

JOINT REGIONAL PLANNING PANEL
(Sydney East Joint Regional Planning Panel)

ASSESSMENT REPORT

JRPP No	2013SYE039
DA Number	DA65/13
Local Government Area	North Sydney Council
Proposed Development	Demolition of existing structures and construction of a 6 level mixed use building to contain a public car park, supermarket, arcade, specialty stores and substations and erection of signage
Plans Ref:	DA003, DA011-DA017, DA021 and DA031- DA032, Revision B received by Council on 7 August 2013
Street Address	10 Falcon Street and 34-43 Alexander Street, Crows Nest
Applicant/	Fabcot Pty Ltd
Owner	Fabcot Pty Ltd, North Sydney Council and Ausgrid
Number of Submissions	Eleven (11)
Date of Report	2 October 2013
Report by	Kerry Gordon – Kerry Gordon Planning Services On behalf of North Sydney Council
Recommendation	Refusal

EXECUTIVE SUMMARY

This development application seeks Council's approval for demolition of existing structures and construction of a 6 level mixed use building to contain a public car park, supermarket, arcade, specialty stores and substations and erection of signage.

As the Council has a pecuniary interest in the development it was considered appropriate to have the application assessed by a consultant town planner, traffic engineer, acoustic engineer and heritage consultant.

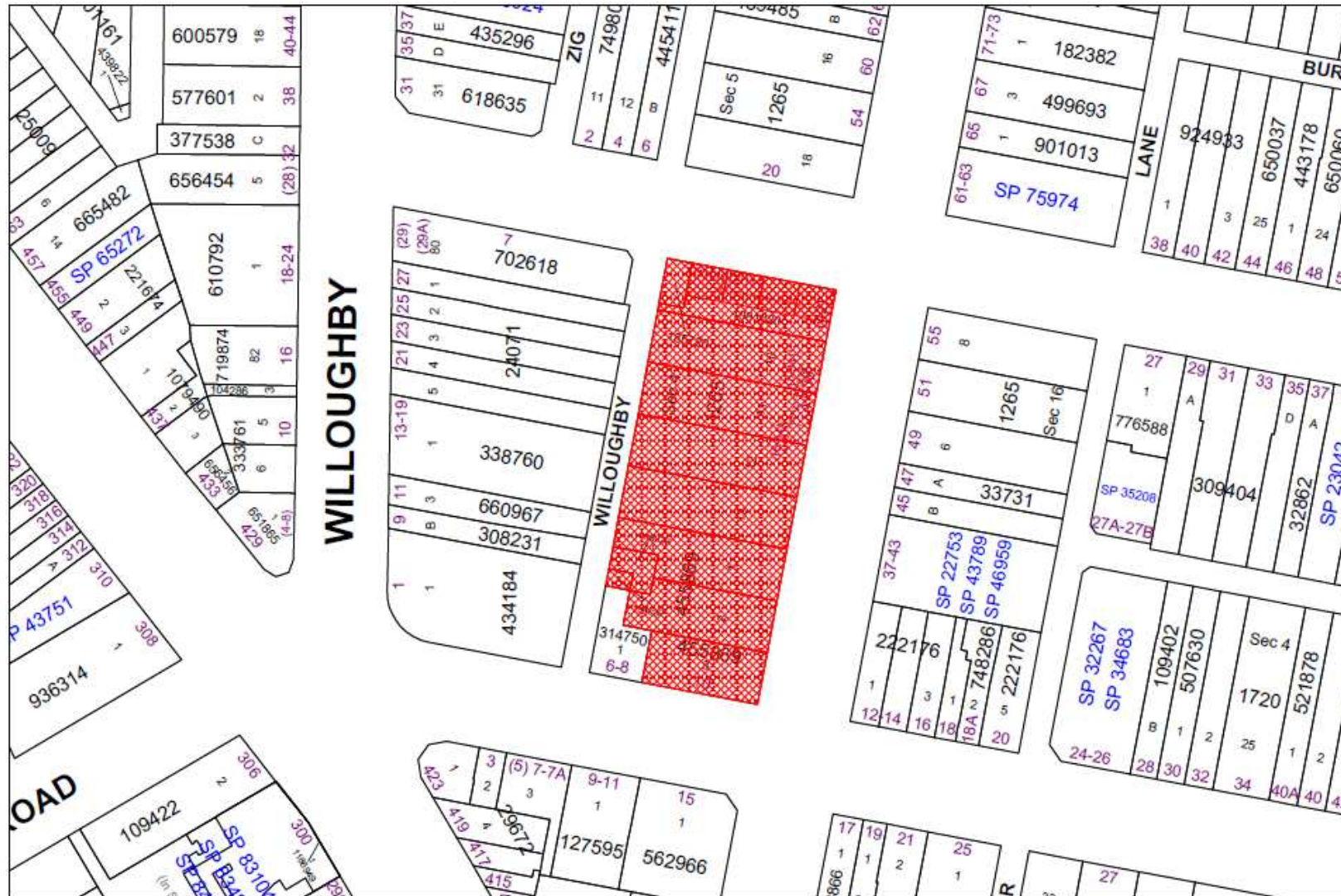
Council's notification of the proposal has attracted eleven (11) submissions of support or objecting to the proposal, raising particular concerns about impacts upon Nos. 6-8 Falcon Street, noise from the loading dock, workability of the loading arrangements, traffic impacts, streetscape of Falcon Street and construction impacts.

The assessment has considered these concerns as well as the performance of the application against Council's planning requirements. Following this assessment, whilst the amended application is considered to be generally acceptable, three matters remain outstanding that have not be satisfactorily resolved. Therefore the application is recommended for **refusal** for the following reasons:

1. Pursuant to clause 14 of North Sydney Local Environmental Plan 2001, the proposal is inconsistent with the Specific Aim at clause 3(a)(i) as it is not designed to promote the character of the Crows Nest Town Centre given the "wrap around" façade is not compatible with the bulk, scale and appearance of the centre and therefore must be refused.
2. The proposed development provides for inappropriate activation of the Falcon Street frontage due to the provision of the substations and the lack of pedestrian access on this significant street frontage, which is inconsistent with the requirements of the Quality Built Form controls of Section 20 Commercial Development of North Sydney Development Control Plan 2002.
3. The operation of the loading dock will result in unacceptable noise impacts upon the approved residential dwellings at No. 11 Willoughby Road and no satisfactory amelioration measures have been proposed to address the impacts.

It is noted that a Class 1 appeal was served on Council on 19 September 2013 against the deemed refusal of the Development Application 65/13. The matter is listed for directions hearing before the Court on 15 October 2013.

LOCATION MAP



DESCRIPTION OF PROPOSAL

Application is made for the demolition of existing structures and construction of a 6 level mixed use building to contain a public car park, supermarket, arcade, specialty stores and substations and erection of signage. The proposed building is described in detail following:

Basement: Lower level of supermarket, with access to the ground level component of the supermarket by lift to the Falcon Street frontage and travelator to the Alexander Street frontage.

Ground: Ground level of supermarket to occupy approximately 2/3 of the ground floor towards the Falcon Street frontage and centre of the site. Access to the supermarket is via a main entry (accessible) off the proposed arcade from Burlington Street and a second entry via a set of stairs from Alexander Street. An arcade is proposed running from Burlington Street to the supermarket, with 4 specialty shops lining the arcade (2 of which also have frontage to Burlington Street – 1 also having frontage to Alexander Street). A 5th shop is proposed having frontage to Burlington Street. The arcade also provides access to the lifts to the upper level car park and to 2 public accessible toilets. Lift access from Alexander Street is provided to the arcade level and all levels of the car park. Two substations are proposed fronting Falcon Street and one fronting Alexander Street. The loading dock for the supermarket is proposed parallel to Willoughby Lane and trucks need to reverse into it from Willoughby Lane. Entrance to the car park is via a ramp from Burlington Street adjacent to Willoughby Lane and the exit is via a ramp down to Alexander Street. Both the entrance and exit remaps have pedestrian crossings marked where they intersect the footpaths on Burlington and Alexander Streets.

1st: Lowest level of the car park containing 55 car spaces (2 accessible) with the ramp up from Burlington Street leading to an anti-clockwise one way circulation around the parking area. The exit queuing and boom gates are located towards Falcon Street, with a trolley tractor and trolley storage area adjacent. Lifts accessing the car park are located at the Alexander Street frontage, near its intersection with Burlington Street.

2nd – 3rd: Car parking levels containing 82 car spaces (2 accessible) each with parking located to all road frontages and two central rows of parking with an anti-clockwise one way movement system.

4th: Car parking level containing 77 car spaces (2 accessible) each with parking located to all road frontages and two central rows of parking with an anti-clockwise one way movement system.

The proposed supermarket is to have a trading area of 3,801m² and an administration area of 165m². The public car park is to contain parking for a total of 296 cars (8 accessible – 2.7%). The five specialty shops range in size from 43m² to 171m² and have a total gross floor area of 500m². The proposed building has a maximum height of RL 113.6 to the parapet and RL 116.75 to the top of the lift core.

It is also proposed to erect the following signage:

Alexander Street façade:	1 x Woolworths and parking direction sign 7.7m x 1.6m on window near intersection with Falcon Street 1 x Woolworths sign 5.9m x 1.3m above store entrance 1 x car park exit façade sign 3m x 0.4m 2 x under awning signs 2.4m x 0.3m
Falcon Street façade:	1 x Woolworths sign 7.3m x 1.6m on window near intersection with Alexander Street 1 x projecting wall parking sign at corner with Alexander Street 1.5m x 1.6m 1 x 3D internal suspended sign 2.2m x 2m 1 x building identification parapet sign 7.4m x 0.8m 1 x under awning sign 2.4m x 0.3m
Burlington Street façade;	1 x Woolworths logo and 1 x Council sign over car park entry 2.2m x 2m and 2m x 2m 1 x building identification sign over arcade entry 5.1m x 1m 1 x supermarket sign over arcade entry 2.4m x 0.3m 2 x facade signs for retail premise 1.1m x 0.8m and 7.0m x 0.8m 1 x parking sign at corner with Alexander Street 1m x 0.8m
Willoughby Lane façade	2 x projecting wall signs Woolworths logo and parking 1.2m x 1.1m and 1.2m x 1.8m near car park entrance Façade parking sign 3.3m x 1.3m near car park entrance Woolworths logo sign near loading dock 0.9m x 0.6m Woolworths and parking façade signs above building at No. 6-8 Falcon Street 5.9m x 1.3m and 1.5m x 1.2m

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B3 Commercial Core
- In Vicinity of Item of Heritage – Crows Nest Hotel
- Height 19.15m
- Savings provision at clause 1.8A indicates LEP 2013 is not applicable to the assessment of the application

North Sydney LEP 2001

- Zoning - Commercial
- In Vicinity of Item of Heritage
- Height 19.15m

S94 Contribution

Environmental Planning & Assessment Act 1979

SEPP No. 55 - Contaminated Lands

SEPP No. 64 - Advertising Signs

SEPP (Infrastructure)
SREP (Sydney Harbour Catchment)
Local Development

POLICY CONTROLS

DCP 2002

DESCRIPTION OF SITE AND LOCALITY

The subject site is comprised of 11 allotments (Lots 1-3, DP 455869, Lots 10-13, DP 1265, Lot 1, DP 1081820, Lot 1 DP 185720, Lot 1 DP 104029 and Lot 1 DP 104030) and is an irregular shaped allotment occupying the street block surrounded by Falcon Street, Alexander Street, Burlington Street and Willoughby Lane, with the exception of Nos. 6-8 Falcon Street (Lot 1 in DP 314750). The site is currently occupied by a Woolworths supermarket (southern half) and a mixed use building containing a public car park and shops to Burlington Street and part of Alexander Street frontage (northern half). The site also contains a large substation fronting Willoughby Lane.

The site is located in an area of mixed uses, predominantly retail, with some commercial and residential use. Properties to the west of the site front Willoughby Road and contain a mix of uses in largely 2 storey building, including the Crows Nest Hotel (3 storey), a range of shops and a café. There are currently 5 dwellings at the first floor level of No. 29 Willoughby Road (corner of Burlington Street) and 2 approved dwellings at the first floor level of No. 11 Willoughby Road (opposite the proposed loading dock). Immediately to the south-west of the site is a 2 storey shop occupied by a café at ground level. To the south of the site are 2-4 storey buildings containing largely commercial uses. To the east of the site are a series of 1-4 storey buildings containing a mix of retail and commercial uses and restaurants. To the north of the site is a 3 storey building with retail uses at ground level and commercial uses above. Diagonally opposite the site to the north-east is a 3 storey mixed use building with commercial uses at ground level and residential above.

