

## SOUTHERN REGIONAL PLANNING PANEL

SRPP No	<b>2018STH002</b>
DA Number	DA-2017/1759
Local Government Area	Wollongong City
Proposed Development	Residential - demolition of existing structures, tree removal, construction of five (5) separate apartment blocks containing a total of 108 apartments across four (4) levels and associated infrastructure
Street Address	Lot 1 DP 770451, 141 Darkes Road, KEMBLA GRANGE
Applicant/Owner	Applicant – ADM Architects
Number of Submissions	Ten (10) submissions received.
Regional Development Criteria (Clause 4.5(b) of the Act and SEPP (State and Regional Development) 2011)	<p>The proposal has been referred to the Joint Regional Planning Panel as the consent authority under Clause 4.5(b) of the Environmental Planning &amp; Assessment Act 1979 as the proposal is for general development over \$30 million which is defined as Regionally significant development under the SEPP (State and Regional Development) 2011 Schedule 7 Clause 2.</p> <p>The applicant's CIV estimate for the project is \$37,700,000.</p>
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> <li>List all of the relevant environmental planning instruments: s4.15(1)(a)(1) – <ul style="list-style-type: none"> <li><u>State Environmental Planning Policies (SEPPs):</u> <ul style="list-style-type: none"> <li>§ SEPP No. 55 – Remediation of Land;</li> <li>§ SEPP No 65—Design Quality of Residential Apartment Development;</li> <li>§ SEPP (Infrastructure) 2007;</li> <li>§ SEPP (Building Sustainability Index: BASIX) 2004;</li> <li>§ SEPP (State and Regional Development) 2011; and</li> <li>§ SEPP (Vegetation in Non-Rural Areas) 2017</li> </ul> </li> <li><u>Local Environmental Planning Policies:</u> <ul style="list-style-type: none"> <li>§ Wollongong Local Environmental Plan 2009</li> </ul> </li> <li><u>Other policies</u> <ul style="list-style-type: none"> <li>§ NSW Apartment Design Guide</li> <li>§ West Dapto Development Contributions Plan (2017)</li> </ul> </li> </ul> </li> <li>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: 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) <ul style="list-style-type: none"> <li>Wollongong Development Control Plan 2009</li> </ul> </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)(iiia) <ul style="list-style-type: none"> <li>– Nil</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 AS 2601 in respect of any demolition.</li> <li>List any coastal zone management plan: s4.15(1)(a)(v) There is no Coastal Zone Management Plan currently applicable to the land.</li> </ul>
List all documents submitted with this report for the panel's consideration	Plans – Architectural, Landscape, Traffic and Engineering Aerial photograph, WLEP 2009 zoning map, site photographs and extract of deposited plan Wollongong DCP 2009 Assessment Draft conditions
Recommendation	DA-2017/1759 be approved subject to the conditions contained within <b>Attachment 6.</b>
Report by	Rodney Thew, Development Project Officer

### Summary of s4.15 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? **N/A**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

*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

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### Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to the Joint Regional Planning Panel as the consent authority pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act 1979 as it involves general development with a capital investment value of more than \$30 million which is defined as Regionally significant development under State Environmental Planning Policy (State and regional Development) 2011 Schedule 7 Clause 2.

### Proposal

The proposal comprises demolition of the existing dwelling and structures, tree removal and construction of five (5) separate four (4) storey apartment blocks containing a total of 108 apartments and associated infrastructure on the subject site.

### Permissibility

The site is zoned R3 Medium Density Residential pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposal is categorised as *residential flat buildings* and is permissible in the zone with development consent.

### Consultation

The proposal was notified in accordance with Council's WDCP 2009 Appendix 1: Public Notification and Advertising. There were ten (10) submissions.

### Main Issues

The main issues arising from the assessment are:-

- Tree removal and impacts on EEC/CEEC Illawarra Lowlands Grassy Woodland/Illawarra and South Coast Lowland Forest and Woodland in the north and south of the site which have been considered by Council's Environment and Landscape Officers.
- Site contamination which has been considered by Council's Environment Officer.
- Stormwater management and flooding which has been considered by Council's Stormwater Officer.
- Traffic access and egress which has been considered by Council's Traffic Officer.

### Conclusion

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the R3 Medium Density Residential zone. The development is consistent with the applicable provisions of the relevant planning instruments including SEPP 65 Wollongong LEP 2009.

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

Some of the issues received in submissions though technically unresolved area considered to be adequately addressed either through design or by way of condition of consent. Any remaining issues are not considered sufficient to warrant refusal of the application.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

### RECOMMENDATION

DA-20167/1759 be approved subject to the conditions provided in **Attachment 6**.

## 1. APPLICATION OVERVIEW

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### 1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP No 65—Design Quality of Residential Apartment Development
- SEPP (Infrastructure) 2007
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (State and Regional Development ) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- NSW Apartment Design Guide
- West Dapto Section 94 Development Contributions Plan (2017)

### 1.2 PROPOSAL

The proposal comprises the following:

1. Demolition of the existing dwelling and all existing structures;
2. Tree removal; and
3. Construction of five (5) separate four (4) storey apartment blocks containing a total of 108 apartments and associated infrastructure.

### 1.3 BACKGROUND

*Development History*

A history of the development site is as follows:

- BA-1988/1833, Additions To Dwelling - Approved
- BA-1989/2171, Colorbond Farm Machinery Shed - Approved
- BA-1971/706, Dwelling - Approved
- DA-1964/214, Dwelling - Approved
- DA-1967/241, House And Sheds For Laying Hens - Approved
- DA-1969/65, 3 Stables & 2 Storerooms - Approved
- DA-1970/436, Dwelling - Approved
- DA-1988/468, Extension To Dwelling - Approved
- DA-1989/764, S/W Cnr West Dapto Rd & Darkes Rd - Approved
- DA-1994/449, Use Of Shed As Mechanical Workshop - Approved
- TMO-2010/1233, Remove 5 x trees - Approved
- DA-2012/374, Residential - secondary dwelling and garage - Rejected
- DA-2012/412, Residential - Dual occupancy - Approved

### *Planning Proposals*

PP-2014/5, Darkes Road South West Neighbourhood Plan - Rezoning of 'Ridge Park' from part R2 Low Density Residential and RE1 Public Recreation to E2 Environmental Conservation with a minimum lot size of 10 hectares and a building height of 9m; Realignment of R3 Medium Density Residential and R2 Low Density Residential boundary within Lot 1 DP 795839 to follow proposed road network; Amendment to Minimum Lot Size Map for the eastern end of the site to allow a minimum lot size of 2000 sq m plus further adjustments to minimum lot size boundary of the R3 zone and amendment to the 4.1 Minimum Subdivision Lot Size clause. – Under Assessment

### *Pre-lodgement meetings*

PL-2017/7, Residential development comprising 120 apartments and 6 townhouses

### *Design Review Panel (DRP) meetings*

DA-2017/1759 was reviewed by the DRP 16 February 2018. Following submission of amended plans and documentation the application was again reviewed by the DRP on 26 June 2018.

