

## SOUTHERN REGIONAL PLANNING PANEL (SRPP)

SRPP No	2018STH012
DA Number	DA-2018/225
Local Government Area	Wollongong
Proposed Development	Construction of additional self storage units to existing self storage site, civil and landscaping works, including access bridge
Street Address	98-104 Gipps Street Wollongong Lot 1 DP 1048188, Lot 2 DP 1048188, Lot 3 DP 326243, Lot 1 DP 1168798, Lot 1 DP 1168799
Applicant/Owner	Kennards Self Storage Pty Ltd
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Section 4.5(b) of the Environmental Planning & Assessment Act 1979. Clause 2, Schedule 7 of State Environmental Planning Policy (State & Regional Development) 2011 - Council related development over \$5 million.
List of All Relevant s 4.15(1)(a) Matters	<p><u>State Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy No. 64 – Advertising and Signage</li> </ul> <p><u>Local Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>Wollongong Local Environmental Plan 2009</li> </ul> <p><u>Other policies</u></p> <ul style="list-style-type: none"> <li>Wollongong Section 94A Contributions Plan 2017</li> </ul> <p>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)</p> <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Coastal Management) 2016</li> </ul> <p>List any relevant development control plan: S4.15 (1)(a)(iii)</p> <ul style="list-style-type: none"> <li>Wollongong Development Control Plan 2009</li> </ul> <p>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)</p> <ul style="list-style-type: none"> <li>Nil</li> </ul> <p>List any coastal zone management plan: S4.15 (1)(a)(v)</p> <ul style="list-style-type: none"> <li>None relevant</li> </ul> <p>List any relevant regulations: S4.15 (1)(a)(iv) e.g. Regs 92, 93, 94, 7.12, 288</p> <p>Nil</p>
List all documents submitted with this report for the panel's	Architectural plans by MCHP Architects Site survey by KF Williams & Associates

consideration	Landscape plans by Taylor Brammer Landscape Architects Pty Ltd Statement of Environmental Effects by MCHP Architects
Recommendation	Refusal - reasons set out in Attachment 8
Report by	Anne Starr

## Summary of s4.15 matters

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

### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

### **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 (S94EF)? **No**

### **Conditions**

Have draft conditions been provided to the applicant for comment? **N/A**

# Assessment Report and Recommendation Cover Sheet

## Executive Summary

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### Reason for consideration by Regional Planning Panel

The proposal has been referred to Regional Planning Panel pursuant to Section 4.5 of the Environmental Planning & Assessment Act 1979 and Clause 3 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as it involves Council related development over \$5 million.

### Proposal

Construction of additional self-storage units to existing self-storage site, civil and landscaping works, including access bridge.

### Permissibility

The site is zoned B6 Enterprise Corridor pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as 'self-storage units' and is permissible in the zone with development consent.

### Consultation

The proposal received nil submissions following public exhibition

### Main Issues

- Proposed vehicular bridge linking Stafford Street and the site's northern allotment is likely to require regrading of Stafford Street and may impact on the existing access to the retail development car park in Stafford Street. Engineering details have been requested but not provided.
- The concurrence of the Natural Resources Access Regulator (formerly Department of Primary Industries Water) has not been obtained. The NRAR requested amended plans and supporting documents showing provision of vegetation riparian zones around Buildings D, C F and G.
- A vegetation management plan is required in accordance with Wollongong Development Control Plan 2009, but has not been provided.
- Further flood modelling and supporting documentation is required to support the application, but has not been provided.
- Extensive tree removal (154 trees) is not supported.
- No owner's consent for works proposed within Council's road reserve adjoining Stafford Street. Council will not provide owners consent for the proposed bridge on public land. The applicant has been advised of this position and invited to withdraw the application or amend the application to delete the works on Council's land.
- The applicant has not explained how this original Kennards consent interacts with the proposed development
- The proposed construction of a bridge on Council's road reserve is likely to result in an unreasonable financial and maintenance burden on Council (refer clause 11.6 of SRPP operational procedures September 2016)

### RECOMMENDATION

It is recommended that the proposal be refused subject to the draft reasons for refusal contained at Attachment 8.

