

SRPP No	PPSSTH-146
DA Number	DA-2022/169
LGA	Wollongong City Council
Proposed Development	Demolition of existing structures and construction of a double tower nine storey shop top housing development comprising basement parking, 114 residential units and 158 parking spaces.
Street Address	36 Flinders Street, Wollongong
Applicant/Owner	Blaq Projects Pty Ltd
Lodgement date	08/02/2022
Recommendation	Approval
Number of Submissions	1 submission in support of the application.
Regional Development Criteria (State Environmental Planning Policy (Planning Systems) 2021 – Schedule 6 Regionally significant development)	<p>Schedule 6 Clause 2 General development over \$30 million</p> <p>Under Schedule 6, general development over with a capital investment value (CIV) of more than \$30 million is identified as regionally significant development.</p> <p>The CIV values the proposed development at \$45,458,000.00 (excluding GST).</p>
List of All Relevant s 4.15(1)(a) Matters	<p>s4.15 (1)(a)(i) Any environmental planning instruments:</p> <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> • State Environmental Planning Policy Planning Systems 2021 • State Environmental Planning Policy No. Resilience and Hazards 2021 • State Environmental Planning Policy Transport and Infrastructure 2021 • State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 <p><u>Local Environmental Planning Policies</u></p> <ul style="list-style-type: none"> • Wollongong Local Environmental Plan 2009 <p><u>Other policies:</u></p> <ul style="list-style-type: none"> • Wollongong City-Wide Development Contributions Plan 2022 • Wollongong Community Participation Plan 2019 <p>s4.15(1)(a)(ii) 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:</p> <p>N/A</p> <p>s4.15 (1)(a)(iii) any development control plan:</p> <ul style="list-style-type: none"> • Wollongong Development Control Plan 2009 <p>s4.15 (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</p> <p>N/A</p> <p>s4.15 (1)(a)(iv) the regulations:</p> <ul style="list-style-type: none"> • Clause 61 (1) demolition

	s4.15(1)(a)(v) any coastal zone management plan: There is no Coastal Zone Management Plan currently applicable to the land
List all documents submitted with this report for the panel's consideration	Attachments 1 Aerial photograph and WLEP zoning map 2 Full set of architectural plans 3 DRP comments from 30 March 2022 4 Clause 4.6 variation – Building Height 5 ADG assessment 6 WDCP 2009 assessment 7 Draft conditions of consent
Clause 4.6 request	Clause 4.3 Building Height, WLEP 2009
Summary of key submissions	Variation under Clause 4.6 in relation to height
Report prepared by	Vanessa Davis – Senior Development Project Officer
Report Date	10 October 2023

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

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)? N/A

Conditions

Have draft conditions been provided to the applicant for comment? Yes

Executive Summary

Reason for consideration by Southern Regional Planning Panel

The proposal has been referred to Southern Regional Planning Panel as it involves general development with a capital investment value of more than \$30 million.

Proposal

The application proposes the demolition of existing structures and construction of a double tower nine storey mixed use development comprising basement parking, ground floor business premises, 114 residential units and 158 parking spaces.

Permissibility

Upon lodgement the site was zoned B6 Enterprise Corridor Zone pursuant to Wollongong Local Environmental Plan (LEP) 2009. Following the employment zone reforms which commenced on 26 April 2023 the site is now zoned Zone E3 Productivity Support. The proposal is characterised as Shop top housing which remains permissible in this zone under schedule 1 subclause 34 additional permitted uses.

Consultation

The proposal was notified in accordance with Council's Community Participation Plan 2019. One submission has been received from Neighbourhood Forum 5 in support of the application.

Key Assessment Issues

The main issues arising from the assessment are -

- Variation under Clause 4.6 in relation to height

RECOMMENDATION

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

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

State Environmental Planning Policies

- State Environmental Planning Policy Planning Systems 2021
- State Environmental Planning Policy Resilience and Hazards 2021
- State Environmental Planning Policy Transport and Infrastructure 2021
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Local Environmental Plans

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans

- Wollongong Development Control Plan (WDCP) 2009

Other Policies/Regulations

- Wollongong Community Participation Plan 2019
- Wollongong City Wide Development Contributions Plan 2023

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal involves demolition of existing structures and construction of a new double tower nine storey mixed use building (shop top housing) consisting of ground floor commercial premises and 114 residential units with associated parking and amenities.

Site Preparation

- Demolition of all structures and surfaces on site
- No tree removal is proposed
- Earthworks and excavation of the construction of the basement levels

Built Form

- Maximum building height RL 33.1m
- Gross Floor Area: 12,126sqm total floor area proposed.
- Number of units: 114 units are proposed comprising 17 x 1b/r units, 57 x 2b/r units, 40 x 3b/r units
- Landscaped Areas: Communal open spaces areas are located on Basement 1 level and Level 01.. Street tree planting is proposed along Flinders Street and deep soil planting is proposed to the rear of the site.
- Retail/commercial component: Two commercial spaces are proposed at ground level fronting Flinders Street with a total GFA of 1,034.9sqm.
- Access to the site is from a singular access point from Flinders Street near the northern boundary of the site.
- Parking: A total of 158 car parking spaces are proposed inclusive of 118 residential spaces, 23 residential visitor spaces and 17 commercial spaces.
- Drainage Arrangements: The proposed drainage works comprise of two major elements being (1) drainage of the catchment internal to the subject site, and (2) drainage of the catchment upslope and external to the site from the Flinders Street frontage. The proposed method of stormwater disposal is by a level spreader located within the subject site and at the top of the watercourse bank.

A full set of architectural plans is found in Attachment 2.

Building composition by level:

- Basement Levels: Basement 02 level comprises largely of parking for residential units along with storage areas and bicycle storage areas. Basement 01 level contains parking for residential units along with residential visitor spaces. This level has been redesigned to allow for easy clear access to the ground level communal open space (COS) area. This level also contains storage areas and bicycle spaces. Communal open space is located on this level at the rear of the site and contains dining area, outdoor gym, seating area and landscaped areas.

