

COUNCIL ASSESSMENT REPORT

Panel Reference	2016STH017
DA Number	DA-2016/591
LGA	Wollongong City Council
Proposed Development	Shop-top housing development comprising construction of four x 7-8 storey buildings containing total 221 residential apartments, 330 parking spaces and eight business tenancies
Street Address	74-76 Keira Street, Wollongong Lot 12 DP 231424 78-80 Keira Street, Wollongong Lot 4 DP 152256 82-84 Keira Street, Wollongong Lot D DP 164178 90 Keira Street, Wollongong Lot B DP 153806 and Pt Lot A DP 153806 65 Flinders Street, Wollongong Lot 1 DP 657220 and Lot 11 DP 231424 73-75 Flinders Street, Wollongong Lot 3 DP 152256 and Lot C DP 164178 87 Campbell Street, Wollongong Lot A DP 159938
Applicant/Owner	Edmiston Jones/Wollongong City Council
Date of DA lodgement	6 May 2016
Number of Submissions	Five
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital investment value exceeding \$20 million
List of all relevant s79C(1)(a) matters	<p><u>Relevant environmental planning instruments</u></p> <ul style="list-style-type: none"> · SEPP No. 55 – Remediation of Land · SEPP No. 65 – Design Quality of Residential Apartment Development · State Environmental Planning Policy (Building Sustainability Index : BASIX) 2004 · SEPP (Infrastructure) 2007 · SEPP (State and Regional Development) 2011 · Wollongong Local Environmental Plan (WLEP) 2009 · Wollongong Section 94A Development Contributions Plan 2015 · Design Review Panel <p>Proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority</p> <ul style="list-style-type: none"> · Nil <p><u>Relevant development control plan</u></p> <ul style="list-style-type: none"> · Wollongong Development Control Plan 2009 <p><u>Relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F</u></p>

	<ul style="list-style-type: none"> Nil <u>Coastal zone management plan</u> <ul style="list-style-type: none"> N/A <u>Relevant regulations e.g. Regs 92, 93, 94, 94A, 288</u> <ul style="list-style-type: none"> Reg 92 (see sec 2.1, 2.6)
List all documents submitted with this report for the Panel's consideration	Architectural plans by Architects Edmiston Jones GBB Landscape plans by Taylor Brammer Survey Plan by Craven, Elliston & Hayes (Dapto) Pty Ltd
Report prepared by	City Centre Team (AS)
Report date	8 November 2016

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

Reason for Consideration by Joint Regional Planning Panel

The proposed development must be considered by the Joint Regional Planning Panel (JRPP) as it has a capital investment value exceeding \$20 million [Clause 3 Schedule 4A of the Environmental Planning and Assessment Act 1979 and clause 21 of State Environmental Planning Policy (State and Regional Development) 2011].

Proposal

The application was lodged on 6 May 2016.

The proposal is for construction of a shop top housing development comprising residential apartments, basement parking and business tenancies. The building form is four towers of seven-eight storeys with ground floor business or retail premises. The towers are located on the edges of the site around a central communal open space landscaped area. Car parking is located internally, over three car parking levels. Vehicle access is via Campbell Street (left in, left out only), Flinders Street (left in, left out only) and Keira Street (where all directions allowed).

The total number of apartments is 221 (79 x 1 bedroom, 116 x 2 bedroom and 26 x 3 bedroom). Twenty-two apartments suitable for conversion to adaptable dwellings are proposed. On-site parking is provided for 330 cars.

Waste storage and collection would occur in the ground floor parking area of Tower B, where service vehicles would collect bins. Residents and commercial tenants of all towers would manually transport waste to the bin room of Tower B. From the waste storerooms, a caretaker would transport bins to the waste loading dock on ground level.

The proposed floor space ratio and building height comply with the requirements of Wollongong Local Environmental Plan 2009. The maximum building height is 23.957m where 24m is permitted. The proposed gross floor area is 23,335m² and floor space ratio 2.56:1 where 2.56:1 is permitted.

The building complies with the requirements of State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Buildings) and the Apartment Design Guide.

Council's Design Review Panel has provided comment on the development both before and after lodgement of the application. Their suggested changes have been made by the applicant and the final proposal achieves design excellence and meets the design principles of SEPP 65. Their comment forms Attachment 4.

Permissibility

The 9134m² site is zoned B6 Enterprise Corridor pursuant to Wollongong Local Environmental Plan 2009. The proposal is defined 'shop top housing' and is permissible with development consent.

Consultation

The proposal was notified in accordance with Council's Notification Policy. Five submissions have been received which are discussed at section 2.9 of this report.

Main issues

Community interest and probity. In this regard Council's assessment of the development application has been reviewed by an independent third party. The peer review can be found at Attachment 7.

Traffic management and access.

RECOMMENDATION

It is recommended that the application be approved subject to conditions of consent contained in Attachment 6 to this report.

1. APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

Applicable State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land (satisfactory, section 2.1.1)
- SEPP No. 65 – Design Quality of Residential Apartment Development (satisfactory, section 2.1.2)
- State Environmental Planning Policy (Building Sustainability Index : BASIX) 2004 (satisfactory, section 2.1.4)

- SEPP (Infrastructure) 2007 (satisfactory, section 2.1.5)
- SEPP (State and Regional Development) 2011 (satisfactory, section 2.1.6)

Local Environmental Plans:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong Section 94A Development Contributions Plan 2015

Other comments / matters to be addressed

Design Review Panel

1.2 PROPOSAL

The applicant seeks consent for:

- Construction of a 7-8 storey/23.957m 'shop top housing' building comprising business and retail areas and residential apartments. On-site parking is provided on the ground, first and second floors.
- Proposed gross floor area = 23,355m²
- Proposed floor space ratio = 2.56:1 (9134m² site)
- Total residential units = 221 (79 x 1 bedroom, 116 x 2 bedroom and 26 x 1 bedroom). Twenty-two adaptable apartments are proposed and located throughout the building.
- 330 parking spaces
- Vehicle entry and exit to parking levels on Flinders Street, Keira Street and Campbell Street

1.3 BACKGROUND

On 15 August 2005 Council approved DA-2004/1755 for *'Mixed use development containing 2 commercial suites, 18 retail premises, 194 x 2 bedroom, 45 x 3 bedroom and 42 x 1 bedroom units, with parking for 803 cars'* on the same land as the current proposal. This development consent was the subject of an ICAC inquiry in 2008.

