

JOINT REGIONAL PLANNING PANEL (Hunter Central Coast)

Recommendation Cover Sheet

JRPP No	2014HCC029
DA Number	DA/875/2014
Local Government Area	Wyong Shire Council
Proposed Development	Section 83B staged development application comprising a concept proposal (retail/commercial/residential development) for 2 stages comprising an operational approval for Stage 1 for a 6 storey commercial/retail development, ancillary car parking, demolition of the existing buildings and two (2) lot subdivision
Street Address	Lots 1-5 Section 1 DP 3136 No's 15-23 Hely Street Wyong
Applicant/Owner	CKDS Architecture - Applicant Wyong Shire Council - Owner
Number of Submissions	None received
Regional Development Criteria (Schedule 4A of the Act)	Capital investment value of \$19,271,649 for Stage 1
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings • State Environmental Planning Policy No. 71 – Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007 • Wyong Local Environmental Plan 2013 • Wyong Shire Development Control Plan 2013 • Chapter 2.11 – Parking and Access • Chapter 2.15 – Public Art • Chapter 3.1 – Site Waste Management • Chapter 3.3 – Floodplain Management • Chapter 5.1 – Retail Centres • Chapter 5.2 – Wyong Town Centre • Chapter 6.1 – Key Sites
List all documents submitted with this report for the panel's consideration	Officer's Assessment Report Recommended conditions Plans
Recommendation	Approval
Report by	Tracy Sharp – Senior Development Planner

Assessment Report and Recommendation

WYONG SHIRE COUNCIL

Hunter and Central Coast Joint Regional Planning Panel

DA 875/2014 - Section 83B staged development application comprising a concept proposal (retail/commercial/residential development) for 2 stages comprising an operational approval for Stage 1 for a 6 storey commercial/retail development, ancillary car parking, demolition of the existing buildings and two (2) lot subdivision.

Summary

An application has been received for a Section 83B staged development application comprising a concept proposal (retail/commercial/residential development) and stage 1 - 6 storey commercial/retail development and demolition of the existing buildings. The application has been examined having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act (EP&A) 1979 and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	CKDS Architecture
Owner	Wyong Shire Council
Application No	DA/875/2014
Description of Land	Lots 1-5 Section 1 DP 3136 No's 15-23 Hely Street Wyong
Proposed Development	Section 83B staged development application comprising a concept proposal (retail/commercial/residential development) for 2 stages and operational approval for Stage 1 for a 6 storey commercial/retail development, ancillary car parking, demolition of the existing buildings and two (2) lot subdivision.
Site Area	5,063m ²
Zoning	B3 Commercial Core
Existing Use	Salvation Army Oasis Youth Centre
Estimated Value	\$19,271,649 for Stage 1

RECOMMENDATION

- 1 That the Joint Regional Planning Panel grant consent to DA/875/2014 on Lots 1-5 Section 1 DP 3136 No's 15-23 Hely Street Wyong for a Section 83B staged development application comprising a concept proposal (retail/commercial/residential development) for 2 stages, comprising an operational approval for Stage 1 for a 6 storey commercial/retail development, ancillary car parking, demolition of the existing buildings and two (2) lot subdivision subject to the conditions provided in Attachment 1.***
- 2 That Council advise those government authorities who made written submissions of its decision.***

PRECIS

Permissibility and Zoning	The proposed mixed use development for commercial, retail and residential development is permissible within the B3 Commercial Core zone under Wyong Local Environmental Plan 2013 (WLEP 2013) for commercial, retail and shop top housing development.
Relevant Legislation	<ul style="list-style-type: none">• State Environmental Planning Policy (State and Regional Development) 2011• State Environmental Planning Policy (Infrastructure) 2007• State Environmental Planning Policy 71—Coastal Protection• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings• Wyong Local Environmental Plan 2013
Current Use	The site currently contains the Salvation Army Oasis Youth Centre.
Integrated Development/Referral to State Government Authorities	The proposed development is not classified as integrated development. The application was referred to Roads and Maritime Service and NSW Police Service for comment.
Public Submissions	No public submissions were received
Determining Authority	In accordance with the provisions of Section 21(1)(a) of SEPP (State and Regional Development) 2011, the JRPP are the determining authority for this application as the proposed development is a Council related development of \$5 million or more as indicated within Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> .

VARIATIONS TO POLICIES – STAGE 1

The development proposes the following variations to WLEP 2013:

Clause	Clause 4.3
Standard	Maximum height 25m
LEP	WLEP 2013
Departure basis	Proposing height of 28m, variation 3m or 12%.

The development proposes the following variations to the DCP 2013:

Clause	3.2 Calculation of car parking spaces
Standard	Stage 1 requires a total of 157 car parking spaces
DCP	Chapter 2.11 – Parking and Access
Departure basis	50 car parking spaces proposed within basement and 59 car parking spaces within temporary car park, variation 48 spaces or 31%

The proposed variations are addressed further in the report.

THE SITE

The subject site is commonly known as 15-23 Hely Street Wyong and is legally described as Lots 1-5 Section 1 DP 3136.

The site subject to this application is located on the eastern side of Hely Street, northern side of Anzac Avenue and western side of Hardware Lane (see figure 1). The site has a frontage of approximately 100m to Hely Street and Hardware Lane and approximately 45m to Anzac Avenue

and has a site area of approximately 5,063m². Vehicle access to the site is from Hely Street, Anzac Parade and Hardware Lane.

The site is currently developed and contains the Salvation Army Oasis Youth Centre which comprises two (2) large metal buildings consisting of approximately 2,000m² of gross floor area, a skate park, associated parking, landscaping and awning areas. The subject site has a fall of approximately 4% from Anzac Avenue to the northern boundary of the site.

The subject site is located within the coastal zone of SEPP 71 and is partially floodprone. The subject site is identified as a 'key' site under the WLEP 2013 key site maps.



Figure 1: Aerial photo showing the subject site and surrounding areas.

SURROUNDING DEVELOPMENT

The surrounding properties are characterised by existing commercial and community buildings, such as the Court House, Police Station, Council Chambers, Centrelink and Wyong RSL.

Approved development in proximity to the subject site includes the Art House (corner Anzac Avenue and Margaret Street) and Aldi Supermarket (corner Pacific Highway and North Road).

The proposed development is in proximity to the Wyong Plaza (200m) and the Wyong railway station and bus interchange (400m).

THE PROPOSED DEVELOPMENT

The applicant proposes a staged development under Section 83B of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979). The staged development application involves a concept proposal for two (2) separate buildings to be developed in two (2) stages comprising retail, commercial and shop top housing development and operational approval for Stage 1 comprising a six (6) storey commercial and retail development. A subsequent development application will be required for construction of the Stage 2 tower comprising a seven (7) storey shop top housing development.

Concept Proposal

The concept proposal is for a mixed use development comprising the construction of two (2) buildings as follows:

- Stage 1 comprising a six (6) storey building with retail development on the ground floor and commercial development on the other floors (shown blue in Figure 2); and
- Stage 2 comprising a seven (7) storey building with retail development on the ground floor and residential development on the other floors (shop top housing). The concept approval being sought for Stage 2 involves the building envelope with an approximate height of 28m and a total floor space of 8,840m² (shown yellow in Figure 2).

Please note that residential flat buildings are prohibited in the B3 Commercial Core zone, the only way to achieve a residential component of the development is to propose shop top housing.