- Ground Floor: Ground floor comprises access points to the site, two commercial tenancies, commercial car parking spaces, waste storage, servicing areas and utilities areas.
- Level 1: This level contains seven units for both the towers. COS for the units is located on this level between the two towers. This COS comprises a pool and seating area, turf area, bbq dining area and rest space.
- Level 2-7: Tower 1 (south) and Tower 2 (north) comprises seven-eight residential units per floor.
- Level 8: Tower 1 comprises four units per level, Tower 2 comprises six units per level.

1.3 BACKGROUND

Following is a list of previous applications applying to this property:

- DA-2006/1419 - Demolition of all existing buildings and structures and erection of mixed use development comprised of two hotel buildings accommodating 64 units, two residential flat buildings accommodating 76 units, ground floor retail tenancies in all buildings and two basement levels' was withdrawn on 18 December 2006.
- DA-2007/348 - Demolition of existing buildings and structures and the construction of a multi-storey mixed use development comprised of residential units, commercial and retail space and hotel/serviced apartments was approved 21 January 2009.
- DA-2013/1007- Demolition of existing structures and construction of 3 stage mixed use development comprising of 160 residential units over 6 retail suites and parking for 263 vehicles was approved 27 October 2014.

A pre-lodgement meeting (PL-2021/127) was held on 30 August 2021. The main issues discussed at this meeting were overshadowing impacts to the central communal open space and conflicts between the proposed childcare facility and the residential units. Other issues raised during the meeting included traffic/servicing/contamination and stormwater matters. During the assessment of this application, the proposed childcare facility has been removed from the proposal.

Design Review Panel 30 March 2022

On 30 March 2022, a Design Review Panel (DRP) meeting was held with Council Officers. The notes from this meeting are found in Attachment 3 and the key issues raised during this meeting are as follows and discussed further in this report:

- The overall design should relate to the immediate context of the site.
- Provide a functional servicing and access solution to all tenancies.
- Refine the proposal's interface with the public domain.
- Developed the expression of both towers.
- Further improve amenity.

SRPP briefing

On 12 April and 1 June 2022 the SRPP was initially briefed on the proposal and the records of briefing can be viewed on the [Sydney and Regional Planning Panels website](#). Plans have been amended to address the panel concerns, as discussed in this report.

Customer service actions

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

1.4 SITE DESCRIPTION

The site is legally described as Lot 2 DP 1262241, known as 36 Flinders Street, Wollongong. The site has a total area of 14,769sqm with a frontage of 91m to Flinders Street. The site is located north of the Wollongong City Centre on the western side of Flinders Street, near the intersection of Flinders and Gipps Street.

There are a number of commercial premises existing on the parcel of land proposed to be demolished as part of this application. The premises are mainly single to double storey in height and range in uses from commercial to light industrial.

To the rear of the site is a drainage reserve. The site has a gradual slope (approximately 3m fall) from Flinders Street road frontage to the rear of the site.

Directly to the south of the premises is a double storey commercial premises located on the corner of Flinders and Gipps Street. There is a recent approval on this site for a nine storey serviced apartment building under DA-2021/1342/A.

Further north to the site is a recently completed shop top housing development at 22-26 Flinders Street, Wollongong. This development has a similar height to the subject development.

The site is located within close proximity to public transport and within close proximity to Wollongong CBD. This area of Flinders Street is undergoing substantial change with a number of shop top housing developments being proposed and developed within close proximity to the site.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Flooding: The site is located within an Uncategorised flood risk precinct. Council's Stormwater Officer has reviewed the application in this regard and provided a satisfactory referral subject to conditions.
- The site is affected by Class 4 and 5 acid sulfate soils. No concerns are raised and conditions imposed.
- Potentially Contaminated Land due to Previous Uses. Conditions imposed by Council's Environment Officer in this regard. Refer to comments under SEPP Resilience and Hazards 2021.

There are no restrictions on the title which would preclude this development. There is a sewer running through the site, however the development has been designed to accommodate the sewer line. A portion of the land along Flinders Street (SP2 zoned portion of Lot 2 DP 1262241) is proposed to be dedicated to Council to form part of the Flinders Street Road Reserve. Transport for NSW is supportive of this arrangement.

1.5 SUBMISSIONS

The proposal was notified in accordance with Council's Community Participation Plan 2019. One submission has been received from Neighbourhood Forum 5 in support of the application.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application, including the Geotechnical Report. It was noted that the ground conditions are expected to be quite variable including some hard bedrock to be excavated for the construction of basements. Geotechnical advice will be required to support the design and construction of site preparation earthworks. Conditions of consent were recommended and are included in the draft conditions.

Stormwater Engineer

Council's Stormwater Engineer has reviewed the application on several occasions including the submitted Stormwater Concept Plans and flood studies. The proposed method of stormwater disposal is by a level spreader located within the subject site and at the top of the watercourse bank. Conditions of consent were recommended and are included in the draft conditions.

Traffic Engineer

Council's Traffic Officer has reviewed the application and given a satisfactory referral. Parking numbers and manoeuvrability were assessed as satisfactory. Conditions of consent were recommended and are included in the draft conditions.

Environment Officer

Council's Environment Officer has reviewed the application in relation to site contamination, acoustic matters, Water Sensitive Urban Design, wind impacts and construction management.

The following reports were considered:

- Detail Site Investigation (DSI) prepared by Aargus Consulting dated 14 December 2021.
- Acoustic Assessment report prepared by prepared by Acoustic Noise & Vibration Solutions P/L dated 25 November 2021.
- Concept WSUD information prepared ATB Engineering dated 9 December 2021; and

- Wind impact assessment prepared by Windtech dated 1 December 2021.

