

SOUTHERN REGIONAL PLANNING PANEL

SRPP No	2018STH032
DA Number	DA-2018/1517
Local Government Area	Wollongong City Council
Proposed Development	Mixed use development comprising 1 retail tenancy, 13 affordable units, 15 self-contained boarding house studios and associated car parking and landscaping works
Street Address	145-149 Princes Highway Corrimal Lot 1 Sec D DP 4167 and Lot 1 DP 908064
Applicant/Owner	Anglican Community Services C/O Urbis
Number of Submissions	No 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 Regional Planning Panel as the consent authority under Clause 4.5(b) of the Environmental Planning & Assessment Act 1979 as the proposal includes affordable housing with a capital investment value over \$5 million and is therefore defined as Regionally significant development under the SEPP (State and Regional Development) 2011 Schedule 7 Clause 5.</p> <p>The applicant's CIV estimate for the project is \$9,909,449.00, of which \$9,769,626 is for the purpose of affordable housing.</p>
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s4.15(1)(a)(1) – <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> ▪ SEPP No. 55 – Remediation of Land; ▪ SEPP (Affordable Rental Housing) 2009 ▪ SEPP No 65—Design Quality of Residential Apartment Development; ▪ SEPP (Infrastructure) 2007; ▪ SEPP (Building Sustainability Index: BASIX) 2004; and ▪ SEPP (State and Regional Development) 2011; <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> ▪ Wollongong Local Environmental Plan (WLEP) 2009 <p><u>Other policies</u></p> <ul style="list-style-type: none"> ▪ NSW Apartment Design Guide • Wollongong City-Wide Development Contributions Plan 2018 <p>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)</p> <ul style="list-style-type: none"> ▪ Nil <ul style="list-style-type: none"> • List any relevant development control plan: s4.15(1)(a)(iii) <ul style="list-style-type: none"> ▪ Wollongong Development Control Plan (WDGP) 2009 • 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:

	<p>s4.15(1)(a)(iiia)</p> <ul style="list-style-type: none"> – Nil • List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 – Nil • List any coastal zone management plan: s4.15(1)(a)(v) – There is no Coastal Zone Management Plan currently applicable to the land.
List all documents submitted with this report for the panel's consideration	<p>Attachment 1 – Plans – Architectural, Landscape</p> <p>Attachment 2 – Aerial photograph, WLEP 2009 zoning map and extract of deposited plan</p> <p>Attachment 3 – Clause 4.6 Exception Request – Building height</p> <p>Attachment 4 – Clause 4.6 Exception Request – Ground floor residential in business zone</p> <p>Attachment 5 – Clause 4.6 Exception Request – Minimum site width</p> <p>Attachment 6 – Response to Record of Panel Briefing</p> <p>Attachment 7 – Response to Design Review Panel Comments of 22 January 2019</p> <p>Attachment 8 – Response to Design Review Panel Comments of 24 April 2019</p> <p>Attachment 9 – Urban Design Report</p> <p>Attachment 10 – Traffic Impact Assessment</p> <p>Attachment 11 – Design Verification Statement</p> <p>Attachment 12 – Apartment Design Guide Response</p> <p>Attachment 13 – Advice regarding the requirement for a managers residence</p> <p>Attachment 14 – Operational Plan of Management</p> <p>Attachment 15 – WDCP 2009 Variation Requests</p> <p>Attachment 16 – Apartment Design Guide Assessment</p> <p>Attachment 17 – Wollongong DCP 2009 Assessment</p> <p>Attachment 18 – Draft conditions</p>
Recommendation	DA-2018/1517 be approved subject to the conditions contained within Attachment 18.
Report by	Jessica Saunders, Senior 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? **Yes**

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

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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 development for the purposes of affordable housing with a capital investment value of more than \$5 million which is defined as Regionally significant development under State Environmental Planning Policy (State and regional Development) 2011 Schedule 7 Clause 5.

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The proposal comprises the construction of a five storey mixed use development comprising a 50sqm retail premise, 28 affordable units comprising 13 infill affordable housing units and 15 boarding rooms and associated communal areas, car and bicycle parking, landscaping and access.

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The site is zoned B2 Local Centre pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposal is categorised as *shop top housing* comprising *retail, residential flat building and boarding house* uses. All proposed uses are permissible in the zone with development consent.

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The proposal was notified in accordance with Council's WDCP 2009 Appendix 1: Public Notification and Advertising, on two occasions. No submissions were received.

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The main issues arising from the assessment are:-

- Exceptions to building height, site width and ground floor residential uses in business zone development standards.
- Variations to WDCP 2009 and ADG controls in relation to site width, building height, setbacks, ceiling heights and car parking.
- Requirement for an on-site managers' residence.
- Responses to issues raised by the Design Review Panel

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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 B2 Local Centre zone.

Generally, the proposal is consistent with the applicable provisions of relevant planning instruments including SEPP (Affordable Rental Housing), SEPP 65, SEPP (Infrastructure), SEPP 55 and SEPP (Building Sustainability Index: BASIX) 2004.

The proposal seeks exceptions to Wollongong Local Environmental Plan 2009 and SEPP (Affordable Rental Housing) 2009 development standards relating to building height, minimum site width and the provision of ground floor residential uses in a business zone. It is considered that the clause 4.6 exception requests provided addressing these matters are satisfactory, and as such the exceptions are capable of support.

The proposal also seeks variations to WDCP 2009 and the Apartment Design Guide as relates to minimum site width, building height, front setbacks, side setbacks, ceiling heights and car parking. The variation requests have been considered and are capable of support.

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

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DA-2018/1517 be approved subject to the conditions provided in **Attachment 18**.

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1. APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Affordable Rental Housing) 2009
- SEPP No 65—Design Quality of Residential Apartment Development
- SEPP (Infrastructure) 2007
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (State and Regional Development) 2011

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- NSW Apartment Design Guide
- Wollongong City-Wide Development Contributions Plan 2018

1.2 PROPOSAL

The proposal seeks consent for the construction of a five storey mixed use development comprising:

- 50sqm retail tenancy with frontage to the Princes Highway
- 28 affordable housing units comprising 13 infill affordable housing units and 15 boarding rooms and associated communal areas, car and bicycle parking, landscaping and access.
- Associated tree removal, earthworks, landscaping and public domain works.

The application states that the proposal has been designed to target Senior Women aged over 55 and Aboriginal and Torres Strait Islander Women (aged over 45) who are in need of long term secure affordable housing. Residents are to be sourced from NSW Housing or Anglicare's Affordable Housing Allocation Plan.

1.3 BACKGROUND

Development History

The development history of the site is as follows:

Application	Description	Decision	Date
DA-2014/1259	Change of use to private hospital - chemotherapy inpatients, construction of an access link and entry point, disabled access and internal modifications, and associated car parking	Approved	12/12/2014
DA-2014/1259/A	Change of use to private hospital - chemotherapy inpatients, construction of an access link and entry point, disabled access and internal modifications, and associated car parking Modification A - use to permit sleep clinic	Approved	24/9/2015
DA-2014/1259/B	Change of use to private hospital - chemotherapy inpatients, construction of an access link and entry	Approved	21/3/2016

	point, disabled access and internal modifications, and associated car parking Modification B - increase sleep clinic usage and reduction in carparking spaces		
PC-2012/446	Demolition of existing buildings	Approved	30/5/2012

Note: DA-2014/1259 approved the development of the private hospital to the immediate west of the subject site. The subject land forms part of the original consent for the private hospital as a temporary/overflow car parking area was approved on the subject site associated with this use. This arrangement was removed via Modification B as described above.

Pre-lodgement meetings

PL-2018/197 was held in relation to the subject development on 18 October 2018.

Design Review Panel (DRP) meetings

DA-2018/1517 was reviewed by the DRP 22 January 2019. Following submission of amended plans and documentation the application was again reviewed by the DRP on 24 April 2019. The applicants' response to the DRP comments is provided at **Attachments 7 and 8**.

