

JOINT REGIONAL PLANNING PANEL

(Southern Region)

JRPP No	2016STH037
DA Number	DA-2016/1719
Local Government Area	Wollongong City
Proposed Development	Mixed use development - ground and mezzanine level commercial with 92 residential apartments over two (2) basement carparking levels including demolition of existing concrete hardstand surface
Street Address	Lot 1 DP 1202226., 38 Atchison Street, Wollongong
Applicant/Owner	Applicant - PRD Architects; Owner – Pars Holdings Pty Ltd
Number of Submissions	One submission in support of the proposal
Regional Development Criteria (Schedule 4A of the Act)	Clause 3, Schedule 4A of the Environmental Planning & Assessment Act 1979; general development over \$20 million. The applicant's CIV estimate for the project is \$27,177,997.
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; ▪ State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development; ▪ SEPP (Infrastructure) 2007; ▪ SEPP (Building Sustainability Index: BASIX) 2004; ▪ SEPP (State and Regional Development) 2011; <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> ▪ Wollongong Local Environmental Plan 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 ▪ Draft Education and Child Care SEPP ▪ Draft Infrastructure SEPP • List any relevant development control plan: s79C(1)(a)(iii) Wollongong Development Control Plan 2009 • 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) Nil • List any coastal zone management plan: s79C(1)(a)(v)

	<p>Nil</p> <ul style="list-style-type: none"> List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <p>AS 2601 in respect of any demolition.</p>
List all documents submitted with this report for the panel's consideration	<p>Architectural plans by PRD Architects</p> <p>Landscaping plans by Taylor Brammer Landscape Architects</p> <p>Stormwater plans by ATB Consulting Engineers</p> <p>Planning documents by Michael Brown Planning Strategies</p>
Recommendation	It is recommended that DA-2016/1719 be approved subject to the conditions contained within Attachment 6 .
Report by	Theresa Whittaker, 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? **Yes**

Special Infrastructure Contributions

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

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

Conditions

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

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

Assessment Report and Recommendation Cover Sheet

Executive Summary

Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 as it involves general development with a capital investment value of more than \$20 million.

Proposal

The proposal comprises demolition of existing concrete hardstand surface and construction of an 18 storey mixed use development featuring ground and mezzanine level commercial spaces and 92 residential apartments over two (2) basement car parking levels.

Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan (LEP) 2009. The proposal is categorised as a *shoptop housing development* and is permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council's Advertising & Notification Procedures. There was one submission of support received from Neighbourhood Forum 5.

Main Issues

The main issues arising from the assessment pertain to:-

- Flooding and stormwater management matters remain unresolved. The development will potentially impact on neighbouring sites. Resolution of this issue is not capable of being dealt with via conditions as amendments to the plans to resolve such concerns will have unknown implications for the design of the building;
- Development departure in respect of building separation (Clause 8.6) of Wollongong Local Environmental Plan (LEP) 2009 to the northern and southern boundaries;
- Design quality. The proposal has been considered by the Design Review Panel on numerous occasions prior to and following lodgement of the development application. The proposal as revised is now satisfactory to the Panel.

RECOMMENDATION

It is recommended that DA-2016/1719 be approved subject to the conditions outlined in **Attachment 6**.

1. APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

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

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

1.2 PROPOSAL

The proposal comprises the following:

1. Demolition of existing concrete hardstand surface;
2. Construction of an 18 storey mixed use development (defined as a *shop top housing development* for the purposes of the LEP) comprising ground and mezzanine level commercial spaces (four in total), 92 residential apartments housed within levels 2-17 and two (2) basement carparking levels.

The ground floor of the development houses four (4) commercial spaces and a residential lobby fronting the street. Vehicular access to the site will be obtained via a single two-way driveway situated in the southern portion of the site, providing access to an at-grade loading dock and car parking area and access to the 2 basement levels of car parking. A waste storage room is situated to the rear of the commercial spaces, with all waste to be collected from within the site. Services inclusive of fire control rooms and a substation are also accommodated within the ground floor of the building.

The site is situated within a medium flood risk precinct which has necessitated raising the ground floor level of the building for flood mitigation reasons. As a result, pedestrian access to the residential lobby and commercial spaces will be obtained via stairs and chair lifts.

An awning is proposed to extend over parts of the pedestrian footpath.

Each of the residential units will be provided with private open space in the form of balconies and terraces while there are also communal open space areas at Level 2 on podium and on Level 18, including a common room. The landscape plans make provision for a range of activity spaces within the communal open space areas including areas for outdoor dining and passive recreation. A combination of planted, paved and turfed areas are proposed.

1.3 BACKGROUND

Development History

No records of any recent approvals.

The applicant's preliminary site investigation indicates that while the site is currently used as car park, until the 1980s the site was used as workshop/ commercial depot or mechanical related business.

Pre-lodgement meetings

There were no formal pre-lodgement meeting held for the proposal.

Design Review Panel (Pre-lodgement)

The applicant met with the Design Review Panel on 3 occasions prior to finalising the plans ready for DA submission, on 22 March, 12 April, and 12 July 2016 (DE-2016/33).

