

# SUPPLEMENTARY REPORT TO THE JOINT REGIONAL PLANNING PANEL

(Southern Region)

JRPP No	<b>2016STH037</b>
DA Number	<b>DA-2016/1719</b>
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"> <li>• List all of the relevant environmental planning instruments: s79C(1)(a)(i) –</li> </ul> <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> <li>▪ SEPP No. 55 – Remediation of Land</li> <li>▪ State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</li> <li>▪ SEPP (Infrastructure) 2007</li> <li>▪ SEPP (Building Sustainability Index: BASIX) 2004</li> <li>▪ SEPP (State and Regional Development ) 2011</li> </ul> <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> <li>▪ Wollongong Local Environmental Plan 2009</li> </ul> <p><u>Other Policies</u></p> <ul style="list-style-type: none"> <li>▪ NSW Apartment Design Guide</li> <li>▪ Wollongong Section 94A Development Contributions Plan 2017</li> </ul> <ul style="list-style-type: none"> <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> </ul> </li> <li>• List any relevant development control plan: s79C(1)(a)(iii) Wollongong Development Control Plan 2009</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) Nil</li> <li>• List any coastal zone management plan: s79C(1)(a)(v)</li> </ul>

	<p>Nil</p> <ul style="list-style-type: none"> <li>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</li> </ul> <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> <p>Detailed Site Investigation report by Aargus Pty Ltd</p>
Recommendation	It is recommended that DA-2016/1719 be approved subject to the conditions contained within <b>Attachment 6</b> .
Report by	Theresa Whittaker, Senior Development Project Officer

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### Summary of s79C matters

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

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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? **Yes**

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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**

*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*

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# Supplementary Assessment Report and Recommendation Cover Sheet

## Executive Summary

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### Reason for consideration by Joint Regional Planning Panel

The proposal was previously considered by the Joint Regional Planning Panel at its meeting held on 26 September 2017 where it resolved to defer determination of the development application.

The application 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;
- Potential site contamination issues;
- 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**.

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The matter was previously considered by the JRPP at its meeting held on 26 September 2017 where the Panel determined to –

1. Defer Development Application DA-2016/1719 pending a supplementary report that addresses the following -
  - a. SEPP 55 requirements that demonstrate that the site can be made suitable for residential use;
  - b. Clause 4.6 requirements;
  - c. The provisions of Clause 7.3; and
  - d. A summary of changes made to the Plans that address the design guidelines and Design Review Panel comments.
2. The applicant is required to provide additional information with respect to the site investigation in relation to SEPP 55 matters.

3. On receipt of the supplementary report the Panel will determine the matter electronically.

This report outlines the further information provided by the applicant and provides further information in relation to SEPP 55, Clauses 4.6 and 7.3 of the LEP and outlines the list of plan amendments made in response to the recommendations of the Design Review Panel.

# **1. SEPP 55 requirements**

In response to Items 1a and 2 of the deferral, the applicant has provided a detailed site investigation report prepared to address Clause 7 of State Environmental Planning Policy No 55—Remediation of Land (SEPP 55). The site investigation report was prepared by Aargus Pty Ltd and has been carried out in accordance with the Contaminated Land Planning Guidelines as required by SEPP 55. The report has been reviewed by Council's Environmental Officer.

The investigation comprised a site inspection, a review of the site history, previous reports and available information from a desktop study, as well as soil investigations. The report identified the potential Areas of Environmental Concern (AEC) and their associated Contaminants of Concern (CoC) for the site. These are summarised in the following table extracted from the report:-