Customer service actions

There are no outstanding customer service requests of relevance to the development, at the time of preparing this report.

1.4 SITE DESCRIPTION

The site is located at 145-149 Princes Highway, Corrimal and the title references are Lot 1 Sec D DP 4167 and Lot 1 DP 908064.

The site is located on the corner of the Princes Highway and Collins Street, and forms the northern extremity of the B2 zoning and Corrimal Town Centre Area. Combined, the two properties have an area of 1,007sqm.

The site is currently vacant and falls from the rear to the Princes Highway boundary by approximately 3.5m. Two trees remain central to the property.

Development in the vicinity of the site includes a theatre company building to the north, private hospital to the west, a mix of commercial developments to the south and a petrol station to the east. To the far north is a mix of residential and church developments and to the south is Corrimal town centre area which comprises a range of business premises. The site is located approximately 350m from Stockland Corrimal and less than 200m from Corrimal Memorial Park.

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

- Uncategorised Flood Risk Precinct

There are no restrictions on the title.

1.5 CONSULTATION

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

Design Review Panel (DRP) (Post-lodgement)

The proposal was formally reviewed by the Panel on 22 January 2019. A number of design amendments were recommended by the DRP which were included in amended plans later submitted by the applicant. Following submission of amended plans and documentation the application was

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again reviewed by the DRP on 24 April 2019. The applicants' responses to the DRP comments are provided at **Attachments 7 and 8**.

NSW Roads and Maritime Service (RMS)

Details of the application submission were referred to the RMS in accordance with Clauses 101 and 102 of SEPP (Infrastructure) 2007. The Roads and Maritime Service have provided correspondence advising that the Princes Highway adjoining the property is a local road in the care and control of Council. The RMS response also notes that the proposed driveway is as far as practical from the traffic signals. Conditions of consent have been recommended for imposition and these are included in the draft conditions at **Attachment 18**.

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. Conditions have been recommended for imposition and these are included in the draft conditions at **Attachment 18**.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

SECTION 4.15 ASSESSMENT

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

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).*

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A Detailed Site Investigation (DSI) Report prepared by a CEP certified consultant was provided as part of the application lodgement and included a comprehensive due diligence assessment and intrusive soil investigation. The report identifies that areas of potential contamination are largely contained to the filling layers and stockpiles on the site, particularly an area identified as stockpile 2 (SP2) which detected asbestos fibres. The report recommends the removal of the stockpiles and validation of the site post removal, prior to bulk excavation and construction.

Council's Environmental Officer has considered the submitted report and considers that it has been prepared in accordance with the contaminated land planning guidelines.

Although asbestos was not identified in the majority of the samples analysed, it is not uncommon to find hazardous materials in soils due to past demolition (and disposal) practices. Conditions are recommended requiring that an asbestos management plan and unexpected finds protocol as part of an overall construction management plan are put in place prior to the commencement of works.

Subject to the validation of the site following the removal of the stockpiles and the preparation of an asbestos management plan and unexpected finds protocol, it is considered that the site will be suitable for the proposed mixed residential and retail use. Recommended conditions are included at **Attachment 18**.

It is considered the site will be suitable with regard to SEPP 55 considerations and the intended use.

The proposed residential unit and boarding room components of the development have been lodged pursuant to the SEPP (Affordable Rental Housing) 2009 (SEPP ARH). An assessment against the relevant provisions is provided below:

Part 2 New affordable rental housing

Division 1 In-fill affordable housing

10 Development to which Division applies

- (1) *This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:*
 - (a) *the development concerned is permitted with consent under another environmental planning instrument, and*
 - (b) *the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the [Heritage Act 1977](#).*
- (2) *Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.*
- (3) *Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.*

Comment:

Residential flat buildings are permitted with consent in the B2 Local Centre Zone, pursuant to WLEP 2009. The land does not contain a heritage item and is not affected by an interim heritage order.

The subject site is not within the Sydney region, but the land is zoned B2 Local Centre.

As such, this division applies to the infill housing component of the proposed development.

11, 12 (Repealed)

13 Floor space ratios

- (1) *This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.*
- (2) *The maximum floor space ratio for the development to which this clause applies is the*

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existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:

- (a) *if the existing maximum floor space ratio is 2.5:1 or less:*
 - (i) *0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or*

Comment:

The percentage of the development that is proposed for the purpose of affordable housing is all but the retail premise, and hence comprises 97% of the floor area of the development.

The existing maximum FSR permitted for the site pursuant to the WLEP 2009 is 1.5:1, and hence a 0.5 bonus is permitted pursuant to (2)(a)(i) above. This would therefore take the maximum permitted FSR for the site to 2:1.

The FSR proposed is approximately 1.53:1.

14 Standards that cannot be used to refuse consent

(1) Site and solar access requirements

A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

- (a) *(Repealed)*
- (b) **site area** *if the site area on which it is proposed to carry out the development is at least 450 square metres,*

Comment:

The site has an area of 1007sqm.

c) landscaped area if:

- (i) *in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or*
- (ii) *in any other case—at least 30 per cent of the site area is to be landscaped,*

Comment:

The applicant (Anglicare) meets the definition of a 'social housing provider', and therefore 35sqm of landscaping is required per dwelling, being 455sqm considering the proposed 13 units. The proposal is non-compliant with this requirement as only 141sqm of landscaped area is provided. Given the context of the site, this is considered a reasonable outcome in this instance. The proposal is not recommended for refusal.

(d) deep soil zones if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:

- (i) *there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the **deep soil zone**), and*
- (ii) *each area forming part of the deep soil zone has a minimum dimension of 3 metres, and*
- (iii) *if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,*

Comment:

15% of the site area would require 151sqm of Deep Soil Zone (DSZ). 88sqm (8.7% of the site area) of deep soil zone area is proposed, exceeding the minimum 7% deep soil zone area required pursuant to the Apartment Design Guide, discussed at **Attachments 12 and 16**. The proposed DSZ meets the minimum dimension of 3m, however is not located at the rear of the site. The proposed location is

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considered appropriate as it provides for additional separation of the development to adjoining properties. Given the context of the site, this is considered a reasonable outcome in the circumstance. The proposal is not recommended for refusal.

- (e) **solar access** if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.

Comment:

10 of the 13 units would receive more than 3 hours of direct sunlight to the proposed living rooms on June 21, comprising 77% of the proposed dwellings.

All of the proposed POS areas proposed would receive in excess of 3 hours of direct sunlight on June 21.

- (2) **General** A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

(a) **parking** if:

- (i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or
- (ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,

Comment:

The application has been made by a social housing provider in an accessible area and all dwellings are proposed with 1 bedroom. As such, 0.4 spaces per dwelling would be required, equating to 5.2 spaces to cater for the proposed units. Combined with the proposed boarding rooms (considered below), the total number of car parking spaces required pursuant to SEPP ARH is 8.2 spaces. 9 car parking spaces are proposed.

(b) **dwelling size** if each dwelling has a gross floor area of at least:

- (i) 35 square metres in the case of a bedsitter or studio, or
- (ii) 50 square metres in the case of a dwelling having 1 bedroom, or
- (iii) 70 square metres in the case of a dwelling having 2 bedrooms, or
- (iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.

Comment:

All units are proposed with 1 bedroom, and have a minimum area of 50sqm of gross floor area.

- (3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).

Comment:

The proposal is not recommended for refusal.

15 Design requirements

- (1) *A consent authority must not consent to development to which this Division applies unless it has taken into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy.*
- (2) *This clause does not apply to development to which clause 4 of [State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development](#) applies.*

Comment:

SEPP 65 and the ADG apply to the subject development, as discussed at section 2.1.4 below. As such, this clause does not apply, pursuant to Part (2).

