

JRPP No:	2015SYE117 – 101-111 Willoughby Road and a portion of Zig Zag Lane, Crows Nest
DA No:	DA 327/2015
PROPOSED DEVELOPMENT:	Construction of a 4-6 storey mixed use building, including supermarket, public plaza and public car park
APPLICANT:	Coles Group Property Developments Pty Ltd
OWNER(S):	Coles Group Property Developments Pty Ltd & North Sydney Council
REPORT BY:	Kerry Gordon – Kerry Gordon Planning Services On behalf of North Sydney Council

Assessment Report and Recommendation



REPORT TO THE JRPP

ADDRESS: Nos. 101-111 Willoughby Road and a portion of Zig Zag Lane, Crows Nest

APPLICATION No: DA327/2015

PROPOSAL: Construction of a 4-6 storey mixed use building, including supermarket, public plaza and public car park

PLANS REF: Drawings 3844_DA003, 3844_DA011-14, 3844_DA020-22, 3844_DA031-33, 3844_DA041-42, 3844_DA051-52 and 3844_DA061-63, all Rev B, all dated 3.2.16 and 3844_DA010, 3844_DA015 and 3844_DA016-19, all, Rev C, all dated 15.3.16, and 3844_DA015a, Rev.C dated DD/MM/16 all prepared by Nettleton Tribe

OWNER: Coles Group Property Developments Pty Ltd & North Sydney Council

APPLICANT: Coles Group Property Developments Pty Ltd

AUTHOR: Kerry Gordon – Kerry Gordon Planning Services

DATE OF REPORT: 12 May 2016

DATE LODGED: 11 September 2015

AMENDED: 12/2/2016, 1/3/2016, 24/3/2016

RECOMMENDATION Refusal

EXECUTIVE SUMMARY

The proposal is for the construction of a 4-6 storey mixed use building, including supermarket, public plaza and public car park. The development provides for 3 x studio, 19 x 1 bed, 41 x 2 bed and 4 x 3 bed apartments, a total of 67 apartments, with 67 residential parking (including 10 accessible) spaces and 7 motorcycle spaces, 206 public parking (including 4 accessible) spaces and 21 motorcycle spaces, a supermarket of 3,796.94m² and up to 9 specialty shops with a total floor space of 695.7m²

The application is referred to the Sydney East Joint Regional Planning Panel for determination as the application relates to land owned by North Sydney Council (Zig Zag Lane) and the cost of works for the proposed development exceeds \$5 million Capital Investment Value (CIV).

The amended plans lodged after concerns were raised in the initial assessment have addressed the majority of the concerns raised. The development is now largely compliant with the controls related to height, bulk and scale, with variations to the height controls sought for stairs, lift overrun, ventilation shaft and elements of the roof top communal open spaces (balustrades, pergolas and the like). The design of the proposal is considered to have been appropriately resolved and the urban design is supported by the assessing Urban Designer.

Amenity impacts upon adjoining properties have generally been suitably ameliorated or can be by the inclusion of appropriate conditions of consent in relation to screening devices and height of landscaping.

The impact upon the surrounding road network can be appropriately ameliorated with the provision of traffic calming devices and traffic lights and the works are supported by the Traffic Engineer and the Roads and Maritime Service.

Acoustic impacts can be appropriately ameliorated during construction and operation subject to a series of management plans and conditions recommended by the Acoustic Engineer.

A Voluntary Planning Agreement has been submitted with the application and is considered to be appropriate in the context of the proposed development.

The remaining area of concern that was raised with the applicant but has not been satisfactorily resolved relates to the amenity of a number of proposed apartments and their non-compliance with the Apartment Design Guide. Whilst it is considered that these issues can be overcome with a series of internal design changes, they are too substantial for conditions of consent. It is therefore recommended that the Panel refuse the application for reasons related to internal amenity of the proposed apartments.

LOCATION MAP



DISCUSSION OF APPLICATIONS

The subject application is one of two applications lodged at the same time for the subject site. The second application, DA 328/15 was lodged on 11 September 2015 and is for demolition of the existing structures on the subject site, relocation of the existing sewer line and electricity supply, relocation of a substation and the removal of three trees. The application for demolition has not been determined at the time of the writing of this report.

DESCRIPTION OF PROPOSAL

This application is seeking consent for the excavation works and construction of a 4-6 storey mixed use building, including supermarket, public plaza and public car park, with ancillary landscape works as detailed following.

- | | |
|-------------------|--|
| Basement Level 4: | 67 residential parking spaces (including 10 accessible) and 7 motorcycle spaces, storage units and bike storage for apartments, carwash bay and plant. |
| Basement Level 3: | 73 public parking spaces (including 5 small) and 3 motorcycle spaces, storage, plant, trolley bays and 18 public bicycle parking spaces. |
| Basement Level 2: | 71 public parking spaces (including 4 small) and 8 motorcycle spaces, grease traps, plant and trolley bays. |
| Basement Level 1: | 62 public parking spaces (including 5 small and 4 accessible) and 10 motorcycle spaces, storage, plant, trolley bays and an office and accessible WC. |
| Lower Ground: | Supermarket, including bakery, coolrooms and other back-of-house spaces. The entry/exit to the car park is located at this level via Atchison Street. One-way entry to the reconstructed Zig Zag Lane is provided at this level from Atchison Street. This level is below ground level to the northern side of the site and at grade at the southern end of the site. A traveller system connects this level with Basement Levels 1-3. A residential lobby is located off Atchison Street. |
| Upper Ground: | A public plaza (415m ²) is located at the south-western corner (incorporating 40 public bicycle parking spaces), surrounded to the north and east by retail tenancies (up to 9), having a total floor space of 655.6m ² . Access is provided from the public plaza to the supermarket by a set of escalators. A garbage store and dock for the specialty shops are located to the east of the specialty shops. The supermarket back-of-house (463m ²), including garbage storage, loading dock and plant/condenser farm is located to the north-western corner. The north-western corner (which is elevated one storey above ground level, contains 5 x lower levels of two storey apartments, containing the living spaces. The mezzanine level contains the bedrooms of these apartments, providing 3 x 1 bedroom, 1 x 2 bed and 1 x 3 bed apartments. A residential lobby to the apartment building is provided off Albany Street. |

- Level 1: This level contains 1 x studio, 9 x 1 bed, 9 x 2 bed and 1 x 3 bed apartments, a communal terrace located roughly centrally and the supermarket office located at the north-eastern corner.
- Level 2: This level contains 1 x studio, 3 x 1 bed and 14 x 2 bed apartments.
- Level 3: This level contains 1 x studio, 3 x 1 bed, 11 x 2 bed and 2 x 3 bed apartments.
- Level 4: This level contains 1 x 1 bed and 6 x 2 bed apartments and a communal terrace located at the south-eastern corner.

As such the development provides for 3 x studio, 19 x 1 bed, 41 x 2 bed and 4 x 3 bed apartments, a total of 67 apartments, with 67 residential parking spaces (including 10 accessible) and 7 motorcycle spaces, 206 public parking spaces (including 4 accessible) and 21 motorcycle spaces, a supermarket of 3,796.94m² and up to 9 specialty shops with a total floor space of 695.7m². The proposal provides three lifts, with Lift 1 servicing the public parking levels and the supermarket levels and Lifts 2 and 3 only servicing the residential parking level and the apartments. The proposal also provides a public plaza of 415m², reconstruction of Zig Zag Lane with public footpath and associated landscaping. The reconstruction of Zig Zag Lane includes the closure of the current access from that lane into Ives Lane.

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – B4 – Mixed Use
- Height of building – 88m, 93.4m, 101.1m, 104.2m; 1m Zig Zag Lane
- Non-residential FSR – 0.5 to 2:1 (Area 6); 0.5:1 (Area 9) Zig Zag Lane
- Not heritage item but partially in conservation area (Zig Zag Lane)
- Not In Vicinity of Item of Heritage

Environmental Planning & Assessment Act 1979

SEPP No. 55 - Contaminated Lands

SEPP 65 & Apartment Design Guide

SEPP No. 64 - Advertising Signs

SEPP (BASIX)

SEPP (Infrastructure)

SREP (Sydney Harbour Catchment)

POLICY CONTROLS

DCP 2013

DESCRIPTION OF SITE AND LOCALITY

The site is a large irregular shaped parcel of land, known as Nos. 101-111 Willoughby Road, Crows Nest and includes the portion of Zig Zag Lane between Albany Street and Atchison Street. The site comprises 3 lots and is legally described as Lot 1001 in DP 771247, Lot 1 in DP 1265 and Lot 20 in DP 1208836. The site has a frontage to Willoughby Road of 74.4m, to Atchison Street of 59.2m and to Albany Street of 42m and has an area of 4,013.9m².

The site is currently developed with Crows Nest Plaza (shopping centre with a supermarket, specialty shops and car parking), a free standing dwelling used for commercial purposes, a council car park and Zig Zag Lane.

The surrounding development to the north-east and east is largely residential in nature, dominated by single storey detached dwellings. To the south of the site, on the opposite side of Albany Street are a mix of commercial and retail uses in buildings varying between 2 and 4 storeys. Crows Nest shopping centre extends to the south along Willoughby Road, with development to the eastern side characterised by traditional two storey retail shops with dwellings above (not all used as dwellings), whilst the western side is characterised by more modern 3 storey retail/commercial development.

Opposite the site in Willoughby Road are a mix of more modern 2 storey retail/commercial development and older 3 storey walk-up flat buildings. The shopping centre continues to the north past the subject site with development on both sides of Willoughby Road being more modern and of between 1 and 3 storey in scale, with a mix of retail and commercial uses.

To the north of the site, on the opposite side of Atchison Street is a two storey retail/commercial building and then single storey dwellings. One of the dwellings is occupied by a childcare centre.

RELEVANT HISTORY

On 2 December 2013, Council resolved to forward a Planning Proposal to the Department of Planning and Infrastructure with a request for a Gateway Determination. The Planning Proposal was for 101-111 Willoughby Road, Crows Nest (Crows Nest Plaza) seeking to rezone a portion of Zig Zag Lane to B4 Mixed Use and to set height limits for the development site, changing the height limits over the site from 10m-13m. The Planning Proposal was accompanied by a Voluntary Planning Agreement detailing compensation for the sale of part of Zig Zag Lane and requiring the provision of publicly available parking and a public plaza.

The Minister for Planning and Infrastructure subsequently issued a Gateway Determination requiring the Planning Proposal be put on public exhibition for a minimum period of 14 days. As the Voluntary Planning Proposal was to be exhibited concurrently, the Planning Proposal was put on public exhibition from 20 February 2014 to 20 March 2014. Council considered a report addressing the submissions and resolved to amend the Height of Building Map and rezone the portion of Zig Zag Lane to B4 Mixed Use. The LEP amendment effecting this resolution came into force on 24 October 2014.

An initial assessment of development application DA 327/15 raised the following issues, which were notified to the applicant by letter dated 13 November 2015.

- The breach of the height control in relation to the bedrooms and balconies of Units 210, 310 and 410 is not supported. These breaches should be removed and the units reconfigured such that they comply with the height control. An amended clause 4.6 variation request should be provided.
- Concerns with the acoustic assessment.
- Lack of information about fencing of Zig Zag Lane and loading operations.

- Concern with the treatment of the street wall in Willoughby Road where it adjoins the plaza.
- Concern with the design of the corner of the Plaza.
- Concern the east elevation treatment of the wall to the lift shaft and stairs and the eastern façade of the loading area and the plant condensor farm need further attention.
- Concerns with solar access to and view lines from plaza and public domain due to a stair well.
- Concerns raised by RMS in relation to the need to ensure right turn moments from Willoughby Road into Atchison Street will not queue back and affect the operation of nearby traffic lights.
- Concern the proximity of the loading dock entry and residential vehicle entry at Atchison Street may be confusing.
- Clarification required in relation to the turning template shown in Ives Lane for access to the adjoining property to the east as the turning manoeuvre appears to overhang the boundary between the Lane and the subject site.
- The waiting area for the traffic signals on the residential level conflicts with the swept turning path of vehicles entering the residential parking level and this needs to be addressed.
- No boom gates provided to the entrance of the public car park. Details of such are to be provided or alternatively measures to prevent unauthorized all day commuter parking are to be detailed.
- The “snorkel” bedrooms in apartments 104, 204, 304 and 404 (Types 11 and 13) are not supported
- Units M01-M05 have no access from the parking level. A connection between the units and lift 2 shall be provided.
- Unit type 15 and 28 has inadequate width to the balcony which could be addressed by an increased setback of the dining room wall and/or removal of the planter box.
- Unit types 5, 9, 11, 11A, 22 have an inadequate width to the balcony adjoining the living area and need to be redesigned.
- Inadequate information is provided to assess the suitability of apartments 105, 106, 205, 206, 305 and 306 given the location of windows to bedrooms adjoining the common terrace (Level 1) and/or common corridor.
- The second bedroom to Units 402 and 405 have no window which is unacceptable.
- The balustrades appear to be of clear glass which provides inadequate privacy protection to lower apartments as viewed from the streets, public plaza and Zig Zag Lane.
- Skylights to the upper level apartments should be provided where possible to improve internal amenity.
- The communal space on Levels 1 and 2 needs to be separated by landscaping to adjacent to apartment balconies to improve amenity and details of screening provided.
- Inadequate provision has been made for privacy between Units 108 and 115, 208 and 214 and 308 and 314.
- Visual and acoustic privacy impacts from Level 1, 2 and 4 communal terraces upon properties to the east should be addressed by a combination of 1.8m high frosted glazed privacy screens and planter boxes with landscaping
- Inadequate information is provided in relation to visual privacy impacts upon adjoining properties to the east from windows/balconies and the Coles office.

