposal is considered to be satisfactory with regard to the requirements of this clause.

#### Design Review

Clause 8.5.5 stipulates that development consent must not be granted to a building that is, or will be, greater than 35 metres in height unless a design review panel has reviewed the design of the proposed development. In this case a design review panel was not required as the building was not greater than 32m in height.

## **2.2 SECTION 79C 1(A)(II) ANY PROPOSED INSTRUMENT**

### Merge of Wollongong Local Environmental Plan (West Dapto) 2010 with Wollongong Local Environmental Plan 2009

At the time of lodgement of the DA the merge of Wollongong (West Dapto) LEP 2010 to the Wollongong LEP 2009 was still an exhibited planning proposal. The merge of the above two LEP's was notified/gazetted on the 6 June 2014. This matter has been considered and has no bearing on the proposal.

## **2.3 SECTION 79C 1(A)(III) ANY DEVELOPMENT CONTROL PLAN**

### **2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

#### **CHAPTER B1 – RESIDENTIAL DEVELOPMENT**

Whilst 'shop top housing' is a form of residential accommodation it is not required to be assessed against the controls contained within this chapter as identified in the introduction



*This chapter contains residential development controls for dwelling-house, secondary dwelling, semidetached dwelling, dual occupancy, attached dwelling, multi-dwelling housing (villas and townhouses), residential flat building developments in standard residential zones.*

*This chapter of the DCP applies to all residential zoned land within the City of Wollongong Local Government Area (LGA.) including E4 Environmental Living.*

The requirements for the subject development, being a 'shop top housing' within the city centre are contained within Chapter D13, assessment to follow.

#### **CHAPTER B3: MIXED USE DEVELOPMENT**

Whilst 'shop top housing' is a mixed use development it is not required to be assessed against the controls contained within this chapter as identified in the introduction

*This chapter of the DCP outlines the development standards which specifically apply to mixed use development. This chapter relates to mixed use development to lands outside the Wollongong City Centre. Where mixed use development is proposed within the Wollongong City Centre reference should be made to the Part D of the DCP which provides the specific controls for mixed use development within the Wollongong City Centre.*

The requirements for the subject development, being a 'shop top housing' within the Wollongong City Centre are contained within Chapter D13, assessment to follow.

#### **CHAPTER B4 – DEVELOPMENT IN BUSINESS ZONES**

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

#### **CHAPTER D13 – WOLLONGONG CITY CENTRE**

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

An assessment of the application against the WDCP 2009 is contained within the Compliance table at Attachment 6. Variations to the WDCP 2009 are discussed in detail below:

##### 2.4 Building depth

Section 2.4 of Chapter D13 of Wollongong DCP 2009 recommends a maximum depth for residential buildings of 18m. All three buildings are greater than the maximum depth requirement of 18m. Building A has a depth of 18.9m, Building B has a depth of 21m and Building C has a depth of 20.5m. These depths are only marginally greater than the suggested 18m.

Whilst this is above the maximum all apartments have good access to natural light and ventilation with the maximum depth of largest apartment is 10m. In addition satisfactory daylight access is available to all units.

The interior of the building has been designed so that the majority of units will have openings on two sides of the building, either by placing the unit at the corner of the building or laying out the building so the floor plan stretches across the length of the building. This ensures maximum window and balconies for each unit and promote good internal amenity.

The proposal is within the maximum height and FSR for the site. The bulk of the development is considered to be consistent with the zoning and relevant planning controls. There are not expected to be unreasonable impacts arising from the proposal on adjoining developments.

The bulkiness of the building is minimised by separating the construction into 3 distinct towers. The architectural articulation and the extensive balconies also give lightness to the building and minimise visual bulk. The façade treatment avoids any expansive building wall and provides visual interests.

##### 2.5 Rear setback

Section 2.5 of Chapter D13 of Wollongong DCP 2009 recommends a minimum building setback and to allow for appropriate separation distances to future buildings.

The development substantially complies with the required setbacks however the western balcony's on building B does not comply with required minimum. Up to 12m in height the balconies are required to be setback 6m, between 12m and 24m in height the balconies are required to be setback 9m and above 24m in height the balconies are required to be setback 12m. The balconies are setback between 4.7 and 4.9m to the western boundary. This therefore does not comply with the required minimum.