In March 2008 Council commenced proceedings in the NSW Land and Environment Court for a declaration that the consent was void for a number of reasons. The Court suspended the consent and granted an interlocutory injunction to restrain any work being carried out on the development. On 5 February 2009, the development consent was set aside by the Court. Council subsequently refused the consent on 4 March 2009.

On 17 November 2011 Council purchased the site from the developer. The rationale behind the decision to acquire the site was to provide an opportunity to masterplan the site which is a key site in the central business district, tidy up and maintain the land, and to provide car parking in a place of demonstrated demand.

Shortly after acquiring the site Council was approached by a consortium seeking to develop the land. As a consequence of this approach, an Invitation for Proposal was advertised seeking interest from any other party who could demonstrate a capacity to purchase and develop the site. The Invitation for Proposal was advertised in the Illawarra Mercury on 27 April 2012 and in the Sydney Morning Herald on 30 April 2012 with submissions closing 24 May 2012. Three submissions were received, with submission 3 from Gateway Wollongong Ltd being successful. Council subsequently resolved to proceed with the conditional sale of the land subject to development consent. Council is the current owner of the land.

It is noted that this approach for development of the entire site has essentially removed the need for Council to prepare a master plan for the site.

Customer service actions

The property has does not have any outstanding customer service actions.

1.4 SITE DESCRIPTION

The 9134m² irregular-shaped site is located at the intersection of Keira Campbell and Flinders Streets, Wollongong. The site comprises ten allotments and the property references are:

- 74-76 Keira Street, Wollongong Lot 12 DP 231424
- 78-80 Keira Street, Wollongong Lot 4 DP 152256
- 82-84 Keira Street, Wollongong Lot D DP 164178
- 90 Keira Street, Wollongong Lot B DP 153806 and Pt Lot A DP 153806
- 65 Flinders Street, Wollongong Lot 1 DP 657220 and Lot 11 DP 231424
- 73-75 Flinders Street, Wollongong Lot 3 DP 152256 and Lot C DP 164178
- 87 Campbell Street, Wollongong Lot A DP 159938

The site is currently vacant. The land naturally slopes down from the south-eastern boundary (Keira Street) towards Flinders Street. A stormwater retention pond was constructed in the north-western corner of the site as part of demolition and remediation work conducted by Council. A stormwater drainage pipe crosses the central part of the site.

The survey plan shows RL21 at the Keira and Flinders corner, RL 10.5 at Flinders and Campbell and RL 13.5 midway along Campbell Street frontage. The site does not occupy the entire land area bordered by Keira, Campbell and Flinders Streets, which is a generally triangular 'island'. Several buildings in different ownership on the northern corners of this island would be retained. This has the effect of positioning Tower B on Campbell Street between the existing commercial buildings and reducing options for vehicle access and placement of buildings. Sheet DA03 shows the context planning and evolution of the project design.

The land is known as the 'Gateway' site, and was the subject of a development consent set aside by the Land and Environment Court in 2009. At that time the site was in private ownership, however since 2011 Council has been the landowner. The current proponent has an option to purchase the site from Council, subject to development consent for this project.

The site is located within the Wollongong City Centre central business district approximately 1.8km south of North Wollongong railway station 1.6km north of Wollongong Station. The land has frontage to a classified road (Flinders Street).

The street frontage is approximately 122m to Flinders Street, 123m to Keira Street and 35m to Campbell Street. All roads bordering the site allow two-directional traffic.

Adjoining development is a mix of retail, business and residential. Sheet 3 prepared by Land Team provides photographs and RL notations for adjoining and nearby buildings. Immediately adjoining the site with frontage to Campbell Street is a single storey retail building. As Keira Street wraps around the site to the east, the buildings are 1-2 storey retail or commercial. Opposite the site in Keira Street are a mix of residential apartment buildings, tourist accommodation, retail and business premises. The south eastern corner of the site is a significant design element, due to it being both the highest point and the junction of Flinders, Smith and Keira Streets. This part is emphasised in the external treatment of Tower A. Further north along Flinders, the Throsby Dive roundabout offers a relatively high volume of traffic and the two existing buildings on this corner, both single storey retail, would be retained. Opposite the site on Flinders Street is a mix of retail buildings, including the registered Collegians Club.

Property constraints

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

- Contaminated land including CLMA site audit SA316
- Acid sulfate soils Class 5
- NSW coastal zone

The land is affected by encumbrances GG 121 15/9/00 (RMS road dedication) and DP 231424 (drainage easement). The proposed development does not conflict with these encumbrances.

1.5 CONSULTATION

1.5.1 INTERNAL CONSULTATION

The following Council officers reviewed the application. Recommended conditions of consent are contained in Attachment 6.

- Community safety
- Environment
- Geotechnical
- Heritage
- Landscape
- Stormwater
- Subdivision
- Traffic

1.5.2 EXTERNAL CONSULTATION

Design Review Panel

The Design Review Panel (DRP) provided comment on 30 November 2015 (as DE-2015/214), 4 March 2016 and 12 July 2016.

The final comment forms Attachment 4.

Following each DRP meeting, the applicant redesigned the development in response to matters raised by the Panel.

It is considered the final redesign submitted in September 2016 satisfactorily addresses matters raised by the DRP.

Roads and Maritime Services(RMS)

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 requires the application to be referred to RMS. On 10 June 2016, RMS advised Council that they did not support the application. The applicant's October 2016 revised plans were referred to RMS.

