

JOINT REGIONAL PLANNING PANEL (Southern)

JRPP No	2016STH020
DA Number	DA-2016/1061
Local Government Area	Wollongong
Proposed Development	<p>Mixed use - Proposed demolition of all structures and construction of a sixteen (16) level mixed use development containing four (4) basement parking levels. The development will comprise:</p> <ul style="list-style-type: none"> - forty six (46) residential apartments (at levels 7-16); - eighty seven (87) hotel rooms (at levels 1-6) and associated restaurant and conference room on the upper ground level; and - 3 food and drink premises at the street level fronting Belmore Street and 1 food and drink premises (in addition to the Hotel restaurant) at street level fronting Young Streets. <p><i>Note: Initial design has been revised following ongoing DRP consideration. Initial proposal included 17 levels, 2 levels above ground parking, 3 levels basement. Residential at levels 9-17.</i></p>
Street Address	28-32 Young Street and 29-31 Belmore Street Wollongong
Applicant/Owner	Gear Up Properties Pty Ltd
Number of Submissions	Three (two objections, one support)
Regional Development Criteria (Schedule 4A of the Act)	Joint Regional Planning Panel (JRPP) due to cost of construction exceeding \$20 Million in accordance with Clause 3, Schedule 4A Environmental Planning & Assessment Act 1979. Applicant CIV estimate \$43.7M.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s79C(1)(a)(i) <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> - SEPP No. 55 – Remediation of Land - SEPP 65—Design Quality of Residential Apartment Development - SEPP (Building Sustainability Index: BASIX) 2004 - SEPP (State and Regional Development) 2011 - SEPP (Infrastructure) 2007 <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> - Wollongong Local Environmental Plan (WLEP) 2009 <p><u>Other policies</u></p> <ul style="list-style-type: none"> - NSW Apartment Design Guide - Wollongong Section 94A Development Contributions Plan 2016 <ul style="list-style-type: none"> • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)

	<ul style="list-style-type: none"> - draft SEPP (Coastal Management) 2016 • List any relevant development control plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> - Wollongong Development Control Plan 2009 (DCP2009) • List any 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: s79C(1)(a)(iv) <ul style="list-style-type: none"> - No relevant planning agreement. • List any coastal zone management plan: s79C(1)(a)(v) <p>There is no Coastal Zone Management Plan currently applicable to the land</p> • List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A <ul style="list-style-type: none"> - Clause 92: Demolition of all existing structures proposed. Conditions of consent recommended in terms of demolition. - Clause 93 and 94: N/A
Recommendation	That the proposal is approved subject to conditions
Report by	David Fitzgibbon, Senior Development Project Officer

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 summarized, 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? **Yes**

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 proposal has been referred to Joint Regional Planning Panel (JRPP) due to cost of construction exceeding \$20M Clause 3, Schedule 4A Environmental Planning & Assessment Act 1979. Applicant Capital Investment Value estimate is \$43.7M.

Proposal

Demolition of all structures and construction of a sixteen (16) level mixed use development containing four (4) basement parking levels. The development will comprise:

- forty six (46) residential apartments (at levels 7-16);
- eighty seven (87) hotel rooms and associated restaurants and conference room (at levels 2-6) with studio units proposed on level 1; and

3 food and drink premises at the street level fronting Belmore Street and 2 food and drink premises at street level fronting Young Streets.

Note: The applicant's initial design has been revised during the assessment following ongoing Design Review Panel (DRP) consideration. The initial proposal included 17 levels, 2 levels above ground parking, 3 levels basement. Residential previously levels 9-17.

Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan, 2009 (LEP2009). The proposal is categorised as a mixed use development, incorporating a range of uses defined as shop top housing, food and drink premises and hotel and motel accommodation. All proposed components of the development are permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council's Notification Policy. Three public submissions were received (two objections, one support) which are discussed at section 2.9 of the assessment report.

