

## JOINT REGIONAL PLANNING PANEL

### (Southern Region)

JRPP No	<b>2017STH031</b>
DA Number	DA-2017/1462
Local Government Area	Wollongong City
Proposed Development	Demolition of all structures, and the construction of a seven (7) storey office building for IMB bank with two basement car parking levels for 89 car parking spaces
Street Address	47 Burelli Street, WOLLONGONG and 71-77 Kembla Street, WOLLONGONG Lot 50 DP 1236663 and Lot 502 DP 845275
Applicant/Owner	Applicant – ADM Architects; Owner – City Investments Pty Ltd
Number of Submissions	One (1) submission in support of the proposal
Regional Development Criteria	Clause 3, Schedule 4A of the Environmental Planning & Assessment Act 1979; general development over \$20 million (saved). The applicant's CIV estimate for the project is \$21,954,976.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• List all of the relevant environmental planning instruments: s4.15(1)(a)(i) –  <u>State Environmental Planning Policies (SEPPs):</u> <ul style="list-style-type: none"> <li>▪ SEPP No. 55 – Remediation of Land</li> <li>▪ SEPP (Infrastructure) 2007</li> <li>▪ SEPP (State and Regional Development) 2011</li> <li>▪ SEPP (Coastal Management) 2016 (exhibited draft at the time of lodgement of the application)</li> </ul> <u>Local Environmental Planning Policies:</u> <ul style="list-style-type: none"> <li>▪ Wollongong Local Environmental Plan 2009</li> </ul> <u>Other policies</u> <ul style="list-style-type: none"> <li>▪ NSW Apartment Design Guide</li> <li>▪ Wollongong Section 94A Development Contributions Plan 2017</li> </ul> </li> <li>• List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii) <ul style="list-style-type: none"> <li>▪ Nil</li> </ul> </li> <li>• List any relevant development control plan: s4.15(1)(a)(iii) Wollongong Development Control Plan 2009</li> <li>• List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iv) Nil</li> <li>• List any coastal zone management plan: s4.15(1)(a)(v) Nil</li> <li>• List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94,</li> </ul>

	94A, 288 Clause 92 - AS 2601 in respect of any demolition.
List all documents submitted with this report for the panel's consideration	Architectural plans by ADM Architects Landscaping plans by Ochre Landscape Architects Traffic documentation by Northrop Consulting Engineers Stormwater plans and flooding analysis and response by Northrop Consulting Engineers Planning documents by TCG Planning Historical Heritage Assessment prepared by Biosis
Recommendation	It is recommended that DA-2017/1462 be approved subject to the conditions contained within <b>Attachment 7</b> .
Report by	Theresa Whittaker, Senior Development Project Officer

---

### Summary of s4.15(1) matters

Have all recommendations in relation to relevant s4.15 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? **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*

# 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 as it involves general development with a capital investment value of more than \$20 million. The CIV estimate for the project is just under \$22 million. In this regard, it is noted that the development application was lodged prior to the commencement of recent changes to the Environmental Planning & Assessment Act 1979, Regulation and relevant SEPPs. Clause 24 of SEPP (State and Regional Development) 2011 provides that the development does not cease to be regionally significant development because of the amendments to that Policy.

### Proposal

The proposal is for the demolition of existing structures and construction of an 'A-Grade' Office Building (for IMB bank) over basement parking.

### Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan (LEP) 2009. The proposal is categorised as a commercial premises (business premises) which 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;
- Development departure in respect of building separation (Clause 8.6) of Wollongong Local Environmental Plan (LEP) 2009 to the eastern and southern boundaries;
- Design quality. The proposal has been considered by the Design Review Panel on two occasions prior to and following lodgement of the development application. The proposal as revised is now satisfactory to the Panel;
- Public domain interface;
- Traffic generation, car parking, servicing, manoeuvring and pedestrian safety;
- Heritage considerations;
- Staged development/ interim arrangements proposed for vehicle access, parking and manoeuvring.

### RECOMMENDATION

It is recommended that DA-2017/1462 be approved subject to the conditions outlined in **Attachment 7**.

# 1 APPLICATION OVERVIEW

---

## 1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- Exhibited draft SEPP (Coastal Management) 2016
- SEPP No. 55 – Remediation of Land
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development) 2011

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong Section 94A Development Contributions Plan 2017

## 1.2 PROPOSAL

The proposal comprises the following:

1. Demolition of existing structures;
2. Construction of a seven (7) storey commercial office building over two (2) basement carparking levels. The building will be located within Lot 50 DP 1236663 (former Lot 1 DP 509597 and Lot 10 DP 540641 which have been consolidated since the lodgement of the DA).

The building is being purpose-built to house the IMB Bank.

The ground floor of the building will house a large foyer/ office area along with the approach to 3 lifts which will provide for vertical circulation through the building.

An ATM is to be provided near the north-eastern corner of the building. Fire services and the like will be housed in small cupboards on the eastern side of the building, screened and secured by a fence from the frontage of the building.

Paving and landscaping works are proposed within the site and adjacent footpath. The paving and stairs have been designed to provide for appropriate transitions from the public footpath into the building, which is elevated above street level for flood mitigation reasons. Public domain works inclusive of paving and street tree planting are proposed; these will be carried out in accordance with Council's Public Domain Technical Manual.

There are two basement levels which will accommodate a total of 109 car spaces, some of which will be provided in vertical car stackers (18 spaces in total). There are also bicycle and motorcycle parking spaces within the basement along with end of trip facilities (amenities) for staff.

A further 3 at-grade car spaces will be provided at the rear of the building adjacent to the loading zone. The loading zone, loading dock and waste storage rooms are to be sited at the rear of the ground floor of the building. A substation is to be provided at the south-western corner of the building with access from the Kembla Street frontage of the site.

Levels 1 – 6 will house large commercial floor plates with areas of between 643sqm and 1090sqm, plus amenities. On Level 6 of the building there is also a terrace for staff use.

Vehicular access to the site will be obtained via a driveway from the Kembla Street frontage of the site. The driveway will straddle two of the subject allotments, being Lot 50 DP 1236663 and Lot 502 DP 845275 (being the Lot positioned within the southern portion of the holding, also in the same ownership, which is to be the subject of a future mixed use development). Demolition of all structures

on Lot 502 is also proposed, however it is intended that this will not occur until a later date. A reciprocal right of way will be provided over the proposed driveway and adjacent manoeuvring area to enable ongoing vehicular access. Approval is also sought for the reconfiguration of the car parking areas on Lot 502 to provide for the car parking needs of the current building users on the site in the interim, until such time as the redevelopment of this site occurs. Plans attached to this report delineate the extent of the proposed right of way, the temporary car parking and vehicular access arrangements proposed over Lot 502 and vehicle swept paths associated with the proposed building.