On 21 October 2016 they advised they supported the application on the basis that certain conditions of consent are applied. These conditions relate to:

- Road works and signage must be carried out in accordance with the revised plans. This includes
 - placement of 1.2m wide median strip on Flinders Street from Campbell Street roundabout to mid-point Tower C. The median has a break to allow traffic to enter Charlotte Street,
 - road widening on eastern side of Flinders Street to accommodate the median,
 - signage preventing right turn into Tower C driveway northbound on Flinders Street,
 - Flinders Street driveway splay,
 - left turn in only from Flinders Street;
- The developer must enter into a Works Authorisation Deed (WAD) with RMS for all works on Flinders Street;
- Pavement upgrade to the satisfaction of RMS,
- Any new services within Flinders Street shall be incorporated into WAD,
- Post development stormwater discharge into Flinders Street drainage system must not exceed pre-development stormwater discharge,
- Developer must upgrade lighting in accordance with Australian Standard AS/NZS1158,
- All roadworks and traffic control facilities shall be at no cost to RMS,
- All works and traffic control facilities shall be undertaken by a qualified contractor,
- An approval under section 138 of the Roads Act 1993 must be obtained prior to any works on Flinders Street,
- A road occupancy licence and traffic management plan is required.

Endeavour Energy

The application was referred to Endeavour Energy as required by clause 45 of State Environmental Planning Policy (Infrastructure) 2007. A response was received on 27 May 2016, which noted the location of overhead powerlines on Campbell and Keira Streets. Information of a generic nature was provided regarding the process for electricity connection. Formal conditions of consent were not recommended.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 SECTION 79C ASSESSMENT

(1) Matters for consideration—general

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

(a) <i>the provisions of:</i>	
(i) <i>any environmental planning instrument, and</i>	See section 2.1
(ii) <i>any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	See section 2.2
(iii) <i>any development control plan, and</i>	See section 2.3
(iiia) <i>any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and</i>	See section 2.4
(iv) <i>the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,</i>	See section 2.5
(v) <i>any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),</i>	See section 2.6
<i>that apply to the land to which the development application relates,</i>	
(b) <i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	See section 2.7
(c) <i>the suitability of the site for the development,</i>	See section 2.8
(d) <i>any submissions made in accordance with this Act or the regulations,</i>	See section 2.9
(e) <i>the public interest.</i>	See section 2.10

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

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

7 Contamination and remediation to be considered in determining development application

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

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

- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The land is vacant. A Site Audit prepared by CM Jewell & Associates P/L dated August 2014 has been submitted which addresses suitability for the proposed reuse. The report was prepared for Wollongong Council as the landowner. The report addresses earlier investigation, remediation and validation work by Coffey Environments Australia.

The site audit notes that historic land uses on the site include:

- Storing and supplying fuels,
- Storing and using chemicals,
- Servicing motor vehicles and motorcycles.

Other past activities that are relevant to suitability for use as residential development are:

- An active tramway crossed part of the site,
- Imported fill has been placed across most of the site,
- Surface soils have potentially been impacted with lead, zinc and asbestos due to the weathering of former buildings on the land.

The site audit concludes that Coffey has adequately investigated and appropriately remediated and validated the site. Some outstanding issues are able to be addressed through use of a Construction Environmental Management Plan (CEMP), which would be implemented during redevelopment. These matters were incorporated in the CEMP prepared by Coffey dated August 2014. The auditor states that use for certain residential development would be suitable if the Coffey CEMP was implemented during redevelopment. A condition of consent has been applied to this effect. Accordingly, the provisions of SEPP 55 are satisfied.

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

The application is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). The Policy came into effect on 26 July 2002. The development application was lodged after amendments which commenced on 17 July 2015.

The policy applies to:

- (a) *the development consists of any of the following:*
 - (i) *the erection of a new building,*
 - (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
- (b) *the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- (c) *the building concerned contains at least 4 or more dwellings.*

The proposed development is subject to the Policy.

The application is accompanied by a statement by a qualified designer in accordance with Clauses 50(1A) & 50(1AB) of the *Environmental Planning and Environment Regulation 2000*.

The proposal must be evaluated in accordance with the nine SEPP 65 design quality principles. These are:

Principle 1: Context and 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.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

A context analysis has been provided, which demonstrates the suitability of the building form and location. The immediate area is mixed commercial and residential zones, with a variety of scales and development types.

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.

The towers are located on the edges of the site, with variable orientation and below the 24m height limit. The elevations are articulated, and the external finishes provided are considered satisfactory. All apartments have balconies for private open space. All apartments on the exterior of the building have terraces and private open spaces incorporating outlook to the public roads and capitalising on external views.

An area of deep soil zone (on structure) is provided.

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.

The proposed density complies with the FSR, height, and zoning requirements of WLEP 2009.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross 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 development achieves ventilation and solar access as required by SEPP 65 and the Apartment Design Guide.

The Water Sensitive Urban Design report prepared by Jones Nicholson details methods to reduce wastage and improve water quality.

A BASIX certificate has been provided which identifies sustainability measures. All development application stage commitments have been indicated on the proposed plans.

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 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.

A landscape plan and management plan has been prepared by Taylor Brammer and is satisfactory. An area of approximately 1800m² of vegetated communal open space is located on the third floor, adjacent to areas of deep soil (on structure) plantings. Additional landscaping is provided on the seventh, eighth and ninth floors in the form of open space for residents.

Public domain plantings are consistent with Council's Public Domain Technical Manual.

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.

The development complies with SEPP 65 and the Apartment Design Guide criteria for ventilation, solar access, storage, parking, building depth, privacy, ceiling height, apartment size, common circulation, private and communal open space, lobbies and adaptable housing.

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.

Security measures have been proposed and are incorporated into conditions of consent. These include traffic signalling systems and signage within carparking areas and controlled access to circulation spaces. Additional security benefits result from passive surveillance offered by location of private and communal open space areas relative to apartment windows.

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.

The development contains 1, 2, and 3 bedroom apartments. Twenty-two adaptable housing apartments are proposed, which complies with the 10% minimum required by WDCP 2009. All apartments exceed minimum size requirements set by the Apartment Design Guide.

Communal open space is provided in the form of outdoor landscaped areas. Potential retail tenancies on the ground and lower ground floors may offer additional opportunities for social interaction.

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.

Council's Design Review Panel has considered the project on three occasions. Each meeting further refined the project to the point where the Panel's matters for review have been satisfactorily resolved.

Clause 30(2) requires the consent authority to be satisfied that the development has adequate regard to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

As demonstrated above and in the compliance table at Attachment 5, the development satisfies this requirement.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY NO. 71 – COASTAL PROTECTION

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

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

The residential apartments are subject to the SEPP. BASIX certificate 696661M dated 9 May 2016 has been submitted and is satisfactory. Development application commitments are shown on the proposed plans.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Clause 101 applies to the development as Flinders Street is a classified road.