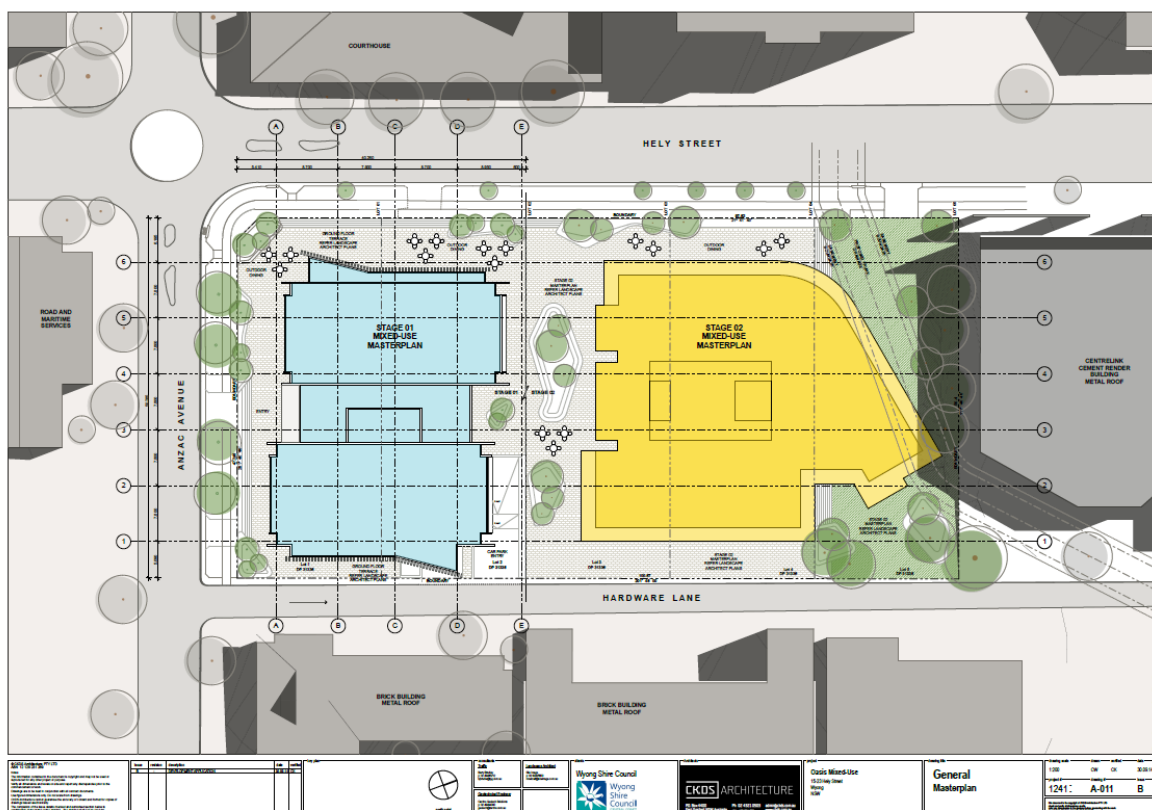


Figure 2: Concept proposal involving 2 stages

Operational Approval - Stage 1

The operational approval for works identified under Stage 1 for the six (6) storey retail and commercial building comprises the following: -

- Demolition of the existing structures over several phases to allow part of the youth centre to be retained on the footprint of Stage 2 to enable the service to remain in operation and find a suitable site to be relocated to;
- Central core for lifts, fire stairwells, foyers and amenities;
- Basement car parking comprising 50 spaces including two (2) disabled spaces, four (4) motorbike spaces and eighteen (18) allocated bicycle parking, unisex bathroom and lockers/change facilities;
- The ground floor with a gross floor area of 658m², comprising 296.5m² of retail space, 96.5m² for a café and outdoor dining, landscaped areas, loading bay, male, female and unisex toilet facilities and lobby area;

- The first and second floors with a gross floor area of 1020m² comprising commercial floor space of 844.5m², two (2) meeting rooms, male, female and unisex toilet facilities, foyer area and plant room;
- The third and fourth floors with a gross floor area of 1048m² comprising commercial floor space of 844.5m², four (4) meeting rooms, male, female and unisex toilet facilities, foyer area and store room;
- The fifth floor with a gross floor area of 1000m² comprising commercial floor space of 799m², four (4) meeting rooms, outdoor terrace, male, female and unisex toilet facilities, foyer area and store room;
- The sixth floor with a gross floor area of 406m² comprising commercial floor space of 343m², outdoor terrace, male, female and unisex toilet facilities, foyer area and store room;
- Construction of temporary car park comprising 59 spaces on the northern portion of the site which will be removed upon construction of the Stage 2 building; and
- Two (2) lot subdivision with lot sizes of 2,020m² (Lot 1) and 3,041m² (Lot 2). Proposed Lot 1 is to contain the proposed Stage 1 building and proposed Lot 2 is to contain the proposed Stage 2 building.

Stage 1 has a total retail floor space of 393m² and a total commercial floor space of 4,520m² and a total gross floor area of 6,072m².

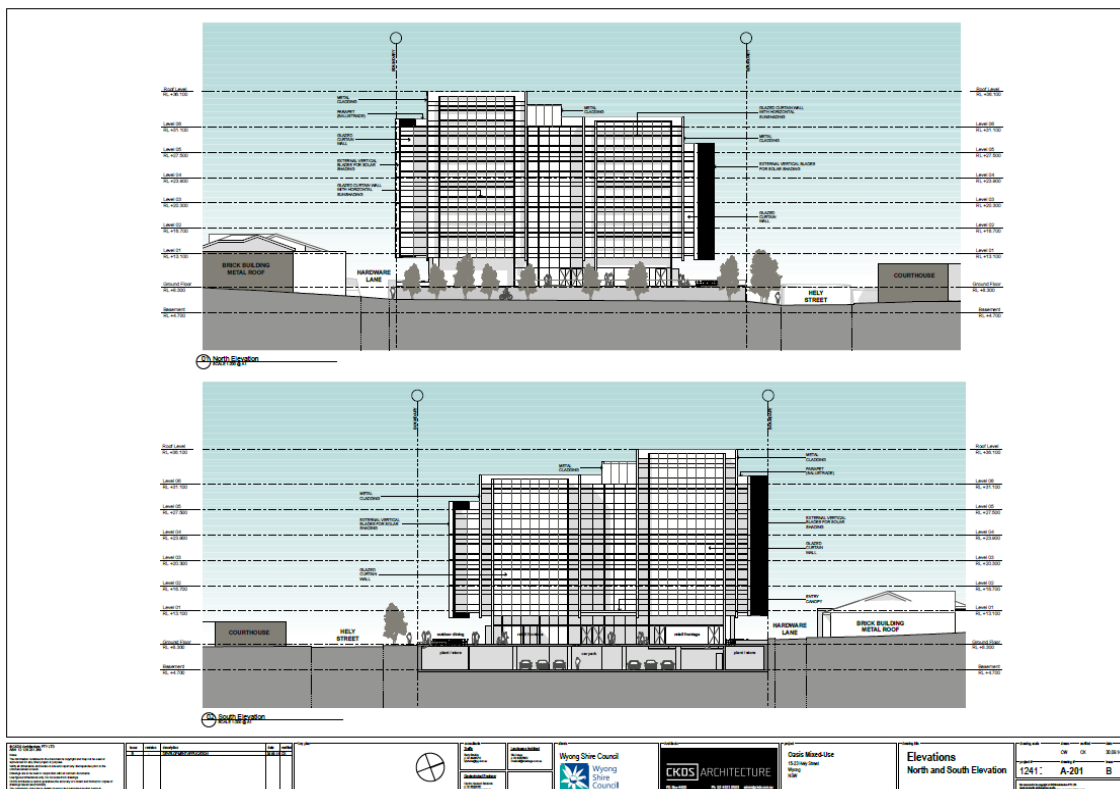


Figure 3: South and north elevations of proposed Stage 1 mixed use commercial and retail development.

