

JRPP No	<b>2016STH027</b>
DA Number	DA-2016/1355
Local Government Area	Wollongong
Proposed Development	Demolition of existing dwellings and the construction of a new day surgery facility consisting of six (6) floors and 5 levels of basement car parking.
Street Address	1-3 Urunga Parade, Wollongong
Applicant/Owner	Erilyan Pty Ltd
Number of Submissions	Six, including three public (two objections, one support) and three public authorities (Roads and Maritime Service, Transgrid and Endeavour)
Regional Development Criteria (Schedule 4A of the Act)	Capital investment value exceeding \$5 million (private infrastructure and community facilities) Clause 6, Schedule 4A Environmental Planning & Assessment Act 1979. Applicant CIV estimate \$27,334,730 M.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> <li><u>State Environmental Planning Policies (SEPPs):</u> <ul style="list-style-type: none"> <li>SEPP No. 55 – Remediation of Land</li> <li>SEPP (Infrastructure) 2007</li> <li>SEPP (Affordable Rental Housing) 2009</li> <li>SEPP (State and Regional Development) 2011</li> </ul> </li> <li><u>Local Environmental Planning Policies:</u> <ul style="list-style-type: none"> <li>Wollongong Local Environmental Plan (LEP) 2009</li> </ul> </li> <li><u>Other policies</u> <ul style="list-style-type: none"> <li>Wollongong Section 94A Development Contributions Plan 2016</li> </ul> </li> </ul> </li> <li>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"> <li>draft SEPP (Coastal Management) 2016</li> <li>draft SEPP (Educational Establishments and Child Care Facilities) 2017</li> <li>draft SEPP (Infrastructure) 2016</li> </ul> </li> <li>List any relevant development control plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> <li>Wollongong Development Control Plan 2009 (DCP2009)</li> </ul> </li> <li>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"> <li>No relevant planning agreement.</li> </ul> </li> <li>List any coastal zone management plan: s79C(1)(a)(v) <p>There is no Coastal Zone Management Plan currently applicable to the land</p> </li> <li>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A</li> </ul>

	<ul style="list-style-type: none"> <li>- Clause 92: Demolition of all existing structures proposed. Conditions of consent recommended in terms of demolition.</li> <li>- Clause 93 and 94: N/A</li> </ul>
List all documents submitted with this report for the panel's consideration	Architectural plans by Health Projects International Landscaping plans by Arcadia Landscape Architecture
Recommendation	That the proposal is approved subject to conditions
Report by	David Fitzgibbon, Senior Development Project Officer

### Summary of s79C matters

**Yes**

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

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### 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*

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### 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**

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### 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*

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### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes**

## Executive Summary

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### Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to the Joint Regional Planning Panel (JRPP) due to cost of construction exceeding \$5M Clause 6, Schedule 4A Environmental Planning & Assessment Act 1979. Applicant Capital Investment Value estimate is \$27,334,730M.

### Proposal

Demolition of existing dwellings and the construction of a new day surgery facility consisting of six (6) floors and 5 levels of basement car parking.

### Permissibility

The site is zoned SP1 Special Activities (Wollongong Hospital Precinct) pursuant to Wollongong Local Environmental Plan, 2009 (LEP 2009). The SP1 zone is a prescribed zone subject to State Environmental Planning Policy (Infrastructure) 2007. 'Health services facility' is permissible within the SP1 zone pursuant to the provisions of SEPP Infrastructure.

### Consultation

The proposal was notified in accordance with Council's Notification Policy. Six submissions, including three public submissions were received (two objections, one support) and three public authorities (Roads and Maritime Service, Transgrid and Endeavour) which are discussed at **Section 2.9** of the assessment report.

### Main Issues

The main issues relate to design, including landscaping and public interface, and Affordable Rental Housing.

- Design:

The application was considered by Council's Design Review Panel (DRP) on two occasions (22 November 2016 and 28 February 2017). Following the 28 February meeting the main issues remaining to be resolved by the applicant included public domain interface, entry and arrival sequence, circulation and basement layouts, streetscape, materials and detailing appropriate to this building type and its relationship to context. A number of other specific design aspects were also raised during the DRP process. These are discussed in detail at **Section 2.1.6** of this report.

Issues raised by the DRP are considered to have been resolved in the applicant's final revised design. The plans provided at **Attachment 1** reflect the final resolved design the subject of this assessment. The final design, the subject of this assessment report, is considered to be an improved design that has satisfactorily addressed DRP comments.

- Affordable Rental Housing:

Part 3 of SEPP (Affordable Rental Housing) 2009 applies to the proposal due to the proposal to demolish the existing residential flat building at 1 Urunga Parade. Council has assessed the impacts of the proposal in accordance with the SEPP which is provided in detail at **Section 2.1** of this report. In accordance with Clause 51 of the SEPP Council has found that the proposal is *likely to reduce the availability of affordable housing within the area*. As a result it is recommended that any consent is subject to a condition requiring contribution of \$180,788 is to be paid to Wollongong City Council to recover the loss of low rental affordable housing. In accordance with section 94G(3B) of the *Environmental Planning and Assessment Act 1979*, the Ministers direction (**Attachment 6**) requires the full contribution will be paid to the chief executive of Housing New South Wales, Department of Human Services.

### RECOMMENDATION

It is recommended that proposal is approved with conditions.

# 1 APPLICATION OVERVIEW

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## 1.2 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Infrastructure) 2007
- SEPP (Affordable Rental Housing) 2009
- SEPP (State and Regional Development) 2011

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong Section 94A Development Contributions Plan 2016

## 1.3 PROPOSAL

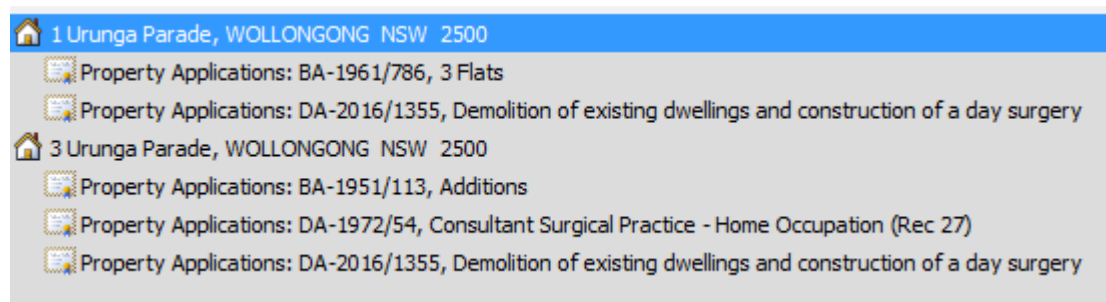
The proposal comprises the following:

Use

- Demolition of all existing structures on site.
- Day surgery facilities complex with:
  - total floor area of 2,430sqm and height of 24 metres,
  - five (6) operational floors;
  - five (5) basement carparking / plant levels, plus plant room level.
- The applicant's Statement of Environmental Effects lists the Development proposed on each level as:
  - Ground floor – retail space, public amenities, plant room, waste management, medical suite tenancy, support, travel and engineering.
  - Level 1 – Day surgery Operating Theatre suite including 3 Operating Theatres, support, travel and engineering.
  - Level 2 – Day surgery entry, medical suites, public amenities, plantroom, support, travel and engineering.
  - Level 3 – Medical suite, public amenities, support, travel and engineering.
  - Level 4 - Medical suite, public amenities, support, travel and engineering.
  - Level 5 – Plantroom, support, travel and engineering.
- 73 car parking spaces are provided in 5 basement levels of car parking. Each basement level also includes plantroom, support, travel and engineering.
- Vehicular driveway access and egress to the basement car parking is proposed to be obtained from Urunga Parade. The driveway is positioned adjacent the western boundary of the Site. Loading dock, ambulance (including patient transfer) and patient drop off areas are proposed at the ground level with access and egress to this area proposed via New Dapto Road adjacent to the southern boundary of the site. The main pedestrian access to the ground floor of the building is via an entry accessible from the New Dapto Road. Two lifts and fire stair well are to be provided to service the building the access core is located in the north end of the building.

- The applicant submitted site landscape masterplan – ground identifies proposed raised planter beds, feature trees, mass planting and unit paving.

## 1.4 BACKGROUND



Council's records for the site show that a Building Application (BA) was approved on 3 May 1961 for 3 Flats (BA-1961/786) at 1 Urunga Parade. However, no further details are available regarding the approval. It is understood from information submitted by the applicant, including the SEE that the Flat building consists of 5 dwellings. Site visit has confirmed that the existing Flat building appears to consist of 5 dwellings. In addition a search of realestate websites, including [www.realestate.com.au](http://www.realestate.com.au) has confirmed that 5 units have been advertised as available for rent at various stages during the period between July 2014 and September 2016. Rental history information that Council has obtained for the existing flat building is discussed further at **Section 2.1** of this report concerning State Environmental Planning Policy (Affordable Rental Housing) 2009.

### Customer service actions

There are no outstanding customer service requests of relevance to the development.

### Appeals

The applicant filed an appeal with the NSW Land E environment Court on 1 May 2017 in respect of a deemed refusal of the development application. The Statement of facts and Contentions was filed with the Court on 16 June 2017 and a Section 34 Conference in respect of the matter has been set down for 20 September 2017.

## 1.5 SITE DESCRIPTION

The site is located at 1 – 3 Urunga Parade, Wollongong, NSW, 2500 and the title reference is Lot A DP 344419, Lot 56 Sec 1 DP 5507. The site area is approximately 1,170m<sup>2</sup>. No 1 Urunga Parade is a corner block with the eastern boundary fronting New Dapto Road.

The Site is irregular in shape. Frontage width to Urunga Parade is 33.43m, eastern boundary length is 28.51m (Lot A), western boundary length 39.62m (Lot 56), southern boundary length 15.22m (Lot A) and 15.24 (Lot 56).

The site currently contains a two storey brick building with tile roof described by the applicant as an interwar period residential flat building containing 5 dwellings with two out buildings on Lot A and single storey detached weatherboard and fibro residence with metal roof on Lot 56. Existing trees are located on the Urunga frontage and New Dapto Road frontage of Lot A and within the frontage and rear of existing Lot 56.

All of the existing structures are proposed to be demolished and removed as part of the proposal.

The western and southern boundaries of the site adjoin existing and recently approved medical facilities including the existing Wollongong Day Surgery.

Urunga Parade is described by the applicant as typical suburban residential street catering for relatively low traffic volumes, however it provides as a connection corridor to the existing Wollongong public hospital which located opposite the site on New Dapto Road.

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

### Property constraints

Council records identify no specific property constraints for the proposal site.

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 provided 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 provided 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 provided 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 provided and are included in the recommended consent.

#### **Heritage Officer**

Council's Heritage Officer has reviewed the application, considered any potential heritage significance and given a satisfactory referral. No specific conditions were recommended.

#### **Environment Officer**

Council's Environment Officer has reviewed the application and given a satisfactory referral subject to recommended conditions. The conditions 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. Conditions of consent were recommended and are included in the recommended conditions at **Attachment 5**.

### **1.6.2 EXTERNAL CONSULTATION**

#### **Roads and Maritime Services**

The application was referred to the NSW Roads and Maritime Service (RMS) in accordance with the provisions of State Environmental Planning Policy (Infrastructure) 2007. The RMS raised no objection to the proposal. More detail regarding the referral and RMS response is provided at **Section 2.1** of this report.

#### **Transgrid and Endeavour**

Council notified both Transgrid and Endeavour Energy of the proposal. In their response to Council Transgrid advised that the Development Application isn't affected by TransGrid's infrastructure. Transgrid did also recommend that Council consultant direct with Endeavour Energy. Endeavour Energy did not provide a response to Council's letter. A condition is provided in the recommended consent to ensure that the developer contact Endeavour Energy direct regarding any servicing requirements.

## **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:

<i>(a) the provisions of:</i>	
<i>(i) any environmental planning instrument, and</i>	See section 2.1

(ii) 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	See section 2.2
(iii) any development control plan, and	See section 2.3
(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, and	See section 2.4
(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,	See section 2.5
(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),	See section 2.6
that apply to the land to which the development application relates,	
(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,	See section 2.7
(c) the suitability of the site for the development,	See section 2.8
(d) any submissions made in accordance with this Act or the regulations,	See section 2.9
(e) the public interest.	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

The subject site is zoned for Hospital related services and is currently being used for residential purposes. There is no previous history of other uses that could be considered to be potentially contaminating. The site is considered unlikely to be contaminated and is suitable for the proposed development. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7. Therefore the proposal is considered to be consistent with SEPP 55.