## 1.1 PROPOSAL

The proposal comprises an increase in the number of self storage units at an established Kennards Self Storage enterprise. The development involves the following:

- Demolition of stormwater detention basin, storage shed, carport and hardstand areas (refer demolition plan)
- Construction of four new buildings to be fitted out internally as self storage units
  - Building D single storey
  - Building C, F and G two storey
- Resulting number of storage units on the site: 736 (proposed) and 511 (existing)
- Tree removal 154 trees (refer demolition plan)
- Civil works including construction of a bridge over the northern watercourse to provide access to Stafford Street. The bridge is proposed partly within Council's road reserve.
- No change to hours of operation
- No new office or reception
- No new parking spaces
- New gross floor area 10476m<sup>2</sup>
- Total gross floor area 17859m<sup>2</sup> (inc. existing buildings)
- Floor space ratio 0.65:1 (inc. existing buildings)
- Change to operation of existing facility (e.g. services provided, security, access gate etc) – not clarified by applicant
- Total number of staff employed - not clarified by applicant
- Two illuminated wall signs Building G - dimensions not clarified by applicant
- Waste /deliveries- not clarified by applicant
- New fencing - not clarified by applicant

The Statement of Environmental Effects does not provide sufficient detail explaining the relationship between the existing Kennards Self Storage facility and the proposed buildings. Council wrote to the applicant on 10 May 2018 seeking further information regarding number of staff, waste disposal, fencing, type of vehicles to be stored etc. A response has not been received.

The development is integrated development as a Controlled Activity Approval is required under the Water Management Act 2000. The Natural Resources Access Regulator (formerly Department of Primary Industries – Water) have been notified. The application has also been referred to Roads and Maritime Services and Sydney Trains for comment under State Environmental Planning Policy (Infrastructure) 2007.

## 1.1 BACKGROUND

On 19 February 2008 Council approved 'Self storage facility', which authorised the construction of three self storage buildings, named A, B and D and change of use of Buildings C, E and G. The proponent of DA-2007/829 was Kennards Self Storage. Buildings A and B have been constructed, however Building D (approved in the approximate location of proposed Building D, was never built. Building C has been demolished and Buildings E and G are proposed to be demolished in the current application. The applicant has not explained how this original Kennards consent interacts with the proposed development.

A construction certificate for erection of existing Buildings A and B was issued by a private certifier, however it does not appear Council has received a copy of an Occupation Certificate. The application was approved as a 'business premises' and 'warehouse or distribution centre' under Wollongong City Centre Local Environmental Plan 2007, which was the relevant instrument at the time. The consent was modified on 26 May 2011, which involved a change to a condition regarding 88b restriction.

Pre-lodgement meeting PL-2016/32 addressed a similar proposal (construction of a bridge to Stafford Street, construction of two new self-storage buildings). At the time, Council advised the proponent Kennards that a bridge from Stafford Street was unlikely to be supported.

#### Customer service actions

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

## **1.2 SITE DESCRIPTION**

The 27650m<sup>2</sup> site is located at 98-104 Gipps Street Wollongong and is comprised of five allotments:

- Lot 1 DP 1048188
- Lot 2 DP 1048188
- Lot 3 DP 326243
- Lot 1 DP 1168798
- Lot 1 DP 1168799

The land currently contains two x two-storey self-storage buildings, a roofed structure providing undercover storage for boats and larger camping vehicles, a shed and hardstand areas also used for uncovered storage of vehicles. The shed and roofed structure are proposed to be demolished. The approximate gross floor area of existing buildings is 7383m<sup>2</sup>. Vehicular access is via two crossovers on Gipps Street. There is no access from Stafford Street.

The site extends north through to Stafford Street. The property boundary is fenced and no pedestrian or vehicular access is currently available from Stafford Street. The western boundary adjoins the Illawarra rail corridor in part. Sydney Trains were notified of the application and is yet to respond.

The land contains two watercourses; one which diagonally bisects the site and runs from east to west and the second watercourse forms the northern allotment boundary. It is this second watercourse that the proposed bridge from Stafford Street attempts to span.

Adjoining development is as follows:

- North: public land owned by Council immediately adjoining northern boundary (contains watercourse). Further north retail development and associated outdoor car park. Driveway is approximately 5m from current Stafford Street terminus.
- East: rear of Flinders Street properties, which are mix of light industrial, retail and residential development.
- South: southern side of Gipps Street contains light industrial (Bunnings hardware, building supplies, motor vehicle repairs etc.)
- West: Illawarra rail corridor for approximately northern half of site. Remainder of west elevation adjoins 106-110 Gipps Street, on which land a development application for shop top housing (DA-2016/1618).

