

SOUTHERN REGIONAL PLANNING PANEL

Panel Reference	PPSSTH-26
DA Number	DA-2020/4
Local Government Area	Wollongong City Council
Proposed Development	Residential - multi dwelling housing development comprising the construction of five (5) buildings with a total of 47 dwellings, 109 car parking spaces, associated earthworks, tree removal, internal accessway, landscaping, APZs, stormwater drainage, substation and Subdivision - Strata title
Street Address	14 Cosgrove Ave, Keiraville NSW 2500 Lot 90 DP 1086429
Applicant/Owner	Surewin Parkview Pty Ltd
Date of DA Lodgement	7 January 2020
Recommendation	Refusal
Total number of Submissions	<ul style="list-style-type: none"> 105 submissions
Number of Unique Objections	<ul style="list-style-type: none"> 104 submissions
Regional Development Criteria Schedule 7 of the SEPP (State and Regional Development) 2011	<p>The proposal is regionally significant development as the proposal is general development with a capital investment value over \$30 million.</p> <p>The applicant's CIV estimate for the project is \$30,394,293.</p>
List of All Relevant s 4.15(1)(a) Matters	<p><u>Acts of Legislation</u></p> <ul style="list-style-type: none"> NSW Biodiversity Conservation (BC) Act 2016 Commonwealth Environmental Protection and Biodiversity Act (EPBC) 1999 <p><u>s4.15 (1)(a)(i) Any environmental planning instruments:</u></p> <p><i>State Environmental Planning Policies (SEPPs):</i></p> <ul style="list-style-type: none"> State Environmental Planning Policy No. 44 – Koala Habitat Protection State Environmental Planning Policy No. 55 - Remediation of Land State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 <p><i>Local Environmental Planning Policies:</i></p> <ul style="list-style-type: none"> Wollongong Local Environmental Plan (WLEP) 2009 <p><i>Other policies:</i></p> <ul style="list-style-type: none"> Wollongong City-Wide Development Contributions Plan 2019 Wollongong Community Participation Plan 2019

	<p><u>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:</u></p> <ul style="list-style-type: none"> State Environmental Planning (Koala Habitat Protection) 2019 <p><u>s4.15 (1)(a)(iii) Any development control plan:</u></p> <ul style="list-style-type: none"> Wollongong Development Control Plan (WDGP 2009 <p><u>s4.15 (1)(a)(iia) 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:</u></p> <ul style="list-style-type: none"> Nil <p><u>s4.15 (1)(a)(iv) the regulations: e.g Regs 92, 93, 94, 7.12, 288</u></p> <ul style="list-style-type: none"> Nil
List all documents submitted with this report for the panel's consideration	<p>Attachment 1 - Plans – Architectural, Landscape, Engineering Plans</p> <p>Attachment 2 – Aerial Photographs and WLEP 2009 zoning map</p> <p>Attachment 3 – Design Review Panel meeting minutes and recommendations</p> <p>Attachment 4 – Council's letter to the applicant 8 May 2020</p> <p>Attachment 5 – Applicant's response letter 30 June 2020</p> <p>Attachment 6 – Record of SRPP briefing 25 August 2020</p> <p>Attachment 7 - Clause 4.6 Exception Request</p> <p>Attachment 8 – Statement of Environmental Effects</p> <p>Attachment 9 - Draft reasons for refusal</p>
Clause 4.6 request	<ul style="list-style-type: none"> Clause 7.14 Minimum site width of Wollongong Local Environmental Plan 2009
Summary of key submissions	<ul style="list-style-type: none"> Geotechnical concerns -slope instability/risk of landslip Traffic, parking, access arrangements and safety Stormwater run-off impacts/inadequate drainage design Bushfire impacts Inappropriate scale and density of development for the location/overdevelopment Inconsistent with existing and desired future character of the locality
Report prepared by	Vivian Lee, Senior Development Project Officer
Report date	11 September 2020

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)?

**Not
applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

No

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Assessment Report and Recommendation Cover Sheet

Executive Summary

Reason for consideration by Regional Planning Panel

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

Proposal

The proposal comprises of a multi-dwelling housing development comprising the construction of five (5) buildings with a total of 47 dwellings, 109 car parking spaces, associated earthworks, tree removal, internal accessway, landscaping, APZs, stormwater drainage, substation and strata title subdivision.

Permissibility

The site is zoned R2 Low Density Residential and E2 Environmental Conservation under the provisions of Wollongong Local Environmental Plan (WLEP) 2009. The proposal is categorised as multi-dwelling housing and is permissible with consent in the R2 zone. Multi-dwelling housing is prohibited in the E2 zone.

Consultation

The proposal was exhibited in accordance with the Wollongong Community Participation Plan 2019. 105 total submissions were received with 104 unique submissions.

Main Issues

The main issues arising from Council's assessment and analysis by the Design Review Panel are:

- The proposed scale and design of the development does not demonstrate it has appropriately responded to the inherent site constraints, natural landform features or the unique context and character of the locality regardless of a multi-dwelling housing development being permissible in the R2 zoning for the site. Overall, the proposal as sought is considered an overdevelopment of the site.
- Stormwater - The development proposes to divert a significant catchment area (approximately 15,000m²) to the existing drainage system in Andrew Avenue where this runoff currently does not drain. In existing conditions, the areas proposed to be diverted drain to existing vegetated areas within the site and within the natural valley and watercourses north and south of the site. The proposal will effectively remove a significant portion of natural surface and subsurface flows from these existing vegetated areas.
- Environment – Biodiversity impacts: The proposal does demonstrate has not been designed to avoid or minimise adverse impacts on the environment. BDAR deficiencies including potential impact on the Illawarra Subtropical Rainforest (TEC), insufficient VMP, WSUD inconsistent with principles and impacts to changes in natural surface and subsurface flows.
- Heritage – Lack of consideration of the potential heritage impacts in the Heritage Impact Statement with regard to visual analysis and against the Illawarra Escarpment Conservation Area a heritage item under WLEP 2009. The Aboriginal Cultural Heritage Assessment Report and Archaeological Report does not adequately consider the cultural significance of Mount Keira to the local Aboriginal Community. No Aboriginal Heritage Interpretation Strategy has been provided.
- Landscape – Overdevelopment of the site with the number of trees to be removed and insufficient landscaping proposed. Inadequate landscape plan and inconsistencies between the landscape plans, arborist report and bushfire report/requirements.