Main Issues

The main issues relate to design. The application was considered by Council's Design Review Panel (DRP) on three occasions. Initially the applicant proposed 5 levels of car parking which included 2 levels above grade. Council and the DRP did not support the above grade parking. The gross floor area calculations initially made by the applicant excluded enclosed corridors and circulation spaces. This exclusion was not supported by Council or the DRP as the areas were considered to contribute to the visual bulk of the building "to the equivalent of" that space that would be gross floor area therefore it was considered the objectives of the standard would not be met. A number of other specific design aspects were also raised during the DRP process which are discussed in detail at Section 3.1.3 of this report. These issues were resolved during the assessment to the satisfaction of Council and the DRP through revisions made by the applicant. The plans provided at **Attachment 1** reflect the final resolved design the subject of this assessment.

RECOMMENDATION

It is recommended that proposal is approved with conditions.

1 APPLICATION OVERVIEW

1.2 PLANNING CONTROLS

State Environmental Planning Policies (SEPPs):

- SEPP No. 55 – Remediation of Land
- SEPP 65—Design Quality of Residential Apartment Development
- State Environmental Planning Policy No. 71 – Coastal Protection
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (State and Regional Development) 2011
- SEPP (Infrastructure) 2007

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- NSW Apartment Design Guide
- Wollongong Section 94A Development Contributions Plan 2016

1.3 PROPOSAL

The proposal comprises the following:

Site preparation

- The applicant proposes demolition of all existing structures on site, which includes a single storey residential dwelling fronting 29-31 Belmore Street and existing two storey commercial building fronting 30-32 Young Street. The majority of the remainder of the site is currently used as private car parking.
- The proposal would require removal of 5 existing trees (two fronting Belmore Street and three fronting Young Street) shown on the submitted Demolition and Site Management Plan.
- Earthworks. Excavation is required to provide for the proposed development foundations and 4 levels of basement car parking.

Proposed building

Proposed construction of a 16 level mixed use building containing four (4) basement parking levels. The development will comprise:

- forty six (46) residential apartments (at levels 7-16);
- eighty seven (87) hotel rooms (at levels 1-6) and associated restaurant and conference room on the upper ground level; and
- 3 food and drink premises at the street level fronting Belmore Street and 1 food and drink premises (in addition to the Hotel restaurant) at street level fronting Young Streets.

Note: Initial design has been revised following ongoing DRP consideration. Initial proposal included 17 levels, 2 levels above ground parking, 3 levels basement. Residential previously levels 9-17.

Traffic, parking and servicing

- The proposed is proposed to be accessed via a single driveway off Belmore Street (south western corner of the building).
- The applicant proposes the following car, motorbike and bicycle parking:

Hotel and Business

- 113 car parking spaces (including 3 disabled car parking spaces)
- 6 motorbike parking spaces
- 3 bicycle spaces

Residential

- 39 residential car parking spaces (metropolitan sub-regional centre rate) including 5 spaces capable of adaption for people with disabilities
- 10 visitor car parking spaces
- 3 motorbike parking spaces
- 16 secure residential bicycle spaces
- 4 visitor bicycle spaces.

1.4 BACKGROUND

Detailed development background is provided at **Attachment 6**. Most relevant previous approvals for the site include:

- DA-1990/176 which was approved on 5th June 1990 for alterations and additions to the existing commercial building on the site at 30-32 Young Street.
- DA-2012/756 approved on 27 September 2012 to allow temporary use at 28 Young Street for commercial car parking.

Customer service actions

There are no outstanding customer service requests that would preclude the development.

1.5 SITE DESCRIPTION

The site is located at 28-32 Young St and 29-31 Belmore St and the title reference is:

- Lot 38 Sec 5 DP 1258 (32 Young Street)
- Lot 39 Sec 5 DP 1258 (30 Young Street)
- Lot A DP 358466 (29-31 Belmore Street)
- Lot B DP 358466 (28 Young Street)

A single storey dwelling currently fronts 29-31 Belmore Street.

Existing two storey commercial building fronts 30-32 Young Street, which is currently occupied by Verekers Lawyers. Alterations and additions to the building were made following approval on 5 June 1990 (DA-1990/176). Car parking for this existing building is located at the rear and accessed via Belmore Street.