#### Property constraints

- Council records identify the land as being located within a medium and high flood risk precinct. Council's stormwater engineer has requested further information regarding flood modelling, impacts of proposed Stafford Street bridge, onsite detention facility, overland flow and stormwater disposal. This information has not been provided to Council.
- Council records identify the land as being located within the NSW coastal zone. No impacts are expected on the coastal environment as a result of the development and there are no coastal hazards that affecting the land.

Development consent DA-2009/289/A required a positive covenant on all ground floor storage units on the eastern side of Buildings B and D. The owner/s of the land are required to provide and maintain appropriately worded flood warning signage inside each storage unit advising tenants of possible above floor flooding. A further positive covenant was imposed requiring the landowner of Buildings B and D to provide shelving for in all units for storage of non-flood compatible items.

### **1.3 SUBMISSIONS**

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising between 16 March 2018 and 20 April 2018. No submissions have been received.

### **1.4 CONSULTATION**

#### **1.4.1 INTERNAL CONSULTATION**

##### **Environment Officer**

Council's Environment Officer has advised they do not support the application in its current form. A vegetation management plan is required in accordance with WDCP 2009 in relation to the riparian land. This has not been provided.

##### **Landscape Architect**

Council's landscape architect has advised they do not support the application in its current form. The development proposes removal of approximately 154 trees. The tree removal is not supported.

##### **Property Officer**

Significantly, Council does not grant owner's consent for the proposed civil works on Council's land. The development involves construction of a vehicular access bridge partly on Council land. The northern pylon is proposed on Council's grassed road reserve at the southern end of Stafford Street and the southern pylon on Kennards land.

Council's property officer has advised that Council would not take ownership of the bridge and that this was communicated to the proponent in 2017.

##### **Stormwater Engineer**

Council's stormwater engineer has advised that the development is not supported in its current form. Matters of concern were communicated to the applicant on 10 May 2018. These issues relate to the proposed Stafford Street bridge and a lack of information regarding flood modelling. In addition, there is demonstrated non-compliance with Council's stormwater and flooding chapters of WDCP 2009.

##### **Traffic Engineer**

Council's traffic engineer has advised that the development is not supported in its current form. A significant source of concern is the proposed Stafford Street bridge. The application does not provide any engineering details of this bridge, and therefore it is not known whether the connection with Stafford Street would block access to the existing retail centre carpark. Other aspects of concern include undersized vehicle turning areas for Building G and the failure to provide required visitor car parking spaces.

#### **1.4.2 EXTERNAL CONSULTATION**

##### **Natural Resources Access Regulator**

The proposal is integrated development as a controlled activity approval under the Water Management Act 2000. The concurrence of the NRAR (formerly Department of Primary Industries Water) has not been granted. The NRAR advise they have requirements for the treatment of the two riparian corridors. A detailed vegetation management plan is required but has not been provided. It is unclear whether the statutory riparian zones conflict with the proposed building footprint.

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

The application was referred to the RMS in accordance with clause 104 of State Environmental Planning Policy (Infrastructure) 2007. RMS advised they have no objection to the development.

##### **Sydney Trains**

The application was referred to Sydney Trains on 16 May 2018 in accordance with clause 86 of State Environmental Planning Policy (Infrastructure) 2007. Sydney Trains is yet to comment.

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

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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**

A desktop audit of previous land uses indicates historic uses that may contribute to the contamination of the site. Earthworks are proposed to facilitate removal of existing hardstand areas and the on-site detention facility. Further excavation is required for construction of the proposed bridge and erection of buildings.

SEPP 55 has not been addressed in the Statement of Environmental Effects nor has a preliminary hazard investigation (Stage 1) report been provided. In that regard the consent authority cannot be satisfied of the matters prescribed in clause 7 of the SEPP.

#### **2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

##### Clause 86 Excavation in, above or adjacent to rail corridors

The development was also required to be notified to the rail authority under clause 86 of this policy as it involves excavation at least 2m below ground level and is within 25m of a rail corridor. A response has not been received to date.