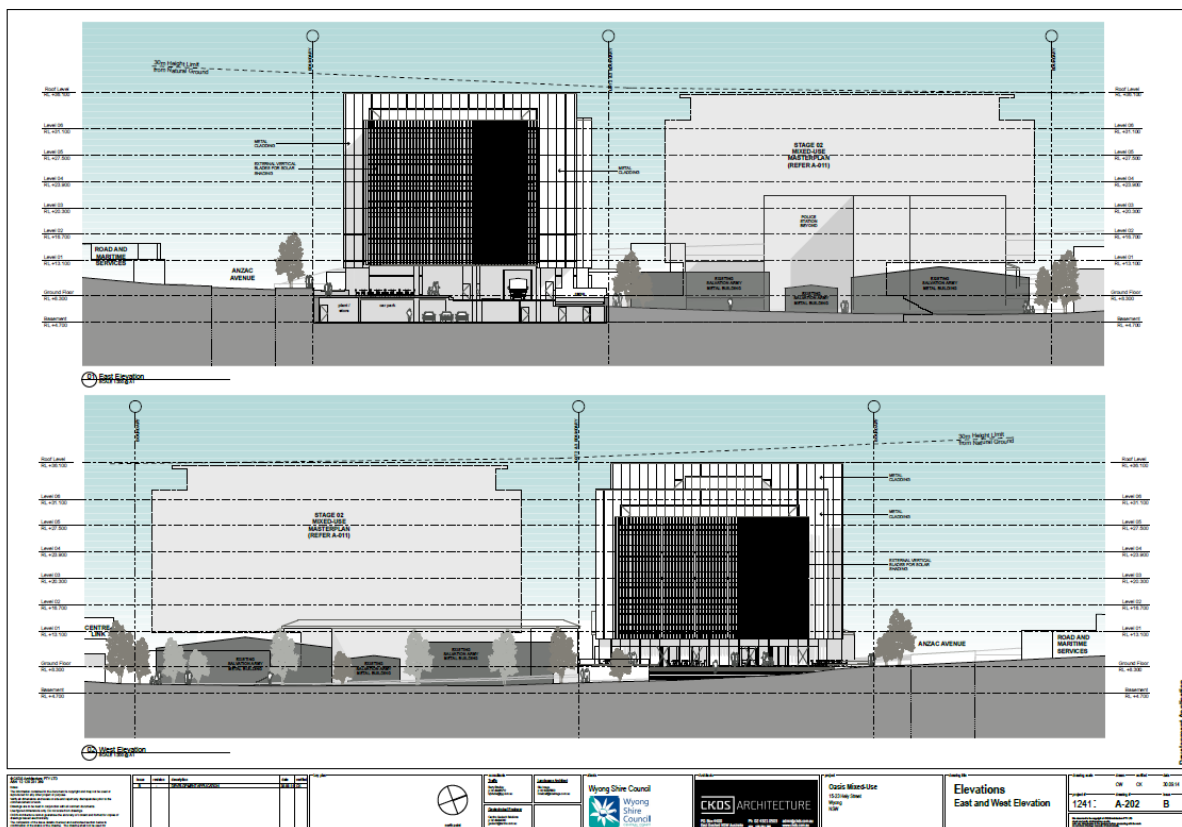


Figure 4: East and west elevations of proposed Stage 1 mixed use commercial and retail development.

HISTORY

The following development applications have been determined on the subject site: -

- DA/492/2014 – Demolition of northern half of portal framed structure – Approved 29 July 2014.
- DA/809/2000 – Place of Public Entertainment 500 people Oasis Youth Centre – Approved 22 September 2008.
- DA/3483/2000 – Shade sail – Approved 10 January 2001.
- DA/3186/2000 – Twilight Fair 1 December 2000 – Approved 30 November 2000.
- DA/2676/2000 – Mural design on southern wall of Oasis Youth Centre – Approved 6 October 2000.
- DA/2674/2000 – Charity car boot sale 7 October 2000 – Approved 5 October 2000.
- DA/1044/1998 - Community facility for youth activities – Approved 15 September 1998.

RELEVANT BACKGROUND

The following background is relevant to the proposed development:

- Council resolved to endorse the identification of a number of “Key Sites” within Wyong Shire including the subject site. Council recognised an opportunity to stimulate the economy and create employment opportunities by offering incentives for the short term

development of these sites. The development of these key sites shall demonstrate significant net community benefit.

- RZ/1/2012 seeking to amend Council's previous Local Environmental Plan (Wyang Local Environmental Plan 1991) by introducing planning controls which support Council's Key (Iconic) development sites program and facilitate a mixed use development on the site. Council's new Local Environmental Plan, Wyong Local Environmental Plan 2013 was gazetted by the Minister prior to adoption of draft Wyong Local Environmental Plan 1991 – Amendment No.190. There is no site specific development control plan in relation to the site subject to this application.
- There is no Voluntary Planning Agreement for the proposed development. The proposed development is subject to Section 94A contributions as contributions under the Wyong District Section 94 Plan are not applicable.

SUBMISSIONS

Any submission from the public

The application was notified in accordance with Clause 2.5 of Wyong Development Control Plan 2013 (WDCP) Chapter 1.2 Notification of Development Proposals (29 July 2015 to 12 August 2015). Notification letters were sent to 38 properties and a copy of the notice was placed on Council's website and the local paper. No submissions were received.

Any submission from public authorities

Submissions were received from the following authorities: -

- Roads and Maritime Services

The application was referred to the NSW Roads and Maritime Services (RMS) for comment under the provisions of Clause 104 and Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, as the proposed development is located within 90m of a state classified road, in this instance the Pacific Highway and is a traffic generating development.

The RMS raised several issues with the original content of the traffic assessment report and requested the submission of additional information. The applicant submitted an amended traffic report, which RMS have reviewed and indicated that they have no objection to the proposed development.

- NSW Police

The proposed development was referred to the NSW Police Service for comment in accordance with the Crime Risk Assessment and Protocol for their review. The NSW Police Service has conducted a Safer by Design Crime Risk Evaluation of the development and has indicated that the proposed development has a low crime risk. The NSW Police Service has provided comments in relation to the proposed development and has recommended that several conditions be included on any consent issued in order to reduce opportunities for crime. These conditions are in relation to surveillance, lighting, basement car park, graffiti and landscaping.

CONSULTATION

Internal Referrals

- Arborist and Landscape Design Assessment Officer

The landscape plans submitted with the application have been assessed by Council's Arborist and Landscape Design Assessment Officer who has indicated that the landscaping will achieve Council's objective of providing a balance between greenspace and the development landscape. The species selected, which are a mixture of native and exotics are suited to the local climatic conditions and given appropriate irrigation and soil volume will provide landscape amenity into the future. Concern was raised with regards to the use of *Ficus macrocarpa* 'Hillii' in Stage 2 of the development as this species often grows very large and if not given adequate space will become problematic, causing damage to structures and services. The landscape plan will be required to be modified to omit this species and replace it with a more suitable species, of which details are to be submitted with the development application for Stage 2. There is no objection to the proposal subject to several conditions being included on the development consent issued by JRPP.

- Building Officer

The application has been assessed by Council's Building Officer who has indicated that the plans for the development are capable of complying with the deemed to satisfy provisions of the Building Code of Australia and the application is recommended for approval subject to several conditions being included on the development consent issued by JRPP.

- Development Engineer

The application has been assessed by Council's Development Engineer and the application is recommended for approval subject to the imposition of conditions on the consent relating to traffic management, waste collection and pedestrian safety being included within the development consent issued by JRPP. The proposal is considered satisfactory with regard to flooding as adequate flood inundation protection has been provided.

- Section 94 Contributions Officer

The application has been assessed by Council's Section 94 Officer who has indicated that the subject site is not located within a site specific Section 94 contributions area and as such Section 94A contributions are applicable as the cost of the development is over \$100,001. As such, a condition of consent will require the payment of a Section 94A levy on the basis of 1% of the total estimated cost of the development, which equates to \$192,000.

- Urban Designer

The design has been assessed by Council's Urban Designer who has recommended the application be recommended for approval subject to the imposition of conditions on the consent.

It is noted that this development application only includes the built form of the Stage 1 development with Stage 2 being a concept approval for the building envelope. A separate development application will be lodged which will be assessed under the provisions of SEPP 65. The Urban Designer is comfortable that the plans for Stage 2 are capable of adaption to comply with SEPP 65 and the Apartment Design Guide.