- Confirmation required of any proposed changes to the level of Zig Zag Lane and the proposed footpath adjoining the dwellings to the east of the site to allow an assessment of privacy impacts.
- The shadow diagrams submitted are inadequate to assess shadow impact upon the adjoining properties to the east. Elevation shadow diagrams are required.
- Inadequate landscaping is provided within Zig Zag Lane adjoining the immediately adjacent property to the east in Atchison Street.
- The proposal does not show a sufficient number of street trees along each frontage.
- The extent of Coles signage is excessive and not supported.
- Clarification of retail suite signage required.
- Clarification required of the garbage and recyclables handling in relation to the supermarket, with the waste management details provided being generic and not specific.
- Clarification of compliance with the non-residential floor space ratio requirement of LEP 2013 required with a proposed non-residential floor space calculation on each portion of the site with a different FSR being required.
- Clarification required as to whether the “public parking spaces in lieu of that provided in Zig Zag Lane” is to be managed differently from the other retail/commercial parking.

Amended plans and additional information were submitted in response to the above concerns and the amended plans are the subject of this assessment report.

INTERNAL REFERRALS

Health

Comments in relation to the acoustic report were provided by Council’s Environmental Health Officer.

Comment: These comments were forwarded to Wilkinson Murray to inform their assessment, as detailed in the External Referrals section below.

Development Engineer

Request amendments to the stormwater concept plan as it does not demonstrate a reduction of stormwater discharge from the site. Request a section along the centreline and extremities of the driveway crossing to ensure the proposed driveway to the underground parking will be appropriate for the existing levels.

Comment: The amended plans were assessed as being acceptable subject to conditions which should be included in any approval. In particular, it is noted that the proposed boundary levels are not approved and are to be subject to additional approval of civil works by Council prior to issue of any Construction Certificate.

Heritage

Part of the site (Zig Zag Lane) is located within the Holterman Estate A Conservation Area and adjoins the area. No objection is raised to the reconstruction of Zig Zag Lane as a driveway for the development as it is reflective of the existing character on that part of the site. The design of the building has incorporated appropriate setbacks in order to reduce the perceived bulk from the conservation area and the driveway provides a visual and physical separation between the development and the low scale conservation area. No objection is raised to the proposal.

Comment: Noted.

Strategic Planning

It is noted that public vehicular and pedestrian access through the site will be maintained under the VPA for the site. The plans included in the amended VPA do not reflect the current proposal and need to be replaced. Concern is raised at the masonry treatment to the proposed wall separating the footpath and the public plaza.

Comment: Noted. The concern with the treatment of the wall was raised with the applicant and addressed in the amended plans.

Landscaping

The following street trees are recommended for removal:

T3 Platanus x hybrida (London Plane), 7m height on the Atchison St footpath. It has low retention value as it has been gully lopped at 4m for overhead wires.

T5 Platanus x hybrida (London Plane), 13m height on the Willoughby Rd footpath. It has been assessed as having high retention value by the consultant arborist, however, Council's Tree Management Officer, Doug Foster considers it to have moderate retention value as the trunk has grown over the kerb. Replacement of the kerb will decrease the tree's stability.

T5a Platanus x hybrida (London Plane), 7m height, on the Willoughby Rd footpath. It is a minor tree and can be readily replaced.

T6 Platanus x hybrida (London Plane), 14m height, on the Albany St verge. It has been gully cut for overhead wires. A replacement tree is preferable.

T8a Olea africanus (African Olive) - Although identified in the documentation as being located on the adjacent site at 63 Atchison St, this tree has already been removed.

The following street tree has been recommended for retention by Council's Tree Management Officer, Doug Foster:

Tree T4 Platanus x hybrida (London Plane) is 12m in height, located on the Willoughby Rd footpath. It has been assessed by the consultant arborist as having moderate retention value and a life expectancy (SULE) of over 40 years.

RECOMMENDATIONS

There are four street trees that may be removed subject to the undergrounding of power and telecommunications and the subsequent replacement of mature new street trees. One existing London Plane is to be retained such that Clause 5.9 of NSLEP 2013 is satisfied. The following conditions are recommended to ensure that Council retains the one good quality street tree and to satisfy Part B Section 1.5.8 and 1.5.10 of NSDCP 2013.

Comment: Noted. The requested conditions should be included in any approval.

Traffic

Parking Provision

The proposed parking provision has been compared against the maximum parking rates set out in Council's DCP 2013.

Component	NSDCP 2013		Proposed Development	
	Parking Rate	Max. No. Spaces	No. Spaces	
Residential 25 x 1 bed/ studio 41 x 2/3 bed	0.5 / dwell. 1 / dwell.	12.5 41	66	
Visitor/ carwash bay		1		
Total Residential		55		
Non-Residential Shops (759m ²) Supermarket (3726m ²)	1 / 50m ² GFA 4 / 100m ² GFA	15 149	Retail	164
			Additional Public	22
Off-set Zig Zag Lane	23	23		23
Total Non-Residential		187		209
Total Car Parking		242		275
Motorbike		22		28

The development proposes 33 (13.6%) extra parking spaces above the maximum permitted under Council's DCP.

Permitting any development to increase their parking spaces by 13% over the DCP, and therefore increase traffic generation by a further 13%, would undermine the intent and purpose of Council's DCP. North Sydney Council has recognised that increased traffic flow, congestion and parking demand can lead to a loss in residential amenity. Further, congestion leads to reduced levels of service for public transport, through longer journey times and loss of fleet efficiency. For pedestrians and cyclists increased traffic means more difficulty in walking and increased noise levels on roads. This can result in roads that are intimidating environments for pedestrians and cyclists. The parking rates as outlined in Council's DCP were a deliberate policy decision of Council to restrict car parking and therefore traffic generation from private vehicles.

It is strongly recommended that the car parking provision be reduced to comply with the limits set out in North Sydney DCP 2013.

Approval to operate a public car park

Section 68 of the Local Government Act 1993 (NSW) requires the development consent of Council to be obtained prior to the operation of a public car park. Clause 52-66 of the Local Government (General) Regulation 2005 (NSW) outlines the information, which must be provided with such an application for consideration by Council.

The applicant has indicated that they intend to charge a fee for public parking in the car park to deter commuter parking.

It is recommended that the operation of the car park be referred to the North Sydney Traffic Committee for approval to ensure that the fee structure is appropriate.

Bicycle Parking

The proposed bicycle parking provision is compared with the required parking provision set out in Council's DCP in the table below:

Component	DCP 2013 No. Bike Parking Spaces				Proposed Development	
	Occupants/ Staff		Visitors		Occupants/ Staff	Visitors
Residential (x66)	1/ dwell.	66	1/ 10 dwell.	7	66	7
Shops (759m ²)	1 / 25m ²	30	2 + 1 / 100m ² > 100m ²	2	23	15
Supermarket (3726m ²)	1 / 200m ²	19	1 / 300m ²	12		
TOTAL	115		21		89	22

The rates used in the applicant's traffic report assume a lower rate for the shop component of the development. The DCP has a specific rate of 1/25m² which should be used for any type of small shop including a restaurant or café, which it is understood the retail shops will constitute such.

The car park layout should therefore be revised to reduce car parking spaces and increase bicycle parking spaces. The bike parking shall be located on the upper parking levels as much as possible.

Pedestrian Crossing

The development proposes pedestrian crossings across Willoughby Road and Atchison Street at the intersection adjacent to the site to cater for increases in pedestrian volumes and improve access. These facilities are supported in principle by Council's Traffic Engineer and will require approval from the North Sydney Traffic Committee. The RMS has requested the applicant to quantify that the RMS warrants for pedestrian crossing would be met at these locations.

Council is currently installing a pedestrian refuge with kerb extensions at this location as part of broader cycleway and streetscape improvement plans. It is recommended that in designing the pedestrian crossings, the developer ensures consistency with Council's plans, in consultation with Council's Traffic & Transport Operations Manager and Sustainable Transport Projects Officer.

Traffic Signals at Alexander Street/ Chandos Street

Council has identified the intersection of Alexander Street and Chandos Street to be upgraded to traffic signals through Council's Traffic Strategy Review, in consultation with Holtermann Precinct, for many years. The proposal to upgrade the intersection in association with the development is strongly supported.

Sub-station temporary relocation

During discussions with the developer and their potential contractor it was discovered that the sub-station, which services the subject site and other properties in Atchison Street, currently located at the rear of the site in Zig Zag Lane, would need to be temporarily relocated elsewhere within the road reserve, most likely Atchison Street, until the construction of the development reached ground floor. It is understood the sub-station would then be relocated within the site boundary. This was not mentioned in any of the DA documents.

Concerns were initially raised with the substation relocation requiring the footpath adjacent to the site on Atchison Street to be blocked for this entire duration. This is not acceptable, and an alternative plan was discussed that would allow a minimum of 1.2m trafficable footpath.

From a pedestrian and resident amenity perspective, it is preferable that the sub-station be temporarily and permanently accommodated within the site boundary throughout demolition, excavation, construction, and occupation. However if this is not achievable then the development should be constructed such that the sub-station is relocated to the road reserve on a temporary basis until construction reaches ground floor and such that a 1.2 metre trafficable footpath is maintained adjacent to the site at all times.

Streetlighting (general and at pedestrian crossing/refuge)

The developer shall be required to upgrade the street lighting levels adjacent to the site on Atchison Street and Willoughby Road to meet current Australian Standards. The developer shall also be required to ensure lighting of the pedestrian crossings and intersections of Chandos Street/ Alexander Street; and Willoughby Road/ Atchison Street meets current Australian Standards for pedestrian facilities.

Car Park Design

In order to prevent confusion for public visitors to the carpark, it is recommended that the residential access and egress points shown on drawing 3844_DA013 (Grid A5 & B5) be controlled by a roller door to reduce through visibility, and display appropriate signage to direct public users to the public car park.

It is highly likely that vehicles queuing at the boom gate at the entry to the public car park shown on drawing 3844_DA013 (Grid B4) will block egress from the residential car park. It is therefore recommended that the area in front of the residential egress be marked with "Keep Clear" markings.

The public entry boom gate shall be located a minimum of 6 metres from the residential egress point to ensure adequate storage space for one car length.

Loading

Loading dock access is via the far eastern side of the site on Zig Zag Lane which will be acquired by the developer. Entry is via Atchison Street and egress is via Albany Street. All vehicles must enter and exit the site in the forwards direction.

It is recommended that an Operational Traffic Management Plan be prepared for the operation of the loading dock and management of deliveries. This should also include a restriction that trucks must not use Atchison Street east of Zig Zag Lane to access or depart from the site.

Traffic Generation & Impacts

I generally concur with the traffic generation figures calculated by CBHK. I generally agree with the traffic impact analysis and proposed measures to manage the impacts at affected intersections, specifically the proposed traffic signals at the intersection of Alexander Street and Chandos Street.

It is anticipated that Atchison Street between Alexander Street and Willoughby Road will be most significantly impacted by the development with traffic volumes expected to be approximately double the existing volumes in peak hour times and on average throughout the day. Atchison Street has an average daily volume of 2041 vehicles (136 vehicles/ hour average). This is expected to increase to 3656 vehicles per day (244 vehicles/ hour average) as a result of the development. In peak hours (Thursday & Friday evenings and Saturday midday) the traffic volumes on Atchison Street will be in the order of 450 vehicles per hour.