The temporary car parking area servicing Mission Australia (located on Lot 502) will contain 34 car spaces and 12 bicycle spaces which is adequate for this building. Entry via Stewart or Kembla Streets is proposed, along with egress only to Kembla Street via the existing driveway.

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. A freeboard of 200mm above the 1% AEP has been provided.

An awning is proposed to extend over parts of the pedestrian footpath on the Kembla Street frontage of the site.

A detailed schedule of finishing materials and colours forms part of Attachment 1.

The applicant indicates that the building has been designed to achieve a 5 star NABERS base building energy rating. A report accompanying the DA outlines how this will be achieved. A Green Transport Plan was also lodged with the application which seeks to reduce private vehicular traffic to and from the development by employees.

It is noted that the DA was accompanied by an Historical Heritage Assessment prepared by Biosis which identifies the potential for the project to impact upon archaeological remains which may exist on the site. Archaeological resources likely to be present within the site may consist of structural remains associated with early nineteenth to early twentieth century residential buildings. Although the subject site was not the focus of early post-contact settlement in Wollongong, there is reference to a wooden cottage, kitchen, outbuilding and water closet constructed by the Echlin family dating from around c.1838, present until 1886. The site is not identified as an item of environmental heritage within Wollongong LEP 2009. The demolition of the existing building and excavation of a two level basement is likely to result in the removal of all archaeological material from the site, should they be present. Biosis recommend that an archaeological program be implemented during demolition and bulk earthworks and that any archaeological remains, if located, be subject to careful recording prior to removal. In this regard, it is noted that the NSW Heritage Office has recently approved a Section 140 excavation permit in respect of the site. Conditions are recommended, should consent be granted to the development, in relation to the appropriate management of potential archaeology and interpretation at the site.

### **1.3 BACKGROUND**

#### *Development History*

BA-1997/920: Commercial Office Alterations - approved 24 June 1997

CD-2001/5: Internal Fitout - approved 8 February 2001

DA-1981/125: Erection of Carport – approved 9 March 1981

DA-2007/675: Demolition of existing structures; construction of a seven (7) storey commercial building comprising of ground floor retail tenancies, six (6) levels of commercial tenancies and three (3) levels of basement parking for 104 vehicles and boundary rationalisation - approved 9 January 2008

DA-2007/675 Modifications A & B - approved 16 April 2008 and 5 October 2012 respectively. It appears that this consent was never enacted.

DA-2010/1682: Demolition of existing commercial building and construction of a multi-storey commercial/residential building and land subdivision (rationalisation of existing allotment boundaries) - deferred commencement issued 2 December 2011; consent issued 20 November 2012. This consent has been enacted through the recent demolition of the buildings at the site to ground level.

#### *Pre-lodgement meetings*

A formal pre-lodgement meeting was held for the proposal on 3 May 2017 (PL- 2017/42).

#### *Design Review Panel (Pre-lodgement)*

The applicant met with the Design Review Panel prior to finalising the plans ready for DA submission, on 22 May 2017 (DE-2017/76) where a number of suggestions were provided for design improvements. These have been incorporated into the revised (current) plans.

#### *Customer service actions*

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

## **1.4 SITE DESCRIPTION**

The site is located at the western end of the block bounded by the intersections of Kembla and Burelli Streets and Kembla and Stewart Streets, Wollongong (refer Figure 1). The site comprises three (3) allotments with frontage to Burelli, Kembla and Stewart Streets, Wollongong, with a combined site area of 1827.6sqm.



**Figure 1** – aerial photograph identifying the subject site, outlined with the red dashed line (source: SEE prepared by TCG Planning).

The allotments are legally identified as Lot 50 DP 1236663 (47 Burelli Street) and Lot 502 DP 845275 (71-77 Kembla Street). The 2 allotments are in the same ownership. The proposed building will occupy the northern portion of the holding (being Lot 50).

The site collectively is regularly shaped and has its primary frontage to Burelli Street, with the northern boundary having a length of 43.23 metres, and secondary frontage to Kembla Street (35.7m with a corner splay of 4.345 metres). Lot 50 was previously occupied by a two storey commercial building and associated buildings and structures which have been recently demolished to ground level. The slab/s remains intact.

Lot 502 forms the southern portion of the subject site, with frontages to Kembla Street (western boundary) and Stewart Street (southern boundary). This allotment is currently occupied by a two storey commercial building (occupied by Mission Australia), a separate single storey building and associated car parking. Consent is sought for the demolition of these buildings and associated structures however this will occur at a later date. The applicant has indicated that this part of the site will be redeveloped (for shop top housing) in the near future and will be designed to integrate with the proposed bank building via a shared driveway on the Kembla Street frontage of the site. A Right of Carriageway benefiting both properties for vehicular access will be required as part of the subject development. Pre-lodgement meetings have been held in relation to the potential future mixed use development proposed for this site though no development application has been lodged to date. The plans at Attachment 1 include details of the temporary car parking arrangement proposed and the extent of the proposed Right of Carriageway over the northern part of Lot 502 DP 845275 to benefit Lot 50.

The site is located within the B3 Commercial Core, at the south-eastern edge of the retail and commercial area of the Wollongong CBD. Land to the immediate east of the site is occupied by a 6 storey commercial building ('Corporate Square') fronting Burelli Street which houses a range of government social services and businesses, including CentreLink, Hearing Australia, Family Courts, and Medibank. Also adjoining the property to the east is a substation that gains access from Lot 301 DP 709353 fronting Stewart Street.

Land to the west (fronting Burelli, Kembla and Stewart Streets) is occupied by a Woolworths supermarket, a restaurant and multi-deck car park. Land to the south of the site on the opposite side of Stewart Street, is occupied by an IRT seniors living development (both established buildings and a new building nearing completion), while immediately to the north of the site (on the opposite side of Burelli Street) is Wollongong City Art Gallery. Further eastward is the Wollongong Arts Precinct including the Illawarra Performing Arts Centre and civic square. To the north-west of the site is St Andrews Church. A number of the buildings in the immediate vicinity are heritage listed.

Aerial photographs of the site and locality, zoning extract and a copy of the deposited plan are provided at **Attachments 3 and 4** to this report.

#### Property constraints

- Council records identify the land as being located within a medium flood risk precinct;
- The site is identified as being classified as Class 5 acid sulfate soils;
- 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.
- Site location within close proximity to numerous heritage items including the Art Gallery and Town Hall, St Andrew's Presbyterian Church and hall, a row of Hills Figs (trees) adjacent to Woolworths and a small leafed Fig adjacent to the south-western corner of the intersection of Kembla and Stewart Streets;
- There appear to be numerous easements and restrictions over the subject parcel; refer to Attachment 2 extract of relevant deposited plans.