- Traffic – Design of driveway/access for the development that does not appear suitable for the scale of the development, non-compliant driveway grades, concerns raised with the location/accessibility of visitor car and bicycle parking spaces, waste management, utility and maintenance arrangements (removalist and contractor access to the site).
- Bulk Earthworks – Excessive landform modification associated with the proposal as relates to the building platforms, road network gradients and asset protection zones maintenance areas.
- APZ Works within E2 zone/permissibility
- Clause 4.6 Exception to development standard sought to Clause 7.14 Minimum site width of Wollongong Local Environmental (WLEP) 2009
- Accuracy of Visual Impact Assessment
- Lack of CPTED consideration in design of proposal
- Non-compliances with requirements of Chapter B1 Residential Development in Wollongong Development Control Plan (WDCP) 2009, relating to:
 - Location of site facilities and services
 - View sharing
 - Retaining wall heights
 - Clarification on number of storeys
 - Building character and form
 - Clarification on deep soil planting
 - Quality and location of communal open space
 - Solar access within development and on adjoining properties
 - Basement car park podium height
 - Amenity impacts between and for proposed dwellings – visual and acoustic privacy

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 inconsistent with the relevant planning instruments.

The proposed development is considered to result in adverse impacts on the character and amenity of the surrounding area, environment and adjoining development. The site is not suitable for the proposed development and the approval would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

RECOMMENDATION

It is recommended that DA-2020/4 be **Refused** for the reasons outlined in **Attachment 9**.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

Relevant Acts of Legislation:

- NSW Biodiversity Conservation Act (BC) 2016
- Commonwealth Environmental Protection and Biodiversity Act (EPBC) 1999

State Environmental Planning Policies

- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 55 – Remediation of Land
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (State and Regional Development) 2011
- SEPP (Infrastructure) 2007

Proposed State Environmental Planning Policies

- SEPP (Koala Habitat Protection) 2019

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies:

- Wollongong City-Wide Development Contributions Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal seeks consent for a multi-dwelling development comprising the construction of five (5) buildings with a total of 47 dwellings, 109 car parking spaces, associated earthworks, tree removal, internal accessway, landscaping, APZs, stormwater drainage, substation and strata title subdivision. Site layout and Architectural details are provided at **Attachment 1**.

Multi-dwelling housing

This development comprises of 47 dwellings (including 5 adaptable dwellings) over 5 buildings of:

- 35 x 3-bedroom dwellings; and
- 12 x 4-bedroom dwellings.
- The 5 adaptable units are 10, 25, 40, 47 & 48.

The breakdown of the 5 buildings are:

Building	Dwelling Nos.	Total no. of dwellings	Details
1	1-3	3	3 x 3 bedrooms
2	4-18	15	10 x 3 bedrooms, 5 x 4 bedrooms
3	19-32	14	12 x 3 bedrooms, 2 x 4 bedrooms
4	33-45	13	10 x 3 bedrooms, 3 x 4 bedrooms
5	46-47	2	2 x 4 bedrooms
Total	47 dwellings		

Parking, access and servicing

- A total of 109 parking spaces comprising of:
 - 94 residential car parking spaces (double garage for each dwelling), located in a basement area for Buildings 1-4 with excavation up to approximately 3.3 m.
 - 15 visitor car parking spaces (at grade or basement of building 2)
 - 4 motorcycle parking spaces
 - 4 visitor bicycle parking spaces
- A service bay is provided adjacent to the waste recycling utility area towards the front of the site to provide parking for service contractors and removalist vehicles. Any bulky goods will then be required to be transported up the access driveway by light vehicles or vans.
- A turning bay area for NSW RFS vehicles is provided north of Building 5.
- A large vehicle turning bay is provided adjacent to the waste/recycling utility area.
- Vehicular access is provided by an internal loop driveway however, for residents a two-way driveway along the NE side of the dwellings only may be used. The SW length of the loop road is one way and locked only for the use of emergency vehicles e.g. Fire & Rescue and Rural Fire Service therefore no resident access.
- Pedestrian access provided along the loop road and between buildings.
- Each garage level of Buildings 1-4 has a communal waste storage area and Building 5 is at grade adjacent to each dwelling.
- The main waste recycling area is located towards the front the site and Council waste collection is proposed.

Site preparation

- Significant bulk earthworks including up to approximately 10m of cut and 5-6m of fill.
- Tree removal with all existing trees within the developable area to be removed and 85% of trees within the proposed Asset Protection Zones totalling 253 trees.
- Remediation works

Vegetation Management & Landscaping

- Landscaping works associated with the buildings including main communal open space south of building 5 (Eagle Nest Park), between the buildings on the podium level of Building 2 and green roofs.
- Vegetation management works within the SW corner of the site corresponding with the E2 zoned land.

Stormwater drainage/Water Sensitive Urban Design

- The stormwater drainage system designed to divert flows from the site to towards Cosgrove Avenue and Council's existing stormwater drainage system in Andrew Avenue.
- WSUD measures proposed including a stormwater bio-retention basin.

Integrated Development

The proposal is Integrated Development for a Special Fire Protection Purpose under section 4.46 of the EP& A Act 1979 and section 100B of the Rural Fires Act 1997 as the development seeks subdivision on bushfire prone land requiring a Bush Fire Safety Authority from the NSW RFS.

1.3 BACKGROUND

Development History

The site has been vacant historically with a number of applications lodged for the property.

DA-2009/180 – Construction of site shed/garage – Refused – 5 January 2010

DA-2009/838 – Construction of dwelling house and access driveway – Refused – 19 April 2010

DA-2012/545

Development consent was granted by Council on 29 November 2012 for a Torrens title subdivision of the site into three (3) residential lots including the construction of an access driveway and tree removal.

An associated Construction Certificate was issued on 12 October 2017 (PC-2017/1443) for the access driveway. It is unclear if works have been carried on site to demonstrate the consent has been acted upon.

Pre-lodgement meetings

PL-2017/105

On 12 July 2017, a pre-lodgement meeting was held for a proposed 24 community title lot subdivision. Council Officers were not supportive of the proposal considering that the proposed subdivision design did not appropriately respond to the inherent site constraints and natural landform features. This was due to the proposed extent of bulk earthworks, access roads grades, height and length of retaining walls required and likely associated batter to accommodate the proposed number of lots and developable area for future dwellings. A development application was not lodged with Council for this proposal.

PL-2019/39

On 1 April 2019, a pre-lodgement meeting was held in relation to the subject development for a multi-dwelling housing development comprising a total of 53 dwellings. Council Officers were not supportive of the proposal, considered to be an overdevelopment of the site.

The advice provided that an alternative design response/development outcome should be explored that better reflects the known outcomes for the site from past development assessments, that have considered both the visual prominence and attributes of the site in both the immediate and wider locality.