### 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

This SEPP came into effect on 31 July 2009. The aims of this policy are to encourage the development of new affordable rental housing and assist with the retention of existing affordable rental housing. The Department of Planning have published the Guidelines for Retention of Existing Affordable Rental Housing (October 2009) to provide steps for the implementation of the SEPP. The provisions of the SEPP and guidelines have been considered in Council's assessment.

The applicant's SEE described the site at 1 Urunga Parade as containing an interwar period Residential Flat Building comprising 5 dwellings. As discussed above Council's records for the site show that a Building Application (BA) was approved on 3 May 1961 for 3 Flats (BA-1961/786) at 1 Urunga Parade. However, no further details are available regarding the approval. Site visit has confirmed that the existing Flat building appears to consist of 5 dwellings. In addition a search of real estate websites, including [www.realestate.com.au](http://www.realestate.com.au), has confirmed that 5 units have been advertised as available for rent at various stages during the period between July 2014 and September 2016.

Based on the information available. It appears that there are 5 existing dwellings, which consist of 4 x 2 bedroom apartments (Units 1-3 & 5) and 1 x 1bedroom apartment (unit 4). One (1) car space available which appears to be allocated to Unit 1. Recent sale records indicate that the property was last sold on 16/04/2011 for \$840,000 (source: Valuer General Website property sales enquiry). This sales information also confirms the building consists of 9 bedrooms.

The provisions of the ARHSEPP are discussed below as demolition of the existing residential flat building is proposed.

### **Part 3 Retention of existing affordable rental housing**

Part 3 of the SEPP applies to existing affordable rental housing in the form of boarding houses and low-rental residential flat buildings. In regards to the current proposal this part is relevant due to the proposal to demolish the existing flat building at 1 Urunga Parade. Part 3 requires development consent to be obtained when this form of housing are proposed to be developed, and sets out criteria that must be considered to gauge the impact of the development on the availability of affordable housing in the area.

#### Clause 48 land to which part applies

This clause identifies that Part 3 applies to the Wollongong LGA.

#### Clause 49 Buildings to which Part applies

Clause 49 (1) of the SEPP states that Part 3 applies only to those buildings that were low-rental residential buildings as at 28 January 2000, and does not apply to any building that becomes a low-rental residential building after that date.

Clause 47 of the SEPP defines low-rental dwellings and low-rental residential buildings as:

**low-rental dwelling** means a dwelling that (at any time in the 24 month period prior to the lodgement of a development application to which this Part applies) was let at a rental not exceeding the median rental level for that time (as specified in the Rent and Sales Report) in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.

**low-rental residential building** means a building used as a residential flat building containing a low-rental dwelling or as a boarding house and includes a building:

- (a) that, at the time of lodgement of a development application to which this Part applies, is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or
- (b) that was used as a residential flat building containing a low-rental dwelling or as a boarding house but that use has been changed unlawfully to another use, or
- (c) that is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.

The Affordable Rental Guideline provides further clarification in identifying a residential flat building containing a low-rental dwelling as follows:

A "low rental dwelling" is one rented at or below the median level for that type of unit in that LGA at any time in the 24-month period preceding lodgement of the DA. Median rent levels for the current and previous 12-month periods are published in the "Table of Low Rental Dwellings" on the HousingNSW website.

#### **Comment:**

The applicant has not provided sufficient information to demonstrate that the existing flat building has not been used for any reason other than low-rental dwellings. Council's records for the site show that a Building Application (BA) was approved on 3 May 1961 for 3 Flats (BA-1961/786) at 1 Urunga Parade. There is no record of the flat building being the subject of a strata subdivision or application for strata subdivision at any time. The building has never been strata subdivided.

A site visit and the applicant's SEE have both confirmed that the building is being used as 5 dwellings. The existing mail boxes on site provide for 5 dwellings and the mailboxes appear to be of an age not dissimilar to the 1960 / 70 time frame.

Information is available that indicates the 5 dwellings in the residential flat building are likely to have been rented at a level below the median weekly rents outlined in Rent and Sales Report for the purposes of Clause 47 of the SEPP and also below the median weekly rents outlines in the 'Table of Low Rental Dwellings' published by Housing NSW within the 24 month period prior to lodging this development application referred to in the Affordable Rental Guideline. The information available, includes:



- The application was lodged on 28 September 2016. Between 28 September 2014 and 28 September 2016 a search of real estate websites show that each of the 5 units have been advertised as available for rent at various stages during the period between July 2014 and September 2016. Based on these searches it is reasonable to conclude that the flat building dwellings are likely to have been rented during this time.
- Specifically the advertised rental prices during and just prior to the 24month period include:
  - Unit 1 (2 bed) was shown as previously advertised in October 2016 for rent at **\$280** per week. Advertised with the Professionals Wollongong (Source: Realestate.com.au). Below the median rate for 2014 to 2016.
  - Unit 2 (2 bed) was shown as previously advertised in July 2014 and again September 2015 for rent at a value of **\$260** per week on both occasions. Advertised with the Professionals Wollongong (Source: Realestate.com.au). Below the median rate June 2014 (\$320) and September 2015 (\$340)
  - Unit 3 (2 bed) appears to have been advertised as available for rent on a number of occasions including, December 2014 (**\$260** per week), June 2015 (**\$260** per week) and January 2016 (**\$260** per week) (Source: Realestate.com.au). Below the median rate December 2014 (\$330), June 2015 (\$335), December 2015 (\$350)
  - Unit 4 (1 bed) appears to have been previously advertised for rent in January 2014 (**\$220** per week). Advertised with Lewton Pennimpede (Source: Realestate.com.au and realestateview.com). There is no other advertised rental information. Comparable to or slightly below median rate at the time December 2013 (\$230).
  - Unit 5 (2 bed) appears to have been previously advertised for rent in April 2015 (**\$260** per week) and April 2016 (**\$280** per week). Advertised with the Professionals Wollongong (Source: realestateview.com). Below the median rate, March 2015 (\$340), June 2015 (\$335), March 2016 (\$350) and June 2016 (\$360).
- A review of the relevant Rent and Sales Reports during the two year period (24month) time frame prior to lodgement is summarised as:

**Summary Rent and Sales Report (Source: Family & Community Service: Housing)**

2014			2015				2016		
June	Sep	Dec	March	June	Sept	Dec	March	June	Sept
Median	Median	Median	Median	Median	Median	Median	Median	Median	Median
1bed	1bed	1bed	1bed	1bed	1bed	1bed	1bed	1bed	1bed
\$230	\$240	\$250	\$250	\$250	\$250	\$270	\$260	\$275	\$270
2bed	2bed	2bed	2bed	2bed	2bed	2bed	2bed	2bed	2bed
\$320	\$330	\$330	\$340	\$335	\$340	\$340	\$350	\$360	\$360

- The Table of Low Rental Dwellings referred to in the Guidelines is available from the Department of Planning and Environment website. However tables provided only covers a period from April 2013 to September 2015. The information is limited but is provided in summary table below for reference

**Summary Table of Low Rental Dwellings**

1 <sup>st</sup> year April 2013 to April 2014 2 <sup>nd</sup> Year April 2014 to April 2015		1 <sup>st</sup> year October 2013 to September 2014 2 <sup>nd</sup> Year October 2014 to September 2015		1 <sup>st</sup> year July 2013 to June 2014 2 <sup>nd</sup> Year July 2014 to June 2015	
1 <sup>st</sup> year	2 <sup>nd</sup> year	1 <sup>st</sup> year	2 <sup>nd</sup> year	1 <sup>st</sup> year	2 <sup>nd</sup> year
Median	Median	Median	Median	Median	Median
1bed	1bed	1bed	1bed	1bed	1bed
\$230	\$240	\$250	\$480	\$240	\$480
2bed	2bed	2bed	2bed	2bed	2bed
\$320	\$330	\$330	\$350	\$330	\$340

Clause 49(2) further states that Part 3 does not apply to a building:

- (a) that has been approved for subdivision under the Strata Schemes (Freehold Development) Act 1973, or*
- (b) to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies, or*
- (c) owned by, or under the care, control and management of, a social housing provider.*

**Comment:**

- The flat building is not strata subdivided and has never been the subject of an application or granted approval for strata subdivision.
- Insufficient information has been provided by the applicant to demonstrate that the flat building is a building to which SEPP (Housing for Seniors or People with a Disability) 2004 applies.
- The flat building is not owned by, or under the care, control and management of, a social housing provider.

**50 Reduction of availability of affordable housing**

*(1) A person must not do any of the following in relation to a building to which this Part applies except with development consent:*

- (a) demolish the building,*
- (b) alter or add to the structure or fabric of the inside or outside of the building,*
- (c) change the use of the building to another use (including, in particular, a change of use to backpackers accommodation),*
- (d) if the building is a residential flat building, strata subdivide the building.*

**Comment:**

The applicant proposes demolition of the existing residential flat building at 1 Urunga Parade and is seeking consent.

*(2) In determining a development application referred to in subclause (1), the consent authority is to take into account the guidelines and each of the following:*

- (a) whether there is likely to be a reduction in affordable housing on the land to which the application relates,*

**Comment:**

Demolition of the existing residential flat building at 1 Urunga Parade will result in the reduction of affordable housing as demonstrated above in accordance with Clause 47 above.

- (b) whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,*

**Comment:**

The average vacancy rate in private rental accommodation for Sydney published in the Real Estate Institute of NSW for the 3 months immediately preceding the lodgment of the day surgery application in September 2016 was 1.8% (August (1.8%), July (1.9%), June (1.8%) 2016). The average vacancy rate in private rental accommodation for Wollongong published in the Real Estate Institute of NSW for the 3 months immediately preceding the lodgment of the day surgery application was 1.4% (August (1.1%), July (1.6%), June (1.5%) 2016). Sydney and Wollongong vacancy rates are both below 3%. Therefore sufficient comparable accommodation is not available.

- (c) whether the development is likely to cause adverse social and economic effects on the general community,*

**Comment:**

The proposed day surgery is likely to have beneficial social effect provided day surgery services to the Wollongong LGA. Loss of 5 low-rental dwellings may have potential adverse social and economic effects on a segment of the general community.

- (d) whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation,*

**Comment:**

The applicant has not demonstrated that adequate arrangements have been made to assist any existing residents of the flat building at 1 Urunga Parade to find alternative accommodation prior to the proposed demolition. A condition of consent is recommended ensuring the development makes appropriate arrangements in accordance with the Clause and the Guidelines for Retention of Existing Affordable Rental Housing.

*(e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,*

**Comment:**

The proposed flat building demolition would result in the loss of 5 low-rental dwellings. With an existing lower than Sydney average vacancy rate in private rental accommodation in Wollongong the proposal is likely to have a contribution to the cumulative loss of affordable housing in the LGA.

*(f) the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements,*

**Comment:**

The applicant has not provided detailed information to allow a full assessment of the extent to which the building complies with any relevant fire safety requirements, cost of carrying out work necessary to ensure structural soundness and compliance.

*(g) whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development,*

**Comment:**

Imposition of a condition requiring payment of a monetary contribution for the purposes of affordable housing is considered reasonable to adequately mitigate the reduction of affordable housing resulting from the proposed development. The condition is proposed in accordance with the Guidelines for Retention of Existing Affordable Rental Housing

*(h) in the case of a boarding house, the financial viability of the continued use of the boarding house.*

**Comment:**

N/A

*3) For the purposes of subclause (2) (b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgment of the development application, less than 3 per cent.*

**Comment:** The average vacancy rate in private rental accommodation for Sydney published in the Real Estate Institute of NSW for the 3 months immediately preceding the lodgment of the day surgery application in September 2016 was 1.8% (August (1.8%), July (1.9%), June (1.8%) 2016). The average vacancy rate in private rental accommodation for Wollongong published in the Real Estate Institute of NSW for the 3 months immediately preceding the lodgment of the day surgery application was 1.4% (August (1.1%), July (1.6%), June (1.5%) 2016). Sydney and Wollongong vacancy rates are both below 3%.