### *Customer service actions*

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

## **1.4 SITE DESCRIPTION**

The site is located at 141 Darkes Road, KEMBLA GRANGE and the title reference is Lot 1 DP 770451.

Situated on the land is a single storey red brick veneer dwelling with a pitched tile roof. There are several outbuildings including an aviary and farming machinery sheds to the rear of the dwelling. The site contains an EEC/CEEC, Illawarra Lowlands Grassy Woodland, within the Northern tip of the property. The site is accessed via a driveway off Darkes Road.

The land is an irregular almost triangular shaped corner allotment with an overall site area of approximately 1.454ha (14540m<sup>2</sup>) as indicated on the deposited plan. The site is bordered by Darkes Road to the East, West Dapto Road to the North west and a large rural private land holding, 109 Darkes Road, to the South. 109 Darkes Road is currently the subject of a development application, DA-2018/104, proposing a 193 lot Torrens title subdivision of the site.

The site falls slightly towards Darkes Road.

The street scene in the immediate vicinity is characterised by a rural style of setting with single dwelling houses and outbuildings set on large open parcels of grazing land. However the site is within the Darkes Road South West precinct of the West Dapto Urban Release Area which will undergo a transition from rural to a town centre and residential development.

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

### Property constraints

- Acid Sulfate Soils – Class 5
- Medium Flood Risk Precinct
- Bushfire Prone Land
- Endangered Ecological Communities:
  - MU24 Lowland Woollybutt - Melaleuca Forest (listed under Environment Protection and Biodiversity Conservation Act)
- Road widening

### Planners Comment:

The site is identified as being burdened by road widening. See Figure 1 below. Advice received from Council's Senior Civil Design Engineer and West Dapto Team has indicated that this land is no longer required for road widening. Though West Dapto Road will experience an upgrade it is considered that there is sufficient road reserve at present for Council's future planning of West Dapto Road. Council's focus is now on the Northcliffe Drive extension. Council's West Dapto Vision document details that the proposed Northcliffe Drive extensions proposed location is the most efficient and direct main road

route to service the urban release area which will result in significant cost saving as compared with the existing policy position of widening West Dapto Road.



**Figure 1:** WLEP 2009 Land Reservation Acquisition Map

There are no restrictions on the title.

## 1.5 CONSULTATION

### 1.5.1 INTERNAL CONSULTATION

Details of the proposal were referred to Council's Geotechnical, Stormwater, Traffic, Environment, Landscape, Community Services, SCAT, West Dapto, Property and Contributions Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

#### **Geotechnical Engineer**

Council's Geotechnical Officer has assessed the application submission and considered it conditionally satisfactory.

#### **Stormwater Engineer**

Council's Stormwater Officer has reviewed the application and initially raised concerns in relation to some aspects of the design. Amended plans and further information were provided by the applicant that now resolves the concerns raised and the proposal is now conditionally satisfactory.

#### **Environment Officer**

Council's Environment Officer has assessed the application submission and considered it conditionally satisfactory.

It is noted that particular consideration was given to the areas of the subject site mapped as Natural Resource Sensitivity – Biodiversity which coincides with areas of the Illawarra Lowlands Grassy Woodland community. Initial concerns were raised regarding impacts on the Illawarra Lowlands Community to the North and South of the site. Amended plans, Flora and Fauna Assessment Report, Arborist Report, Vegetation Management Plan (VMP) and Bushfire Report were provided by the applicant that now retain and manage all trees within the EEC/CEEC Illawarra Lowlands Grassy Woodland/Illawarra and South Coast Lowland Forest and Woodland in the north and south of the site resolving concerns raised. Draft conditions as at **Attachment 6** require compliance with the VMP Flora and fauna Assessment, Arborist Report and Ecological conditions.

It is noted that consideration was given to potential site contamination. A Stage 1 Contamination Assessment, Stage 2 – Detailed Site Investigation Report (DSI) and Amended Interim Site Audit Letter have been submitted. The Stage 2 DSI has been accompanied by a review letter prepared by a Certified Environmental Consultant which concludes the DSI is acceptable in accordance with SEPP 55. These documents have been reviewed and are considered acceptable subject to draft conditions as at **Attachment 6** which include the requirement for a Site Audit Statement and Site Audit

Report, Construction Environmental Management Plan (including a Soil Management Plan and Dewatering Plan), and recommendations of the DSI.

### **Landscape Architect**

Council's Landscape Officer has assessed the application submission and considered it conditionally satisfactory.

Initial concerns were raised by Council's Landscape Officer with regard to the tree removal in particular impacts on the trees within the EEC/CEEC Illawarra Lowlands Grassy Woodland/Illawarra and South Coast Lowland Forest and Woodland in the north and south of the site. Amended Landscape plans confirming the retention of 48 trees previously proposed to be removed, Flora and Fauna Assessment Report, Arborist Report, Vegetation Management Plan (VMP) and Bushfire Report were provided by the applicant. Amended plans and documentation now indicate the retention and management of all trees within the EEC/CEEC Illawarra Lowlands Grassy Woodland/Illawarra and South Coast Lowland Forest and Woodland in the north and south of the site. These amended plans and documentation have been reviewed by Council's Landscape Officer and are considered to resolve concerns raised. The 16 trees to be removed are considered to be either negatively impacted by the footprint of the development, in poor health or introduced species such that they are not worthy of retention.

Draft landscaping conditions as at **Attachment 6** specify trees to be removed, trees to be retained, compensatory street tree planting, tree protection and management and footpath paving to be constructed along the West Dapto Road frontage.

### **Traffic Engineer**

Council's Traffic Officer has assessed the application submission and considered it conditionally satisfactory.

### **Heritage Officer**

Council's Heritage Officer has assessed the application submission and considered it conditionally satisfactory.

Initial concerns were raised regarding whether Aboriginal objects were likely to be harmed by the proposed works. An amended Due Diligence Assessment was submitted by the applicant that resolves these concerns and the proposal is now considered conditionally satisfactory.

Draft heritage conditions as at **Attachment 6** specify steps to be taken in the event Aboriginal objects or remains are discovered during the course of the proposed excavation works.

### **Community Services Officer**

Council's Community Services Officer has assessed the application submission and considered it satisfactory.

### **Safer Community Action Team (SCAT) Officer**

Council's SCAT officer has assessed the application submission and considered it conditionally satisfactory.

### **West Dapto Team**

Council's West Dapto team has assessed the application submission and considered it satisfactory.

### **Property Officer**

Council's Property Officer has assessed the application submission and considered it conditionally satisfactory.