- Waste Officer

The design has been assessed by Council's Waste Officer who has recommended the application be recommended for approval subject to the imposition of condition on the consent.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible. The proposal is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

CLIMATE CHANGE

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope/combat/withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

Sustainable building design: The proposal incorporates a number of initiatives which will achieve a 4 to 5 star energy rating, these include:

- External shade structures to reduce heat gain and glare, especially on the western and eastern elevations; and
- 30 kilolitre rainwater harvesting tank to enable rainwater capture and daily usage within the building.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the EP&A Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are discussed for Council's information.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

a) Wyong Local Environmental Plan 2013

Permissibility

The subject site is zoned B3 Commercial Core under the provisions of the WLEP 2013. The proposed development is described as a *mixed use development* which means a *building or place comprising 2 or more different land uses*. The applicant proposes *commercial premises* comprising a mixture of sub-uses, which the relevant uses are defined as follows:

Commercial premises means any of the following:

- business premises*
- office premises*
- retail premises.*

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

- an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and*

the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

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

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

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

Food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

Shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

Objectives

The objectives of the B3 Commercial Core zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide for residential uses, but only as part of a mixed use development.
- To encourage development and investment in the Wyong central business district.
- To reinforce the role of the Wyong central business district as the major regional centre in Wyong.

The proposed development complies with the objectives of the B3 Commercial Core zone as the development:

- will provide additional commercial and retail floor area in a key major centre;
- provide for a variety of commercial and retail uses to serve the needs of the community,
- will generate jobs during construction and occupation;
- will be in an accessible location that will maximise public transport opportunities given the site's proximity to the Wyong train station and bus interchange.
- will provide a new capital investment project for Wyong CBD and encourage further development/investment; and
- will contribute to the revitalisation of the Wyong CBD.

Relevant Clauses

▪ Clause 2.6 – Subdivision – consent requirements

The application has been amended to include subdivision of the land to create two (2) lots with an area of 2,020m² (lot 1) and 3,041m² (lot 2). There is no minimum lot size for B3 Commercial Core zoned land. Therefore, the proposed subdivision of the subject site is considered satisfactory.

▪ Clause 2.7 – Demolition requires development consent

Under this Clause the demolition of a building or work may be carried out only with development consent. Stage 1 includes the demolition of the existing structures over several phases which will allow part of the youth centre to be retained on the footprint of Stage 2. Therefore enabling the service to remain in operation until a suitable site to be relocated to has been found. Following relocation of the service, the remainder of the structures will be demolished. Therefore, the proposal complies with the provisions of this Clause.

▪ Clause 4.3 – Height of buildings

This Clause requires buildings to comply with the maximum height provision shown on the building height map. This map identifies the subject land as being within area T1 where any development is to have a maximum height of 25m.

Both Stages 1 and 2 of the development proposes a height of 28m, which is a variation of 3m or 12%.

Refer to Clause 4.6 below for discussions on the exceptions to the development standard.

▪ Clause 4.4 – Floor space ratio

Clause 4.4(2) requires development on the subject site to comply with the floor space ratio map which identifies a maximum floor space ratio of 3:1. The map also identifies that the subject site as being within "Area 1". Clause 4.4(2B) enables additional floor space on the land by the percentage of that ratio shown in the table depending upon the area of the land.

The application has been amended to include a two (2) lot subdivision where proposed lot 1 having an area of 2,020m² contains Stage 1 and proposed lot 2 having an area of 3,041m² contains Stage 2. Utilising the provisions of Clause 4.4(2B), proposed lot 1 is able to have an additional 10% FSR and proposed lot 2 is able to have an additional 15% FSR.

By utilising the bonuses of this Clause, Stage 1 is able to have a maximum floor space of 6,666m² or an FSR of 3.3:1 and Stage 2 is able to have a maximum floor space of 10,491.45m² or an FSR of 3.45:1.

Stage 1 has a total floor space of 6,200m² or an FSR of 3.07:1 over proposed lot 1, therefore complying with the provisions of Clause 4.4(2B) of the WLEP 2013.

Stage 2 on proposed lot 2 is a concept proposal with a proposed building envelope, that indicates a gross floor area of 8,840m² and an FSR of 2.91:1, therefore complying with the provisions of Clause 4.4(2B) of the WLEP 2013.

▪ Clause 4.6 – Exception to development Standards

The intention of Clause 4.6 is to provide an appropriate degree of flexibility to the application of certain development standards. Clause 4.3 is a not development standard excluded from the operation of this Clause under subclause 4.6(8). This Clause stipulates that the development standard must not be varied unless it can be demonstrated under subclause 4.6(3) that the compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standards.

Notification of assumed concurrence of the Director-General of the Department of Planning and Environment under Clause 4.6(4) of the Standard Instrument is provided under Clause 64 of the Environmental Planning and Assessment Regulation 2000. Concurrence can therefore be assumed for the use of Wyong Local Environmental Plan (WLEP) 2013 Clause 4.6 Exception to Development Standards to vary the development standard of WLEP Clause 4.3 Height of Buildings and 4.4 Floor Space Ratio to permit the development.

In accordance with the provisions of Clause 4.6, the applicant has lodged a written request justifying contravention of the development standard of:

- a 25m height limit under Clause 4.3 to enable a maximum height of 28m. This is a variation of 3m or 12%.

The objective of the clause is to provide a greater degree of flexibility in applying certain standards to particular development. Development consent may be granted subject to this clause, even though the development would contravene a development standard imposed by the WLEP 2013. Development consent must not be granted for a variation unless the consent authority has considered a written request from the applicant justifying the variation by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Pursuant to the provisions of Clause 4.6(4), development consent must not be granted for development that contravenes a development standard unless it is consistent with the objectives of the zone and:

Development standards are unreasonable and unnecessary

(3)(a) *The consent authority is satisfied that:*

- (i) *the applicant's written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

The applicant has stated that Council's development standard is unreasonable and unnecessary in this instance as the proposed variation is considered minor and the development will trigger revitalisation in the Wyong CBD and provide employment and economic growth.

The applicant has provided **the following justification** to vary Council's development standard, stating:

- **Both the Stage 1 and Stage 2** buildings will be significant in terms of height **when compared to the existing building adjoining and adjacent to the development eg Wyong Regional Police Station**. However the proposed height is no higher in RL levels than the existing Wyong Shire Council Chambers.
- The proposed development is consistent with the zone objectives as the proposed development seeks to enable business and a mixed use development that will complement the business activities within the Wyong CBD.
- The proposed variations are minor.
- This is the first major mixed use development for the Wyong CBD and is surrounded by buildings that are utilised for either commercial or administrative functions.
- Stage 1 has been designed to provide a connection to the activation of Anzac Avenue that will complement the Art House (under construction) located 150m west of the site.
- There are no residential areas surrounding the proposed building thus will not cause overshadowing onto residential properties.
- Only half of level 6 is being developed for commercial floor space which results in only a portion of the building protruding above the maximum height limit. This element of the building provides added articulation in the roof line rather than a flat roof structure, which provides an added visual interest to the building.
- Even though the proposed height of the buildings exceeds the height requirement, the FSR of the buildings complies with WLEP 2013.
- **Approval is sought for the building envelope of the Stage 2 concept approval building with a height of 28m.**

Assessment Officers Comments

The applicant has submitted minimal justification that strict application of the development standard for height is considered unreasonable and unnecessary as the variation is minor. It is Council's opinion that the proposed variation of 3m to the 25m height development standard is minor and that strict application of this development standards is considered unreasonable and unnecessary as it is considered that the proposed development is compatible with existing development and the future character of Wyong CBD. The design of the development will be visually appealing and engage the community through the ground level businesses. **The 406m² portion that exceeds the height limit does not form a whole storey but provides articulation to the top of the building adding visual and architectural interest.** As this development is the first of its kind in Wyong CBD it will help to revitalise this area to provide economic growth, employment and investment.

Environmental planning grounds

- (ii) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant has addressed the potential impacts that may result from the construction of a building that exceeds the height limit as follows: -

- The closest residential dwelling is approximately 75m from the site, no overshadowing of this residential development will be created from the development of the Stage 1 or Stage 2 buildings.
- Stage 1 has been designed to minimise social and crime issues.
- Stage 1 has been designed to provide visual interest to the streetscape.
- Stage 1 has been designed to complement the approved Art House (currently under construction).
- The eastern façade of both buildings adjoins Hardware Lane which provides separation from smaller building types towards Pacific Highway.
- The building materials of Stage 1 include external finishes and designs which will provide a significant point of interest for the precinct. It is envisaged that the design and materials utilised for Stage 2 will also provide a significant point of interest for the precinct.
- The development will trigger revitalisation of Anzac Avenue as identified in the adopted Wyong Civic and Cultural Precinct Masterplan. The development has the potential to attract potential investors into office space into Wyong.
- The site is located less than 400m from the Wyong train station.
- Stage 1 is able to accommodate 50 car spaces on-site.
- Only a portion of the Stage 1 building protrudes above the maximum height limit which enables added articulation in the roof line rather than a flat roof structure, which provides an added visual interest to the building.
- It is envisaged that level 6 of the Stage 2 building will protrude above the maximum height limit. However, this portion comprises 406m².