The definition of the impact on residential/environmental amenity by varying levels of traffic flow is extremely complex. Perceptions of impact vary greatly from person to person. Traffic flows that one person may find perfectly acceptable may be considered excessive by another. Impact is affected by the nature of the street and the area in which it is located, its width, building setbacks, grades, etc. as well as by the speed of traffic and the mix of cars and heavy vehicles.

The functional classification of the street is important when determining the impact on residential/environmental amenity. The RMS's Guide to Traffic Generating Developments states that the environmental capacity performance for a local road is a goal of 200 vehicles per hour and a maximum of 300 vehicles per hour. The traffic generation from the proposed development is likely to see the traffic volumes, on average, on Atchison Street generally remain below the maximum environmental capacity for a local road, however during peak periods (Thursday & Friday evenings and Saturday midday), the maximum hourly environmental capacity of Atchison Street will be exceeded.

It is agreed, however, that the partial road closure in Atchison Street to the east of Zig Zag Lane proposed as part of the previous development consent may not be an appropriate treatment given the reduction in size of the development under the current DA.

The CBHK report alludes to providing traffic calming measures in Atchison Street to ameliorate the impacts associated with the increase in traffic on Atchison Street. It is strongly recommended that this be imposed as a condition of consent and suitable treatments be developed in consultation with Council's Traffic & Transport Operations Manager, which will also require further consultation with residents of Atchison Street and the North Sydney Traffic Committee.

Comment: A number of conditions were requested which should be included in any approval, with the exception of the recommendation to reduce the number of parking spaces (see comments from Varga Traffic Planning in the External Referrals section below).

Garbage

The waste facilities plans for the Coles redevelopment have been amended to address the issues as was discussed at the 4/3/2016 meeting. I would however request, that time management requirements be included in the conditions. This is to ensure the Council's contractors have easy access to the garbage facilities on Monday's and Thursday's between 6am and 1pm. so they can provide an efficient service without disruption.

Comment: A condition to this effect should be included in any approval.

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, urban designer, traffic engineer and acoustic engineer. The assessment of the urban designer, traffic engineer and acoustic engineer are summarised following, along with comments from Ausgrid, NSW Police Force, Sydney Water and Roads and Maritime Service.

Ausgrid

The proposal will impact Ausgrid's electrical mains in Zig Zag Lane and substation however Ausgrid has advised they raise no objection provided the developer undertakes asset relocation works to Ausgrid's satisfaction.

Comment: A condition to this effect should be included in any approval.

NSW Police Force

No objections raised.

Comment: Noted.

Sydney Water

No objections raised.

Comment: Noted.

Roads and Maritime Service

Referral to RMS occurred pursuant to clause 104 of SEPP (Infrastructure) and the initial RMS response indicated that the proposed traffic lights at the intersection of Alexander Street and Chandos Street were not supported for the following reasons:

- no analysis of the traffic signals warrants has been provided,
- the intersections have been modelled in isolation and the location of the intersection has not been analysed in relation to the proximity of traffic lights at Chandos Street and Willoughby Street,
- the proximity of Chandos Street and Brook Street intersection, and
- impact on sight distance for vehicles heading west on Chandos Street from Brook Street and the proximity to the Brook Street signals and off ramp from Warringah Freeway.

Further, RMS do not support the shared zone within the site and request Council to consider the following in its assessment:

- Need to ensure right turn moments from Willoughby Road into Atchison Street will not queue back and affect the operation of nearby traffic lights;
- The proposed pedestrian crossing on Atchison Street and Willoughby Road intersection is required to meet the standard warrants for installation of such a facility;
- The proximity of the loading dock entry and residential vehicle entry at Atchison Street may be confusing;
- All vehicles, including trucks should enter and exit in a forward direction, it appears trucks will need to reverse into Albany Street;

Comment: The above concerns were provided to the applicant who provided additional information undertook consultation with the RMS. As a result of the consultation the RMS provided the following comments.

Reference is made to Council's further correspondence dated 23 March 2016, with regard to the abovementioned development application determination, which requires consent from the Roads and Maritime Services (Roads and Maritime) for the provision of a traffic control light under Section 87(4) of the Roads Act 1993.

Roads and Maritime has reviewed the submitted documentations and would provide "in principle" approval under Section 87(4) of the Roads Act 1993 subject to the following conditions being included in any consent issued by Council:

1. *The proposed a traffic control light at the intersection of Alexander Street and Chandos Street shall be designed to meet Roads and Maritime requirements. The Traffic Control Signal (TCS) plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.*

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Roads and Maritime supplements (available on www.rms.nsw.gov.au). The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a Construction Certificate and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

Roads and Maritime has the following comments for Council's consideration in the determination of the application:

- 1. Roads and Maritime does not support proposed 'pedestrian crossing' in Atchinson Street at Willoughby Road intersection since the proposed location does not meet the Roads and Maritime's 'warrants' for a marked foot crossings.*
- 2. Both car-park and loading dock entry should be well sign posted and easy to differentiate for the motorists to avoid any confusion.*

Comment: The above requested condition should be included in any consent. The comments provided by RMS were provided to the traffic engineer who has addressed them in his comments.

Traffic Engineering – Varga Traffic Planning Pty Ltd

Varga Traffic Planning Pty Ltd were engaged to provide a peer review of the applicant's traffic and parking assessment for the proposal and have indicated in their initial assessment that the following additional information is required (summarised):

Traffic Assessment

The proposed development will generate significantly *less traffic* than the previously approved development when assessed in accordance with the traffic generation rates nominated in the *RMS Guidelines*. The SIDRA capacity analysis traffic modelling undertaken by the applicant's traffic consultant has been reviewed and verified. The *CBH & K Pty Ltd* traffic report notes that increased delays will occur at the Chandos Street/Alexander Street intersection, and recommends the installation of traffic signals. Analysis of the traffic modelling indicates that the increased delays will affect the right-turn movements from Alexander Street into Chandos Street during the weekday PM peak period only.

The *Crows Nest Traffic Study (Arup, September 2009)* commissioned by Council assessed the larger, previously approved development on the site as well as other major developments in Crows Nest including the Woolworths supermarket now under construction, and found that, whilst some localised queuing may occur, those delays would be acceptable and that intersection improvements were not warranted. The projected future traffic flows will exceed the *environmental capacity* of Atchison Street east of the site, and the applicant therefore proposes traffic calming measures in Atchison Street between the site and Alexander Street to ameliorate the increased traffic flows. This is considered to be appropriate.

Parking Assessment

Vehicular access to the proposed car parking facilities is to be provided via a two-way driveway off Atchison Street. The proposed driveway is located in the *same* location as the previously approved development and the existing site development. Parking for the residential component is to be located on a separate floor, secured by a roller shutter and controlled by traffic signals.

It is noted that the waiting area for the traffic signals on the residential level conflicts with the *swept turning path* of vehicles entering the residential parking level. This will need to be reviewed by the applicant. The proposed car parking facilities generally comply with the requirements of *NSDCP 2013* and *AS2890.1 – 2004*. Additional public parking is proposed to offset the loss of public car parking in Zig Zag Lane which is to be closed to the public.

Loading and Deliveries

The proposed loading/delivery facilities are to be located in Zig Zag Lane in approximately the same location as the existing site development. Zig Zag Lane is to be closed to the public and will be used only by service vehicles accessing the proposed development. The closure of Zig Zag Lane will also result in the closure of Ives Lane. Some adjustments may be required to accommodate the turning paths. The *swept turning path* requirements of large B99 vehicles accessing the rear of No. 78 Albany Street indicate that access to the rear of the property will be maintained.

Loading and deliveries for the proposed development will comprise two x 12.5m long HRV truck bays for the supermarket and one x 8.8m long MRV truck bay for the specialty shops. This is considered appropriate for a development of this size. The supermarket loading bays can be accessed from the Atchison Street end of Zig Zag Lane only, whilst the specialty shops loading bay can be accessed only from the Albany Street end of Zig Zag Lane. All trucks must exit via Zig Zag Lane to Albany Street.

The applicant proposes a Truck Management Plan which will prohibit trucks using Atchison Street east of the site. It is recommended that the Truck Management Plan be included as a condition of development consent.

Comment: The comments provided by RMS were provided to the Traffic Engineer who has addressed them in his following comments, along with the response from Council's Traffic Engineer and submissions relating to traffic.

Letter from RMS

The RMS letter provides "in principle" approval for the development, subject to a DA Condition (see RMS letter) being included in any consent which outlines the RMS requirements for the installation of traffic signals at the Alexander Street/Chandos Street intersection. The RMS also made the following comments for Council's consideration:

1. *Roads and Maritime does not support proposed "pedestrian crossing" in Atchison Street at the Willoughby Road intersection since the proposed location has not made the Roads and Maritimes' "warrants" for marked foot crossings.*

Subject to Council's consideration, it is recommended that detailed vehicle/pedestrian traffic surveys be undertaken at the intersection 6 months after issue of the Occupation Certificate to determine whether or not the vehicle/pedestrian volumes satisfy the RMS "warrants".

2. *Both car park and loading dock entry should be well signposted and easy to differentiate for motorists to avoid any confusion.*

I agree that appropriate signposting should be provided as requested by the RMS to differentiate the two driveways.

Referral, Manager Traffic and Transport Operations

I have reviewed the referral prepared by the Council's Manager, Traffic and Transport Operations and concur with the findings and recommendations, subject to the following:

1. *The number of parking spaces proposed by the development slightly exceeds the parking rates permitted by Council's DCP, and the referral has recommended that the number of spaces should be reduced to achieve compliance with the DCP. However I consider that the additional car parking would yield considerable public benefit, particularly during peak trading periods when there is often a shortfall in car parking for shoppers, resulting in increased congestion as shoppers circulate around local streets looking for an on-street parking space.*

It is therefore recommended that the number of parking spaces proposed by the applicant should be approved.

2. *The referral's Conclusion No. 14 recommends the installation of a roller shutter at grid line 5 however it is recommended that the roller shutter be moved to a position between grid lines 6 and 7 to ensure that residents' vehicles entering the resident car park do not obstruct entry into the retail car park.*

Public Submissions

I have reviewed the traffic-related issues raised in public submissions and note that Council's Manager, Traffic and Transport Operations has recommended that a number of conditions be imposed in any development consent to address those issues.

6. *That a Construction Traffic management Program be prepared and submitted to Council for approval by Council's Traffic Committee prior to the issues of the Construction Certificate.*
21. *That a suitable traffic calming scheme for Atchison Street between Willoughby Road and Alexander Street be designed and installed in consultation with Council's Traffic & Transport Operations Manager, local residents and the North Sydney Traffic Committee, at the developer's expense.*
22. *That an Operational Transport Management Plan be prepared for the operation of the loading dock and management of deliveries. This shall also include a restriction that trucks must not use Atchison Street east of Zig Zag Lane to access or depart from the site. The Operational transport Management Plan shall be submitted to Council for approval by the North Sydney Traffic Committee.*

I concur with the above recommendations and consider that they will satisfactorily address the potential traffic impacts in Alexander Street, particularly given the substantial reduction in the size of the proposed development when compared with the previously approved development on the site.

Comment: The above conditions should be included in any consent, along with a number of standard conditions recommended.

Acoustic Engineer - Wilkinson Murray

Wilkinson Murray were engaged to provide a peer review of the applicant's acoustic impacts assessment for the proposal and have indicated in their initial assessment that the following additional information is required (summarised):

- Details of Design Logic's calculations and assumptions in relation to traffic noise intrusion assessment for the proposed units and architectural drawings as detailed in Table 1 of the noise assessment;
- The background noise monitoring assessment was fundamentally compromised due to the location of the logger in proximity to the existing operational mechanical services plant and as such re-assessment of background noise levels should be undertaken to confirm appropriate operational noise criteria of the development. The logger should be located at a representative residential receiver location which is uninfluenced by existing mechanical plant noise (as far as is possible). Where avoiding mechanical plant noise impact is not possible, the plant noise contribution should be quantified by attended measurements and the background noise levels adjusted accordingly;
- The number of waste collection vehicles needs to be confirmed;
- The noise assessment of operational noise from the loading dock is based on one vehicle per hour, which has been identified as the average, not the maximum, and as such if more than one vehicle occurs in any hour the resulting noise level will be higher. Further, the assessment relates to deliveries only and does not include waste collection, which is to occur in the evening and night and need to be compared to the relevant criteria for those periods. A sleep disturbance assessment is required for garbage collection. It is noted that the criteria is likely to be lower once new background noise level monitoring has occurred.
- The following information is required: site plan showing levels and boundary fencing, architectural drawings detailing the loading dock layout, doors, barriers, etc, confirmation of the intention to close the doors of the loading bay other than when a vehicle enters/exits, confirmation of onsite peak hour delivery and waste vehicle movement, confirmation the plant list in Table 7 is comprehensive and traffic study for the development.