28 Young Street is currently used as a temporary commercial carpark (approved 27 September 2012 – DA-2012/756).

The total site area is 1825m² (the applicant has submitted a survey with the application).

Existing site photos and aerial photo are provided at **Attachment 2**.

Property constraints

- Council records identify the land as being impacted by Class 5 acid sulphate soils.
- A 3 foot wide easement for drainage is located along the northern boundary of Lot A DP 358466 for the benefit of Lot B DP 358466.
- Council records identify the land as being located within the Coastal zone. However, the site is not affected by any identified coastal hazards.

There are no other restrictions on the title that would prevent the proposal.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application and has provided a satisfactory referral. Conditions of consent were recommended and are included in the recommended consent.

Stormwater Engineer

Council's Stormwater Officer has reviewed the application and given a satisfactory referral. Conditions of consent were recommended and are included in the recommended consent.

Landscape Architect

Council's Landscape Officer has reviewed the application and given a satisfactory referral. Conditions of consent were recommended and are included in the recommended consent.

Traffic Engineer

Council's Traffic Officer has reviewed the application and given a satisfactory referral. Conditions of consent were recommended and are included in the recommended consent.

Environment Officer

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

Health Inspector

Council's Health Officer has reviewed the application and given a satisfactory referral. Conditions of consent were recommended and are included in the recommended consent.

Safer Community Action Team (SCAT) Officer

Council's SCAT Officer has reviewed the application and given a satisfactory referral. A number of recommendations were made which have been addressed during the assessment or can be conditioned.

1.6.2 EXTERNAL CONSULTATION

Design Review Panel

The DRP considered the application on three occasions (15 September 2016, 13 December 2016 and 28 February 2017). Following each DRP meeting, the applicant redesigned the development in response to matters raised by the Panel. At the 28 February 2017 meeting the DRP concluded that the scheme is now well resolved and requested some minor amendments which Council considers were made by the applicant in the final set of plans provided at **Attachment 1**. The DRP meeting notes and recommendations are provided at **Attachment 4**

No public authority submissions received.

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</i>	See section 2.2

<i>indefinitely or has not been approved), and</i>	
<i>(iii) any development control plan, and</i>	See section 2.3
<i>(iia) 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
<i>(iv) 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
<i>(v) 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>	
<i>(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	See section 2.7
<i>(c) the suitability of the site for the development,</i>	See section 2.8
<i>(d) any submissions made in accordance with this Act or the regulations,</i>	See section 2.9
<i>(e) 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 POLICIES

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

7 Contamination and remediation to be considered in determining development application

Council records do not identify the site as contaminated. However, the applicant also submitted a Preliminary Site Investigation, prepared by Fyfe Pty Ltd, dated 13 April 2016. Council's Environment Officer reviewed the preliminary site investigation and provided a satisfactory referral subject to conditions. This includes the need for an unexpected finds protocol be included as part of the site management plan during earthworks, particularly during excavation and re-use of the material, detailing the process by which any unexpected finds of potential environmental concern will be managed. A copy of the protocol must be submitted to PCA. Contamination and ongoing site management via conditions of consent have been adequately considered as relates to the intended use of the land and the requirements of clause 7.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

SEPP 65 aims to deliver a better living environment for the residents within residential apartment developments and enhance the streetscapes and neighbourhoods in which these buildings are located.

Changes to SEPP65 commenced on 17 July 2015. The key changes included amendments to the aims of the policy, updated definitions, the establishment of the Apartment Design Guide (ADG) and amendments to the relationship between the ADG and council DCP's, amendments to Clause 30A (now clause 30) and how it works and updated design quality principles (addressed below).

A key change to SEPP 65 in 2015 was the introduction of Clause 6A, which states the following:

6A Development control plans cannot be inconsistent with Apartment Design Guide

(1) This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:

- (a) visual privacy,
 - (b) solar and daylight access,
 - (c) common circulation and spaces,
 - (d) apartment size and layout,
 - (e) ceiling heights,
 - (f) private open space and balconies,
 - (g) natural ventilation,
 - (h) storage.
- (2) If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.
- (3) This clause applies regardless of when the development control plan was made

This clarifies that only one policy applies across the State for these key design issues. Where there is an inconsistency with the DCP controls, the provisions of the ADG prevail.