Potential AEC	Potentially contaminating activity	Potential CoCs	Likelihood of Site Impact	Justification
Entire site	Importation of fill material from unknown origin	Metals, TPH, BTEX, PAH, OCP, PCB, Phenols, Cyanides, Asbestos	Moderate to High	The Coffey investigations encountered fill across the site to depths of up to 2m BGL. The source of the fill is unknown and the quality of the fill was deemed to be poor.
Former Underground Tank and NE corner of the site	Leaks from USTs and associated pipelines	Metals, TPH, BTEX, PAH	Moderate to High	Council information indicated that a UST was approved for the site, with the exact location unknown. In addition, previous investigations noted hydrocarbon odours and loose fill in the NE corner of the site, which may be attributed to a former UST location.
Carpark areas	Leaks from vehicles	Metals, TPH, BTEX, PAH	Low to medium	The carpark areas were mainly paved with bitumen and gravel. In addition, no staining was observed, indicating that any leaks that may have occurred did not penetrate the existing pavement.
Metal degradation	Former buildings	Metals	Low	If this occurred, it would likely be restricted to the surface soils.
South Eastern portion	Former buildings	Metals, OCP, asbestos	Low	The site was used for residential purposes, with the structures potentially containing asbestos building products, and pesticides sprayed.

The soil investigation was carried out on 19 October 2017. The soil results are summarised as follows:-

- All of heavy metals concentrations from the samples analysed met their respective assessment criteria under the HIL 'B', EILs and site derived EILs.
- The TRH, BTEX, naphthalene and/or benzo(a)pyrene concentrations from the samples met their respective HSLs, ESLs and/or Management Limits.
- The benzo(a)pyrene (as TEQ), Total PAH, OCP, PCB, Phenols & Cyanide concentrations were below the Health Investigation Level (HIL) for residential with minimal opportunities for soil access, that being the HIL 'B' and/or EILs.

- Asbestos results in all samples were either not detected or below their assessment criteria.

The historical desktop study and previous Coffey investigation indicated that there were two areas within the site that may still have contamination present that could not be defined as part of the current investigation. These relate to the approved UST (identified in Council's database) and hydrocarbon odours / loose fill in the north eastern corner of the site. The report states that these can be considered data gaps and require further investigation as part of future site works.

The report concludes:-

"Based on the results of this investigation it is considered that the risks to human health and the environment associated with soil contamination at the site are low within the context of the proposed use of the site for an eighteen-storey residential and commercial building with two basement levels and a deep soil landscaping area. The site is therefore considered to be rendered suitable for the proposed use, subject to the following:

- An appropriate remedial / management strategy is developed, culminating in preparation of a Remedial Action Plan (RAP) in accordance with EPA guidelines, in regards to USTs, the north eastern corner, and the groundwater quality beneath the site.
- Any soils requiring removal from the site, as part of future site works, should be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW EPA (2014)."

Clause 7(1) of the SEPP requires the consent authority, prior to granting consent to the carrying out of any development on land unless:-

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

*Comment:-* Council as the consent authority has considered a detailed site investigation report prepared by a suitably qualified consultant. This provides adequate information on which to draw sound conclusions around the presence of contamination or otherwise and to determine whether site remediation is required. As outlined above, the detailed site investigation concludes that the risks to human health and the environment associated with soil contamination at the site are low within the context of the proposed development/ use of the site subject to development of an appropriate remediation action plan and classification of waste soils from the site. Conditions are recommended for imposition in relation to the requirement for a RAP and the carrying out of remediation works as part of the development scheme. Validation of the remediation works will be required prior to the commencement of occupation of the development. The land will be therefore be remediated before occupation and thus, in accordance with (c), will be rendered suitable for the proposed purpose before the land is used for that purpose.

- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

*Comment:* a detailed site investigation has been carried out by Aargus Pty Ltd in accordance with the Contaminated Land Planning Guidelines. This has been considered by Council's Environmental Scientist who considers it to be adequate.

- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

*Comment:* as detailed above, the applicant has provided a detailed site investigation report which is sufficient. The report has been considered by Council's Environmental Officer who considers that the

development can be supported subject to consent conditions in relation to remediation and validation of contamination at the site and waste classification, as recommended by the site investigation report.

It is concluded that Clause 7 of the SEPP has been appropriately addressed.

## 2. Clause 4.6 requirements

### 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 addressing the matters prescribed by Clause 4.6 in relation to Clause 8.6 Building Separation. The submission is attached in full at **Attachment 2**.