##### Clause 104

The proposed development is traffic generating development for the purposes of the SEPP. RMS has advised they have no objection. The consent authority is also required to consider the accessibility of the site and impacts upon road safety, traffic congestion and parking.

Council's traffic engineer has identified concerns regarding the proposed Stafford Street bridge and on-site parking.

#### **2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011**

Council's legal counsel has provided advice confirming that on balance, the application is regionally significant development, and therefore the SRPP is the designated consent authority for the development.

The application has a capital investment value of \$7,917,800 and the proposed Stafford Street bridge would be partially constructed on Council's road reserve.

Council's legal advice confirms the road reserve is 'Council land' for the purpose of this clause, as Council is the owner of the land occupied by the road reserve as provided in section 145(3) of the Roads Act 1993.

If Council is the owner of one part of the subject site, but has withheld owners consent, a further consideration for the SRPP is whether the application can be said to be validly made, and therefore able to be determined as the statutory rejection period has expired. Clause 50 and Schedule 1 of the Environmental Planning and Assessment Regulation 2000 describes the necessary form of a development application.

Clause 2.15 of the Environmental Planning and Assessment Act 1979 confers upon a regional panel some functions of the consent authority under Part 4 of the Act as they apply to development applications. Section 4.7 identifies regional panel functions to be exercised by Council on behalf of the regional panel. None of these functions limit the Southern Regional Planning Panel from determining the application if it is a valid development application. Section 4.6 of the Act allows the consent authority to determine an application by way of granting consent (either total or partial) or by refusing consent.

This jurisdictional issue was considered in *Sharreal Pty Ltd v Wyong Shire Council* [1998] NSWLEC 300 where the Court approved the development application in the absence of owner's consent for part of the land and where Council was the owner. A contrary position was taken in *Hemmes Hermitage Pty Limited v Sydney City Council* [2004] NSWLEC 539, where Lloyd J took the view that in the

absence of owners consent there was no valid application that could be the subject of an appeal and further that section 39(2) of the Land and Environment Court Act did not authorise granting of an approval under section 149 of the Roads Act.

In terms of the Roads Act, case law suggests the Land and Environment Court can step into the role of Council and issue an approval under s138 of the Roads Act 1993, as provided by section 39(2) of the Land and Environment Court Act 1979. This was the subject of *Connery v Manly Council (1999) 105 LGERA 451* and *Gibson v Mosman Municipal Council (2001) 114 LGERA 416*. However, the applicant has not sought a s.138 approval in the subject application. Further, the current application seeks to do more than grant access to the road reserve such as was the subject of *Connery* and *Gibson*, in that it proposes to erect a bridge over a watercourse, which itself would require development consent and approval under the Water Management Act 2000.

The advice also suggests a potential alternative trigger should the road reserve be acquired prior to determination, namely the bridge construction could be 'private infrastructure' as described in clause 5 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

In that circumstance, the bridge component would need to exceed \$5 million itself. The applicant has not provided separate costings for the bridge.

As noted above, it is Council's view that on balance the development is regionally significant development and may be determined by the Southern Regional Planning Panel.

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

Two wall signs are proposed to be erected on Building G. No dimensions have been supplied and the application does not address SEPP 64.

## 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 B6 Enterprise Corridor.

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

The objectives of the zone are as follows:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting retailing activity.*
- *To encourage activities which will contribute to the economic and employment growth of Wollongong.*
- *To allow some diversity of activities that will not:*
  - (a) significantly detract from the operation of existing or proposed development, or*
  - (b) significantly detract from the amenity of nearby residents, or*
  - (c) have an adverse impact upon the efficient operation of the surrounding road system.*

The proposal is satisfactory with regard to the above objectives.

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

- **2 Permitted without consent**
- *Building identification signs; Business identification signs*
- **3 Permitted with consent**
- *Advertising structures; Bulky goods premises; Business premises; Car parks; Centre-based child care facilities; Community facilities; Depots; Entertainment facilities; Environmental facilities; Garden centres; Hardware and building supplies; Heavy industrial storage establishments; Hotel or motel accommodation; Industrial retail outlets; Landscaping material supplies; Light industries; Office premises; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreational facilities (outdoor); Registered clubs; Respite day care centres; Roads; Service stations; Serviced apartments; Sex services premises; Shop top housing; **Storage premises**; Take away food and drink premises; Timber yards;*



*Transport depots; Truck depots; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres*

- 4 Prohibited
- Any development not specified in item 2 or 3

The proposal is categorised as 'self-storage units' as defined below and is permissible in the zone with development consent.