- 2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Vehicle access is proposed on Keira, Campbell and Flinders Street. The RMS response dated 21 October 2016 states the authority has no objection to the development subject to certain matters being included in conditions of consent. These have been incorporated into Attachment 6.

The residential apartments are considered to be adequately protected from noise intrusions from road traffic. The architectural design acknowledges the potential noise sources including road and locates

less sensitive uses (i.e. non-residential) at lower levels. Balconies incorporate operable screening to reduce noise intrusion. Conditions 29 and 99 relate to acoustic performance.

Council is satisfied that the development complies with matters for consideration under clauses (a), (b) and (c).

Clause 104 refers to traffic generating development identified in Schedule 3 of the SEPP. As the development has access to a classified road (Flinders Street) and contains more than 75 dwellings, referral to Roads and Maritime Services is required. In correspondence dated 21 October 2016, RMS advised they have no objection subject to recommended conditions of consent.

2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011

The development is required to be referred to the Joint Regional Planning Panel pursuant to clause 21 of the SEPP.

2.1.7 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Wollongong Local Environmental Plan 2009 was gazetted on 26 February 2010. The relevant provisions are addressed below.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

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

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

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

The proposed development incorporates a range of uses that will service the needs of the Wollongong community by providing ground floor business use and upper level residential units. The residential component will provide housing choice and affordability within walking distance of most facilities in the Wollongong City Centre, which in turn will encourage and promote business in the surrounding area. The development will provide small business employment opportunities to Wollongong residents and also provide a diversity of uses along Flinders Street located in the heart of Wollongong City Centre. The objectives of the B6 Enterprise Corridor zone are therefore satisfied..

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

2 Permitted without consent

Building identification signs; Business identification signs

3 Permitted with consent

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

premises; Timber yards; Transport depots; Truck depots; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres

4 Prohibited

Any development not specified in item 2 or 3

The proposal is categorised as a 'shop top housing' development in the Statement of Environmental Effects (SEE). The definition of 'shop top housing' allows for business or retail (and not the broader term 'commercial') on ground floors. It is noted that the architectural plans refer to all non-residential areas on ground, first and second floors as 'commercial', and not 'business' or 'retail' in accordance with the shop top housing definition. It is considered reasonable to apply a condition of consent requiring operation of these areas as 'business' or 'retail' in accordance with the definition of shop top housing.

Shop top housing, retail premises, business premises and commercial premises are defined below. All are permissible with consent in the B6 Enterprise Corridor zone.

Clause 1.4 Definitions

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

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

The architectural plans show 221 dwellings located above ground floor 'commercial' space or car parking. As discussed above the SEE refers to the development as 'shop top housing'. Therefore it is recommended the use of non-residential spaces is clarified in a condition of consent, to avoid any doubt in relation to the correct categorisation of the development.

residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

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

- (a) bulky goods premises,
- (b) cellar door premises,

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

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

Note. Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

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

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Note. Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The maximum permitted height for the land is 24 metres. The maximum building height is 23.957m.

Clause 4.4A Floor space ratio – Wollongong city centre

The total gross floor area proposed is 23,355m² (20,690m² residential and 2665m² non-residential).

The maximum floor space ratio (FSR) permitted on the land for a building only used for residential purposes is 2.5:1 and 3:1 where it is used only for non-residential purposes. Where a proposed building incorporates a mixture of residential and non-residential floor space, the formula detailed in subclause 4 applies.

The proportion of land use mix is 88.59% residential and 11.41% non-residential.

The formula for devising the maximum permitted FSR for the site is as follows:

$$(NRFSR \times NR/100) + (RFSR \times R/100) = \text{maximum permitted FSR}$$

$$(3 \times 11.41/100) + (2.5 \times 88.59/100) = 0.3423 + 2.24751 = \text{maximum FSR } 2.56:1$$

An FSR of 2.56:1 allows for gross floor area of 23,383.04m². The proposed gross floor area is 23,355m² (FSR 2.56:1) which does not exceed the maximum.

Part 5 Miscellaneous provisions

Clause 5.5 Development within the coastal zone

The land is located within the NSW Coastal zone, however is not identified in Council's hazard mapping as being impacted by coastal hazards. The proposal is considered to comply with matters noted in subclause 3(d), namely.

- (3)(d) the proposed development will not:
- (i) be significantly affected by coastal hazards, or
 - (ii) have a significant impact on coastal hazards, or
 - (iii) increase the risk of coastal hazards in relation to any other land.

Clause 5.9 Preservation of trees or vegetation

The site does not contain any vegetation.

Clause 5.10 Heritage conservation

There are no heritage items on the land. Council's heritage adviser has considered potential impacts on heritage items in the vicinity and the historic crossing of the site by a tramway. They note the proposed development has some potential to impact on the setting of surrounding heritage items including view corridors to Mt Keira and Keira Street, however on balance, the potential for activation of the vacant land and the design itself offers a positive response to the site. They conclude the development is acceptable, subject to conditions regarding the historic tramway interpretation.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

Former buildings were connected to utilities and it is expected that the proposed development would be able to be serviced. Council has consulted with Endeavour Energy in accordance with its statutory obligations. The landscape plan shows proposed street tree planting in Flinders Street is located away from underground services. Standard conditions of consent regarding connection to utility providers are recommended.

Clause 7.6 Earthworks

The development incorporates excavation of approximately 6m depth or less to accommodate the car parking levels. A geotechnical report prepared by Parson Brinckerhoff dated July 2013 has been reviewed by Council's geotechnical engineer, which has indicated site conditions are satisfactory. Conditions of consent are recommended as contained within the parson Brinckerhoff geotechnical report.

Clause 7.18 Design excellence

The objective of this clause is *'to deliver the highest standard of architectural and urban design'* and applies to the development. Subclause 4 sets out specific design matters.

- (3) *Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.*
- (4) *In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:*
- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

The final proposed building form is the result of changes as recommended by Council staff and Council's Design Review Panel. A schedule of finishes has been provided. The development adequately provides retail and/or business floor space at ground level and has regard to the changing ground levels throughout the site. The relationship with Flinders Street is satisfactory and addresses the prominent Smith/Flinders corner location adequately through its external treatment.