## **1.5 SUBMISSIONS**

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 29 November 2017. At the conclusion of the notification period there was one submission in support of the project received from Neighbourhood Forum 5.

## **1.6 CONSULTATION**

### **1.6.1 INTERNAL CONSULTATION**

Council's Geotechnical Officer, Environmental Scientist, Landscape Architect, Traffic, Heritage and Stormwater Engineers have reviewed the application and have provided satisfactory referrals including recommended conditions which are included in those listed in **Attachment 7**.

Council's Urban Designers have recommended some relatively minor amendments to the plans to resolve some practical matters and to better finesse the finish and presentation of the building. In particular, the following aspects of the design could be improved:-

- The accessible door provided adjacent the main entry door segregates those who experience barriers to accessibility; it is recommended that a single accessible entry be provided.
- The relocation of the bike racks adjacent to the narrow, at grade area at the western end of the stairs compromises the accessibility of this area. The distance between the end of the stairs and the building façade is already very narrow; adding the bike rack in will make this unnecessarily difficult to negotiate. The bike racks also act as a barrier to pedestrian flows crossing over Kembla Street and entering the Burelli Street entry threshold area. A more suitable location for the bike racks should be considered.

It is noted in this regard that the bike racks need to be provided near the frontage to encourage public/ visitor use. The existing placement of the rack isn't accepted and it should be shifted further to the east.

- The entry door still seems lost in the façade and, giving the height of the overhang above, has little weather cover. Extending the awning proposed over the adjacent café area to cover the entry door and extend to the next column would give more presence to this entry and provide necessary cover.
- The substation access off Kembla St, along with the full height metal louvres seems like a poor use of this public façade, especially when these entries and ventilated facades could be provided off the driveway. It is recommended that the substation be reconfigured so all access and ventilated facades face the driveway. The Kembla Street façade would read better in full brick. Face brick is currently used sparingly in the façade and adding a concentrated element in this location would improve the material balance.
- Provision should be made for lighting in and around the Burelli and Kembla Street thresholds. If not lit adequately this could present a safety concern, especially with the location of the ATM. Rather than just light the ATM, it is recommended that the whole area be well lit (quantity and quality) to allow both safe access and a lively night-time presence.

Each of the above recommendations have merit and are supported and it is considered that these relatively minor, yet effective, changes to the plans can be dealt with via conditions, with plans illustrating the changes to be provided as part of the Construction Certificate. Conditions are recommended in this regard; see **Attachment 7**.

## 1.6.2 EXTERNAL CONSULTATION

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

The proposal was formally reviewed by the DRP on 6 December 2017. Overall the Panel was very supportive of the proposed development and manner in which the plans had responded to the earlier pre-lodgement DRP recommendations. The DRP considered that the proposal responded well to Panel comments and apart from some design issues and planning deficiencies (relating to building setbacks and a car parking shortfall), is very well resolved.

The design issues identified by the DRP at its meeting on 6 December 2017 have been addressed by the applicant in revised (current) plans and the proposal is now satisfactory. Further discussion on this matter is provided below in relation to Clause 7.18 of Wollongong LEP 2009 (Section 2.1.5).

### **Endeavour Energy**

The proposal was referred to Endeavour Energy for comment. To date there has been no response. Nonetheless, standard conditions of consent are recommended for imposition (see Attachment 7) in relation to meeting the requirements of Endeavour Energy including in relation to the substation design.

### **Roads and Maritime Services**

The RMS advised that it had no objection to the proposed development subject to conditions in relation to the structural integrity of the intersection and traffic signals at, Burelli Street and Kembla Street and that the developer must apply for, and obtain a Road Occupancy Licence from the RMS Traffic Operations Unit prior to commencing works. This would be subject to a Traffic Management Plan. Conditions of consent reflecting the RMS' requirements are included in those listed at **Attachment 7**.

## **2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15(1) EVALUATION**

### **2.1 SECTION 4.15(1)(A)(I) ANY ENVIRONMENTAL PLANNING INSTRUMENT**

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

The proposed development has been assessed with regard to the requirements of Clause 7 of SEPP 55 and the matter has been reviewed by Council's Environmental Scientist with regard to SEPP 55 and the relevant provisions of Wollongong DCP 2009. A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. The subject site has a history of commercial office use in recent years and prior to that was occupied by a dwelling and associated outbuildings. Accordingly there is no evidence of a potentially contaminating land use

having occurred on the sites as listed in Appendix A of the 'Managing Land Contamination – Planning Guidelines SEPP 55 Remediation of Land' prepared by the (then) NSW Department of Urban Affairs and Planning. Further, there is no change of use of the site proposed, with the site to be used in an ongoing manner for commercial activity.

No concerns are raised in regard to contamination as relates to the intended use of the land which is considered suitable for the proposed development under clause 7. Council's Environmental Scientist has recommended that a condition be imposed requiring the classification of any waste material excavated from the site prior to disposal to a lawful waste facility. This is included in the list of conditions at **Attachment 7**.

## 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 64 – ADVERTISING AND SIGNAGE

Consent is sought for three (3) signs in conjunction with the proposed bank. These are 'building identification' and 'wall signs' comprising the IMB bank logo which are to be fixed to the upper corners of the building on each of the western, southern and eastern elevations. These are depicted on the plans. Each of the proposed signs will have an area of 2.5m x 4.5m and the applicant indicates that they have been designed to be coordinated and integrated with the design of the building to reflect its corporate identity.

The proposed signs comprise 'business identification signs' for the purposes of the SEPP. The signs have been considered with regard to the relevant provisions of the SEPP, being the objectives at Clause 3 and the assessment criteria in Schedule 1, and are considered to be acceptable. Specifically, the signs are consistent with the SEPP objectives as they are compatible with and will relate directly to the proposed use of the building (being a bank); they will utilise the corporate colours and identification thereby providing effective communication; they are of a high quality design and they will not impact on the amenity of the surrounding area, including any residences and will not detract from the heritage significance of nearby heritage items.

The signs are satisfactory with regard to the assessment criteria in Schedule 1 of the SEPP and accordingly are supported.

## 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, there being a substation within approximately 10m of the proposed building. The existing substation in question is located within the south-eastern corner of the property (with access obtained via Lot 301 DP 709353 fronting Stewart Street).

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.

Clause 104 'Traffic Generating development' refers to certain development of a certain size or capacity that requires referral to the Roads and Maritime Services (RMS). The site does not have frontage to a classified road (with the nearest classified road being Corrimal Street to the east) and the development is not of a size that would necessitate formal referral to the RMS. The proposal was nonetheless referred to the RMS for comment and the RMS advised that it had no concerns with the proposal subject to some conditions being imposed on the consent; these are included in those listed in **Attachment 7**.