#### Clause 1.4 Definitions

**self-storage units** means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

*Note.*

*Self-storage units are a type of storage premises—see the definition of that term in this Dictionary.*

**storage premises** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.

### **Part 4 Principal development standards**

#### Clause 4.3 Height of buildings

The proposed building height of maximum 8.4m and does not exceed the maximum of 32m permitted for the site.

#### Clause 4.4A Floor space ratio

The maximum permitted floor space ratio is 3:1.

The proposed floor space ratio is 0.65:1, which is the sum of 7383m<sup>2</sup> existing gross floor area and 10476m<sup>2</sup> proposed new gross floor area.

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

#### Clause 7.1 Public utility infrastructure

The development is currently serviced by electricity, water and sewage services.

#### Clause 7.3 Flood planning area

The land is identified as medium and high flood risk.

Council's stormwater engineer has identified areas of concern regarding the supplied flooding documentation. These matters were detailed in Council's letter to the applicant dated 10 May 2018 (Attachment 6). A response has not been provided.

#### Clause 7.4 Riparian lands

Two watercourses traverse the site and the land is identified as containing riparian land. This has not been addressed in the application. Both Council and the Natural Resources Access Regulator have requested the applicant provide a detailed vegetation management plan. To date this has not been submitted to Council.

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

In its current form, the development does not exhibit design excellence. Matters of concern include:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
  - Inadequate southern setback Building G. The building is proposed on the boundary where WDCP 2009 requires minimum 3m.
- (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
  - The visual impact of the proposed Stafford Street bridge is unknown as no engineering details have been provided.

- The proposed tree removal would detrimentally affect views from the public domain.
- (c) *whether the proposed development detrimentally impacts on view corridors,*
  - The proposed tree removal is likely to detrimentally impact upon quality of view corridors
- (d) *whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,*
  - Not applicable
- (e) *how the proposed development addresses the following matters:*
  - (i) *the suitability of the land for development,*
    - Use of Council's road reserve to construct a private bridge is not a suitable use of public land.
    - Traffic and environmental impacts of the proposed Stafford Street bridge have not been adequately investigated as no engineering details have been provided.
    - Contamination and SEPP 55 has not been addressed. The land has a history of industrial development which may have led to contamination.
    - Impacts of flooding have not been adequately investigated. It is unclear whether the proposed buildings are suitable.
    - The proposed tree removal is not supported.
    - The proposed removal of the on-site detention facility has not been adequately justified.
  - (ii) *existing and proposed uses and use mix,*
    - The existing Kennards facility has development consent. It is unclear whether the proposed expansion is compatible with surrounding development in terms of flooding, stormwater and traffic impacts.
  - (iii) *heritage issues and streetscape constraints,*
    - No heritage properties nearby.
    - Impacts upon Stafford Street streetscape have not adequately been investigated. It is unclear whether the proposed transition from bridge to Stafford Street pavement will conflict with the existing driveway to the retail car park. The applicant has not demonstrated an access strategy for Building G e.g. it is unclear if vehicles entering the site in error will have to reverse over the bridge into Stafford Street.
  - (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,*
    - No tower proposed
  - (v) *bulk, massing and modulation of buildings,*
    - The Natural Resources Access Regulator has requested provision of a riparian zone. The applicant has not demonstrated that the proposed building footprints are compatible with this requirement.
    - Building G southern setback is inadequate.
  - (vi) *street frontage heights,*
    - Not applicable.
  - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
    - The application does not address riparian land requirements of WDCP 2009 and the Water Management Act 2000. The concurrence of the Natural Resources Access Regulator has not been obtained.

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

- The application fails to demonstrate compliance with requirements of SEPP 55.
- The proposed bridge construction is not supported.
- The application fails to adequately manage the site's riparian land.

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

- The development fails to provide required additional on-site car parking spaces.
- An access strategy has not been formulated for Stafford Street/Building G.

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

- Impacts on Stafford Street public domain has not been adequately investigated, as no engineering details have been provided.