A satisfactory referral was received subject to conditions relating to the above environmental matters which are included in the draft conditions.

Landscape Officer

Council's Landscape Officer has reviewed the application and given a satisfactory referral. Conditions have been recommended including the provision of street trees and upgrading of the footpath in accordance with Council's public domain technical manual.

1.6.2 EXTERNAL CONSULTATION

Transport for NSW

Council sought advice from TfNSW to assist with the assessment under Section 138 of the Roads Act 1993 and Section 2.119 and 2.122 of SEPP Transport and Infrastructure 2021.

The applicant as part of this application has agreed to dedicate the SP2 zoned portion of Lot 2 DP 1262241 to Wollongong City Council to form part of the Flinders Street Road Reserve. TfNSW is supportive of this arrangement.

Conditions were received on 13 October 2022 and included in Attachment 7.

Endeavour Energy

Endeavour Energy have no objection to the Development Application. Conditions have been provided.

Design Review Panel

The application was reviewed by the Design Review Panel (DRP) on 30 March 2022 in accordance with clause 7.18 5 (a) of WLEP2009. The DRP notes are found in Attachment 3.

DRP Comments	Council Comments
<p>Context and Neighbourhood Character</p> <p>The sewer main is to be accurately located, with the design addressing any impacts this may have.</p> <p>Sun eye view diagram should be expanded to show the future context of the site, particularly to the south. The solar access diagrams should demonstrate that neighbouring sites maintain ADG compliant solar access.</p> <p>How the development addresses the public domain along Flinders Street and how this development abuts adjoining developments to the north and to the south.</p>	<p>Survey information has been submitted. There are two sewer mains within the site's boundary.</p> <p>Sewer 1 enters the site along the southern boundary and connects to an existing manhole, which is located next to the northern boundary. It then continues beyond the northern boundary onto the neighbouring site. Sewer 2 enters the site along the eastern boundary (Flinders Street) and also connects to the same manhole. Sewer two terminates at this manhole.</p> <p>The sewer locations have been transposed on the plans and sections. The lower-level basement (basement 02) has been designed to accommodate the sewer.</p> <p>Future Context</p> <p>The applicant envisages the neighbouring site to the north at 30 & 32 Flinders Street adopt a similar approach to the developments either side of the site with commercial use on the group floor and residential unit's above.</p> <p>In modelling the future context, the ADG solar requirements are achieved. The units used in the calculations to achieve solar compliance in the development to the south are not impacted and</p>

	<p>therefore the proposed design has no impact on the future development to the south.</p> <p>The development adequately addressed Flinders Street with a similar setback to the recently approved serviced apartment building to the south. It is anticipated that future development to the north will adopt a similar public domain approach to this development. The plenum has been removed from the proposal which improves the overall public domain interface with Flinders Street.</p>
<p>Built Form and Scale</p> <p>Consideration should be given to how the roof form could be modulated and revised to have a lesser shadow impact on the southern neighbour and the internal COS. Roof forms should be refined to minimise over shadowing of neighbouring buildings and provide controlled solar access to the subject site.</p> <p>The current roof form provides a consistent 3m overhang above the recessed upper level. Whilst the overhang to the southern side of the buildings restricts solar access to the buildings immediately to the south.</p>	<p>The proposed roof form has been rationalised to minimise overshadowing impacts and control solar access to subject site.</p> <p>The overhang has been removed from the proposal allowing adequate solar access to the units below. This is considered to be acceptable.</p>
<p>Both buildings A and B are set back an additional 3m at level 8 to provide 24m of separation between buildings. If the southern face of building B were developed in a defensive manner (no windows of habitable rooms orientated directly to the south, high level windows and screened windows are acceptable) consideration could be given to eliminating the 3m setback on the northern side of building A.</p>	<p>The application proposes highlight windows on the south of Building B as suggested by the DRP, however instead of removing the 3m setback to the north of Building A, the applicant has opted to reduced the setback on both buildings.</p>
<p>The western edges of buildings A and B sit parallel to the site's western boundary. This results in a building form that tapers towards the west, restricting solar access to the building to the south. Consideration should be given to realigning the western edges of both buildings to increase solar access to the building immediately to the south. If the north-western corner of both buildings is set back 12m from the centre of the neighbouring drainage channel, ADG compliant building separation can still be achieved.</p>	<p>The existing building mass is based on ADG building separation. From sun-eye analysis of the future context, solar access is achieved between 9am to 11am for the eastern facade, and 1pm to 3pm for the western facade.</p> <p>As a result, the proposed building mass is deemed to satisfied with the setbacks requirements and does not create any significant adverse overshadowing impact for the southern development.</p>
<p>Consideration should be given to removing units from the base of the southern tower to avoid issues (noise / privacy) with childcare proximity,</p> <p>The single storey face brick podium has been broken down into a series of repetitive bays, to</p>	<p>Child care has been removed from the proposal along with the ground floor units.</p> <p>Building A has a gold coloured metal frame, while, building B has a light-weight silver</p>