Customer service actions

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

1.4 SITE DESCRIPTION

The site is located at 38 Atchison Street, Wollongong and the title reference is Lot 1 DP 1202226. The site is situated on the western side of Atchison Street and is irregular in shape, with an area of 2733sqm. The site has a frontage length of 69.855m to Atchison Street. The site is vacant and is currently used as a car park. Land to the immediate west of the site is occupied by a two storey commercial building, there are 2 storey commercial buildings to the south and two single storey

buildings to the north which are occupied by commercial uses including a child care centre. Within the wider context there is a mixture of development types and scales including a large function centre further to the north, commercial buildings, some shop top housing developments and a Greek Orthodox Church.

The site is situated within the B3 Commercial Core in the southern part of the Wollongong City Centre.

There is a 7.62m wide drainage easement crossing the south-western corner of the allotment.

Aerial photographs of the site and locality, zoning extract and a copy of the deposited plan are provided at **Attachment 2** to this report.

Property constraints

- Council records identify the land as being located within a medium flood risk precinct;
- A 7.62m wide drainage easement crosses the south-western corner of the allotment;
- Council records identify the land as being located within the Coastal zone. No impacts are expected on the coastal environment as a result of the development and there are no coastal hazards affecting the land which would preclude the development.

1.5 CONSULTATION

1.5.1 INTERNAL CONSULTATION

Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application and has provided a satisfactory referral subject to conditions. These are included in those listed in **Attachment 6**.

Environment Officer

Council's Environment Officer has reviewed the application and given a satisfactory referral subject to conditions of consent. It is noted that particular consideration was given to potential site contamination and a number of conditions of consent are recommended for imposition in relation to remediation, construction management, and acoustic amenity of the residents given the proximity of the development to the nearby railway line.

Landscape Architect

Council's Landscape Officer has reviewed the application and provided a satisfactory referral. The Landscape Officer noted that three (3) street trees will be affected by the proposed development. These trees have been pruned in order to accommodate the aerial power lines and have become misshapen as result. Their removal and replacement with new super-advanced specimens will improve the streetscape. Conditions of consent were recommended for imposition and these are included in those provided at **Attachment 6**.

Traffic Engineer

Council's Traffic Officer has reviewed the application and provided a satisfactory referral. A number of consent conditions were recommended for imposition; these are included in those listed at **Attachment 6**.

Heritage Officer

Council's Heritage Officer has reviewed the application in accordance with Clause 5.10 of the Wollongong LEP 2009 and Chapter's E10 and E11 of the Wollongong DCP 2009. The applicant provided a heritage report which was also reviewed.

The proposed development is not located within close proximity to any surrounding heritage items.

The development site is not known to have any significant archaeological potential and is not in an area known to have Aboriginal Cultural Heritage significance. Given the past disturbance of the site, additional assessment of the Aboriginal Archaeological potential of the site is not considered necessary.

The proposed development is therefore considered to be satisfactory from a Heritage Perspective.

No specific conditions were recommended for imposition.

Stormwater Engineer

Council's Stormwater Officer has reviewed the application and initially raised concerns in relation to some aspects of the design. Amended plans and further information were provided by the applicant which resolve the concerns raised and the proposal is now satisfactory with regard to stormwater and floodplain management, subject to conditions.

1.5.2 EXTERNAL CONSULTATION

Design Review Panel (DRP) (*Post-lodgement*)

The proposal was formally reviewed by the Panel on 31 January 2017. There were a number of design amendments recommended by the DRP at the time which were included in amended plans later submitted by the applicant. The proposal was again reviewed by the DRP on 22 May 2017 where some further minor amendments were recommended. The project was supported by the Panel subject to these amendments being made. Amended plans were again provided which now address the outstanding matters raised by the Panel and the proposal is now considered satisfactory.

Endeavour Energy

The proposal was referred to Endeavour Energy for comment however no response was provided.

Sydney Water

A satisfactory response was received from Sydney Water who advised that the trunk water and waste water systems have adequate capacity to service the development. Formal requirements will be determined as part of the Section 73 application. Conditions of consent have been recommended for imposition and these are included in the recommended conditions at **Attachment 6**.

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

(1) Matters for consideration—general

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

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

(d) 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

The application was not accompanied by a preliminary site investigation. The issue of contamination was considered in the Statement of Environmental Effects which concluded that it was unnecessary to undertake a preliminary site investigation and Council could use its discretion to not require such an assessment under Clause 7 of SEPP 55. The site is currently used as car park, however until 1980s the site was used as workshop/ commercial depot or mechanical related business. Council's Environmental Officer has reviewed the history of the site and notes that the site has the potential for contaminated soils or underground storage tanks. As the proposed development involves 7.0 metres excavation below ground for basement car parking, all potential contaminated spoil will be classified and removed. Conditions are proposed requiring that prior to excavation, the depth and quality of contaminated soil must be determined and a remediation action plan and reports prepared to identify the soil contamination, depths and volumes for offsite disposal.