Assessment Officers Comments

It is considered that the applicant has justified that there are sufficient environmental planning grounds to justify varying the development standard by 3m for both buildings as the development is a sufficient distance from the nearest dwelling to minimise overshadowing, the development has been designed to minimise social and crime issues, Stage 1 is not impacted by flooding and the development is 400m from public transport (trains/buses). The development as proposed complies with the nominated FSR, which when combined with the proposed height results in a more slender built form.

Objectives of Clause 4.3

The proposal has been assessed in light of the stated objectives of Clause 4.3 which read as follows:

- to establish the maximum height limit for buildings to enable the achievement of appropriate development density,*
- to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- to ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.*

Applicants Submission

Though the proposed development (Stage 1 and concept approval Stage 2) does not comply with the height limit of this Clause, it is considered that the proposed development complies with the objectives of this Clause as:

- The variation will have minimal impact upon the height limit of future buildings and has **not exceeded** the appropriate density **for the subject site**.
- The development will be compatible with the height, bulk and scale of the existing and desired future character of the locality; and
- The development protects the amenity of the neighbouring properties by providing a visually interesting building, access to sunlight and enables privacy.

Assessment Officers Comments

It is considered that the applicant has justified that the development complies with the objectives of Clause 4.3 as the variation is minor, 3m or 12%, the height, bulk and scale is compatible with the existing and desired future character of the locality and the development protects the amenity of the neighbouring properties by providing a visually interesting building without causing unnecessary amenity impacts.

Objectives of the B3 Commercial Core zone

The proposal has been assessed in light of the stated objectives of the B3 Commercial Core zone which read as follows:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for residential uses, but only as part of a mixed use development.*
- *To encourage development and investment in the Wyong central business district.*
- *To reinforce the role of the Wyong central business district as the major regional centre in Wyong.*

Applicants Submission

It is considered that the proposed development complies with the objectives of this zone as follows:

- Will provide a range of commercial and retail uses which will serve the needs of the community;
- Will provide commercial and retail floor space which can be utilised for employment generating purpose;
- Located close to a major regional train station, and is also well serviced by bus services linking the northern and southern parts of the Shire. The proposal also includes facilities for bicycles;
- Includes a mixed use component consisting of residential uses, Stage 2;
- Will be a major catalyst project within the town centre and will be the highest capital investment project since the development of the Council Chambers; and

- Will be consistent with all regional strategies including the Central Coast Regional Strategy. It identifies Wyong CBD as a major regional centre and has allocated prescribed employment and population targets to be met.

Assessment Officers Comments

The proposed Stage 1 building will provide floor space that will enable a variety of retail, business and office uses that will service the needs of the local and wider community. **The proposed Stage 2 building will provide a mixed use development, bringing residents into the CBD to utilise existing services and facilities.** The proposed development will provide employment during construction and operation of the various businesses. The subject site is located approximately 400m from Wyong train station and bus interchange encouraging employees to use public transport. In addition, Stage 1 provides 4 motorcycle spaces and 18 bicycle racks/lockers as well change rooms and lockers, encouraging other modes of transport for employees. Residential development will be provided as part of the Stage 2 building, of which a separate development application will be required to be lodged with Council for consideration and determination. The proposed development will encourage investment and the development of similar building to revitalise the Wyong CBD and provide economic growth. **This new development will reinforce Wyong CBD as a major regional centre by providing additional commercial and housing (Stage 2) opportunities as well as providing a key catalyst to promote local growth and investment.**

Summary

Clause 4.6(4) states that development consent cannot be granted for a variation to a development standard unless the consent authority is satisfied that the applicant adequately addressed the request and that the proposed development will be in the public interest by remaining consistent with the objectives of the standard and the zone. The applicant has submitted justification to demonstrate that strict compliance is unreasonable and unnecessary in this instance and that sufficient grounds exist to justify contravening the standard.

The proposed development will be in the public interest because it is consistent with the objectives of the height standard and the objectives of development within the zone. The underlying object or purpose of the height control is to establish a building height to achieve appropriate development density. Buildings are to be compatible with the height, bulk and scale of the existing and desired future character of the area. The Hely Street area has a future desired height varying from 16m to 25m. This development is the first to utilise the new parameters within the WLEP 2013.

Although there are no current buildings built to the desired height within the WLEP 2013, the gazettal of the WLEP 2013 has seen the inclusion of increased heights and FSR for the Wyong CBD to encourage larger commercial development as well as shop top housing to enable the revitalisation of this area and encourage economic growth.

The majority of existing buildings on Hely Street are either single or two-storey. However, the Wyong Regional Police Station, Wyong Shire Council Administration Building and Wyong Plaza in the vicinity of the proposal have heights in excess of two-storey. It is considered that the proposed building will be compatible with the existing and desired character of the area and will provide additional commercial and residential choice in a highly accessible location near the railway station and Town Centre.

An important contributor to the character of a local area is the relationship of built form on the surrounding space. This relationship is created by building height, setbacks and landscaping. It was stated in *Project Venture v Pittwater Council* that “buildings do not have to be the same height to be compatible” (*Project Venture Developments v Pittwater Council [2005][27]*). The existing height in the streetscape should also be taken into account when there is a height difference. The building design has attempted to provide articulation in the roof line as well as utilising different materials to provide architectural interest. Hely Street provides an array of buildings of varying heights, age and architectural designs, such as Wyong Police Station, Council Chambers, various

government buildings, Wyong Plaza. Therefore the immediate area does contain a variety of structures with varying heights and the height of the proposed building, though higher, would integrate with this mix of development.

Given the context of the site in close proximity to a major road and rail infrastructure, commercial properties, the large site area, the height variation is considered reasonable.

It is recommended that the application and the variation to the development standard be supported as the extent of the variation is considered minor representing 3m or 12% in relation to height. This variation will not be substantially noticeable to the community or environment and there are no unreasonable impacts associated with the exception.

In this instance and on these grounds it is recommended that the JRPP grant concurrence under Clause 4.6 of the Wyong LEP 2013 to the proposed variation to Clause 4.3 as compliance with the development standards are considered unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening this development standard.

- Clause 5.5 - Development within the coastal zone

This Clause applies to the development as the subject site is located within the coastal zone. In addition, development consent must not be granted unless the provisions of Clause 5.5(2) and (3) have been taken into consideration. Clause 5.5(2) and (3) require consideration of foreshore access, impact on natural scenic quality, amenity of foreshore biodiversity, development of non-reticulated areas and coastal hazards. The proposed development is satisfactory having regard for the objectives and provisions outlined in this Clause.

- Clause 7.2 - Flooding

The objectives of this Clause are to minimise the flood risk to life and property and to ensure development is compatible with the lands flood hazard. To grant consent to the development Council must be satisfied that the development will not adversely affect flood behaviour, alter flow distributions and velocities, and enable safe occupation and evacuation.

The site is located within the Wyong CBD where extensive catchment flooding has occurred during high intensity storm events within the low point in Hely Street and the northern section of Hardware Lane. Cardno Pty Ltd have undertaken a drainage investigation within the Wyong CBD catchment area and have set the 1% AEP Flood Level at 6.21m AHD at the northern low point of Hardware Lane.

The architectural plans detail no opening connecting the basement level with Hely Street and have located the building basement entry ramp at approximately 45m upstream of the Hardware Lane low point at a level of 7.135m AHD, providing adequate flood inundation protection.

- Clause 7.9 – Essential Services

The proposed development is able to be serviced by water, sewer, electricity, stormwater drainage and road access.