## **Part 8 Local provisions—Wollongong city centre**

### Clause 8.1 Objectives for development in Wollongong city centre

The application fails to adequately manage environmental, flooding and stormwater constraints and is inconsistent with objectives (g) and (h), in particular.

### Clause 8.4 Minimum building street frontage

The land has street frontage to Gipps Street of approximately 46m.

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

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

SEPP Coastal Management was in a draft form having been publicly exhibited at date of lodgement of the application. The draft SEPP does not present specific concerns in relation to the proposed development.

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

### **8 Variations to development controls in the DCP**

The development has been assessed against the relevant chapters of WDCP 2009. The application involves variations to the setback requirements of Chapter D13 in relation to Building G. The proposed nil boundary setback to the southern neighbour is not supported (minimum 3m required) and the applicant has been advised. A variation statement has not been supplied.

### **Chapter A2 – Ecologically sustainable development**

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of WDCP 2009. It is noted that the application does not adequately manage the riparian land within the site and that the concurrence of the Natural Resources Access Regulator has not been obtained.

### **Chapter B4 – Development in business zones**

This Chapter applies to business and other premises in the B6 Enterprise Corridor zone.

The proposed self storage land use is not expected to compromise the desired retail hierarchy. Requirements for the Wollongong City Centre are addressed in Chapter D13.

Relevant provisions include signage (to be in accordance with SEPP 64), car parking (Chapter E3), disabled access (Chapter E1), land consolidation (not proposed) and public domain works (Public Domain Technical Manual).

### **Chapter D13 Wollongong city centre**

The proposal involves many omissions in terms of documentation and these together create uncertainty as to the full extent of environmental, traffic, planning and public domain impacts. Compliance is addressed in Attachment 7.

### **Chapter E1: Access for people with a disability**

Three out of the four proposed buildings are two storey. A goods hoist is provided in each building however no lifts are proposed. Compliance with the Building Code of Australia and Disability Discrimination Act is required.

### **Chapter E2: Crime prevention through environmental design**

Proposed buildings C, D and F would be accessed via the existing Gipps Street driveway and likely subject to the same existing security controls, although this has not been adequately clarified in the application. Building G would be accessible only via the proposed Stafford Street bridge, where the application refers to some security control at the northern boundary. It is unclear how this would work in terms of vehicle manoeuvring on the bridge. The application refers to security gates and an on-site manager, however it has not been demonstrated that the existing manager would adequately provide security to the proposed buildings as well as the existing Kennards facility.

Some storage units would be directly accessible from the building exterior, via individual roller doors. These would offer reasonable levels of surveillance and security. However the majority of units are accessible only from inside the buildings, where there are entrapment spaces and poor egress paths. It is unclear whether on-site security monitoring would be available 24 hrs a day within the buildings.

### **Chapter E3: Car parking, access, servicing/loading facilities and traffic management**

Council's traffic engineer has noted that WDCP 2009 does not specify parking rates for self-storage premises, however Council has accepted an industry code parking assessment in other similar development applications. Based on this report, a further two parking spaces are required. These have not been provided.

Council's engineer has also identified the manoeuvring limitations of Building G, where the maximum sized truck that could access the Building is an 8m truck. This is smaller than the 12.5m truck referred to in the applicant's traffic study for the rest of the site. The applicant has not indicated how oversized vehicles will be prevented from using the proposed Stafford Street bridge.

### **Chapter E6: Landscaping**

Separate tree removal and landscaping plans have been submitted. The applicant has not addressed the requirements of riparian land management and therefore has not demonstrated that the proposed landscaping is suitable for the riparian zones.

### **Chapter E7: Waste management**

A site waste minimisation and management plan has been provided. The plan does not adequately address the relationship between existing waste servicing arrangements for Kennards and the proposed expansion.

### **Chapter E13 Floodplain management**

Council's stormwater engineer has identified areas of concern regarding flooding impacts. These are detailed in Attachment 6.

### **Chapter E14 Stormwater management**

Council's stormwater engineer has identified areas of concern regarding stormwater disposal. These are detailed in Attachment 6.

### **Chapter E17 Preservation and management of trees and vegetation**

The development involves significant tree removal. An arborist report has been submitted however Council's landscape architect does not consider the proposed removal justified. These concerns are detailed in Attachment 6.