Subject to compliance with these recommended consent conditions, the proposal will be satisfactory with regard to SEPP 55.

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

The provisions of the SEPP apply as the development includes a 'residential flat building', is more than 3 storeys in height and comprises more than 4 dwellings.

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.

Clause 28 provides that the application must be referred to the relevant design review panel (if any) for advice concerning the design quality of the development while Clause 28(2) provides that a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

The proposal has been reviewed by a Design Review Panel convened for the purposes of the SEPP as outlined above in Section 2.5.2 of this report. The proposal as amended is satisfactory to the DRP.

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 28(2)(a) of the Policy and are discussed 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 neighbourhood is one in transition, with a character changing as some nearby sites are redeveloped. The existing character of development in the locality is highly variable, with a combination of development types, scale and character evident.

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.

The locality is one undergoing transition as is evidenced by the mix of development types and scales in proximity of the site. There are 2 other significant shoptop housing developments under consideration in close proximity of the site also with frontage to Atchison Street.

The bulk and scale of the development is consistent with the applicable planning controls for the area inclusive of building height, floor space ratio, street frontage heights, building setbacks and other built form controls. The development is not considered to be out of context with regard to the desired future character of the area. The scale of the development is likely to give rise to some impacts on neighbouring properties however there is no adjoining residential development and the scale of existing development on abutting sites is not reflective of the likely character expected to emerge over time in this southern part of the Wollongong city centre.

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, communal open space and the like.

Further, 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 and the building height is compliant. The development is not of a scale that is expected to place unreasonable strain on local infrastructure subject to augmentation. Contributions applicable to the development will go towards local infrastructure and facilities. The site is well situated with regard to existing public open space and services and residents will enjoy good amenity.

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 have been provided indicating minimum requirements with regard to energy and water efficiency and thermal comfort are met;
- A Site Waste Management and Minimisation Plan has been provided indicating appropriate management and disposal of any excavated materials;
- The development has been appropriately designed with regard to solar access and natural ventilation;

- The proposal will not have an unreasonable impact on any heritage items or environmentally sensitive areas;
- A water sensitive urban design strategy has been designed into the scheme; and
- The proposal is an efficient use of land in a location that is close to services and public open space.

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 inclusive of at-ground and on structure planting and communal open space that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain. Street tree planting and footpath paving works will be required in accordance with the requirements of the Wollongong City Centre Public Domain Technical Manual. These works are provided for on the landscape plans submitted with the application and conditions are recommended in regards to public domain works and general site landscaping matters.

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 satisfies the requirements for solar access, private and communal open space, storage, visual and acoustic privacy, access and the like for future occupants of the development. Future occupants of the development are expected to enjoy reasonable amenity and the development will enjoy distant views of the ocean and coast to the east and escarpment views to the west.

There are no nearby residences that will be affected by the proposed development in terms of privacy or loss of solar access. There is a variation sought in respect of Clause 8.6 (building separation) of WLEP 2009 in terms of increased setbacks to part of the podium. The development otherwise provides for generally compliant building setbacks to boundaries (with the exception of some minor variations) as required by the ADG in order to provide for equitable sharing of building separation distances with neighbouring sites when subject to future redevelopment - refer to the ADG assessment at **Attachment 3** in this regard. The applicant has provided detailed contextual analysis diagrams inclusive of potential future development envelopes on nearby sites to show the relationship between the proposed development and that which could occur on neighbouring sites.

In terms of solar access and overshadowing impacts, the shadow diagrams submitted with the application (which form part of **Attachment 2**) indicate lengthy shadows to the south, south-west and south-east. Given the provision of compliant setbacks and given allowable building heights and densities within the B3 Commercial Core, the extent of overshadowing impact is not considered to be unreasonable.

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 and is generally consistent with the principles of crime prevention through environmental design. Refer to discussion in relation to Chapter E2 of WDCP 2009 in **Attachment 5**.

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 proposal provides a mix of unit sizes and layouts appropriate to the locality. Provision has also been made for adaptable units as per the requirements of the ADG and Wollongong DCP 2009. There are opportunities for informal social interaction within common areas including the communal open space, lobbies and the like.

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. Appropriate treatment of the streetscape is proposed having regard to the desired future character of development in the locality. The proposal has been amended in response to the suggestions provided by the Design Review Panel and is now acceptable.

An assessment of the application against the Apartment Design Guide (ADG) is contained within **Attachment 3** to this report.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The development application was referred to Endeavour Energy for comment in accordance with Clause 45 as it may involve works within proximity of electricity infrastructure.

Endeavour Energy has not provided a response. Accordingly it is considered that Endeavour Energy has no objection to the proposed development. In any event, if the application were to be supported, standard conditions of consent could be imposed in regards to matters including the requirement to obtain approval from the relevant authorities for the connection of electricity and confirmation of the suitability of the substation design.

2.1.4 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.

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

The development has a capital investment value of more than \$20 million and accordingly the application is required to be determined by the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A to the Environmental Planning & Assessment Act, 1979.