- Clause 7.11 – Key Sites

Clause 7.11 relates to the development of land identified as a 'key site' on the Key Sites Map. This Clause requires the preparation of a site specific development control plan for the development of those key sites in return for bonus development potential being a greater height than ordinarily permitted.

In this instance the applicant has opted not to prepare a development control plan for this key site and to not apply for the iconic site bonus potential. The applicant has indicated that feasibility studies undertaken for the site indicated that additional height would require excessive levels of car parking and that construction cost would render the proposal unviable.

Taking this into consideration, the proposed development is to comply with the relevant Clauses for the WLEP 2013.

b) Relevant SEPPs

The following SEPPs are applicable to the proposed development: -

- State Environmental Planning Policy (State and Regional Development) 2011

In accordance with the provisions of Clause 21(1)(a) of SEPP (State and Regional Development) 2011, the JRPP are the determining authority for this application as the proposed development is a Council related development of \$5 million or more as indicated within Schedule 4A of the *Environmental Planning and Assessment Act 1979*.

- State Environmental Planning Policy (Infrastructure) 2007

The application was referred to the NSW Roads and Maritime Services (RMS) for comment in accordance with the provisions of Clause 104 and Schedule 3 of SEPP Infrastructure 2007, as the proposed development is located within 90m of a state classified road, in this instance the Pacific Highway. RMS comments have been addressed previously in the report.

- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

The applicant has proposed a concept proposal for the Stage 2 building comprising seven (7) storeys with retail development on the ground floor and residential development floors above (shop top housing). The concept approval being sought for Stage 2 involves the building envelope with an approximate height of 28m and a total floor space of 8,840m².

In accordance with the provisions of Clause 50 of the *Environmental Planning and Assessment Regulation 2000* and Clause 29 of SEPP 65, a design verification statement from a qualified designer is required to be submitted to Council for any residential flat building development that comprises 3 or more storeys and 4 or more self-contained dwellings.

As Stage 2 is for a concept approval, the applicant has provided a generic floor plan which will apply to all the proposed residential floors and a SEPP 65 principles assessment of the proposal. The SEPP 65 principles assessment is as follows:

Control		Evaluation	Compliance
Building Depth	In general an apartment building of a maximum depth of 18m is appropriate	Maximum 12.5m building depth is proposed to 1 bedroom apartments.	Yes
Building Separation	Up to 4 stories		Yes
	12m between habitable rooms/balconies	The development meets this requirement.	Yes
	9m between habitable/balconies and non-habitable.	The development exceeds this requirement.	Yes
	6m between non-habitable rooms.	The development exceeds this requirement.	Yes
Daylight Access	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of 3	All units will receive 3 hours of natural sunlight in mid-winter.	Yes

	hours direct sunlight between 8am and 3pm in mid-winter. In dense urban areas a minimum of 2 hours may be acceptable		
	Limit rooms of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. Development which seeks to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is address.	Single aspect apartments with a southerly aspect have been limited to a maximum of 10%.	Yes
Natural Ventilation	Buildings depths which support natural ventilation typically range from 10m-18m.	Units have a maximum depth of 12.5m.	Yes
	60% of residential units should be naturally cross ventilated.	More than 60% of units are naturally cross ventilated.	Yes
	25% of kitchens within a development should have access to natural ventilation.	Approximately 40% (minimum) of kitchens have access to natural ventilation.	Yes

The proposed separation between Stage 1 and 2 varies between 13m and 17m that fully complies with the minimum 12m requirement. All units within the Stage 2 building receive 3 hours of natural sunlight in mid- winter and all units have a depth of 12.5m and more than 60% of units are naturally cross ventilated. The proposed floor plate indicates that all units contained in Levels 1-6 are SEPP 65 compliant, whilst 74% are compliant on Level 7 of the Stage 2 building.

The preliminary assessment indicates that the Stage 2 residential development demonstrates substantial compliance with the Design Quality Principles. When the Stage 2 development application is lodged for assessment and consideration all residential units will be designed at length to ensure compliance.

It should be noted that when the development application is lodged for Stage 2 a more in depth and robust assessment against SEPP 65 will be undertaken. In addition, this new application will address the new SEPP 65 changes which came into force on 17 July 2015.

▪ State Environmental Planning Policy 71 - Coastal Protection

State Environmental Planning Policy (SEPP) 71 – Coastal Protection applies to the development as the subject site is located within the coastal protection zone. Clause 8 'Matters for Consideration' is to be taken into consideration by the consent authority when it determines a development application to carry out development on land to which SEPP 71 applies. The proposed development has satisfactorily addressed the matters for consideration outlined in Attachment 1.

c) Relevant DCPs

Wyong Development Control Plan 2013

The following is an assessment of the proposal against the relevant chapters of the WDCP 2013: -

- Chapter 1.2 - Notification of Development Proposals

Under this Chapter the proposed development was notified with no submissions being received.

- Chapter 2.11 - Parking and Access

Under Clause 2.5 of this Chapter, Stage 1 of the development requires the following car parking spaces: -

Use	GFA(m ²)	DCP Requirements	Total Required
Commercial	5,542	1 per 45m ²	124
Retail	297	4.7 space/100m ² GFA	14
Cafe	192	15 spaces/100m ²	19
TOTAL			157

Stage 1 requires a total of 157 car parking spaces of which 50 car parking spaces have been proposed within the basement and 59 car parking spaces within a temporary car park (prior to construction of Stage 2). This is a variation of 48 spaces or 31% before Stage 2 is constructed. After Stage 2 is constructed this is a variation of 107 spaces or 68%.

This Chapter also requires the provision of 1 motorcycle space per 50 car spaces to be provided. This development requires 4 motorcycle spaces to be provided. The applicant proposes 4 motorcycle spaces within the basement.

In addition, bicycle parking facilities, showers and clothes lockers should be provided for at least 3-5% of the estimated journey-to-work trips. It is estimated that the proposed development will generate 130 am trips and 134 pm trips. Therefore, the proposed development requires 4-7 spaces and facilities. The development proposes a combination of bicycle racks and lockers for 18 bicycles within the basement, as well as clothes lockers and showers/change rooms. Therefore, complying with the requirements of this Chapter.

The subject site is located approximately 400m from the Wyong train station and bus interchange. Section 3.11 Dual and Complimentary Use of Facilities of this Chapter states that the objective is to *allow the applicant the ability to reduce parking numbers where a dual or complimentary use of facilities with a development is proposed*. In this instance, a mixed use development comprising retail and commercial development. If the expected parking demand is reduced, the traffic impact study shall provide details for the justification for the reduction in parking requirements. The applicant has submitted a traffic impact study that addresses the reduction in car parking spaces, as discussed below.

The proposed car parking for Stage 2 of the development will be addressed when a development application is lodged for this Stage.

Applicants Submission

The traffic management plan by BJ Bradley & Associates justifies the shortfall in car parking as follows:

- Council owns a car park on Margaret Street that has 40 spaces; and
- The site is located approximately 400m from the Wyong railway station. It is estimated that approximately 30% of employees will utilise trains; and
- The site is located approximately 400m from the bus interchange. It is estimated that approximately 10% of employees will utilise bus transport.

In addition, there is a free commuter car park located on the eastern side of the Wyong train station which is underutilised.

Wyang CBD is in proximity to a train station and bus interchange. The proximity of the train station will enable people to commute to Wyong from Newcastle and Sydney. The bus interchange will enable people to commute from all over the Central Coast. It is expected that at least 25% of employees of the various businesses within Stage 1 would utilise the rail service. One of the key requirements in attracting tenants to occupy the proposed commercial office space within Stage 1 is the location and distance to public transport with a preference to railway stations.

Whilst there is some variation to the car parking provisions of this Chapter, it requires comparison to other similar areas. For example:

Maitland	1 space /45m ²
Newcastle	1 space /50m ²
Shoalhaven	1 space/ 40m ²
Lake Macquarie	1 space/ 40m ²

In Newcastle, the car parking allocation can be reduced due to a high degree of public transport and urban living as well as better bike infrastructure. Shoalhaven is a similar regional centre with a higher car parking rate.