<p>provide a reasonable interface with the street. However, entries to each tower are very difficult to distinguish within the homogeneous façade. Consideration should be given to breaking the brick façade with darker, more recessive elements to provide more clearly defined entrances. Consideration should also be given to developing the expression of the southern end of the podium fronting Flinders Street to respond to the childcare centre.</p> <p>Awnings may also be developed to respond to the more articulated podium outlined above and contribute to the clear expression of tower entrances.</p>	<p>coloured frame. Both colours come with its own strong and definable nature.</p> <p>Building A is a slender 'I-shape', and linear building with less street frontage, while Building B is a 'L-shape' building with more street frontages.</p> <p>An awning is provided along the Flinders Street frontage which provides articulation in the podium and defines entrances.</p>
<p><u>Communal Open Space</u></p> <p>Diagrams showing solar access to the COS show several areas that self-overshadow in the early afternoon. It is likely these do not comply with the minimum solar requirements as a result.</p> <p>The lower ground floor COS along the western edge is not easily accessible and is unlikely to be well used as a result.</p> <p>Access to and from the space is via a long stair and what appears to be a goods lift which is not appropriate. At this stage the Panel feels this space may be more beneficial as a DSZ dedicated to providing beautiful landscape to view, as opposed to COS, unless integration with the lobbies and primary building circulation networks can be established.</p> <p>If access can be resolved, making it an engaged part of the development's COS, the following should be considered in its design development:</p> <p>The general arrangement could be improved by considering how people use the spaces provided. For example, the exercise area adjacent to the entry causes visual impacts for both users and visitors upon arrival. Perhaps a more secluded location for exercise (north or south end) and a central colocation of the BBQ and lawn would be more appropriate.</p> <p>The trees on the roof are questioned as to their function, aesthetics, and long-term viability. It is unclear what purpose they serve, how they will be maintained, and if there is a contingency in place should the trees fail to</p> <p>The landscape plans should show the streetscape interface to demonstrate how the site's landscape design complements the public</p>	<p>Both communal open space (COS) areas are accessible from level 01 and basement 01.</p> <p>The applicant claims that preserving the lower communal open space would be beneficial for the residents. Therefore, rearrangement of Basement 01 layout to accommodate an integrated lobby and primary access in the basement carpark to establish a secured connection between the COS and the residential component has been provided.</p> <p>Trees that were located close to boundaries and buildings have been moved to more centralised locations to ensure maximum root establishment/ better canopy coverage.</p> <p>The turf area has been extended with the removal of mass circulation to the southern side and the inclusion of ramp access.</p> <p>An additional bar seating/ sun lounge seating area has been added to the west to maximise solar access and western views to COS below.</p> <p>Trees will provide wind protection and some privacy. Trees have been removed on the roof level due to constraints of the awning above and maintenance issues.</p> <p>The Public domain along Flinders Street has been updated to indicate paving and tree pits as per Wollongong Council Public Domain Manual.</p> <p>Deep Soil Zone is provided at the rear of the property and complies with ADG requirements. Clear paths of travel within the DSZ provided.</p> <p>No trees are situated within the rear boundary, and no trees are required to be removed.</p>

<p>domain and aligns with other nearby developments.</p> <p><u>Deep Soil Zone</u></p> <p>The ADG should be reviewed with respect to this. DSZ can have paths or space.</p> <p>An arborists report has still not been provided detailing any existing trees on the site, and those within close proximity to the development.</p>	<p>Therefore, an arborist report is not required for the proposed site.</p>
<p>Amenity</p> <p>Residential lobbies need to be clearly identified within the podium façade (as outlined above)</p> <p>The Childcare centre operators are required to walk through residential common areas to access their bin storage area and no direct access has been provided from the car park to the southern commercial unit.</p> <p>The Flinders Street frontage should maximise commercial frontage. As part of this it should be investigated how the turning circle and delivery area could be better planned and less intrusive.</p> <p>Units on the northern tower, B208 / B207, may be better planned as a 3-bed and a 1-bed respectively. The intent is that apartment B208 wraps around the corner occupying the area containing the living areas of B207 to avoid acoustic and visual privacy issues. This could require the living area in B207 to move with the likely loss of a bedroom to this apartment type. This would solve potential privacy issues caused by the current arrangement.</p> <p>Units 201 and 208 are accessed directly through their kitchens, the kitchens of these units are internalised spaces with no access to natural light. These units should be reconfigured to meet minimum ADG amenity objectives.</p>	<p>Residential lobbies are clearly identifiable.</p> <p>Proposed childcare has been removed from the proposal.</p> <p>The Flinders Street commercial frontage has been improved with clear entrances for the commercial and residential activities. The Applicant has anticipated that the first floor will not be used as commercial.</p> <p>Both units 207 and 208 were 2 bedroom units. Following DRP advice, Unit 207 has been changed into a one bedroom unit and 208 has been changed into a 3 bedroom unit. This will assist in visual and acoustic privacy between the units.</p> <p>Units 201 and 208 have been redesigned to not be directed through kitchens with access to natural light.</p>
<p>Sustainability</p> <p>The proposal has been configured to allow ADG compliant solar access and natural cross ventilation. However, from the information provided it is not possible to determine if units on the eastern side of the building receive the full 2 hours of solar access to both living areas and areas of private open space. A detail study of solar access at 11:00am should be provided to confirm ADG compliance</p>	<p>Sustainability has been achieved through the provision of landscape, selection of materials and water sensitive urban design.</p> <p>An increase in solar roof panels is recommended and has been included as a condition of consent.</p> <p>The development achieves solar access requirements and cross ventilation requirements.</p>

<p>Aesthetics</p> <p>Articulation should occur in response to the contextual and climatic influences evident on the site, in particular, further shading is required to control solar access on the western facades.</p> <p>Each of the two towers should be uniquely identifiable to help with address, wayfinding and producing an interesting and fine future grain for the area.</p> <p>Detail sections (1:20 or 1:50) through the building should be provided.</p> <p>Sections should show balustrade details and specification, concealment of services, lighting, drainage, soft treatments, details of screens and louvres etc.</p> <p>The location of service risers, AC condensers, down pipes, fire hydrant boosters etc. should be accommodated with no safety or negative visual impact.</p>	<p>The brickwork along Flinders Street has been redesigned and distinguished into 4 different manners: 'Services', 'Vehicular Entry', 'Residential Lobby' and 'Commercial'.</p> <p>For the services, the width of the brick bays varies, which based on the service area required and it is painted in the bronze in colour to match the service door. Light weighted awning is also provided, the colour is also matched to the bronze colour.</p> <p>For vehicular entry, the entrance is wider in width to allow the minimum requirement for the services vehicles to access the site.</p> <p>For the fire hydrant booster, it has been nominated on the northern end of the ground floor, which is adjacent to the vehicular entry.</p>
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2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

COASTAL MANAGEMENT Amendment Act 2021

The *Coastal Management Amendment Act 2021* commenced on 1 November 2021, to give coastal councils until 31 December 2023 to implement their CZMPs. By effect this enables a continuation of the current certified CZMP (20 December 2017) whilst Council undertakes further studies and community consultation for a transition to a new Coastal Management Plan.