## 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011

This development application was lodged prior to the commencement of recent amendments to the Environmental Planning & Assessment Act 1979, the Environmental Planning & Assessment Planning Regulation 2000, and other relevant EPIs including State Environmental Planning Policy (State and Regional Development) 2011. As such, the Joint Regional Planning Panel is the determining authority for the development pursuant to Part 4 'Regional development' of State Environmental Planning Policy (State and Regional Development) 2011 as the proposal is "Development that has a

capital investment value of more than \$20 million". The cost estimate submitted indicates that the capital investment value of the project is \$21,954,976.

## 2.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

### Part 2 Permitted or prohibited development

#### Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned 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 entirely consistent with 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 **business premises** which falls within the broader definition of **commercial premises** as described below. The proposal 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.

**Commercial premises** means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

#### Clause 2.7 Demolition requires development consent

Consent is sought as part of this application for the demolition of any remaining structures on the site 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 48 metres for the Site, as shown on the Height of Buildings Map. The proposal has a maximum overall height of 32.42m 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, subclause (3) applies as the subject site area (1827.60sqm Lot 50) is "equal to or greater than 800 square metres and less than 2000 square metres and a street frontage equal to or greater than 20 metres."

The maximum FSR for a non-residential building is  $(3.5 + 2.5X): 1$  where X is  $(\text{the site in square metres} - 800)/1200$ .

Using this formula, X is  $(1827.60 - 800 = 1027)/1200 = 0.855$ .

The maximum allowable FSR for the site is:  $3.5 + (2.5 \times 0.855 = 2.14) = \mathbf{5.64:1}$

The proposed FSR is **3.66:1** 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 which is detailed below in the discussion around Clause 8.6. The applicant has provided a statement prepared with reference to Clause 4.6 in relation to this development departure; this is attached in full at **Attachment 2**.

## Part 5 Miscellaneous provisions

### Clause 5.5 Development within the coastal zone

At the time of lodgement of this application, draft SEPP (Coastal Management) 2016 was an exhibited draft SEPP. On its gazettal on 3 April 2018, Clause 5.5 was repealed. However as it was in effect at the time of lodgement of the application, its provisions have been considered in the assessment of this application.

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.

### Clause 5.10 Heritage Conservation

The site is not heritage listed nor is it located within a heritage conservation area. As detailed elsewhere within this report, there are numerous listed items of environmental heritage within the vicinity of the site identified in Figure 2 below. These are:-

- No. 6228 ‘St Andrew’s Presbyterian Church and Hall’, located diagonally opposite the subject site, to the north-west;

- No. 6381 'Wollongong Town Hall and former council chambers (now art gallery)' located directly opposite the site on the northern side of Burelli Street;
- No. 6284 'Row of Hills Figs', located approx. 40m to the west of the site on the Burelli Street frontage of the Woolworths site and
- No.6288 'Small leafed fig' at 94 Kembla Street (south-west of the subject site).



**Figure 2** – Aerial photograph identifying heritage items near to the subject site which is partly outlined in red (source: Biosis report)

In addition, the report prepared by Biosis indicates that the site has high to moderate potential for archaeological significance pertaining to a wooden cottage, kitchen, outbuilding and water closet (WC) constructed by the Echlin family dating from around c.1838 to 1886; a later stone cottage and circular underground domestic storage tank dating from 1886 to 1964 and a series of early to mid-20th Century dwellings fronting Burelli Street and their associated outbuildings. It is likely that the late 20th Century redevelopment of the site is likely to have truncated and in some instances removed archaeological remains associated with the mid-19th to early 20th century occupation of the study area. The areas with the highest probability to contain archaeological resources are at the rear of Lot 50, beneath the present bitumen carpark; refer to Figure 3 below.



**Figure 3** – map identifying archaeological potential of Lot 50 (source: Biosis report)

The existing building on Lot 50 has been demolished to ground level under a previous consent for the site however the works were required to cease to prevent any disturbance of the ground surface and any potential archaeology. Accordingly the slab at the site has been retained for the meantime. The proposed works will require an excavation permit under s140 of the Heritage Act 1977. The Heritage Division of the Office of Environment and Heritage (OEH) has recently approved an excavation permit application in respect of the site (see **Attachment 8**). It is noted that the proposed development is not *integrated development* for the purposes of the Environmental Planning & Assessment Act 1979.

Consideration has been given to the impact of the proposed development on the potential archaeology at the site by Council's Heritage Officers having regard to the relevant provisions of Clause 5.10 of WLEP 2009. The proposed development is considered generally satisfactory from a heritage perspective subject to a number of conditions relating to the requirement for a Heritage Excavation Permit under s140 of the NSW Heritage Act 1977 prior to the commencement of works on site; compliance with the conditions/requirements of the Heritage Excavation Permit; compliance with the recommendations of the Historical Heritage Assessment Report prepared by Biosis; and the preparation and implementation of a Heritage Interpretation Strategy.

Consideration has also been given to the impact of the proposed development on the heritage significance of the nearby listed items. Some earlier comments were provided which have been considered by the applicant and addressed in part in the revised (current) plans for the development. Some outstanding concerns were raised that are general urban design matters not strictly tied to matters of heritage impact. The Heritage Officers advise that resolution of these matters of urban design could generally improve the interaction of the building with the public domain and result in a better outcome for the setting and context of the heritage items. In particular, concerns were expressed in relation to the manner in which brick is proposed to be used at the base of the building. The current use of brick materials in the lower levels of the building is generally supported, but in its current format and colour choice is considered to do little to relate the building to the surrounding heritage context. It was recommended that this aspect could be improved reconsidering its format. Some further recommendations for improvements in relation to general design matters have been raised by Council's Urban Designers; refer to the discussion at Section 1.6.1 of this report.

## 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 substation on the ground floor of the building adjacent to the Kembla Street frontage of the site.

### Clause 7.3 Flood planning area

The site is flood affected and is located within a medium flood risk precinct. 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 identified that the flooding of the site is as a result of urban drainage not mainstream flooding. Council's Stormwater Engineers have advised that all habitable floor levels of the proposed development will have a suitable freeboard above the adjacent 100 year ARI flood 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 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:* Council's Stormwater Engineers have assessed the proposed development and have advised that the proposed development will not result in unsustainable social and economic costs to the community as a consequence of flooding,

(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:* Council's Stormwater Engineers have assessed the proposed development and have advised that the proposed development is not within a floodway area.

#### Clause 7.5 Acid Sulfate Soils

The site is identified as being affected by Class 5 acid sulphate soils. The Geotechnical Assessment submitted with the DA included testing for the presences of ASS and concluded results were below the threshold of the action criteria and therefore an acid sulfate soils management plan is not required. This matter has been considered by Council's Environmental Scientist.