16 Continued application of SEPP 65

Nothing in this Policy affects the application of [State Environmental Planning Policy No 65—Design Quality of Residential Flat Development](#) to any development to which this Division applies.

Comment:

SEPP 65 applies to the subject development, as discussed at section 2.1.4 below.

16A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Comment:

The design of the development is not considered to be incompatible with the existing and future desired character of the local area.

17 Must be used for affordable housing for 10 years

- (1) *A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:*
 - (a) *for 10 years from the date of the issue of the occupation certificate:*
 - (i) *the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*
 - (ii) *all accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
 - (b) *a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), that will ensure that the requirements of paragraph (a) are met.*
- (2) *Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.*

Comment:

Draft conditions are recommended in this regard requiring that a restriction be registered on the Title of the land reflecting the above requirements, prior to the issue of the Occupation Certificate, as reflected at **Attachment 18**.

18 Subdivision

Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.

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Comment:

Consent for subdivision is not sought as part of the subject application.

Division 3 Boarding houses

26 Land to which Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:

...

(f) Zone B2 Local Centre,

....

Comment:

The land is zoned B2 Local Centre pursuant to the WLEP 2009. As such, this division applies to the subject land.

27 Development to which Division applies

- (1) *This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.*
- (2) *Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.*
- (3) *Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.*

Comment:

Boarding houses are permitted with consent on the subject land, pursuant to WLEP 2009.

The subject site is not within the Sydney region; however the land is zoned B2 Local Centre.

As such, this division applies to the proposed development.

28 Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Comment:

Consent is sought as part of the subject application.

29 Standards that cannot be used to refuse consent

- (1) *A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:*

...

- (c) *if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:*

- (i) *0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*

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Comment:

The development is proposed on land within a zone in which residential flat buildings are permissible. The site does not contain a heritage item and is not subject to an interim heritage order.

The existing maximum FSR permitted for the site pursuant to the WLEP 2009 is 1.5:1, and hence a 0.5 bonus is permitted pursuant to (1)(c)(i) above. This would therefore take the maximum permitted FSR for the site to 2:1.

The total FSR proposed is approximately 1.53:1

(2) *A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:*

(a) **building height** *if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,*

Comment:

The maximum building height permitted pursuant to the WLEP 2009 is 15m. The proposed building has a maximum height of 16.68m. An exception to this standard has been sought, as considered at section 2.1.8 below. The proposal is not recommended for refusal.

(b) **landscaped area** *if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,*

Comment:

The landscaping treatment proposed is considered appropriate and compatible with the existing streetscape.

(c) **solar access** *where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*

Comment:

A communal living room is proposed on the lower ground floor of the development. This room will receive more than 3 hours of direct sunlight on June 21.

(d) **private open space** *if at least the following private open space areas are provided (other than the front setback area):*

(i) *one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,*

(ii) *if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation*

Comment:

The proposed communal open space area has an area of more than 20sqm and dimension of more than 3m. Accommodation for an on-site manager is not proposed.

(e) **parking** *if:*

(i) *in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and*

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Comment:

The application has been made by a social housing provider in an accessible area. As such, 0.2 spaces per boarding room would be required, being 3 spaces. Combined with the proposed units (considered above), the total number of car parking spaces required pursuant to ARH SEPP is 8.2 spaces. 9 car parking spaces are proposed.

- (f) **accommodation size** if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:
 - (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or
 - (ii) 16 square metres in any other case.

Comment:

Each boarding room is proposed with a minimum area of 35sqm, inclusive of the proposed kitchen and bathroom areas. Excluding the kitchen and bathroom areas, all boarding rooms have an area of approximately 20sqm.

- (3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.

Comment:

Private kitchen and bathroom facilities are proposed within each boarding room as part of the subject development.

- (4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).

Comment:

The development is compliant with the standards set out at subclause (1) and (2), with the exception of (2)(a) building height. Notwithstanding, consent may be granted despite the non-compliance.

- (5) In this clause:
Social housing provider does not include a registered community housing provider unless the registered community housing provider is a registered entity within the meaning of the [Australian Charities and Not-for-profits Commission Act 2012](#) of the Commonwealth.

Comment:

The applicant has advised that Anglican Community Care trading as 'Anglicare' is a social housing provider as it is a registered community housing provider within the meaning of the Australian Charities and not-for-profits Commission Act 2012. This has been confirmed with the Australian Business Register.

30 Standards for boarding houses

- (1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:
 - (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,

Comment:

15 boarding rooms are proposed. A communal living room is proposed on the lower ground floor, opening onto the communal open space area

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- (b) *no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,*

Comment:

Each room is proposed with an area of approximately 20sqm excluding the kitchen and bathroom areas.

- (c) *no boarding room will be occupied by more than 2 adult lodgers,*

Comment:

The submitted documentation indicates that each boarding room will be occupied by a maximum of 1 adult lodger. This is proposed to be controlled via a Plan of Management (draft copy provided at **Attachment 14**).

- (d) *adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,*

Comment:

Private kitchen and bathroom facilities are proposed within each boarding room.

- (e) *if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,*

Comment:

The submitted documentation indicates that each boarding room will be occupied by a maximum of 1 adult lodger, therefore accommodating a maximum of 16 lodgers. A manager's office room is proposed, however no on site boarding room or on site dwelling is proposed or required. This has been raised with the applicant and a response provided as per **Attachment 13**. Draft conditions have been recommended restricting the boarding rooms to be occupied by a maximum of one (1) person only, as per **Attachment 18**.

- (f) *(Repealed)*

- (g) *if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,*

Comment:

The land is zoned primarily for commercial purposes, being B2 Local Centre. Due to the slope of the land, the development is proposed with an upper and lower ground floor. Both the upper and lower ground floor plans indicate that the main residential entry, lobby and walkway areas will have frontage to Collins Street, relating to the proposed residential components of the development. Two units are proposed on the lower ground floor and two boarding rooms and three units are proposed on the upper ground floor. These rooms have been designed to be set within the site, with the corridor providing access to these rooms having frontage to Collins Street at ground level.

This control relates to clause 7.13 of the WLEP 2009 which requires that the ground floor of the building will not be used for the purpose of residential accommodation.

A clause 4.6 exception request has been provided to address the proposed design to permit residential uses on the ground floor. This is further discussed at 2.1.8 below.

- (h) *at least one parking space will be provided for a bicycle, and one will be*

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provided for a motorcycle, for every 5 boarding rooms.

Comment:

3 bicycle and motorcycle spaces are required pursuant to this control. 4 motorcycle and 10 bicycle spaces are proposed.

- (2) *Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.*

Comment:

The proposal does not relate to alterations and additions to an existing boarding house.

30A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Comment:

The design of the development is not considered to be incompatible with the existing and future desired character of the local area.

In February 2019 SEPP 70 was amended to apply to all councils across NSW. Wollongong Council is currently in the process of preparing an affordable housing contribution scheme and subsequent WLEP 2009 amendment to refer to the scheme.

Notwithstanding, SEPP 70 would not apply to the subject development, being primarily for the purpose of affordable housing, pursuant to SEPP ARH discussed above.

The provisions of this SEPP apply to the subject proposal as the development is more than 3 storeys in height and comprise more than 4 dwellings.

Pursuant to clause 4 of this Policy, as the development comprises the erection of a new building with a mix of infill residential units and boarding rooms, this SEPP, and therefore the Apartment Design Guide, only applies to the infill residential units and not the boarding room components of the development.

The application is accompanied by a design verification statement by a qualified designer in accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000 (copy at **Attachment 11**).

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.

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 application submission included an Urban Design Report (copy provided at **Attachment 9**) which considers the existing context of the area. The property comprises the northern most extent of the Corrimal Town Centre area.