### Planners Comment:

Council's Property Officer considered the proposal satisfactory subject to a draft condition requiring the land affected by road widening to be dedicated to Council as public road. However, advice received from Council's Senior Civil Design Engineer and West Dapto Team after the receipt of Council's Property Officers comment has indicated that this land is no longer required for road widening with Council's focus now on the Northcliffe Drive extension.

### **Development Contributions Officer**

Council's Development Contributions Officer has assessed the application submission and considered it conditionally satisfactory.

## **1.5.2 EXTERNAL CONSULTATION**

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

The proposal was formally reviewed by the Panel on 16 February 2018. There were a number of design amendments recommended by the DRP at the time which were included in amended plans later submitted by the applicant. The proposal was again reviewed by the DRP on 26 June 2018 where some further amendments were recommended. The project was supported by the Panel subject to these amendments being made. Amended plans were again provided which now address the outstanding matters raised by the Panel and the proposal is now considered satisfactory.

### **NSW Rural Fire Service**

Details of the application submission were referred to the NSW Rural Fire Service for comments. Advice received indicates the proposal is considered conditionally satisfactory.

### **Office of Environment and Heritage (OEH)**

Details of the application submission were referred to the OEH for comments. Advice received indicates the proposal is considered conditionally satisfactory.

### **Endeavour Energy**

Details of the application submission were referred to Endeavour Energy for comment in accordance with Clause 45 of SEPP (Infrastructure) 2007. Advice received indicates the proposal is considered conditionally satisfactory.

### **Sydney Water**

Details of the application submission were referred to Sydney Water for comment. Advice received indicates that the drinking water main and waste water systems have adequate capacity to service the development. Formal requirements will be determined as part of the Section 73 application. Conditions of consent have been recommended for imposition and these are included in the draft conditions at **Attachment 6**.

### **Sydney Trains**

Details of the application submission were referred to Sydney Trains for comment in accordance with Clause 84 of SEPP (Infrastructure) 2007. Advice received indicates the proposal is considered conditionally satisfactory.

### **NSW Police**

Details of the application submission were referred to the NSW Police Lake Illawarra Area Command (LAC) for comment on 8 January 2018. Concerns were raised regarding the Crime Prevention Through Environmental Design (CPTED) principles employed in the design and a Social Impact Assessment was requested. Additional information including a Social Impact Assessment was submitted by the applicant to resolve CPTED concerns raised which was re-referred to the NSW Police LAC for comments on 4 July 2018. Advice now received indicates the proposal is considered conditionally satisfactory.

## **2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 SECTION 4.15 ASSESSMENT**

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

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

#### **7 Contamination and remediation to be considered in determining development application**

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

*(a) it has considered whether the land is contaminated, and*



- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

A Stage 1 Contamination Assessment, Stage 2 – Detailed Site Investigation (DSI) Report and Amended Interim Site Audit Letter have been submitted in accordance with Clause 7(3). The Stage 2 DSI has been accompanied by a review letter prepared by a Certified Environmental Consultant which concludes the DSI is acceptable in accordance with SEPP 55. In accordance with Clause 7(2) Council's Environmental Officer has reviewed the history of the site in conjunction with these documents have been reviewed and are considered acceptable subject to conditions. Draft conditions as at **Attachment 6** include the requirement for a Site Audit Statement and Site Audit Report, Construction Environmental Management Plan (including a Soil Management Plan and Dewatering Plan), and recommendations of the DSI.

It is considered the proposal will be satisfactory with regard to SEPP 55 matters.

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

The provisions of the SEPP apply as the development includes 'residential flat buildings', which are more than 3 storeys in height and comprise more than 4 dwellings.

The application is accompanied by a statement by a qualified designer in accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000.

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

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

The proposal has been considered by a Design Review Panel convened for the purposes of the SEPP as outlined above in Section 1.5.2 of this report. The proposal as amended is satisfactory to the DRP.

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development. These must be considered in the assessment of the proposal pursuant to clause 28(2)(a) of the Policy and are discussed below.

### **Principle 1: Context and neighbourhood character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

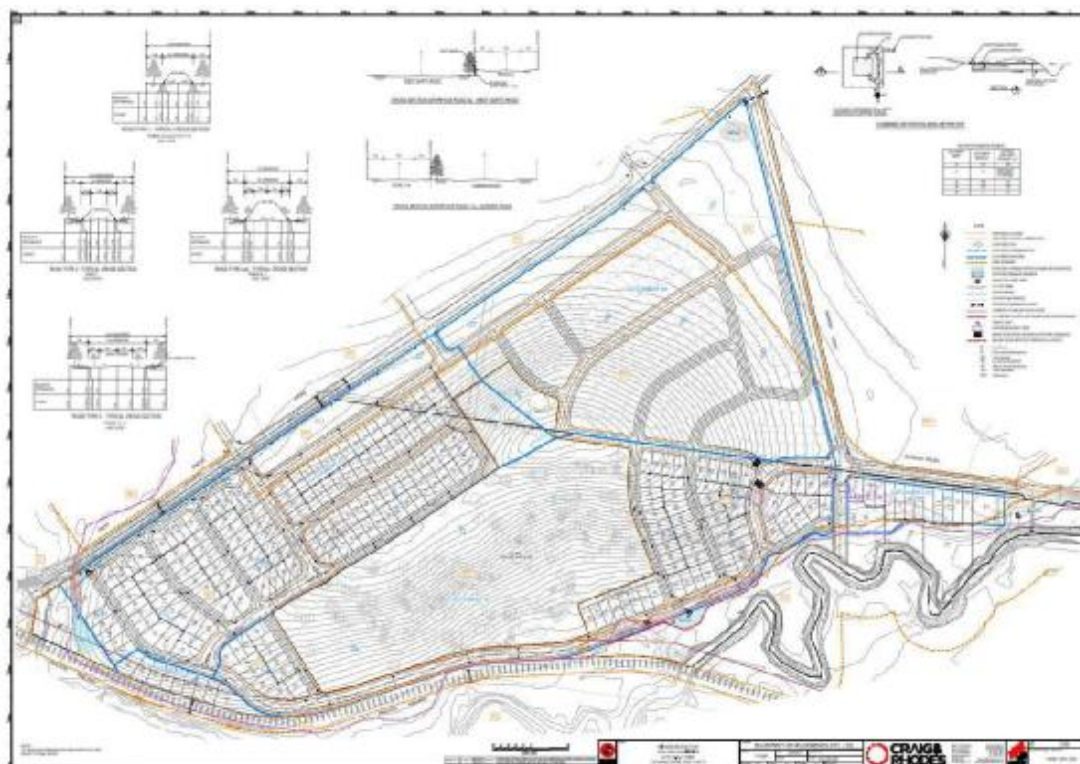
*Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

*Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

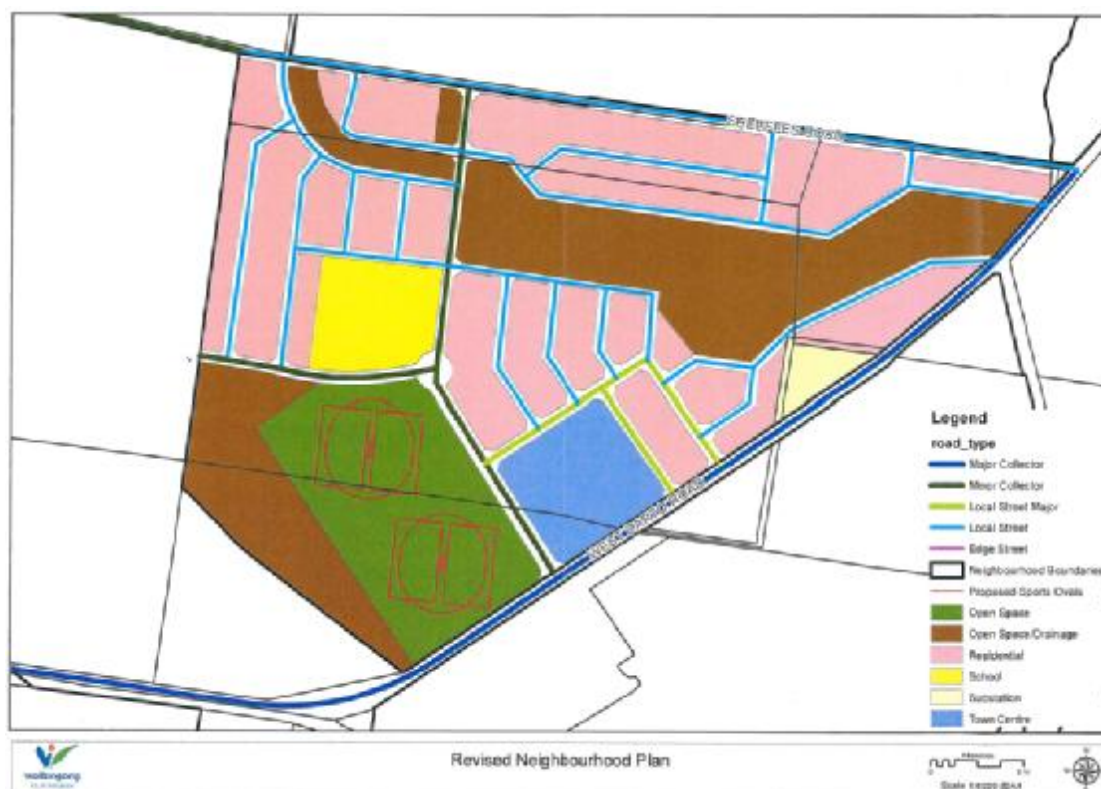
The sites existing context is scenic and rural including farmland and native bushland. The neighbourhood however is one in transition, with the character to change from a rural area to the future desired character of a town centre as some nearby sites including the adjoining property to the South are subdivided into low and medium density residential lots with a business zone in the town centre to the South west as depicted on the Darkes Road South West and West Dapto Road/Sheaffes Road (South) Neighbourhood Plans as at Figures 2 and 3 below. WDCP 2009 Chapter D16 indicates that Council's intention for the Darkes Road town centre is to create a local retail, business, commercial and community hub to service the release area.

The existing character of development in the locality is predominantly rural development with some low density residential development in the Lynden View Stage 1 subdivision to the South west, scale and character evident.

The proposal is considered to be consistent with the desired future character of the Darkes Road Precinct as identified through the development standards and controls applicable to the land. The DRP considers that the revised layout has improved its relationship to context through the retention of vegetation in the Northern corner and adjustments to built form and vehicular access.



**Figure 2:** Darkes Road Precinct Neighbourhood Plan



**Figure 3:** West Dapto Road/Sheaffes Road (South) Neighbourhood Plan

## **Principle 2: Built form and scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.*

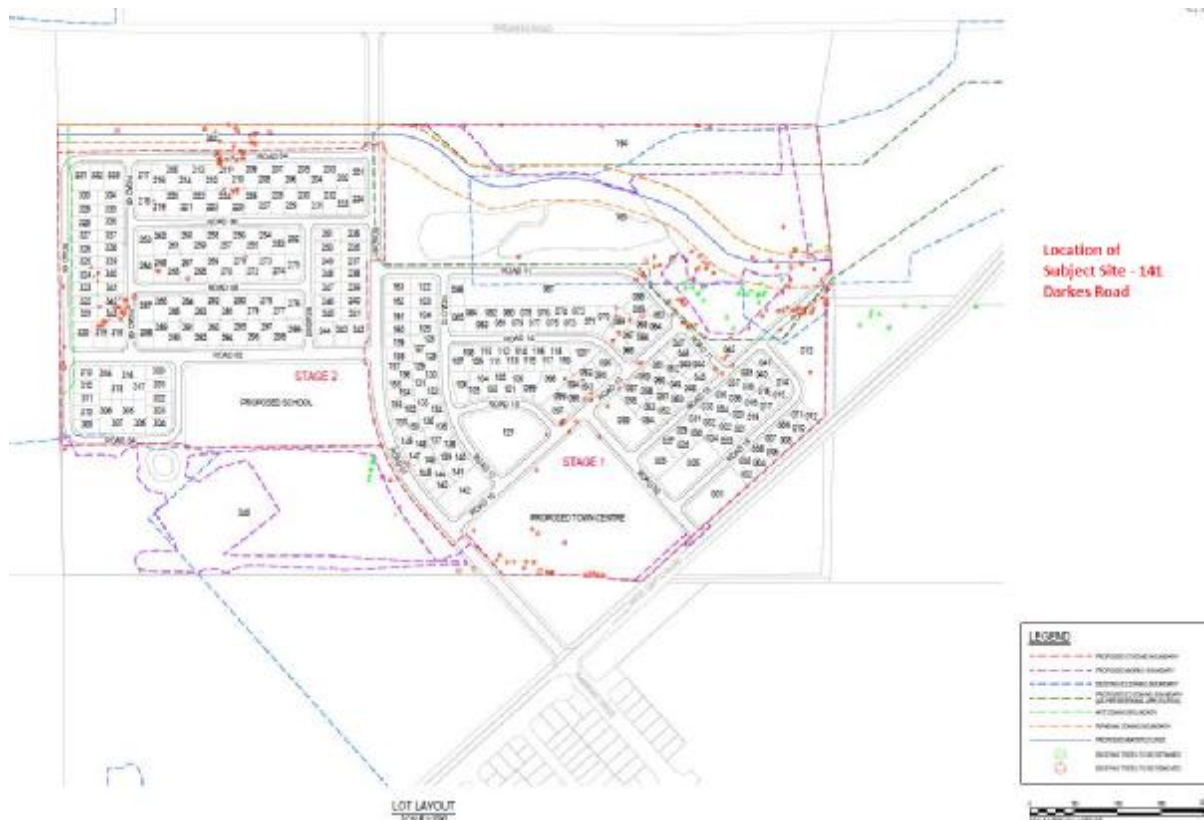
*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

The locality is one undergoing transition with the character to change from a rural area to the future desired character of a town centre as is evidenced by zoning, floor space ratio, building height and minimum lot size mapping as at **Attachment 2**. There are 2 other significant subdivision developments under consideration in close proximity of the site.