#### 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. The ground floor will address the primary frontage of Burelli Street with the main door/entrance and various windows addressing this street. A secure staff entrance will be provided on the Kembala Street frontage. The requirements of this clause are therefore satisfied to both the Burelli Street and Kembala Street frontages.

#### 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, appropriate bulk, scale and form, appropriate forecourt treatment, good resolution of levels between the site and the pedestrian footpath, appropriate landscaping and provision of street trees and upgraded footpaths to the two street frontages 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 Wollongong DCP 2009 and does not exceed either the maximum height or floor space ratio permitted for the site.

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

The proposal will not overshadow an area identified on the Sun Plane 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 which are supported. There are no site constraints that would prevent the proposal, and the building is 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 use is consistent with the B3 zone objectives.

*(iii) heritage issues and streetscape constraints,*

The development has been appropriately designed with regard to heritage issues and streetscape constraints. The proposal will not have an unreasonably adverse impact on the heritage significance of any nearby heritage items.

*(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. The proposal provides for an appropriate relationship with the neighbouring Corporate Square commercial building to the immediate east of the site, with suitable separation distances provided to this building.

The proposed building is considered to also have been satisfactorily designed with regard to possible future redevelopment of southern portion of the site as detailed in the contextual analysis provided with the application (see **Attachment 1**).

*(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 5**.

*(vi) street frontage heights,*

The street frontage height of the proposed building is appropriate.

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

The development incorporates sustainable design measures as outlined below. The proposal will not give rise to unreasonable overshadowing impacts in the locality and is not expected to result in uncomfortable wind conditions for pedestrians. Conditions have been recommended in relation to 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, within ready walking distance of bus stops and Wollongong train station, the main retail/ commercial core. The development has been designed to provide for good internal amenity with appropriate provision for energy and water efficiency and thermal comfort. As noted elsewhere in

this report, the building has been designed to achieve a 5 star NABERS Base Building Energy Rating and incorporates some sustainable building design initiatives including the use of solar power and water sensitive urban design. The applicant and future occupant (IMB Bank) indicate that a Green Transport Plan will be implemented to reduce reliance on private transport to and from the office once built.

*(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 appropriate delivery/ loading facilities within the building along with adequate vehicular manoeuvring areas.

Appropriate arrangements have been made for safe, direct, practical and equitable pedestrian access to the building, subject to some minor amendments including relocation of the bike racks and some changes to the entry door so that this becomes a universal entry point.

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

Street trees and footpath upgrades are to be provided to the two street frontages of the site in compliance with the requirements of the Public Domain Technical Manual. The development provides for a good resolution of site levels between the public footpath and the building.

While not required by Clause 7.18(5), a review of the design of the proposed development has been undertaken to assist Council and the JRPP in its assessment of the development given the significant site location and the proximity of a number of significant heritage items.

The DRP advised that the proposal responded well to the earlier (pre-lodgement) recommendations and that apart from some design issues, is very well resolved. The design issues raised and the responses are as follows:-

- The Kembla Street entrance could be improved by planning a space of delay between the revolving door and steps.
  - *Response:* there is a distance of 1.5m from the outer edge of the revolving doors to the bottom step which is considered to be adequate. It is not intended that this will be the primary entry to the building, with the main entry located on the Burelli Street frontage.
- The public steps proposed would be better full width along the Burelli Street frontage; contiguous paving between inside and outside would be preferable and the proposed planter should be removed to maximize openness. The corner ATM is also obscured from the street by planting here and the removal of the planter will rectify this CPTED planning issue.
  - *Response:* the revised plans have addressed these issues. The planter positioned adjacent to the north-eastern corner of the site has been reduced in size to a short width and will act as a seat in part. The applicant indicates that the planter is kept to a minimum width sufficient to grow plants and to make up the level difference with the adjoining property to the east. The stairs will be continued along most of the length of the street frontage of the site as recommended, which will maximize openness and provide for better sight lines/ surveillance of the ATM and entry. The footpath paving is to be extended to the building as recommended, visually connecting the building's forecourt with the public footpath.
- The main entry appears not to align with the building's expression; hence the main door sits beside rather than below the projected frame. This leads to an ambiguity of massing and glazing above the doors that weakens the balance of the composition. A number of solutions were discussed but perhaps the easiest solution would be to slide the entry west into the next bay and reorganize the ground floor – it may be better that way.
  - *Response:* the revised plans have resolved this issue. The applicant indicates, "to better emphasise and improve the entry alignment with the building's expression, the projected 4 storey frame has been 'disconnected' from the vertical corner box and the pattern of the "binary code" glazing continues in the same manner as the eastern portion of the building in lieu of the glazing extending across from the corner frame. This leads to a clearer and stronger distinction of the corner element massing and strengthens the overall building

composition including the entry.” A further recommendation in relation to this specific issue has been made by Council’s Urban Designer and conditions are proposed to resolve this matter, see Section 1.5.1.

- The elegant double storey expression proposed should extend to the full width of the northern façade
  - *Response:* the revised plans incorporate this change.
- The feature brick as a heritage reference should be given more attention; the fins should be double height, the brick used could be 50mm x 300mm for example and the extent of brick on the double storey ground level increased to avoid the sense that it is merely tokenistic.
  - *Response:* the applicant has advised that the revised plans increase the extent of the brick along the base of the building around all elevations to avoid the sense that the brickwork is merely tokenistic. The extent of brick on the double storey ground level has been increased in the eastern portion of the front façade. Further, concerns are expressed in relation to the extent of the western façade occupied by the substation and its full height louvred treatment adjacent to the Kembla Street footpath. Council’s Urban Designer has recommended that the access to this substation be shifted to the southern façade (access to be gained via the driveway). The Kembla St façade would read better in full brick. Face brick is currently used sparingly in the façade and adding a concentrated element in this location would improve the material balance. Conditions are recommended in relation to this issue.

The Panel advised that if the recommended changes are made to the plans, the proposal did not need to be re-considered again.

The proposal as amended is now satisfactory and exhibits design excellence as required by Clause 7.18 of WLEP 2009.

The DRP meeting notes and recommendations from the last review are provided at **Attachment 5**.

## **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 8.3 Sun Plane Protection

The objective of this clause is to protect specified public open space from excessive overshadowing by restricting the height of buildings. The subject site is within the general vicinity of a number of sites protected by sun plane controls including Civic Square, MacCabe Park and Pioneer Park. The site itself is not identified as being affected by the sun plane controls and thus this clause does not apply.

### 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 exceeding 20m on both frontages.

### 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 an exception to the standard has been provided by the applicant addressing Clause 4.6 of the LEP. The submission forms **Attachment 2**.

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.....
- (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.