If it remained the opinion of the applicant to continue with the current design presented, it was suggested a voluntary Design Review Panel process occur prior to the lodgement of the application and followed by a further pre-lodgement meeting with Council if further revisions were made to the proposal.

Subject Development Application

DA-2020/4

This development application DA-2020/4 was lodged with Council on 7 January 2020 however, with a slightly revised design presented at the pre-lodgement meeting with a reduction from the number of dwellings from 53 to 47. No Design Review Panel meeting was held prior to the lodgement of this application or a further pre-lodgement meeting.

Design Review Panel (DRP) meeting (26 March 2020)

The application was subject to a voluntary Design Review Panel process. The proposal was considered by the Panel on 26 March 2020. In summary, the Panel did not support the proposal providing that the significant environmental constraints and visual prominence of the site, a far more sensitive design approach that responds to and works with the steep topography of the site. Other issues raised related to:

- inadequate site analysis
- poor access and circulation including pedestrian
- large building footprints that require large scale earthworks including excessive cut creating building forms that relate extremely poorly to the site's natural topography and the proposed access roads
- proposed density reads an overdevelopment of the site and creates potential privacy issues between dwellings
- sustainability has not been acceptably addressed
- landscape plans appear to be developed in response to the proposed architectural plans
- poor communal open space and linkages
- vehicular and pedestrian safety

The Panel recommended that alternative strategies developed for consideration that focus on smaller groupings of dwellings that step with the topography. The DRP meeting minutes and recommendations are presented at **Attachment 3**.

On 8 May 2020, Council sent a letter to the applicant requesting the consideration for the application be withdrawn and a more complete application be re-lodged at a future time due to the re-design of the proposal required to address the extensive list of matters for the development. Council's letter is presented at **Attachment 4**.

Written correspondence was submitted to Council by the applicant's planning consultant on 30 June 2020 providing an indication and outline of how the matters raised in Council's letter are likely to be addressed. However, no amended/concept plans and/or consultant reports have been submitted. A copy of the applicant's correspondence is presented at **Attachment 5**.

The last correspondence received from the applicant to Council dated 5 August 2020 advised Council to proceed with assessment of the development application on its merit, as per the information provided to date.

SRPP briefing (25 August 2020)

A teleconference SRPP briefing meeting was held with Council Officers and the panel members for the application on 25 August 2020. Key issues regarding the application were discussed at the briefing and a record of the meeting is presented at **Attachment 6**.

Customer service actions

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

1.4 SITE DESCRIPTION

The subject site is located at 14 Cosgrove Avenue, Keiraville and the title reference is Lot 90 DP 1086429. The lot is situated on the western side of Cosgrove Avenue, close to the T- junction with Andrew Avenue. Cosgrove Avenue is a cul-de-sac.

The land is irregular in shape with a narrow access handle from Cosgrove Avenue with a width of 18.62m. The site has a total area of approximately 41,934sqm. The R2 zoned portion of the site is approximately 36,753sqm. The E2 zoned land is located in the south west corner of the lot.

The site is vacant lot and partially cleared that generally coincides with the centre ridgeline of the site. The remainder of the site is significantly vegetated. A watercourse traverses the edge of the south west corner of the site.

The site is located on a moderate to steep sided ridge that extends down from Mount Keira on the Illawarra Escarpment in an approximate east west direction towards the Cosgrove Avenue. From the top of the ridge (western boundary) to Cosgrove Avenue there is a fall of approximately 76m.

Development south of the site comprises of the rear yards of the residential lots along Cedar Grove and to east the rear yards of properties along the western side of Cosgrove Avenue both with predominantly detached dwellings. To the north of the site is land that forms part of University of Wollongong that is heavily vegetated and immediately west is an unformed road with the foothills of Mount Keira beyond that forms part of the Illawarra Escarpment. At the frontage of the site at Cosgrove Avenue, to the south east is a small lot containing an electricity substation. Immediately south is 2 Andrew Avenue and north 12 Cosgrove Avenue with a two storey dwelling.

Generally, development in the vicinity of the site comprises of low-density development with a mix of single to two storey detached dwellings with associated outbuildings.

Aerial photographs of the site and locality and WLEP zoning map are provided at **Attachment 2**.

Property constraints

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

- Flood affected – uncategorised flood risk precinct
- Bushfire prone land

- Unstable land
- Natural resource sensitivity – biodiversity
- Illawarra Escarpment Area
- Heritage conservation area – Illawarra Escarpment Landscape Area

There are no restrictions on the title.

1.5 SUBMISSIONS

The application was exhibited in accordance with Council's Community Participation Plan 2019. A total of 105 total submissions with 104 unique submissions were received, and the issues identified are discussed below.