Clause 51 - Contributions for affordable housing of SEPP (Affordable Rental Housing) 2009

Clause 51 of the SEPP and Appendix 1 of the 2009 Department of Planning Guidelines for the Retention of Existing Affordable Rental Housing outlines the specific statutory considerations for imposing conditions requiring affordable housing contributions as follows:

*(1) For the purposes of section 94F (1) of the Act, this Policy identifies a need for affordable housing on land within the Sydney region and on land within the local government area of Newcastle or Wollongong City.*

**Comment:**

Part 3 of the SEPP Retention of Affordable Rental Housing applies to land within the Sydney region and land within the local government area of Newcastle or Wollongong City.

*(2) For the purposes of section 94F (3) (b) of the Act, this Policy authorises a condition to be imposed under section 94F of the Act if:*

- (a) the consent authority, when determining a development application referred to in clause 50 (1), is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, and
- (b) the condition is imposed in accordance with the scheme for dedications or contributions set out in subclauses (3) and (4).

**Comment:**

Demolition of the existing residential flat building at 1 Urunga Parade has been established as being likely to result in a reduction of the availability of affordable housing within the Wollongong area as demonstrated in detail under the consideration of Clause 50 above.

Clause 15A - Transitional provision relating to affordable housing of the Environmental Planning and Assessment Regulation states that:

*Until the commencement of Part 5B of the Act (to be inserted by Schedule 3 to the Environmental Planning and Assessment Amendment Act 2008), section 94F (3) (b) of the Act is to be construed as if the reference to a condition authorised to be imposed by a LEP (which before the commencement of Schedule 1 to that Act included a reference to a condition authorised to be imposed by a regional environmental plan) were a reference to a condition authorised to be imposed by a SEPP or a LEP*

Part 5B of the Act is yet to commence. Therefore a condition can be imposed where all other relevant tests are met.

(3)(a) *If a condition is to be imposed under this clause, the amount of the contribution is to be calculated in accordance with the following formula:*

$$C = L \times R \times 0.05$$

where:

*C is the contribution payable.*

*L is the total number of bedrooms in a low-rental dwelling and boarding rooms that will be lost by the proposed development.*

*R is the replacement cost calculated as the average value of the first quartile of sales of strata properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the Rent and Sales Report.*

**Comment:**

The proposed contribution levy for this proposal has been calculated in accordance with Clause (3)(a):

$$\text{Contribution} = L (9 \text{ bedrooms}) \times R^* (\$401,750) \times 0.05 = \$188,788.$$

\* R = the average value of the first quartile of sales of strata properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the Rent and Sales Report (December 2015 - \$370,000, March 2016 - \$390,000, June 2016 - \$407,000, September 2016 \$440,000 / 4 = \$401,750).

**Conclusion:**

The proposal includes demolition of the existing residential flat building at 1 Urunga Parade is considered to be a low rental residential building in accordance with Part 3 of the SEPP (Affordable Rental Housing) 2009. Demolition of the building is likely to reduce the availability of affordable housing within Wollongong.

In accordance with Clause 51 of *State Environmental Planning Policy, Affordable Rental Housing* 2009 it is recommended that a condition is imposed if the proposal is approved requiring contribution of \$180,788 to be paid to Wollongong City Council to recover the loss of low rental affordable housing. In accordance with section 94G(3B) of the *Environmental Planning and Assessment Act* 1979, the full contribution will be paid to the chief executive of Housing New South Wales, Department of Human Services. The proposed condition is included in the recommended conditions at **Attachment 5**.

### 2.1.3 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

### 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposal is defined as a health services facility according to Division 10 Health Services Facilities of State Environmental Planning Policy (Infrastructure) 2007 as outlined below.

Clause 56 – Definitions - **health services facility** *a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:*

- (a) **day surgeries** and medical centres,*
- (b) community health service facilities,*
- (c) health consulting rooms,*
- (d) facilities for the transport of patients, including helipads and ambulance facilities,*
- (e) hospitals.*

SEPP (Infrastructure) 2007 also identifies prescribes zones for the purposes of Division 10:

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU4 Rural Small Holdings,*
- (b) RU5 Village,*
- (c) RU6 Transition,*
- (d) R1 General Residential,*
- (e) R3 Medium Density Residential,*
- (f) R4 High Density Residential,*
- (g) R5 Large Lot Residential,*
- (h) B2 Local Centre,*
- (i) B3 Commercial Core,*
- (j) B4 Mixed Use,*
- (k) B5 Business Development,*
- (l) B6 Enterprise Corridor,*
- (m) B7 Business Park,*
- (m1) B8 Metropolitan Centre,*
- (n) SP1 Special Activities,***
- (o) SP2 Infrastructure.*

Clause 57 (1) – Development permitted with consent of SEPP (Infrastructure) 2007 lists *development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.*

Clause 101 – Council referred the application to the Roads and Maritime Service due to the close proximity to Crown Street, a classified road, in accordance with Clause 101 of SEPP (Infrastructure) 2007. The RMS responded on 1 November 2016 and raised no objection to the proposal in principle

and noted that the site is accessed from two local roads and is not likely to negatively impact the classified road network.

Clause 102 – Impact of road noise or vibration on non-road development.

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*
- (a) *a building for residential use,*
  - (b) *a place of public worship,*
  - (c) *a hospital,*
  - (d) *an educational establishment or child care centre.*

The site is located in close proximity to Crown Street Wollongong. However, Crown street is not published on the RMS website as a street *with an annual average daily traffic volume of more than 40,000 vehicles*. Therefore this clause does not apply

Clause 104 Traffic Generating Development.

**104 Traffic-generating development**

- (1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:
- (a) new premises of the relevant size or capacity, or
  - (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.
- (2) In this clause, **relevant size or capacity** means:
- (a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or
  - (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.
- (3) Before determining a development application for development to which this clause applies, the consent authority must:
- (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
  - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- (iii) any potential traffic safety, road congestion or parking implications of the development.
- (4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.

The proposed day surgery is not specifically listed as a category of development for which the clause applies. Hospital is the closest category of development. However, the proposal does not include a proposal for 100 or 200 beds. Therefore this clause does not specifically apply to the proposal. However, the application was referred to the RMS during assessment in any case. As mentioned above the RMS raised no objection to the proposal in principle and noted that the site is accessed from two local roads and is not likely to negatively impact the classified road network.

## 2.1.5 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 SP1 Special Activities.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

The proposal is satisfactory with regard to the above objectives as the day surgery facility is in keeping with the characteristics of the site and its surrounding context (Wollongong public and private hospitals and general medical facilities).