WLEP 2009 Clause 4.6 proposed development departure assessment	
Development departure	Clause 8.6 Building Separation
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, <b>and</b>	Yes. The applicant's request contains this justification.  In summary the justification relies on compliance with the building separation standard in this instance being unnecessary as there are no unreasonable impacts arising from the non-compliance and the development is consistent with the objectives of the standard despite the non-compliance.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification.
4.6 (4) (a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	The applicant's request has adequately addressed the matters required to be addressed by subclause (3).  The applicant's request is based on the rationale that the variation to Clause 8.6 is considered to be consistent with the objectives of the clause and that in the specific circumstances of the site a better and more appropriate outcome for the proposed development is achieved by allowing flexibility to the development standard.  The proposed building itself complies with the required setback distances to boundaries as identified within the principal assessment report, however the variation from the Clause 8.6 building separation requirements arises due to the position of the neighbouring buildings to the north and south of the subject site. It is expected that with the redevelopment of neighbouring sites in the future, this departure will be overcome, creating a continuous street wall as envisaged by the planning controls.
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in	The proposed development will be in the public interest because (a) it is consistent with the objectives of the particular standard and (b) the objectives for development within the zone in which the development is proposed to be carried out will be achieved. The variation of the standard is also not expected to compromise the development potential of neighbouring sites and for this reason is

which the development is proposed to be carried out, and	<p>also considered to be in the public interest.</p> <p>The objectives of the standard is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.</p> <p>The development, despite the non-compliance with the building separation standard, will be consistent with the objectives of that standard.</p> <p>In relation to visual appearance, as noted above, the building setbacks to the boundaries complies; the technical non-compliance arises due to the position of the neighbouring buildings to the immediate north and south of the site. It is expected that with future redevelopment of neighbouring sites that a continuous street wall will be created as envisaged by the planning controls.</p> <p>Further, the departure will not have any adverse impacts on the amenity of nearby developments, the streetscape or public domain. There will be minimal additional overshadowing impacts arising from the development departure, no view impacts, no additional privacy impacts, no adverse impacts on the streetscape or any heritage items, and no additional overshadowing of nearby public places.</p> <p>There is not considered to be a public benefit served in this instance by insisting on strict compliance with the standard.</p> <p>The development will remain consistent with the objectives of the B3 zone despite the non-compliance with Clause 8.6.</p> <p>In conclusion, it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, there are sufficient environmental planning grounds to justify contravention of the standard, the objectives of the standard and the B3 zone will be maintained despite the non-compliance, and the public interest will be served despite the non-compliance with Clause 8.6.</p> <p>Further discussion on the Clause 8.6 variation is provided below.</p>
(b) the concurrence of the Secretary has been obtained.	Yes; Council can exercise its assumed concurrence in this instance.

#### 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 as outlined in the above table.

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.