- (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*

The contextual analysis has examined the existing and potential streetscape. The scale of the podiums respond to the difference in height levels on each street frontage and successfully accommodates required car parking. The landscape concept proposes street tree planting on all street frontages and a variety of open space planting on ground and upper levels. Residential apartments are located on the periphery of the building and all present balconies to the street.

(c) whether the proposed development detrimentally impacts on view corridors,

Views have been analysed in the contextual analysis. The site lies within the view corridor of Wollongong lighthouse/Belmore Basin/Illawarra escarpment, however existing and recent approved development in Smith and Campbell Streets, are likely to interrupt these views. The placement of the towers would allow some east-west views through the site.

(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,

The Sun Plane Protection Map does not apply to the site or surrounds.

(e) how the proposed development addresses the following matters:

(i) the suitability of the land for development,

The site is zoned to allow mixed commercial and residential development. The land is not flood affected or known to be at risk of geotechnical instability. The land is located in close proximity to public transport and close to the Wollongong CBD. The site has been remediated and a site audit has been submitted with the application.

(ii) existing and proposed uses and use mix,

The proposed retail and residential mix satisfies the zone objectives and floor space ratio controls set out in WLEP 2009. Apartments include 1, 2 and 3 bedroom dwellings. Twenty-two adaptable dwellings are proposed.

(iii) heritage issues and streetscape constraints,

The site itself does not contain heritage items, however there are a number of items of local significance in proximity to the site. The SEE does not analyse the impact of development upon their heritage values however Council's heritage officer has assessed the impact of development upon the heritage values and concludes it is satisfactory. Conditions of consent regarding interpretation of the historic tramway route are recommended.

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Existing and proposed towers have been modelled in the contextual analysis. Adjoining development is lower scale (one-two storeys) and the towers have adequate regard to the shared interface. The towers are positioned on the street edges of the site with a central communal open space core. The towers achieve adequate separation in accordance with SEPP 65.

(v) bulk, massing and modulation of buildings,

These aspects have been refined over successive Design Review Panels. The building consists of four towers of 7-8 levels atop a shared basement/ground floor car parking and servicing area. The prominent street corner has been emphasised through the design of the external materials and placement of terraces and open space areas.

(vi) street frontage heights,

The building is setback from the street and therefore the project does not incorporate street frontage height.

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

These impacts have been adequately addressed in sub consultant reports and architectural plans.

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

A thermal comfort and BASIX assessment has been submitted. This demonstrates that efficiency goals are able to be achieved through construction materials and internal fixtures.

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

Pedestrian and vehicle access is available from Keira, Campbell and Flinders Streets. Parking for retail/business, and residential visitors is separated from residential apartment tenants. Waste storage and collection would occur within the Tower B.

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

Public domain improvements are detailed on the landscape concept plan.

Clause 7.18(5) specifies that a Design Review Panel must consider applications for buildings on a key site with a capital value exceeding \$1,000,000. The Design Review Panel has reviewed the application twice prior to lodgement and also after lodgement. Their final comments from the 12 July 2016 meeting form Attachment 4. Improvements suggested by the Panel have been implemented in the final plans submitted to Council in October 2016.

Part 8 Local provisions – Wollongong City Centre

Clause 8.1 Objectives for development in Wollongong City Centre

The objectives of this Part are as follows:

- (a) to promote the economic revitalisation of the Wollongong city centre,*
- (b) to strengthen the regional position of the Wollongong city centre as a multifunctional and innovative centre that encourages employment and economic growth,*
- (c) to protect and enhance the vitality, identity and diversity of the Wollongong city centre,*
- (d) to promote employment, residential, recreational and tourism opportunities within the Wollongong city centre,*
- (e) to facilitate the development of building design excellence appropriate to a regional city,*
- (f) to promote housing choice and housing affordability,*
- (g) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that the Wollongong city centre achieves sustainable social, economic and environmental outcomes,*
- (h) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of the Wollongong city centre for the benefit of present and future generations.*

The application meets these objectives. The proposal is for a permissible shop top housing development in a business zone. The site is reasonably well located in relation to public transport options. The Design Review Panel has assessed the application and recommended changes which have been made. The building contains a mix of 1, 2 and 3 bedroom dwellings including adaptable dwellings. A BASIX certificate has been provided and is satisfactory.

Clause 8.2 Wollongong City Centre – land to which Part applies

The land is located within the Wollongong City Centre

Clause 8.4 Minimum building street frontage

The land has a street frontage exceeding 20m as required by this clause.

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

Nil.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

Several chapters of WDCP 2009 apply to the development. Chapter D13: Wollongong City Centre provides the majority of specific design guidelines for the development. Attachment 5 details compliance with these provisions. Some variations are proposed, however these generally relate to criteria which are inconsistent with and therefore superseded by SEPP 65 Apartment Design Guide.

The following chapters of the DCP do not apply to the proposed development, however are mentioned for the sake of completeness.

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

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

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

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

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

CHAPTER B3: MIXED USE DEVELOPMENT

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

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

The requirements for 'shop top housing' situated within the Wollongong City Centre are contained within Chapter D13.

CHAPTER B4 – DEVELOPMENT IN BUSINESS ZONES

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

The following chapters of the DCP apply to the proposed development.

CHAPTER D13 – WOLLONGONG CITY CENTRE

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

An assessment of the application in relation to WDCP 2009 is contained within the compliance table at Attachment 5.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This application has been considered against the requirements of this chapter and is satisfactory. A total of twenty-two (10%) of the 221 residential units are nominated as adaptable. Level access is provided for pedestrians into both the retail and residential lobbies. Lifts service all parking levels and provide access to the residential and commercial areas. An Adaptable Unit Review prepared by Philip Chun Building Compliance dated 20 April 06 confirms that all twenty-two nominated adaptable dwellings are capable of complying with AS499 – Adaptable Housing.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Measures implemented to reduce crime and provide personal safety include separation of car parking areas, building access control, and passive surveillance. The communal open space area is on the ground floor and would be in view of the residential apartments.