To the south, the Princes Highway is lined with shops on either side, with some existing shop top housing developments. To the north of the site is an existing theatre building and church buildings, with a low density residential zoning. To the South of the site on the opposite corner of the Princes Highway/Collins Street intersection is a single storey retail building however a development application for demolition and the construction of a shop top housing development has recently been approved. To the East of the site opposite Princes Highway is a service station. To the West of the site is an existing health services building with at-grade car parking adjacent the boundary to the site, also with a low density residential zoning.

The site is well connected to public transport with a bus stop located almost immediately in front of the site in the Princes Highway and Corrimal train station less than 1km to the South.

The future desired context of Corrimal is largely determined by the Corrimal Town Centre Plan. The Plan was adopted by Council in 2015 and provides a strategic framework intended to guide development of the Corrimal Town Centre area. Importantly, the Plan highlights the following matters for consideration:

- The importance of Memorial Park as a central green community space
- The visual connection from Memorial Park to Brokers Nose
- Walkability and transport opportunities
- The quality of buildings at street level.

The Urban Design Report considers that the proposal would further entrench Memorial Park as the heart of the community, with the development providing additional housing densities within 200m of the Park area. The development is not considered to result in any impacts on the view corridor from Memorial Park to Brokers Nose (escarpment feature), and proposes a high quality shopfront and building entry off the corner of the Princes Highway/Collins Street intersection, as recommended by the Town Centre Plan.

It is expected that additional shop top housing developments will occur in the vicinity of the site with the renewal of commercial buildings, with the development of the corner of Russel Street and Underwood Street underway for a four storey mixed use development comprising 49 residential units and a proposal for the development of the property to the immediate south for the purpose of shop top housing comprising 11 residential units currently under assessment.

The proposal is considered to be reasonably consistent with the desired future character of the Corrimal Town Centre area as identified through the development standards and controls applicable to the land.

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 Corrimal Town Centre area is undergoing a transition with the character expected to continue to develop to a major town centre context.

The development is not considered to be out of context with regard to the existing or desired future character of the area. The proposed development is similar in scale to surrounding development including 151-153 Princes Highway, an approved shop top housing development, 36-44 Underwood Street, a four storey mixed use development currently under construction or 225-231 a three storey shop top housing development fronting the Princes Highway and a mixed residential flat building and multidwelling housing development comprising 34 units on Robert Street currently under assessment.

The scale and form of the proposed building is minimised through the use of setbacks and building articulation. The proposed development is not considered to unreasonably overshadow adjoining development including the approved development to the south during the winter solstice.

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.

Amended plans have been provided addressing the recommendations made by the DRP, in particular increasing the setbacks of the upper storey, reduced yield, reduction in the extent of height exception sought, change in materials and design of the upper floor corridor, amendments to the residential entrance and improved street presentation. These amendments have reduced the overall bulk and scale of the development, as well as proposing different materials for the upper floor which provides the perception of additional setting in and relief to the upper floor. Overall, the design as amended is considered to provide a positive contribution to the future residential neighbourhood and is capable of support.

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 1.53:1 the density of the development complies with the maximum FSR of 2:1 permitted for the land pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal is consistent with the objectives of the B2 Local Centre zone, and will provide for a mix of uses whilst providing for the activation of the corner of Collins Street/Princes Highway. Despite exceeding the 15m maximum building height, the proposal is not considered to result in significant adverse impacts.

The development's size and scale is not considered to be inconsistent with the envisaged future neighbourhood character. Transplantation of the existing cabbage tree palm in conjunction with the proposed high quality landscaped and communal open space areas will assist in the site successfully transitioning from a vacant parcel on the periphery of the town centre to contributing to the surrounding area. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. The site is well situated with regard to existing public open space and services.

Through the assessment process the density was reduced to provide additional setbacks to the upper floor. Overall, the design as amended is considered to provide an appropriate density consistent with the expected development of Corrimal Town Centre.

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:-

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- 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;
- A 5000L rainwater tank is proposed for rainwater reuse on site to irrigate the communal open space areas;
- 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; 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 and communal open spaces will provide a high level of amenity to the occupants. The plans for the communal open space areas have been considered in terms of supporting different activities and is supported by the DRP.

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.

Amended plans have been provided which co-locate the communal space and communal open space, and provide a direct connection to these areas from the main entry point off Collins Street. A dense green planting buffer is also proposed along the northern boundary with a mix of shrubs, feature trees and the transplanted cabbage tree palm to assist in the transition to the adjoining property.

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. The proposal has been designed to orientate the majority of the units to the north to maximise solar access opportunities. Future occupants of the development are expected to enjoy reasonable amenity and the development will enjoy views of the Illawarra escarpment to the west and north.

Internally, all units are proposed with appropriate dimensions and layouts, solar access and ventilation. Indoor and outdoor space is provided to all apartments. Adequate storage capacity is proposed within each unit.

Amended plans have been provided in response to DRP recommendations with regard to the main entry point to the residential uses, vertical circulation, the proposed breezeway access, open space interfaces and the inclusion of the roof terrace area.

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Nearby residences potentially affected by the proposed development in terms of privacy or loss of solar access are minimal due to the position of the site being on a corner and adjoining health care and theatre uses.

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 17**.

Amended plans have been provided in response to DRP comments relating to entry security and the residential entry. The amended ground floor layout provides for a clearly visible and identifiable entrance to the units and connection to the communal areas.

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 single bedroom units and boarding rooms (studios) consistent with the demand for affordable developments in the area. 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 nature of the development and the proposed housing mix requires careful consideration of the management required. Additional information has been submitted in this regard and provides further details of the proposed building management (copy provided at **Attachment 14**).

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's appearance is considered to be of a high quality. The development is proposed with a zero setback to the road frontage, as permitted pursuant to WDCP 2009 controls. The minimalist palette was considered appropriate by the DRP. Appropriate treatment of the streetscape is proposed having regard to the desired future character of development in the locality. The proposal has also been further amended in response to the suggestions provided by the DRP including additional setting back of the upper floor and changes in materials and finishes to assist in minimising the impact of the bulk and scale of the development. .

Apartment Design Guide

An assessment of the application against the Apartment Design Guide (ADG) is contained within **Attachment 16** to this report.

Non-complying aspects of the proposal with regard to the ADG are addressed below.

Part 3 – Siting the development**3F Visual privacy****Objective 3F-1**

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)

On the upper floor (5th storey) the habitable rooms and balcony areas do not achieve the 9m setback separation distance. The site also adjoins R2 land to the north and west, and as such, should be provided with an increased separation distance of 3m, therefore requiring 12m in accordance with the design guidance.

On the northern elevation, a 7.072m setback to the boarding room balcony areas and 6.63m to the unit living room window is proposed. The communal garden is also proposed on this level and is proposed with a setback of 6.57m.

One unit and one boarding room are proposed on the western elevation, with setbacks of 7.47m to the balcony areas.

The development is proposed with a zero setback to the east and south.

The siting of the building on the corner of the Princes Highway and Collins Street is considered appropriate in the context of the site and supported by the DRP.

The upper floor comprises 5 boarding rooms and one unit. The boarding rooms are subject to assessment under SEPP ARH which does not require compliance with the ADG. Therefore the area of non-compliance technically relates to one unit only, seeking variations to the living room setback at 6.36m and balcony at 7.47m.

The non-compliant area of the living room on the northern elevation is proposed with a high sill window and as such is not expected to result in unreasonable impacts on visual privacy.

The variation for the balcony areas is not considered to result in visual privacy concerns in the context of the site as the property to the west is comprised of a private hospital which has been developed with the built form fronting Underwood Street and the car parking area adjoining the development site. The building on this site is setback approximately 16m from the subject boundary.