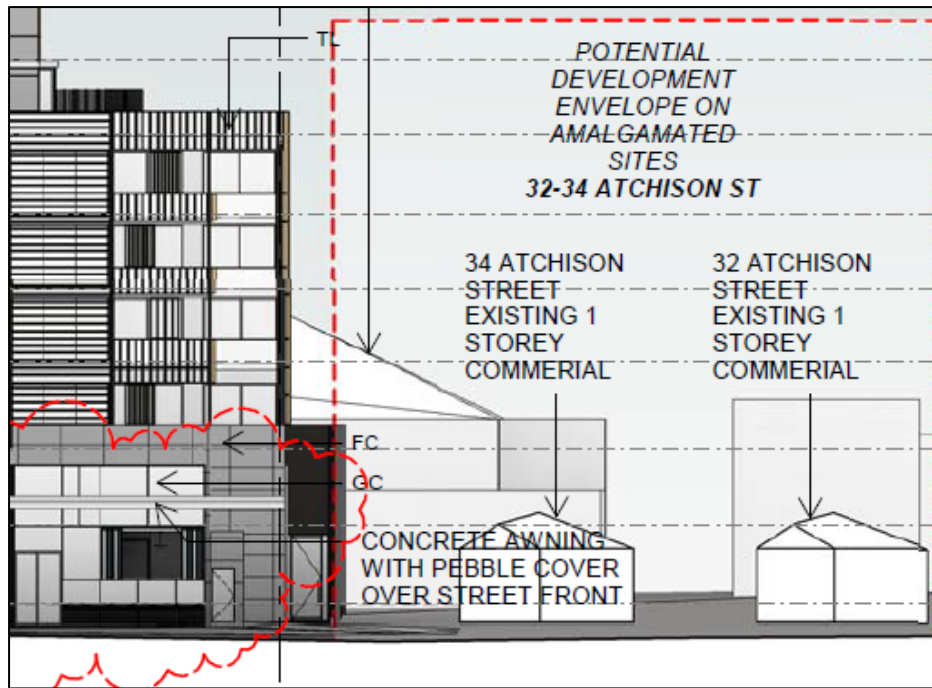


Figure 2: Extract of eastern elevation showing the relationship between the existing building at No.34 Atchison Street and the proposed building.

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:

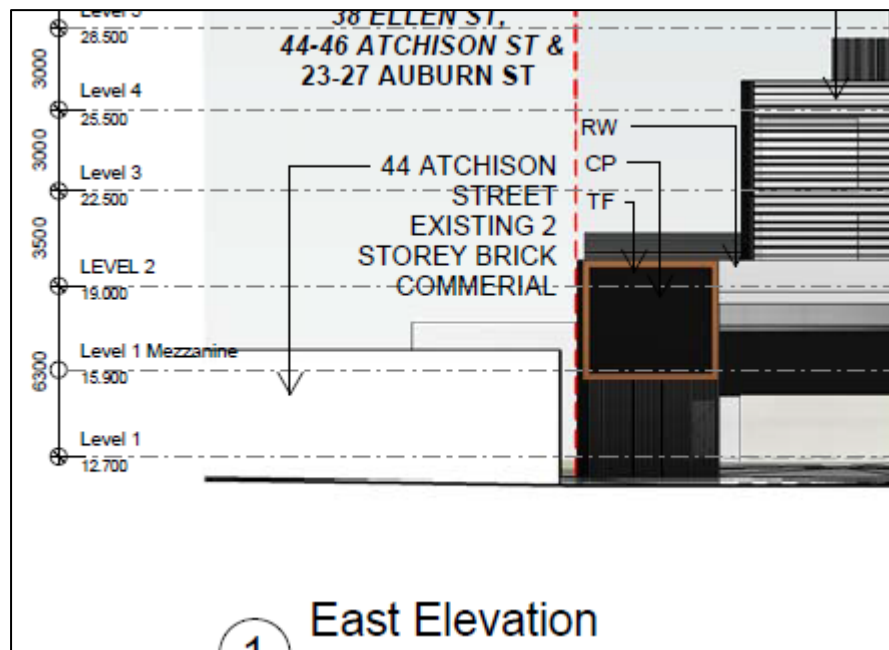


Figure 4: Extract of eastern elevation showing the relationship between the existing building at No.44 Atchison Street and the proposed building.

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's submission in relation to the development departure has been prepared in accordance with Clause 4.6 and adequately addresses all aspects required by Clause 4.6 as outlined in the above table.

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.

### 3. Clause 7.3 – Flood Planning Area

As detailed in the earlier assessment report presented to the Panel, the site is flood affected and is known to be located within a medium flood risk precinct. Earlier iterations of the development did not appropriately address stormwater management and flooding, with concerns consequently raised in relation to potential impacts of the development on flood behaviour in the locality including flooding impacts on immediately adjoining properties.

The applicant submitted amended plans to Council for consideration to overcome the flooding concerns. These plans included the following key (summarised) amendments:-

- Further elevation of the ground floor and all floor levels above to enable a larger flood storage void beneath the ground floor of the building. The building overall was raised by 400mm to allow greater space for flood water to flow through the site; and
- Introduction of openings in some areas around the perimeter of the ground floor of the building to allow flood water to enter the flood storage void and pass through the site unimpeded.