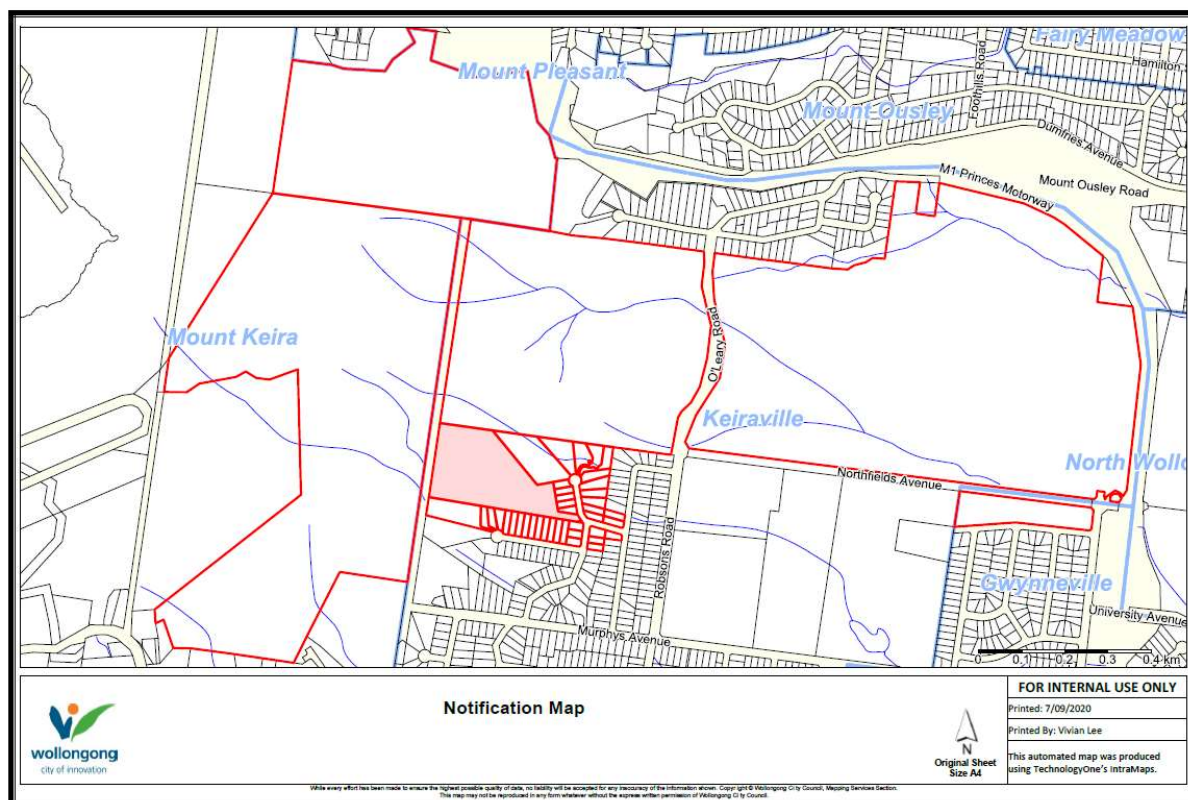


Figure 1: Notification map (subject site highlighted)

Table 1: Submissions

Concern	Comment
1. Geotechnical concerns - slope instability - increased risk of landslip - site safety and stability due to the extent of proposed earthworks, tree removal and design of the proposal	<p>The application has been reviewed by Council's Geotechnical Engineer in relation to site stability with regard to the Geotechnical reports submitted with the application dated 2017 by Coffey Geotechnics and 2019 by GHD.</p> <p>The reports confirm that the proposed construction area is at low to moderate risk of slope instability with weathered bedrock determined at shallow depth. Recommendations have been made for bulk earthworks, excavation conditions and construction of footings. In this regard the excavations up to 10m in depth are proposed most of which will be in weathered bedrock. Satisfactory referral advice was provided by Council's Geotechnical Officer where it was considered</p>

Concern	Comment
	the proposal could be supported with the geotechnical conditions subject to recommended conditions.
<p>2. Traffic, access, parking, safety</p> <ul style="list-style-type: none"> - increase in traffic generation - adverse impact on local road network, - congestion - insufficient parking - safety of pedestrians, - traffic impact assessment is deficient and has not considered the draft Keiraville Access and Movement Study - inadequate access within and ingress/egress to the site and in the event of an emergency 	<p>Suggestions have made in the submissions that Council's draft Keiraville-Gwynneville Access and Movement Study is a relevant consideration for the traffic assessment. It is noted that the draft Keiraville-Gwynneville Access and Movement Study is concerned with the wider locality, pedestrian and cycle way provision and not just traffic impacts. Traffic impact assessments (TIA) assess development impacts in relation to a specific site and proposed development that is required as per Chapter E3 of WDCP 2009.</p> <p>A TIA was submitted with the application and was reviewed by Council's Traffic Officer considers the methodology used satisfactory including traffic volumes and RTA guideline rates. Overall, it is considered the proposal is unlikely to generate traffic that will adversely impact the local road network and the development design will not adversely impact pedestrian safety external to the site.</p> <p>However, concerns have been raised with the emergency services access, grades and internal road design provided with the development in addition, comments from the RFS that are discussed further in section 1.6.2 and section 3.4.1.</p> <p>It is noted that the parking proposed the development complies with the rates in Chapter E3 of WDCP 2009, albeit concerns raised with the location of some proposed visitor car parking and bicycle spaces.</p>
<p>3. Stormwater/Flooding matters</p> <ul style="list-style-type: none"> - stormwater runoff impacts - Inadequate stormwater drainage proposed for development 	<p>Council records identify the site to be flood hazard affected and within an uncategorised flood risk precinct. The application has been reviewed by Council's Stormwater Officer where it has been provided the flooding within the vicinity of the site is confined to the watercourses within valleys to the north and south of the development. The development itself is located wholly above the flood planning level and is unlikely to result in adverse flooding impacts.</p> <p>However, significant concerns have been raised with regard to the proposed stormwater design for the development that results in the diversion of water from existing catchment areas that is inconsistent with Council's Policies and unsatisfactory referral advice has been provided by Council's Stormwater Officer. Refer to further discussion on the matter in Chapter E14 Stormwater Management of WDCP 2009 at section 3.4.1 of the report.</p>
<p>4. Bushfire impacts</p> <ul style="list-style-type: none"> - increased risk - non-compliance with Planning for Bushfire Protection 	<p>The site is identified to be bushfire prone land and the development is Integrated Development under the Rural Fires Act 1997. The application was referred to the NSW Rural Fire Service (RFS) and correspondence provided raised a number of issues with the development. As no further information was submitted, the matters remain outstanding and the proposal has not demonstrated compliance with the requirements of</p>

Concern	Comment
	<p>Planning for Bushfire Protection (PFBP) 2006. As a result, the RFS could not issue their approval, in terms of a Bushfire Safety Authority. It is considered the proposal has failed to demonstrate it has been designed to adequately address the bushfire matters and does not comply with PFBP 2006.</p> <p>Refer to further discussion about the matter is provided in section 1.6.2 and Chapter E16 Bush Fire Management in WDCP 2009 at section 3.4.1 of the report.</p>
<p>5. Visual amenity impacts on the Illawarra Escarpment/ adequacy of visual impact assessment</p>	<p>It is considered there are deficiencies in the visual impact assessment submitted and the proposal has not demonstrated it will not result in adverse visual impacts within on the Illawarra Escarpment.</p> <p>Refer to further discussion on the matter provided at section 3.2.6 under Clause 5.10 of WLEP 2009 and in Chapter B6 Development in the Illawarra Escarpment and Chapter E11 of WDCP 2009 at section 3.4.1.</p>
<p>6. Aboriginal cultural heritage impacts on Mount Keira</p>	<p>Mount Keira is considered to be of high cultural landscape significance to the local Aboriginal Community and the submitted Aboriginal Cultural Heritage Assessment Report does not adequately consider this cultural significance.</p> <p>The application was reviewed by Council's Heritage Officer and unsatisfactory referral advice was provided. Refer to further discussion on the matter at Chapter E10 Aboriginal Heritage in WDCP 2009 in section 3.4.1.</p>
<p>7. The proposal is inconsistent with the objectives of the R2 and E2 zoning for the land</p>	<p>The proposal is considered inconsistent with objectives of the R2 Low Density Residential and E2 Environmental Protection zoning for the land as discussed in clause 2.3 of WLEP 2009 at section 3.2.6.</p>
<p>8. Inappropriate scale and density of the development for the location /Overdevelopment of the site</p>	<p>The design and density of the development is not considered appropriate for the site, being located in a prominent location with significant site constraints. The proposal presents as an overdevelopment of the site and would likely result in adverse environmental, cultural, amenity impacts and is therefore inconsistent with the character of the locality.</p> <p>This matter is discussed throughout the report and also highlighted in the Design Review Panel comments at Attachment 3.</p>
<p>9. Inconsistent with the existing and desired future character of the locality</p> <ul style="list-style-type: none"> - gated community - loss of neighbourhood and community for Keiraville 'village' 	<p>The proposed development is considered to be inconsistent with the existing character of Keiraville. However, whilst it is noted the development type is supported as desired future character, the design of the development is not considered appropriate for the site. Refer to discussion in Chapter D1 Character Statements at section 3.4.1.</p>
<p>10. Not within public interest and will a set a precedent</p>	<p>The application is likely to have unreasonable impacts on the environment and the amenity of the locality. The proposal is considered inappropriate with consideration to site constraints, contrary to the relevant planning controls and in the current form, would not be</p>