RELEVANT HISTORY

History of Assessment of Application

The application was lodge on 15 March 2013 and an initial assessment revealed concerns with the design of the proposal and inadequacies in the information lodged, with the main issues summarised following:

- Inadequate information to determine whether Nos. 6-8 Falcon Street would be unreasonably isolated and prevented from achieving its development capacity under the then draft LEP 2012 (now LEP 2013);
- Concern with the urban design of the proposal including
 - Streetscape presentation in the context of the retained development at Nos. 6-8 Falcon Street if it can't be further redeveloped.
 - Lack of activation of frontages, particularly Alexander Street

- Design of façade wrapping around car park emphasises the bulk and scale of the building and is not characteristic of the smaller scale development of Crows Nest.
- Concern is raised at the conflict of the location of the entrance to the car park in close proximity to Willoughby Lane and potential pedestrian safety issues.
- Concerns with the internal layout of the car park
- Concerns with the access from Willoughby Lane onto Falcon Street for semi-trailers.
- Awning height and design in terms of urban design and weather protection.
- The need for traffic counts to be updated and pedestrian counts provided
- Concern that the acoustic report failed to address the residential properties located on the opposite side of Willoughby Lane.

A meeting was held with the applicant to discuss the above concerns and an amended set of plans and additional information was lodged on 7 August 2013. The most significant amendments to the design were as follows:

- Relocation of the lift core away from the corner of Burlington and Alexander Streets;
- Relocation of the toilets to within the arcade;
- Provision of increased shop frontages to Burlington and Alexander Streets;
- “Division” of the “wrap around” façade of the car park by provision of stronger vertical elements and colour changes to create horizontality;
- Shortening of ramp to Alexander Street;
- Improved access from specialty shops to loading zone in Alexander Lane;
- Increased separation of car park entry ramp from Willoughby Lane; and
- Provision of ‘wrap around’ façade for car park to corner elements of building in Willoughby Lane

A Class 1 appeal was served on Council on 19 September 2013 against the deemed refusal of the Development Application 65/13. The matter is listed for Directions Hearing before the Court on 15 October 2013.

History of Zoning of Subject Site

At the time of lodgement of the application (ie 15 March 2013) the proposed uses of supermarket, public car park and specialty shops was prohibited on part of the site which was zone part Mixed Use and part Special Uses Car Park.

The application was submitted relying upon a planning proposal (Amendment 52 to LEP 2001) which sought to rezone the subject site and No. 6-8 Falcon Street to a Commercial zoning and permit an additional use of car park as well as increasing the height limit to 19.15m. The planning proposal also involved reclassification of the Council owned portion of the land to operational land. The planning proposal was made and published on 7 June 2013 and commenced on the date published. As the planning proposal did not contain a savings provision, as of 7 June 2013 the proposal became a permissible development subject to consent.

North Sydney Local Environmental Plan 2013 (NSLEP 2013) was made and published on 2 August 2013 and commenced on 13 September 2013. NSLEP 2013 zoned the subject site B3 Commercial Core and provided a height limit of 19.15.

However, at clause 1.8A, the LEP contained a savings provision that indicated *“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan has not commenced.”*

Therefore NSLEP 2013 will not be considered as if it is a draft LEP that had been exhibited and was certain and imminent in this assessment. It is noted that given the use remains permissible and the height limit is not changed, the weight given to NSLEP 2013 has no significant impact to the assessment.

INTERNAL REFERRALS

Engineering/Stormwater Drainage

No objections raised subject to standard conditions.

Comment: The recommended conditions should be included in any consent issued for the development.

Garbage

Concerns were raised as to the size of both the Woolworth's garbage storage area and the storage area for the specialty stores. Concern was also raised as to the method of access to the Woolworth's garbage storage area which is via the loading dock, with no direct access from the "back of store" area of Woolworths.

Comment: These concerns can be addressed by conditions in any consent issued for the development.

EXTERNAL REFERRALS

As the Council has a pecuniary interest in the development it was considered appropriate to have the application assessed by a consultant town planner, traffic engineer, acoustic engineer and heritage consultant. The assessment of the traffic engineer, acoustic engineer and heritage consultant are summarised following.

Engineering/Traffic

An assessment of traffic and parking impacts was undertaken by Varga Traffic Planning Pty Ltd and initial concerns were raised in relation to conflict with the location of the entrance to the car park in close proximity to Willoughby Lane and potential pedestrian safety, the internal layout of the car park, access from Willoughby Lane onto Falcon Street for semi-trailers and the need for traffic counts to be updated and pedestrian counts provided.

Amended plans and additional information was provided in response to these concerns and an assessment of this was made by Varga Traffic Planning Pty Ltd, a summary of which is provided following:

Car Parking Demand/Provision

- The proposed supermarket and retail floor space would generate a demand for 104 additional parking spaces over the demand created by the existing supermarket and retail shops onsite under DCP 2002.
- The expansion of the public car park will increase the capacity of parking onsite by 164 spaces.
- As such the additional parking would provide a sufficient amount of parking for the increased demand, with an additional 60 space capacity over that needed for the retail uses and supermarket.
- It is noted that the car parking would be public parking and that it would be shared by all retail users in the surrounding precinct, including Woolworths.
- The expansion of the public parking area will improve the availability of car parking in the Crows Nest town center to a level comparable with a similar town centre, Neutral Bay, and as such is considered acceptable.

Access to Car Park

The proposed access to the car park is considered acceptable subject to the following amendments:

- A 3.0m wide separation is to be provided in the footpath area between the entry ramp and the adjacent Willoughby Lane to provide improved clarity for both pedestrians and drivers turning into either the car park access ramp or into Willoughby Lane
- The existing taxi rank located on the southern side of Burlington Street along the site frontage will be lost due to the provision of the new left-turn lane into the car park ramp. The loss of the existing taxi rank has not been addressed in the application. The Applicant is to investigate suitable alternative locations for the existing taxi rank, noting that a “feeder” taxi rank is located on the southern side of Burlington Street, to the east of its intersection with Alexander Street.

The exit driveway is to be retained in Alexander Street in approximately the same location as the existing driveway from the ground floor car park and is considered satisfactory. This location for the exit is supported as it will allow drivers wishing to travel to the south to turn left and use the roundabout at the intersection of Burlington and Alexander Streets to turn around safely.

Circulation Within the Car Park

The circulation layout is generally considered acceptable, however the location of the entry driveway in close proximity to the exit boom gates could potentially lead to the entrance being blocked by cars queuing to exit the car park.

Whilst two exit boom gates are provided, the layout of the queuing on the approaches to the boom gates is inefficient and the overall length of queuing does not comply with the requirements of Clause 3.4 Queuing Areas in AS 2890.1 – 2004 and as such the following modifications should be made:

- Appropriate “Do Not Queue Across Intersection” signs are to be installed in the exit driveway where it intersects with the entry driveway, and
- A non-stop “ticketless” parking system is to be installed, similar to the “ticketless” parking system installed at the Woolworths Lane Cove car park.

Increase in Traffic Generation

The traffic report lodged with the application indicates traffic generation would be increased by in the order of 200 vph (in and out combined) on weekday afternoons and an additional 300 vph (in and out combined) during the Saturday peak usage and these figures are concurred with.

The existing road network can cater for the additional traffic with an average of an additional 5 seconds delay at intersections, which would result in the intersections maintaining the existing LOS of A or B, which is satisfactory.

As such the proposal will not result in any unacceptable impacts upon the surrounding road network and no road improvements or intersection upgrades are warranted as a consequence of the proposal.

Servicing/Deliveries

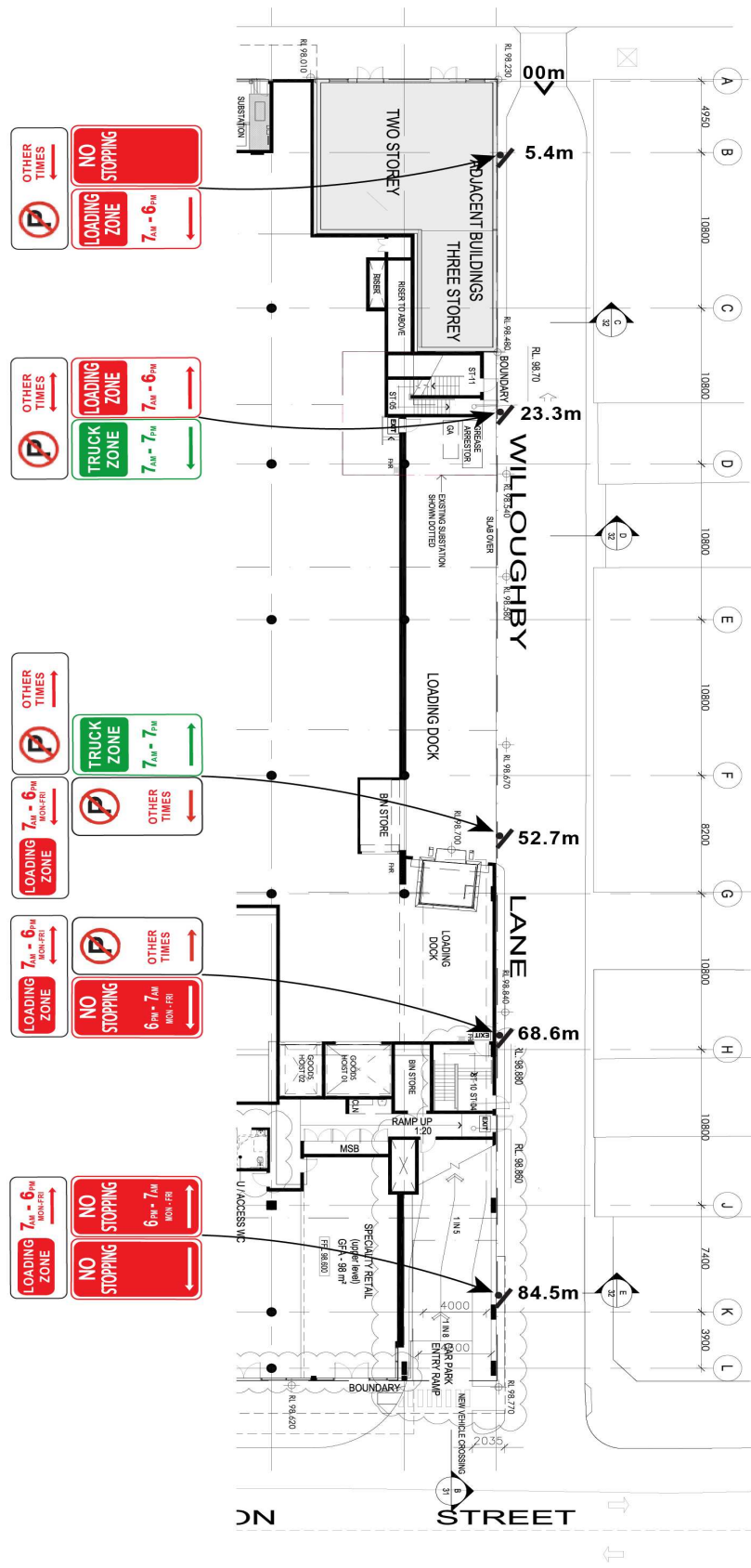
A new loading dock to accommodate a 14.4m long small semi-trailer (the largest currently used by Woolworths for deliveries to the site) is to be provided parallel and adjacent to Willoughby Lane in a position which generally corresponds with the location of the existing truck zone. Some adjustment will be required to the existing parking restrictions in Willoughby Lane to accommodate the loading dock.

As the loading dock can only accommodate one semi-trailer at a time a Dock and Truck Management Plan has been prepared which will required the manager to schedule deliveries such that only 1 large vehicle is present at any one time and to ensure trucks are not waiting to access the loading area. The Loading Dock Management Plan provided by the applicant is considered appropriate, but should be modified to include the peak period restriction on movements from Willoughby Lane into Falcon St required by the RMS/SRDAC comments and be included as a condition of consent.