The area of non-compliance relates to the interface of the site and the adjoining creek which is located along the western boundary of the site. The lot the creek is located within is approximately 6.1m wide and is unlikely to be built on. If the setback is taken to the western boundary of the creek lot there is only a point encroachment from the levels above the 24m height which is level 9 (and 8 in this section) due the slope of land. The difference between 12m and 10.8m is considered marginal and impacts of such encroachment would be minimal.

The applicant has provided the following justification:

*As there is no immediate neighbour along that boundary, it is considered that at the building can achieve the objectives under clause 2.5.2 of the DCP without providing the relevant setback as follows:*

DCP Objective: *To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, wind mitigation, and privacy.*

Comment: *The adjoining land is a drainage channel which is approximately 20m wide (see below image). No development will occur within this channel. As such, the reduced setback will not create any impacts on the adjoining land owners as there will be at least 20m separation between the proposed development and the future redevelopment of the western lot.*

DCP Objective: *To achieve usable and pleasant streets and public domain areas in terms of wind mitigation and daylight access.*

Comment: *The western side of the building does not front any public space. The existing drainage channel is not used as a public park. The reduced setback will not affect the quality of the public space.*

In light of the above the technical non-compliance with the setback is considered acceptable in this case as it not expected create unreasonable negative impacts on the adjoining property.

#### 6.6 basement car park protrusion

The basement car park, along the rear/western boundary, exceeds the 1.2m 'height above the ground level' maximum contained in clause 6.6.2(b) in the WDCP 2009. This then extends from a height of 7.2 at the southern end of the wall to 8.2m at the northern end of the approximately 122m long wall. The Wall is positioned behind a 3m wide deep soil zone. This protrusion of the basement is exacerbated by the slope of the land. Whilst the basement is completely below ground at the Flinders Street frontage it is almost entirely exposed at the rear. In addition the second level of parking is sleeved behind the retail spaces on the ground floor so is entirely above ground at the rear of the site.

The interface with this basement wall is to a creek corridor and Kennards Storage establishment to the west.

In order for Council to consider the variation it needed to be satisfied that the height of the basement did not result in the building having a bulk and scale which dominated the streetscape and that landscaped terraces were provided.

The original plans submitted with the application provided for a similar wall however this wall was placed on the boundary with no landscape buffer and was considered inappropriate. The applicant amended the setback and provided a 3m area of deep soil to allow for landscaping to soften the view of the wall from the adjoining property. The wall panelling is also broken up with the inclusion of louvers and is no longer a blank wall. These measures are considered to satisfactorily reduce the impact of the height of the basement.

In this regard the height of the basement within this location is considered satisfactory.

## CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This application has been considered against the requirements of this chapter and found to be acceptable. A total of 16 of the 160 residential units are nominated as adaptable (10%). Sixteen (16) car parking spaces have been allocated to the adaptable units designed in accordance with applicable standards. An Accredited Access Consultant has provided an Adaptable Housing Statement of Compliance which confirms that the units can comply with the spatial requirements of AS4299 for Adaptable Housing. The application will be conditioned to comply with the BCA and relevant Australian Standards in regards to access.

## CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

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

### Number of car spaces

The proposed development requires the provision of a total of 312 spaces as indicated in the table below.

Category	Rate	Quantity	Requirement	Provided
Retail	1 space per 25m <sup>2</sup>	937m <sup>2</sup>	<b>37.48 spaces</b>	<b>27 spaces</b>
Residential < 70m <sup>2</sup>	1 space per unit	12 units	12 spaces	
70m <sup>2</sup> /110m <sup>2</sup>	1.5 spaces per unit	132 units	198 spaces	
> 110m <sup>2</sup>	2 spaces per unit	16 units	32 Spaces	
Residential Total -			<b>242 spaces</b>	<b>205 spaces</b>
Residential (visitors)	0.2sp per unit	160units	<b>32 spaces</b>	<b>32 spaces</b>
<b>TOTAL REQUIRED</b>			312spaces	
<b>TOTAL PROVIDED</b>			264 spaces	264 sapces

Section 7.4, of Chapter E3 in WDCP 2009, provides for a car parking reduction (city wide) if:

- The site is within 400m of a bus stop (10% reduction),
- The site is within 800m of a railway station (20% reduction).