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

*The purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose; Advertising structures; Child care centres; Community facilities; Information and education facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres.*

The SP1 zone is a prescribed zone subject to SEPP Infrastructure. As indicated earlier within this report 'health services facility' is permissible within the SP1 zone pursuant to the provisions of SEPP Infrastructure.

#### Clause 1.4 Definitions

**hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- day surgery, day procedures or health consulting rooms,
- accommodation for nurses or other health care workers,
- accommodation for persons receiving health care or for their visitors,
- shops, kiosks, restaurants or cafes or take away food and drink premises,
- patient transport facilities, including helipads, ambulance facilities and car parking,
- educational purposes or any other health-related use,
- research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes),
- chapels,
- hospices,
- mortuaries.

**Note.** Hospitals are a type of **health services facility**—see the definition of that term in this Dictionary.

**health services facility** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- a medical centre,
- community health service facilities,
- health consulting rooms,
- patient transport facilities, including helipads and ambulance facilities,
- hospital.

## **Part 4 Principal development standards**

### Clause 4.3 Height of buildings

The proposed building height of 24m does not exceed the maximum of 32m permitted for the site.

### Clause 4.4 Floor space ratio

Maximum Floor Space Ratio (FSR) permitted: 1.5:1

The applicant's submitted a revised Design Statement, dated 8 June, 2017, prepared by Health Projects International providing the following breakdown:

Site Area: 1170m<sup>2</sup>

Applicant proposed Gross Floor Area: 2387m<sup>2</sup>

Applicant proposed FSR: 2.04:1

Although the proposed FSR is more than the Clause 4.4 permitted 1.5:1 Clause 4.4A Floor space ratio – Wollongong City Centre applies as the site is located in the Wollongong City Centre as addressed below.

#### Clause 4.4A Floor space ratio – Wollongong city centre

This clause applies to land within the Wollongong city centre and applies as follows:

*(2) Despite clause 4.4, the maximum floor space ratio for a building on land within a zone specified in Column 1 of the Table to this subclause, on land with a site area and street frontage specified opposite that zone in Column 2 of the Table, is:*

*(a) the amount specified opposite that zone in Column 3 of the Table, if the building is used only for residential purposes, or*

*(b) the amount specified opposite that zone in Column 4 of the Table, if the building is used only for purposes other than residential purposes.*

As referred to above under Clause 4.4 the maximum allowable floor space ratio (FSR) on the Floor Space Ratio Map is 1.5:1. However buildings within the Wollongong City Centre that are not to be used for residential purposes and are located within the SP1 Special Activities zone have an increased maximum FSR allowance of 3:1 as referred to in Column 4 of the Table to Clause 4.4A.

Therefore the applicant's proposed FSR of 2.04:1 complies with Clause 4.4A.

### **Part 5 Miscellaneous provisions**

#### Clause 5.10 Heritage conservation

Council's Heritage Officer considered the proposal with regard to potential impacts on the nearby heritage items in accordance with the requirements of Clause 5.10 of the Wollongong LEP 2009 and with Chapter E11 of the Wollongong DCP 2009. Consideration has also been given to the Heritage Impact Statement prepared by NBRS & Partners and dated September 2016.

The proposed development is not anticipated to have any significant impact on the nearby heritage items due to the location of substantial developments between the development site and the listed heritage items. Whilst the proposal involves basement construction and substantial excavation it is not anticipated that the proposed will impact on archaeology of Aboriginal or non-Aboriginal origin.

Council's Heritage officer therefore provided a satisfactory referral. No specific conditions were recommended.

### **Part 7 Local provisions – general**

#### Clause 7.1 Public utility infrastructure

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

#### Clause 7.6 Earthworks

The proposal comprises excavation to allow for basement carparking. Council's Geotechnical Engineer has considered the application and geotechnical report dated 5 September 2016 by Douglas Partners. A satisfactory referral has been provided subject to conditions which includes, but is not limited to, the requirement for an earthworks plan to be developed by the geotechnical consultant prior to start of soil and rock excavation 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 recommended conditions are provided at **Attachment 5**.

#### Clause 7.13 Ground floor development on land within business zones

Although not in a business zone it is noted that the proposal activates the street at the ground floor level including the corner of New Dapto Road and Urunga Parade.

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

The design excellence of the proposal was considered by the Wollongong Design Review Panel (DRP) on two occasions (22 November 2016 and 28 February 2017). The panel is convened under



SEPP 65 however the proposal was referred by Council to the panel specifically for advice regarding Wollongong LEP 2009 requirement for design excellence in the Wollongong City Centre.

The applicant revised the proposal design during the assessment to address specific concerns raised by the panel. The final design has been considered in this assessment report and is considered to have addressed the DRP comments. Refer to **Attachment 1** for the detailed plans subject of this assessment report. In particular the design has resolved public domain interface and has activated the street level, including the corner of Urunga and New Dapto Road which were key issues raised by Council and the DRP during the assessment. The core of the building was shifted from the north / eastern corner further to the west in the building design to allow the corner of New Dapto Road and Urunga Parade to be activated and allow opportunity for a positive public domain treatment to be achieved.

When addressing the DRP and Council the applicant also made of the note that the day surgery design has also been driven by the requirement for the facility to comply with the Australian Health Facility Guidelines (AusHFG).

The proposal is considered to be consistent with the provisions for design excellence as follows:

*(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*** design review panel consideration resolved in the final design.

*(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain – **Yes*** interface issues with public domain and adjoining properties resolved in the final design including reduced planter dominance on northern boundary, improved activation New Dapto Road / Urunga Parade corner, revised landscape plan with street tree planting.

*(c) whether the proposed development detrimentally impacts on view corridor – **No impact***. View corridors are well considered and no impact is expected

*(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map – **Not applicable***. No other solar access impacts to neighbours of concern raised by the proposal which is assisted by the north / south orientation of the site

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

*(i) the suitability of the land for development – **Yes***. Site dimensions, limited site constraints, Hospital precinct context suitable for the proposed day surgery.

*(ii) existing and proposed uses and use mix – **Yes***. Day surgery use consistent with the Wollongong Hospital precinct context and adjacent users.

*(iii) heritage issues and streetscape constraint – **No heritage issues***. Contextual constraints well handled meets relevant standards and controls.

*(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 – **Not applicable***.