2.1.6 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 generally satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone:-

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 **shop top housing development** as described below and is permissible in the zone with development consent.

Clause 1.4 Definitions

The following definitions are relevant to the proposed development:-

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

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

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

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

There are no structures on the site other than a concrete slab which will be removed to facilitate the construction of the proposed development.

Part 4 Principal development standards

Clause 4.3 Height of buildings

This clause prescribes a maximum height of 60 metres for the Site, as shown on the Height of Buildings Map. The proposal has a maximum overall height of 59.9m which is compliant.

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

Clause 4.4A of Wollongong LEP “Floor space ratio—Wollongong city centre” applies to land within the Wollongong city centre and provides formulae for determining the allowable maximum floor space ratio for sites depending on the site area, site frontage width, zoning and proportion of non-residential and residential gross floor area.

In the case of the Site and the proposal, based on the proportions of gross floor area dedicated to residential and non-residential uses, the resulting maximum permissible floor space ratio is 3.70845929:1.

The proposed FSR is 3.6917:1 which is compliant with Clause 4.4A.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the Wollongong LEP “Exceptions to development standards” provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

In this instance, a departure is sought in respect of Clause 8.6 Building Separation. The applicant has provided a statement prepared with reference to Clause 4.6 in relation to Clause 8.6 Building Separation. The development departure in relation to Clause 8.6 is dealt with below.

Part 5 Miscellaneous provisions

Clause 5.5 Development within the coastal zone

Consideration has been given to matters prescribed by Clause 5.5 and no concerns are raised in relation to impacts of the proposed development on the coastal zone values. The site is some distance from the foreshore and is not identified as being impacted by coastal hazards. There are not expected to be any adverse impacts on the coastal environment or public access to the foreshore as a result of the application.

Council can be satisfied that the development will not impede or diminish access to the coastal foreshore; will be serviced by reticulated water and sewerage services; will appropriately manage stormwater and will not significantly be affected by coastal hazards, or either have a significant impact on coastal hazards, or increase the risk of coastal hazards in relation to any other land.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

This clause seeks to ensure that sufficient infrastructure is available to service development and requires that consent not be granted for development unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The site is already serviced by electricity, water and sewerage services. It is expected that the existing utility services can be augmented to support the proposed development.

If approved, conditions should be imposed upon the development consent requiring approval from the relevant authorities for the connection of electricity, water and sewerage to service the site.

The applicant has made provision for a future substation in the event that this is required by Endeavour Energy.

Clause 7.3 Flood planning area

This clause seeks to maintain the existing flood regime and flow conveyance capacity; to enable evacuation from flood prone land; to avoid significant adverse impacts on flood behaviour; to avoid significant effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and to limit uses to those compatible with flow conveyance function and flood hazard. The Site is flood affected and accordingly is subject to the objectives and provisions contained within this clause.

Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that all habitable floor levels of the development will be above the flood planning level; the development will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties; the development will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain; the development will not affect evacuation from the land; the development will not significantly detrimentally affect the floodplain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; the development will not result in unsustainable social and economic costs to the community as a consequence of flooding; and if located in a floodway area—the development will not be incompatible with the flow conveyance function of, or increase a flood hazard in, the floodway area.

The proposal has been assessed by Council's Stormwater Section with regard to Clause 7.3 and the applicable provisions of WDCP 2009 and is now satisfactory.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by Class 5 acid sulphate soils. An acid sulfate soils management plan is not required.

Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the building's two levels of basement car parking. The earthworks have been considered in relation to the matters for consideration outlined in Clause 7.6 and are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of surrounding land. Council's Geotechnical Engineer has considered the application and has provided a satisfactory referral subject to conditions.

Clause 7.13 Ground floor development on land within business zones

The objective of Clause 7.13 is to ensure active uses are provided at the street level to encourage the presence and movement of people. The clause requires that development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:

- (a) will not be used for the purpose of residential accommodation, and
- (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.

The proposal provides active uses at ground floor level in accordance with this control.

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

As the site is positioned within the Wollongong city centre, it is subject to this clause, the objective of which is to deliver the highest standard of architectural and urban design.

Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence. In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:-

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

The design, materials and detailing are considered to be of high quality and are appropriate to the building type and location.

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

The development is considered to positively contribute to the public domain through an aesthetically pleasing façade, extensive landscaping and provision of street trees and upgraded footpaths along the frontage of the site.

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

No significant view corridors are impacted. The site is located outside of the nominated distant panoramic view corridor identified in Figure 3.12 (Clause 3.10) of Chapter D13 of WDCP 2009.

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

The proposal will not overshadow an area identified on the Sun Place Protection Map.

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

- (i) *the suitability of the land for development,*

The land is zoned for the type of development proposed and the development complies with the relevant planning controls with the exception of some minor variations. There are no site constraints that would prevent the proposal, and the building is now appropriately designed with regard to flooding.