Additional flood modelling was provided in support of the amended plans which demonstrates that, with the plan amendments made, the development will now not adversely affect flooding behaviour in the locality generally nor, more specifically, give rise to flooding impacts on adjoining properties which was previously of concern.

The site, being at or below the flood planning level, is subject to Clause 7.3 of the LEP.

The objectives of Clause 7.3 are:-

- (a) to maintain the existing flood regime and flow conveyance capacity,
- (b) to enable evacuation from land to which this clause applies,
- (c) to avoid significant adverse impacts on flood behaviour,
- (d) 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,
- (e) to limit uses to those compatible with flow conveyance function and flood hazard.

Clause 7.3 (3) states that consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied in relation to all the following matters:

- (a) all habitable floor levels of the development will be above the flood planning level,

*Comment:* Council's Stormwater Engineers have assessed the proposed development and have advised that all habitable floor levels of the proposed development will be above the flood planning level.

- (b) the development will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,

*Comment:* Council's Stormwater Engineers have assessed the proposed development and have advised that the development as amended will not adversely affect flood behaviour and will not increase flooding of adjoining properties.

- (c) the development will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain,

*Comment:* Council's Stormwater Engineers have assessed the proposed development and have advised that the proposed development will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain.

- (d) the development will not affect evacuation from the land,

*Comment:* Council's Stormwater Engineers have assessed the proposed development and have advised that the proposed development will not affect evacuation from the land.

- (e) 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,

*Comment:* the development will not significantly detrimentally affect the floodplain environment or give rise to any of these impacts.

- (f) the development will not result in unsustainable social and economic costs to the community as a consequence of flooding,

*Comment:* the development will not give rise to any of these impacts as it will not adversely affect flooding behaviour in the locality.

- (g) 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.

*Comment:* the development has been designed in a fashion to ensure flow conveyance through the site is maintained.

In conclusion, the consent authority can be satisfied in relation to all of the prescribed matters contained within Clause 7.3(3).

#### **4. Plan amendments to address the design guidelines and Design Review Panel comments**

The proposal was initially formally reviewed by the Design Review Panel (DRP) 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 addressing the outstanding matters raised by the DRP were submitted; these are the plans which were considered by the JRPP at its meeting on 26 September 2017. However the JRPP requested further detail in relation to the plan amendments made to address the design guidelines and the DRP comments. These are summarised in the following table:-

<b>Design principle</b>	<b>DRP Comment/ Recommendation</b>	<b>Applicant's response</b>
<b>Context and Neighborhood Character</b>	<p>The proposal still struggles with its street context at its lower two levels, especially in regard to:</p> <ul style="list-style-type: none"> <li>- forecourt landscape; should be simplified and awning removed from this area</li> <li>- pergola should be removed and replaced with trees</li> <li>- double height shopfront and entry needs a more definite integration with the parti of the building; horizontally, a two level expression should be reinforced. Massing, the defined full height slot, entry, awnings, ground level and first level set outs and the landscaped court need much better coordination.</li> <li>- ramp and planters must be removed from court area</li> <li>- platform lift should be incorporated into the northern edge of the court within the twin fin expression of the building</li> </ul>	<p>In response to the DRP's comments the following changes were made to the plans:</p> <ul style="list-style-type: none"> <li>• The timber 'pergola' and entry awning was removed from the forecourt landscape area and the landscape and entry format simplified and designed to draw visitors into the building.</li> <li>• Street trees have been further defined by the applicant's Landscape Architect</li> <li>• The street awning was turned into a more defined concrete form and raised to emphasise the 2 level expression of the commercial frontage as per the DRP notes. The commercial mezzanine levels were brought closer to the façade to provide better amenity from the built interior.</li> <li>• The entry to the commercial lobby was recessed to bring the full height glazed slot right down to ground level</li> <li>• The access ramp was removed at the request of the DRP and replaced with an accessible platform lift provided on the northern side of the entry between the twin concrete columns.</li> </ul>