Comment: The additional information was requested from the applicant and once provided was forwarded to the acoustic engineer who provided the following comments.

The nearest existing noise sensitive receivers identified by the acoustic assessment are:

- *R1 - Single storey residential dwelling located at No 63 Atchison St.*
- *R2 - Single storey residential dwelling located at 78 Albany St.*
- *R3 - Residential dwellings located immediately across Atchison St.*
- *R4 - Residential building located at 150 Willoughby Rd.*

Matters Addressed by Applicant's Acoustic Report

The DA noise assessment addresses the following aspects:

- Traffic noise intrusion - with respect to the proposed 66 apartments;
- Operational noise assessment – i.e. an assessment of potential noise impacts on the surrounding receivers due to the operation of the proposal;
- Traffic noise – i.e. traffic noise generated by the development; and
- Recommended mitigation measures.

Figure 1: Site Layout as Shown in Applicant's Acoustic Assessment



Peer review comments relating to these matters are provided in the following sections. The DA assessment has not included any assessment against Building Code of Australia (BCA) requirements. It is assumed that BCA requirements would be considered separately at Construction Certification (CC) stage.

Traffic Noise Intrusion

In accordance with the requirements of the North Sydney Development Control Plan 2013 (DCP), the DA report adopts the following internal noise goals within the proposed apartments:

- $\leq L_{Aeq,1hr}$ 40 dBA within Living Areas; and
- $\leq L_{Aeq,1hr}$ 35 dBA within Sleeping Areas.

Measurements of existing traffic noise levels were undertaken on the roads surrounding the proposed development in order to determine the glazing standards required to meet the internal noise goals.

The following noise levels have been reported:

- *$L_{Aeq,15min}$ 66 dBA on Atchison Street (at 2m from the kerb);*
- *$L_{Aeq,15min}$ 67 dBA on Willoughby Rd (at 2m from the kerb); and*
- *$L_{Aeq,15min}$ 65 dBA on Albany St (at 2m from the kerb).*

Whilst the reported existing traffic noise levels appear to broadly align with WM's experience, it is noted that the levels presented are based on only one 15 minute measurement at each location. Longer-term monitoring may have revealed higher noise levels and therefore it is considered that some safety margin should be applied to account for this in determining the glazing standards. A range of glazing standards have been nominated depending on the apartment orientation, level and exposure. 12.38mm and 10.38mm laminated glass has been recommended for windows facing Willoughby Road and Atchison Street. 6.38mm laminated glass and 5mm float glass has been recommended for windows less exposed to traffic noise.

WM expects that the identified glazing standards should be sufficient to achieve the internal noise goals.

However, to provide confirmation we requested that the following be provided:

- *Details of Acoustic Logic's calculations and assumptions.*

In response to this request Acoustic Logic has stated that the traffic noise calculation have been carried out based on manned traffic noise measurements and CoRTN to predict the noise levels for the façades of each unit. An example calculation was provided. While this provides example information on assumed glazing performance and room properties, the calculation of sound level at the glazing is still not defined, and we do not have information for all facades.

Given the above uncertainties, but considering our view that based on our experience the nominated glazing is probably acceptable, we recommend that an explicit approval condition be introduced requiring internal traffic noise levels within apartments to meet the above criteria, namely:

- *$\leq L_{Aeq,1hr}$ 40 dBA within Living Areas; and*
- *$\leq L_{Aeq,1hr}$ 35 dBA within Sleeping Areas.*

Operational Noise Assessment

Assumptions

The acoustic assessment notes that the proposed operation hours of the Coles Supermarket would be:

- *6.00am to 12.00 midnight, seven days a week.*

The acoustic assessment states that deliveries by truck would be constrained to within the following hours:

- 7.00am to 6.00pm Monday to Saturday; and
- 8.00am to 6.00pm Sunday/ public holidays.

In the additional information provided, Acoustic Logic state that the loading dock will be closed outside these times and as such waste/recycling collection will be limited to the above periods. The assessment considers that there will be up to:

- 8 direct deliveries in large trucks each Monday to Friday;
- 4 direct deliveries in large trucks on Saturdays; and
- 3 direct deliveries in large trucks on Sundays.

The additional information also states that only one truck, including waste/recycling collection vehicles, shall be permitted to access the loading dock area per hour. If this is adhered to in practice, the assessment is a fair representation of the worst-case. However, we note that with eight deliveries and up to two waste trucks occurring within 11 hours on each weekday, this would require considerable management.

Criteria

Operational noise criteria are derived from the requirements of the North Sydney DCP 2013. While the wording of these requirements is open to interpretation, the interpretation given in the DA report accords with our understanding. In accordance with these requirements, the DA report adopts the following operational noise criteria,

Table 1: Operational Noise Criteria Nominated by the DA Assessment

Location	Day	Time Period	Noise Emission Objective
Property Boundary of nearest residential premises	Weekday	7am-6pm	56 dB(A) _{Leq, 1 hour}
		6pm-10pm	50 dB(A) _{Leq, 1 hour}
		10pm-7am	45 dB(A) _{Leq, 1 hour} 63 dB(A) _{L₁}
	Weekend	8am-7pm	56 dB(A) _{Leq, 1 hour}
		7pm-10pm	50 dB(A) _{Leq, 1 hour}
		10pm-8am	45 dB(A) 63 dB(A) _{L₁}

The additional information provided includes supplementary background noise monitoring and an explanation of the derivation of background noise levels. We are satisfied that the measured background noise levels are representative and the subsequently derived criteria are appropriate.

Loading Dock

The assessment identifies the loading dock as the primary area for operational noise emissions. It notes that the loading dock area would be fully enclosed by masonry walls and by other rooms forming part of the proposed development and that the truck entry and exit doors would be the primary route for noise egress.

Table 7 of the report identifies the potential loading dock noise sources considered and their corresponding sound power levels. These appear generally reasonable.

Page 12 of the report assumes that the doors to the loading dock will be closed after a vehicle enters or leaves. The additional information states that this assumption has been confirmed with the applicant.

Assessment of operational noise assumes a single truck delivery in any hour, which results in calculated $L_{eq,1hour}$ noise levels up to 56 dBA compared with a criterion of 56 dBA. Details of the prediction methodology, including any assumptions, were requested but have not been provided.

We have undertaken a cursory prediction of the noise level at the receiver and our predicted level generally agrees with the noise levels presented in the acoustic assessment. However, the prediction is sensitive to assumed vehicle speeds and noise exposure durations, which have not been provided and determining appropriate values is beyond the scope of our review.

Once again, although our approximate calculations are consistent with noise emissions being acceptable (given the assumptions described above), it is recommended that approval conditions include:

- Doors to the loading bay will be closed after a vehicle enters or leaves; and*
- $L_{Aeq,1hr}$ noise levels from the loading dock do not exceed 56 dBA at the boundary of any residential premises.*

Mechanical Plant

The acoustic assessment report states that mechanical plant would consist of air conditioning units, general ventilation plant and refrigeration equipment which will generally be located within plant rooms provided for this purpose and that detailed acoustic treatments will be determined at CC stage once mechanical design and equipment noise data are available. Additionally it notes that the assessment objectives required for assessing emissions from mechanical plant shall be 5 dB lower than the operational noise criteria to ensure that the overall noise levels comply with the project criteria.

WM notes that that this approach is practical, but should apply to the cumulative mechanical plant noise contributions. Furthermore a performance criterion should be conditioned to appropriately limit mechanical plant noise.

Outdoor use of the Plaza

The additional information provided includes an assessment of the outdoor use of the plaza. Criteria from both the DCP and NSW Office of Liquor Gaming and Racing have been considered.

WM acknowledges that details of tenancies are unknown at this stage. No predictions of noise levels, within or external to the development, have been presented. Mitigation has been specified for the development despite the absence of noise predictions.

The assessment of these outdoor spaces is not considered adequate for final approval of specific uses for the tenancies. Criteria have been derived and it would be appropriate to condition the development so that the tenancies must comply with these criteria. This would effectively defer the proper assessment of these spaces until further details are known about their use. We note that failure to incorporate appropriate mitigation into residential apartments fronting the plaza area could limit the potential use of the plaza.

Traffic Noise

Section 5 of the assessment discusses traffic noise generated by the development on local roads. WM accepts the traffic noise assessment undertaken noting general compliance with the criteria prescribed by the NSW Road Noise Policy. A marginal exceedance of the criteria is predicted on Atchison Street, however we concur with the conclusion that impacts would be minor.

Construction Noise

It is noted that an assessment of construction noise and vibration impacts has not been included in the noise assessment. Given the close proximity to the nearest existing residential receivers and the potential for impacts during the construction phase, we recommend that the management of construction noise and vibration be appropriately conditioned. Such a condition could include a requirement for construction noise and vibration to be assessed and managed in accordance with the Interim Construction Noise Guideline and Assessing Vibration: A Technical Guideline.

Comment: Wilkinson Murray have recommended a series of mitigation measures which should be included in any consent together with the mitigation measures identified in the applicant's acoustic report.

Urban Designer - Steven Layman

Steven Layman was engaged to provide an assessment of the urban design of the proposal and indicated in his initial assessment that the general built form, façade treatment and use of materials gives good definition to the residential and retail components of the proposal and that the quality of built form on the site is improved by the proposal. The plaza is a positive extension of and embellishment to the public space associated with the shopping centre. The following concerns (summarised) were raised:

- The plans fail to provide sufficient contextual information in that they don't provide streetscape plans showing the context of adjoining development
- The treatment of the street wall in Willoughby Road where it adjoins the plaza requires careful detailed design treatment to reduce scale
- Concern with breach of height control for bedrooms/balconies – breaches related to lift/stair overruns reasonable
- Inadequate planting of trees along northern portion of eastern boundary of Zig Zag Lane
- Awning design to consider street tree impact
- "Snorkel" bedrooms in apartments 104, 204, 304 and 404 are not desirable

Comment: Amended plans were submitted to address the above concerns and the following assessment has been provided by Steven Layman (summarized). The assessment of compliance with the SEPP 65 principles has been included under that section of the report.

Streetscape

The built form generally adheres to the detailed height controls set out in the PP and amended LEP with the exception of lift overruns, etc. Overall the current building has the appearance of a mixed use building, with horizontally emphasised retail base and vertically emphasised residential components including recessed top floor level.

Initial Proposal – Recommendations

Following a review of the original proposal (Issue A plans) the following recommendations were made:

1. More detail of landscaping and detailing of public space in Zig Zag Lane.
2. Any brick walls at or immediately above street level should be finished to a high standard using quality materials and detailing.
3. Consideration for providing appropriate species of street trees to reinforce the street alignment. Council's Landscape Architect should be consulted regarding appropriate species.

Applicant's Response – Amended plans

1. Additional landscaping next to adjoining land in Atchison Street has been provided.
2. The brick walls of the east elevation have been detailed with a Flemish bond brick pattern. The Zig Zag Lane shared zone is to be paved with "interlocking concrete pavers 90 degrees pattern (charcoal colour) (as per North Sydney Council's public domain style manual and design codes)".
3. The amended landscape plan prepared by A Total Concept landscape architects provides for street tree planting in Willoughby Road, Atchison Street and Albany Street.
4. Further information on elevation detail design has been provided.

Building Massing, Setbacks and Height

At street level the proposal defines the street edge consistent with adjoining commercial strip development. A street awning is provided to the Atchison Street frontage and this wraps around the corner of Willoughby Road and extends along part of that frontage. An awning cutout is provided for the street tree in Willoughby Road. The buildings' massing reflects the height controls in the PP and amended LEP. The height and bulk is reduced towards Albany Street responding to the scale of streetscape to the south and reducing the scale of built form around the proposed public plaza. The massing of the building is appropriate for the location.

Pedestrian Access and Circulation

Commercial and residential access is separated. Barrier free access is provided to the rooftop communal open spaces. Residential entry lobbies have good sightlines from Albany Street and Atchison Street and are clearly defined. Passive surveillance is provided over the streets bordering the subject site and over the public plaza. The proposal satisfactorily addresses pedestrian access and circulation.

Internal Layout and Apartment Design

The building configuration maximises the number of north and north-west facing apartments. All apartments have balconies consistent with Apartment Design Guide design criteria and design guidance. Solar access and cross ventilation achieves Apartment Design Guide design criteria. Storage is logically arranged in the basement in some cases directly associated with car spaces otherwise it is provided in communal storage rooms accessible from common circulation areas in the basement levels. Long internal corridors and ambiguous spaces are minimised. Natural light and ventilation is provided to lift lobbies and corridors. Skylights are provided to internal bathrooms on the top residential level.