**Figure 4:** DA-2018/104 - 109 Darkes Road Subdivision Plan currently under assessment





**Figure 5:** DA-2018/783 - 380 West Dapto Road Subdivision Plan currently under assessment

The bulk and scale of the development is consistent with the applicable planning controls for the area inclusive of building height, floor space ratio, street frontage heights, building setbacks and other built form controls. The development is not considered to be out of context with regard to the desired future character of the area.

The scale of the development is likely to give rise to some visual impacts on the area given the area is in transition from rural to residential development with smaller residential lots proposed for the adjoining property to the South. However there is a vegetation buffer proposed to the South of the proposed development and West Dapto Road separates the proposal from the proposed subdivision to the West. It is considered that the proposed is reflective of the likely character expected to emerge over time in this precinct of the West Dapto Urban Release Area when the Floor Space Ratio, Building Height and Minimum subdivision lot size mapping as **Attachment 2** are taken into consideration.

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

Previous advice by the DRP has been heeded in particular the vehicular access strategy and pedestrian circulation providing a connection with and positive contribution to the future residential neighbourhood.

### **Principle 3: Density**

*Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

With an FSR of 0.642:1 the density of the development complies with the maximum FSR of 0.75:1 permitted for the land and the building height is compliant. While the developments size and scale contrasts markedly with the sites current context, it is considered consistent with the envisaged future neighbourhood character. Retention of some of the desirable landscape qualities of the site will enable the site to successfully transition from the existing open rural setting to a residential

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

The DRP advised that the density proposed is acceptable.

#### **Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes.*

*Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.*

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

- A BASIX Certificate has been provided indicating minimum requirements with regard to energy and water efficiency and thermal comfort are met;
- A Site Waste Management and Minimisation Plan has been provided indicating appropriate management and disposal of any excavated materials;
- The development has been appropriately designed with regard to solar access and natural ventilation;
- The proposal will not have an unreasonable impact on any heritage items or environmentally sensitive areas;
- A water sensitive urban design strategy has been designed into the scheme; and
- The proposal is an efficient use of land in a location that is close to services and public open space.

#### **Principle 5: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.*

*Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.*

The proposal provides suitable landscaped areas inclusive of at-ground and on structure planting and communal open space that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain. The plans for constructed communal open space have been considered in terms of supporting several different activities and the DRP supports this approach.

Street tree planting and footpath paving works will be required in accordance with the requirements of the Wollongong Development Control Plan 2009. These works are provided for on the landscape plans submitted with the application and conditions are recommended in regards to public domain works and general site landscaping matters.

The remnant EEC vegetation is proposed to be managed through a VMP prepared by an ecologist which is supported by the DRP.

#### **Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.*

*Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.*

The proposal satisfies the requirements for solar access, private and communal open space, storage, visual and acoustic privacy, access and the like for future occupants of the development. Future occupants of the development are expected to enjoy reasonable amenity and the development will enjoy distant views of the Illawarra escarpment to the west and views to the South west and East of native bushland.

There are no nearby residences that will be affected by the proposed development in terms of privacy or loss of solar access. The development provides for compliant building setbacks to the site boundaries and between the proposed apartment blocks internally as required by the ADG in order to provide for equitable sharing of building separation distances with neighbouring sites when subject to future redevelopment - refer to the ADG assessment at **Attachment 3** in this regard.

In terms of solar access and overshadowing impacts, the shadow diagrams submitted with the application (which form part of **Attachment 1**) indicate lengthy shadows to the South, South-west and South-east. Given the provision of compliant setbacks and given allowable building heights and densities within the R3 Medium Density and the retention of the mature remnant vegetation along the Southern boundary of the subject site, the extent of overshadowing impact is not considered to be unreasonable.

#### **Principle 7: Safety**

*Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

The proposal is satisfactory with regard to safety and security and is generally consistent with the principles of crime prevention through environmental design. Refer to discussion in relation to Chapter E2 of WDCP 2009 in **Attachment 4**.

Details of the application including a Social Impact Statement were referred to the NSW Police and Council's Traffic and SCAT Officers for comments with conditionally satisfactory referral advice received in both instances.

#### **Principle 8: Housing diversity and social interaction**

*Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.*

*Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.*

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

The DRP noted that the proposal will provide an appropriate, accessible and affordable housing option in this emerging residential neighbourhood.

#### **Principle 9: Aesthetics**

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.*

*The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

The proposal is considered to be of a high quality with regard to its appearance. A mixture of materials and finishes is provided and the bulk of the development is suitably articulated. Appropriate treatment of the streetscape is proposed having regard to the desired future character of development in the locality. The proposal has been amended in response to the suggestions provided by the Design Review Panel and is now acceptable.

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

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

#### Clause 84 Development involving access via level crossings

The application was referred to the Sydney Trains under Clause 84 of State Environmental Planning Policy (infrastructure) 2007 as the application proposes development that is likely to result in a significant increase in the total number of vehicles or the number of trucks using a level crossing as a result of the development.

Sydney Train raised concerns over impacts of the traffic generated by the development on the level crossing. However additional information has now been provided including a revised Traffic Impact Assessment and Traffic Management Plan that addresses the outstanding matters raised by the Sydney Trains and the proposal is now considered conditionally satisfactory.

### 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011 SCHEDULE 7 CLAUSE 2

The development has a capital investment value of more than \$30 million and accordingly the application is required to be determined by the Joint Regional Planning Panel pursuant to Clause 4.5(b) of the Environmental Planning & Assessment Act, 1979.

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

The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

### 2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

Under Clause 7 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* a person must not clear any vegetation in any non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part.

Clause 9 of Part 3 indicates that this Part applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.

The subject site is zoned R3 Medium Density Residential a non-rural area. It is considered that the vegetation proposed to be removed is vegetation declared by a development control plan, WDCP 2009 Chapter E17, to which Part 9 would apply.

Council's Landscape and Environment Officers have assessed the application submission, which included an Arborist Report, Flora and Fauna report and Vegetation Management Plan (VMP). Conditionally satisfactory referral advice was received and draft conditions as at **Attachment 6** specify compliance with the VMP, trees to be removed, trees to be retained, compensatory plantings and tree protection and management.

### 2.1.7 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

#### **Part 1 Preliminary**

#### Clause 1.4 Definitions

**Demolition:** In relation to a building means wholly or partly destroy, dismantle or deface the building.

**Residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

**Road** means a public road or a private road within the meaning of the [Roads Act 1993](#), and includes a classified road.