- (ii) *existing and proposed uses and use mix,*

The development is considered to be consistent with current and desired future development in the locality. The proposed mix of uses within the development is consistent with the B3 zone objectives.

- (iii) *heritage issues and streetscape constraints,*

The development will not have an adverse impact on the heritage significance of any nearby heritage items. There are no significant streetscape constraints.

- (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,*

Setbacks, amenity and urban form matters have been satisfactorily addressed as discussed elsewhere in this report. While there are no nearby towers, the proposed tower is considered to have been satisfactorily designed with regard to possible future development of neighbouring sites as detailed in the contextual analysis provided with the application (see **Attachment 2**).

- (v) *bulk, massing and modulation of buildings,*

The bulk and scale of the development is considered to be acceptable when measured in terms of building height, floor space ratio and setbacks. The Design Review Panel advised that the development is acceptable with regard to bulk, massing and modulation of buildings; see **Attachment 4**.

(vi) street frontage heights,

The street frontage height of the proposed building is appropriate and complies with relevant controls.

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

The development incorporates some sustainable building design initiatives including the use of solar power and water sensitive urban design. BASIX Certificates have been provided demonstrating compliance with applicable energy efficiency, water efficiency and thermal comfort targets.

The proposal will have overshadowing impacts in the locality however these impacts are not unreasonable and are considered to be acceptable having regard to allowable building heights and densities permitted within the city centre.

A Wind Effects Report has been provided in support of the development which recommends some amelioration measures. Conditions have been recommended in relation to the implementation of these recommendations and limitations on material reflectivity.

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

The proposal is considered satisfactory with regard to objectives of ESD. The site is well placed with regard to access to key transport nodes, and is within ready walking distance of the CBD, employment opportunities and recreation facilities. The development has been designed to provide for good internal amenity with appropriate provision for energy and water efficiency and thermal comfort.

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

The proposal provides the necessary car parking, motorcycle and bicycle parking and suitable manoeuvring areas. Satisfactory waste servicing arrangements have been provided, with all waste to be managed from within the site. Provision has also been made for delivery/ loading facilities within the building to service the commercial components of the development.

Appropriate arrangements have been made for safe, direct, practical and equitable pedestrian access to the building.

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

Street trees and footpath upgrades are to be provided to the Atchison Street frontage of the site in compliance with the requirements of the Public Domain Technical Manual.

While not required by Clause 7.18(5), a review of the design of the proposed development has been undertaken in accordance with the requirements of SEPP 65.

The DRP considered the proposal on three occasions prior to the lodgement of the development application and on two occasions post lodgement. Following lodgement of the application, the proposal was initially considered on 31 January 2017 where the Panel provided a number of recommendations. The applicant provided amended plans addressing the recommendations which were reviewed by the Panel on 22 May 2017. The Panel advised that its concerns were largely resolved bar some matters pertaining to the treatment of the lower two levels (inclusive of the landscaped forecourt, awning, shopfront entry treatment, resolution of the forecourt entry from the street frontage including the requirement to remove the ramp and landscape planters and incorporation of a platform lift); and some minor internal amenity issues within the residential and commercial components of the development. The applicant has provided plans addressing these matters. The proposal is now satisfactory and exhibits design excellence as required by Clause 7.18 of WLEP 2009.

The DRP meeting notes and recommendations are provided at **Attachment 4**.

Part 8 Local provisions—Wollongong city centre

The site is located within the area defined as the Wollongong city centre by the LEP and accordingly the provisions within this part of the LEP are of relevance to the proposal.

Clause 8.4 Minimum building street frontage

This clause requires that 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. This site satisfies this standard, with a street frontage width of 69.855m.

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

The proposed development does not comply in full with Clause 8.6 and a variation statement has been provided by the applicant addressing Clause 4.6 of the LEP. The submission is attached in full at **Attachment 1A**.

The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.

- (2) Buildings on land within Zone B3 Commercial Core or B4 Mixed Use must 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
 - (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
 - (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.
- (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.
- (4) For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.
- (5) In this clause:
street frontage height means the height of that part of a building that is built to the street alignment.

The building departs from the development standard in the following ways:-

- The building features zero setbacks to the northern and southern boundaries for only the first two levels – ie to the commercial component of the development. Above that (and below the street frontage height; ie levels 3-5), the setbacks to the northern boundary are a minimum of 2.107m while on the southern boundary, a setback increasing from 6.5m has been provided. The building features residential units within Levels 2-5 (ie within the podium).

In terms of the northern boundary, Clause 8.6(2)(a) requires there to be 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). To the north of the site, there exists only a single storey building which has the form of a residential dwelling but is however occupied by a beauty salon, ie. is used solely for commercial purposes:



Figure 1: 34 Atchison Street (Source: Google maps, November 2016)

As illustrated in this photo, the neighbouring building is setback approximately 3.5m from its southern boundary (ie. the common boundary with the subject site). The proposed building will be built to the northern boundary.