Changes to Parking Restrictions in Willoughby Lane

Kerbside parking on the eastern side of Willoughby Lane is subject to loading zone and truck zone parking restrictions, with two loading zones located at either end of the lane and a truck zone located centrally (see diagram on following page). The existing truck zone will need to be replaced with a no parking zone to accommodate the proposed new off-street loading dock, with some minor adjustments to the existing position of signposts.

A study of the loading and truck zones involving observations 3-4 times daily over a 10 day consecutive days in August showed the following pattern of usage



EXISTING PARKING RESTRICTIONS

Willoughby Lane, Crows Nest

FIGURE 1

- The Loading Zone located at the northern end of Willoughby Lane was heavily utilised at all times on weekdays, particularly in the mornings. On weekends this zone is unrestricted, allowing “all day” parking to occur
- The Loading Zone located at the southern end of Willoughby Lane was busiest on weekday mornings (although some spare capacity was usually available on weekday mornings unless this zone was occupied by a large truck). The southern Loading Zone was often vacant on weekday afternoons and on weekends
- Similarly, the Truck Zone tended to be busiest on weekday mornings (although some spare capacity tended to be available on weekday mornings if it was not occupied by a large truck). The Truck Zone was often vacant on weekday afternoons and on weekends.
- Many of the users of the Truck Zone and southern Loading Zone were delivering to Woolworths and these users would relocate into the new off-street loading dock, with remaining users to be accommodated in the southern Loading Zone.
- It was noted that on one occasion a medium sized truck was parked illegally on the western side of the land beside another legally parked truck (in the Northern Loading Zone), blocking access to the lane for 15 minutes despite the fact there was space capacity in both the Truck Zone and the southern Loading Zone at the time. Discussions with a shop owner confirmed this was a regular occurrence in the lane.

To accommodate the proposed on-site loading dock the following changes would be required to the existing parking restrictions:

- The northern Loading Zone would need to be reduced in length from 32m to 29m (a reduction of 3m)
- The southern Loading Zone would need to be reduced in length from 18m to 13m (a reduction of 5m), and
- The existing 29m long Truck Zone would need to be replaced with No Parking restrictions.

It is also suggested that the words “Monday-Friday” be removed from the northern Loading Zone to overcome an anomaly which currently permits “all-day” parking in the northern Loading Zone on weekends.

Truck Movements into Falcon Street

The swept turning paths provided by the applicant showing the longest vehicle entering and exiting the site should be modified to take into account the on-street Loading Zones located to the north and south of the loading dock in Willoughby Lane which are to be retained. The revised swept turning paths should be provided prior to release of the Construction Certificate.

Comment: The recommended conditions are supported, together with standard conditions and should be included in any consent issued for the proposed development.

Heritage

An assessment of heritage impacts was undertaken by John Oultram Heritage & Design and a summary of the comments is provided following:

Site and Surrounds

The site is not identified as an item of heritage and is not located in a conservation area. Heritage items in the vicinity of the site include the Crows Nest Hotel at Nos. 1-3 Willoughby Road, Westpac Bank at No. 306 Pacific Highway, National Australia Bank at No. 308 Pacific Highway and Willoughby House at No. 429 Pacific Highway. As such development on the subject site is subject to the heritage provisions of NSLEP 2001.

It is noted that the heritage listing of the site and surrounds is not altered by NSLEP 2013, notwithstanding that it is not applicable to the assessment of the application.

Assessment of Significance

The heritage impact statement (HIS) submitted with the application concluded that none of the built structures on the site demonstrate particular characteristics of architectural, historical, cultural, creative or technical values and that there are no known special associations with any community or cultural group that would attribute social, cultural or spiritual significance to the existing structures.

This assessment is large concurred with though the HIS did not include a detailed history of early development on the site or the history of the substation and the archaeological potential assessment did not include consideration of the Victorian period buildings on the whole of the site. Notwithstanding this, the site is considered to contain development of low significance. It is also considered that it would have been prudent to include and assessment of the development at Nos. 6-8 Falcon Street as it will be impacted by the proposed development.

Archaeology

The HIS is not considered to contain an adequate assessment of the archaeological potential of the site. The extent of archaeological remains will be revealed during the construction process, however the HIS makes no recommendations in regard to the archaeological monitoring of the demolition works.

Impact Assessment

The heritage items on the Pacific Highway are located some distance from the development site and the proposal is unlikely to have any impact upon their setting or significance.

The Crows Nest Hotel is a three storey building of Federation Free Classical style and is close to the development, being separated by the building at Nos. 6-8 Falcon Street. The HIS provides only a cursory examination of the impact of the development on the Crows Nest Hotel and inadequate information is provided by way of streetscape elevations and views from Pacific Highway and along Willoughby Lane to allow for an appropriate assessment.

The impact of the development upon the general built pattern of the area has not been considered, and given the scale of the development (ie almost the entire street block) this would be appropriate. Greater assessment should be made of the scale of the development in terms of the general scale of Alexander Street and Burlington Street and consideration should be given to the appropriateness of the loss of the fine built grain that is characteristic of the wider area.

Recommendations

The proposal is bold and unashamedly contemporary and there is no element on the site for which demolition would be prevented by way of the level of cultural or heritage significance of the current buildings. The HIS is a reasonable assessment of heritage impact but should be expanded to provide:

- More detail on historical development of the site;
- An assessment of archaeological potential and recommendations for treatment of archaeological remains;
- Expanded recommendations as to the interpretation of the site based on current and any additional heritage research;
- Greater assessment of the impact of the development on the Crows Nest Hotel; and
- An assessment of the wider heritage impacts of the development on the general pattern of development in the area

Comment: The above assessment was forwarded to the applicant and supplementary HIS information was submitted, which was then referred to John Oultram Heritage & Design and the following summarizes further comments that were received in response.

Comments on Revised Proposal/Additional Information

The revised proposal and expanded heritage assessment provides satisfactory additional information on the history of the site and Nos. 6-8 Falcon Street, but does not provide further archaeological assessment or assessment on major views to Crows Nest Hotel or impact on the Willoughby Lane elevation of the hotel. No further assessment of the impact of the development on the surrounding area was provided. Notwithstanding this there is sufficient information to determine the matter.

The concerns originally expressed in relation to the visual impact of the proposal on the character of the wider area have not been addressed and remain.

The archaeological concerns can be appropriately addressed by requiring an archaeological watching brief to be carried out during construction and a condition to this effect is recommended.

Comment: The recommended archaeological watching brief condition should be placed on any consent issued.

Acoustic

An assessment of potential acoustic impacts was undertaken by Acoustic Logic and a summary of the comments is provided following.

Proposal/Existing Environment

The proposal is for a supermarket, car park and specialty shops and includes a loading dock adjoining Willoughby Lane which will service trucks and vans.

The surrounding receivers within the vicinity of the site are commercial receivers in all directions, the Crows Nest Hotel to the west (no hotel rooms), potential future residential receivers on the corner of Burlington Street and Alexander Street, existing residential receivers on the first floor of No. 29 Willoughby Road (5 dwellings) and proposed residential receivers at the first floor of No. 11 Willoughby Road (approved 22/7/2013).

The local environment includes high volumes of traffic movement on surrounding roads including Falcon Street, Alexander Street and the Pacific Highway.

Acoustic Assessment

The report fails to identify the surrounding residential receivers in Willoughby Road. This is a significant oversight as the residences are in proximity to the loading dock and there is a high potential for the receivers to be impacted by noise from the loading dock operations. Failure to identify these receivers also means that the location of noise loggers may be inappropriate to provide an accurate assessment of acoustic impacts upon those receivers.

The noise readings used in the assessment were conducted in October 2008 and are considered too old to be reliable for use in assessing acoustic impact and new readings, including from Willoughby Lane should be carried out, with readings occurring when the noise generated from existing loading operations of Woolworths is not occurring.

Further, concern is raised that the incorrect night time noise criteria was being used in the assessment.

Concern is also raised that the noise from increased traffic was not presented as a dB(A) level based on measured levels surrounding the project.

Inadequate information is provided to allow an appropriate assessment of noise from the loading dock use with noise levels presented and no details provided of conditions of use of the loading dock.

Comment: A copy of this assessment was provided to the applicant, a response sought, and an amended assessment was provided which was then assessed by Acoustic Logic. Following is a summary of the findings of Acoustic Logic's assessment of the new report. It is noted that this assessment was provided to the applicant with a request for a response but no response has been received at the time of writing this report.

Ambient Noise Levels

New ambient noise level readings were taken in June 2013 and based on the recorded levels and logger data presented the details of background noise levels appear to be correct for the measured locations. The noise level criteria used in the report of commercial receivers of 65dB(A) is considered to be compliant with the Industrial Noise Policy (INP) requirements.

Traffic Noise Assessment

The report still does not present noise level criteria for additional traffic movements, which should be presented as a dB(A) level based on measured levels surrounding the project.

Sleep Disturbance Criterion

The report adopts the noise levels for sleep disturbance contained within the NSW Road Noise Policy (RNP) which indicates maximum internal noise levels below 50-55 dB(A) are unlikely to awaken people from sleep and one or two noise events with maximum internal noise levels of 65-70 dB(A) are not likely to affect health and wellbeing significantly.

The application indicates that plant noise levels cannot be assessed at this time as plant has not been designed and that it can be designed to comply with the relevant criteria. This is agreed and can be dealt with by a condition of any consent.

The application indicates that the loading dock is to be used 24 hours a day and will involve trucks being unloaded in an unenclosed area within the loading dock. Based on the noise level calculations, exceedences of up to 13 dB(A) will occur during the day, 14dB(A) during the evening and 19 dB(A) during the night time period in relation to the two recently approved first floor dwellings at No. 11 Willoughby Road (approved 22 July 2013). The report does not provide any qualifications or recommendations to reduce noise levels or justification as to why the noise levels would be acceptable. The only statement in this regard is *“As such, there is probably little that can be done to reduce this noise, other than introducing a high (and possibly absorptive) noise barrier...”*. The assessment concludes that the predicted noise levels at No. 29 Willoughby Road will comply with the INP criteria and are acceptable.

Based on this assessment it is considered that the proposed development (specifically the loading dock) will not be acceptable and the proposed acoustic impacts on the approved residential receivers at No. 11 Willoughby Road are unacceptable and cannot be supported. It is therefore recommended that the proposal should not be supported due to the acoustic impact upon approved residential receivers at No. 11 Willoughby Road.

It is noted that this assessment was prepared after consideration of the acoustic report lodged with the development application for No. 11 Willoughby Road which proposed noise attenuation measures to deal with noises from Willoughby Lane and the ground floor balcony on the subject site. The report did not address, nor recommend acoustic attenuation to the dwellings to address potential noise impacts from the proposed loading bay for Woolworths.

Comment: Notwithstanding that the majority of the other concerns raised in the initial assessment of this application have generally been addressed, or could be addressed by appropriate conditions of consent, the significant noise impact upon the approved dwellings at the first floor of No. 11 Willoughby Road from the loading dock is such that the application must necessarily be refused based on unacceptable acoustic impacts. In this regard it is noted that whilst appropriate night time noise could be maintained by limiting loading activities to between 7am and 10pm, the noise from such activities would still substantially breach the relevant noise criteria at the residences during these times as well.

OTHER REFERRALS

Design Excellence Panel Comments

The application was initially considered by the Design Excellence Panel on 7 May 2013, having provided comments previously pre-DA, and the following comments were received:

Function of the site and its impact on the public domain

The Panel reiterates its concerns regarding the lack of activation on Alexander Street. The Panel appreciates that the design accommodates a large number of features that can potentially reduce active street frontage. However, in such a prime location there is an acute need to carefully consider the pedestrian experience. Every effort must be made to maximise opportunities for pedestrians to engage with the building. The current design does not achieve this.

Having single ramps orientated lengthways along Alexander Street is of particular concern. The situation is compounded by locating a large number of services fronting the street. Consideration should be had to retaining the substation or new kiosks in the existing location in the lane, locating the toilets inside the building (possibly in the arcade), using a double car ramp on Burlington Street where one ramp is already located, and investigating whether the lifts can be relocated.

Overall, the Panel estimates the proposal achieves around 25% active street frontage. As a major development in the centre of Crows Nest, this is not supported.

Aesthetic considerations

The Panel is concerned the built form is out of scale and character with its immediate context. It appears to be informed by a desire to emphasise the corner of Falcon and Alexander Street for passing cars as the perspectives indicate. The raised awnings will not provide shelter. The two perspectives show the view from the street. There are no views from the pavement and there is no context shown in the views.