Landscaping and Communal Open Space

Given the urban location of the site and its ground level commercial component, the site itself is not expected to provide extensive deep soil areas. Street trees, particularly in Willoughby Road, provide the best opportunity for landscaping that is in scale with development. In Willoughby Road 3 x 45-metre mature height *liriodendron* trees are proposed to replace the two existing plane trees. This is not supported. The plane trees provide a maturing avenue character to the street and should be retained and supplemented. A consent condition should be applied to this effect.

Four metre mature height *callistemon* street trees are proposed in Albany St. Five metre mature height *tibouchina* street trees are proposed in Atchison Street. These should be consistent with the existing street tree pattern in these streets or replaced by trees, which are consistent.

The public plaza provides edge planting to Willoughby Road and planting beds on structure for 3 low *ulmus* bushes (mature height 1m). Edge planting is proposed in zig zag lane to a maximum height of 1m. Species should be selected in consultation with neighbours. A consent condition should be applied to this effect. It is appropriate that the semi-private communal space as shown in the proposal is on the roof level. This location will allow access to sunlight and views, which will form the foundation of a pleasant and useable communal space. A communal landscape terrace area is provided at Level 2 of Building 1. This is landscaped with neighbours' privacy in mind.

Comment: The requested conditions which should be included in any consent.

OTHER REFERRALS

Design Excellence Panel Comments

The application was referred to Council's Design Excellence Panel at its meeting of 13 October 2015. The Panel provided comments generally supporting the application subject to the following amendments:

- *Relocation of the level 1 fire stair to improve shadow and view line from plaza and public domain;*
- *Improving the corner of the Plaza to be more at grade than having steps;*
- *The wall of the Plaza along Willoughby Road should be reduced in height, for part or all of its length, perhaps with stepped landscaped planters;*
- *Ensure that the acoustic report demonstrates that the amenity of the dwellings adjoining to the east is protected;*
- *The communal space on level 2 needs to be separated by landscaping to adjacent apartment balcony to improve amenity;*
- *The proposal does not show a sufficient number of street trees along each frontage. The spacing and scale of street trees need to be consistent with planting along the streets, especially in Willoughby Road. In Zig Zag Lane new trees should be selected to maximize protection and screening of immediately impacted residential dwellings'*
- *The east elevation treatment of the wall to the lift shaft and stairs and the eastern façade of the loading area are important and need to be carefully considered as they are highly visible and act as the interface to the lower scale residential precinct.*
- *Solid balustrades and screens are necessary to achieve privacy for apartments;*
- *Skylights to the upper level apartments should be provided where possible to improve internal amenity.*

Comment: The above concerns have been addressed by amended plans and the response is addressed in the comments of Steven Layman.

SUBMISSIONS

The application was notified to surrounding owners and residents and all precincts from 25 September to 23 October 2015. Seven submissions have been received, 6 objecting and 1 supporting the proposal. The concerns are addressed later in the report.

The amended plans reduced the impact of the proposal and as such they were not notified.

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 the development, appropriate accessible facilities would be required and appropriate accessible parking would be required.

The proposal provides an accessible path of travel to the entry of the supermarket at the corner of Willoughby Road and Atchison Street and the internal layout of the supermarket provides suitable accessibility. A lift at this level provides accessibility to all public parking areas and four accessible parking spaces are located on Basement Level 1 in reasonable proximity to the lift.

Accessible paths of travel are provided to each retail tenancy from the public plaza, which is accessible from Albany Street.

Accessible WC's are provided for staff at the plaza level and for the supermarket at Level 1, with an accessible WC also provided in Basement Level 1. It is noted that the plans only specify the supermarket WC as being accessible and as such a condition of consent will ensure the other WCs are accessible.

An accessible path of travel is provided to both residential lobbies from either Atchison Street or Albany Street, which provides barrier free access to all apartments and to the communal open spaces. Twelve adaptable apartments are provided with ten accessible spaces. Whilst there is not an accessible car space for each adaptable apartment, this is acceptable as Council's DCP does not require a parking space per apartment for smaller apartments. However, the location of the accessible parking spaces are too far from Lift 3 and as such a condition of consent is recommended for any consent requiring the relocation of accessible parking spaces Nos. 24, 26, 43 and 45 to within the bay of parking spaces containing spaces Nos. 29-31 and 48-51. A further condition is recommended for any consent requiring the access report prepared by Iaccess Consultants, dated 17 August 2015, to be updated to address the amended plans and for the recommendations of the updated report to be incorporated into the Construction Certificate plans.

SEPP 55

The provisions of SEPP 55 require consideration as to whether the site is contaminated and requires remediation. A Stage 1 assessment of potential contamination on the subject site was prepared by EIS and EIS were engaged to review the findings of that report against the new guidelines for assessing contamination published under the National Environmental Protection (Assessment of Site Contamination) Amendment Measure (2013).

The review was submitted with the application and concluded that the risk posed by the contaminants is considered to be high and that site remediation will be required in order to make the site suitable for the proposed mixed use land use. The review recommended the following works:

1. Prepare a Remediation Action Plan (RAP) for the proposed development;
2. Undertake additional testing as part of the RAP in order to confirm the waste classification for the fill and the underlying natural soil for off site disposal. This should be done post demolition when the entire site is accessible;
3. Undertake groundwater screening in the event dewatering is required for the proposed development;
4. Undertake a Hazardous Materials Assessment (Hazmat) for the existing buildings prior to the commencement of demolition works; and

5. Prepare a Validation Assessment (VA) report outlining the remediation actions undertaken at the site.

A condition requiring the above recommendations to be carried out should be included in any consent.

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:

Willoughby Road façade;	1 x Coles wall sign 1.5m x 5.4m above doors at entrance to supermarket 1 x Coles and parking direction sign 1.42m x 0.835m on façade 5 x retail signs 0.85m x 5.32m above entry doors to specialty shop tenancies
Atchison Street façade:	1 x Coles and parking direction sign 1.42m x 0.835m on façade 1 x Coles sign 0.5m x 1.8m under awning light box 1 x “Atchison Street” wall sign 0.2m x 1.36m near residential lobby
Albany Street façade:	1 x Coles wall sign 0.85m x 3.125m above entry to escalators off plaza 1 x Coles wall sign 0.5m high individual letters under 0.7m high individual stainless steel letters identifying plaza (above wall) at entrance to plaza at corner with Alexander Street 3 x retail signs 0.85m x 2.95-3.125m above entry doors to specialty shop tenancies 1 x Coles and parking direction sign 1.14m x 0.835m on façade 1 x “Albany Street” flush wall sign 0.2m x 1.18m near residential lobby

Eastern façade

1 x Coles Receiving wall sign 0.6m x 3.6m near loading dock entrance

The Statement of Environmental Effects provides no details of illumination of signage and as such it would be appropriate to limit hours of illumination to the trading hours. The exception to this is that the loading dock signage should not be illuminated and the under awning signage in Atchison Street should be turned off by 10pm as it is located opposite residential properties. Conditions to this effect should be included in any consent.

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*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, 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 is limited signage in Albany and Atchison Streets. The proposed signage is appropriately located and sized, providing a cohesive signage strategy for the development and appropriate wayfinding signage. The signage provides for effective communication 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?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The signs are generally compatible with the desired character of the area. 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 partially located in a heritage conservation area and the signage facing this area is low level and/or subdued and provides wayfinding only, which is appropriate.

3 Views and vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

The proposed signage has no negative impacts upon important views. The proposed signage will not dominate the skyline or reduce the quality of vistas. 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?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

The signage is of appropriate scale, proportion and form for the streetscape setting. The signage will contribute positively to the streetscape. The proposed cohesive advertising strategy for the development will reduce advertising clutter. The proposed signs do not screen unsightliness. The proposed signage will not protrude above buildings or tree canopies. 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?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The signage is compatible with the scale, proportion and other characteristics of the building. The signs are compatible with the building proposed for the site. The signage 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?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

Illumination of the wall signs during the hours of operation of the premises is reasonable, with the exception of the loading dock sign which should not be illuminated due to proximity to the conservation area and the under awning sign in Atchison Street which should not operate beyond 10pm. It is not likely that the signage illumination would have any safety implications. There is

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

8 Safety

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

The proposed signage is unlikely to impact the safety of the adjacent roads. The signage is located such that it will not screen any pedestrians or cyclists from the view of drivers. 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, 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. Ausgrid has advised they raise no objection provided the developer undertakes asset relocation works to Ausgrid's satisfaction. A condition to this effect should be included on any consent.

Clause 101 applies to land with frontage to a classified road, however does not apply to this application as the frontages are not classified roads.

Clause 104 applies to traffic generating development and applies to parking areas for 200 or more vehicles 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 the comments have been addressed previously. RMS support the proposal subject to conditions which should be included on any consent.

SEPP 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings (SEPP 65) aims to improve the design quality of residential flat development in New South Wales. As the subject application was lodged after 19 June 2015, the revised design principles of SEPP 65 and the newly developed Apartment Design Code apply to the proposal. An assessment of the design quality of the development against the design principles of the SEPP and the relevant design criteria of the Apartment Design Guide has been undertaken in the table below:

SEPP 65 Design Principle	Evaluation of Merit
Principle 1: Context & neighbourhood character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.	Appropriate response to context consistent with PP and amended LEP height controls. Fit with local context is good having regard to LEP height controls.

SEPP 65 Design Principle	Evaluation of Merit
Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	Proposal displays appropriate consideration of context having regard to desired future character.
Principle 2: Built form and scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	Appropriate built form and scale consistent with PP and amended LEP height controls. Building alignment provides strong street edge at street level, with podium expression. Public plaza is activated by colonnaded retail tenancies and surveilled by residential apartments above. Translucent balustrades provide privacy to apartment balconies but allows outlook.
Principle 3: Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	Appropriate mix can be provided but currently provides for insufficient 3 bedroom apartments. The site is located in an area well serviced by public transport with good access to employment centres and community infrastructure.
Principle 4: Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	The proposal combines good environmental, social and economic outcomes. Resident amenity in terms of solar access and cross ventilation is generally good. The urban context provides limited opportunities for deep soil zones. However the public plaza, communal open space and street trees provide opportunities for planting on structures and in the road reserve. Corridors and lift lobbies have natural light and ventilation. The proposal meets BASIX provisions. Partially underground location of supermarket should reduce thermal load.
Principle 5: Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's	Street tree planting is proposed in each primary street frontage. Removal of plane trees in Willoughby Road is not supported. A condition requiring retention and supplementation is recommended. Zig Zag Lane edge planting provides limited

SEPP 65 Design Principle	Evaluation of Merit
environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.	neighbours' amenity, but improves the existing boundary condition. Proposal provides for a new public plaza that flows accessibly from Albany Street into the site. The design of the plaza integrates with the building design.
Principle 6: Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	Building configuration maximises the number of north and north-west facing apartments. Apartments generally have balconies consistent with Apartment Design Guide design criteria and design guidance, or can be amended to comply. Solar access and cross ventilation achieves Apartment Design Guide design criteria.
Principle 7: Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	Excellent passive surveillance of streets and the public plaza is provided by the proposal. Movable screening and appropriate use of obscure balustrade glazing enables residents to control apartment privacy. Residential lobbies have clear sight lines to the street.
Principle 8: Housing diversity and social interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	A range of apartment types is proposed, however more 3 bedroom apartments are required. The proposed public plaza facilitates social interaction. Semi-private, well landscaped communal terraces are provided to both apartment blocks.
Principle 9: Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The proposal is a significant enhancement of the Willoughby Road streetscape. The proposal visually reinforces the corner of Willoughby Road and Atchison Street at the lower end of the site and connects positively at its upper end with the Willoughby Road local centre. The built form of the proposal reflects the internal layout and distinguishes the functions of the commercial and residential components. The bulk of the supermarket is minimised by setting

SEPP 65 Design Principle	Evaluation of Merit
	it below ground level at the Albany Street end of the site. The façade is well articulated and allows future residents to control privacy and solar access. The proposal utilizes a variety of materials, colours and textures but maintains a consistent palette of materials that reflects the different components of the proposal, at the same time providing a unified aesthetic to the proposal. Detailed treatment of street walls at ground level and appropriate use of soft landscaped elements at the Willoughby Road street edge reflects careful consideration of the proposal's interface with the public domain.