Concern	Comment
	considered in the public interest and approval of the development would set an undesirable precedent.
11. Reasoning for zoning changes of the site prior to WLEP 2009	Previously under WLEP 1990 the site was zoned 2a Low Density Residential and 7b Environmental Protection Conservation Zone. This would translate to the same portions of the site with the current zoning of the land under WLEP 2009 as R2 Low Density Residential and E2 Environmental Protection under WLEP 2009. Whilst submissions have raised concerns to the reasoning of potential zoning changes prior to WLEP 2009. The application requires to be assessed under the current zoning of the land under WLEP 2009.
12. Poor design and unacceptable internal amenity for future occupants	It is considered the design of the proposal has not appropriately responded to the inherent site constraints, natural landform features or the unique context and character resulting in adverse environmental and amenity impacts. In addition, poor amenity of the future occupants of the development that are further discussed in Design Review Panel comments at Attachment 3 and in the non-compliances of the proposal with WDCP 2009 at section 3.4.1.
13. Amenity impacts on adjoining properties relating to privacy, noise, overshadowing	It is considered that the proposal has not adequately demonstrated that will not be adverse amenity impacts on the adjoining properties. Refer to discussion on this matter in WDCP 2009 at section 3.4.1.
14. Strain on existing road and infrastructure in the locality and no provision of amenities/infrastructure from the development	The application has been reviewed by Council's Traffic Officer and it is considered there that there is capacity within the local road network to cater for the proposed development. Council's policies do not require applications for multi-dwelling developments to provided amenity and infrastructure provision for community. However, if the application was to be approved development contributions would apply to the development, that would fund public infrastructure in accordance with Council's Wollongong City-Wide Development Contributions Plan 2019. However, in this instance, this would not apply as the application is recommended for refusal.
15. Inadequate/inappropriate waste disposal and collection	The proposal seeks Council's waste collection within the site. The application has been reviewed by Council's Traffic Officer and considers this appears generally being capable to be catered for. However, concerns are raised with regards to other waste management matters discussed in Chapter E7 Waste Management at section 3.4.1.
16. Light pollution	The application has not considered the impacts of light pollution for the proposal with the site being situated in such a prominent location. Due to insufficient information being provided, it is considered the proposal could have potential amenity impacts on the locality and surrounding area in this regard.
17. Construction impacts	It is considered there could be potential construction impacts for the proposal due to the topography of the site, limited access and design of the development. The proposal did not provide a Preliminary Construction Traffic Management Plan to consider this matter in

Concern	Comment
	accordance with Chapter E3 of WDCP 2009. Noise construction impacts related to the extensive amount of excavation and associated machinery and truck movements were also raised by Council's Environment Officer. This matter has not been adequately addressed with the provision of a construction noise/acoustic assessment and management plan.
18. Environmental impacts on flora and fauna, loss of habitat including koala sighting	The proposal fails to demonstrate compliance with a number of relevant policies and plans and therefore considered the development will likely result in adverse environmental impacts. This is discussed throughout the report, refer to sections 2.1, 3.1 regarding the assessment under the Biodiversity Conservation Act, relevant state policies relating to Koala Habitat Protection 3.2.2, 3.3.3 and relevant clauses and chapters in WLEP 2009 and WDCP 2009 in sections 3.2.6 and 3.4.1.
19. Not ecologically sustainable development/inadequate consideration of climate change impacts	The proposal is considered to be inconsistent with the principles of Ecologically Sustainable Development, refer to discussion in Chapter A2 of WDCP 2009 in section 3.2.6.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Details of the proposal were referred to Council's Geotechnical and Subdivision Officers for assessment and satisfactory referral advice was provided. Comments received from Council's Stormwater, Landscape, Traffic, Environment, Heritage, Strategic and SCAT Officers raised a number of concerns and provided unsatisfactory referral advice that is discussed throughout the report on the relevant sections. It is noted that unsatisfactory referral advice from the internal referrals is presented in Council's letter to the applicant at **Attachment 4** which remains outstanding.

1.6.2 EXTERNAL CONSULTATION

NSW Rural Fire Service (RFS)

The proposal is Integrated Development for a Special Fire Protection Purpose under section 4.46 of the EP& A Act 1979 and section 100B of the Rural Fires Act 1997 as the development seeks subdivision on bushfire prone land requiring a Bush Fire Safety Authority from the NSW RFS. Details of the proposal were referred to the NSW RFS and correspondence was provided to Council dated 21 April 2020 requesting additional information to address the following matters:

1. Considering the density and location of the proposed development within the landscape the proposed development is required to provide reticulated water in accordance with the provisions of AS 2419.1-2005;
2. The current access arrangements appear to be impractical and does not provide RFS vehicles with suitable access to buildings within the site. Preferably, access should be a through road or should provide suitable turning areas to allow for RFS vehicles to enter and exit in a forward direction;
3. The development gains access from a single point from Cosgrove Avenue and there does not appear to be an opportunity to provide a second access point to the public road network. Considering the density of the proposed development the NSW RFS prefers two points of access to the public road network, providing through roads access to the development. The NSW RFS requires additional bushfire protection measures to be incorporated into the subdivision;
4. It appears there are a mixture of vegetation types impacting on the proposed development. It is likely disturbed vegetation on the northern elevation and south western elevation of the proposed development would regenerate to Illawarra Escarpment Blue Gum Wet Forest. Please provide a revised vegetation assessment, which addresses all hazardous vegetation within 140m of the development site;
5. The APZ tables of Planning for Bushfire Protection are provided for acceptable solutions only, with slopes up to 20 degrees. Effective slopes in excess of 20 degrees downslope will require a detailed performance assessment.