The development meets the definition of a 'residential flat building' because it is more than 3 storeys and comprises more than 4 dwellings. As such, the provisions of SEPP 65 apply.

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 Wollongong City Council Design Review Panel (DRP) established under State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development has considered the proposal on three occasions and concluded that the scheme is now well resolved subject to minor amendments.

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development. These must be considered in the assessment of the proposal pursuant to clause 30(2)(a) of the Policy and are discussed below. The DRP advice where relevant is also summarised below:

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.

The proposal is considered to be consistent with the desired future character of the commercial core of the Wollongong City Centre identified through the development standards and controls applicable to the land. The DRP considers that the proposal is a well resolved scheme. The DRP also noted that previous advice has been heeded providing a good outcome.

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.

Whilst the development is significantly larger than adjoining developments and some others in the locality, the bulk and scale of the development is consistent with the applicable planning controls for the area and the detailed design objectives and design criteria of the ADG. The development is not

considered to be out of context with regard to the desired future character of the Commercial Core of the Wollongong City Centre area and the likely impacts of the development on the locality and adjoining development.

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

The DRP advised that the built form and scale is acceptable.

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

The DRP advised that the density proposed is acceptable.

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

BASIX Certificates provided indicating minimum requirements are met.

An acceptable Site Waste Management and Minimisation Plan has been provided.

The proposal does not impact on any heritage items or environmentally sensitive areas.

The proposal is an efficient use of land in a city centre location that is close to services and public transport.

The DRP advised that sustainability is acceptable.

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.

The proposal provides suitable landscaped areas and separate communal open space for both the proposed hotel users and proposed residents that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain.

The DRP advised that landscaping is acceptable.

Council's landscape officer has considered the proposal as satisfactory subject to conditions of any consent, including the need for a final landscape plan prior to release of construction certificate and

the developer provision of footpath paving and street trees on both frontages in accordance with the Wollongong City Council 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 proposal meets the minimum requirements for solar access, ventilation, private and communal open space, storage, visual and acoustic privacy, access and the like.

The DRP advised that the universal access on the ground floor was considered a bit tortured and a scissor lift was recommended for disabled access adjacent to the fire stair. In response the applicant made amendment to the upper ground floor to include a compliant disabled platform lift to access the conference room, which is considered acceptable.

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.

The proposal is satisfactory with regard to safety and security. The DRP advised that safety is acceptable.

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 residential component of the proposal provides a mix of unit sizes and layouts appropriate to the locality, being 1, 2 and 3 bedroom, 6 adaptable units proposed (13%), and 3 bedroom units proposed on top two levels.

The DRP advised that housing diversity and social interaction is acceptable.

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

The DRP suggest at their meeting of 17 February 2017 that the rear elevation louvres be removed and this level made consistent with the levels above. Following the meeting the applicant amended the rear elevation to remove the louvres on Level 1 making the level consistent with the levels above. In addition, infill to Level 2 void area adjacent to hotel courtyard wall blades is applied for use as open decks. These amendments are considered acceptable and are included in the plan set at **Attachment 1**.

A detailed assessment of the application against the Apartment Design Guide (ADG) is contained in **Attachment 3**.

2.1.4 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) Wollongong Local Environmental Plan, 2009.

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

SEPP BASIX applies to the development.

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

2.1.6 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 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure across the state.

Clause 101 "Development with frontage to classified road"

The proposed development fronts Belmore and Young Streets and obtains vehicular and pedestrian access from these streets. Belmore and Young Streets are not identified as 'classified roads' in accordance with the RTA's latest Schedule of Classified Roads and Unclassified Regional Roads. Therefore the provisions of this clause are not applicable.

Clause 102 'Impact of road noise or vibration on non-road development' does not apply as neither Street is a classified road and the traffic volumes do not have an annual average daily traffic volume of more than 40,000 vehicles (according to the 'Traffic Volume Maps for Noise Assessment for Building on Land Adjacent to Busy Roads' produced by the RMS).