The non-complaint balcony areas on the northern elevation also adjoin the Arcadians Theatre building, which, whilst being zoned R2 Low Density Residential, has an almost industrial appearance. The development would not result in any unreasonable impacts on the users of this property. To the far north is the Baptist Church and hall, which also would be unlikely to be affected by the proposal. The nearest residential development is to the north west and comprises a town house

Objective 3F-2

Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space

development. In addition to the 11m separation between the properties, the dwellings are setback approximately 9m from the rear boundary. No direct overlooking or amenity impacts would be expected given the design of the development and the separation between the uses.

On the lower floors, a minimum 6m setback to balcony areas and 6.63m to living rooms.

Strictly applying the design criteria to north and west boundaries, up to the 4th storey would be required to be provided with a 9m setback, and the 5th storey with a 12m setback which would be unlikely to result in an economical building footprint.

Considering the context of the site, the potential for impacts on visual privacy are considered limited.

The upper floor balconies on the northern elevation have been designed with an extended non-trafficable slab which minimises the potential for direct overlooking into the adjoining property. Fixed privacy screens are also proposed to assist in minimising potential visual privacy impacts without compromising access to light, ventilation and impacts on views available.

4C Ceiling heights**Objective 4C-1**

Ceiling height achieves sufficient natural ventilation and daylight access

Design Criteria

Minimum ceiling height for apartment and mixed use buildings	
Habitable rooms	2.7m
Non-habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use

Objective 4C-2

Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms

Objective 4C-3

Ceiling height contribute to the flexibility of building use over the life of the building

Design Guidance

The proposed ceiling heights have been designed to achieve sufficient natural ventilation and daylight access.

Ceiling heights are proposed as per the following:

- **Retail= 3.1m**
- **Habitable** (Living, Dining, Kitchen, Bedroom) = **2.7m** (Bulkhead proposed over bedhead and/or kitchen joinery at 2.4m high for kitchen, bathroom and laundry exhaust ducting to façade.
- **Non-habitable** (Bathroom, Laundry) = **2.4m**
- **Communal Corridors** = **2.7m**
- **Communal Space**= **2.7m**

The use of bulkheads over the kitchen area and in the bathroom and laundry areas assists in defining the spaces.

The lower and upper ground floor levels are designed with floor to ceiling heights of a maximum of 2.7m, with the exception of the retail area which is proposed with a floor to ceiling height of 3.1m. Despite not achieving the 3.3m control, it is considered that given the unique nature of this building and the typology of the development, that a reduced ceiling height is not

<p>- Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses.</p>	<p>unreasonable.</p> <p>The use of bulkheads over the kitchen area and in the bathroom and laundry areas assists in defining the spaces.</p> <p>The applicant has advised that the design of the ceiling height assists in ensuring that the development is primarily maintained as a Social and Affordable Housing Development.</p>
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The requested variations as identified and discussed above are considered capable of support.

Division 17 Roads and traffic

Clause 101 Development with frontage to classified road

The subject site is located on the corner of the Princes Highway and Collins Streets, Corrimal. The Princes Highway is identified as a classified road and the intersection is signalised. The development has been designed with regard to the intersection, with the proposed vehicular access being off Collins Street and located as far as practical from the intersection.

A Traffic Impact Assessment Report formed part of the application submission and is provided at **Attachment 10**. The report considered existing traffic flows in the area and calculated the existing queuing from the intersection up Collins Street as being approximately 29.6m. The driveway is proposed 41m from the intersection, and therefore would not be expected to result in any adverse impacts on the operation of the existing intersection.

The proposal has been reviewed by Councils Traffic Engineer internally and the RMS externally, with conditionally satisfactory advice provided in each case, as discussed at section 1.5 above. The RMS response will form part of any consent granted.

Clause 102 Impact of road noise or vibration on non-road development

Due to the location of the development and the proposed design which includes units fronting the Princes Highway, an Acoustic Report was provided as part of the application lodgement package. The report included an assessment of the existing background and ambient noise levels in the area. The report recommends structural attenuation materials for external door and windows glazing, roof/ceiling and external walls construction. In addition the report has recommended that any mechanical plants such as AC unit and pumps should comply with the noise criteria stated in Section 5.1 of the report.

The report has been reviewed by Councils Environment Officer who has advised no objections to the proposed development subject to the imposition of the recommendations of the Acoustic Report. Conditions are recommended in this regard, as provided at **Attachment 18**.

Schedule 7 Regionally significant development

Clause 5 Private infrastructure and community facilities over \$5 million

The development application lodgement was accompanied by a quantity surveyor's report which confirms that the affordable housing component of the development has a capital investment value of more than \$5 million. Therefore, the application is required to be determined by the Southern Regional Planning Panel pursuant to Clause 4.5(b) of the Environmental Planning & Assessment Act, 1979.

The proposal includes 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

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Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets. The BASIX Certificate submitted relates to both the residential units and boarding rooms. Draft conditions are recommended in this regard, as outlined at **Attachment 18**.

Part 1 Preliminary

Clause 1.4 Definitions

Shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- ...
- (b) boarding houses,
- ...
- (h) residential flat buildings,

Boarding house means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

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

Commercial premises means any of the following:

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

Retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The land use zoning map identifies the land as being zoned B2 Local Centre, as demonstrated at **Attachment 2**.

Clause 2.3 – Zone objectives and land use table

The objectives of the B2 Local Centre zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level.

It is considered that the proposed development would be provide for an additional retail premise to serve the needs of the local area, provide additional employment opportunities within the retail premise in a location that is well serviced by public transport and in close proximity to the main town centre area. The development will also provide for residential accommodation whilst maintaining an active retail frontage at the street level.

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

*Advertising structures; Amusement centres; **Boarding houses**; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Hostels; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; **Residential flat buildings**; Respite day care centres; Restricted premises; Roads; Self-storage units; Seniors housing; Service stations; Sex services premises; **Shop top housing**; Tourist and visitor accommodation; Veterinary hospitals; Wholesale supplies*

The proposal is primarily categorised as a **shop top housing** development. The development seeks consent for a **commercial premise** → **retail premise** on the lower ground floor with frontage to the Princes Highway. Consent is also sought for a mix of boarding rooms (**boarding house**) and residential units (**residential flat building**) within the development.

All proposed uses are separately permissible in the B2 zone with development consent. A condition is recommended requiring that the use of the retail premise be subject to a separate application process, as provided at **Attachment 18**.

Part 4 Principal development standards

Clause 4.1 Minimum Subdivision Lot Size

No subdivision is proposed as part of the subject this application.

Clause 4.3 Height of buildings

This clause prescribes a maximum height of 15 metres for the Site, as shown on the Height of Buildings Map. The proposal has maximum overall height of 16.68m, exceeding the height limit by a maximum of 1.68m (11.2%). Refer to Clause 4.6 below.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the site:	1.5:1 + 0.5 bonus pursuant to clauses 13 and 29 of the ARH SEPP discussed at section 2.1.2 above. = 2:1
FSR proposed:	1540.8m ² /1007m ² = 1.53:1

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

Clause 4.6 Exceptions to development standards

The subject development seeks an exception to four development standards:

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- Clause 4.3 Height of buildings of WLEP 2009
- Clause 7.13 Ground floor development on land within business zones of WLEP 2009
- Clause 7.14 Minimum site width of WLEP 2009
- Clause 30 Standards for boarding houses of SEPP (Affordable Rental Housing) 2009 – site width

The applicant has submitted Clause 4.6 Statements addressing each requested exception which are included as **Attachments 3, 4 and 5** to this report.