There is no specification or notation indicating that the reduction excludes residential uses and therefore in this regard the reduction can be applied to the development as a whole. As the proposed site is within 400m of several bus stops, a bus stop is proposed at the frontage of the development, and North Wollongong railway station is located approximately 500m to the north, a cumulative 30% reduction applies. As such, the amended parking requirement equates to:

<b>TOTAL REQUIRED</b>	312 spaces
<b>30% Reduction</b>	-93.6 spaces
<b>TOTAL REQUIRED (after 30% Reduction)</b>	219 spaces
<b>TOTAL PROVIDED</b>	264 spaces

Under previous Development Control Plans, including WDCP 49 – Residential Development and WDCP 2009 prior to its first review, urban consolidation areas were nominated. These urban consolidation areas surrounded an existing train station. If a site was located within an area of urban consolidation it was allowed a reduced parking rate due to the existence of a train station and therefore public transport. These nominated urban consolidation areas no longer exist however the DCP now

allows for a reduction of car parking up to a maximum of 30% if the site is located within a certain distance to public transport as indicated above.

The proposed development is not relying entirely on the allowable reduction of parking and has provided greater parking numbers equating to a reduction of 15.4% only. The provided car parking is considered acceptable in this location.

#### Internal Driveway access width

In accordance with AS2890.2 travel lanes either side of the median on the access driveway are required to be a minimum of 3.5m wide in order to cater for the Medium Ridged Vehicle (MRV). The swept path analysis and Traffic Impact Assessment by Cardo acknowledges that the current design leaves no room for error when providing access for a medium rigid vehicle. This is not acceptable and may have an impact on traffic should the entrance be judged incorrectly by a driver.

In this regard the access driveway is required to be widened accordingly to provide for a minimum of 3.5m on either side of the median. This will be required to be conditioned as part of a deferred commencement consent as discussed below.

#### Car Space Dimensions

Despite justification from Cardno dated 26 March 2014 for residential visitor parking being User Class 1A Council still considers this parking to be User Class 2 and should therefore be 2.5 metres wide. Whilst it is acknowledged that AS2890.1:2004 does not explicitly reference visitor parking in Table 1.1, Clause 2.3.4 makes reference to the provision of higher class modules for a relatively small number of users in that class and uses employee and visitor parking as an example. Furthermore Council has concerns regarding the safety issues that may be associated with the potential delays and congestion caused by vehicles manoeuvring into and out of User Class 1A bays in such close proximity to the only vehicle entry and exit point to the development.

In this regard all visitor parking spaces are required to be increased to 2.5m in width.

#### Deferred Commencement condition

Due to the column spacing and the modular design of the construction, compliance with the widening of the driveway access and the width of the visitor car parking spaces could result in either a relocation of the visitor parking, or a further reduction in car parking numbers. Regardless the potential exists for a redesign of the basement to allow for the required compliance. In light of this it is considered appropriate to condition the application to require the matters to be addressed as part of a deferred commencement condition. In this way any redesign of the basement and/or loss of parking spaces can be satisfactorily addressed and correct plans approved removing the need for a section 96 modification application if compliance with the conditions results in changes.

### **CHAPTER E5: BASIX (BUILDING SUSTAINABILITY INDEX)**

A BASIX Certificate was submitted with the application.

### **CHAPTER E6: LANDSCAPING**

A landscape plan was submitted with the development application prepared by a qualified landscape architect. The landscaping plan is generally consistent with the requirements of the DCP and is considered satisfactory by Council's Landscape Architect.

### **CHAPTER E7: WASTE MANAGEMENT**

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

### **CHAPTER E12 GEOTECHNICAL ASSESSMENT**

The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development. Appropriate conditions have been recommended; no objection is raised.

## **CHAPTER E13 FLOODPLAIN MANAGEMENT**

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

## **CHAPTER E14 STORMWATER MANAGEMENT**

A stormwater drainage plan was submitted with the DA. The stormwater drainage plan incorporates on-site detention as required by the DCP. The stormwater plan has been considered by Council's Stormwater Division and is considered to be acceptable subject to conditions.