Clause 104 'Traffic Generating development' refers to certain development of a certain size or capacity that requires referral to the RTA as specified in Column 1 of the Table to Schedule 3 As the proposal does not have direct vehicular access to a classified road (or a road that connects to a classified road) and the development does not contain more than 300 dwellings, more than 200 parking spaces, or more than 2000m² of shops, referral to the RMS is not required under this clause.

2.1.8 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B3 Commercial Core.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.

To encourage appropriate employment opportunities in accessible locations.

To maximise public transport patronage and encourage walking and cycling.

To strengthen the role of the Wollongong city centre as the regional business, retail and cultural centre of the Illawarra region.

To provide for high density residential development within a mixed use development if it:

(a) is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and

(b) contributes to the vitality of the Wollongong city centre

The proposal is satisfactory with regard to the above objectives. A range of uses including hotel accommodation, restaurant, conference facilities and residential units will provide for employment opportunity, contribute to entertainment and provide high density residential development within the city centre with access to public transport, retail and commercial services.

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

Advertising structures; Amusement centres; Boarding houses; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Helipads; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Self-storage units; Seniors housing; Service stations; Sex services premises; Shop top housing; Tourist and visitor accommodation; Veterinary hospitals; Wholesale supplies.

The proposal is categorised as a mixed use development, incorporating a range of uses. These uses include :

- **Five Food and Drink Premises** (3 located on the lower ground floor accessible from Belmore Street and 2 located on the upper ground floor accessible from Young Street). One of the Food and Drink Premises accessible from Young Street is specifically proposed as a restaurant.
- **Hotel accommodation** and associated conference room (conference room and Hotel foyer located on the upper ground floor and Hotel accommodation at levels 1 – 6)
- **Shop top housing** (levels 7 – 16)

The proposed uses are all considered permissible with consent the zone. The relevant LEP2009 definition of each proposed use is described below.

Clause 1.4 Definitions

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

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

*Note. Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.*

hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:

- (a) comprises rooms or self-contained suites, and
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note. Hotel or motel accommodation is a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.

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.

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.

Clause 2.7 Demolition requires development consent

The applicant is seeking consent for demolition of all existing structures on site consistent with the requirement of Clause 2.7.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed building height of 57.8m does not exceed the maximum of 60m permitted for the site.

Clause 4.4 Floor space ratio

Clause 4.4A applies to the site as the site is located within the B3 Commercial Core Zone within the Wollongong City Centre. Clause 4.4A is considered below.

Clause 4.4A Floor space ratio – Wollongong city centre

The Floor Space Ratio (FSR) provisions of Clause 4.4A apply to the subject site as the clause applies to development within the Wollongong city centre within the B3 Commercial Core Zone. Due to the site area of 1825m and site frontage of 40.23m a formula approach is adopted to determine the permitted FSR. The formula factors in the proportion of non-residential and residential gross floor area.

The permissible FSR allowable for the site under Clause 4.4A is **4.65:1**.

The applicant proposed FSR is **4.65:1**

The detailed formula and calculation of permitted and proposed FSR is provided as part of the detailed assessment at **Attachment 3**.

Part 5 Miscellaneous provisions

Clause 5.5 Development within the coastal zone

The land is located within the coastal zone. However, the land is not identified as being impacted by coastal hazards and there are not expected to be any adverse impacts on the coastal environment as a result of the application.

Clause 5.9 Preservation of Trees or Vegetation

Arborist report submitted regarding proposed removal of 5 trees on site. The application has been considered by Council's Landscape officer. A satisfactory referral has been provided subject to conditions. Conditions are included in **Attachment 5**.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

It is recommended a condition be imposed upon development consent requiring approval from the relevant authorities for the connection of electricity, water and sewage to service the site.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by Class 5 acid sulphate soils (ASS). As the site is located within 200m of the nearest Class 1-4 ASS the applicant submitted a desk top ASS assessment with the development application, prepared by Environmental Investigation Services. Council's Environment Officer has considered the application and is satisfied that no concerns regarding potential ASS have been raised and no additional information was required as part of the DA process. Council's environment officer also considered the preliminary site assessment report submitted with the DA which was prepared by Fyfe Environmental Consultants. Conditions of consent have been recommended including the need for an unexpected finds protocol and construction environmental management plan.