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

A Traffic Impact Assessment prepared by Bitzios Consulting dated 5 May 2016 was provided at lodgement, and supplementary correspondence was provided during assessment of the application. As noted earlier, the RMS and Council's traffic engineer have no objection to the development.

Car parking is provided on the ground, first and second floors. The driveways on Campbell, Keira and Flinders would operate as follows:

- Campbell Street – left out only, service vehicle egress, sole egress for all vehicles parked on the ground floor.
- Keira Street – two-directional ingress, main residential vehicle access point. No visitor access (secure gate proposed).
- Flinders Street – left in only, service vehicles and retail visitors, 20 resident parking spaces, no egress. Residential spaces secured by a boom gate.

A loading bay for trucks, waste and other service vehicles is located on the ground floor under Tower B. On collection day, the bulk bins would be manoeuvred into place for pick-up by a front-end refuse collection vehicle. The vehicle's dimensions would allow passing by other vehicles.

Parking for cars, bicycles and motorcycles complies with the requirements of RMS *Guide to Traffic Generating Development* for the residential component and Chapter E3 for the retail/business component. This is in accordance with SEPP 65. Dedicated parking spaces for the retail/business functions have been kept separate from residential parking.

CHAPTER E5: BASIX (BUILDING SUSTAINABILITY INDEX)

A BASIX Certificate has been provided and is satisfactory.

CHAPTER E6: LANDSCAPING

A landscape concept plan by Taylor Brammer was lodged with the application. Minor adjustments to the Flinders Street driveway as shown in the 21 October 2016 architectural plans require consequential changes to the landscape plan. This is addressed by condition 55.

Landscaping is provided on Level 3 in the communal open space area, and seventh, eighth and ninth floors. Street trees are proposed in association with public domain improvements on all frontages.

CHAPTER E7: WASTE MANAGEMENT

Separate waste storage rooms for the retail/business units and residential apartments are located within the ground floor car parking area of Tower B.

Residential and retail/business occupants would manually deposit their waste and recycling in the storage room on the ground floor of Tower B. From the storage room, a caretaker would then transport the bins to the loading dock on the same level for collection by a private contractor. Whilst this arrangement does not offer convenience for all residents and business/retail tenants, it is satisfactory in terms of statutory requirements.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's geotechnical engineer in relation to site stability and the suitability of the site for the development. Condition 3 incorporates the recommendations of Council's geotechnical engineer.

CHAPTER E14 STORMWATER MANAGEMENT

A stormwater drainage plan has been provided. The stormwater plan has been considered by Council's Stormwater Division and is satisfactory, subject to further amendment. These matters are addressed in conditions 35-50.

CHAPTER E15 WATER SENSITIVE URBAN DESIGN

A Water Sensitive Urban Design report prepared by Jones Nicholson has been provided. It details methods for water reuse and management, which have been incorporated into condition 77.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

Earthworks proposed to facilitate construction of the lower parking levels are required. Geotechnical and groundwater matters have been considered and are satisfactory

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Methods to mitigate erosion and sedimentation dispersal are required to be implemented. This is addressed in condition 72.

2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2015)

Contributions are payable in accordance with Council's section 94A development contributions plan, which came into effect on 26 October 2015. Clause 1 specifies that all development exceeding \$200,000 shall pay a 1% levy. The estimated cost of development is stated by the applicant in the detailed cost estimate is \$102,744,654.00 The contribution payable is \$1,027,446.54.

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

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

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

Clause 92 applies to the development.

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

The land is located within the NSW Coastal Zone, however is not identified in Council's hazard mapping as being impacted by potential coastal hazards. Therefore this section does not apply.

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

Context and Setting

The site is located in primarily a commercial precinct, at the entrance to the main commercial centre of Wollongong. The land is identified as a 'key site' in Wollongong Local Environmental Plan 2009. It is readily accessed on foot from Flinders Street, Smith, Campbell and Keira Streets.

The proposed development is at the limit maximises the site by building to the permitted height and floor space ratio.

Newer consents in the vicinity allow for high density mixed use buildings which will introduce a substantial residential population in this area. The cumulative impact of shadows cast by these existing consents and the proposed development has been considered.

The contextual study demonstrates the development is of a scale and form compatible with existing and potential development in the vicinity.

The land is located along existing bus routes into the city centre and has reasonable access to Wollongong and North Wollongong train stations.

Access, Transport and Traffic:

Roads and Maritime Services has advised they have no objection to the development. Council's traffic engineer has also advised the proposal is satisfactory and recommended conditions of consent.

Public Domain:

Landscaping works are proposed on Council's footpath, and satisfy the requirements of Council's Public Domain Technical Manual.

Utilities:

All utilities are available and conditions of consent are recommended regarding utility connection. Two landscaped padmounted substations will be located adjacent to the Keira Street driveway, as identified on the second floor plan.

Heritage:

No heritage items are located on the land. Council's heritage officer has considered the potential impact on heritage items in the immediate vicinity and concluded the development is acceptable. Conditions 85 and 86 require interpretation works reflecting the historic use of the site for a tramway crossing.

Other land resources:

Geotechnical conditions have been addressed and Council's geotechnical engineer has no objection to the proposed development. No adverse impact upon land resources is anticipated.

Water:

The site has previously been serviced by Sydney Water. It is expected that services will be provided to meet the requirements of the proposed development. Sydney Water approval would be required prior to construction. Conditions of consent are recommended.

Methods of reducing water consumption are addressed in the BASIX Certificate.

Soils:

The site is identified as contaminated, although remediation work has been undertaken as detailed in the site audit statement. Conditions of consent are recommended to finalise these works in accordance with construction environmental management plan and render the site suitable for residential use.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate. Wind effects have been considered and are satisfactory. Street tree planting is proposed on the footpath on all frontages. This vegetation is expected to increase pedestrian comfort at ground and lower podium levels.

Flora and Fauna:

There is no existing vegetation on the site and therefore no impacts upon flora or fauna are expected.

Waste:

A waste and recycling room is located on the ground floor of Tower B. Separate retail/business and residential waste rooms are proposed. All collection would occur by private contractor within the loading room on the lower ground level.

Energy:

The proposal is not expected to result unreasonable energy consumption. Methods to reduce energy consumption are detailed in the BASIX certificate.