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.25 hectares based upon the minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size).

No native vegetation is proposed to be cleared for the development. The minimum subdivision lot size for the land under WLEP 2009 is 449sqm. Therefore the proposal does not trigger the requirement for a biodiversity offset scheme.

The site is not identified as being of high biodiversity value on the [Biodiversity Values Map](#).

Council's Environmental Assessment Officer has considered whether the development site would potentially provide suitable habitat for any threatened species and the test of significance and has concluded that the proposed development is not expected to likely significantly affect threatened species or ecological communities, or their habitats. The development proposed would not be considered a key threatened process.

The development would therefore not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY RESILIENCE AND HAZARDS 2021

Coastal Management- Chapter 2 of the SEPP

Clause 2.8 - Development on land in proximity to coastal wetlands or littoral rainforest

The site is not located in close proximity to coastal wetlands or littoral rainforest. No impacts are anticipated.

Clause 2.9 Development on land within the coastal vulnerability area

The site is not located on land within the coastal vulnerability area.

Clause 2.10 Development on land within the Coastal Environment Area

The site is identified as being located within the coastal environment area. The proposal has been assessed against the requirements of this Clause, and the proposal is not considered likely to have an adverse impact on the biophysical, hydrological or ecological environments, natural coastal processes, water quality, public open space, Aboriginal cultural heritage, or the use of the surf zone.

Clause 2.11 Development on land within the Coastal Use Area

The site is identified as being located within the coastal use area.

Clause 2.12 Development in coastal zone generally – development not to increase risk of coastal hazards

The proposed development is considered minor in nature and appropriate for the site, and therefore unlikely to increase the risk of coastal hazards on the site or surrounding area.

Clause 2.13 Development in coastal zone generally – coastal management programs to be considered

Wollongong Coastal Zone Management Plan

A review of Council's associated CZMP mapping identifies that the site is not impacted by coastal geotechnical risk, ocean inundation or reduced foundation capacity. Minimal adverse impact on the coastal environment is anticipated because of the proposed development. Minimal impacts on the development are expected because of coastal processes.

The proposal is therefore considered satisfactory regarding the aims, objectives and matters outlined for consideration in the SEPP, including the Wollongong CZMP.

Land Contamination- Chapter 4 of the SEPP

Council's Environment Officer advised that the site has history of mixed manufacturing, commercial and retail purposes, including surfboard manufacturing and sale, a radiator repairing shop and other shops/café. The Environmental Consultancy & Management Pty Ltd (June 2007) Preliminary Contamination Assessment indicated that a service station may have been present within the site (former Lot 1 in DP1081086) over 40 years ago (between 1950 to 1961 and was a mechanic by 1970).

A Detailed Site Investigation Report (DSI) has been submitted with the application (prepared by Aargus Consulting dated 14 December 2021). The DSI has considered previous DSI report prepared by ClearSafe Consulting in 2014 was incorporated into the current DSI.

The DSI has recommended further soils sampling within the built-up areas, groundwater sampling and soils for acid sulfate soils assessment.

A Remedial Action Plan (RAP) has been prepared by Aargus Consulting dated 17 December 2021. The DSI and RAP has been peer reviewed by Tim Chambers, EPA accredited Site Auditor. The Auditor has concurred the recommendation of DSI (further assessment upon demolition of the structures).

Site Auditor's - Interim Advice 2 – Review of RAP

"The Auditor is satisfied that the site assessment (Detailed Site Assessment) has generally been adequate to identify the presence of contaminants in soil at the site at a screening level but is not

sufficient to reliably characterise the site soils. The initial assessment by Clearsafe was restricted to outdoor areas only and as a consequence there are data gaps in the soil sampling distribution across the site which need to be addressed to adequately characterise the site soils.

The data obtained to date, however, does not indicate the presence of contamination requiring remediation given that the proposed development no longer includes a childcare facility. Groundwater sampling at the site was inadequate to characterise groundwater at the site and additional assessment will be required in the event that potential contamination sources are identified.

The assessment did not identify the presence of historical service station infrastructure, but due to the restricted sampling locations the presence of such structures can not be ruled out. The Auditor notes that the remedial action plan prepared for the site (reviewed in separate Interim Advice) proposes additional site assessment to address the identified data gaps and includes contingency actions in the event that historical service station infrastructure is encountered”.

Further upon completion of site validation report, the auditor will issue a SAS and SAR under CLM Act 1997. Conditions have been provided from Council's Environment Officer with regard to site remediation work, site validation report, site audit statement and site auditors report.

The current development application satisfies Section 4.6 of the SEPP.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY TRANSPORT AND INFRASTRUCTURE 2021

The application was referred to the Transport for NSW under the requirements of this SEPP and a satisfactory response was received in response to the additional information provided. Conditions of approval were provided.

The proposal was also referred to Endeavour Energy and no concerns with the proposal were raised. Conditions have been recommended with respect to Endeavour energy.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY PLANNING SYSTEMS 2021

Part 4 Regionally significant development

The Southern Sydney Regional Planning Panel is the determining authority for the development pursuant to Part 4 of the SEPP as the development has a capital investment value of more than \$30 million.