Clause 7.6 Earthworks

The proposal comprises excavation to allow for the 4 levels of basement carparking. Council's Geotechnical Engineer has considered the application and geotechnical report prepared by JK Geotechnics, dated 27 January 2016. A satisfactory referral has been provided subject to conditions which includes the requirement for a detailed geotechnical investigation for the design of site earthworks including preparation of an earthworks plan and that no disturbance of ground is to occur beyond site boundaries and that retaining wall design is not to include anchors extending on to adjoining property without the written consent of the adjoining property owner. Detailed conditions are provided at **Attachment 5**.

Clause 7.13 Ground floor development on land within business zones

The proposal provides active uses at the ground floor level on both street frontages (Belmore and Young Street) in accordance with this control.

Clause 7.18 Design excellence in Wollongong city centre and at key sites

The DRP has considered the proposal on three occasions including this clause. At the 28 February 2017 meeting the DRP concluded that the scheme is now well resolved. Specifically in regard to Clause 7.18 (4) the DRP made the following comments:

(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 - **Yes***

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

*(c) whether the proposed development detrimentally impacts on view corridor – **View corridors are well considered***

*(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map – **Not applicable to the proposal site***

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

- (i) *the suitability of the land for development* - **Yes**
- (ii) *existing and proposed uses and use mix* – **Good mix of uses**
- (iii) *heritage issues and streetscape constraint* - **Slope and contextual constraints well handled**
- (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* - **Tower, setbacks and building separation are well considered and positioned for existing and future context. The articulation of the tower into clearly defined hotel and residential components is now very well resolved.**
- (v) *bulk, massing and modulation of buildings* – **Well considered**
- (vi) *street frontage heights* - **Good**
- (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity* - **Good**
- (viii) *the achievement of the principles of ecologically sustainable development* - **Good**
- (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements* – **Acceptable**
- (x) *impact on, and any proposed improvements to, the public domain* – **No adverse impacts**

The DRP meeting notes and recommendations are provided at **Attachment 4**.
It is considered that the proposal exhibits design excellence.

Part 8 Local provisions—Wollongong city centre

Clause 8.1 Objectives for development in Wollongong city centre

The proposal is considered consistent with the objectives of the city centre as it would in particular provide employment and residential opportunities, including provision of housing choice while also meeting the design standard expected for a regional city which has been established through the DRP process.

Clause 8.2 Wollongong city centre – land to which this Part applies

Part 8 of the LEP applies to the site as the site is located within the Wollongong City Centre as shown on the Wollongong City Centre map.

Clause 8.4 Minimum building street frontage

Clause 8.2(2) requires that *Development consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres or more on land within Zone B3 Commercial Core, B4 Mixed Use or B6 Enterprise Corridor*. The site street frontage to Belmore and Young Street of 40.23m meets this minimum requirement.

Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use

The objective of Clause 8.6 is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access. Visual privacy is also considered under Criteria 3F of the ADG which is considered in detail at **Attachment 3** of this report. The separation distances required by Clause 8.6 are considered to be met for the proposed development. The specific sub clauses are considered as follows:

Clause 8.6(2) requires that buildings on land within Zone B3 Commercial Core be erected so that:

- (a) *there is **no separation** between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and*

Sub clause (a) applies to the Lower ground level up to level 5 of the proposed building as the site within 24m above ground level. The building complies as no separation is proposed at these levels.

- (b) *there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and*

Level 6 communal open space complies as greater than 12m separation.