The tables below outline Council's assessment of each exception:

Table 1: Clause 4.3 Height of buildings of WLEP 2009

Development Departure	Clause 4.3 Height of buildings WLEP 2009
Is the planning control in question a development standard?	Yes
4.6(3) Written request submitted by an applicant contains a justification:	
(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes</p> <p>The applicant has provided a written statement (Attachment 3) as to why compliance with the development standard is unreasonable or unnecessary and why a maximum building height of 16.68m, comprising an area of 1.97% of the total building volume and an 11.2% maximum exception to the standard should be enabled as summarised below:</p> <ul style="list-style-type: none"> • The land falls 3.5m from west to east. Strict compliance with the 15m building height would result in additional steps in the built form which is undesirable. • The exception relates to a wedge in the upper floor only. • Only 1.97% of the total building volume exceeds the 15m height limit. • The site is located on a prominent corner at the northern extent of the Corrimal Town Centre area. The proposal responds to the site context by providing a nil setback to the road frontages and active interface with the Princes Highway. • The increased development height does not result in any unreasonable environmental impacts to adjoining lands, with solar access being maintained both the existing development to the south and also to the approved shop top development plans for that site. The development also would not result in any unreasonable impact on views in the area, with views to the escarpment maintained from Memorial Park as suggested by the Corrimal Town Centre Plan. • The development is consistent with the objectives of clause 4.3, being well below the maximum 2:1 FSR permitted for the site, providing activation to the corner and a high quality urban form and not resulting in adverse impacts with regard to views or solar access. • The development is consistent with the objectives of the B2 zone, will assist in meeting a demonstrated demand for the provision of affordable housing in an accessible location and provide activation to the street frontage. • The objectives of both the B2 zone and height of buildings control would be defeated if compliance was strictly

	<p>required.</p> <ul style="list-style-type: none"> The support of the exception request would not set an unreasonable precedent.
<p>(b) That there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>Yes.</p> <p>The applicant has noted environmental planning grounds that justify the departure also include:</p> <ul style="list-style-type: none"> The grade of the site has resulted in a unique design response which results in two levels of ground floor, and hence an increased height to achieve an economical FSR whilst respecting the required side and rear setback controls. The works are largely within the height limit, with only a portion of the top floor at the western extent exceeding the height plane. The development will facilitate affordable housing in line with the strategic intent for the area. The design has been the subject of a Design Review Panel process. There will be no unreasonable impacts resulting from the exception. Exceptions to the standard have been granted in other instances across the LGA, and also in the immediate vicinity of the site, including three properties within 400m of the subject site as outlined in the submitted Urban Design Report provided at Attachment 9.
4.6 (4)(a) Consent authority is satisfied that:	
<p>i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p>The applicants written request is considered to have adequately addressed the matters required to be demonstrated by (3).</p>
<p>ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p>The objectives of clause 4.3 are as per the following:</p> <p><i>(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i></p> <p><i>(b) to permit building heights that encourage high quality urban form,</i></p> <p><i>(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></p> <p>The proposal would be considered to be consistent with these objectives, as the proposal remains well within the permitted floor space for the site, provides a high quality urban form as evidenced by the DRP comments and would not impact on significant view corridors or solar access.</p> <p>The objectives of the B2 zone are as per the following:</p> <ul style="list-style-type: none"> <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i> <i>To encourage employment opportunities in accessible locations.</i> <i>To maximise public transport patronage and encourage walking and cycling.</i> <i>To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level.</i>

	<p>The development is not considered inconsistent with the above objectives, as outlined below:</p> <ul style="list-style-type: none"> • The development will provide for a mixture of compatible and permissible land uses. • The development provides for additional employment opportunities in an area with good public transport connections • The development will encourage public transport patronage and other active transport methods given the proximity of the site to a bus stop and the Corrimal Town Centre area and the minimal car parking proposed on the site. • The proposal provides an active frontage to the Princes Highway via a glazed shopfront and landscaping, with residential accommodation above. <p>The design is considered satisfactory and attempts to mitigate any unreasonable impacts on surrounding properties, whilst ensuring that the development is appropriate in the context of the future anticipated character of the area.</p> <p>The development is therefore considered to be in the public interest because it is consistent with the objectives of the development standard and the objectives for development in the zone.</p>
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Table 2: Clause 7.13 Ground floor development on land within business zones of WLEP 2009

Development Departure	Clause 7.13 Ground floor development on land within business zones WLEP 2009
Is the planning control in question a development standard?	Yes
4.6(3) Written request submitted by an applicant contains a justification:	

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes</p> <p>The applicant has provided a written statement (Attachment 4) as to why compliance with the development standard is unreasonable or unnecessary and why two residential units, communal open space and residential entrance, corridors on the ground floor should be enabled as summarised below:</p> <ul style="list-style-type: none"> • The development has been designed to provide an active retail space at the street level to encourage the presence and movement of people. • The proposed residential units are located behind the retail space, which has direct frontage to Collins Street and the Princes Highway • The proposal is not inconsistent with the objectives of the B2 zone • The proposed residential units on ground floor will not impact the street level activation provided by the retail space.
(b) That there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes.</p> <p>The applicant has noted environmental planning grounds that justify the departure also include:</p> <ul style="list-style-type: none"> • The irregularity of the site, specifically the slope of the land, has resulted in the unique design response. • The ground floor units would not be visible from the street. • Additional retail space on the ground floor would not be viable as it would be partially buried as a result of the slope of the land. • The design has been the subject of a Design Review Panel process. • Exceptions to this development standard have been granted in other instances across the LGA.
(4)(a) Consent Authority Is Satisfied That:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicants written request is considered to have adequately addressed the matters required to be demonstrated by (3).</p>
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>The objective of clause 7.13 is to ensure active uses are provided at the street level to encourage the presence and movement of people.</p> <p>In this instance, it is considered that the development achieves this objective, providing a 50sqm retail space with direct frontage and presentation to the street. The ground floor residential units have been designed to sit behind the retail space, and are not expected to result in any impact on the operation of the retail space, or the activation of the street.</p> <p>The use is expected to encourage the presence and movement of people along the Princes Highway and Collins Street.</p> <p>The objectives of the B2 zone are as per the following:</p> <ul style="list-style-type: none"> • <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i> • <i>To encourage employment opportunities in accessible locations.</i> • <i>To maximise public transport patronage and encourage</i>

	<p>walking and cycling.</p> <ul style="list-style-type: none"> To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level. <p>The development is not considered inconsistent with the above objectives, as outlined below:</p> <ul style="list-style-type: none"> The development will provide for a mixture of compatible and permissible land uses. The development will provide for the integration of a retail tenancy in an accessible location to maximise public transport patronage, being directly adjacent to a bus stop and in close proximity to Corrimal Town Centre. <p>The design is considered acceptable and attempts to mitigate any unreasonable impacts on surrounding properties, whilst ensuring that the development is appropriate in the context of the existing and future anticipated character of the area.</p> <p>The development is therefore considered to be in the public interest because it is consistent with the objectives of the development standard and the objectives for development in the zone.</p>
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Table 3: Clause 7.14 Minimum site width of WLEP 2009

Development Departure	Clause 7.14 Minimum site width WLEP 2009
Is the planning control in question a development standard?	Yes
4.6(3) Written request submitted by an applicant contains a justification:	
(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes</p> <p>The applicant has provided a written statement (Attachment 5) as to why compliance with the development standard is unreasonable or unnecessary and why development which includes a residential flat building component should be enabled on a site with a width of 18.2m, 24% below the 24m required by Clause 7.14, as summarised below:</p> <ul style="list-style-type: none"> Despite the exception to Clause 7.14, the development appropriately addresses the design principles contained within SEPP 65, The proposal provides a reasonable response to the design criteria of the ADG, The proposal has been reviewed by the DRP who identified no objection to the siting of a residential flat development on the site. The development satisfies the objectives of the B2 zone.