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

The development meets the definition of a 'residential flat building' as it is more than 3 storeys and comprises more than 4 dwellings. Therefore, the provisions of SEPP 65 apply. The application is accompanied by a statement by a qualified designer in accordance with the Environmental Planning and Environment Regulation.

Regarding Clause 28(2)(a), the advice from the DRP has been considered as outlined in Part 1.6.1 of this report. Regarding Clause 28(2)(b), the design quality of the development has been considered in accordance with the design quality principles is outlined below. Regarding Clause 28(2)(c), an assessment of the application against the ADG is contained at Attachment 5 to this report.

Principle 1: Context and neighbourhood character

The site is located within a B6 Enterprise Corridor, the objectives of this zone are primarily business and employment zones. The B6 Zone along Flinders Street is undergoing a transition from previous car yards, warehouses, commercial and light industrial into emerging shop top housing. This has been facilitated by planning controls permitting shop top housing within this zone. Flinders Street is also located within close proximity to the Wollongong City Centre and also close to North Wollongong train station. The proposed shop top housing is consistent with nearby approvals for similar developments along Flinders Street.

The site is able to accommodate a mixed-use development of this nature reflective of the current height and floor space controls. It is considered that redevelopment of adjacent lots to a higher density will occur over time given recent approvals on adjoining and nearby sites. Directly to the south of this site is an approved 9 storey serviced apartment building at 46 Flinders Street. Further north to the site is a recently completed shop top housing development at 22-26 Flinders Street. The proposed development is suitable for the emerging context and character of Flinders Street.

Principle 2: Built form and scale

The built form is consistent with some of the key elements of setbacks and building separation. The floor plates are appropriate and generally in compliance with the Apartment Design Guide (ADG).

Solar access diagrams are compliant. The development proposes active street frontages and is of a scale compatible with recently approved nearby developments.

Principle 3: Density

The density of the development complies with the maximum FSR permitted for the land as outlined in Clause 4.4A of the Wollongong LEP.

Principle 4: Sustainability

The proposal is considered acceptable regarding sustainable design as follows:

- The building achieves the minimum cross ventilation and solar access requirements.
- The landscape areas are to be watered from rainwater harvesting.
- BASIX targets are met.
- A Site Waste Management and Minimisation Plan has been provided indicating appropriate management and disposal of any excavated material.
- The proposal will not have an unreasonable impact on any heritage items or environmentally sensitive areas.
- Due to the size of the development, an increase in PV solar roof panels is recommended and included as a condition of consent.

Principle 5: Landscape

The proposal provides suitable landscaped areas and communal open space that will provide for appropriate amenity to the occupants. The landscape plans have been reviewed by Council's Landscape Division and found to be satisfactory.

Principle 6: Amenity

The proposal meets the minimum requirements for solar access, private and communal open space, storage, acoustic privacy, access, and the like. Cross ventilation has been achieved and room layouts are acceptable and comply with the ADG. There are no significant visual or acoustic impacts anticipated.

Principle 7: Safety

The proposal is satisfactory with regard to safety and security. A clear definition between public and private space has been provided within the design. The design provides for minimal areas of concealment and entrapment with natural surveillance of common spaces. Residential and commercial lobby spaces and car parking spaces have been separated.

Principle 8: Housing diversity and social interaction

The proposal provides a good mix of housing diversity with a total of 114 units are proposed comprising 17x1b/r units, 57 x 2b/r units and 48x3b/r units.

Principle 9: Aesthetics

The proposal is considered to be of a high quality with regard to its appearance. A mixture of natural materials colours and finishes is provided and the bulk of the development is suitably articulated.

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

In accordance with Schedule 1 of the Regulations and SEPP 2004 a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B6 Enterprise Corridor.

As part of a State Government amendment to land use zones, on 26 April 2023, five new employment zones and four new supporting zones took effect in local environmental plans (LEPs) across NSW, replacing the former Business (B) and Industrial (IN) zones.

The zoning map identifies the land as being zoned E3 Productivity Support. As the DA was lodged prior to these amendments, the DA continues to be assessed under the provisions of B6 Enterprise Corridor Zone. However as outlined above the proposed development remains permissible under the new zone as the reform did not alter the permissibility of the land use in this specific area.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

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

The development is satisfactory with the above objectives of the zone. The ground floor proposes commercial premises to support employment uses. Changes have been made to the upper floor residential units so as to not detract from the amenity of future residential uses adjoining the site. There will be no impacts on the surrounding road system and a satisfactory referral has been received from Council's Traffic Engineer and Transport for NSW.

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

*Advertising structures; Business premises; Car parks; Centre-based child care facilities; Community facilities; Depots; Entertainment facilities; Environmental facilities; Garden centres; Hardware and building supplies; Heavy industrial storage establishments; Home businesses; Hotel or motel accommodation; Industrial retail outlets; Landscaping material supplies; Light industries; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Roads; Service stations; Serviced apartments; Sex services premises; **Shop top housing**; Specialised retail premises; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Transport depots; Truck depots; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres*

The proposal as submitted is categorised as **Shop top housing** and is permissible in the zone with development consent.:

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

Clause 2.7 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent. The development entails the demolition of all commercial premises occupying the site. A demolition plan has been submitted with the application.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed building height of RL 33.1m exceeds the maximum of 32m permitted for the site. Clause 4.6 submission received.