Assessment Officers Comments

It should be noted that car parking spaces within Council's car park on Margaret Street have been allocated to the Art House which is currently under construction, and therefore cannot be included as part of this development. However, as the Art House is predominately a night time and weekend use, some capacity for commercial (day time) parking use could also be facilitated within the Margaret Street car park.

Stage 1 requires a total of 157 car parking spaces of which 50 car parking spaces have been proposed within the basement and 59 car parking spaces within a temporary car park, this is a variation of 48 spaces or 31% before Stage 2 is constructed. No on-site car parking details have been provided for Stage 2. Once Stage 2 has been constructed the Stage 1 development will have a shortfall of 107 spaces or 68%.

It is anticipated that cafes/restaurants/shops will occupy the ground floor retail space of Stage 1. It can be assumed that the only car parking required for this retail floor space would be for staff because it is anticipated that workers within the Wyong town centre will walk to this location to patronize these businesses. Therefore, only the car parking required for the commercial development is applicable, ie 124 spaces. Thus Stage 1 with the temporary car parking is 15 spaces short or 12%. When Stage 2 is constructed Stage 1 will have a shortfall of 74 spaces or 60% based on the required provision of 124 spaces.

Due to the proximity of the Wyong train station and bus interchange to the development site, it is considered acceptable that a number of employees will utilise the available public transport. In addition motorbike parking spaces and bicycle racks and change facilities are provided to enable employees to utilise other modes of transport. Therefore, in this instance it is considered that the interim 48 car parking space shortfall is acceptable.

▪ Chapter 2.15 – Public Art

The objective of this Chapter is that major development comprising commercial, public administration and retail (shops) with a value of \$5 million or more provide a financial allocation towards public art which comprises 1% of the total cost of development. In this instance the total cost of the proposed development is \$19,271,649 and on the basis of 1% of the total estimated cost of the development, public art to the value of \$192,716 (minimum) is applicable. A condition of consent will require the lodgment of details of the proposed public art and its location prior to issue of the Construction Certificate.

At the previous Joint Regional Planning Panel meeting dated 18 June 2015, the Panel agreed to the applicant's request to reduce the public art contribution to \$50,000.

▪ Chapter 3.1 – Site Waste Management

The aim of this Chapter is provide details on the:

- *type and amount of waste/recyclable materials which will be generated;*
- *how waste / recyclable materials will be stored and treated on site;*
- *how disposal of waste/management or resale of recyclable materials will take place, and*
- *how ongoing waste management will be accommodated in the design of the building or use.*

The applicant has provided approximate waste generation calculations for the proposed retail and commercial development of Stage 1 in order to ensure the proposed waste storage area is of a suitable size and estimate the number of mobile bins required to be collected on Hardware Lane. The applicant has estimated that a total of approximately 1,000 litres of general waste and 1,000 litres of recycling waste will be generated per day. The proposed waste storage area has been amended to have the capacity to accommodate approximately 21 x 240 litre mobile bins. The owner of the building has the option of engaging Council to service the individual bins or a commercial waste operator to service bulk waste bins.

The construction of a garbage bin collection area on Hardware Lane will be required as a condition of consent to ensure there is a designated bin collection area and the laneway is an adequate width in the laneway for a garbage collection vehicle.

If approved a condition requiring an operational waste management plan to be submitted to Council will be placed on the consent addressing the requirements of this Chapter.

▪ Chapter 3.3 - Floodplain management

This Chapter identifies the requirements for commercial development in flood prone areas which are to be addressed by a professional engineer who specialises in floodplain management and civil engineering.

Under this Chapter it is important to note that in an industrial or commercial situation habitable floor area means '*an area used for offices or to store valuable possessions susceptible to flood damage in the event of a flood*'. These habitable areas are to be 500mm freeboard above the 1% Annual Exceedance Probability (AEP) flood event. In addition, electrical fittings, internal sewer fixtures and external overflow gully risers apply as per the Building Code of Australia.

The architectural plans for the proposed Stage 1 building indicate that there will be no opening connecting the basement level with Hely Street and the basement entry ramp is located approximately 45m upslope of the Hardware Lane low point at a level of 7.135m AHD providing adequate flood inundation protection as the 1% AEP Flood Level at the northern low point of Hardware Lane is 6.21m AHD. The RL's for the ground floor level portion of the development is as follows:

Commercial areas - RL 8.3m AHD;
Loading dock - RL 7.8m AHD; and
Entry to basement car park – RL 7.135m AHD.

The areas are above or at the same level as the Hardware Lane low point level.

▪ Chapter 5.1- Retail Centres

This Chapter identifies Wyong as a district town centre and the administrative centre for the Shire. This Chapter applies to all land within the Shire of Wyong where commercial premises are permissible under the WLEP 2013. The main objective of this Chapter is that any new retail floor space does not have a negative impact on the existing retail network. The overall development provides approximately 700m² of retail floor space.

Proposed Stage 1 has a total retail floor space of approximately 400m². It is considered that this is a small increase which will have a minor impact upon the existing retail floor space of the Wyong CBD.

It is envisaged that this proposed retail space would include restaurants/cafes to take advantage of the proximity to the existing commercial/community buildings.

This Chapter also provides specific guidelines for retail development. The proposed development is considered to comply with these requirements as follows:

- The proposed development will define the street corner by way of its podium style structure incorporating outdoor dining area and façade designs with vertical panels.
- The proposed development has a high degree of visual surveillance with large shop front windows facing towards both Anzac Avenue and Hely Street.

▪ Chapter 5.2 – Wyong Town Centre

The subject site is located within the Wyong Town Centre, specifically Precinct 4 Administration Area of the Heritage Character Areas. It is recommended that future developments are consistent with and complement the existing characteristics of this area and new development should respect boundary setbacks of existing buildings and maintain distinctive freestanding arrangement of buildings.

Precinct 4 contains a range of building types with architectural forms from several eras including several modern buildings. The proposed development is located opposite the Wyong Regional Police Station which has been constructed within the last few years and is a modern four (4) storey building. The proposed development does not directly adjoin any heritage item. However, the development is located diagonally opposite a free standing two-storey heritage item (I130) of local significance, known as Robely House.

It is considered that the proposed development does not diminish the importance of the heritage building due to the separation distance and the heritage building adjoins the modern police station. It is considered that the design of the proposed Stage 1 building blends into the eclectic variety of building forms within the Wyong Town Centre.

▪ Chapter 6.1 – Key Sites

Council resolved to identify a number of “Key Sites” within Wyong Shire, seeking to stimulate the economy and create employment opportunities by offering incentives for the short term development of these sites. The development of these key sites is required to demonstrate significant net community benefit. The subject site has been identified on the key sites map under the WLEP 2013 as being key site number 30.

The applicant has indicated that they do not wish to utilise the key site provisions of this Chapter and have proposed to rely on the provisions of Clauses 4.3 and 4.3 of the LEP which have been addressed previously in the report.

d) Relevant Regulations

There are no relevant regulations in relation to this application.

THE LIKELY IMPACTS OF THE DEVELOPMENT

Context and Setting

The architectural design of the proposed Stage 1 building is modern in form and appearance and is considered to be compatible with the mixture of modern and older styles of buildings within this part of the Wyong CBD. As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

The development will increase pedestrian traffic within this area and provide linkages to the Art House which is currently under construction, as well as the Police Station, Centrelink, RMS, Council's Administration Building, Wyong Plaza and the Wyong train station and bus interchange.

As the subject site has three (3) street frontages, the development has been designed to maximize pedestrian activities through the ground level retail spaces which may include cafes and restaurants and outdoor dining.

Built Environment

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of DCP compliance.

As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

Natural Environment

There will be no significant impact upon the natural environment as a result of the proposal.