Further RFS correspondence dated 3 August 2020 provided to Council noted that the RFS cannot support the proposed development as the requested information has not been received within the legislative timeframe to allow for assessment of the application against the aims and objectives of Planning for Bushfire Protection 2006. Therefore, the matters raised by the RFS remain outstanding and General Terms of Approval were not issued for the application.

Natural Resource Access Regulator (NRAR)

The proposal seeks works within 40m from the top of bank of the watercourse associated with asset protection works. The application was considered Integrated Development pursuant to the Water Management Act 2000 requiring a Controlled Activity Approval under section 91(2). The development application was referred to NRAR for their General Terms of Approval and the following comments were provided with regard to the application:

The Natural Resources Access Regulator has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary. The proposal is generally consistent with the clearing of land exemption of the Water Management Regulation 2018 (Sch 4, cl 25).

Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then the Natural Resources Access Regulator (NRAR) should be notified.

Therefore, the application is not considered Integrated Development pursuant to the Water Management Act 2000.

Department of Planning, Industry & Environment (DPIE) – Environment, Energy and Science (formerly known as NSW Office of Environment & Heritage now known as Heritage NSW)

The application was referred to DPIE – Environment, Energy and Science for concurrence with regard to whether the proposal requires an Aboriginal heritage impact permit (AHIP) under section 90 of the National Parks and Wildlife Act 1974 and General Terms of Approval required. Correspondence received by Council dated 22 January 2020 provided that the application does not require an AHIP or GTAs as the Aboriginal cultural heritage assessment report submitted has not identified any Aboriginal objects within the proposed development area and harm to Aboriginal objects is not being proposed.

However, the following matters were requested to be addressed in the application as provided below:

We support the recommendation (Biosis 2019) for an interpretive strategy to appropriately recognise the Aboriginal cultural values of Mount Kiera. We suggest that this should include consultation with appropriate Aboriginal knowledge holders. It may be appropriate for intangible Aboriginal cultural values to be recognised through the design of the development, however, this can only be determined in consultation with the appropriate Aboriginal community members. This is likely to be best achieved before the DA is finalised and through consultation between the Aboriginal community, Council, the applicant, Heritage NSW and our office.

We also request that:

1. The applicant clarify whether the proposed development overlaps with the mapped extent of site 52-2-3198 as shown in the AHIMS site card.
2. The finalised ACHAR and archaeological report must be provided to the Registered Aboriginal Parties.
3. The finalised ACHAR and archaeological report must be submitted to the AHIMS Registrar: ahims@environment.nsw.gov.au.

The above request was included in Council's letter to the applicant dated 8 May 2020. The applicant's letter in response dated 30 June 2020 was referred to Heritage NSW to review. Correspondence provided by Heritage NSW dated 10 September 2020 provided that points 1 and 3 have been addressed however, item 2 raised remains outstanding. In addition, it was reiterated that the support for the provision of an interpretive strategy and also an Aboriginal Heritage Management Plan prepare before any development consent is finalised given the matters raised in the submission from the Illawarra Local Aboriginal Land Council.

Design Review Panel

The application was subject to a voluntary Design Review Panel process which was considered by the Panel on 26 March 2020. In summary, the Panel did not support the proposal providing that the significant environmental constraints and visual prominence of the site, a far more sensitive design approach that responds to and works with the steep topography of the site.

The Panel recommended that alternative strategies be developed for consideration that focus on smaller groupings of dwellings that step with the topography. The DRP meeting notes and recommendations are presented at **Attachment 3**.

No amended plans or design concepts have been submitted by the applicant and therefore the matters raised by the Panel have not been addressed and remain outstanding.

Sydney Water

Details of the application submission were referred to Sydney Water for comment. Advice provided to Council dated 30 March 2020 indicate water servicing should be available however amplifications may be required and wastewater services although extensions will be required to be undertaken to service the development where full details would be provided at the Section 73 application stage.

Endeavour Energy

The application was referred to Endeavour Energy under clause 45 of SEPP(Infrastructure) 2007 as the development is likely to affect an electricity transmission or distribution network with the site being adjacent a lot the Cosgrove Avenue frontage on Lot 1 in DP 419934 containing a substation. Correspondence provided by Endeavour Energy dated 3 February 2020 raised no objection to the development application subject to the recommendation and comments that primarily related to the design requirements of the proposed new padmount electrical substation on the site towards the frontage of the site north of the driveway.

Illawarra Local Aboriginal Land Council

A submission was received from the Illawarra Local Aboriginal Land Council on 23 March 2020. Comments provided that it was noted the submitted Aboriginal Cultural Heritage Assessment Report did not identify any item that at the time was considered significant, however they assert that the report focussed primarily on Aboriginal objects and gave little consideration for cultural practices and landscape both of which are applicable to Mt Keira and the surrounding areas.

Concerns were raised in relation to the "Cultural Landscape" and the visual impact of a significant development such as that proposed, on the visual cultural amenity of the area. and the linkages

between the coast and Mt Keira a very significant cultural connection for Aboriginal people in this region. In particular, the visual impact that a development such as this will create is beyond what we would deem suitable for this area. It was asserted that to assist maintain the cultural landscape that a development that allowed for greater revegetation or vegetation between structures would be more appropriate and align with the cultural values that the Aboriginal people of the region value in this specific area. In the submission the Illawarra Local Aboriginal Land Council consider reducing the visual impact created by any development and ultimately emphasising the cultural and vegetative connection Aboriginal people have with the area.

2 OTHER ACTS OF LEGISLATION

2.1 COMMONWEALTH ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

The site is identified to contain native vegetation listed as a Critically Endangered Ecological Community (CEEC) under the Commonwealth Environmental Protection and Biodiversity Conservation (EPBC) Act 1999 known as the Illawarra Subtropical Rainforest.

The Biodiversity Assessment Report (BDAR) submitted with the application has reviewed the impacts of the Illawarra Subtropical Rainforest. Local vegetation mapping (NPWS 2002) indicates approximately 3 hectares of the CEEC within the locality. The proposed removal of 0.2 hectares of Illawarra Subtropical Rainforest represents 6% of the community with the locality.

The application was reviewed by Council's Environment Officer and it is considered the proposal will not have a significant impact on the CEEC such as requiring a referral to the Commonwealth for approval from the Australian Government Minister for the Environment and Energy.

In addition, it is considered the site provides suitable foraging habitat for the EPBC Act vulnerable threatened species listed Grey-headed Flying-fox. The submitted BDAR has not assessed the potential impacts assessment against the EPBC Act requirements.

3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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.

3.1 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.