Noise and vibration:

The proposal itself would result in noise and vibration impacts during construction, which could be mitigated through consent conditions. Following occupation, there is potential for noise impacts on nearby commercial and residential development emanating from the private open space areas and the communal outdoor terraces, however this is not considered significant.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposed development. The land is not located within a known flood risk precinct.

Technological hazards:

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

Safety, Security and Crime Prevention:

Council's community safety officer reviewed the application and recommended conditions of consent regarding graffiti management and controlled access. These form conditions 19, 20 and 94. Residential and retail functions are separated and it is expected that security access controls would be implemented in all pedestrian and vehicular areas. Passive surveillance of the surrounding street network is provided on the podium and upper residential levels.

Social Impact:

The proposal is not expected to result in adverse social impact. Council's minimum standards for housing diversity/unit mix and adaptable dwellings have been achieved. All dwellings exceed minimum sizes recommended in the Apartment Design Guide. The provision of additional housing stock in a CBD location accessible to public transport and social services is expected to contribute to the social and economic vitality of the city.

Economic Impact:

The proposal is not expected to result in adverse economic impact. The proposed building incorporates retail and residential floor space in the Wollongong City Centre, which is permitted in the B6 Enterprise Corridor zone. Increasing the residential population within the CBD is expected to strengthen the economic role of the city centre and contribute to future economic development.

Site Design and Internal Design:

Council's Design Review Panel identified several areas requiring refinement and these have been resolved. A contextual analysis has been provided which satisfactorily demonstrates the 'fit' of the building within the existing and potential streetscape.

All required on-site parking has been provided. Waste collection will occur in a loading dock. Residential and retail functions have been separated to allow for reduced conflict between residents and retail tenants. Impacts of road noise have been considered and materials required to achieve mandatory noise levels are specified in conditions of consent. A BASIX certificate has been provided and is satisfactory.

Construction:

Construction impacts are likely to be considerable given the location of the site and scale of the development. These impacts can be managed by conditions of consent relating to hours of work, protection of adjoining properties during excavation, impacts on public roads and sediment and erosion controls and traffic management.

Cumulative Impacts:

The proposed shop top housing development is permissible in the B6 Enterprise Corridor zone and satisfies the zone objectives. Impacts on nearby development have been considered and the proposal is not expected to unreasonably constrain future development. Improvements to the public domain are proposed. All required on-site parking is provided and no concerns have been identified by RMS regarding the capacity of the local road network. Proximity to the Flinders Street bus stops and Wollongong train station has the potential to increase public transport use.

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

Does the proposal fit in the locality?

The existing Flinders Street locality is predominantly retail, with larger concentrations of residential development heading east from Flinders Street. The site's proximity to Wollongong and North Wollongong train stations and Flinders Street would situate the proposed occupants within an established commercial precinct with considerable access to transport and facilities.

The proposed shop top housing development is a permissible use in the B6 Enterprise Corridor zone. Building height and floor space ratio comply with WLEP 2009.

Refinements identified by Council's Design Review Panel have been implemented.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal. A contextual analysis has been submitted which demonstrates the impact of the proposed development on the existing and potential streetscape.

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

The application was notified to neighbouring properties and local newspaper in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. The notification period was 18 May 2016-8 June 2016.

Five submissions have been received and include both objection and support. Matters raised are discussed in Table 1 below:

Table 1: Submission

Concern	Comment
<i>Author A</i>	
Parking is excessive for the inner CBD location	No surplus is provided. Parking satisfies the requirements of the ADG/RMS Guide to Traffic Generating Development, which applies to the residential component as it is less than WDCP 2009. The business/retail areas are subject to Chapter E3 of WDCP 2009 and parking is provided in accordance with these requirements.
Excessive mass and bulk	The four towers are considered to allow visual separation across the site and distances comply with the ADG. The height and FSR comply with WLEP 2009.
All new vegetation should be planted and maintained as a condition of consent. This includes the far side of surrounding streets and the vegetation on the buildings.	Street tree planting is proposed adjacent to the site and this is consistent with Council's Public Domain Technical Manual. Conditions of consent are recommended regarding implementation of proposed plantings.
Council has managed development of this site poorly and with a lack of transparency. Council is still readily 'gamed' by developers, [and] the opportunity as a landowner for a model process and outcome for the people of Wollongong has been missed.	Council is the owner of the land and has conducted public exhibition of the development application. Additionally, Council's assessment of the development application has been reviewed by an independent third party.
<i>Author B</i>	
Proposed traffic management: proposed left turn in heading south off Flinders Street and the median noted only on the drawing DA06 P2 and not noted anywhere in the traffic report.	The Bitzios report does not detail the proposed Flinders Street median. The October 2016 plans were prepared in response to Council and RMS comments finalised after the notification period.
The median would have a severe detrimental effect on our customers' ability to enter the premises.	The final proposed plans drafted October 20 show the Charlotte Street intersection would allow right turn heading south and left turn heading north.
Location of Flinders Street driveway is opposite Charlotte Street and [is] prohibited	The location of the driveway has been changed to provide a greater offset to