### **Chapter E19 Earthworks (land reshaping works)**

Excavation is proposed to facilitate removal of hardstand areas, buildings and the on-site detention facility. Associated environmental impacts have not been adequately addressed in the application.

## **Chapter E20 Contaminated land management**

The provisions of SEPP 55 have not been addressed at all in the application. A desktop survey of the site's history suggests some past industrial uses that may have contaminated the land, including above and below ground fuel storage, timber mill and factory. These concerns are detailed in Attachment 6.

## **Chapter E21 Demolition and asbestos management**

Two existing buildings, hardstand areas and an-site detention facility are proposed to be demolished. A demolition work plan has not been provided.

## **Chapter E22 Soil erosion and sediment control**

A sediment and erosion control plan has not been provided.

## **Chapter E23 Riparian land management**

Two watercourses traverse the site. The application fails to address the riparian land requirements of Chapter E23. Detailed concerns are provided in Attachment 6.

### **2.3.1 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN**

The estimated cost of works is \$7,917,800 and a levy of 1% is applicable under this plan as the threshold value is \$100,000.

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

### **2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)**

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

The application involves demolition.

The NSW Coastal Policy does not apply at this location.

93 Fire safety and other considerations

Not applicable

94 Consent authority may require buildings to be upgraded

Not applicable

### **2.6 SECTION 4.15(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT**

Council's Coastal Zone Management Plan was gazetted on 9 March 2018, having been publicly exhibited and endorsed by Council at date of lodgement of the application.

The Plan places the site within the coastal zone, however no management strategies are relevant to the application.

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

In its current form, the application is likely to result in some adverse and unacceptable impacts. These are detailed below.

Context and Setting

The site is located within a mixed commercial and industrial street. Newer development applications have either been lodged or approved for residential development. Self-storage premises are not inherently incompatible with existing or proposed nearby development, however some aspects of the application are not supported.

Access, Transport and Traffic:

Council's traffic engineer has identified matters of concern regarding number of car parking spaces and traffic/vehicle manoeuvring. These are detailed in Attachment 6.

Public Domain:

The proposed tree removal and bridge construction are likely to result in adverse impacts upon the public domain. These concerns are detailed in Attachment 6.

Utilities:

The site is currently serviced. The proposed buildings would require connection to utilities.

Heritage:

No heritage items will be impacted by the proposal.

Other land resources:

The development involves construction of a bridge on Council's road reserve. This is not supported.

Water:

The site is presently serviced by Sydney Water, connection of the proposed buildings would be required.

Soils:

The land contains Class 3 and 4 acid sulfate soils.

Air and Microclimate:

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

Flora and Fauna:

Extensive vegetation removal is proposed and is not supported. Refer Attachment 6 for detailed concerns.

Waste:

A waste management plan has been provided, however it is unclear how the proposed buildings will integrate with the existing Kennards waste servicing. .

Energy:

The ongoing operation of the premises is not expected to involve significant energy consumption.

Noise and vibration:

The land adjoins the Illawarra rail corridor, however the proposed land use is not sensitive as identified in SEPP Infrastructure 2007.

Natural hazards:

The land is subject to medium and high flood risk. The flooding constraints have not adequately been addressed in the application. Attachment 6 lists the detailed concerns.

Technological hazards:

SEPP 55 has not been addressed the application. The applicant has failed to demonstrate whether the land is suitable for the proposed land use.

Safety, Security and Crime Prevention:

A detailed security strategy relating to surveillance, on site staff and vehicle access has not been provided. It is unclear how the proposed buildings will integrate with the existing Kennards operation.

Social Impact:

No adverse social impact is expected.

Economic Impact:

The proposed construction of a bridge on Council's road reserve is likely to result in an unreasonable financial and maintenance burden on Council. This has been communicated to the applicant.

Site Design and Internal Design:

The proposal fails to adequately address flooding, tree preservation and riparian land constraints. Building G has an insufficient southern setback.

Construction:

Construction of the proposed bridge is not supported. The applicant has not demonstrated that the building construction would have satisfactory environmental outcomes.

Cumulative Impacts:

In its current form, the development is likely to result in adverse cumulative economic, environmental traffic and planning impacts.

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

Does the proposal fit in the locality?