*(v) bulk, massing and modulation of buildings – **Well considered***

*(vi) street frontage heights – **Not applicable***. Building front setback 4m appropriate for the corner location and consistent with Clause 2.2 control of Chapter D13: Wollongong City Centre of Wollongong Development Control Plan, 2009.

*(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity – **No expected detrimental impact***.

*(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***. Improved outcome for corner of New Dapto Road and Urunga Parade.

## **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 opportunities within the city centre while also meeting the design standard expected for a regional city which has been established through the satisfactory resolution of DRP issues.

## 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.

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

### **Draft State Environmental Planning Policy (Coastal Management) 2016**

A draft SEPP and associated maps was open for public consultation during November 2016 (exhibition ended 23 December 2016), with submissions accepted up 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](http://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 does is not within any area mapped in the draft SEPP.

### **Draft State Environmental Planning Policy (Educational Establishments and Child Care) 2017**

The draft SEPP was exhibited 3 February 2017-7 April 2017. The draft policy relates to development of new schools, TAFE, universities and child care centres and alterations to existing facilities. Provisions of the proposed SEPP are not relevant to the proposal.

### **Draft State Environmental Planning Policy (Infrastructure) 2016**

The draft SEPP was exhibited 3 February 2017-7 April 2017. The draft policy relates to health services facilities and introduces new complying development provisions, allows some exempt development for private operators, expands the range of public authority development, and amends the definition of health services facilities to be consistent with the standard instrument definition. Provisions of the proposed SEPP are not relevant to the proposal.

## **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 (\$27,334,730) and a levy of 1% is applicable under this plan as the threshold value is \$100,000. An additional 1% levy which applies to certain development within the Wollongong City Centre is not required as that additional levy only applies to development in the B3 Commercial Core Zone.

## **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)**

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

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

*(cf clause 66B of EP&A Regulation 1994)*

*(1) This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where:*

*(a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or*

*(b) the measures contained in the building are inadequate:*

*(i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or*

*(ii) to restrict the spread of fire from the building to other buildings nearby.*

*(c) (Repealed)*

*(2) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*

*(2A), (2B) (Repealed)*

*(3) The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.*

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 public submissions were received following notification. Issues raised in submissions in submissions would not preclude the development (refer to Section 2.9 of this report). All internal and external referrals are satisfactory and 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 Wollongong Hospital Precinct.

#### Access, Transport and Traffic:

Access is proposed via New Dapto Road and Urunga Parade. The RMS does not object to the proposal in principle and has noted that the proposal is not likely to impact the classified road network. It is also considered unlikely that the development generated traffic would have a significant impact on the performance of the Urunga Parade/New Dapto Road intersection and other nearby intersections

#### Public Domain:

Active street frontage achieved on the corner of New Dapto Road and Urunga Parade. This was an improved design outcome achieved through amendment to the applicant's proposed design scheme following the second DRP consideration on 28 February 2017. Public domain to be treated with footpath paving and street tree planting in accordance with Council's City Centre Public Domain Technical Manual. Proposed Cafe accessible at grade. Conditions recommended at **Attachment 5** to ensure public domain outcome achieved.

#### Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. 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 can be readily extended to meet the requirements of the proposed development.

The proposal is not envisaged to have unreasonable water consumption.

#### Soils:

Conditions of consent are recommended in regard to and sediment and erosion control measures to be in place during works. The recommended conditions are included in the draft conditions at **Attachment 5**.

#### Air and Microclimate:

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

#### Flora and Fauna:

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 the construction certificate and the developer provision of footpath paving and four street trees in accordance with the Wollongong City Council Public Domain Technical Manual. Council's landscape officer also supports tree removal proposes. A recommended condition includes that the consent permit the removal of trees and other vegetation from the site within three (3) metres of the approved buildings and the pruning of trees within three (3) metres of approved buildings in accordance with AS 4373-2007 Pruning of Amenity Trees.

#### Waste:

Conditions are recommended regarding waste, including the need for an appropriate receptacle to be in place for any waste generated during the construction, submission of a site waste minimisation and management plan and a separate medical waste management plan must prior to construction.

#### Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

Conditions are recommended at **Attachment 5** regarding noise including requirement to implement façade glazing and structural construction material recommended in the applicant's acoustic report, requirement for a noise compliance report in relation to mechanical plants noise and vibration compliance the guidelines, that nuisance be minimised during any construction, demolition, or works and restricting hours of operation to 7am to 10pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays.

Natural hazards:

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

Technological hazards:

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

Safety, Security and Crime Prevention:

This application does not result in any opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal would likely result in a reduction of affordable housing within Wollongong. In accordance with Clause 51 of SEPP (Affordable Rental Housing) 2009 a condition is recommended to impose an affordable rental housing level to mitigate the social impact. The proposal is not expected to create any other negative social impacts

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 in this assessment report. The final design the subject of this assessment report resolves design issues raised by the DRP.

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 public submissions were received and the issues identified are discussed below.

**Table 1: Submissions**

Concern	Comment
<p>1. Traffic. As this is on a major road network leading into the city and Beaton Park North Wollongong area so I ask that the traffic implications be examined.</p>	<p>Council's traffic officer has considered the proposal, including the Assessment of Traffic and Parking Implications report prepared by Transport and Traffic Planning Associates submitted with the application.</p> <p>Council also received a submission from the RMS. The RMS did not object to the proposal in principle and noted that the site is accessed from two local roads and is not likely to negatively impact the classified road network.</p> <p>No concerns in terms of traffic generation and impacts were raised and it is considered unlikely that the development generated traffic would have a significant impact on the performance of the Urunga Parade/New Dapto Road local road intersection and other nearby intersections.</p>
<p>2. I personally don't like the building form a visual effect and how it will dominate the corner.</p>	<p>The design of the proposed building was considered by the Wollongong Design Review Panel on two occasions (22 November 2016 and 28 February 2017). The applicant revised the proposal design to address specific concerns raised. The final design has been considered in this assessment report and is consider to address the DRP comments. In particular the design has resolved public domain interface and has activated the street level, including the corner of Urunga and New Dapto Road.</p> <p>It is considered that the final design achieves design excellence in accordance with Clause 7.18 of Wollongong LEP, 2009.</p>
<p>3. Is the existing building to be demolished operating as affordable housing? Have the provisions of SEPP Affordable Housing 2009 been addressed.</p>	<p>The provisions of SEPP Affordable Housing 2009 are considered in detail at Section 2.1 of this report.</p>
<p>4. Further resolution should be provided in relation to the treatment of the site's ground floor and the finished levels of the footpath. Currently a large and cumbersome planter box exists between the two which inhibits accessibility and visual integration with the public domain. There should be seamless integration between the proposed finished ground levels and the existing footpath levels, particularly given the site's visual prominence.</p>	<p>A similar concern was raised by Council and the Design Review Panel during assessment of the initial design. The applicant revised the design to include further detail and remove the substantial planter. This is considered further at Section 2.3 and <b>Attachment 3</b> of this report. Council's landscape officer has provided a satisfactory referral subject to recommended conditions which are included in the draft conditions at <b>Attachment 5</b>.</p>
<p>5. The DA acoustic report does not address any plant or equipment noise to be emitted. How will this be controlled and how will council assess this noting the sensitive land uses.</p>	<p>Council's Environment Officer has reviewed the Applicant's Acoustic report, noting the report has made façade glazing recommendations for internal noise compliance and also to assess the mechanical plants noise at design stage to comply with the noise goals identified in Section 5.2 of the acoustic report prepared by Acoustic Logic dated 20 September 2016. Council's Environment officer is satisfied with this approach</p>