(b) That there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes.</p> <p>The applicant has noted environmental planning grounds that justify the departure, including:</p> <ul style="list-style-type: none"> • The proposal provides an appropriate built form outcome for the northern gateway to Corrimal Town Centre area. • The irregularity of the site (small/narrow and within the Town Centre at a zone transition) has resulted in the unique design presented. • The development results in an appropriate amenity, design, aesthetic, built form, visual presentation, and scale in the context of the neighbourhood, despite the reduced width.
(4)(a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicants written request is considered to have adequately addressed the matters required to be demonstrated by (3).</p>
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>The minimum site width development standard does not have any specific objectives; however, WDCP2009 contains the following objectives in relation to the site width control:</p> <ul style="list-style-type: none"> • <i>To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements</i> • <i>To encourage amalgamation of allotments to provide for improved design outcomes</i> <p>The subject site is of sufficient size to accommodate the proposed buildings, car parking and landscaped areas. It is therefore considered unnecessary and unreasonable to request the applicant pursue site amalgamation in this instance. The development would not result in the creation of an isolated lot. Evidence has been provided of the applicants attempts to purchase the property to the north (10 Railway Parade), and Council has been advised of the applicants request to purchase 6 Railway Parade to the south, both of which were unsuccessful.</p> <p>The objectives of the B2 zone are as per the following:</p> <ul style="list-style-type: none"> • <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i> • <i>To encourage employment opportunities in accessible locations.</i> • <i>To maximise public transport patronage and encourage walking and cycling.</i> • <i>To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level.</i> <p>The proposed development will provide for a mix of uses, integrate additional residential and retail uses in close proximity to Corrimal Town Centre and bus routes. The development will provide for additional residential densities to support the town centre area. The development will contribute to housing choice for the Corrimal community in a location that is highly accessible.</p> <p>Given that the development is considered to achieve the WDCP 2009 objectives for minimum site width controls and the objectives</p>

	of the B2 zone, notwithstanding the non-compliance the proposed exception minimum site width is considered appropriate.
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Table 4: Clause 30 Standards for boarding houses of SEPP ARH 2009

The development standards provided for in Clause 7.13 of the WLEP 2009 and Clause 30 of SEPP ARH 2009 both require that the ground floor of any building on land in a B2 zone not be used for the purpose of residential accommodation. Clause 30 of SEPP ARH is more specific in requiring that no part of the ground floor which fronts the street will be used for residential purposes.

The development proposes the use of the ground floor of the development for two residential units, communal open space, residential entrance, corridors on the ground floor and parking.

The applicant has submitted a Clause 4.6 exception request addressing the exception to Clause 7.13 of the WLEP 2009 and Clause 30 of SEPP ARH 2009 (**Attachment 4**), as discussed at Table 2 above.

Development Departure	Clause 30 SEPP ARH 2009
Is the planning control in question a development standard?	Yes
4.6(3) Written request submitted by an applicant contains a justification:	
(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes
(b) That there are sufficient environmental planning grounds to justify contravening the development standard.	Yes.
4.6 (4)(a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	The applicants written request is considered to have adequately addressed the matters required to be demonstrated by (3).
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	Yes See Table 2 comments.

Comment:

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It is considered each of the exceptions to development standard requests are capable of support.

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.

Conditions are recommended requiring approval from the relevant authorities for the connection of electricity, telecommunications, water and sewerage to service the site.

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 review and has not raised any objections subject to draft conditions. The proposed finished floor level of the retail premise is above the flood planning level for the site, and as such the development would not be expected to impact or be impacted upon floor behaviour. On Site Detention is proposed to limit flow velocities to the street to the predeveloped state.

Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the upper and lower ground floor levels and account for the fall in the land. 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 7.13 Certain land within business zones

The proposal is considered consistent with the objective of this clause which is to ensure active uses are provided at the street level to encourage the presence and movement of people. This clause applies to the B2 zone.

Part 3 of this clause requires that the ground floor of the building will not be used for the purpose of residential accommodation. Both the upper and lower ground floor areas include components of residential accommodation. Refer to Clause 4.6 exception above.

Clause 7.14 Minimum site width

This clause prescribes a minimum site width of 24m for residential flat buildings. The subject site has a site frontage of 18.2m to the Princes Highway. Refer to Clause 4.6 exception above.

2.2 SECTION 4.15(A)(II) ANY PROPOSED INSTRUMENT

None applicable to the site or proposed development.

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

The development has been assessed against the relevant chapters of WDCP 2009. Compliance tables can be found at **Attachment 17**.

Non-complying aspects of the proposal with regard to the WDCP 2009 are addressed below.

Chapter B3: Mixed Use Development

Clause 4.1 Minimum Site Width

This control requires a minimum site width of 24m for mixed use developments.

As discussed throughout the report, the site has a minimum width of 18.135m, extending to 18.195m at the front property boundary, resulting in a maximum variation of 5.865m to the 24m control. A

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Clause 4.6 exception request has been provided in relation to Clause 7.14 of the WLEP 2009 which requires the same and is discussed above.

A Variation request statement has been prepared in accordance with Clause 8 of Chapter A1 of the WDCP 2009 and is provided at **Attachment 15**. The statement identifies the control sought to be varied and demonstrates the development is not inconsistent with the objectives of the control and that the development will not have additional adverse impacts as a result of the variation. The variation also reflects the exception sought to clause 7.14 of WLEP2009 as discussed at 2.1.8 above.

The variation request has been considered and is considered capable of support.

Clause 4.3 Building Height

This control requires that the maximum permissible building height for a mixed use development is as per the WLEP 2009 Height of Buildings Map which specifies a maximum building height of 15m for the subject site. A maximum height of 16.168m is proposed. A Clause 4.6 exception request has been provided in relation to Clause 4.3 of the WLEP 2009 which requires the same and is discussed above. A Variation request statement has been prepared in accordance with Clause 8 of Chapter A1 of the WDCP 2009 and is provided at **Attachment 15**. The statement identifies the control sought to be varied and demonstrates the development is not inconsistent with the objectives of the control and that the development will not have additional adverse impacts as a result of the variation. The variation also reflects the exception sought to clause 7.14 of WLEP2009 as discussed at 2.1.8 above.

The variation request has been considered and is considered capable of support.

Clause 4.5 Side and Rear Setbacks / Building Separation

This control requires that a zero setback be provided along the majority of mixed use developments within a B2 zone, except where a site directly adjoins residentially zoned land, in which case, the following controls apply

Table 1: Side Setbacks	
Mixed Use Buildings	
Building Height	Minimum Side Setback
Buildings up to 4 storeys (12 metres)	6 metres where a habitable room/balcony faces an adjacent property 3.5 metres where a non-habitable room/blank wall faces an adjacent property
Buildings of 5 to 8 storeys (up to 25 metres)	9 metres where a habitable room/balcony faces an adjacent property 4.5 metres where a non-habitable room/blank wall faces an adjacent property
Table 2: Side Rear Setbacks	
Mixed Use Buildings	
Building Height	Minimum Rear Setback
Buildings up to 4 storeys (12 metres)	6 metres from the common property boundary with any directly abutting residentially zoned property 6 metres where a habitable room/balcony faces an adjacent property 3.5 metres where a non-habitable room/blank wall faces an adjacent non-residentially zoned property
Buildings of 5 to 8 storeys (up to 25 metres)	9 metres from the common property boundary with any directly abutting residentially zoned property 9 metres where a habitable room/balcony faces an adjacent property 4.5 metres where a non-habitable room/blank wall faces an adjacent property

The development is proposed with a zero setback to the southern (side) property boundary to Collins Street and zero front property boundary to the Princes Highway, which are considered appropriate and consistent with the provisions of this clause.

On the upper floor (5th storey) the habitable rooms and balcony areas do not achieve the 9m setback separation distance.

On the northern elevation, a 7.072m setback to the boarding room balcony areas and 6.63m to the unit living room window is proposed. The communal garden is also proposed on this level and is proposed with a setback of 6.57m.

On the western elevation, one unit and one boarding room are proposed with setbacks of 7.47m to the balcony areas.

A Variation request statement has been prepared in accordance with Clause 8 of Chapter A1 of the WDCP 2009 and is provided at **Attachment 15**. The statement identifies the control sought to be varied and demonstrates the development is not inconsistent with the objectives of the control and that the development will not have additional adverse impacts as a result of the variation. The variation also reflects the variation sought to part 3F of the ADG as discussed at 2.1.4 above.