For the purpose of considering compliance with the separation controls, only buildings to the east and south of the site are relevant as the buildings on the opposite sides of the two streets are situated at a distance greater than that required by Clause 8.6.

The immediately adjoining buildings to the east and south of the site are occupied by commercial uses; there are no dwellings. Adjoining the south-eastern corner of Lot 50 is a substation that gains access from Lot 301 DP 709353 fronting Stewart Street. Therefore subclauses (3) and (4) of Clause 8.6 are not applicable. Subclause (2) clause will only apply to the separation between the existing building to the east (Corporate Square) and the existing building within Lot 502 (Mission Australia). The proposed building has a maximum overall height of 32.42m (measured to the top of the parapet fronting Burelli Street). The building is required to provide for the following separation distances in accordance with Clause 8.6:-

- Up to 24m (being Ground Level to Level 5) - a zero separation to neighbouring buildings to the south and east up to street frontage height (ie. up to 24m);
- For any part of the proposed building between 24m and 32.42m in height (ie. Level 6) - 12m separation between buildings to the east and south.

The proposed setbacks are:-

To the eastern boundary (ie. to Corporate Square)

- A zero setback for the majority of the Ground Level to the eastern boundary of the site. This setback is compliant however a zero separation distance cannot be achieved to the neighbouring building in any event as the Corporate Square building is setback from its western boundary (approx. 7.5m);
- A 3.1m setback to the eastern boundary for Levels 1-5 (zero separation required);
- A 3.1m setback to the boundary at Level 6 which, combined with the approximate 7.5m setback of Corporate Square, does not meet the required 12m separation for that part of the building above 24m in height.

To the southern boundary (ie. to Mission Australia)

- A setback of 5.66m for the majority of the Ground floor, with the driveway from Kembla Street being sited in this setback (zero separation distance required);
- A minimum 3.79m setback to the boundary at Levels 1-5 (zero separation required);
- A 3.79-6.0m setback at Level 6 which, combined with the approximate 20m setback of the Mission Australia building from its northern boundary, complies with the required 12m separation for any level of the building above 24m in height.

The applicant has summarised the proposal's compliance with the separation control in the following table:-

Table 5: Compliance with Clause 8.6 of WLEP 2009

Level	Functions	Height	Relevant Clause	Separation Distance required	Separation Distance provided	Compliance
<b>Separation to East (to Corporate Square)</b>						
Ground	Commercial	Below street frontage height/24m	8.6(2)(a)	Nil	Nil setback to boundary for the majority of the ground floor level, with 3.1m setback to service panels.	<b>Principally complies</b>
Levels 1 - 5	Commercial	Below street frontage height/24m	8.6(2)(a)	Nil	3.1m setback to boundary, which exceeds the required nil separation.	<b>Variation sought</b> (to allow increased setback to boundary of 3.1m)
Level 6	Commercial	Above street frontage height/24m	8.6(2)(b)	Min 12m	3.1m setback to the boundary. This equates to approx 10.6m separation to Corporate Square based on 7.5m setback of this building, which is less than the 12m required separation.	<b>Variation sought</b> (to allow decreased separation of approx 10.6m)
<b>Separation to South (Mission Australia)</b>						
Ground	Commercial	Below street frontage height/24m	8.6(2)(a)	Nil	Setback of between nil to approx 5.5m for the majority of the Ground Floor Level, which exceeds the required nil separation.	<b>Variation sought</b> (to allow increased setback of approx 5.5m)
Levels 1 - 5	Commercial	Below street frontage height/24m	8.6(2)(a)	Nil	3.79m setback to the boundary, which exceeds the required nil separation.	<b>Variation sought</b> (to allow increased setback to boundary of 3.79m)
Level 6	Commercial	Above street frontage height/24m	8.6(2)(b)	Min 12m	3.1 to 6.0m setback to the boundary, which, combined with the approximate 20m setback of Mission Australia, is compliant with the required 12m separation.	<b>Complies</b>

The applicant has provided a written request prepared in accordance with Clause 4.6 *Exceptions to Development Standards* seeking variation to the requirements of Cause 8.6.

The development departure in relation to Clause 8.6 is dealt with in the table below:-

<b>Clause 4.6 proposed development departure assessment</b>	
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>	<p>Yes. The applicant's request contains this justification.</p> <p>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. The applicant notes that the setbacks provided to the boundaries reflect the prevailing built form character in the governance/ civic precinct where buildings are generally setback from boundaries and do not present a continuous street wall to Burelli Street. The non-compliant building separation distances provided better respond to the character of the precinct and thus the setbacks proposed provide a superior outcome.</p>

(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	<p>The applicant's request has adequately addressed the matters required to be addressed by subclause (3).</p> <p>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 development outcome is achieved by allowing flexibility to the development standard. The Design Review Panel supports the proposed setback to the eastern boundary as it allows east-facing windows to an otherwise blank façade.</p>
(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 which the development is proposed to be carried out, and	<p>The proposed development will be in the public interest because (a) it is consistent with the objectives of the building separation standard; (b) the objectives for development within the B3 zone will be achieved; (c) the development is not expected to compromise the development potential of neighbouring sites and will in fact provide for an improved relationship with neighbouring and nearby buildings including the nearby heritage listed buildings.</p> <p>The variation of the standard provides for a building which better responds to its context.</p> <p>The objectives of the standard are to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access. The development, despite the non-compliance with the building separation standard, will be consistent with the objectives of that standard.</p> <p>The applicant contends that compliance with the standards of Clause 8.6 would be defeated if adherence with the standard was required, as this would result in reduced separation between buildings to the south and east. This would reduce sunlight access to the western-facing windows of the Corporate Square building and would potentially impact on solar access to any future development in the southern portion of the site (Lot 502). As noted elsewhere in this report, the applicant plans a mixed use development of Lot 502 in the near future. This future development scheme will need to make provision for greater setback distances to achieve compliance with the ADG for the residential component of that development. Further, a nil separation to the east would result in a 7 storey blank wall when viewed from the forecourt of Corporate Square which would not meet the objective of the clause with respect to visual appearance.</p> <p>Further, in relation to visual appearance, as noted above, the building setbacks to the boundaries reflect the prevailing built form character of development in the civic/ governance precinct where buildings are setback from Burelli Street and from their side boundaries. There is no continuous street wall to this section of Burelli Street and insistence on adherence with the separation controls in Clause 8.6 would result in a built form outcome at odds with nearby buildings including nearby heritage items.</p>

	<p>The departure will not have any adverse impacts on the amenity of nearby developments, the streetscape or public domain. There will be no additional overshadowing impacts arising from the development departure, no view impacts, no privacy impacts, no adverse impacts on the streetscape or any heritage items.</p> <p>The non-compliance arises in part due to the position of the neighbouring buildings to the immediate east and south of the site so strict compliance could not be achieved in any event.</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>As outlined in section 2.1.5 the proposed development has regard to the objectives for development within the zone.</p> <p>The development will remain consistent with the objectives of the B3 zone despite the non-compliance with Clause 8.6.</p>
(b) the concurrence of the Secretary has been obtained.	Yes; Council can exercise its assumed concurrence in this instance.