The site is identified to have native vegetation of NSW plant community type Illawarra Subtropical Rainforest. This plant community type on the site is listed as a threatened ecological community (TEC) under the BC Act as Illawarra Subtropical Rainforest.

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 has been triggered by clearing 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).

A total area of 0.25 hectares of 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 triggers the requirement for a biodiversity offset scheme.

Part 6 of the BC Act outlines the details of the NSW Biodiversity offset scheme and details the requirements of the biodiversity development assessment report (BDAR).

A BDAR prepared by Biosis was submitted with the application. The key objective of the BDAR process is to avoid impacts as much as practicable. This has not been demonstrated in the BDAR.

Specific assessment and discussion around alternative siting and design has not been provided to reduce the impacts on native vegetation such as reduced lot yield, alternative shape of development, etc including maps or plans in accordance with Part 1.1 of the Biodiversity Assessment Method Operational Manual – Stage 2 (DPIE 2019).

The submitted BDAR contains a significant number of deficiencies related to:

- Interim Biogeographic Regionalisation of Australia (IBRA) subregions;
- Identification and naming of plant community types (PCTs);
- Biodiversity Assessment Methodology (BAM) Assessment Plots and Vegetation Integrity Scores;
- Threatened Species – a number of threatened species discounted or not identified and not surveyed for, incomplete assessment (including and not limited to the Grey-Headed flying fox, Eastern Bentwing Bat, Stuttering Frog, Scrub Turpentine);
- Discussion of how the proposal avoids impacts on native vegetation - specific assessment and discussion around alternative siting and design;
- None to minimal discussion about other limiting constraints on the proposed development and potential indirect impacts of the development in particular on groundwater and stormwater infiltration;
- Mitigation measures including the deficiencies in the Vegetation Management Plan provided
- Not all identified residual direct impacts presented are offset through the Biodiversity Offset Scheme; and
- Potential for the proposal to represent a serious and irreversible impact (SAII) on the Illawarra Subtropical Rainforest (PCT 1300), a threatened ecological community (TEC).

Overall, the proposed development has not demonstrated it has been designed and sited to avoid impacts with the extent of native vegetation removal sought to minimise adverse environmental impacts.

Council's Environment Officer has reviewed the application and considered the proposal unsatisfactory with regards the requirements of the BC Act.

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

3.2.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

SEPP applies to all of NSW. Clause 7 of the SEPP lists the matters the consent authority must consider as part of the assessment of any development application.

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).*

Council records do not indicate the site as being contaminated and a desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site.

A Preliminary Site Investigation (PSI) has been provided where the following potential sources of contamination, areas of environmental concern (AEC) were identified: AEC 1 with potential localised fill within the eastern portion of the site near Cosgrove Avenue and AEC 2 with potential former herbicide or pesticide use within the south western corner where the tributary passes through the site.

The submitted PSI concluded that based on the site history and site observation result, the potential for contamination to be present at these AECs was assessed as low. As there is considered to be a low potential for contamination from previous site uses, no further investigation with respect to contamination is considered necessary.

Council's Environment Officer has reviewed the history of the site in conjunction with the submitted documents and considers the site presents low risk for contamination and that the site can be made suitable for the proposed residential use subject to conditions including an unexpected finds protocol. The proposal is considered satisfactory with regard to clause 7 of this policy and will be suitable for the intended use.

3.2.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 44 (KOALA HABITAT PROTECTION)

Clause 5 Land to which this Part applies

This Policy applies to the Wollongong local government area listed in Schedule 1.

Part 2 Development control of koala habitats

Clause 6 Land to which this Part applies

The site is land to which this Policy applies and in relation to which a development application has been made that has an area more than 1 hectare. The subject site has a total area of approximately 4.19 hectares.

Clause 7 Step 1 – Is the land potential koala habitat?

potential koala habitat means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

The submitted BDAR identified one tree type in Schedule 2, the *Eucalyptus microcorys*, Tallowwood on site. The number of trees identified on the site was less than 15%. Therefore, it is considered the land is not potential koala habitat.

Clause 8 Step 2 – Is the land core koala habitat?

core koala habitat means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.

There is no evidence of a resident and/or breeding population on site. Whilst there has been reports of a recent sighting of a koala, this was a single individual in the immediate vicinity and not a population. Therefore, it is considered the land is not core koala habitat.

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

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

The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged.

3.2.4 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011

The proposal is Regionally Significant Development to be determined by the Regional Planning Panel pursuant to clause 2.15 of the Act and Part 4, Schedule 7 of this policy as the development has a capital investment value of more than \$30 million.

3.2.5 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Clause 45 Determination of development applications – other development

The development is likely to affect an electricity transmission or distribution network with the site being adjacent a substation located on the adjoining property Lot 1 in DP 419934 south east of the Cosgrove Avenue frontage. Correspondence provided by Endeavour Energy dated 3 February 2020 raised no objection to the development application subject to the recommendation and comments that primarily related to the design requirements of the proposed new padmount electrical substation on the site towards the frontage of the site north of the driveway.

3.2.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note—Multi dwelling housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

Subdivision is not specifically defined within the Plan. Section 6.2 of the Environmental Planning and Assessment Act 1979 however defines the ‘subdivision of land’ as the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be affected:

- by conveyance, transfer or partition, or
- by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

The proposal falls within these definitions.

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 R2 Low Density Residential and E2 Environmental Conservation.

Clause 2.3 – Zone objectives and land use table

The objectives of the R2 zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal is satisfactory with regard to providing for housing needs of the community. However, the design of the development is not considered appropriate for the site as discussed in other sections throughout the report.

It is noted that the subject site, while large, is a battle-axe shaped block, with the residential zoned portion of the site located on a prominent spur, well above the level of the surrounding residential area. The subject site is located on the edge of the residential area, adjoining the Illawarra Escarpment and with the E2 portion of the site being mapped as part of the Illawarra Escarpment area. The general approach to development near the Illawarra Escarpment is to have a decreasing gradient of density as the development area moves west toward the escarpment.

While the R2 zoning permits a range of dwelling types and densities, to provide flexibility in dwelling types and densities to suit the variety of landforms and conditions to which the R2 zone applies, a large proportion of the site is undevelopable due to the constraints and topography. That has resulted in buildings located into the central portion of the site where large groupings of dwellings are proposed with relatively tight spaces created between dwellings. This results in a distinctly urban building typology, which is at odds with the natural environment and scenic quality of site. Presenting the proposed multi dwelling development of 47 dwellings is an overdevelopment of this particular site and would be more appropriate located closer to a small commercial hub or public transport route.