## 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 R3 Medium Density Residential.

### Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow for a range of residential densities and for urban consolidation in appropriate locations.*
- *To allow some diversity of activities and densities, provided that:*
  - *the scale and height of any proposed building is comparable with the scale and height of existing buildings in the locality, and*
  - *traffic generation can be managed in a way that avoids adverse impacts on the local road system, and*
  - *there will be no significant detracting from the character of the locality or the amenity of any existing or proposed development nearby.*

It is considered that the proposed residential flat buildings and road are satisfactory with regards to the above objectives for Zone R3 Medium Density Residential. It is considered that the proposed residential flat buildings will provide for the housing needs of the community and add a variety to the housing types within approximately 400m of the developing Darkes Road Town Centre area. The Darkes Road Town Centre is expected to contain 6000m<sup>2</sup> of retail floor space with a maximum building height of 20m within the area zone B2 Local Centre surrounded by medium density residential zoned land.

It is considered that the road will provide infrastructure to meet the day to day needs of the development and the future subdivision of the adjoining property 109 Darkes Road, which is under assessment.

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

*Attached dwellings; Backpackers' accommodation; Bed and breakfast accommodation; Boarding houses; Car parks; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Home-based child care; Home businesses; Hospitals; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); **Residential flat buildings**; Respite day care centres; **Roads**; Secondary dwellings; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Signage; Veterinary hospitals*

The proposal is categorised as residential flat building and road as described above and is permissible in the zone with development consent.

### Clause 2.7 Demolition requires development consent

Demolition of a building may be carried out only with development consent. Demolition of the existing structures on the subject sites is proposed.

## Part 4 Principal development standards

### Clause 4.1 Minimum Subdivision Lot Size

No subdivision is proposed with this application.



#### Clause 4.3 Height of buildings

This clause prescribes a maximum height of 13 metres for the Site, as shown on the Height of Buildings Map. The proposal has maximum overall heights of the following:

Block A – 12.975m;

Block B – 12.885m;

Block C – 13m;

Block D – 12.87m;

Block E – 13m;

that do not exceed the maximum of 13m permitted for the site.

#### Clause 4.4 Floor space ratio

Maximum FSR permitted for the site: 0.75:1

FSR proposed:  $9355.4\text{m}^2/14570\text{m}^2 = 0.462:1$

The proposed floor space ratio does not exceed the maximum permissible for the site.

### **Part 5 Miscellaneous provisions**

#### Clause 5.10 Heritage conservation

The application submission contains an Aboriginal Due Diligence Assessment. Details of the application submission including the Due Diligence Assessment were referred to OEH and Council's Heritage Officer to assess the proposal's compliance with Part 5.10 of WLEP2009. Advice received indicates there are no issues with the proposal subject to draft conditions as at **Attachment 6** which specify steps to be taken in the event Aboriginal objects or remains are discovered during the course of the proposed excavation works including cessation of works until the find is assessed by a qualified archaeologist and contacting OEH, Aboriginal stakeholders and the NSW Police.

### **Part 6 Urban release areas**

#### Clause 6.1 Arrangements for designated State public infrastructure

Details of application submission were to the Department of Planning and Environment for comments in regards to Clause 6.1. Advice received indicates there are no requirements for the provision of state infrastructure contributions in this circumstance as the proposal does not include subdivision.

A draft conditions is recommended at **Attachment 6** advising the applicant that should a Development Application be required for the subdivision of the proposed development then the applicant will need to contact the Department of Planning and Environment so that Satisfactory Arrangements can be made for the provision of designated State Public Infrastructure.

#### Cause 6.2 Development control plan

An assessment under DCP 2009 D16 – West Dapto Release Area, has been undertaken and is included at **Attachment 4**.

### **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.

Advice received from Sydney Water and Endeavour Energy indicates the proposal is considered conditionally satisfactory.

#### Clause 7.2 Natural resource sensitivity – biodiversity

The site is identified as “Natural Resource Sensitivity – Biodiversity” which coincides with areas of the Illawarra Lowlands Grassy Woodland community. Details of the application submission including a Flora and Fauna Assessment Report, Arborist Report, Vegetation Management Plan (VMP) and Bushfire Report which include the retention and management of all trees within the EEC/CEEC Illawarra Lowlands Grassy Woodland/Illawarra and South Coast Lowland Forest and Woodland in the north and south of the site were referred to Council’s Environment Officer for comment. Conditionally satisfactory referral advice was received and draft conditions are included at **Attachment 6** requiring compliance with the VMP Flora and fauna Assessment, Arborist Report and Ecological conditions.

#### Clause 7.3 Flood planning area

The subject land is identified as being flood hazard affected. Council’s Stormwater Officer has assessed the application submission in this regard against the submitted flood study and has not raised any objections subject to draft conditions.

#### Clause 7.5 Acid Sulfate Soils

The subject site is identified as being affected by Class 4 and Class 5 acid sulphate soils. The application submission included a geotechnical assessment of the site including testing for the presence of acid sulphate soils on the site. The geotechnical assessment concluded that further assessment of acid sulphate soils risks and development of management plans is unlikely to be required. Council’s Environment Officer has considered the application submission and raised no issues with regards to Acid Sulphate Soils.

#### Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the building’s 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 Environment and Geotechnical Officer’s have considered the application submission and have provided satisfactory referrals subject to conditions.

#### Clause 7.14 Minimum site width

This clause prescribes a minimum site width of 24m for residential flat buildings. The subject site has a minimum site frontage of 195.953m to West Dapto Road and 155.112m to Darkes Road and is therefore compliant.

### **2.1 SECTION 4.15(A)(II) ANY PROPOSED INSTRUMENT**

None applicable to the site or proposed development.

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

#### **2.2.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

The development has been assessed against the relevant chapters of WDCP 2009. Compliance tables can be found at **Attachment 4** to this report. It is noted that the development has no variations from the applicable development controls.

#### **2.2.2 WEST DAPTO SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN (2017)**

The West Dapto Section 94 Development Contributions Plan (2017) applies to the subject site. Contributions are levied based on the number of lots or dwellings.

Details of the application were referred to Councils’ Contributions Officer for assessment. A draft condition as provided by Council’s Contributions Officer at **Attachment 6** specifies the total monetary contribution to be levied as a result of the development as proposed.

## **2.3 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 S7.4 which affect the development.

## **2.4 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.*

A draft condition at **Attachment 6** requires notification of demolition and compliance with AS 2601.

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

There is no Coastal Zone Management Plan currently applicable to the land.

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

### Context and Setting:

In regard to the matter of context, the planning principle in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The proposed development involves demolition of existing structures, tree removal and construction of five (5) separate residential flat buildings containing 108 units across four (4) levels and associated infrastructure. Siting of the proposed development satisfies the objectives of Council's boundary setback requirements so as to have minimal impact on the adjoining properties in terms of privacy and overshadowing and to allow reasonable solar access.