## **CHAPTER E15 WATER SENSITIVE URBAN DESIGN**

WSUD is a holistic approach to the planning and design of urban development that aims to minimise negative impacts on the natural water cycle and protect the health of aquatic ecosystems. WSUD promotes the integration of stormwater, water supply and wastewater management at the development stage. WSUD requires the consideration of the urban water cycle at the early planning stage to ensure all possible opportunities for application of best practice water cycle management solutions can be realised. The urban water cycle involves the cycling of water through the urban environment. WSUD promotes innovative integration of urban water management technologies into an urban environment.

## **CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)**

Earthworks proposed to facilitate construction of the basement car park have been considered with regard to the objectives and provisions of Chapter E19 and are considered to be acceptable.

## **CHAPTER E20 CONTAMINATED LAND MANAGEMENT**

See Council's Environment Officer comment's regarding the Contaminated Sites Management Plan and SEPP 55 – Remediation Of Land in Sections 2.5.1 and 3.1.2 respectively.

## **CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT**

A demolition plan was provided with the DA. A site waste minimisation and management plan has been provided as required.

It is recommended that conditions be imposed, if consent is granted to the development, requiring a hazardous materials survey prior to demolition of the existing structures and requiring appropriate handling and disposal of any hazardous building materials such as asbestos.

## **CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL**

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

## **CHAPTER E23: RIPARIAN LAND MANAGEMENT**

Effects on the watercourse adjacent the rear of the site was assessed as satisfactory by Council's Stormwater Engineer following the submission of site drainage and flooding information.

## **2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2013)**

The estimated cost of works is \$40,582,867 and a Section 94A levy of 1% equating to \$40,5830 is therefore applicable as the threshold figure is \$100,000. A condition of consent is included in the recommended conditions requiring payment of a Section 94A levy.

## **2.4 SECTION 79C 1(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 93F, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 93F**

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

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

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

- (1) *For the purposes of section 79C (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:*
  - (a) *in the case of a development application for the carrying out of development:*
    - (i) *in a local government area referred to in the Table to this clause, and*
    - (ii) *on land to which the Government Coastal Policy applies,*  
*the provisions of that Policy,*
  - (b) *in the case of a development application for the demolition of a building, the provisions of AS 2601.*

The application involves demolition and as such the provisions of AS 2601-2001: The Demolition of Structures apply. A condition will be attached to the consent in this regard.

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

93 Fire safety and other considerations

- (1) *This clause applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.*
- (2) *In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use.*
- (3) *Consent to the change of building use sought by a development application to which this clause applies must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.*  
*Note. The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.*
- (4) *Subclause (3) does not apply to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4).*
- (5) *The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.*

Not applicable

94 Consent authority may require buildings to be upgraded

*(cf clause 66B of EPA Regulation 1994)*

- (1) *This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where:*
  - (a) *the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or*
  - (b) *the measures contained in the building are inadequate:*
    - (i) *to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or*
    - (ii) *to restrict the spread of fire from the building to other buildings nearby.*
  - (c) *(Repealed)*
- (2) *In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*  
*(2A), (2B) (Repealed)*
- (3) *The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.*

Not applicable

## 2.6 SECTION 79C 1(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT)

There is no Coastal Zone Management Plan currently applicable to the land. Whilst being in the coastal zone, the land is not identified as being impacted by coastal hazards and there are not expected to be any adverse impacts on the coastal environment arising from the development.

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

### Context and Setting:

The proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible height and FSR for the land, and existing and future character of the area, and is considered to be compatible with the local area.

### Context and Setting:

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

The form, character and finishing materials and colours are consistent with the newer modern buildings located further south of the site known as the 'Hatch' building.

### Access, Transport and Traffic:

The proposal is generally satisfactory with regard to these matters. Access is suitable, there is sufficient car parking provided within the site and manoeuvring generally complies with relevant standards.

Public transport is available within reasonably close proximity of the site. North Wollongong Railway station is located within 500m of the site, in addition to taxi ranks and bus stops.

### Public Domain:

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

### Utilities:

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

### Heritage:

No heritage items will be impacted by the proposal. There are no heritage items or conservation areas within proximity of the site.