		<ul style="list-style-type: none"> <li>• Some low height buffer planting was retained to soften the space.</li> </ul>
<b>Built Form and Scale</b>	<p>The built form however has a number of issues which reflect a lack of detail attention:</p> <ul style="list-style-type: none"> <li>- See notes above regarding issues around the entry court; the integration of the full height slot with ground and first levels; height and location of street facing awnings; northern ground, first and second floor alignments; and entry detail</li> <li>- Void between Levels 2 and 5 lobbies requires BCA input</li> <li>- Unit entry directly opposite lift on levels 13 – 16 is unacceptable</li> <li>- Bathroom to dining space in north eastern units on L13 – L16 creates poor amenity and should be amended</li> </ul>	<p>In response to the DRP's comments the following changes were made to the plans:</p> <ul style="list-style-type: none"> <li>• Entry addressed as per above comments</li> <li>• The level 2-5 void will be fire sprinkled and have in depth BCA input at CC stage</li> <li>• The internal design of the east-facing units on Levels 13-16 has been reorganised so that the door no longer sits directly opposite the lifts</li> </ul>
<b>Sustainability</b>	<p>As per BASIX. Not discussed at meeting, but proposal must comply with mid-winter solar access, natural ventilation and max 15% no solar access. Water collection and reuse should be incorporated as well as solar panels to reduce energy costs.</p>	<p>The applicant has provided compliance diagrams which clearly demonstrate that solar access and natural ventilation to the residential units is compliant</p> <p>Solar panels are provided on the roof terrace.</p> <p>It is noted that the development does not make provision for rainwater collection and reuse. The BASIX certificate supplied with the application makes provision for commitments to achieve the required BASIX water efficiency targets however this does not include rainwater reuse. It is not otherwise required by any other environmental planning instrument or DCP.</p>
<b>Amenity</b>	<p>See notes above in Context and Built Form and Scale regarding:</p> <ul style="list-style-type: none"> <li>- removal of ramps and simplification of entry court expression</li> <li>- integration of platform lift</li> <li>- resolution of issues at entry</li> </ul>	<p>In response to the DRP's comments the following changes were made to the plans:-</p> <ul style="list-style-type: none"> <li>• Ramp removed and replaced with lift</li> <li>• Ground Floor WC relocated off service walkway</li> <li>• Mezzanine floor plate moved forward to create more active</li> </ul>

	<ul style="list-style-type: none"> <li>- entry door in front of Level 13 – 16 lifts</li> <li>- bath to dining room issue on Levels 13 - 16</li> </ul> <p>In addition:-</p> <ul style="list-style-type: none"> <li>- the ground floor WC beside the commercial lift will create adverse visual and physical impacts</li> <li>- the mezzanine levels to commercial spaces may be better pushed to glass (to be studied)</li> <li>- access to and egress from Level 01 storage is not clear</li> </ul>	<p>connection with street</p> <ul style="list-style-type: none"> <li>• Entry to Mezzanine level storage clarified as from Mezzanine Lobby, rear access provided from mezzanine area's to fire corridor</li> </ul>
<b>Aesthetics</b>	Fire boosters and cupboards must be clearly shown and well detailed in well resolved location	<p>In response to the DRP's comments the following changes were made to the plans:-</p> <ul style="list-style-type: none"> <li>• Fire booster cupboard corner articulated and screened as per fire exit area to create clean look. Indicated on elevations and artist impressions.</li> </ul>
<b>High Standard of Architectural Design</b>	A materials board describing all materials, colours and detail is required to be submitted as part of the DA package	The applicant has not provided a materials board but has submitted a detailed Material Schedule and detailing of screening and glazing on the plans which indicates the high level of finished and detailing to be utilised in the project.
<b>Other changes – flood mitigation</b>	<u>Not raised by DRP</u>	<ul style="list-style-type: none"> <li>• The slab gradients and parking layout on Level 1 were amended as per the flood mitigation recommendations outlined by the applicant's Engineer; to allow the unobstructed passage of flood waters through the site.</li> <li>• The external walls of the carpark to the North, West and South on Level 1 were raised off ground level leaving the columns as the only structure contacting the ground to allow the flow of flood water. This is detailed on elevations DA-20B, 21 &amp; 21B.</li> </ul>