- (c) *there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.*

Levels 13 – 16 are above 45m in height. Levels 13-16 of the proposed tower is setback 12.13m from the northern boundary and 12.14 from the southern boundary. The applicant provided a detailed consideration in response to the clause demonstrating compliance, which is summarised as follows:

- There are no adjacent buildings at this height. The opportunity for adjacent building at this height is restricted.
- No.26 Young Street adjoining the site to the north, is a single storey commercial/light industrial building (car wash facility) which does not contain any dwellings. Subclauses 2(b), 2(c) and 3(b) do apply. No 26 has a site width of just over 10m.
- No. 24 Young Street (two lots to the north). There have been a number of previous approvals for the site. The most recent approval of 17 March 2014 (DA-2012/1308) provided approval for a four storey commercial building. The DA is yet to be acted on.
- No.36-40 Young Street (adjoining the site to south) contains two separate commercial buildings. There is zero setback between the those two buildings. DA-2014/1576 was approved on 18 February 2015) for strata subdivision of this site into two commercial allotments. One of the two buildings at 36-40 Young Street adjoining the proposal subject site on its southern boundary and is within 12 to 20 metres of the proposed building.

As outlined above all habitable parts of the proposed residential dwellings at Levels 7 through to 12 of the proposal must not be less than 12 metres from this adjacent building to the south and Levels 13 to 16 must be at least 28m from any other building. As a commercial building recently subdivided directly adjoining the proposal site there are no adjacent residences at Levels 7 and above in this position of the site and therefore there is no interface with the proposed building at such levels. Therefore the provisions of this clause, when considering the existing development to the south is met.

(3) Despite subclause (2), if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than:

- (a) 20 metres from any habitable part of a dwelling contained in any other building, and*
- (b) 16 metres from any other part of any other building*

- As discussed above No.26 Young Street adjoining the site to the north, is a single storey commercial/light industrial building (car wash facility) which does not contain any dwellings. Subclause 3(a) therefore do not apply,
- No.36-40 Young Street (adjoining the site to south) contains two separate commercial buildings. One of the two buildings at 36-40 Young Street is within 12 to 20 metres of the proposal building. This is a two storey commercial building extending almost the full width of the site, which does not contain any dwellings. The provisions of subclause 3(a) therefore do not apply in this regard.

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

A draft State Environmental Planning Policy (Coastal Management) 2016 and associated maps was open for public consultation during November 2016 (exhibition ended 23 December 2016). Submissions are now also being accepted until 20 January 2017. The exhibition also included a draft section 117 Ministerial direction and a draft Standard Instrument (Local Environmental Plans) Amendment (Coastal Management) Order.

The draft Coastal Management SEPP, accompanying documents and map viewer, factsheets and community information session details can all be accessed at: www.planning.nsw.gov.au/CoastalReform.

The real impact relates to certain development controls/ permissibility within the management zones of the maps and relationship to future changes to the standard instrument clause 5.5.

The draft maps identified the site as being within the Coastal Use Area Map only. Clause 15 of the draft SEPP details requirements for development within the coastal use area as follows:

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

(a) is satisfied that the proposed development:

(i) if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and

(ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and

(iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and

(iv) will not adversely impact on Aboriginal cultural heritage and places, and

(v) will not adversely impact on use of the surf zone, and

(b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.

The proposal is satisfactory with regard to these requirements.

In terms of coastal zone management and planning SEPP71 remains applicable and provides the framework for assessing development.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009 and found to be Satisfactory. The full table of compliance can be found at **Attachment 3** to this report. There are no variations sought.

2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2015)

The estimated cost of works is >\$100,000 (\$43,700,000) and a levy of 1% is applicable under this plan as the threshold value is \$100,000. An additional 1% levy is applicable as the site is located within the city centre.

2.4 SECTION 79C1(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 93F, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPMENT HAS OFFERED TO ENTER INTO UNDER SECTION 93F

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

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

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

(1) For the purposes of section 79C (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:

(a) in the case of a development application for the carrying out of development:

(i) in a local government area referred to in the Table to this clause, and

(ii) on land to which the Government Coastal Policy applies,

the provisions of that Policy,

(b) in the case of a development application for the demolition of a building, the provisions of AS 2601.

Condition(s) of consent are recommended with regard to any demolition.

The site is located within the Coastal Zone however this policy only applies in the Illawarra to the offshore component of the coastal zone, extending three nautical miles seaward from the open coast high water mark.

93 Fire safety and other considerations

Not applicable.

94 Consent authority may require buildings to be upgraded

Not applicable.