Concern	Comment
location of a driveway in accordance with AS2890.1:2004)	Charlotte Street (refer October 2016 site plan) in consultation with the RMS.
The Flinders Street ingress driveway provides a splayed arrangement over the eastern flinders Street footpath, which has the potential of increasing vehicular ingress speeds and reducing the safety of pedestrians.	The Flinders Street driveway has been altered in the October 2016 plans. RMS has reviewed the proposal and have no objection, subject to conditions of consent.
The plans show the median would result in the limitation of southbound carriageway to a single travel lane. This would not be favoured by RMS.	RMS have endorsed the Flinders Street median, subject to road widening occurring to offset the loss of lane width. The two lane southbound carriageway will be retained.
The proposed extent and design of the median is unclear.	The October 2016 site plan details the length and width of the median.
The Traffic Impact Assessment does not consider whether the median complies with relevant standards. It does not address the impact of the median on adjoining traffic safety and efficiency particularly the right turning restriction for traffic accessing Charlotte Street.	RMS has recommended conditions of consent regarding median construction. The driveway has now been offset to Charlotte Street to limit conflict.
The existing Flinders Street pavement width of approximately 13m is not capable of accommodating a median without pavement widening or reducing travel lanes. Widening the pavement would require acquisition.	Pavement widening is a condition of consent. The road is a classified road in state ownership, and widening has been required by RMS.
Limiting vehicle ingress from Flinders Street to left turn only would result in vehicles turning around at the roundabout at Throsby Drive/Campbell Street and then heading north, merging from the southbound median lane to the kerb-side lane whilst decelerating to enter the site.	RMS does not support right turn heading north into the Flinders Street driveway.
The safety of this site would be significantly improved by relocating the driveway further to the south.	Noted – this has occurred.
Alternative routes for vehicles travelling south wishing to enter Charlotte Street are significantly circuitous and would result in additional travel distances and local road impacts.	Vehicle access south into Charlotte Street would be maintained. No alternative route would be required.
Author C	
The height of the buildings is not supported. The majority of the surrounding buildings are RL30.00 or less. The proposed development height is RL40.00. This is significantly taller than any of the surrounding buildings and the new buildings will be unsightly and block views from existing residents in the area. Please consider reducing the height to fit into the landscape with a new maximum building height of RL30.00.	The towers would have an impact on current available views through the site, however the height complies with the maximum set for the site in WLEP 2009. It is reasonable to expect that a proposal would maximise development of the site and in this case the development complies with the relevant height standard. There is no justification for lowering the height of the buildings.
There is never enough consideration placed on visitor or residential car parking in unit	Car parking is provided at the applicable rate set by the ADG (for the residential apartments)

Concern	Comment
developments. Smith Street and the surrounding area are full of cars from residents, visitors, local workers and shoppers. It would be realistic for one car parking space per one and two bedroom unit and two spaces per three bedroom units, making a total of 247 spaces which is an additional 13 spaces.	and WDCP 2009 (for business/retail areas). Resident and visitor parking areas are identified within the parking levels.
Australia already has an oversupply of units in the order of 70,000 according to JP Morgan. Wollongong does not need another 221 unit complex. Please consider reducing the height of the buildings and therefore reduce the number of units along with allowing adequate car parking spaces.	The height and yield are within the limits set by WLEP 2009.
<i>Author D</i>	
...such a landmark site warrants a substantial and significant development, and support Council's long-standing plan to see this site developed with an iconic building. In that sense, I have no concerns with the general scale and presentation of these buildings.	Noted.
...whether the supply will exceed demand to the point that a glut of vacant apartments will result, with all of the attendant management issues that will arise. ... I hope that Council can satisfy itself that there is sufficient anticipated demand to warrant such a proposal.	Council has responsibilities regarding development applications as set out in the Environmental Planning and Assessment Act, 1979. Council has no specific requirement to assess supply and demand matters when assessing development applications. Development in accordance with relevant environmental planning policies constitutes orderly and economic development which is an objective of the Act.
I am concerned about the capacity of the local road network to sustain an increase in traffic Campbell Street already suffers from considerable peak hour congestion, and the applicant's traffic report makes it clear that the network will not sustain the increase in traffic that will result. Will it require traffic lights at Campbell and Keira Streets? What will this mean for congestion in Campbell Street and will it impact access to our driveway? I hope Council will consider on-street parking restrictions in Campbell Street to ease flows and improve sight lines.	Impacts on the local road network have been considered. The RMS and Council's traffic engineer have reviewed the development and have no objection subject to conditions. Traffic lights at Campbell and Keira Street are not proposed.
I have been trying to imagine 221 garbage bins on Keira Street. I trust that Council will ensure a more appropriate proposal for garbage disposal.	All waste collection will occur on the ground floor of Tower B. No bins will be permitted to be placed on the street. Tenants will not have individual bins.
...the site demands a suitable off-site landscaping plan along the adjoining streets.	Council's Public Domain Technical Manual establishes street tree planting criteria for implementation of a site by site basis as part of the development application process.
The ground floor tenancies are shown as	The SEE refers to the development as 'shop

Concern	Comment
'commercial', whilst the development description is 'shop-top housing'. It is appropriate for Council to seek closer definition of who the tenants might be. We would be pleased to see shops, retail and maybe restaurants, but not offices and uses that contribute little to local street life.	top housing'. A condition of consent is recommended requiring operation of the non-residential areas in accordance with this definition.
I trust Council will impose conditions to ensure work on the buildings only occurs during reasonable hours.	Standard conditions are recommended.
<i>Author E</i>	
We support this proposal, subject to Council being satisfied that the setbacks are acceptable and the Design Review Panel is satisfied with the design.	Both setbacks and DRP are satisfied.

Submissions from public authorities

RMS and Endeavour Energy, which are discussed above.

2.10 SECTION 79C 1(E) THE PUBLIC INTEREST

Having regard to matters discussed earlier in this report and as required by Section 79C of the Environmental Planning and Assessment Act, approval of the proposal in its current form is consistent with the public interest.

Council's Design Review Panel has assessed the development on three occasions, and suggested design changes to improve the function and appearance of the building. Their final comments form Attachment 4. Matters raised have been satisfactorily resolved in the revised proposal submitted to Council in October 2016.

Community consultation has been undertaken in accordance with the legislation and matters raised in the submission have been thoroughly considered.

3. CONCLUSION

This application has been assessed having regard to Section 79C(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 (WLEP 2009), relevant applicable State Environmental Planning Policies, and Council Development Control Plans and policies.

The proposed development has appropriate regard to the objectives of the B6 Enterprise Corridor zone and is permissible with Council's consent. The proposal complies with the essential criteria and intent of the relevant controls Council's Design Review Panel identified matters which in their opinion should be addressed in order to achieve design excellence, and these matters have been resolved.

The proposed development has been designed appropriately given the constraints and characteristics of the site, and is consistent with the existing and desired future character of the area. The submissions have been considered and the development is unlikely to result in significant adverse impacts on the amenity of the surrounding area.

4. RECOMMENDATION

It is recommended that the proposed development be approved subject to the draft conditions of consent detailed in Attachment 6.

ATTACHMENTS

1. Aerial Photograph
2. Zoning Map Wollongong Local Environmental Plan 2009
3. Proposed plans
4. Design Review Panel comments
5. Compliance table
6. Draft conditions of consent
7. Peer review of Council's assessment