There is no sense of the vertical bays or horizontal floor levels, expressed by the façade articulation of the traditional shopfronts that are suggested to have inspired the façade design. What is being presented is an 80-90 metre object with very fine coloured vertical stripes that extend from 2 to 5 storeys in height. There is no intermediate scale. In this regard, it does not relate to the surrounding context of the area.

Similarly, the awning extends up to 2 storeys on Burlington Street. This does not reflect the surrounding buildings.

The design is further compromised by the visibility of the existing building extending up from behind the façade when viewed from the street.

The Panel notes that Adelaide provides some good examples of above ground car parks that have a more contextual response to their surrounds and contribute to the public domain through artistic lighting at night.

Design guidelines

Following the meeting, the Panel requested the matter be included on the next agenda for an internal discussion (Panel members only) to develop some urban design guidelines that could apply to the site.

Conclusion:

In summary, the Panel reaffirms its original advice from 2009. The development does not satisfactorily relate to the surrounding context of Crows Nest town centre, and incorporates many compromises in the design that adversely affect its impact on the public domain.

Further work needs to be undertaken to activate the street frontages and to better suit the surrounding context. The Panel strongly recommends the overall built form strategy and aesthetics of the design be reviewed.

Comment: The comments of the Panel were provided to the applicant as part of the initial assessment and the amended design, shown in the following two artist impressions, was provided to the Panel for consideration on 1 October 2013.



Development as viewed from the intersection of Falcon Street and Alexander Street

The Panel provided the following comments in response to the amended design.

Background:

.....

The Panel considered the proposal at its meeting on 7 May 2013. The Panel raised the following concerns:

...lack of activation on Alexander Street in such a prime location there is an acute need to carefully consider the pedestrian experience. Every effort must be made to maximise opportunities for pedestrians to engage with the building.....

.....the built form is out of scale and character with its immediate context. It appears to be informed by a desire to emphasise the corner of Falcon and Alexander Street for passing cars as the perspectives indicate. The raised awnings will not provide shelter.

.....There is no sense of the vertical bays or horizontal floor levels, expressed by the façade articulation of the traditional shopfronts that are suggested to have inspired the façade design. What is being presented is an 80-90 metre object with very fine coloured vertical stripes that extend from 2 to 5 storeys in height. There is no intermediate scale. In this regard, it does not relate to the surrounding context of the area.....

The Panel concluded:

“In summary, the Panel reaffirms its original advice from 2009. The development does not satisfactorily relate to the surrounding context of Crows Nest town centre, and incorporates many compromises in the design that adversely affect its impact on the public domain.

Further work needs to be undertaken to activate the street frontages and to better suit the surrounding context. The Panel strongly recommends the overall built form strategy and aesthetics of the design be reviewed.”

The applicant submitted amended plans in response to the Panel’s comments and the concerns raised by the Planning Consultant assessing the proposal. The changes are summarised as follows:

- *Simplified colour scheme drawn from the existing character of Crows Nest.*
- *Additional active frontages particularly to Alexander Street and Burlington Street,*
- *Facade treatments visible above the existing buildings from important public domain junctions at Burlington and Falcon Streets.*
- *Improved screening and proportions to the lower levels by the lowering of the overall height at the corner of Burlington and Alexander Street.*
- *Improved weather protection along the facades.*
- *Improved expression for exposed sections of the parking structure above the screen,*
- *Improved location and expression of elevator vertical lift shaft,*

The applicant also provided an Urban Design Report and additional reports relating to the carpark layout, loading operations, heritage and acoustics.

The proponent did not attend the Panel meeting. Council staff outlined the changes for the Panel’s further comments.

Panel Comments:

The Panel noted the changes as an improvement to the original proposal. The Panel was concerned with the lack of activation and access from Falcon Street but noted that the brief based on feedback from the community was to have the main entry from Burlington Street.

The Panel still felt that the character of the area was not reinforced by the design and the facade needs further resolution. The design does not provide a sense of the vertical bays or horizontal floor levels, expressed by the façade articulation of the traditional shopfronts that are suggested to have inspired the façade design.

Concern was raised about the green wall to Alexander Street as there was a lack of detail on how it would be maintained.

Conclusion:

The Panel considers that the development does not satisfactorily relate to the surrounding context of Crows Nest town centre and the facade requires further resolution. The preference would be for the overall built form strategy and aesthetics of the design to be reviewed.



Development as viewed from the intersection of Burlington Street and Alexander Street

Comment: Whilst it is considered that some of the original comments of the panel have been satisfactorily resolved by the amended plans, including the improved activation to Alexander Street, the concerns with the urban design of the façade remain.

The site analysis undertaken by the applicant identified the characteristic sense of vertical bays and horizontal floor levels expressed by the traditional shopfronts and whilst this has been used to inspire the design for the “wrap around” façade of the parking element, concerns are raised with the implementation of this design philosophy.

Whilst the amended design better incorporates these features with the introduction of vertical elements to the “wrap around” façade and the “suggestion” of horizontal floors by the changes in colour of the vertical façade blades, it is still considered that further work is required to the façade design, which still reads very strongly as a large single curved element due to the strong visual element of the white curved awning and parapet treatment.

The design approach of trying to make the “wrap around” façade look similar to the experience of a person travelling by car along the traditional shop front area of Crows Nest, in my opinion, misses the mark as the urban design of the building would, and should, be most significantly experienced by pedestrians in the area and the effect of fast movement on the visual character of the façade is lost to the pedestrian. For this reason the current design, whilst an improvement, is still not considered to have sufficient regard to the context of the area and should be further amended.

Sydney Regional Development Advisory Committee

The application was referred to the Sydney Regional Development Advisory Committee for comment in accordance with Clause 104 of SEPP (Infrastructure) and the Committee’s and RMS’s recommendations are as follows:

1. *Heavy vehicles servicing the proposed development are not to exit onto Falcon Street during the morning peak 6am -10am and evening peak 3pm-7pm.*
2. *A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.*
3. *The swept path of the longest vehicle (to the service site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirements,*
4. *The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004.*
5. *No construction zones will be permitted on Falcon Street in the vicinity of the site.*
6. *Any proposed temporary road closures will require the applicant to apply for a Road Occupancy License by contacting the Transport Management Centre’s Planned Incidents Unit on (01) 8396 1513 during office hours (8am-4pm) or 1311 700 after hours.*
7. *Council should ensure that the post development stormwater discharge from the subject site into the RMS drainage system does not exceed the pre-development discharge. Details should be forwarded to
Sydney Asset Management
Roads and Maritime Services
PO Box 973
PARRAMATTA CBD 2124*
8. *The proposed development should be designed such that traffic noise from adjacent public roads is mitigated by durable materials and comply with requirements of Clause 103 – (impact of road noise or vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.*

9. *The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment, The developer is to meet the full cost of the assessment by RMS.*

This report would need to address the following key issues:

- a. *The impact of excavation/rock anchors on the stability of Falcon Street and detailing how the carriageway would be monitored for settlement.*
- b. *The impact of the excavation on the structural stability of Falcon Street.*

The report and any enquiries should be forwarded to:

Project Engineer, External Works

Sydney Asset Management

Roads and Maritime Services

PO Box 973

PARRAMATTA CBD 2124

Telephone 8848 2114

Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings, The notice is to include complete details of the work.

10. *All works/regulatory signposting associated with the proposed development are to be at no cost to RMS.*

In addition the Committee and RMS provided the following advisory comments to the JRPP and Council for its consideration:

1. *Any proposed landscaping and/or fencing must not restrict sight distance to pedestrian and cyclist travelling along the footpath.*
2. *All vehicles are to enter and leave the site in a forward direction.*
3. *All vehicles are to be wholly contained on site before being required to stop.*

Comment: No fencing or landscaping is proposed that would impact sight distances. The design of the car park is such that all vehicles can enter and exit in a forward direction however the design of the loading dock is such that vehicles must reverse into it from Willoughby Lane. Finally, subject to conditions of consent there is no reason why queuing of cars entering the car park cannot occur fully within the site (see comments from Varga Traffic Planning Pty Ltd) and as such they should not require to stop before being fully on the site. The requested conditions of the Committee should be included in any consent issued for the development.

SUBMISSIONS

Name & Address of Basis of Submissions Submitter

Claudia Rowe • Support proposal
No address provided

Michael Rowe
No address provided • Support proposal

- | | |
|--|---|
| Vivienne Goldschmidt
29B Devenshire Street
Crows Nest | <ul style="list-style-type: none">• Support proposal• Design will enliven the block and improve the corner of Alexander and Falcon Streets |
| Jason Koura
17 Falcon Street
Crows Nest | <ul style="list-style-type: none">• Not against proposal• Concerned there is not sufficient free parking whilst the development is occurring which will impact business during construction |
| Crows Nest Mainstreet
4/136-143 Willoughby Road, Crows Nest | <ul style="list-style-type: none">• Support proposal• As Nos. 6-8 Falcon Street is now for sale it should be include in the development to allow pedestrian access into the development from Falcon Street.• Purchase of No. 6-8 Falcon Street would also allow for the lane to be widened to give better sight for trucks leaving the lane and would improve the car park flow.• At the moment the louvres covering the substations do not improve the streetscape presentation of Falcon Street. |
| Ross Gugliotta
Nos. 6-8 Falcon Street
Crows Nest | <ul style="list-style-type: none">• Object to proposal• Concerned about potential for damage during construction.• Concerned proposal will limit the development potential of No. 6-8 Falcon Street.• Concerned about unattractive substation adjacent to property on Falcon Street• Loss of sunlight to existing building at Nos. 6-8 Falcon Street.• Impact on value of property sale or lease. |
| Dr Trefor Davies
21 Willoughby Road
Crows Nest | <ul style="list-style-type: none">• The Dock and Traffic Management Plan is unworkable and data used is flawed and misleading as the counts used were for the quietest times of the use of the lane.• Delays in Willoughby Lane are up to 15-30 minutes and as such the car park entry is located in the wrong spot.• The report is incorrect in stating only left turns are permitted from Willoughby Lane into Falcon Street as right turns are permitted.• The traffic assessment ignores the use of the lane by businesses for access for parking and no guarantees are provided that access will be retained during construction.• Woolworths have a history of drivers ignoring signage and leaving garbage bins in the lane and drivers are abusive. The large trucks always stop in the middle of the lane, blocking traffic.• Inadequate consideration has been given to the loading needs of the other proposed shops and exiting businesses in Willoughby Road.• How will Council enforce compliance with the Management Plan? |
| Dionisios Xenos
5/29 Willoughby Road
Crows Nest | <ul style="list-style-type: none">• Whilst the site is an eyesore and in need of redevelopment, the application needs more scrutiny.• The application fails to acknowledge 5 residences at No. 29 Willoughby Road or another 15 above Nos 35 and 39 Willoughby Road. |

- The proposal is replacing the amenities block with fewer toilets.
 - Inadequate information is provided in the number of business and public toilet signs.
 - Whilst the substation is being moved no mention is made of removal of power poles.
 - Inadequate consideration is given to the loading zones in Willoughby Lane.
 - No assessment is made of the number of pedestrians the development will cater for.
 - How is the application being future proofed for increased in customers in the future?
 - The loading dock hours are proposed to be increased to 24 hrs from 5am to midnight with resultant noise impacts.
 - No assessment of plant noise is provided.
 - Inadequate parking provision.
- Mark Fletcher
58/13 Ernest Street
Crows Nest
- No provision is made for pedestrian traffic along Alexander Street and crossing Burlington Street as no pedestrian crossing is proposed there and pedestrians will not walk the extra distance to the crossing near Willoughby Lane.
- Matt Hooper
80 Burlington Street
Crows Nest
- Concerned about large increase in traffic on Burlington Street due to the relocated car park entrance, want entrance to stay on Alexander Street or alternatively make Burlington Street a no right turn into or out of it from West Street to prevent through traffic.
- Natalie Holkis
52 Burlington Street
Crows Nest
- The size of the supermarket is too big for the location and would only benefit Woolworths, not the residents.
 - Traffic in Alexander Street is already excessive and the proposal will exacerbate it.
 - The building will have excessive bulk and cause unacceptable overshadowing.
 - A large corporate building would spoil the main street character of the area that has been created by the paving, planting and outside eateries.
- Precinct:**
Stanton
- Application noted – no comments
- Waverton
- Supports development
 - Encourage good urban design incorporating improvements of public open space such as widened footpaths, cross pedestrian links through the site or arcades and green principles such as a green roof.

CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

DISABILITY DISCRIMINATION ACT

The Disability Discrimination Act (DDA) requires Council to have regard to the equity of access to development when assessing a development application. In order to achieve equitable access, an appropriate accessible path of travel would need to be provided to and throughout each retail premises from the footpath and the car park and for accessible paths of travel to be provided throughout the public car park.

Accessible parking spaces and toilet facilities would also need to be provided.

The main entrance to Woolworths is via the arcade, with a secondary entrance provided off Alexander Street. An accessible path of travel is provided from Burlington Street through the arcade to Woolworths and an accessible path of travel is available throughout both levels of Woolworths due to the provision of a lift between the levels. Further, the lifts through the car park which provide access to each level, the arcade and Alexander Street provide a suitable accessible path of travel. Each of the five specialty shops have an accessible path of entry through either the arcade or directly from Burlington Street, though as no level information is provided for the footpaths a condition confirming this requirement is recommended for any consent.

However, the second entrance to Woolworths off Alexander Street is not accessible to disabled persons. Whilst a secondary entrance would not normally be required to provide accessibility, the bus stop on Falcon Street provides a well used transportation service to the site and disabled persons using the bus are required to travel the entire length of the street block in Alexander Street and then half way back again to enter the supermarket. This long trip would then have to be repeated whilst carrying groceries. This is not an appropriate or equitable level of accessibility given many disabled persons are reliant upon public transport. It is therefore considered appropriate that the secondary access be made accessible. This could best be achieved by provision of a platform lift as a ramp would take up too much area. A condition to this effect is recommended for any consent issued.

Accessible toilets are provided (one male and one female) which are accessible to the public via the arcade. A total of 8 accessible spaces, equating to 2.7% of total spaces, are provided within the car park.

Therefore it is considered that the proposal makes appropriate provision for disabled persons, subject to the recommended conditions. However, as no fitout information is provided for any of the retail premises, a condition of any consent is recommended requiring the provision of accessible toilet facilities in any fitout that provides for toilet facilities and for accessible paths of travel to be provided throughout each retail premises.

SEPP 55

The provisions of SEPP 55 require consideration as to whether the site is contaminated and requires remediation. A review of the history of uses on the site which include residential, car park, retail and theatre do not raise any concerns that the site may be contaminated and as such additional investigation is not warranted in this case.

SREP 23 & DCP

The SEPP applies to the subject site as identified on the Sydney Harbour Catchment Map. The site is not identified:

- (a) within the Foreshores and Waterways Area;
- (b) as a strategic foreshore site;
- (c) as a heritage item;
- (d) within the wetlands protection area;

and therefore only Part 1 is applicable. Part 1 identifies aims of the plan from (a) to (h). The aims set out in Part 1 of the SEPP have been considered and the application is consistent with these aims, it being noted that the site is located some distance from the foreshore and waterways and the development will not be visible from either the foreshore or the waterways.

SEPP 64

SEPP 64 applies to applications including advertising structures/signage that will be visible from any public place and the subject application includes several signs and/or advertising structures that will be visible from public places as are detailed following:

Alexander Street façade:	1 x Woolworths and parking direction sign 7.7m x 1.6m on window near intersection with Falcon Street 1 x Woolworths sign 5.9m x 1.3m above store entrance 1 x car park exit façade sign 3m x 0.4m 2 x under awning signs 2.4m x 0.3m
Falcon Street façade:	1 x Woolworths sign 7.3m x 1.6m on window near intersection with Alexander Street 1 x projecting wall parking sign at corner with Alexander Street 1.5m x 1.6m 1 x 3D internal suspended sign 2.2m x 2m 1 x building identification parapet sign 7.4m x 0.8m 1 x under awning sign 2.4m x 0.3m
Burlington Street façade;	1 x Woolworths logo and 1 x Council sign over car park entry 2.2m x 2m and 2m x 2m 1 x building identification sign over arcade entry 5.1m x 1m 1 x supermarket sign over arcade entry 2.4m x 0.3m 2 x facade signs for retail premise 1.1m x 0.8m and 7.0m x 0.8m 1 x parking sign at corner with Alexander Street 1m x 0.8m
Willoughby Lane façade	2 x projecting wall signs Woolworths logo and parking 1.2m x 1.1m and 1.2m x 1.8m near car park entrance Façade parking sign 3.3m x 1.3m near car park entrance Woolworths logo sign near loading dock 0.9m x 0.6m Woolworths and parking façade signs above building at No. 6-8 Falcon Street 5.9m x 1.3m and 1.5m x 1.2m

The Statement of Environmental Effects indicates the signage would be illuminated and would be turned off outside of trading hours (trading hours are 7am to midnight).

Clause 8 requires that signage must not be granted consent unless the signage is consistent with the objectives of the Policy and satisfies the assessment criteria specified in Schedule 1. The objectives of the Policy of relevance to this application are:

- (a) to ensure that signage (including advertising):*
 - (i) is compatible with the desired amenity and visual character of an area, and*

The signage in the area is currently largely comprised of under awning and awing fascia signage, with some under awning flush wall signs. There are also limited examples of above awning flush wall signs (including the subject site) and blade wall signs. The proposed under awning signage and signage above the entrances to the arcade, car park and Woolworths are therefore consistent with signage in the area. The signage that is less consistent are the blade wall signs for the parking area and Woolworths, the Woolworths signs on the glazed shopfront of Woolworths, the above awning Council and Woolworth logo signs over the car park entry and the Woolworth and parking flush wall sign above No. 6-8 Falcon Street.

The two signs on the glazed shop front of Woolworths to the Falcon and Alexander Street frontages, whilst above traditional awning level, are just above that level and are under the proposed curved awning element and for this reason are considered acceptable. The blade wall signs provide parking directions and are similarly considered appropriate.

The Council and Woolworths logo signage above the car park entrance is not supported in the proposed form as the two signs are side by side and of different dimensions, which would look inappropriate. Further, as the signage is simply to identify the parking is available for use by Woolworths customers and for general parking, the dimension of the signage at 2m x 2-2.2m is considered excessive, particularly as it is located above the traditional awning level. It is therefore recommended that these signs should be deleted and replaced by smaller signage located below the lower awning level, potentially hanging down over the car park entry.

The high wall sign located above Nos. 6-8 Falcon Street is considered to be an inappropriate element in the Falcon Street streetscape both in terms of its size and location. It is an unnecessary sign, with another large flush wall sign on the Falcon Street frontage which is to be above the traditional awning level clearly identifying the location of the store and with a blade wall sign identifying the location of the parking area. Therefore this signage should be deleted from any approval.

Finally, two flush wall signs located above the entrance to two shops fronting Burlington Street are shown having heights of 800mm and widths of 7m and 11m. No details are provided for these signs and no provision is made for signage to the third shop with frontage to Burlington Street. It is appropriate that the signage to these shops be consistent in size and character. As such any consent should include a condition permitting each of the three shops to have a standard under awning sign together with a flush wall sign located above the entry door to the shop having maximum dimensions of 800mm high x 2m wide.

- (ii) provides effective communication in suitable locations, and*

Subject to the above comments, the proposed signage is suitably located and provides for effective communication.

(iii) *is of high quality design and finish, and*

The design and finish of the proposed signs is acceptable.

The Schedule 1 assessment criteria are addressed following.

1 Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

Subject to the above comments the signs are generally compatible with the desired character of the area.

- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

There is no relevant theme for outdoor advertising in the area.

2 Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The site is not located in a sensitive or heritage area and no signage will be visible residential areas.

3 Views and vistas

- *Does the proposal obscure or compromise important views?*

The proposed signage has no negative impacts upon important views.

- *Does the proposal dominate the skyline and reduce the quality of vistas?*

The proposed signage will not dominate the skyline or reduce the quality of vistas, subject to previously discussed changes.

- *Does the proposal respect the viewing rights of other advertisers?*

The proposed signage will not have a negative impact upon the viewing rights of other advertisers.

4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*

The signage is of appropriate scale, proportion and form for the streetscape setting subject to the changes suggested previously.

- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*

The signage as amended by the suggested changes will contribute positively to the streetscape.

- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*

Subject to the suggested changes the proposal will reduce advertising clutter.

- *Does the proposal screen unsightliness?*

The proposed signs do not screen unsightliness.

- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*

The proposed signage will not protrude above buildings or tree canopies other than the signage proposed to be visible above Nos. 6-8 Falcon Street, which is recommended for deletion.

- *Does the proposal require ongoing vegetation management?*

The signage will not require ongoing vegetation management.

5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*

The signage, as proposed to be amended, is compatible with the scale, proportion and other characteristics of the building.

- *Does the proposal respect important features of the site or building, or both?*

The signs are compatible with the building proposed for the site.

- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The signage, subject to conditions, will be appropriate but is not particularly innovative or imaginative.

6 Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

The signs are not general purpose signs and as such there are no logos of advertising companies.

7 *Illumination*

- *Would illumination result in unacceptable glare?*

Illumination of the wall signs during the hours of operation of the premises is reasonable.

- *Would illumination affect safety for pedestrians, vehicles or aircraft?*

It is not likely that the signage illumination would have any safety implications.

- *Would illumination detract from the amenity of any residence or other form of accommodation?*

The location of the proposed signage is not significantly proximate to any residence to cause amenity impacts.

- *Can the intensity of the illumination be adjusted, if necessary?*

There is no information provided as to whether the illumination can be adjusted.

- *Is the illumination subject to a curfew?*

The illumination of the building signage is to operate only during the operating hours of the premises. A condition of consent to this effect should be included in any consent.

8 *Safety*

- *Would the proposal reduce the safety for any public road?*

The proposed signage is unlikely to impact the safety of the adjacent roads.

- *Would the proposal reduce the safety for pedestrians or bicyclists?*

The signage is located such that it will not screen any pedestrians or cyclists from the view of drivers.

- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The signage will not obscure any sightlines from public areas.

SEPP INFRASTRUCTURE

Clause 16 would require consultation with Ausgrid as the proposed development involves removal of its substation on the Willoughby Lane frontage, however Clause 19(1(c)) indicates that an exception to this requirement occurs if the development is being carried out on behalf of the authority. As Ausgrid has provided owner's consent for the proposal and as 3 new substations are included in the proposal it is considered that the exemption applies in this case.

Clause 101 applies to land with frontage to a classified road and requires vehicular access via another road if possible, the safety and efficiency of the classified road not to be adversely affected by the development by the design of vehicular access, emissions of smoke or dust or due to the nature and volume of traffic generate by the development and for the development not to be sensitive to traffic noise or emissions.

The proposal provides vehicular access from Alexander and Burlington Street and Willoughby Lane and as such satisfies the first requirement. The Sydney Regional Development Advisory Committee has considered the proposal and is supportive of the design subject to a restriction on the times heavy vehicles servicing the site can exit Willoughby Lane into Falcon Street. A condition to this effect is recommended for any consent issued.

Finally, the proposal does not contain any use that is particularly sensitive to the noise or emissions likely to be generated by traffic using Falcon Street, satisfying the third requirement.

Clause 104 applies to traffic generating development and applies to parking areas for 50 or more vehicles and shops with an area of over 500m² where the site connects (within 90m) to a classified road and as such applies to the proposal. Clause 104 requires written notice to be provided of the application to RMS and requires the response to that notice to be taken into consideration in the assessment of the application. The application was referred to RMS and comments were received, via the minutes of the Sydney Regional Development Advisory Committee and the recommended conditions of consent should be included in any consent issued for the site.