### Other land resources:

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

### Water:

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

No adverse water quality impacts are expected as a result of approval of the proposed development subject to soil and water management measures being implemented during construction. If approved, conditions can be imposed in this regard.

The proposal is not expected to involve excessive water consumption. The applicant indicates that rainwater collection and reuse are proposed, and water efficient fixtures will be used. This will assist in reducing reliance on potable water.

### Soils:

The site is not known to be contaminated nor contain acid sulphate soils. Impacts on soil resources through erosion and sedimentation during construction can be mitigated. If approved, conditions should be imposed in relation to the implementation of erosion and sedimentation controls.

Air and Microclimate:

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

Flora and Fauna:

There is no vegetation removal or landscaping proposed or required.

Waste:

A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction. The applicant indicates that garbage bins will be wheeled to the street for collection. A waste storage room is proposed at ground floor area with sufficient capacity.

Energy:

The proposal is not expected to involve unreasonable energy consumption. Endeavour Energy have provided a satisfactory referral.

Noise and vibration:

The proposal will only generate noise and vibration impacts during construction. These will be limited in duration and can be mitigated through compliance with consent conditions. Conditions should be imposed in this regard if consent is granted.

Natural hazards:

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

The site is within uncategorised flood risk precinct. Assessment has been undertaken by Council's Stormwater Section who has provided conditions. Any contamination will be remediated during the project.

Technological hazards:

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

Safety, Security and Crime Prevention:

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

Social Impact:

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

Economic Impact:

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

Site Design and Internal Design:

The application seeks consent for a number of departures from the WLEP2009 and WDCP2009, as outlined previously within this report. The variations sought relate to building separation, setbacks, view loss and other minor variations. The variations sought are considered to be reasonable in this instance.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

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

Construction:

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

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



#### Cumulative Impacts:

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

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

### Does the proposal fit in the locality?

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

### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

The application was notified to adjacent/adjoining and in the advertiser from 3 September to 14 October 2013 in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. After amended plans were received the application was re-notified from 5 March to 14 April 2014. During the notification process 2 submissions were received, one (1) from Neighbourhood Forums 5 & 6 expressing support for the development, and one (1) expressing concerns, the issues of which are discussed below.

Objection	Comment
Impact on adjoining property in regards to: <ul style="list-style-type: none"><li>• Demolition of existing structures (safety, access, visibility etc.)</li><li>• Connection of services (electrical, sewerage, drainage, water, communications etc.)</li></ul>	<p>The applicant will be required to notify the adjoining properties prior to demolition commencing. It will also be a condition of consent that dilapidation reports be undertaken on the adjoining building prior to construction commencing so that the impact of construction and demolition can be fully determined and rectified in the event of damage.</p> <p>It will be conditioned that the development does not generate off site impacts during construction and appropriate service arrangements are made with utility supplies.</p>
Impact on adjoining property in regards to visibility, access and parking for our property on completion.  In particular, drawings “Ground Level Landscape Concept Plan” and “General-Streetscape Photomontage 2” show severe encroachment on the access to No 32 Flinders Street.	<p>It is not expected that the proposed development will impact on the adjoining properties in regards to visibility, access and parking. The application complies with the setback controls to the ground level.</p> <p>The development and its access is from Gipps Street only and is wholly contained within the boundaries of the site.</p>

### Submissions from public authorities

See External Referral Section within this report

## 2.10 SECTION 79C 1(E) THE PUBLIC INTEREST

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

### 3. RECOMMENDATION

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This application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C(1) of the Environmental Planning & Assessment Act 1979. The proposal is permissible with consent in the B6 Enterprise Corridor zone Wollongong Local Environmental Plan 2009. It is also consistent with the requirements of the relevant state planning policies and Wollongong Development Control Plan 2009.

Submissions received during the notification and assessment of the application have been considered within the report.

There being no outstanding issues or unreasonable additional impacts from the proposal, it is recommended that the application be approved pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, subject to conditions at Attachment 4.

#### **Attachments**

1. Aerial photograph
2. Wollongong Local Environmental Plan 2009 zoning map
3. Plans
4. Draft conditions
5. RFDC Compliance table
6. WDCP 2009 Compliance table