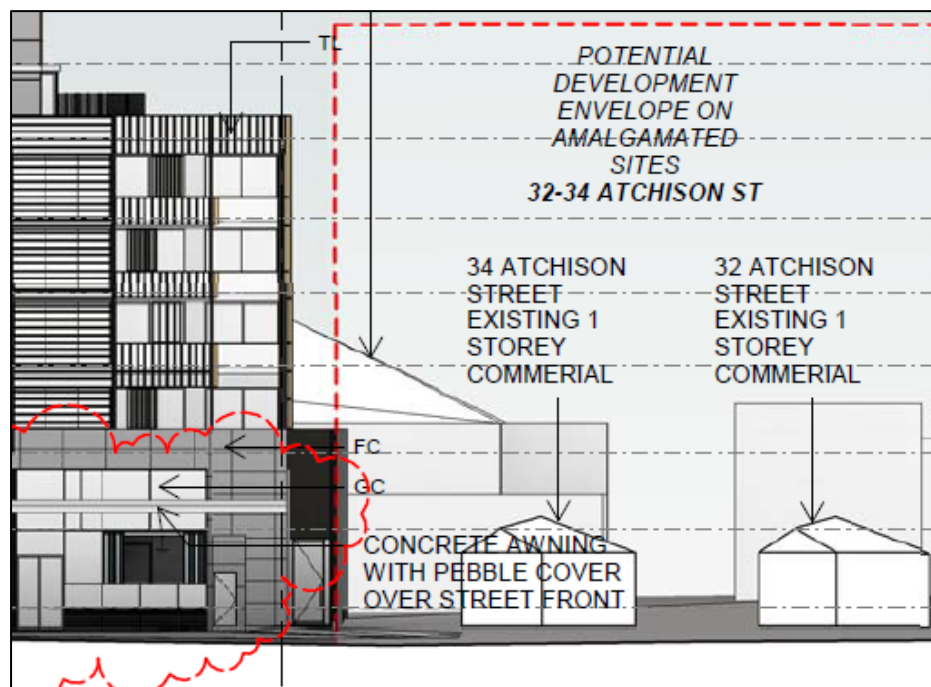


Figure 2: Extract of eastern elevation showing the relationship between the existing building at No.34 Atchison Street and the proposed building.

There is no potential to provide for a zero building separation to this adjacent building due to its setback from the common boundary between the two sites. However with any future re-development of that site, it is anticipated that a future building can be designed to achieve a continuous street wall to the commercial component of the development as required by the LEP and Chapter D13 of WCP 2009.

To the northern boundary, there is no technical departure from Clause 8.6 in relation to any other part of the building above the height of the neighbouring building to the north.

- In terms of the southern boundary, the site to the immediate south of the subject site contains a two storey brick commercial building, illustrated in the photograph below, which is setback approximately 1.0m from its northern boundary (ie. the common boundary between the two sites):-



Figure 3: 44 Atchison Street (Source: Google maps, November 2016)

Clause 8.6(2)(a) requires there to be 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). The variation in respect of Clause 8.6(2)(a) relates only to that part of the proposed development at the equivalent height of the neighbouring building, ie. to approximately the mezzanine level:

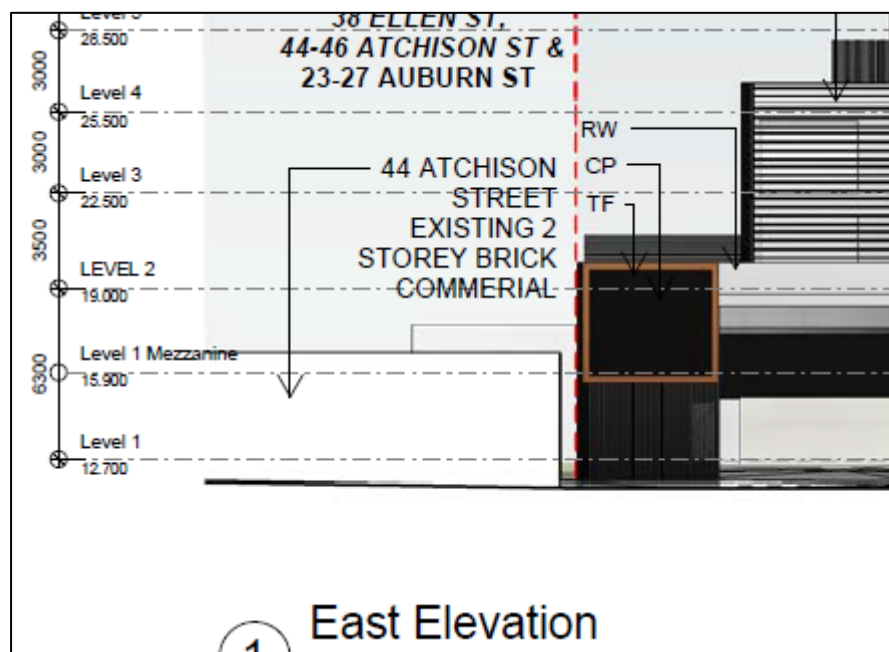


Figure 4: Extract of eastern elevation showing the relationship between the existing building at No.44 Atchison Street and the proposed building.