NORTH SYDNEY LEP 2013

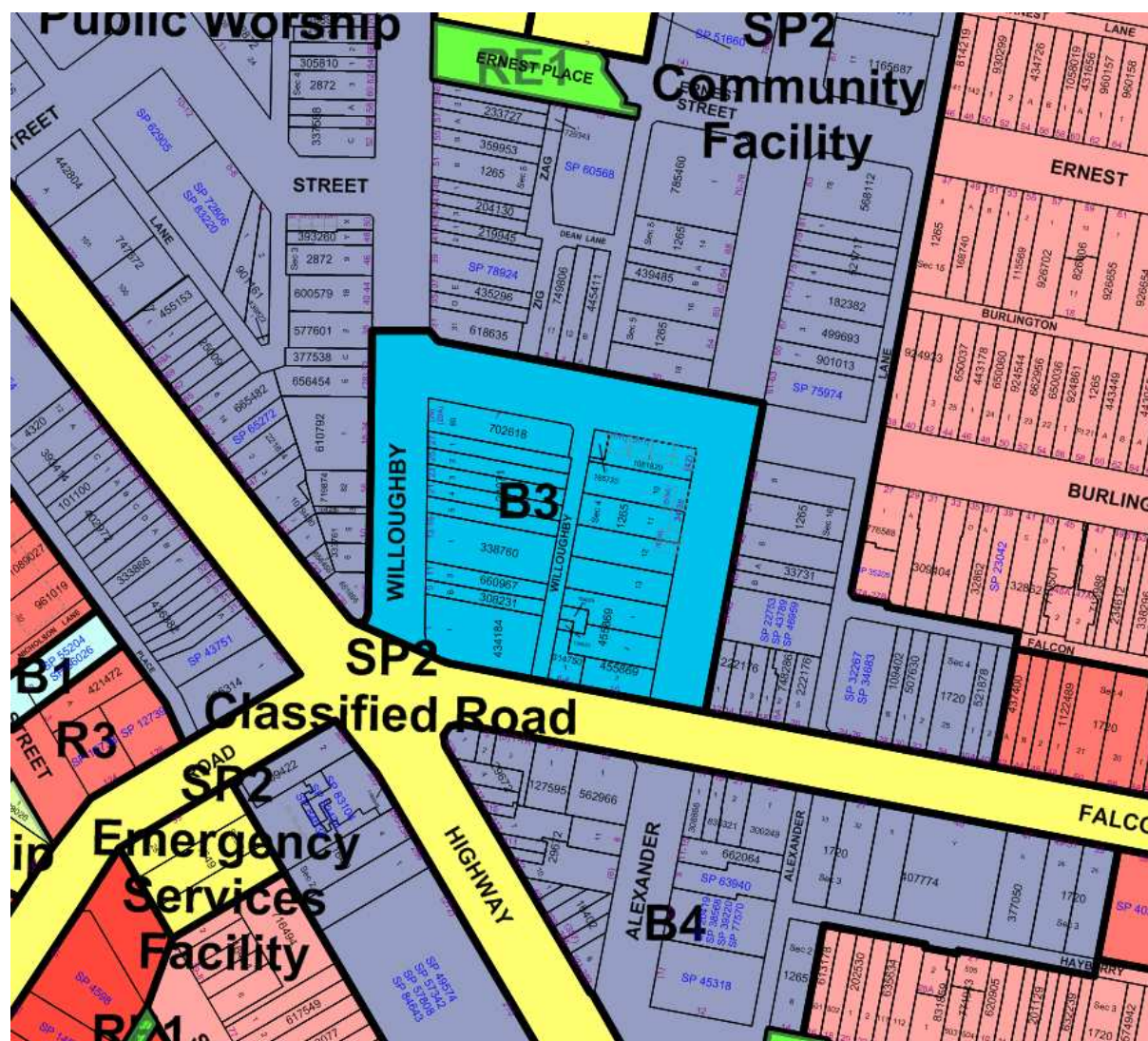
North Sydney Local Environmental Plan 2013 (NSLEP 2013) was made and published on 2 August 2013 and commenced on 13 September 2013. NSLEP 2013 zoned the subject site B3 Commercial Core (see extract of zoning map on the following page) and provided a height limit of 19.15m. However, at clause 1.8A, the LEP contains a savings provision that indicates

“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan has not commenced.”

Therefore NSLEP 2013 will be considered as if it is a draft LEP that has been exhibited and is certain an imminent in this assessment. It is noted that given the use remains permissible and the height limit and heritage listing is not changed, the weight given to NSLEP 2013 has no significant impact to the assessment.

However, the zoning of the surrounding land has changed, with the adjoining street block fronting Willoughby Road also zoned B3 Commercial Core and the remaining surrounding land remaining Mixed Use.

The proposed development is compliant with the relevant controls of NSLEP 2013.



Zoning extract for LEP 2013 showing subject site zoned B3 Commercial core

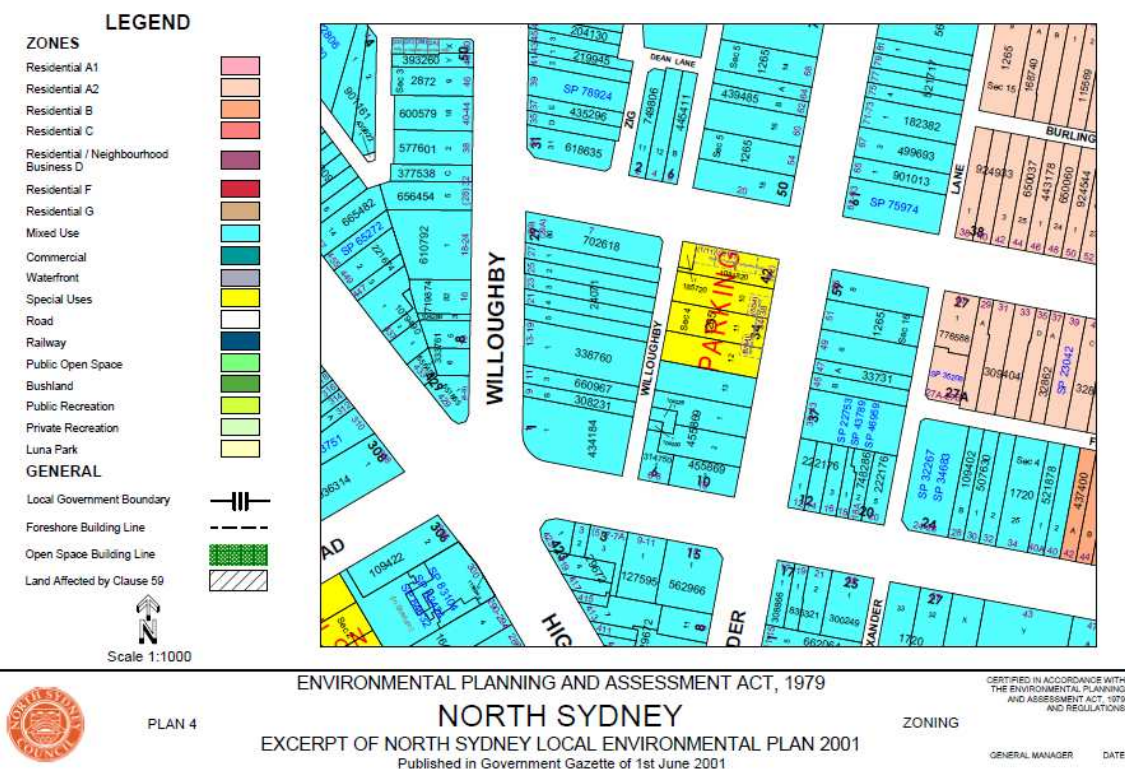
NORTH SYDNEY LEP 2001

1. Permissibility within the zone

The site is zoned Commercial (Amendment 52 – see following LEP map which identifies the area of land rezoned Commercial by this amendment) and the proposed use is defined as shops and car park. Shops are a permissible use with consent under the Commercial Zone, however a car park is not. Notwithstanding this, a car park is permissible on the subject site pursuant to clause 76, which was inserted by way of Amendment 52 to LEP 2001, which permits a car park on the subject site. As such the entire proposal is permissible with consent. The site is surrounded by land zoned Mixed Use as seen in the zoning extract on the following page.



LEP map for Amendment 52 which zones the subject site Commercial



Zoning extract of LEP 2001, note block surrounded by Falcon, Alexander and Burlington Streets and Willoughby Lane is now zoned Commercial by virtue of Amendment 52 but this is not shown on the extract.

2. Commercial Zone Objectives

The following objectives are applicable to the Commercial zone and consideration is given to compliance with the objectives below:

(a) to prevent the loss of commercial floor space to residential use, and

The subject site contains no commercial floor space and no residential use is proposed. As such the proposal is consistent with this objective.

(b) to encourage a diverse range of employment opportunities, and

The proposal provides for a supermarket and 5 specialty shops along with a public car park and as such provides a suitable range of employment opportunities, satisfying this objective.

(c) to minimise adverse effects of development on residents and occupiers of existing and new development.

The proposed use of the loading dock by Woolworths will result in unacceptable noise impacts upon approved residences at No. 11 Willoughby Road and no amelioration measures are proposed to address the noise impacts. As such the proposal is not consistent with this objective.

3. Building Heights

Clause 28G provides height controls and objectives for commercial zoned land outside North Sydney Centre and a height of 19.15m applies to the subject site. The height is measured from existing ground level to the highest point of the building.

The proposed building has a height at parapet at RL 113.6, at the riser of RL 114.3 (approximate), at the lift overrun and plant screen of RL 116.75 and to the top of the plant of RL 117.45 (approximate). Therefore the building has a maximum height of 18.67m at the top of the plant, 17.97m to the plant screen, 18.66m to the lift overrun, 15.68m to the riser and 15.94m to the parapet and complies with the height control.

4. Excavation of Land

Clause 39 addresses excavation of land and requires that excavation not impact stability of the site or adjoining land, not interrupt natural drainage patterns, not adversely impact adjoining properties and satisfy the objectives. The objective require minimisation of excavation and site disturbance, retention of vegetation, protection of the structural stability of adjoining properties and minimising impacts upon adjoining properties.

The proposed excavation is for one level of supermarket only and has a depth of approximately 4m. The site contains no vegetation or natural landforms to protect and the natural drainage pattern will not be interrupted by the excavation.

As only one storey of excavation is proposed it is considered that excavation is appropriately minimised.

Finally, subject to appropriate construction methods and vibration mitigation, together with underpinning as necessary, it is considered that the site can be constructed without unacceptable impact upon the stability of the site, the surrounding road reserves and the adjoining property at Nos. 6-8 Falcon Street. In order to ensure this occurs, conditions of any consent should require dilapidation reports to be prepared before and after the proposed works to all adjoining properties and road reserves and for any damage as a result of the works to be repaired prior to issue of an occupation certificate.

5. Contaminated Land

Clause 40 requires consideration to be given to whether the land is contaminated and the need for any remediation. This has been addressed in relation to SEPP 55 previously and it is considered that the site is unlikely to be contaminated and that further investigation is unwarranted.

6. Heritage Conservation

Part 4 addresses heritage conservation and of relevance the site is located in the vicinity of items of heritage. The comments of John Oultram Heritage & Design confirm that the proposal will not have an unacceptable impact upon the heritage items in the vicinity of the site and that subject to a watching brief during construction any identified archaeological deposits can be appropriately addressed.

DEVELOPMENT CONTROL PLAN 2002

The application has been assessed against the relevant controls in DCP 2002 following. It is noted that whilst DCP 2002 was repealed on 13 September 2002 due to LEP 2013 coming into force, the application has to be assessed as if LEP 2013 had not commenced and as such LEP 2001 remains in force. Thus DCP 2002 is still the relevant DCP.

1. St Leonards/Crows Nest Planning Area

The site is located in the Crows Nest Town Centre within the St Leonards/Crows Nest Planning Area. The relevant controls are addressed following:

- Sites to be developed with medium rise, mixed use development constructed boundary to boundary with setbacks at laneways and above podiums and shops at ground level, with non-residential/residential at first floor and residential above.

This provision does not appear to apply to the subject site which is zoned Commercial rather than Mixed Use. Notwithstanding this, the proposal provides for retail uses at ground level.

- Designs are to incorporate noise attenuation on Falcon Street frontages and awnings are to be provided to all street frontages.

This provision would appear to apply to residential uses and as the site is for a supermarket and car park fronting Falcon Street is not applicable. An awning is provided to the three street frontages and is not appropriate to the lane frontage.

- Pedestrian thru-site links are to be provided from Willoughby Road to Alexander Street to improve access to the council car park.

This provision appears to relate to the development of properties fronting Willoughby Road as they would need to be redeveloped to provide improved access to the Council car park. The proposal provides access from the car park to Alexander Street.

- Developments are to be built to the street frontage with a 3m setback above the podium level, with a 1.5m setback at ground level from the laneway frontage and 1.5m setback above the podium.