In regard to the visual impact, the existing character of development in the locality is predominantly rural development with some low density residential development in the Lynden View Stage 1 subdivision to the South west. Therefore the development as proposed would normally be considered out of character for the area. However, the neighbourhood is one in transition, with the character to change from a rural area to the future desired character of a town centre as some nearby sites including the adjoining property to the South are subdivided into low and medium density residential lots with a business zone in the town centre to the South west as depicted on the Darkes Road South West and West Dapto Road/Sheaffes Road (South) Neighbourhood Plans as at Figures 2 and 3 above. WDCP 2009 Chapter D16 indicates that Council's intention for the Darkes Road town centre is to create a local retail, business, commercial and community hub to service the release area.

Therefore the proposal is considered to be consistent with the desired future character of the Darkes

Road Precinct as identified through the development standards and controls applicable to the land. The bulk and scale of the development is consistent with the applicable planning controls for the area inclusive of building height, floor space ratio, street frontage heights, building setbacks and other built form controls. The development is not considered to be out of context with regard to the desired future character of the area.

The scale of the development as viewed from the street is considered comparable to the future desired character of the locality when the Floor Space Ratio, Building Height and Minimum subdivision lot size mapping as **Attachment 2** for the area are taken into consideration.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning and existing and future character of the area, and is considered to be compatible with the local area when the future desired character of the area is taken into consideration.

#### Vehicular Access, Transport and Traffic:

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

Traffic generation from the development can be readily absorbed into the existing street network. Pedestrians will be safely accommodated. Advice received from NSW Police and Council's Traffic Officer indicates the proposal is considered conditionally satisfactory.

#### Public Domain:

The proposal involves roadworks and frontage works including a public footpath to West Dapto Road frontage. The proposed works are considered a positive public domain outcome for the locality.

#### 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, draft conditions could require the developer to make appropriate arrangements with the relevant servicing authorities prior to construction. Advice received from Sydney Water and Endeavour Energy indicates the proposal is considered conditionally satisfactory.

#### Heritage:

No nearby heritage items are expected to be affected by the proposed development. Details of the application submission including the Due Diligence Assessment were referred to OEH and Council's Heritage Officer for assessment. Advice received indicates that the proposal is considered conditionally satisfactory.

#### Other land resources:

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

#### Water:

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

*Consumption* - The proposal is not envisaged to involve excessive water consumption having regard to the uses proposed within the building. Rainwater harvesting is proposed.

*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.

The soil profile is considered to be acceptable for the construction of the proposed development. Council's Geotechnical, Stormwater and Environment Officers have assessed the application submission and considered it satisfactory subject to consent conditions.

#### Air and Microclimate:

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

#### Flora and Fauna:

Several trees are proposed to be removed as part of this proposal to facilitate the development. Council's Landscape and Environment Officers have assessed the application submission, which included an Arborist Report, Flora and Fauna report and Vegetation Management Plan. Conditionally satisfactory referral advice was received and draft conditions as at **Attachment 6** specify trees to be removed, trees to be retained, compensatory plantings and tree protection and management.

#### Waste:

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

On-going waste management arrangements are satisfactory and comply with the relevant provisions of Wollongong DCP 2009 as detailed within this report. Advice received from Council's Traffic Officer indicates the proposal is considered conditionally satisfactory.

#### Energy:

The proposal is not envisaged to have unreasonable energy consumption. The application includes an Energy Efficiency report.

#### Noise and vibration:

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

#### Natural hazards:

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

Council records list the site as bushfire affected. The application has been assessed by the NSW RFS having regard to the provisions of Planning for Bushfire Protection (PBP) 2006. The NSW RFS considered the application acceptable in this circumstance subject to draft consent conditions as at **Attachment 6**. For details of the NSW RFS response please see section 1.6.2 External Consultation of this report.

#### Technological hazards:

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

The proposal is identified as being affected by Class 4 and Class 5 acid sulphate soils. The application submission included a geotechnical assessment of the site including testing for the presence of acid sulphate soils on the site. The geotechnical assessment concluded that further assessment of acid sulphate soils risks and development of management plans is unlikely to be required. Council's Environment Officer has considered the application submission and raised no issues with regards to Acid Sulphate Soils.

#### Safety, Security and Crime Prevention:

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

#### Social Impact:

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

#### Economic impact:

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

#### Site Design and Internal Design:

The application does not result in any departures from development standards or variations to Council's development control plans as outlined above and at **Attachment 4**.

#### Construction:

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

A condition is also included in the draft conditions at **Attachment 6** that all works are to be in compliance with the Building Code of Australia.

#### Cumulative impacts:

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

## **2.7 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 negative impacts on the amenity of the locality or adjoining developments.

### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

## **2.8 SECTION 4.15 1(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS**

Details of the original proposal and subsequent amended plans were publicly exhibited in accordance with Appendix 1 of the Wollongong Development Control Plan (WDCP) 2009 over two (2) separate notification periods. Eight (8) submissions were received from the first notification period 9 January 2018 to 20 February 2018.

A total of two (2) submissions were received from the second notification period 1 June 2018 to 1 August 2018. The second notification period was required following receipt of amended architectural that reduced the number of apartment blocks from six (6) to five (5) and the number of units from 124 to 108.

Therefore a total of ten (10) submissions have been received. The main issues identified within the submissions are discussed below.

Table 1: Submissions

Concern	Comment
1. The proposal is out of character for the area	<p>The sites existing context is scenic and rural including farmland and native bushland. The neighbourhood however is one in transition, with the character to change from a rural area to the future desired character of a town centre as some nearby sites including the adjoining property to the South are subdivided into low and medium density residential lots with a business zone in the town centre to the South west as depicted on the Darkes Road South West and West Dapto Road/Sheaffes Road (South) Neighbourhood Plans. WLEP 2009 zoning, floor space ratio, building height and minimum lot size mapping as at <b>Attachment 2</b> provides further evidence of Council's future desired character for the area.</p> <p>Council's draft West Dapto Vision document that the Darkes Road Town Centre was zoned B2 for Town</p>