In its current form, the development is not suitable. Works are proposed on public land and Council's property officer has indicated these works are not supported.

Council has advised the applicant of matters of concern, which include planning, flooding, stormwater, tree preservation and traffic impacts.

Are the site attributes conducive to development?

There are several site constraints that have not been adequately addressed in the proposal. These constraints include vehicle access, riparian land, flooding and stormwater matters. The application has failed to demonstrate the site is suitable for the proposed land use as required by SEPP 55.

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

No submission were received following notification.

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

In its current form, the application would have unreasonable impacts on:

- Public land – civil works including construction of a bridge are proposed on Council's road reserve in Stafford Street. The bridge would only lead to private property and have no public access or other public benefit. The bridge would present unreasonable potential maintenance and financial burdens on Council. Clause 11.6 of the SRPP operational procedures dated September 2016 confer on the SRPP an obligation to consult council if there are adverse financial impacts, the SRPP must not make a decision that will have, or that might reasonably be expected to have, a significantly adverse financial impact on a council until after it has consulted with the council.
- The applicant was advised of this position both prior to lodgement in 2017 and after lodgement. Council has invited the applicant to withdraw the application or delete the public land component however the applicant has elected to keep the Stafford Street works in the proposal.

- Riparian land – the application fails to provide a riparian management plan and no riparian zone is shown on the plans. The application fails to demonstrate whether the proposed placement of buildings and the bridge structure is consistent with the required riparian zone. Further, the concurrence of the Natural Resources Access Regulator has not been obtained.
- Flooding – the land is subject to medium and high flood risk. Council's stormwater engineer has requested further information regarding removal of the existing on site detention facility and potential impacts of the proposed Stafford Street bridge. In its current form, the application fails to comply with flooding and stormwater requirements of WDCP 2009.
- Tree preservation – the application seeks to remove approximately 154 trees from the site. The submitted justification is not adequate and the extensive tree removal is not supported.
- Road network – the proposed Stafford Street bridge would require a ramp down to Stafford Street from the upper level of the bridge as it crosses the northern watercourse. Significantly, no engineering details of this bridge have been supplied. It is unclear therefore, whether the transition grade of the bridge will be acceptable. Council has requested the applicant show exactly where the bridge will connect with Stafford Street proper, as the distance to the existing retail car park driveway is limited. To date no engineering details have been provided. The applicant has also failed to clarify the access strategy for Stafford Street entry. It appears that vehicles could drive over the bridge from Stafford Street in error, be confronted with a security gate preventing access to other site and then have no room to turn around. In that circumstance, these vehicles would have to reverse back up over the bridge all the way to the connection with Stafford Street.

For these reasons the application is not in the public interest.

### **3 CONCLUSION**

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This application has been assessed having regard to Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 ), relevant State Environmental Planning Policies, and Council Development Control Plans and policies. The proposed self storage premises is permissible with development consent.

Owners consent under the Act has been withheld in relation to the proposed bridge structure on Council's land. Council's legal counsel has advised that on balance the application is regionally significant development, despite no owner's consent for the bridge. The applicant has been advised that Council will not issue owner's consent and invited to withdraw or amend the application to delete the component on public land. To date, the applicant has advised that application will not be amended or withdrawn.

Accordingly, the consent authority is tasked with determining a development application that does not provide the consent of all owners and has significant environmental and planning deficiencies.

Council's assessment, together with comments from Natural Resources Access Regulator indicates the application has a number of significant adverse impacts. These concerns have been communicated to the applicant. Council is of the view that at this time it does not wish to grant a section 138 approval under the Roads Act to enable access to the site from the Stafford Street Road reserve.

In its current form, the development is likely to result in adverse flooding, stormwater disposal, tree preservation, riparian land and traffic management impacts on the site and surrounding area and is not supportable.

### **4 RECOMMENDATION**

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It is recommended that the development application be refused subject to draft reasons set out in Attachment 8.



## ATTACHMENTS

1. Aerial Photograph
2. Zoning Map Wollongong Local Environmental Plan 2009
3. Statement of Environmental Effects
4. Proposed plans
5. Natural Resources Access Regulator correspondence dated 9 May 2018
6. Council's letter to the applicant dated 10 May 2018
7. Compliance table
8. Draft reasons for refusal