All other relevant issues regarding the likely impacts of the development have been discussed throughout this report. In general, it is considered that the property is suitable for a mixed use development subject to conditions.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Site Constraints

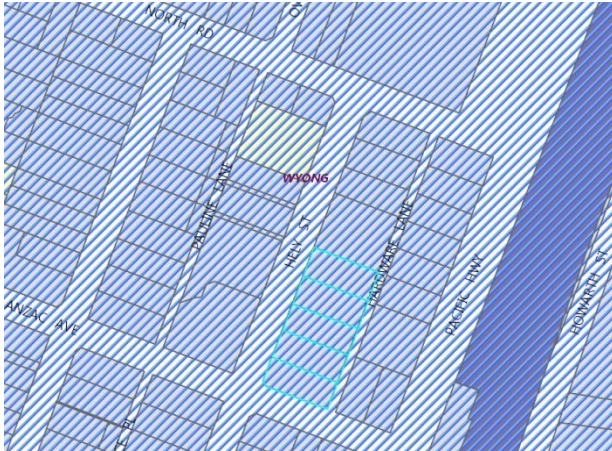
A review of Council's Land Information mapping identifies the following constraints:

- Flooding



Part of the site is inundated by the 1:100 year flood event. The flood information submitted with the application is satisfactory.

- Coastal Protection – SEPP 71



The subject site is located within the coastal protection zone, but not within 100m of a coastal lake or sensitive coastal location and complies with the provisions of Clause 8 of SEPP 71.

There are no other constraints that would render the site unsuitable for development.

THE PUBLIC INTEREST (s79C(1)(e)):

- Public Interest

The proposed mixed use development for a retail and commercial premises is in the public interest as the proposal will provide a variety of retail and commercial opportunities in accordance with the Wyong/Tuggerah Planning Strategy and Central Coast Regional Strategy. The proposed development will assist in the revitalisation of the Wyong CBD and bring investment and employment opportunities. The public exhibition period raised no objections.

- Wyong/Tuggerah Planning Strategy

The Wyong/Tuggerah Planning Strategy (WTPS) was adopted in 2007 to implement the employment and residential growth targets as dictated within the Central Coast Regional Strategy. The core objective behind the WTPS was to increase residential and commercial densities within the town centre and areas within walking distance to Wyong train station. Reclassification of community use land to operational land was identified as a key method to fulfil this objective. Stemming from the WTPS, the Wyong Town Centre Planning Proposal was adopted and subsequently LEP 178 was gazetted in September 2011 which brought about increased commercial zoned land, increased floor space ratios and increased height within the town centre. Upon the gazettal of LEP 2013, the subject site was identified as having a maximum FSR of 3:1 plus a 20% bonus if the land area is greater than 4,000m² and a maximum building height of 25m. The proposed development is considered consistent with the WTPS.

- Central Coast Regional Strategy 2006-31

The Central Coast Regional Strategy's primary purpose is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing target of 16,000 dwellings and promote local employment opportunities over the next 25 years. The Strategy encourages development to strengthen and increase the vibrancy of centres particularly Wyong which is identified as being a major centre.

WLEP 178 was created in part to increase the overall dwelling capacity of the town centre by approximately 1,120 dwellings. Stage 1 of the proposed development aims to provide office accommodation to support local employment opportunities and services for the additional growing population.

Under this Strategy the Tuggerah-Wyong major centre is targeted to accommodate 5,500 new jobs. The original creation of the previous LEP 178 under the provisions of WLEP 1991 was anticipated to provide for approximately 1,350 additional jobs based on the net overall increase in commercial floor space of 26,900m² providing approximately 24% of these employment targets. Subsequently, the new WLEP 2013 adopted these planning provisions (height and FSR). Stage 1 of the proposed development will provide 6,400m² of commercial premises, and therefore is consistent with the Strategy.

- Wyong Cultural and Civic Precinct Masterplan

The Wyong Cultural and Civic Precinct Masterplan (WCCPM) aims to demonstrate the importance of Wyong as the administrative and cultural hub of Wyong Shire by setting up a framework for the centre through a comprehensive set of development principles.

The WCCPM identified several sites in Wyong, including the subject site as having attributes suitable for enabling further economic growth and development confidence.

- Retail Centres Strategy

The Retail Centres Strategy identified that Wyong is estimated to have approximately 8,000m² of existing retail floor space. This Strategy also identified that there is additional residential capacity, this is now embedded in WLEP 2013 through the higher density zoning. At present there is limited availability for increased retail development. Unfortunately, the Strategy does not identify a specific floor space area that could be created from these iconic sites but it does indicate that the additional retail floor space in Wyong would be unlikely to impact upon other retail centres. The proposed development does create additional retail floor space and it is considered to be of an area that would have minimal impact upon the existing retail network.

OTHER MATTERS FOR CONSIDERATION

- Contributions

Water and Sewer contributions will be levied separately under the *Water Management Act 2000*.

CONCLUSION

The Development Application has been assessed in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments and policies. The variation to the building height and FSR for Stage 1 is considered reasonable as it has been demonstrated that the development is consistent with the objectives of the zone and is consistent with the WLEP 2013 and WDCP requirements. The proposal is considered to provide a building designed to complement and integrate with the existing adjoining and adjacent development as well the proposed retail development engaging the public utilising Hely Street and Anzac Avenue. The proposed development will provide a catalyst to revitalising the Wyong CBD as well as providing employment opportunities during construction and occupation.

The proposed development is considered suitable for the site as it proposes a staged development application under Section 83B of the EP&A Act 1979 comprising a concept proposal (retail/commercial/residential development) for 2 stages and an operational approval for Stage 1 for a 6 storey commercial/retail development, ancillary car parking, demolition of the existing buildings and consolidation of lots on Lots 1-5 Section 1 DP 3136 No's 15-23 Hely Street Wyong.

Accordingly, Development Application No. 875/2014 is recommended for approval subject to the conditions listed in this report.

ATTACHMENTS

1. Attachment 1 – SEPP 71 Assessment
2. Attachment 2 – Development Plans
3. Attachment 3 – Draft Conditions of Consent

ATTACHMENT 1 – SEPP 71 – COASTAL PROTECTION ASSESSMENT

State Environmental Planning Policy (SEPP) No.71 – Coastal Protection applies to the development as the subject site is located within the coastal protection zone, but not within 100m of a coastal lake or sensitive coastal location. Clause 8 'Matters for Consideration' is to be taken into consideration by the consent authority when it determines a development application to carry out development on land to which SEPP 71 applies. The proposed development has satisfactorily addressed the matters of consideration outlined in Clause 8, as indicated below: -

Matters for Consideration	Compliance Y/N/NA
a. <i>the aims of this Policy set out in clause 2</i>	The proposal complies with the aims of this Policy.
b. <i>existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</i>	N/A. The subject land does not adjoin the foreshore.
c. <i>opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</i>	N/A. The subject land does not adjoin the foreshore.
d. <i>the suitability of development given its type, location and design and its relationship with the surrounding area,</i>	The proposal is considered suitable to the location.
e. <i>any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,</i>	N/A. The subject land does not adjoin the foreshore.
f. <i>the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,</i>	The scenic quality is being altered, however, the scale of the development is similar to the existing Council building and Wyong police station. Further the site does not adjoin the coast.
g. <i>measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u>) and plants (within the meaning of that Act), and their habitats,</i>	The subject land contains very little vegetation, none of which has been identified as being an endangered ecological community.
h. <i>measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u>) and marine vegetation (within the meaning of that Part), and their habitats</i>	N/A. The subject land does not adjoin the foreshore.
i. <i>existing wildlife corridors and the impact of development on these corridors,</i>	The subject site is not part of nor adjoins existing wildlife corridors.
j. <i>the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal</i>	N/A. The subject land does not adjoin the foreshore.

<i>hazards,</i>	
<i>k. measures to reduce the potential for conflict between land-based and water-based coastal activities,</i>	N/A. The subject land does not adjoin the foreshore.
<i>l. measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</i>	The subject site has not been identified as containing any Aboriginal relics nor as a place of significance.
<i>m. likely impacts of development on the water quality of coastal waterbodies,</i>	N/A. The subject land does not adjoin the foreshore.
<i>n. the conservation and preservation of items of heritage, archaeological or historic significance,</i>	The subject site has not been identified as containing any items of heritage, archaeological or historic significance, however, there is a heritage item located on the opposite side of the road. The development is considered consistent with other recent development within the locality and is not considered to negatively impact upon this locally listed heritage item.
<i>o. only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,</i>	There is no Draft LEP that is applicable to the subject site.