The departure is a technical non-compliance arising only due to the fact that the neighbouring building within No.44 Atchison Street is not built to its northern boundary, creating a gap between the two buildings. The proposed building is to be built to the boundary as required.

There is no potential to provide for a zero building separation to this building due to its setback from the common boundary between the two sites. However with any future re-development of that site, it is anticipated that a future building can be designed to achieve a continuous street wall to the commercial component of the development as required by the LEP and Chapter D13 of WCP 2009.

To the southern boundary, there is no technical departure from Clause 8.6 in relation to any other part of the building above the height of the neighbouring building to the south.

The applicant has provided a submission addressing the development departure which has been prepared in accordance with Clause 4.6 of WLEP 2009. The submission addresses the objectives of the standard, which are to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access. The submission addresses all other aspects required by Clause 4.6 and is supported.

In the case of the variation evident, the development itself is compliant in terms of providing a zero setback to the northern and southern boundaries of the site, and the lack of ability to provide for a zero setback to neighbouring buildings comes about solely as those buildings are setback from the common boundary with the subject site. It is expected, given the allowable development potential that could be realised on the neighbouring sites, that these will be redeveloped in future. With any future re-development of the neighbouring sites, it is anticipated that future buildings can be designed to achieve the continuous street edge sought to be attained along Atchison Street as is envisaged by the LEP and Chapter D13 of WCP 2009. Approval of the development in the manner proposed will not hinder the achievement of that objective.

This being the case, the development departure is supported.

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

2.1.7 DRAFT STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2016

At the time of undertaking this assessment, a draft State Environmental Planning Policy (Coastal Management) 2016 and associated maps had been exhibited. Also exhibited was a draft section 117 Ministerial direction and a draft Standard Instrument (Local Environmental Plans) Amendment (Coastal Management) Order.

The period consultation period was 11 November to 23 December 2016.

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 cl 5.5 In terms of coastal zone management and planning, SEPP 71 remains applicable and provides the framework for assessing development.

The site is located within the coastal use area. Division 4 of the draft SEPP deals with the coastal use area.

Clause 15 states that 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 matters.

Clause 16 applies to development in the coastal zone generally and states that development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. As detailed elsewhere within this report, the proposal is not expected to increase the risk of coastal hazards on the subject land or any other land.

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

2.2.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009. Compliance tables can be found at **Attachment 5** to this report. It is noted that the development departs from some of the design controls in Chapter D13. These are dealt with in the compliance tables and are supported.

2.2.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2016)

The estimated cost of works is \$27,177,997 and a Section 94A levy of 2% is applicable. This includes the standard 1% development contribution plus an additional 1% levy which applies to development in the B3 Commercial Core. This latter contribution provides funding towards the Special City projects nominated in the Civic Improvements Plan for the Wollongong City Centre.

2.3 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.

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

Clause 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.

If the development were to be approved, condition(s) of consent should be imposed in relation to demolition including compliance with AS 2601.

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.

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

The site is located within the NSW Coastal Zone however there is no adopted Coastal Zone Management Plan for the Wollongong LGA.

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. Coastal Processes have, however, been previously considered in response to Clause 5.5 of WLEP 2009.

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

Context and Setting:

Context and setting has been addressed in detail above in Section 2.1.2 in relation to the SEPP 65 design principles and also with reference to the design excellence matters prescribed by Clause 7.18 of Wollongong LEP 2009 (see Section 1.5.1).

Vehicular Access, Transport and Traffic:

The proposal is satisfactory with regard to carparking, vehicular access, manoeuvring and servicing. Provision has been made for appropriate arrangements for on-site servicing and deliveries.

Traffic generation from the development can be readily absorbed into the existing street network. Pedestrians will be safely accommodated.

Public Domain:

Removal and replacement of the existing street trees will be required along with construction of footpath paving in accordance with the Wollongong City Centre Public Domain Technical Manual. Conditions of consent should be imposed in regards to these matters if the proposal is approved.

Utilities:

The proposal is not expected to place an unreasonable demand on utilities supply. Existing utilities are likely to be capable of augmentation to service the proposal. If approved, conditions could be imposed on the consent requiring the developer to make appropriate arrangements with the relevant servicing authorities prior to construction.

The plans make provision for a substation within the building in an appropriate location. The design and finish of the substation cupboard is considered to be acceptable.

Heritage:

No nearby heritage items are expected to be affected by the proposed development.

Other land resources:

The proposal is not expected to impact upon any valuable land resources.

Water:

Supply & infrastructure - The site is presently serviced by Sydney Water's reticulated water and sewerage services. It is expected that these services can be extended/ augmented to meet the requirements of the proposed development.

Consumption - The proposal is not envisaged to involve excessive water consumption having regard to the uses proposed within the building. The BASIX certificates provided in relation to the residential units demonstrate compliance with the water efficiency targets contained within the BASIX SEPP.