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

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

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

The proposal has been assessed as satisfactory with regard to the applicable planning controls. Three submissions were received following notification. The issues raised in submissions would not preclude the development. All internal referrals are satisfactory. No external referrals were required. The proposal is considered to be acceptable in regard to the likely impacts.

Context and Setting:

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

Access, Transport and Traffic:

The development is considered to not result in an adverse impact on the traffic movement and access from the site. Adequate parking is proposed. Public transport is available within close proximity.

Public Domain:

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

Utilities:

It is recommended a condition be imposed upon development consent requiring approval from the relevant authorities for the connection of electricity, water and sewage to service the site.

Heritage:

No heritage items will be impacted by the proposal.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water, which the applicant claims can be readily extended to meet the requirements of the proposed development. It is recommended a condition be imposed upon development consent requiring approval from the relevant authority (Sydney Water) for the connection of water and sewage to service the site.

Soils:

Council records identify the land as being impacted by acid sulphate soils. A preliminary site investigation report was also submitted with the DA. Council's Environmental officer considers the proposal to be satisfactory subject to conditions. The draft conditions at **Attachment 5** also include the need for sediment and erosion control measures to be in place during works.

Air and Microclimate:

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

Flora and Fauna:

Arborist report submitted regarding proposed removal of 5 trees on site. The application has been considered by Council's Landscape officer. A satisfactory referral has been provided subject to conditions.

Waste:

A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

A condition will be attached to any consent granted that nuisance be minimised during any construction, demolition, or works.

Natural hazards:

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

Technological hazards:

Council records list the site as acid sulphate soil affected. Council's Environmental officer considers the proposal to be satisfactory subject to conditions.

Safety, Security and Crime Prevention:

This application with inclusion of the conditions recommended does not result in any opportunities for criminal or antisocial behaviour.

Social Impact:

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

Economic Impact:

The proposal is not expected to create any negative economic impact.

Site Design and Internal Design:

The application does not result in any departures from development standards or Council's development control plans as outlined above. The design is satisfactory in regarding to the requirements of the ADG and had demonstrated design excellence which has been confirmed through Council's Design Review Panel.

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

Construction:

Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

Cumulative Impacts:

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

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

Does the proposal fit in the locality?

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

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. Three submissions were received and the issues identified are discussed below.

Concern	Comment
1. Request for open space at street level.	The applicant has submitted a concept landscape plan that has been considered acceptable by the DRP and Council's landscape officer. Conditions of consent have been recommended to ensure appropriate street trees and footpath paving is provided in accordance with Council's City Centre Public Domain Technical Manual
2. Request for public open space in the north west of the Wollongong CBD.	The general request for public open space in the north west of the Wollongong CBD is considered to be a broader strategic consideration beyond the reasonable consideration of this development application.
3. Concern regarding demolition and construction management (dust) impacts on adjoining car wash business on Young Street. Request for strict management conditions to ensure car wash not impacted.	Air quality, dust generation impacts have been considered in the assessment of the proposal. Council's environment officer has recommended conditions of consent including the requirement of a Construction Environmental Management Plan to be prepared by the developer and specific dust suppression measures required during construction. Specific conditions of consent recommended are provided at Attachment 5 .

Submissions from public authorities

No submissions were received from public authorities.

2.10 SECTION 79C 1(E) THE PUBLIC INTEREST

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

3. CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies. The proposed development has appropriate regard to the objectives of the B3 zone and is permissible with Council's consent. The development does not involve a departure to a development standard under Wollongong Local Environmental Plan 2009 or variation to WDCP2009. The proposal is consistent with the Design Quality Principles under SEPP 65, and generally complies with the design criteria and objectives of the Apartment Design Guide and the DRP concluded that the scheme is now well 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 development application be approved subject to appropriate conditions provided at **Attachment 5**.

5. ATTACHMENTS

- 1 Plans
- 2 Aerial photograph and WLEP 2009 zoning map and existing site photos
- 3 Apartment Design Guide and Wollongong DCP 2009 Assessment
- 4 Design Review Panel Notes
- 5 Recommended conditions
- 6 Site Development Background