Concern	Comment
	subject to recommended conditions at <b>Attachment 5</b> .
<p>6. As we intend to lease out the adjacent property at 3 Urunga Parade the noise generated from the cars entering and exiting the building will be unacceptable and includes but limited to engine and noise from traversing over speed humps. Additionally there will be light spill as the cars enter and leave.</p>	<p>The application relates to both number 1 and number 3 Urunga Parade. If approved the application involves demolition of buildings at number 1 and number 3. In terms of ongoing lease arrangements regarding 3 Urunga Parade this should be discussed directly with the land owner or relevant property manager (agent). The neighbouring property to the west would be number 5 rather than number 3 Urunga Parade as indicated in the submission. Impacts from cars entering and leaving the day surgery during business hours are expected to be reasonable within the Wollongong Hospital precinct context. In addition the noise impacts associated with the driveway were assessed in the Applicant's acoustic report. Council's environment officer has found that the acoustic report is satisfactory subject to conditions. In addition it is proposed to limit the operating hours of the day surgery to 7am to 10pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays. These operating hours are considered reasonable in the context of the Wollongong Hospital Precinct.</p> <p>It is also noted that on 22 July 2013 Wollongong City Council granted consent to proposed Demolition of existing cottages and construction of additions to existing day surgery including 4 levels of surgery and 2 levels of parking at 354-358 Crown Street, 5-7 Urunga Parade Wollongong. It appears that the proposed day surgery is compatible with the approved and intended use of the adjoining western property as an expanded day surgery.</p>
<p>7. The site is relatively close to the Urunga/New Dapto Rd intersection (&lt;20m). There is conflict between the proposal's basement driveway and existing traffic (queuing for example) in or around the intersection (i.e. turning right from the proposed development site and heading towards the intersection). How is this to be addressed?</p>	<p>Council's traffic officer has reviewed the application in terms of both proposed access points (basement driveway access from Urunga Parade and Ground level driveway access from New Dapto Road. Access arrangements are in the most appropriate location and potential traffic impacts are found to be satisfactory.</p>
<p>8. The DA currently proposes a 3m setback from the shared boundary with no. 3 Urunga with no relief in the façade. The building will be dominating over our facility and will affect patient amenity . This is considered not acceptable .</p>	<p>The site setbacks are considered acceptable and in accordance with Wollongong DCP 2009. The amenity impacts, including privacy, of the proposal were also considered by the Design Review Panel and considered to be acceptable. As stated above the proposal site includes both number 1 and 3 Urunga Parade. The neighbouring property to the west would be number 5 rather than number 3 Urunga Parade as indicated in the submission. The side setback to the west applies to 5 Urunga Parade.</p>
<p>9. We believe the building will unacceptably overshadow our house a 3 Urunga Pde and will impact on the ability to rent it, with particular reference to the outside area. The bulk and scale of the building will be an eyesore and not in keeping with the surrounding</p>	<p>The applicant submitted shadow diagrams with the application which demonstrated that the adjoining dwelling at 5 Urunga Parade would continue to receive the minimum 3 hours of solar access between 9am to 3pm on 21 June which is acceptable in the context of residential development which is considered to also be reasonable within the Hospital Precinct context. The neighbouring property to the west would be number 5</p>

Concern	Comment
buildings.	rather than number 3 Urunga Parade as indicated in the submission
10. Support in principle. However, concern about the overwhelming impact of the design and object to the totally unsatisfactory arrangements for the drop off and pick up of patients.	<p>The design of the proposed building was considered by the Wollongong Design Review Panel on two occasions (22 November 2016 and 28 February 2017). The applicant revised the proposal design to address specific concerns raised. The final design, the subject of this assessment report, considered an improved design that has satisfactorily addressed the DRP comments.</p> <p>Patient pick up and drop off area was raised as an initial concern during assessment of the proposal. The final revised design has provided a satisfactory solution with ground level patient drop off and pick up accessible from New Dapto Road. Refer to the full plan set at <b>Attachment 1</b>.</p>

#### Submissions from public authorities

Three public authority submissions were received from Roads and Maritime Service, Transgrid and Endeavour Energy. No objection to the proposal was raised.

## **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 all relevant State Environmental Planning Policies, Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies. The proposed development has appropriate regard to the objectives of the S1 zone and is permissible with consent. The development does not involve a departure to a development standard under Wollongong Local Environmental Plan 2009 or variation to WDCP2009. The proposal would likely result in a reduction of affordable housing within Wollongong. In accordance with Clause 51 of SEPP (Affordable Rental Housing) 2009 a condition is recommended to impose an affordable rental housing level to mitigate the social impact. The proposal meets the design excellence objectives of Clause 7.18 of Wollongong Local Environmental Plan, 2009.

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**.

### **Attachments**

- 1 **Plans**
- 2 **Aerial photograph and WLEP 2009 zoning map Existing site photos**
- 3 **Wollongong DCP 2009 Assessment**
- 4 **Design Review Panel Notes**
- 5 **Recommended conditions**
- 6 **Minister Direction Section 94G(3)(b)**