Again, this control appears to apply to mixed use developments. The 1.5m setback from laneways is to allow the provision of a footpath so the laneway can be activated. Given the location of the loading dock and loading zones it is considered inappropriate to activate the laneway. See discussion of podiums in the next point.

- A 13m, 4 storey podium is to be provided to all streets and a 10m, 3 storey podium is to be provided to the laneway.

The proposal is a six level building, with four levels of car park and one level of supermarket and specialty shops above ground level. Provision of a podium for one storey at all frontages except the laneway which would have two storeys above the podium would make the layout of the car park unworkable. The height of the building as viewed from the streets and laneways is set by the parapet and is approximately 16m. As such the proposal would breach this control by 3m to all frontages other than the laneway where it breaches by 6m. The breach is supported in this instance given the LEP and DCP identify the site as being intended for an above ground public car park use (see following).

- Parking is to be provided underground except where owned and operated by Council for a public car park on the block bounded by Falcon Street, Alexander Street, Burlington Street and Willoughby Lane.

The proposal provides for a public car park to be owned by and operated on behalf of Council on the site.

2. Car Parking

Section 9 of NSDCP addresses car parking and sets parking rates for different types of uses, with a rate of 4 spaces per 100m² of floor space for supermarkets. No specific parking rate is identified for general retail space as the site is located in Crows Nest and the parking rate of 1 space per 60m² applies to the Mixed Use zone only whilst the subject site is zoned Commercial. This appears to be an anomaly due to the recent rezoning of the site to Commercial and notwithstanding this, it would be appropriate to consider the specialty shops on the basis of this rate, which is the rate that would apply to all other such shops in the locality.

The provision of parking has been addressed in the assessment by Varga Traffic Planning on this basis and whilst no parking is specifically provided for the uses on the site, the use of the public parking by the customers of these uses is supported, being a continuation of the existing operations of the site and allowing for the greater provision of public parking in the Crows Nest Town Centre that can be used by all visitors to the centre. Notwithstanding this, given no parking is provided for employees in the proposal, it is considered appropriate that a minimum of 2 parking spaces be provided for employees for the supermarket use and that 1 space be provided for employees for each specialty shop, giving a total of 7 staff parking spaces. A condition to this effect should be included on any consent granted for the site.

This section also requires accessible parking to be provided at the rate of 1-2% of spaces provided and for all off street parking to be underground. Loading spaces are to be provided to ensure vehicles stand entirely within the premises and the size of loading bays is specified based on floor space ratios, however this is not considered appropriate to apply to a supermarket situation. Parking for motorcycles is required to be provided at a rate of 1 space per 10 cars.

The proposal provides 8 accessible parking spaces, equating to 2.7% of the total parking, exceeding the required rate of provision. The proposal does not provide for parking to be underground and whilst it is considered that this would be the most acceptable option for the site, allowing for more development on the site, the site has been used for many years for above ground public parking and was specifically rezoned to permit this to be expanded on the site. Further DCP 2002 specifically indicates that above ground parking is to be provided on this site and as such no objection is provided to the location of the proposed parking.

An adequate loading facility is provided for the supermarket use within the proposal and appropriate access is provided for the specialty stores to the loading zones in Willoughby Lane and as such the loading facilities proposed have been assessed as adequate by Varga Traffic Planning.

Finally, the public parking station does not include provision for any motorcycle spaces, however there is nothing to prevent riders of motorcycles from parking in the spaces provided.

3. Erosion and Sediment Control

Appropriate plans have been submitted to deal with erosion and sediment control during construction.

4. Outdoor Advertising

Section 16 of DCP 2002 sets controls for advertising and signage and they are addressed following:

- Signs are to be integrated with the architecture of the building, in colours that complement the building, do not dominate the building and are of appropriate scale and form. Signage is not to obstruct views or cause overshadowing, dominate the skyline or be placed over a window.

In general the signage is considered to be appropriate and to integrate with the architecture of the building. Exceptions to this are the signs identified previously in response to the consideration of SEPP 64.

- Signs are to be located appropriately for the façade treatment of the building, with under awning signs to have a 2.6m clearance from the footpath and be no longer than 2.5m or higher than 500mm.

The proposed under awning signs all satisfy the minimum clearance and have a maximum length of 2.4m and maximum height of 300mm, satisfying this control.

- Do not provide more than one large building and/or business identification sign per building.

The proposal provides for several large signs identifying the building and/or business, with one sign on the east elevation over the top of the building at No. 6-8 Falcon Street, two to the Falcon Street frontage, two to the Alexander Street frontage and three to the Burlington Street frontage. Whilst it is considered that a building of this size can appropriately have more than one large sign identifying the building and main business, it is considered that the signs identified in the section of this report addressing SEPP 64 are inappropriate (ie three of these signs) and excessive and should be deleted from any consent issued.

- Above awning signs, flag pole signs, inflatable signs, moving and flashing signs, sandwich boards, video signs, roof or sky signs and large signs including billboards (>20m² or higher than 8m) are all considered inappropriate in North Sydney.

None of the above signage types are proposed.

- Signs are not to be illuminated between 1am and 7am and illuminated signs are to be fitted with timing devices to ensure compliance.

The application indicates the signage is to be illuminated for the hours of operation of the business, which are 7am to midnight daily and as such the proposal is consistent with this requirement. A condition of any consent should confirm the hours of illumination.

- Allow only 1 wall sign per building with areas not greater 10% of the elevation if the elevation is > 200m².

Again, given the size of the building and its four street frontages it is appropriate that more than 1 wall sign be approved. The total number of wall signs does not exceed 10% of the area of the elevations in question.

5 Waste Management

An appropriate waste management plan has been provided, however concern is raised at the size of the bin storage areas for both the specialty stores and Woolworths and also access to the Woolworths storage area from the store. This is a concern that could be addressed by conditions of consent.

3. Commercial Development

Section 20 addresses commercial development and provides a series of controls which are addressed following.

Function

A variety of non-residential spaces are to be provided, particularly at street level. The use of and access to public transport and transport by foot and bicycle is to be maximised.

The proposal provides for a large supermarket and specialty shops of a variety of sizes which will ensure an appropriate mix of spaces at street level. The location of the supermarket is in close proximity to the bus stop in Falcon Street, though the main entrance has been located off the arcade in Burlington Street, with a secondary entrance nearer the bus stop in Alexander Street. Whilst the second entrance is considered to be located reasonably close to the bus stop, this entrance is not accessible, requiring disabled users of public transport to travel the full length of Alexander Street and half way back again to access the supermarket through the arcade access. This is not considered to be equitable or appropriate and as such a condition of any consent should require the second entrance (ie in Alexander Street) to be made accessible. This could be achieved by a platform lift as a ramp would be likely to take up too much space on the frontage.

Environmental Criteria

This section, of relevance, requires consideration of noise impacts, lighting and awnings. The issue of noise impact can be appropriately resolved in relation to plant noise subject to appropriate conditions of consent, however the noise impact due to the loading operations has not been satisfactorily addresses as identified in the assessment by Acoustic Logic.

The appropriate provision of lighting, including illumination of signs, can be addressed by appropriate conditions of any consent requiring time limits on illumination of signage, no provision of flood lighting and lighting for the car park to satisfy the relevant Australian Standard to ensure pedestrian safety.

A continuous, horizontal awning with a minimum width of 2m is required on all street frontages to provide protection from sun, rain and wind, with awnings to project to within 1.5m of the kerb to allow for street trees and to be at least 3.2m above footpath level. A satisfactory awning has been provided, with additional lower awnings to the Falcon and Burlington Street frontages where the curved awning element is proposed to be raised, in order to ensure appropriate weather protection for pedestrians. However, it is considered appropriate that the awning design be required to be amended, as necessary, to ensure the retention of the existing street trees (that are not required to be removed due to the location of driveways) in Alexander and Burlington Street and to allow for the provision of new street trees in those streets and Falcon Street. A condition to this effect should be included in any consent.

Quality Built Form

The quality built form controls require the design to respond to the existing characteristics, opportunities and constraints of a site and for a site analysis to be undertaken with the design to respond to the issues identified in the site analysis.

In particular the design is to reinforce the urban character and to break down the apparent length by articulation, design and detailing and changes in materials and colours. An interesting skyline is to be provided by containing roof top equipment in a single structure located centrally and by introducing interesting elements and articulation to the upper levels and roofs. Built form is to be emphasised at the corners and streets are to be activated as well as laneway frontages. Entrances are to cater for the disabled, with at least one main entrance having an accessible path of travel.

Whilst the required site analysis has been undertaken and has identified the characteristic sense of vertical bays and horizontal floor levels expressed by the traditional shopfronts and whilst this has been used to inspire the design for the “wrap around” façade of the parking element, concerns are raised with the implementation of this design philosophy. Whilst the amended design better incorporates these features with the introduction of vertical elements to the “wrap around” façade and the “suggestion” of horizontal floors by the changes in colour of the vertical façade blades, it is still considered that further work is required to the façade design, which still reads very strongly as a large single curved element due, in part, to the strong visual element of the white curved awning and parapet treatment.

The design approach of trying to make the “wrap around” façade look similar to the experience of a person travelling by car along the traditional shop front area of Crows Nest, in my opinion, misses the mark as the urban design of the building would, and should, be most significantly experienced by pedestrians in the area and the effect of fast movement on the visual character of the façade is lost to the pedestrian. For this reason the current design, whilst an improvement, is still not considered to have sufficient regard to the context of the area and should be further amended.

The design provides for an integrated plant area on the roof, provides some visual interest to the skyline (though the appropriateness of the treatment is questioned) and provides emphasis to the corners (again with concerns about the treatment).

As has been discussed previously, accessible entry is provided to the main entrance (ie the arcade), but given its distance from the second entry to the supermarket and from the bus stop, it is considered that the second entrance should also be accessible.

Quality Urban Environment

This section deals with accessibility for disabled persons, design for safety, lighting, parking access, garbage storage and site facilities. The accessibility of the site has been addressed previously within this report and subject to conditions will be satisfactory.

The proposal is generally appropriately designed for safety, however conditions on graffiti removal and appropriate lighting of the car parking area, under the awnings and to other pedestrian areas to satisfy AS 1158 should be placed upon any consent.

Access to the parking area has been assessed by Varga Traffic Planning as satisfactory subject to conditions.

Finally, appropriate site facilities (ie public toilets) and garbage storage is provided, though concern is raised with the size and accessibility of the storage areas and conditions should be placed on any consent to address these concerns.

Efficient Use and Management of Resources

Adequate information has been provided in relation to achieving energy efficiency and resource management.

Public Domain

Conditions of any consent should include requirements for provision of appropriate paving to Falcon, Alexander and Burlington Streets and the provision of appropriate street furniture (ie seating at the bus stop) and street trees.

SECTION 94 CONTRIBUTIONS

A section 94 contribution would be applicable under North Sydney s.94 Contributions Plan based on the increased size of retail premises on the subject site. A condition requiring payment of the contribution prior to release of the Construction Certificate would be included upon any consent.

APPLICABLE REGULATIONS

All applicable regulations have been considered in this assessment.

DESIGN/MATERIALS

The amended design provides for improved activation of the Alexander and Burlington Street frontages, however the provision of two substations and no pedestrian entry to Falcon Street is still of concern. The design of the shopfronts is considered appropriate and in this regard the close pedestrian experience, other than on Falcon Street, will generally be a good one.

Further, the extension of the “wrap around” façade around the corners of the laneway to ensure appropriate vistas along Burlington Street and Falcon Street is supported as is the location and size of most of the proposed signage (see previous comments).

However, a site analysis has been undertaken and has identified the characteristic sense of vertical bays and horizontal floor levels expressed by the traditional shopfronts and whilst this has been used to inspire the design for the “wrap around” façade of the parking element, concerns are raised with the implementation of this design philosophy. Whilst the amended design better incorporates these features with the introduction of vertical elements to the “wrap around” façade and the “suggestion” of horizontal floors by the changes in colour of the vertical façade blades, it is still considered that further work is required to the façade design, which still reads very strongly as a large single curved element due to the strong visual element of the white curved awning and parapet treatment.

The design approach of trying to make the “wrap around” façade look similar to the experience of a person travelling by car along the traditional shop front area of Crows Nest, in my opinion, misses the mark as the urban design of the building would, and should be, most significantly experienced by pedestrians in the area and the effect of fast movement on the visual character of the façade is lost to the pedestrian. For this reason the current design, whilst an improvement, is still not considered to have sufficient regard to the context of the area and should be further amended.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

CLAUSE 14 NSLEP 2001

Consistency With The Aims Of Plan, Zone Objectives And Desired Character

The provisions of Clause 14 of NSLEP 2001 have been examined.