Clause 4.4A Floor space ratio – Wollongong city centre

Total site area of 4769m²

Gross floor area (commercial): 1,034.9m² (8.53%)

Gross floor area (residential): 11,091.1m² (91.47%)

Gross floor area total: 12,126.0m²

Maximum floor space ratio: 2.54:1

Floor space ratio proposed: 2.54:1

Calculation of maximum FSR permitted:

The maximum FSR applicable to the site is specified in subclause 4) as follows:

(4) The maximum floor space ratio for a building on land within a business zone under this Plan, that is to be used for a mixture of residential purposes and other purposes, is—

$$(NRFSR \times NR/100) + (RFSR \times R/100):1$$

where—

NR is the percentage of the floor space of the building used for purposes other than residential purposes. (1,034.9m² m² / 4769m² = 8.53%)

NRFSR is the maximum floor space ratio determined in accordance with this clause if the building was to be used only for purposes other than residential purposes. (3)

R is the percentage of the floor space of the building used for residential purposes. (11091.1m² /4769m² = 91.47%)

RFSR is the maximum floor space ratio determined in accordance with this clause if the building was to be used only for residential purposes. (2.5)

residential purposes, in relation to the use of a building, means using the building for the purposes of residential accommodation or serviced apartments or a combination of such uses.

$$\text{Max FSR} = (3 \times .0853) + (2.5 \times .9147) = 0.3 + 2.25 = \mathbf{2.54:1} \text{ (equates to } 12092\text{m}^2\text{)}$$

$$\text{FSR proposed: } 12,126\text{m}^2 / 4769\text{m}^2 = \mathbf{2.54:1}$$

Clause 4.6 Exceptions to development standards

Clause 4.6 provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met. In this instance, a departure is sought in respect of Clause 4.3 Height of Building (addressed below).

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 Height of buildings
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	A satisfactory clause 4.6 variation has been submitted.
That there are sufficient environmental planning grounds to justify contravening the development standard.	Yes The applicant's Clause 4.6 Statement identifies the environmental planning grounds that are considered sufficient to support the development departure to building height with regard to the specifics of the proposed development and unique site circumstances.
4.6 (4) (a) Consent authority is satisfied that:	
The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	The applicant has submitted a Clause 4.6 Statement (Attachment 4). The variation to the height is requested due to the lift overrun and roof structure and is considered by the applicant to be a minor variation to the development standard. The applicant's written

	<p>request justifying why compliance with the building separation control is unreasonable and unnecessary is based on:</p> <ul style="list-style-type: none"> • The site being of a sufficient width, depth and size to accommodate the proposed height, without resulting in any significant adverse impacts on the public domain or any adjoining properties; • The proposal being consistent with the strategic planning context and objectives of B6 Enterprise Corridor Zone. • The proposal satisfying the objectives and development controls in relation to the maximum building height contained within Clause 4.3 of the LEP. • No adverse environmental impacts; • The orderly and economic use of the subject land. <p>The non-compliant building height is considered minor, and the design response is considered acceptable in terms of mitigating amenity impacts.</p>
<p>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 proposed development will be in the public interest because it is consistent with the objectives of the building height standard, the objectives for development within the zone will be achieved; and the development achieves the applicable separation distances between residential apartment buildings under the Apartment Design Guide (ADG).</p> <p>The objectives of the B6 Enterprise Corridor Zone are:</p> <ul style="list-style-type: none"> • <i>To promote businesses along main roads and to encourage a mix of compatible uses.</i> • <i>To provide a range of employment uses (including business, office, retail and light industrial uses).</i> • <i>To maintain the economic strength of centres by limiting retailing activity.</i> • <i>To encourage activities which will contribute to the economic and employment growth of Wollongong.</i> • <i>To allow some diversity of activities that will not—</i> <ul style="list-style-type: none"> ○ <i>significantly detract from the operation of existing or proposed development, or</i> ○ <i>significantly detract from the amenity of nearby residents, or</i> ○ <i>have an adverse impact upon the efficient operation of the surrounding road system.</i> <p>The development is consistent with the above objectives. The proposed shop top housing enables commercial activities on ground floor enabling employment uses along a main road (Flinders Street). The additional of residential units as part of shop top housing allows for diversity in activities that will not detract from the amenity of the nearby areas or impact on the operation of the road system.</p> <p>The objectives of Clause 4.3 Height of Buildings are:</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>With regard to objective 'a', it is considered that site has been designed in accordance with the prescribed floor space and height restrictions. The proposed development is below the permitted FSR for the site. The departure represents an increase (3.4%) to the</p>

	<p>overall building height for a small portion of the building relating to the lift overrun and roof structure,</p> <p>With regard to objective 'b', the proposed departure from the height control will not substantially impact on the ability for the development to achieve a high-quality urban form.</p> <p>With regard to objective 'c', the additional height will not detract from views of the sky or exposure to sunlight. The majority of the building falls under the 32m height limit.</p> <p>It is considered that the development will not lead to adverse visual or environmental impacts. The development achieves the objectives of Clause 4.3, the objectives of the zone and has sufficient planning grounds to justify the variation.</p> <p>The applicant's 4.6 Statement adequately demonstrates that compliance with the building height is unnecessary and unreasonable in the circumstances of the case, noting that requiring compliance is not necessary in this instance due to site constraints and compliance with overall planning controls in relation to FSR, setbacks, and amenity. The objectives of Clause 4.3 are met and there are sufficient environmental planning grounds that are specific to the redevelopment of the site to justify contravening the development standard.</p>
The concurrence of the Secretary has been obtained.	<p>The concurrence of the Secretary can be assumed in accordance with the Department of Planning Circular PS 18–003 'Variations to development standards', dated 21 February 2018.</p> <p>The Secretary can be assumed to have given concurrence if the matter is determined by a Sydney district or regional planning panel in accordance with the Planning Circular.</p>

Clause 5.1 Relevant acquisition authority

The purpose of this clause is to identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions).

A portion of the land along Flinders Street (SP2 zoned portion of Lot 2 DP 1262241) is proposed to be dedicated to Council to form part of the Flinders Street Road Reserve. Transport for NSW is supportive of this arrangement. This area of land is identified as Local Road in WLEP Land Reservation Acquisition Map and Council is identified as the relevant authority to acquire the reserved land.

In accordance with this Clause, a condition of consent has been imposed for the dedication of land to Council in accordance with this Clause.