Apartment Design Guide

Design Criteria	Required	Proposed	Complies
2E - Building Depth	12m – 18m	17-20m – As the building envelope includes the balconies the width of the buildings between the walls is largely compliant. The level of amenity is generally acceptable with appropriate levels of solar access and cross ventilation.	Yes
3B – Orientation	Designed to optimise solar access and minimise overlooking. 2 hours solar access retained to neighbouring buildings POS (50%) and living rooms or does not further reduce solar access by more than 20%.	The proposal has the following shadow impacts at midwinter: No. 67 Atchison – minimal impact at 3pm to POS only No. 65 Atchison – No shadow impact until after 2pm to POS only No. 63 Atchison – No shadow impact until 1.30pm upon POS with total shadow by approximately 2.15pm. Two windows affected in eastern façade which currently received sun from approximately 12pm and will be impacted by 2pm, reducing solar access to approximately 1.75hrs. No. 82 Albany – POS unaffected until 3pm when minor impact occurs. 80A Albany - POS unaffected until after 2pm. 78 Albany – POS unaffected until 2pm and completely shadowed by 3pm. Five windows affected in eastern façade which currently received sun from approximately 12pm. Two windows (one non-habitable) will lose sunlight by 1.30pm, with the remaining 3 windows (1 non-habitable) losing sunlight by 2pm. and will be impacted by 2pm, reducing solar access to approximately 1.75hrs. As such solar access is compliant for all properties POS. The dwelling at No. 78 Albany will retain solar access to the	Yes

Design Criteria	Required	Proposed	Complies
		northern façade until approximately 2.15pm and as such will retain an appropriate level of solar access. Solar access will be impacted upon two windows for No. 63 Atchison Street such that the solar access will be reduced to approximately 1.75hrs. Whilst the proposal results in a reduction to the solar access of these windows, they do not appear to be to a living room and as such the proposal is compliant.	
3C – Public Domain Interface	Direct street entry to ground floor apartments Balconies/windows orientated to overlook the public domain Front fence design is permeable Opportunities for concealment minimised Services concealed Access ramps minimised	No ground floor apartments The apartments are designed to be oriented to all three adjoining streets and the public plaza. N/A Yes Yes	N/A Yes N/A Yes Yes
3D – Communal Open Space	Min. 25% (1,003.5m ²) Min 2h to 50% communal open space at mid-winter Consolidated area Min dimension of 3m Equitable access	Communal open space is provided on the roof of the apartment buildings in three locations and has an area of 584.2m ² , which is below the minimum requirement. However, the proposal also provides a public plaza with an area of 415m ² , increasing the total provision to 999.2m ² , Whilst this is not compliant, the variation is minor and is considered acceptable, particularly given the public benefit of the plaza. The three communal open spaces receive varying amounts of solar access, with two of the three receiving a high level of solar access (six hours a day). The plaza will also receive good levels of solar access.	No
3E – Deep Soil Zones	Min. 7% (281m ²) > 1,500m ² 6m min. dimension	The site does not provide any deep soil zone, other than small landscape strips adjacent to the eastern boundary, however, given the mixed use zone and the controls of the DCP permitting 100% site cover, the variation is acceptable.	No
3F – Visual Privacy	Up to 4 storeys 6m between habitable rooms/balconies 3m between non-habitable rooms 5- 8 storeys: up to 25m 9m between habitable rooms/balconies 4.5m between non-habitable rooms 3m additional setback where zone boundary location with lower density residential adjoining	The proposal provides a setback of 23m from habitable rooms and 20m from balconies for the northern most building to the boundary with No. 63 Atchison Street. The proposal provides a setback of 10m to the habitable windows and balconies of the southernmost building from the boundary with No.78 Albany Street, complying with the setback requirements as this building has apartments only up to 4 levels. However, whilst this is compliant with the visual separation distances, it is considered that the windows and balconies of the southernmost built form will overlook the	Yes, subject to conditions

Design Criteria	Required	Proposed	Complies
		windows and privacy open space of No. 78 Albany Street to an unreasonable level and accordingly any consent issued should require the provision of privacy measures to habitable windows and balconies preventing downward looking. Given all of the apartments of elevated this would likely consist of louvres that could not be opened below the horizontal, allowing appropriate solar access and outlook whilst protecting the privacy of the adjoining property. Visual and acoustic privacy measures have been incorporated into the roof top terraces, with 1.8m high obscure glass screens provided around these areas, however it is not clear from the plans that this is proposed on the eastern side of the Level 1 terrace and a condition to this effect should be included on any consent. Highlight windows and a side privacy screen to the balcony of the Coles office will ensure privacy is retained to the adjoining dwelling. Internally, separation distances of 12m from habitable rooms/balconies to other habitable rooms/balconies are provided between the two built forms and a 6m separation is provided between a blank wall and balconies.	
3G – Pedestrian Access and Entries	Entry addresses public domain Clearly identifiable Steps and ramps integrated into building design	Pedestrian entry and ramp access are integrated.	Yes
3H – Vehicle Access	Integrated into façade Visual impact minimised Entry behind the building line or from secondary frontage Clear sight lines Garbage collection screened Pedestrian and vehicle access separated	Vehicular entry ramp and waste collection area are integrated into the building. Good sight lines with separate vehicle and pedestrian entries.	Yes
3J – Bicycle and Car Parking	Within 800m (walking distance) of a railway station	N/A	N/A
4A – Solar and Daylight Access	Min. 70% (47 units) receive 2 hours solar access Max. 15% units have no solar access	49/67 (73.1%) receive at least 2 hours solar access 5/67 (7.5%)	Yes Yes

Design Criteria	Required	Proposed	Complies
	Light wells, skylights and highlight windows are only to be a secondary source where sunlight is limited	N/A	N/A
4B – Natural Ventilation	Min. 60% (23 units) are cross ventilated in first 9 storeys	47/67 (70.1%) apartments cross ventilated Apartments 105, 106, 205, 206, 305 and 306 are considered to be inappropriately designed in a manner that compromises the amenity of the apartments. All apartments provide the master bedroom with no outlook and very limited cross ventilation. Concern is raised that the apartments do not comply with the light and ventilation requirements of the BCA. Further, the amenity of the master bedrooms is compromised by the lack of outlook and ventilation and the location opposite the open common corridor and on Level 1 the communal open space. Further, Apartments 106, 206 and 306 are also compromised by the inadequate dimension of the balconies, being below 2m in depth. It is therefore recommended that the Panel defer the application to allow the applicant to provide amended plans addressing these amenity concerns. Any amended plans should provide all bedrooms opening towards Willoughby Road and provide private open space compliant with the minimum depth requirement (ie 2m for 2 bedroom and 2.4m for 3+ bedroom apartments). One solution would be to consolidate each pair of apartments into a single 3 bedroom apartment with a deep balcony allowing bedrooms and living room to open directly onto the balcony or Willoughby Street.	Yes No
4C – Ceiling Heights	Habitable: 2.7m Non-habitable: 2.4m	2.7m	Yes
4D – Apartment Size and Layout	Studio: 35m ² 1 bed: 50m ² 2 bed: 70m ² 3 bed: 90m ² Additional bathrooms +5m ² Each habitable room must have a window > 10% floor area of the room. Habitable room depths =max 2.5 x ceiling height <u>Or</u> if open plan layout =max 8m from a window Master bed: min 10m ² Other bedroom: min 9m ²	Studio 42.7m ² 1 bed 45-87.9m ² 2 bed (1 bath) 66.5-78m ² 2 bed (2 Bath) 75.9-89.9m ² 3 bed 103-123m ² The one x 1 bedroom apartment (Apartment 407) is identified as being a studio apartment but is clearly a one bedroom apartment and has an inadequate area of only 45m ² . The size of this apartment is inadequate and the terrace is disproportionately large. In order to address this concern and improve the dwelling mix it is recommended that amended plans be	Yes No No Yes Yes

Design Criteria	Required	Proposed	Complies
	Living room min. width: Studio and 1 bed: 3.6m 2 and 3 bed: 4m Crossover/through: min 4m	sought consolidating this apartment with Apartment 403 to create a substantial 3 bedroom apartment. The three x 2 bedroom apartments that are 66.5m ² in area (Apartments 107, 207 and 307) are considered inappropriate, particularly given that 4.5m ² of the area is compromised space, being a hallway. These apartments also have compromised balconies, which whilst compliant with the size are of inadequate width. Accordingly, it is recommended that amended plans be sought which requires these apartments to be converted into a 1 bedroom apartment with a balcony having an area of at least 8m², with a minimum 2m depth. Other than the apartment discussed above, the remaining apartments provide suitable internal amenity, with appropriate bedroom and living room sizes.	
4E – Private Open Space and Balconies	Studio: 4m ² 1 bed: 8m ² , min depth 2m 2 bed: 10m ² , min depth 2m 3 bed: 12m ² , min depth 2.4m	Studio 4m ² 1 Bed 6.2-22.3m ² 2 bed 10-74.4m ² 3 bed 12.2-60.6m ² The balcony sizes are compliant with the exception of 3 x 1 bedroom apartments where the variation from the minimum size is up to 23%. This provides an inappropriate level of amenity and can be addressed by amended plans changing the layout of Apartments 117-120 to provide compliant internal and external spaces (generally by widening the one bedroom apartments and increasing their balcony depth and by amending the configuration of Apartment 117. Further, 11 x two bedroom apartments are provided with balconies which are narrower than the minimum 2m requirement. This design feature is not a result of any particular constraint, but results in a loss of amenity to the apartment and therefore is inappropriate. Again, this poor design which affects the amenity of the apartments could be addressed by amended plans which reconfigure the impacted apartments (Apartments 102, 202, 213, 214, 217, 218, 302, 313, 314, 316 and 317)	Yes No Yes Yes
4F – Common Circulation and Spaces	Max 8 apartments off a single core > 10 storeys: max 40 units/lift	10 apartments off a core. Whilst this is not compliant, given the maximum number of apartments using a single lift is 42 the variation is considered reasonable.	No

Design Criteria	Required	Proposed	Complies
4G – Storage	Studio: 4m ³ 1 bed: 6m ³ 2 bed: 8m ³ 3 bed: 10m ³ At least 50% within the basement	Inadequate information is provided, however this could be addressed by a condition of consent.	No
4H – Acoustic Privacy	Orientate building away from noise sources Party walls limited or insulated, like rooms together Noise sources (e.g. garage doors, driveways) located at least 3m from bedrooms	An acoustic report addresses noise sources and subject to the conditions is acceptable.	Yes
4J – Noise and Pollution	Site building to maximise noise insulation Noise attenuation utilised where necessary	Acceptable	Yes
4K – Apartment Mix	Variety of apartment types Appropriate apartment mix Different apartments distributed throughout the building	An appropriate mix of apartments is proposed subject to an increase in the number of three bedroom apartments.	No
4L – Ground Floor Apartments	Direct street access Casual surveillance whilst providing privacy	No ground floor apartments	N/A
4M – Facades	Composition of building elements Defined base, middle and top Building services integrated into the façade	The design of the building is acceptable, see urban design comments.	Yes
4N – Roof Design	Roof design integrated into the building Incorporates sustainability features May include common open space	The roof design is integrated into the building and communal areas are proposed on the roof.	Yes
4O – Landscape Design	Responsive to streetscape Viable and sustainable	N/A	Yes
4P – Planting on Structures	Appropriate soil profiles and structural design Irrigation and drainage systems	Acceptable	Yes
4Q – Universal Design	At least 20% of units to achieve silver level universal design requirements for adaptability	15% of apartments are adaptable as required by Council DCP	No
4U – Energy Efficiency	Adequate natural light to habitable areas Adequate natural ventilation Screened areas for clothes	The apartments are appropriately designed other than as discussed previously in this table.	Yes

Design Criteria	Required	Proposed	Complies
	drying Shading on northern and western elevations		
4V – Water Management and Conservation	Efficient fixtures/fittings WSUD integrated Rainwater storage and reuse	BASIX certificates provided	Yes
4W – Waste Management	Minimise impact on streetscape, building entry and amenity	Waste management storage incorporated into the building.	Yes
4X – Building Maintenance	Material selection reduces ongoing maintenance costs	Appropriate material selection.	Yes

BASIX

All housing in NSW is required to meet a designated target for energy and water reduction. A BASIX Certificate was submitted with the application which indicates that the proposal meets the required reduction targets and an appropriate condition of consent will be imposed to ensure future compliance with these targets.

NORTH SYDNEY LEP 2013

Permissibility

The site is zoned B4 Mixed Use pursuant to NSLEP 2013 and the use, which is defined as a car park, commercial premises and shop top housing is permissible with consent.