### Draft Recommended Conditions

There have been a number of changes to the draft recommended conditions as a result of the further work undertaken since the September JRPP meeting. These are:-

- Amendments to Condition 15 in relation to the required remediation action plan and associated reports. Condition 15 was previously worded as follows:-

**“15 Remediation Action Plan and associated reports**

- Prepare a site assessment report to assess the soil contamination, their depths and volumes for offsite disposal;
- Site waste management plan; and
- Risk assessment considering any risk to human health and environment during site remediation.”

Following a review of the detailed site investigation report provided, Council’s Environmental Scientist has recommended the following condition to replace Condition 15 above:-

**“15 Remediation Action Plan**

A Remediation Action Plan must be submitted to the Principal Certifying Authority and Council (in the event Council is not the Principal Certifying Authority for its records), prior to the issue of a Construction Certificate. The Remediation Action Plan must be prepared by a suitably qualified and experienced consultant who is certified under one of the following schemes:

- a) the Site Contamination Practitioners Australia (SCPA) scheme;
- b) the Environment Institute of Australia and New Zealand’s (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme; or
- c) the Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.”

In addition, the following additional condition is recommended, requiring the submission of a validation report prior to occupation of the development to ensure that the required remediation works are completed in full and are validated prior to the occupation of the development:-

**Site Contamination Validation Report**

A Site Contamination Validation Report must be submitted to the Principal Certifying Authority and Council (in the event Council is not the Principal Certifying Authority for its records), prior to the issue of an Occupation Certificate. The Validation Report shall verify that:

- a) All site contamination remediation works have been satisfactorily completed;
- b) The site is not affected by any soil strata and/or groundwater table contamination above NSW Environment Protection Authority threshold limit criteria; and
- c) The site no longer poses any environmental or health risk and is therefore rendered suitable for the proposed development.

The Site Contamination Validation Report must be prepared by a suitably qualified and experienced consultant who is certified under one of the following schemes:

- a) the Site Contamination Practitioners Australia (SCPA) scheme;
- b) the Environment Institute of Australia and New Zealand’s (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme; or
- c) the Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

A Site Audit Statement from an independent NSW Environment Protection Authority accredited site auditor pursuant to the provisions of Part 4 of the *Contaminated Land Management Act 1997* confirming the site has been satisfactorily remediated and is suitable for the proposed development shall also be submitted to the Principal Certifying Authority and Council (in the event Council is not the Principal Certifying Authority for its records), prior to the issue of an Occupation Certificate.

The above two conditions are included in the list of recommended conditions at **Attachment 5** – see Conditions 15 and 126.

- Condition 30 – replacement of references to incorrect street frontage. Condition 30 now reads:  
30      **Placement of Air Conditioning Units**  
Air conditioning systems are to not to be located where they are visible from Atchison Street. Plans submitted to the Principal Certifying Authority prior to issue of the Construction Certificate are to identify any external components of air conditioning systems to ensure they meet the requirements of this condition.
- Condition 52 – removal of reference to planter boxes. Condition 52 now reads:

52      **Landscaping**

The submission of a final Landscape Plan will be required in accordance with the requirements of Chapter E6 of Wollongong Development Control Plan (DCP) 2009 and the submitted Landscape Plan for the approval by the Principal Certifying Authority, prior to the release of the Construction Certificate. The final landscape plan shall make provision for the required street tree planting and footpath paving works as required by other conditions of this consent.

The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- 1      Previous report to the JRPP of 26 September 2017
- 2      Applicant's Clause 4.6 Request
- 3      Plans
- 4      Aerial photograph, WLEP 2009 zoning map, site photographs and extract of deposited plan
- 5      Most recent design review
- 6      Recommended conditions