Clause 5.21 Flood Planning Area

This Clause has been considered with Stormwater Plans reviewed by Council's Stormwater Engineer. There are no concerns raised in relation to this Clause. Refer to comments under Chapter E14 of WDCP 2009 with regarding to stormwater arrangements.

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. Consultation has been carried out with Endeavour Energy who raise no objection to the development.

Clause 7.5 Acid Sulfate Soils

The site is identified as being affected by Class 5 acid sulfate soils. Conditions have been imposed.

Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the building's basement car parking. The earthworks have been considered in relation to the matters for consideration outlined in Clause 7.6 and are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses. Council's Geotechnical Engineer has considered the application and has provided a satisfactory referral subject to conditions.

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

The site is located within the Wollongong city centre and is subject to this clause, the objective of which is to deliver the high standards of architecture and urban design. The proposal is considered to be consistent with the provisions for design excellence as follows:

(4) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved

The Design Review Panel have reviewed the proposal and found the design, materials and detailing acceptable. The proposal is satisfactory with regard to the ADG and Council's development controls.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

The proposed building form is compatible with the likely future streetscape.

(c) whether the proposed development detrimentally impacts on view corridors,

No adverse impacts on the identified views are anticipated.

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

The development does not overshadow any sun plane protection areas.

(e) how the proposed development addresses the following matters:

(i) the suitability of the land for development,

The site is considered suitable for the development. The DRP has noted that the site is suitably proportioned and well located within Wollongong's commercial core.

(ii) existing and proposed uses and use mix,

The proposal is consistent with the desired future character of the area reflected in the applicable planning controls.

(iii) heritage issues and streetscape constraints,

There are no particular constraints that would preclude the development.

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

The proposed tower has an acceptable relationship with existing towers. The DRP notes that the relationship with existing or proposed towers on neighbouring sites is acceptable.

(v) bulk, massing and modulation of buildings,

The bulk and mass of the building is considered acceptable.

(vi) street frontage heights,

The proposal has a suitable street frontage height, consistent with the emerging character of the area.

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

The proposal meets BASIX targets. Overshadowing impacts are considered acceptable in the context of the applicable planning controls that anticipate a building of this height and scale.

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

The proposal is broadly acceptable with the principles of ecologically sustainable development. The proposal is an efficient use of land in an accessible location. The proposal will not directly impact on environmentally sensitive areas. The proposal satisfies the minimum energy and water efficiency requirements.

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

The proposal is satisfactory regarding access, servicing and parking as discussed under Chapter E3.

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

The proposal will upgrade the footpath along the street frontage in accordance with Council's public domain technical manual along with the planting of street trees.

Part 8 Local provisions—Wollongong city centre

The site is located within the area defined as the Wollongong city centre by WLEP2009 and accordingly the provisions within this part of the LEP are of relevance to the proposal.

Clause 8.4 Minimum building street frontage

The land exceeds the minimum 20m frontage requirements on Flinders Street.

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

Not applicable.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009. The full table of compliance can be found at Attachment 6 of this report.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

A levy of 2% is applicable under this plan as the threshold value is \$250,000 and the site is located within the city centre.

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

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

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

Environmental Planning and Assessment Regulation 2021

2 Savings

Any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

2000 Regulation means the Environmental Planning and Assessment Regulation 2000 as in force immediately before its repeal on 1 March 2022.

6 Determination of BASIX development

Basix Certificates lodged with development and conditions imposed.

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

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality. This is demonstrated through the following:

- The proposal is satisfactory regarding the applicable planning controls as detailed in the body of this report.
- No submissions have been raised that would preclude the development.
- Internal and external referrals are satisfactory subject to appropriate conditions of consent.

Context and Setting:

The site is situated in a B6 Enterprise Corridor Zone which is in a transition zone from previous industrial and warehouse/bulky retail uses to emerging land uses such as shop top housing, serviced apartments. This is due to the location being within close proximity to the Wollongong City Centre. Full commercial activity is proposed at ground level allowing employment and business uses. The site is within close proximity to approved similar shop top housing development and adjacent to a recently approved nine storey serviced apartment building.

The context and setting are deemed suitable for the proposed development and the emerging character of Flinders Street as prescribed by current planning controls

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

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is consistent with the anticipated built form outcome for the site and locality.

Are the site attributes conducive to development?

The site can accommodate a new development and is appropriate regarding built form and site's context.

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

The proposal was notified in accordance with Council's Community Participation Plan 2019. One submission has been received from Neighbourhood Forum 5 in support of the application.

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

The application is not expected to result in significant adverse impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area is satisfactory with regard to the applicable planning controls.

3 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

The proposed development is permissible with consent and has regard to the objectives of the zone. Substantial compliance is achieved with the applicable controls. Where variations to the planning controls are proposed,

these have been reasonably justified. The variations have been assessed as acceptable and achieve the relevant objectives of the control and the aims of Wollongong LEP 2009 including a Clause 4.6 Variation request in respect of building height. The recommendations of the DRP have been largely adopted in the revised plans and matters raised by the panel are satisfactorily resolved. The character and form of the development is consistent with the zoning and reasonably responds to the surrounding context and the applicable controls.

Submissions raised during public exhibition have been considered at section 1.5. Internal and external referrals are satisfactory subject to conditions of consent. The application is considered acceptable with regard to the likely impacts as discussed above. It is considered that the proposed development has been designed appropriately given the nature and characteristics of the site and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

RECOMMENDATION

It is recommended that the development application be approved in accordance with the conditions provided in Attachment 7.

ATTACHMENTS

- 1 Aerial photograph and WLEP zoning map
- 2 Full set of architectural plans
- 3 DRP comments from 30 March 2022
- 4 Clause 4.6 variation – Building Height
- 5 ADG assessment
- 6 WDCP 2009 assessment
- 7 Draft conditions of consent