Objectives

The objectives of the B4 zone are addressed following:

- *To provide a mixture of compatible land uses.*

The proposed land uses are compatible with each other and with the surrounding shopping centre and residential area.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling.*

The development is appropriately located in an accessible area and provides a suitable mix of retail and residential uses. The development provides good facilities to encourage walking and cycling (including bicycle racks/storage).

- *To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*

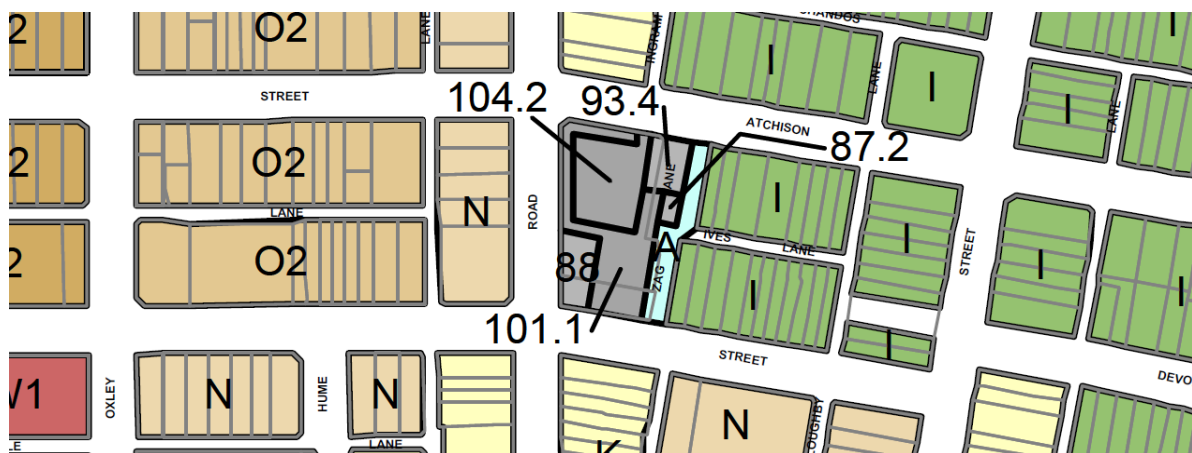
The provision of the public plaza will enhance the vibrancy of this end of Crows Nest and the provision of residential development overlooking the streets will assist in casual surveillance and improved safety. The design of the proposal provides a suitable quality of urban design.

- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.*

The existing premises contains a supermarket and specialty stores and the new development provides similar uses, along with residential development above. The non-residential uses are located at the lower levels and the residential uses at the upper levels.

Height

Clause 4.3 sets a variable maximum height for the subject site as shown below, with the height control varying from RL 87.2 adjoining Zig Zag Lane to RL 104.2 towards the north-western corner of the site, with the pale blue portion (Zig Zag Lane) having a maximum 1m height.



The plans show the proposed building has the following heights in each height zone:

1m	No part of the building is located in this area
RL 87.2	The building is compliant with the exception of an exhaust riser which has a height of RL 93.4 and breaches the control by 6.2m. The breaching element has a footprint of 2.8m x 3.2m.
RL88.0	No part of the building breaches the height control in this area.
RL 93.4	The lift overrun for the goods lift (which also provided an accessible path of travel to the office of the supermarket) breaches the control with a height of RL 95.459 and a breach of 2.06m, having a footprint of 3.5m x 4.8m. The second element breaching the control is the balustrade around the communal terrace and around the courtyard to apartment 210 on Level 2, with the communal area having a floor level of RL 93.4, making the balustrading wholly non-compliant. The balustrade is 1.8m in height for acoustic and visual privacy.
RL101.1	The lift overrun and stairs breach the control with a height of RL 105.1, breaching by up to 4m and with a footprint of 3m x 7.9m. The proposal also varies the control at the southern side with the lift overrun and stairs having a height of RL104.2, a breach of 3.1m and with the balustrade to the roof top common area as the roof has a height of RL 99.7.

RL104.2 The first lift overrun and stairs described in height area RL 101.1 above also breaches the control in this area, with a breach of 0.9m.

The applicant has submitted a clause 4.6 variation to the breaches of the height control and provides the following reasons for variation of the control (summarised):

- All breaches generally relate to the lift/stair overruns and ancillary elements for the improvement and use of communal areas.
- The breaches were foreshadowed in the Planning Proposal for the site that varied the height control and this was acknowledged in Council's report.
- Compliance with the height control is unnecessary and unreasonable in this instance as the proposal satisfies the objectives of the control.
- The objectives are satisfied because the development is consistent with the anticipated built form established for the site with the development broken into two elements, with the bulk of the development setback from the edge to reduce the perceived bulk of the building. This is consistent with the built form considered appropriate in the Planning Proposal and identified in a height form in the height controls for the site.
- The proposal does not result in any view impacts.
- The areas of the building that exceed the height control do not result in any additional overshadowing than the complying development.
- Appropriate privacy is provided within the development and to adjoining residential properties and the portion of the building that breaches the control does not result in any loss of privacy.
- The areas of breach of the controls will not impact the compatibility of the development with the adjoining properties.
- The areas of breach of the control are limited and do not contribute to additional scale or density and as such are consistent with the scale and density envisaged by the controls.
- The location of communal open space on the rooftops is appropriate in the context of a built up area and the breaches largely relate to the provision of privacy measures and access to the common open space. The provision of the communal open space on the roof also allows the provision of a public plaza at the ground level.
- Council has on a number of occasions granted clause 4.6 variations for lift overruns/stairs and rooftop facilities and as such has effectively abandoned the height control in relation to these elements.
- The landscaping elements, balustrades and pergolas provide improved amenity to the rooftop communal spaces that could not be achieved with a compliant development.
- The breaches of control will not be discernible as viewed from public areas and do not contribute to distinguishable bulk, scale or density.
- The proposal is consistent with the objectives of the B4 zone.
- There is no public benefit in maintaining the control on the site.

The reasons given to support the variation of the height control have been assessed in accordance with the requirements outlined in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 in relation to clause 4.6 requests, as against the requirements of clause 4.6 and the objectives of the building height control and are concurred with and it is considered that there are sufficient environmental planning grounds to warrant variation of the control in this instance. As such it is considered that the clause 4.6 variation request is well-founded and can be supported.

Non-residential Floor Space Ratios

Clause 4.4A sets requirements for the provision of non-residential floor space within the B4 zone and for the subject site, providing two separate controls for the site, with the majority of the site requiring between 0.5:1 and 2:1 FSR as non-residential floor space and the portion of the site that coincides with the existing at grade carpark and Zig Zag Lane requiring a minimum of 0.5:1. It is noted that this control changed for the subject site on 27 November 2015 to require a minimum 0.5:1 non-residential FSR across the entire site. However, given the provisions of clause 1.8A of NSLEP, the control applicable in the previous version applies to the application which was lodged prior to that date.

The proposal provides a non-residential floor space for the portion of the site that coincides with the existing at grade carpark and Zig Zag Lane of 0.65:1 and of 1.27:1 for the remainder of the site and as such complies with the control.

Heritage

The site adjoins, and a small part of the site is located within, the conservation area and as such the provisions of clause 5.10 apply to the application. The comments of the heritage advisor indicate the design of the building has incorporated appropriate setbacks in order to reduce the perceived bulk from the conservation area and the driveway provides a visual and physical separation between the development and the low scale conservation area. As such it is considered that the proposed development will not result in unacceptable impacts upon the significance of the conservation area.

DEVELOPMENT CONTROL PLAN 2013

NSLEP 2013 is applicable to the application and the relevant controls are addressed as follows.

Part B

The relevant sections of Part B are Section 2 – Commercial & Mixed Use Development, Section 7 – Late Night Trading and Trading Hours, Section 9 – Advertising and Signage, Section 10 - Car Parking and Transport, Section 12 – Access, Section 13 – Heritage and Conservation, Section 14 – Contamination and Hazardous Building Materials, Section 17 – Erosion and Sediment Control, Section 18 – Stormwater Management and Section 19 – Waste Management.

Sections 10, 12, 13, 14, 17, 18 and 19 are all matters that have been addressed previously either in comments provided by other experts or in the previous assessment under the Disability Discrimination Act, SEPP 64 or NSLEP and are assessed as being acceptable, and as such those assessments will not be repeated.

Section 2 - Commercial & Mixed Use Development

Some of the provisions of Section 2 are overridden by SEPP 65 and the Apartment Design Guide and as such will not be addressed following.

Function: The proposal satisfies this sub-section, providing a variety of difference sized spaces, incorporating a public plaza and adding to the vitality of the area at street level. Further the development provides the following dwelling mix:

Required	10-20% x studio, 25-35% x 1 bed, 35-45% x 2 bed and 10-20% x 3 bed apartments
Proposed	3(4.5%) x studio, 19 (28.4%) x 1 bed, 41 (61.2%) x 2 bed and 4 (6.0%) x 3bed apartments

As such the development provides fewer studio and 3 bed apartments and significantly greater 2 bedroom apartments than the control. Given the location at the edge of the residential area it is considered that the reduction in studio apartments is reasonable.

However it is considered that a higher percentage of 3 bedroom apartments should be provided and that a minimum of 7 x 3 bedroom apartments should be provided. As has been addressed elsewhere in this report, this could be achieved whilst addressing the amenity issues of the proposal.

A minimum of 15% (11.4) apartments are to be adaptable and the proposal provides for twelve adaptable apartments.

Environmental Criteria: This sub-section deals with matters already previously addressed, including awnings, acoustic privacy, solar access and privacy and as such these matters will not be addressed again.

Quality Built Form: This sub-section again addresses matters previously addressed in this report and in particular addresses setbacks and podiums. It is noted that the setbacks of the development are effectively set by the detailed site specific height controls and the LEP controls take precedence as they are inconsistent with the DCP controls.

Quality Urban Environment: This section is largely overridden by the provisions of SEPP 65 and the Apartment Design Guide or has been addressed previously in responses from other experts. It is considered the design provides appropriate levels of casual surveillance to ensure safety and security and conditions could require appropriate levels of illumination in the public areas.

Efficient Use of Resources: The proposal contains BASIX Certificates and an assessment of passive solar design and cross ventilation, waste minimization and stormwater management have previously been provided within this report.

Section 7 – Late Night Trading and Trading Hours

This section applies to non-residential uses seeking to trade between the hours of 8pm and 7am and as such applies to all the non-residential uses on the site. Assessment of extended trading hours requires assessment of the impact of the trading hours in terms of other late night uses in the area, the nature of the development, the size and patronage of the uses and the impact upon the locality.

The hours of use were considered in the assessment of acoustic impact and limitations are recommended by way of conditions to address concerns related to the hours of use. The non-residential uses are located away from the existing residential areas and a condition of consent should require acoustic mitigation to be assessed and mitigation measures built into the proposed dwellings to address the hours of use. The use of the supermarket is generally a quiet use contained within the building and as such is unlikely to disrupt the amenity of the area. A condition of consent should require development consent for the initial use of the other retail premises to allow an assessment of the potential impact of those uses at that time.

Part C - Relevant Planning Area (St Leonards/Crows Nest)

The site is located mainly in the Crows Nest Town Centre Neighbourhood of the St Leonards/Crows Nest Planning Area, but part of Zig Zag Lane is located within the Holtermann Estate A Conservation Area.

The desired future character of the Crows Nest Town Centre seeks to maintain a 10-15m frontage along Willoughby Road, with frontages of larger sites to have their apparent width broken down, zero setbacks to all street frontages and a 13m (4 storey) podium to all streets with a 3m setback above podium level. Consistent parapet façade heights are to be provided along Willoughby Road and off street parking must be provided underground. Continuous awnings are to be provided to all street frontages.

The subject site does not currently reflect these requirements and is not comprised of a series of small, narrow lots as is the majority of B4 zoned land fronting Willoughby Road. Further, the DCP precedes the amendments to the height controls of the LEP and as such is inconsistent with the site specific height controls contained within the LEP. As the height controls are inconsistent with the DCP parapet and setback controls, the LEP height controls are the relevant controls and the compliance of the development with these controls has been addressed previously. Therefore, whilst the proposal is inconsistent with the DCP in this regard, the inconsistency is appropriate.

The proposal satisfies the DCP as it provides underground off-street parking. The proposal provides an awning to the supermarket frontage of Willoughby Road and Atchison Street and for the Albany Street frontage from the commencement of the colonnade to the end of the residential lobby, but no awning is provided to the front of retail tenancies T1-T3 or to the plaza. Whilst it is not possible to provide an awning to the plaza, it is considered that the awning should extend to the southernmost end of the colonnade on Willoughby Road such that it runs the full length of the building. A condition to this effect should be included in any recommendation.