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.

This being the case, the development departure is supported.

## **2.2 SECTION 4.15(1) (A)(II) ANY PROPOSED INSTRUMENT**

### **2.2.1 DRAFT STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2016**

At the time of lodgement of the application, 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 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.

## **2.3 SECTION 4.15(1) (A)(III) ANY DEVELOPMENT CONTROL PLAN**

### **2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

The development has been assessed against the relevant chapters of WDCP 2009 and found to be satisfactory. The full table of compliance can be found at **Attachment 6** 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 in detail below and are supported.

#### **Chapter A1, Clause 8 Variations to development controls in the DCP**

The applicant has sought variations in respect of the following matters:-

- Building to street alignment and street setbacks (Clause 2.3 of Chapter D13 *Wollongong City Centre*)
- Street frontage heights in the commercial core (Clause 2.3 of Chapter D13)
- Building depth and bulk (Clause 2.4 of Chapter D13)
- Side and rear building setbacks and building separation (Clause 2.5 of Chapter D13)

The applicant has provided 'justification statements' as required by Chapter A1 of the DCP. The variations are discussed below:-

#### 1. Clause 2.3 Street Setbacks

In the case of the subject site, this clause requires zero setbacks to Kembla Street and a 4m setback to Burelli Street, for that part of the building up to street frontage height (ie. between 12-24m in height) with a further 4m setback above that. In this case, the building has a street frontage height exceeding 24m (refer to discussion below in relation to Clause 2.3). It is setback 4m to the Burelli Street frontage (with the exception of some minor allowable projections including narrow sun shades) and a zero setback to the Kembla Street frontage of the site, again with some minor allowable encroachments. To the Kembla Street frontage, on Levels 6 and the rooftop screened plant room, there is a further setback of an additional 2m (i.e. 2m in total instead of the required 4m above street frontage height).

The building therefore features variations to the street frontage height (32m sought instead of a maximum of 24m) and consequently the above-street frontage height setback controls to both frontages. The variations relate to a section of the western portion of the building.

#### *Applicant's justification:*

The applicant's justification for the variation to Clause 2.3 is integrated within the broader discussion around street frontage height as these design aspects are intertwined:-

"As confirmed by the Design Review Panel when a similar design was presented, it is considered that the proposed street frontage heights are appropriate for the setting and context within the City Centre, including having regard to the existing surrounding buildings and desired future character of the zone. The urban character is of a Civic Precinct comprising distinctly separate buildings of a certain scale. The non-compliant areas are limited to the upper level of the building only at the north-western corner only. This is a strong corner statement of the building and it is not considered to be detrimental to the street alignment objectives of the DCP. It also has no adverse impact on pedestrian amenity, overshadowing, wind conditions or view corridors. Hence, the variation is considered to be acceptable and Council's support in this instance is requested."

#### Response

The scale, massing and spatial separation of buildings on the southern side of Burelli Street in the block bounded by Kembla and Corrimal Streets is significantly different to the character of buildings on the northern side of Burelli Street. Buildings on this side of the street are significantly taller, tower forms with less modulation and a vertical emphasis, along with substantial setbacks to the street and boundaries. There is no defined consistent street frontage height evident. The form proposed

responds reasonably well to its context. It is noted that the Design Review Panel was satisfied with the building massing.

## 2. Clause 2.3 Street frontage heights in the Commercial Core

Clause 2.4 requires the street frontage height of buildings in the Commercial Core to be not less than 12m or greater than 24m above mean ground level on the street front. On the Burelli Street frontage of the site, a setback to this frontage is proposed as required by Clause 2.2 of Chapter D13 of WDCP 2009. The two storey ground level is setback to provide for a cantilevered forecourt area. However the levels above are setback at the required 4m to a maximum height of approximately 32m to the roof of the building (at the western portion only). Therefore a portion of the western upper part of the building exceeds the required 24m street frontage height (being part of Level 6 and the roof top plant screening structure).

On the Kembala Street frontage of the site, the Ground level through to Level 6 is to be built to the street alignment up to a height of approximately 26m, which is then setback 2m to the rooftop rather than the required 4m. Therefore a portion of Level 6 and the roof level of the building exceeds the 24m street frontage height requirement.

### *Applicant's justification:*

As confirmed by the Design Review Panel when a similar design was presented, it is considered that the proposed street frontage heights are appropriate for the setting and context within the City Centre, including having regard to the existing surrounding buildings and desired future character of the zone. The urban character is of a Civic Precinct comprising distinctly separate buildings of a certain scale. The non-compliant areas are limited to the upper level of the building only at the north-western corner only. This is a strong corner statement of the building and it is not considered to be detrimental to the street alignment objectives of the DCP. It also has no adverse impact on pedestrian amenity, overshadowing, wind conditions or view corridors. Hence, the variation is considered to be acceptable and Council's support in this instance is requested.

### Response

The DRP were satisfied with the height, scale and massing of the development. The form of the building inclusive of its street frontage height and setback above is generally consistent with the form of development on the southern side of Burelli Street in the block between Kembala Street to the west and Corrimal Street to the east. The applicant's justification is considered satisfactory and a variation is warranted in this instance.

## 2. Clause 2.4 Building depth and bulk

The control at Clause 2.4(c) requires that no points on an office floor should be more than 10m from a source of daylight (e.g. window, light well or skylight) in buildings less than 24m in height, and no more than 12.5m from a window in buildings over 24m in height. The majority of the building complies, with exceptions in 2 small areas on Level 1 and approximately 200sqm in the centre of the floors of Levels 2 – 5. Level 6 is compliant.

### *Applicant's justification & response:*

The applicant notes that the non-compliant parts of the building are limited to the central part of the buildings only (adjacent to the amenities), which represents a minor proportion of the floor plate. While the layout/ fitout of each floor is not yet known, it is considered that the building achieves good internal amenity to the future office occupants, as all sides of the building will be naturally lit due to the expanse of glazing proposed. Articulation is provided to the building. The design is considered to meet the objectives of the clause and hence a variation is considered reasonable. Further, reference is made to the report provided with the application which indicates that the building will achieve a 5 star NABERS base energy rating, incorporating sustainable design measures to improve energy and water efficiency whilst providing thermal comfort and good internal amenity to occupants.