Water quality – the application was accompanied by a Water Sensitive Urban Design Strategy which demonstrates that the compliance with the water quality objectives outlined in Chapter E15 of WDCP 2009 – Water Sensitive Urban Design can be achieved.

Soils:

It is expected that, with the use of appropriate erosion and sedimentation controls during construction, soil impacts will not be unreasonably adverse. Conditions should be imposed in this regard if the proposal were approved; see **Attachment 6**.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate. A Pedestrian Wind Environment Study was provided with the development application as required by Chapter D13 of WDCP 2009. The results of the study indicate that some ameliorative treatments are required in certain locations to achieve the desired criteria for pedestrian comfort and safety. With the inclusion of these treatments to the final design, the Study indicates that wind conditions for all outdoor trafficable areas within and around the proposed development are expected to be suitable for their intended uses. Conditions of consent have been recommended for imposition in relation to the implementation of the amelioration measures outlined in the wind study; see **Attachment 6**.

Flora and Fauna:

No adverse impacts on significant flora or fauna is expected as a result of the proposed development. It is noted that Council's Landscape Officer was satisfied with the submitted landscape plan.

Waste:

Refer to WDCP compliance table at **Attachment 5**.

Waste management during construction can be managed through proper arrangements. A condition should be imposed if consent is granted requiring the use of an appropriate receptacle for any waste generated during the construction and compliance with the Site Waste Management and Minimisation Plan provided with the DA.

On-going waste management arrangements are satisfactory and comply with the relevant provisions of Wollongong DCP 2009 as detailed within this report.

Energy:

The proposal is not envisaged to have unreasonable energy consumption. The BASIX certificates provided demonstrate compliance with the energy efficiency and thermal comfort targets of the BASIX SEPP.

Noise and vibration:

Noise and vibration impacts during demolition, excavation and construction are unavoidable. If the development is approved, a suite of conditions are recommended for imposition (see **Attachment 6**) to minimise nuisance during demolition and construction.

The only source of nuisance noise within the locality is the South Coast Railway line which is situated approximately 150m to the west of the site. Council's Environmental Officer has recommended conditions in relation to glazing treatment and the like to ensure that an appropriate level of internal amenity will be available within the proposed units; these are included in **Attachment 6**.

Natural hazards:

As discussed elsewhere within this report, the site is positioned within a medium flood risk precinct. The building is now appropriately designed with regard to flooding and stormwater management, ensuring that there will be no adverse impacts on neighbouring properties.

Technological hazards:

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

Safety, Security and Crime Prevention:

Refer to WDCP compliance table at **Attachment 4**. The proposal is not expected to provide increased opportunities for criminal or antisocial behaviour and is considered to be reasonably well designed with regard to CPTED principles subject to some matters being dealt with via consent conditions; see **Attachment 6**.

Social Impact:

No significantly adverse social impacts are expected to arise from approval of the proposed development.

Economic impact:

There are not expected to be any adverse economic impacts arising from approval of the proposed development.

Construction:

Construction impacts have the potential to impact on the amenity of the neighbourhood. If approved, it would be appropriate to impose a suite of conditions to reduce the impact of construction works including those relating to hours of work, erosion and sedimentation controls, dust mitigation, works in the road reserve, excavation, demolition management, waste management, and use of any crane, hoist, plant or scaffolding, amongst others. These are included in the recommended conditions at **Attachment 6**.

Cumulative impacts:

Approval of the proposal is not expected to give rise to any adverse cumulative impacts.

2.7 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.

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

The application was notified to adjacent and adjoining property owners in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising Procedures and an advertisement was printed in the local newspaper on 11 January 2017. At the conclusion of the notification period there was one submission in support of the project received from Neighbourhood Forum 5.

Submissions from public authorities

Endeavour Energy

The matter was referred to Endeavour Energy for comment however no response was provided.

Sydney Water

Sydney Water advised Council that it had no objection to the proposed development.

2.9 SECTION 79C 1(E) THE PUBLIC INTEREST

The proposed development is considered appropriate with consideration to the zoning and the character of the area. Approval of the proposed development is considered to be in the public interest.

3. CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 79C of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the B3 Commercial Core zone. The development is consistent with most of the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 and SEPP 65 with the exception of the technical building separation variation sought in respect of the northern and southern boundaries of the site which has been discussed in the body of this report and is considered to be acceptable in this instance.

The design of the development is appropriate with regard to the controls outlined in the Wollongong DCP 2009 and the Apartment Design Guide.

All concerns raised in initial internal referrals have now been resolved and the proposal as amended is supported by the Design Review Panel.

There being no outstanding issues, it is recommended that DA-2016/1719 be approved.

4. RECOMMENDATION

It is recommended that the Joint Regional Planning Panel approve DA-2016/1719 pursuant to Section 80(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at **Attachment 6**.

5. ATTACHMENTS

- 1 Plans
- 2 Aerial photograph, WLEP 2009 zoning map, site photographs and extract of deposited plan
- 3 Apartment Design Guide Assessment
- 4 Most recent design review
- 5 Wollongong DCP 2009 Assessment
- 6 Recommended conditions