The Holtermann Estate A Conservation Area statement of significance identifies the significant elements as being a late 19th century subdivision for speculative housing, regular grid streets and rear lanes and consistent late 19th and early 20th century residential character with low built scale. The identified characteristic elements are all related to that form of development and as such are not applicable to the subject application, it being noted that no development other than the reconstruction of the laneway and the underground car park are proposed in this area.

SECTION 94 CONTRIBUTIONS

A section 94 contribution would be applicable under North Sydney s.94 Contributions Plan based

on the proposed size of retail premises on the subject site and the proposed dwellings, less credit for the existing development on the site. A condition requiring payment of the contribution prior to release of the Construction Certificate should be included in any consent.

APPLICABLE REGULATIONS

All applicable regulations have been considered in this assessment.

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 Car parking 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

SUBMITTORS CONCERNS

The following concerns have been raised in the submissions and are addressed following.

- *Excessive scale given adjoining conservation area*

Council's Heritage Planner has assessed the application and is satisfied that the bulk and scale are acceptable given the context of the conservation area.

- *Parking provision*

The proposed development provides parking in excess of the DCP control for parking, which is supported by the Traffic Engineer assessing the application.

- *Concerned trees planted adjoining property boundary will cause additional shadowing, maintenance concerns and damage to property*

The proposed planting adjoining the properties in Atchison Street and Albany Street dwellings should be conditioned to reach a maximum maturity height of 5-6m.

- *Excessive height compared to surrounding 13.5m height limit*

The proposal is generally consistent with the height control applying to the site, which is largely in excess of the 13.5m height control of surrounding development.

- *Loss of privacy*

The proposal has been amended and should be conditioned to ensure the privacy of the adjoining dwellings is appropriately maintained (refer to discussion in assessment of Apartment Design Guide).

- *Increased noise from late night use, deliveries, pedestrian walkway adjoining boundary, increased parking provision, additional traffic*

The potential acoustic impacts of the development have been addressed in detail by the Acoustic Consultant who has recommended conditions of consent to ensure the acoustic amenity of the area and the future and existing residents is maintained.

- *Difficulty accessing car space for dwelling due to closure of Zig Zag Lane connection with Ives Lane*

Turning templates have been provided confirming that residents of Atchison and Albany Streets will maintain their existing access to garages off Ives Lane.

- *Request shadow diagrams showing increase in shadow impact*

Shadow diagrams identifying this have been submitted.

- *Concern with impact of excavation near property boundary and damage*

Conditions of consent should be included in any consent requiring dilapidation reports to be prepared for adjoining dwellings within the zone of influence of the proposed excavation.

- *Concerned with roof top dining and impact on privacy and noise*

The roof top areas are communal open space for the apartments and not related to commercial uses. 1.8m high privacy screens are proposed to protect visual and acoustic privacy.

- *Concerned about dust during construction*

A construction management plan will require control of dust during construction.

- *Impact of construction on ability to tenant properties*

Whilst the proposal will have unavoidable construction impacts, they will be appropriately ameliorated by conditions of consent to the extent possible.

- *Support vehicular closure of Ives Lane with Zig Zag Lane but a pedestrian access would be appropriate*

The closure of the connection between the lanes is by way of bollards so it will not prevent pedestrian access.

- *Ives Lane should be repaired and resurfaced as part of the application*

Ives Lane is not being used to access the proposed development and as such there is no reason for it to be resurfaced as part of the application.

- *Increased traffic along Atchison Street will create safety issues for the designated pedestrian and cycle route through the street*

The Traffic Engineer has not raised any concern with pedestrian or cyclist safety as a result of the increased traffic generation.

- *Atchison Street should be closed to traffic to reduce impact on amenity of residents*

The assessment of the Traffic Engineer does not support the closure of Atchison Street, with the additional traffic proposed falling within the environmental capacity of the street.

- *Traffic calming measures are not pedestrian or bicycle friendly*

A condition of consent should require such measures to be designed to be bicycle friendly. The measures will not detrimentally impact pedestrian safety.

- *Atchison Street and Willoughby Road intersection should have roundabout or traffic lights*

The Traffic Engineer has not indicated such traffic measures are required as a result of the proposal.

- *All truck deliveries (construction and use) should be from Albany Street or Willoughby Road, not through Atchison Street*

A condition should require this in the Construction and Operational Management Plans.

- *Support application as it is of strategic importance to Crows Nest*

Noted.

- *Request 6 designated parking spaces outside of childcare centre in Atchison Street during construction due to loss of parking available in council car park as parking further away would be a risk to children using the centre*

This is a matter for Council's Local Traffic Committee and is not a matter that can be conditioned within the consent.

- *The exit on Willoughby Road will place children who attend the centre at risk of being hit by a car. The exits should be from the Atchison Street end of Zig Zag Lane for ease of access for parents using the childcare centre*

The Traffic engineer raises no concern with pedestrian safety as a result of the proposed location of the exits.

- *Noise impact of construction upon childcare centre*

There will be unavoidable noise from the construction of the development but it is to be managed in accordance with a construction noise impact management plan.

- *Impact upon village character*

It is not considered that the proposal will detract from the character of Crows Nest shopping centre.

- *Loss of property value*

Impact of development upon property value is not a matter that can be taken into consideration in the assessment of the application.

- *Precedence for other large buildings*

The proposal is largely consistent with the height and other controls for the site and as such is appropriate and will not set a precedence for other large buildings, it being noted that the height controls are site specific.

- *Inadequate parking for proposed dwellings*

The proposal provides parking in excess of the DCP controls.

- *Public plaza is too small and does not compensate for impacts of development*

The public plaza is considered to be of an appropriate size to provide a suitable public benefit on the site.

- *Inadequate setbacks and landscaping*

The setbacks and landscaping proposed are considered to be appropriate for the type and scale of development proposed.

- *Who is going to enforce the ban on trucks using Atchison Street?*

Any breaches of the Construction Management Plan would need to be identified to Council who could take enforcement Action

- *Construction vehicles should not be allowed to access the residential areas of Albany and Atchison Streets*

A condition in relation to the Construction Management Plan should this concern.

- *Atchison Street will experience additional traffic from Woolworths and Coles redevelopments*

Additional traffic will be experienced, however the Traffic Engineer has indicated the additional traffic will be within the environmental capacity of the street.

- *Consideration should be given to the adaptive reuse of the dwelling at the corner of Albany Street and Willoughby Road as it may have heritage value*

The proposal is for demolition and the existing building has no heritage significance to warrant its retention.

VOLUNTARY PLANNING AGREEMENT

The proposal also includes a voluntary planning agreement (VPA) which has been notified and one submission has been received in response to the notification. The VPA provides for the sale of Zig Zag Lane to the developer and allows the developer to operate the non-residential car park and to retain income from the car park. The VPA also requires the developer to carryout works for the redevelopment of Zig Zag Lane, relocation of the services within the laneway and the construction of a public pedestrian walkway, over which an easement is to be created in favour of Council.

The VPA also requires the construction of a non-residential car park for at least 140 cars which is to be run as a public car park with a minimum of 2 hours free parking. The car park is to be covered by a covenant preventing the use of the car park other than as a public car park. Finally, the VPA requires the construction of the plaza and for the creation of an easement for use of the plaza in favour of Council as public open space.

The submission lodged in response to the notification of the VPA has raised the following concerns:

- *The height of the proposal is excessive*

The height of the proposal has been assessed previously within this report and is considered to be acceptable, being generally consistent with the height controls for the site.

- *The public open space is too small to be useful*

The plaza is intended to perform the function of a small gathering space and is of suitable size for this purpose.

- *The amount of cars provided will not be adequate for the shoppers*

The parking provided within the proposal is in excess of the DCP requirements for the proposed use and provides a larger number of public parking spaces than currently exist in Zig Zag Lane.

- *The selling of Zig Zag Lane by Council sets a dangerous precedence for other developers*

This is not a matter that can be addressed in this report.

- *The proposal has an excessive density*

The density of the proposed development is considered to be appropriate to the planning controls applying to the site.

It is considered that the works covered by the VPA will provide a public benefit and will not result in any unacceptable impacts and as such the VPA is acceptable as part of the subject application.

The VPA has not been entered into under section 93F of the Act or executed by Council. Accordingly, any consent should include a condition requiring the deed to be entered into and executed prior to the release of the Construction Certificate.

CONCLUSION

The amended plans lodged after concerns were raised in the initial assessment have addressed the majority of the concerns raised. The development is now largely compliant with the controls related to height, bulk and scale, with variations to the height controls sought for stairs, lift overrun, ventilation shaft and elements of the roof top communal open spaces (balustrades, pergolas and the like). The design of the proposal is considered to have been appropriately resolved and the urban design is supported by the assessing Urban Designer.

Amenity impacts upon adjoining properties have generally been suitably ameliorated or can be by the inclusion of appropriate conditions of consent in relation to screening devices and height of landscaping.

The impact upon the surrounding road network can be appropriately ameliorated with the provision of traffic calming devices and traffic lights and the works are supported by the Traffic Engineer and the Roads and Maritime Service.

Acoustic impacts can be appropriately ameliorated during construction and operation subject to a series of management plans and conditions recommended by the Acoustic Engineer.

The Voluntary Planning Agreement submitted with the application is considered to be appropriate in the context of the proposed development.

The remaining area of concern that was raised with the applicant but has not been satisfactorily resolved relates to the amenity of a number of proposed apartments and their non-compliance with the Apartment Design Guide.

Whilst it is considered that these issues can be overcome with a series of internal design changes, they are too substantial for conditions of consent. It is therefore recommended that the Panel refuse the application.

If, however, the Panel wishes to allow the applicant the opportunity to address the outstanding concerns related to the amenity of the proposed apartments, the following measures would result in an acceptable amenity outcome for the apartments.

- Apartments 105, 106, 205, 206, 305 and 306 could be redesigned to provide all bedrooms opening towards Willoughby Road and provide private open space compliant with the minimum depth requirement (ie 2m for 2 bedroom and 2.4m for 3+ bedroom apartments). One solution would be to consolidate each pair of apartments into a single 3 bedroom apartment with a deep balcony allowing bedrooms and living room to open directly onto the balcony or Willoughby Street.
- Apartment 407 is identified as being a studio apartment but is clearly a one bedroom apartment and has an inadequate area of only 45m². The size of this apartment is inadequate and the terrace is disproportionately large. In order to address this concern and improve the dwelling mix Apartment 407 could be consolidated with Apartment 403 to create a substantial 3 bedroom apartment.
- Apartments 107, 207 and 307 are considered inappropriately small, particularly given that 4.5m² of the area is compromised space, being a hallway. These apartments also have compromised balconies, which whilst compliant with the size are of inadequate width. These apartments could be converted into a 1 bedroom apartments with a balcony having an area of at least 8m², with a minimum 2m depth.
- Apartments 117-120 could be reconfigured so that compliant internal and external spaces are provided in accordance with the Apartment Design Guide having regard to minimum apartment size, balcony size and balcony depth (ie 2m for 1 and 2 bedroom apartments).
- Apartments 102, 202, 213, 214, 217, 218, 302, 313, 314, 316 and 317 are provided with balconies which are narrower than the minimum 2m requirement and could be redesigned to provide balconies with minimum areas of 10m², with minimum dimensions of 2m and have internal areas of 70m² (where 1 bathroom is proposed) or 75m² where two bathrooms are proposed.

RECOMMENDATION

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

THAT the Joint Regional Planning Panel, refuse Development Application No. 327/2015 for construction of a 4-6 storey mixed use building, including supermarket, public plaza and public car park at Nos. 101-111 Willoughby Road and the the portion of Zig Zag Lane between Albany Street and Atchison Street, Crow Nest for the following reasons:-

1. The design of a significant number of apartments within the proposed development provides an inadequate level of amenity for future residents due to the failure of the design to comply with the design criteria contained within Parts 4D – Apartment Layout and Size and 4E – Private Open Space and Balconies of the Apartment Design Guide and fails when assessed against the design principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

2. The design of the apartments provides for an inadequate mix of apartment types and fails when assessed against Part 4K – Apartment Mix of the Apartment Design Guide and the Function criteria of Section 2 – Commercial and Mixed Use Development of North Sydney Development Control Plan 2013.

A handwritten signature in blue ink, appearing to read 'Kerry Gordon', is positioned above the printed name.

Kerry Gordon, Kerry Gordon Planning Services
ASSESSMENT OFFICER