### Response

The floor plates are useable commercial floor space. The distance from windows variation will not give rise to unreasonably large upper level floor plates, and will not increase the bulk of the building excessively. The applicant's justification is considered to be reasonable and a variation in this instance is considered supportable.

## Clause 2.5 Side and Rear Building Setbacks and Building Separation

The requirements in this clause reflect the separation distances outlined in Clause 8.6 of Wollongong LEP 2009. The controls require zero setbacks to the properties to the east (Corporate Square) and south (premises currently occupied by Mission Australia) up to the street frontage height (12-24m). A 12m setback is also required between Level 6 of the building and Corporate Square, which is not met, with a separation of approximately 10.7m provided. Justification for the variation has been provided within the Clause 4.6 submission appended at **Attachment 2** and discussed at length in Section 2.1.5 of this report. The variation is supported and it is considered that the development provides a superior outcome in this setting to a building that strictly complies with the prescribed separation distances.

#### Clause 3.5 Awnings

This clause requires continuous street awnings to be provided for all new developments in certain parts of the CBD including along the Burelli and Kembla Street frontages of the site. The proposal provides an extensive forecourt to the Burelli Street frontage, with the ground floor being setback 4m from the northern property which also provides for weather protection. Having regard to the siting and setback of the Corporate Square building to the immediate east and other buildings further eastward of that fronting Burelli Street, a continuous awning is not considered to be warranted at the site and would result in a poor design outcome.

An awning is provided to part of the Kembla Street ground floor frontage, adjacent to the building entrance. Similarly, a continuous awning is not warranted having regard to the proposed driveway entry on Kembla Street. It is noted that the recently developed Woolworths site on the opposite side of Kembla Street to the west does not provide a continuous awning, nor does the Mission Australia building on Lot 502 to the immediate south of the proposed building. The variation sought is supported.

### **2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN 2017**

The estimated cost of works is \$21,954,976 and a Section 7.12 (formerly Section 94A) levy of 1% is applicable.

### **2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4**

There are no planning agreements entered into or any draft agreement offered to enter into under 7.4 which affect the development.

### **2.5 SECTION 4.15(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 4.15 (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.*

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.

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

## 2.6 SECTION 4.15(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 and draft SEPP (Coastal Management)/ SEPP (Coastal Management) 2018.

## 2.7 SECTION 4.15(1) (B) THE LIKELY IMPACTS OF DEVELOPMENT

### Context and Setting:

Context and setting has been addressed with reference to the design excellence matters prescribed by Clause 7.18 of Wollongong LEP 2009 (see Section 1.5.1) and in relation to the impact of the proposed development on nearby heritage items. The development is considered to appropriately respond to its setting.

### 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. A Green Transport Plan is proposed to be implemented by the IMB Bank which seeks to reduce the number of private vehicle trips to and from the site; this is positive. Adequate bicycle parking, motorcycle parking and end of trip facilities are proposed.

Traffic generation from the development can be readily absorbed into the existing street network. Pedestrians will be safely accommodated. the public domain works and appropriate resolution of site levels will provide for an appropriate interface between the development site and the public domain.

### 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 is considered to be acceptable subject to final approval by Endeavour Energy; conditions are included in those listed at **Attachment 7** in this regard.

### Heritage:

There are a number of significant nearby heritage items as detailed above. Refer to discussion in Sections 2.1.5 of this report.

### 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 expected to involve excessive water consumption having regard to the nature of the proposed business use.

*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 7**.

#### Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate, and is not expected to give rise to uncomfortable wind conditions for pedestrians.

#### 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 Wollongong DCP compliance table at **Attachment 6**.

Waste management during construction can be managed through proper arrangements. Conditions 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 proposed development is not expected to involve unreasonable energy consumption. An ESD report accompanied the DA which indicates that the building will achieve a 5 star NABERS base energy rating.

#### 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 7**) to minimise nuisance during demolition and construction.

There are no external sources of nuisance noise within the immediate locality and in any event the use of the building proposed is not one which is considered to be a sensitive noise receiver; accordingly there is no requirement to provide for a defined level of internal acoustic amenity. Similarly, the commercial use proposed is not expected to give rise to adverse noise impacts in the locality.

#### Natural hazards:

The site is flood affected however the building is appropriately designed with regard to flooding and stormwater management.

#### Technological hazards:

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

#### Safety, Security and Crime Prevention:

Refer to Wollongong DCP compliance table at **Attachment 6**. 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. The open forecourt at the front of the site will allow for unimpeded sight lines to the ATM and primary building entry points which will assist in improving security and reducing opportunities for criminal and antisocial behaviour.

#### Social Impact:

No 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. The development is expected to create employment opportunities during and after the construction period.

#### Construction:

Construction impacts have the potential to impact on the amenity of the neighbourhood including existing businesses. 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, groundwater management, demolition management, waste management, and use of any crane, hoist, plant or scaffolding, amongst others. These are included in the recommended conditions at **Attachment 7**.

#### Cumulative Impacts:

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

## **2.8 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT**

### Does the proposal fit in the locality?

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

### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

## **2.9 SECTION 4.15(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 29 November 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. A response was not received.

#### *NSW Roads & Maritime Services (RMS)*

The proposal was referred to the RMS for comment. The RMS considers that the development will not have a significant impact on the State Road Network (the key state road being Corrimal Street) and on this basis, does not object to the development application subject to some matters being conditioned. Conditions of consent are recommended in **Attachment 7** reflecting the RMS' requirements.

## **2.10 SECTION 4.15 (1)(E) THE PUBLIC INTEREST**

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

## **3 CONCLUSION**

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15(1) 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 the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 with the exception of the building separation variation sought in respect of the eastern and southern boundaries of the site. A Clause 4.6 Statement has been submitted by the applicant and has been assessed as satisfactory in the circumstances.

The development also involves minor variations to Wollongong Development Control Plan 2009 with regard to street setbacks, street frontage heights in the Commercial Core, building depth and bulk, side and rear building setbacks, building separation, and awnings. These variations have been

adequately justified, and as they are not considered to lead to adverse impacts, have been found worthy of support in this instance.

Internal referrals have now been resolved and the proposal as amended is supported by the Design Review Panel. There were no objections.

#### **4 RECOMMENDATION**

---

It is recommended that the Joint Regional Planning Panel approve DA-2017/1462 pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at **Attachment 7**.

#### **5 ATTACHMENTS**

---

- 1 Plans
- 2 Applicant's Clause 4.6 Exception to Development Standards submission in relation to Clause 8.6 of WLEP 2009
- 3 Aerial photograph, WLEP 2009 zoning map and site photographs
- 4 Extract of deposited plans
- 5 Most recent design review - 6 December 2017
- 6 Wollongong DCP 2009 Assessment
- 7 Recommended conditions
- 8 Section 140 Excavation Permit