The variation request has been considered and is considered capable of support.

Clause 4.6 Built Form

This control requires, in part, that in the B2 zone, the ground and first floor levels of a building be provided with a minimum 3.3m floor to ceiling height clearances to maximise the flexibility in the future use of those buildings.

This is consistent with the variation sought to part 4C of the ADG discussed at 2.1.4 above. A Variation request statement has been prepared in accordance with Clause 8 of Chapter A1 of the WDCP 2009 and is provided at **Attachment 15**. The statement identifies the control sought to be varied and demonstrates the development is not inconsistent with the objectives of the control and that the development will not have additional adverse impacts as a result of the variation.

The variation request has been considered and is considered capable of support.

Chapter E3: Car Parking, Access, Servicing/Loading Facilities and Traffic Management

Schedule 1 of this Chapter requires 2 car parking spaces be provided for the proposed retail premise. No car parking is proposed to service the proposed retail premise, in this case. The applicant has requested and provided justification for the variation within the submitted Traffic Impact Assessment Report, provided at **Attachment 10**. The variation request has been considered by Council's Traffic Engineer and is capable of support.

Details of the application were referred to Council's Contributions Officer for assessment. A draft condition as provided by Council's Contributions Officer at **Attachment 18** specifies the total monetary contribution to be levied as a result of the development as proposed. This figure relates to the retail component of the development only, as Under Clause 25J of the EP&A Regulation, the cost of any development that is provided as affordable housing is to be excluded when calculating development contributions.

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 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?

The proposal does not involve any demolition works, and the site is not located within the coastal zone.

93 Fire safety and other considerations

The subject application does not relate to a change of use. As such, this clause would not apply.

94 Consent authority may require buildings to be upgraded

The subject application does not relate to alterations or additions. As such, this clause would not apply.

2.6 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.

2.7 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 the construction of a five storey shop top housing development comprising 1 retail premise, 13 residential units and 15 boarding rooms. 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 surrounding development is comprised of Corrimal Town Centre to the south and east and a mix of uses including a theatre, places of public workshop and residential uses to the north and west. The site is located at the northern extent of the defined Corrimal Town Centre area and is considered generally consistent with the existing and future desired character of the town centre area.

The bulk and scale of the development is generally consistent with the applicable planning controls for the area inclusive of floor space ratio, street frontage 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, despite the exception to building height and variations to side setback controls.

It is also likely that the character of the locality will continue to evolve over time, given the Floor Space Ratio, Building Height and land use zoning of the land to the south. To the immediate north, it is not expected that any significant change in land form will result, with the Arcadians Theatre group and Baptist Church being long term owners of adjoining R2 land.

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 not considered to be incompatible 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 car parking, 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 the RMS and Council's Traffic Officer indicates the proposal is considered conditionally satisfactory.

Public Domain:

The proposal involves the replacement of the existing footpath on both the Collins Street and Princes Highway frontages and the construction of an awning within the road reserve area. The proposed works are considered a positive public domain outcome for the locality and consistent with the works envisaged by the Corrimal Town Centre Plan.

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. Draft conditions are recommended in this regard.

Heritage:

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

Other land resources:

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

Water:

Supply & infrastructure - The site is presently serviced by Sydney Water's reticulated water and sewerage services. It is expected that these services can be extended/ augmented to meet the requirements of the proposed development. Sydney Water provided conditionally satisfactory referral advice in relation to the development, as discussed at section 1.5 above.

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 Stormwater Quality Report 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:

The proposal seeks consent for the removal of one tree, a mature Dawson River Weeper and transplanting of a cabbage tree palm. Council's Landscape Architect has reviewed the application submission and provided conditionally satisfactory advice, subject to the recommendations of the submitted arborists report. Draft conditions are included at **Attachment 18**.

Waste:

The application submission included a site waste minimisation and management plan which is considered satisfactory. Conditions are recommended in this regard and are included at **Attachment 18**.

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 and confirmation from Endeavour Energy that the development is capable of being serviced by way of augmentation of existing nearby infrastructure.

Noise and vibration:

Conditions are recommended for imposition (see **Attachment 18**) to minimise nuisance during demolition and construction.

An acoustic report formed part of the application submission due to the proximity of the proposed residential uses to the Princes Highway. Conditions have been recommended in this regard and are included at **Attachment 18**.

Natural hazards:

The subject site is identified as being flood hazard affected as discussed at 2.1.8 above. Council's Stormwater Officer has assessed the application submission in this regard against the submitted flood review and has not raised any objections subject to draft conditions. The proposed finished floor level of the retail premise is above the flood planning level for the site, and as such the development would not be expected to impact or be impacted upon floor behaviour.

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

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal. See SEPP 55 comments at Section 2.1.1.

Safety, Security and Crime Prevention:

Refer to WDCP compliance table at **Attachment 17**. 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 18**.

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 proposal requests exceptions from WLEP 2009 and SEPP (Affordable Rental Housing) 2009 development standards with regard to building height, minimum site width and proposing residential uses on the ground floor within a business zone.

The proposal also requests variations to the Apartment Design Guide and WDCP 2009 as relates to building height, minimum site width, side setback controls, ceiling heights and car parking.

All requests have been considered and are capable of support in this instance as discussed at sections 2.1.2, 2.1.4, 2.1.8 and 2.2.1 above.

Private open space, residential amenity, vehicular manoeuvring and pedestrian access have been accounted for in the design and site layout.

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 18**.

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A condition is also included at **Attachment 18** 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.

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

Does the proposal fit in the locality?

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

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

Details of the original proposal were publicly exhibited in accordance with Appendix 1 of the Wollongong Development Control Plan (WDGP) 2009 on two occasions. No submissions were received.

2.10 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. 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 B2 Local Centre zone.

Generally, the proposal is consistent with the applicable provisions of relevant planning instruments including SEPP (Affordable Rental Housing), SEPP 65, SEPP (Infrastructure), SEPP 55 and SEPP (Building Sustainability Index: BASIX) 2004.

The proposal seeks exceptions to Wollongong Local Environmental Plan 2009 and SEPP (Affordable Rental Housing) 2009 development standards relating to building height, minimum site width and the provision of ground floor residential units in a business zone. It is considered that the clause 4.6 exception requests provided addressing these matters are satisfactory, and as such the exceptions are capable of support.

The proposal also seeks variations to WDGP 2009 and the Apartment Design Guide as relates to minimum site width, building height, front setbacks, side setbacks, ceiling heights and car parking. The variation requests have been considered and are capable of support.

It is considered 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

DA-2018/1517 be approved pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at **Attachment 18**.

5. ATTACHMENTS

Attachment 1 – Plans – Architectural, Landscape

Attachment 2 – Aerial photograph, WLEP 2009 zoning map and extract of deposited plan

Attachment 3 – Clause 4.6 Exception Request – Building height

Attachment 4 – Clause 4.6 Exception Request – Ground floor residential in business zone

Attachment 5 – Clause 4.6 Exception Request – Minimum site width

Attachment 6 – Response to Record of Panel Briefing

Attachment 7 – Response to Design Review Panel Comments of 22 January 2019

Attachment 8 – Response to Design Review Panel Comments of 24 April 2019

Attachment 9 – Urban Design Report

Attachment 10 – Traffic Impact Assessment

Attachment 11 – Design Verification Statement

Attachment 12 – Apartment Design Guide Response

Attachment 13 – Advice regarding the requirement for a managers residence

Attachment 14 – Operational Plan of Management

Attachment 15 – WDCP 2009 Variation Requests

Attachment 16 – Apartment Design Guide Assessment

Attachment 17 – Wollongong DCP 2009 Assessment

Attachment 18 – Draft conditions