The development is inconsistent with the specific aims of the plan in that the design of the façade is not considered to promote the character of the Crows Nest Town Centre in terms of its visual bulk, scale and appearance as outlined in this report. Further, the noise impact of the loading dock has not been resolved and is inconsistent with objective (c) of the Commercial zone. As such, pursuant to the provisions of clause 14 consent must not be granted.

SUBMITTORS CONCERNS

In sufficient free parking whilst the development is occurring which will impact business during construction

It is inevitable that the public parking will be lost during construction and preventing the development from occurring for this reason is not reasonable and would be contrary to the long term interest of providing increased public parking.

As Nos. 6-8 Falcon Street is now for sale it should be include in the development to allow pedestrian access into the development from Falcon Street.

Whilst it is agreed that it would be beneficial and preferred if Nos. 6-8 Falcon Street was included into the development, the current application does not include this property and the application has to be assessed as lodged. Additional information was sought and provided to show how the site could be incorporated into the design or developed separately in the future.

Purchase of No. 6-8 Falcon Street would also allow for the lane to be widened to give better sight for trucks leaving the lane and would improve the car park flow.

Whilst this is true, Varga Traffic Planning have assessed the application as being acceptable in terms of egress from Willoughby Lane into Falcon Street and RMS have raised no concerns other than placing restriction that it not occur during peak hours as large trucks will need to cross onto the wrong side of the road when turning left. The layout and internal car movements in the car park have also been assessed as being acceptable subject to recommended conditions.

At the moment the louvres covering the substations do not improve the streetscape presentation of Falcon Street.

It is agreed that it would be preferable for the substation to be located away from the Falcon Street frontage and this is the preferred urban design approach.

Concerned about potential for damage during construction.

Any consent should contain conditions requiring the preparation of a dilapidation report upon the building at Nos. 6-8 Falcon Street prior to and after the works and require repair of any damage caused as a result of the construction works.

Concerned proposal will limit the development potential of No. 6-8 Falcon Street.

As noted previously, additional information has been provided which shows Nos. 6-8 Falcon Street can be developed to reach its full potential under NSLEP 2013 despite not being included in the subject development.

Loss of sunlight to existing building at Nos. 6-8 Falcon Street.

The site in question is a commercial property and loss of solar access to a commercial property does not warrant refusal if a development is otherwise acceptable.

Impact on value of property sale or lease.

No evidence of impact upon property value has been provided. Notwithstanding this, impacts upon the value of a property do not warrant refusal of an application.

The Dock and Traffic Management Plan is unworkable and data used is flawed and misleading as the counts used were for the quietest times of the use of the lane.

Varga Traffic Planning has reviewed the Management Plan and has observed the workings of the loading areas within Willoughby Lane over several days and is satisfied the proposal will work appropriately.

Delays in Willoughby Lane are up to 15-30 minutes and as such the car park entry is located in the wrong spot.

Review of the operations of Willoughby Lane by Varga Traffic Planning has shown that such delays occur irregularly due to trucks parking illegally in the lane rather than in the loading dock. The provision of a loading dock onsite will stop this happening in relation to Woolworths trucks, however will not prevent other trucks from doing this. It is noted that Varga Traffic Planning found that blockages that they observed were from trucks not related to Woolworths and due to drivers disregarding otherwise available loading spaces. Such behaviour cannot be planned for as no planning can prevent drivers illegally parking to un/load, particularly when a legal alternative was available. In terms of the location of the access to the car park, a blockage in the lane would not affect access to the car park.

The report is incorrect in stating only left turns are permitted from Willoughby Lane into Falcon Street as right turns are permitted.

It is correct that right turns are permitted into Falcon Street.

The traffic assessment ignores the use of the lane by businesses for access for parking and no guarantees are provided that access will be retained during construction.

Construction sites are required to be managed to ensure ongoing vehicular and pedestrian access to nearby properties and a condition of consent to this effect would be included in any recommended consent.

Woolworths have a history of drivers ignoring signage and leaving garbage bins in the lane and drivers are abusive. The large trucks always stop in the middle of the lane, blocking traffic.

Varga Traffic Planning observed such blockages, but their observations showed that the trucks were servicing another property, not Woolworths. Notwithstanding this, obviously blockages would happen to this lane (and any other similar lane) if drivers stop in the middle of the lane. With a dedicated onsite loading bay, it is considered less likely this will occur by trucks servicing Woolworths, though it may still occur with drivers servicing other sites.

Inadequate consideration has been given to the loading needs of the other proposed shops and exiting businesses in Willoughby Road.

Varga Traffic Planning has specifically looked at the issue of adequacy of loading areas for the other businesses in Willoughby Road and has found that with the removal of the central Truck Zone to be replaced by an onsite Woolworths loading dock, sufficient loading areas will remain in Willoughby Lane to service the surrounding businesses if used appropriately.

How will Council enforce compliance with the Management Plan?

Enforcement of the Management Plan would only occur upon receipt of complaints to Council that Woolworths were not operating in accordance with their consent, and then after investigation. Compliance of all users of the loading zones in Willoughby Lane would occur by way of Council rangers and parking inspectors.

Encourage good urban design incorporating improvements of public open space such as widened footpaths, cross pedestrian links through the site or arcades and green principles such as a green roof.

The proposed urban design has been considered by several persons and bodies, with varying degrees of support. It is considered that the amended design achieves an appropriate balance between the need to provide activation to the street frontages and the need to provide for service related uses on Burlington and Alexander Street, however concern is raised with the location of substations on Falcon Street. It is also considered that whilst the changes to the wrap around façade treatment to introduce more vertical elements, a subtle horizontal banding and a different colour scheme is an improvement, concern is still raised that the “wrap around” façade remains unacceptably bulky visually.

The proposal provides for an arcade and appropriate weather protection for footpaths but does not provide for footpath widening. It is considered the width of footpaths in Falcon, Alexander and Burlington Streets is appropriate and it would be inappropriate to provide for a footpath in Willoughby Lane given its function to provide loading access for the subject site and surrounding properties. Providing improved pedestrian access to the lane would introduce inappropriate conflict between pedestrians and heavy vehicles.

Finally, the site is not suitably located for the provision of public open space and is not zoned for such and green principles have been incorporated with a proposed “green wall” as part of the façade to Alexander Street, though conditions of any consent would need to ensure the “green wall” has automatic watering and feeding in order for it to survive and thrive.

The application fails to acknowledge 5 residences at No. 29 Willoughby Road or another 15 above Nos 35 and 39 Willoughby Road.

The applicant was required to provide additional acoustic assessment of the noise impact of the loading dock having regard to the existence of residences in Willoughby Road. The assessment found the impact upon all existing dwellings was acceptable, however would be unacceptable at all time of the day in relation to the proposed dwellings at No. 11 Willoughby Road.

The proposal is replacing the amenities block with fewer toilets.

The old amenities block had additional toilets but was not accessible. The concern raised appears to be that all of the shops and Woolworths would also use the toilets, however the toilets are public toilets and whilst they may also be used by the staff of the specialty shops, the Woolworths fitout would include staff toilets.

Inadequate information is provided in the number of business and public toilet signs.

Adequate signage details is provided for business signs. Internal signs indicating the location of toilets do not require consent and will be provided for during construction.

Whilst the substation is being moved no mention is made of removal of power poles.

A standard condition of any consent would require the provision of underground power to the site and removal of redundant electricity poles and wires.

No assessment is made of the number of pedestrians the development will cater for.

The applicant was requested to provide additional information in terms of pedestrian counts and the assessment by Varga Traffic Planning is that the proposal satisfactorily provides for pedestrian safety subject to recommended conditions.

How is the application being future proofed for increased in customers in the future?

No future proofing is proposed, it being noted the supermarket could not be increased in size as it is located at the lower levels and thus could not expand upwards.

The loading dock hours are proposed to be increased to 24 hrs from 5am to midnight with resultant noise impacts.

The acoustic assessment by Acoustic Logic has indicated the noise from the loading dock results in unacceptable impact upon the approved dwellings at No. 11 Willoughby Road and no amelioration measures, such as requiring no loading at night to prevent sleep arousal, have been suggested by the applicant.

No assessment of plant noise is provided.

Conditions of any consent would provide standards that plant would need to comply with and would require testing to ensure the standard had been met.

Inadequate parking provision.

The assessment by Varga Traffic Planning indicates that sufficient additional parking is provided to cater for users of the enlarged supermarket and specialty shops, with additional parking to space.

No provision is made for pedestrian traffic along Alexander Street and crossing Burlington Street as no pedestrian crossing is proposed there and pedestrians will not walk the extra distance to the crossing near Willoughby Lane.

The assessment by Varga Traffic Planning raises no concerns with pedestrian safety of persons crossing Burlington Street at its intersection with Alexander Street and it is not considered likely the proposal will increase the level of pedestrian traffic in Alexander Street significantly.

Concerned about large increase in traffic on Alexander Street and Burlington Street due to the size of the development and the relocated car park entrance, want entrance to stay on Alexander Street or alternatively make Burlington Street a no right turn into or out of it from West Street to prevent through traffic.

The assessment by Varga Traffic Planning indicates the level of service of all intersections will remain satisfactory and as such the surrounding road network can cater for the additional traffic. It is not considered that significant additional traffic will use the eastern portion of Burlington Street as persons currently accessing the Alexander Street access already can use Burlington Street and then turn left into Alexander Street and into the car park. The only change will be those drivers would not turn left but continue travelling along Burlington Street prior to entering the car park.

The size of the supermarket is too big for the location and would only benefit Woolworths, not the residents.

The existing supermarkets servicing Crows Nest are too small for the population and the proposed supermarket is considered to be of a reasonable size and would provide a benefit to residents of the area.

The building will have excessive bulk and cause unacceptable overshadowing.

The building is compliant with the height controls for the site and will not result in any unacceptable overshadowing. However, the façade design does not satisfactorily ameliorate the visual bulk of the structure, rather accentuating it.

A large corporate building would spoil the main street character of the area that has been created by the paving, planting and outside eateries.

If appropriately designed it is not considered that the proposed development would be unacceptable to the character of the area, however, it is considered that the façade requires further modification to achieve a suitable relationship to its locality.

CONCLUSION

The additional information and amended plans submitted by the applicant have addressed most of the concerns raised with the proposed development, in particular concerns with activation of Alexander and Burlington Streets, improved functionality of the arcade and evidence that the development potential of No. 6-8 Falcon Street will not be unreasonably impacted.

However, concerns remain with the level of activation of Falcon Street, the treatment of the “wrap around” façade in the context of the character of Crows Nest Town Centre and the lack of attenuation measures or justification for breaching of noise controls by the use of the loading bay. Therefore, whilst the proposal is generally considered to be a reasonable one, it cannot be recommended in its current form and as such is recommended for refusal for those reasons.

RECOMMENDATION

PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT Development Application No. 65/2013 for demolition of existing structures and construction of a 6 level mixed use building to contain a public car park, supermarket, arcade, specialty stores and substations and erection of signage on land at No. 10 Falcon Street and Nos 34-42 Alexander Street, Crows Nest, as shown on plans DA003, DA011-DA017, DA021 and DA031- DA032, Revision B be refused for the following reasons:-

1. Pursuant to clause 14 of North Sydney Local Environmental Plan 2001, the proposal is inconsistent with the Specific Aim at clause 3(a)(i) as it is not designed to promote the character of the Crows Nest Town Centre given the “wrap around” façade is not compatible with the bulk, scale and appearance of the centre and therefore must be refused.
2. The proposed development provides for inadequate activation of the Falcon Street frontage with inappropriately located substations, which is inconsistent with the requirements of the Quality Built Form controls of Section 20 Commercial Development of North Sydney Development Control Plan 2002.
3. The development is inconsistent with zone objective (c) of the Commercial zone under the provisions of North Sydney Local Environmental Plan 2001 as the operation of the loading dock will result in unacceptable noise impacts upon the approved residential development at No. 11 Willoughby Road and no satisfactory amelioration measures have been proposed to address the impacts.

Kerry Gordon
KERRY GORDON PLANNING SERVICES