Concern	Comment
	<p>Centre outcome as part of the larger Stage 1 and Stage 2 urban development zoning in 2010.</p> <p>WDCP 2009 Chapter D16 indicates that Council's intention for the Darkes Road town centre is to create a local retail, business, commercial and community hub to service the release area. The Darkes Road Town Centre is expected to contain 6000m<sup>2</sup> of retail floor space with a maximum building height of 20m within the area zone B2 Local Centre surrounded by medium density residential zoned land.</p> <p>It is considered that the proposed residential flat buildings are satisfactory with regards to the objectives for Zone R3 Medium Density Residential.</p> <p>The bulk and scale of the development is consistent with the applicable planning controls for the area inclusive of building height, floor space ratio, street frontage heights, building setbacks and other built form controls. The development is not considered to be out of context with regard to the desired future character of the area.</p>
<p>2. Plans showing retention of trees on the adjoining property</p>	<p>Consideration was given to the areas of the subject site mapped as Natural Resource Sensitivity – Biodiversity which coincides with areas of the Illawarra Lowlands Grassy Woodland community. Initial concerns were raised regarding impacts on the Illawarra Lowlands Community to the North and South of the site. The applicant was requested by Council to submit amended plans showing retention of the trees within Illawarra Lowlands Grassy Woodland community including those trees not on the subject site itself.</p> <p>Amended plans, Flora and Fauna Assessment Report, Arborist Report, Vegetation Management Plan (VMP) and Bushfire Report were provided by the applicant that now retain and manage all trees within the EEC/CEEC Illawarra Lowlands Grassy Woodland/Illawarra and South Coast Lowland Forest and Woodland in the north and south of the site resolving concerns raised.</p> <p>Draft conditions as at <b>Attachment 6</b> specify trees to be removed, trees to be retained, compensatory street tree planting, tree protection and management and require compliance with the VMP Flora and fauna Assessment, Arborist Report and Ecological conditions.</p>
<p>3. Stormwater design and flooding impacts</p>	<p>The application submission included a concept stormwater drainage plan and Water Sensitive Urban Design (WSUD) report which was referred to Council's Stormwater Officer for comment. Council's Stormwater Officer initially raised concerns in relation to some aspects of the design. Amended plans and further information were provided by the applicant that now resolves the concerns raised.</p> <p>Advice now received indicates that the stormwater drainage design is considered to be conditionally acceptable. The stormwater drainage design is in accordance with WDCP2009 Chapter E14 and incorporates On Site Detention (OSD) so as to limit the flow rate and ensure there is no increase in flow rates from the site. The OSD will ensure that runoff volumes</p>

Concern	Comment
	<p>will discharge at a controlled rate. With respect to flooding overland flow contributes to the site, this is not mainstream flooding. The development is designed to ensure that pre to post flows are replicated to West Dapto Road through OSD.</p> <p>Draft conditions as at <b>Attachment 6</b> account for the OSD design and stormwater run-off from the proposed development such that is not directed so as to have an adverse effect on adjoining properties.</p>
<p>4. Construction of half road rather than a full road (Road 9)</p>	<p>The application submission was referred to Council's Traffic Officer for comment. Council's Traffic Officer raised concerns regarding the half road width of Road 9 and the applicant was requested to amend plans to show a full road width. Amended plans have been provided indicating that Road 1, previously known as Road 9, is now a full width road thus resolving concerns raised.</p> <p>Advice now received from Council's Traffic Officer indicates that the proposal as amended is conditionally satisfactory.</p> <p>Draft conditions as at <b>Attachment 6</b> account for the road design requirements such that its dimensions, design and construction is in accordance with Council's specifications.</p>
<p>5. Proposal does not comply with zoning regulations and building codes for recent West Dapto estate developments</p>	<p>The subject site is zoned R3 Medium Density Residential. Under Wollongong Local Environmental Plan 2009 Land Use Table Residential Flat Buildings are listed as a permitted land use in the R3 zone.</p> <p>The proposed development is considered to satisfy the objectives of the zone and in keeping with the future desired character of the area.</p> <p>The proposed development with Floor Space Ratio satisfies Council's Floor Space Ratio and Building Height development standards as identified in the Wollongong Local Environmental Plan 2009, and overall the bulk and scale of the proposed development is considered acceptable in this circumstance.</p> <p>The development as proposed does not result in a departure from Council's development control plans.</p>
<p>6. Insufficient infrastructure to support the proposed development and condition of local roads is not sufficient to support increase in traffic</p>	<p>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.</p> <p>If approved, draft conditions as at <b>Attachment 6</b> 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.</p> <p>Advice received from Sydney Water and Endeavour Energy indicates the proposal is considered conditionally satisfactory.</p> <p>Council's long term West Dapto Access Strategy includes an upgrade of the road network including the road network servicing the future Darkes Road Town Centre.</p>



Concern	Comment
	<p>Details of the application including a traffic impact study and plans showing upgrade treatment for the intersection of West Dapto Road and Road 1 were referred to Council's Traffic Officer. Advice received from Council's Traffic Officer indicates that the proposal is considered conditionally satisfactory.</p> <p>It is noted that advice received from Council's Senior Civil Design Engineer and West Dapto Team has indicated that West Dapto Road will experience an upgrade to a collector road.</p> <p>A draft condition as at <b>Attachment 6</b> requires the developer to pay a development contributions levy of which a portion is to be allocated to upgrade of roads.</p>

**Table 2: Frequency of concerns raised in submissions**

Concern	1	2	3	4	5	6
<b>Total</b>	4	1	3	1	1	3

Submissions from public authorities

**NSW Rural Fire Service**

Details of the application submission were referred to the NSW Rural Fire Service for comments. Advice received indicates the proposal is considered conditionally satisfactory.

**Office of Environment and Heritage (OEH)**

Details of the application submission were referred to the OEH for comments. Advice received indicates the proposal is considered conditionally satisfactory.

**Sydney Trains**

Details of the application submission were referred to Sydney Trains for comment on 4 January 2018 in accordance with Clause 84 of SEPP (Infrastructure) 2007. Advice received indicates the proposal is considered conditionally satisfactory.

**Endeavour Energy**

Details of the application submission were referred to Endeavour Energy for comment in accordance with Clause 45 of SEPP (Infrastructure) 2007. Advice received indicates the proposal is considered conditionally satisfactory.

**Sydney Water**

Details of the application submission were referred to Sydney Water for comment. Advice received indicates the proposal is considered conditionally satisfactory.

**NSW Police**

Details of the application submission were referred to the NSW Police Lake Illawarra Area Command (LAC) for comment. Advice received indicates the proposal is considered conditionally satisfactory.

**2.9 SECTION 4.15 1(E) THE PUBLIC INTEREST**

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

**3. CONCLUSION**

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the R3

Medium Density Residential zone. The development is consistent with the applicable provisions of the relevant planning instruments including SEPP 65 Wollongong LEP 2009.

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

Some of the issues received in submissions though technically unresolved area considered to be adequately addressed either through design or by way of condition of consent. Any remaining issues are not considered sufficient to warrant refusal of the application.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

#### **4. RECOMMENDATION**

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DA-2017/1759 be approved pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at **Attachment 6**.

#### **5. ATTACHMENTS**

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- 1 Plans
- 2 Aerial photograph, WLEP 2009 zoning, floor space ratio, building height, minimum subdivision lot size maps and site photographs
- 3 Apartment Design Guide Assessment
- 4 Wollongong DCP 2009 Assessment
- 5 SEPP 65 Design Report and Architects Comments
- 6 Draft conditions