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

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Hospitals; Hostels; Information and education facilities; Jetties; **Multi dwelling housing**; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals*

The proposal is categorised as a multi-dwelling housing as defined above and is permissible in the R2 zone with development consent.

The objectives of the E2 zone are as follows:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*
- *To retain and enhance the visual and scenic qualities of the Illawarra Escarpment.*
- *To maintain the quality of the water supply for Sydney and the Illawarra by protecting land forming part of the Sydney drinking water catchment (within the meaning of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011) to enable the management and appropriate use of the land by Water NSW.*

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

Environmental facilities; Environment protection works; Extensive agriculture; Oyster aquaculture; Recreation areas

The proposed Bushfire Asset Protection zone (APZ) encroaches into the E2 zoned land. This is shown clearly in Figure 2 of the submitted Vegetation Management Plan (VMP). This would result in detrimental impacts on the vegetation and ecological values, particularly with the extent to which the APZ is proposed to be managed where 85% of trees are proposed to be removed and extensive maintenance paths across the entire APZ area. Additionally, APZ are works ancillary to the multi dwelling housing that is not permissible in the E2 zone.

The applicant has provided in their letter prepared by City Plan dated 30 June 2020 that an error was made in the VMP document and the submitted architectural plans show that no part of the E2 zoned land will form part of the APZ. However, no further information or amended VMP has been submitted by the applicant to clarify this matter or make this correction. Therefore, it remains an outstanding matter.

Whilst the proposed works and built form are primarily located within the R2 zone, environment/ecological impacts from the development with regard to the diversion of the catchment

area away from existing vegetated areas that include the E2 zoned site have not been considered. In addition, it is considered the proposal presents an inadequate assessment of the potential visual and cultural impacts of the proposal in the Illawarra Escarpment. Overall, the proposal is considered inconsistent with the objectives of the E2 zone.

Clause 2.6 Subdivision—consent requirements

Land may be subdivided, but only with development consent.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

The proposal seeks the strata subdivision of the dwellings. The minimum subdivision lot size does not apply in relation to the subdivision of any land by strata plan under clause subclause (4)(a).

Clause 4.3 Height of buildings

The proposed building does not exceed the maximum of 9m permitted for the site.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.5:1

Site area: 36,753m² (R2 zone)

GFA: 9,322m²

FSR: $9332/36753 \text{ m}^2 = 0.25:1$

Clause 4.5 Calculation of floor space ratio and site area

The site contains R2 and E2 zoned land and multi-dwelling housing is prohibited in the E2 zoned therefore under subclause (4)(a) the land that is zoned E2 is excluded from the site area as reflected above. The total site area of the lot is 41,934sqm and the E2 zoned portion of the site is 5181sqm with the remaining R2 zoned portion 36,753sqm considered to be site area for the purposes of calculating floor space ratio.

Clause 4.6 Exceptions to development standard

The subject development seeks an exception to a development standard:

- Clause 7.14 Minimum site width

The applicant has submitted a Clause 4.6 Statement addressing the requested exception that is included as **Attachment 7** of this report.

The minimum site width for a multi dwelling housing development required to be at least 18 metres. A portion of the site, along the length at the access handle towards the frontage of site has a minimum width of 16.88m when measured perpendicular the site boundaries. This is a variation of 1.12m (6.2%).

The table below outlines Council's assessment of the exception sought:

Table 1: Clause 7.14 Minimum site width of WLEP 2009

Development Departure	Clause 7.14 Minimum site width of 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>The applicant has provided a written request justifying the exception to the site width development standard as provided at Attachment 7 to this report.</p> <p>The justification provided is summarised below:</p> <ul style="list-style-type: none"> • <i>The minor variation occurs because of the irregular shape of the lot and is limited to the site access handle only. The subject site has a street frontage of 18.62 metres and at</i>

	<p><i>the proposed building line the width of site measures approximately 70 metres.</i></p> <ul style="list-style-type: none"> <i>The area on which the housing is proposed to be carried out (i.e. the area inside the proposed ring road) has dimensions of approximately 73m (width) and 261m (depth).</i> <i>Such dimensions are clearly generous and can easily accommodate residential development without unreasonable amenity impacts on the proposed and surrounding residences. The reduced minimum site width does not prevent a suitable development from being designed for the site with all minimum setbacks, parking, deep soil and landscaping requirements being exceeded.</i> <i>The extent of built form within the non-complying portion of the site is extremely minor and is limited to a 2-way driveway, stairs, retaining walls, substantial landscaping as well as ancillary items such as a substation, letterboxes and drainage. Such elements would not result in any unreasonable impacts to the streetscape or to the amenity of the proposed or surrounding dwellings. The actual street frontage width is 18.62 metres and complies.</i> <i>The subject site provides sufficient area to avoid unreasonable impacts on the subject site, as well as to existing development on adjoining allotments.</i> <p><u>Council comment:</u></p> <p>It is recognized that there is flexibility in assessing the site width control, provided the WDCP 2009 objectives for site width are addressed in the clause 4.6 written request, and the following is ensured:</p> <ul style="list-style-type: none"> all other WDCP 2009 controls are accommodated, any consequential non-compliance of WDCP controls are mitigated, and an accumulation of non-compliance of controls does not occur. <p>It is considered the justification provided does not demonstrate the request meets the relevant tests as discussed throughout the report and discussed further below.</p>
<p>(b) That there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>No.</p> <p>The applicant has noted environmental planning grounds to justify the departure include:</p> <ul style="list-style-type: none"> <i>The objects of the Act (EP&A Act 1979) are satisfied:</i> <i>It promotes the orderly and economic development of the R2 zoned portion of the subject site by providing pedestrian and vehicular access;</i> <i>It does not result in any unreasonable impacts to the environment, including the natural, built, economic and social environment. Instead, it is likely to result in positive impacts, such as increasing housing opportunities; and,</i> <i>Good design and amenity of the built environment' will be achieved on the portion of the site which does not comply with</i>

	<p><i>the standard. This is achieved with landscaping and low scale-built form (i.e. retaining walls, substation, letterbox wall, stairs and front fencing/walls) which provides an improved sense of address and presentation to the street compared to the current offering</i></p> <ul style="list-style-type: none"> • <i>Minor exception</i> <p><i>The proposal does not satisfy the standard by 1.12m when measured perpendicular to the property side boundaries at the front portion of the site (up to a depth of approximately 45 metres). This is a minor quantity and would not fundamentally undermine the intent of the standard or set an undesirable precedent. The street frontage width complies as does the width of area identified suitable for development.</i></p> <ul style="list-style-type: none"> • <i>No unreasonable impacts</i> <p><i>The variation sought does not result in any unreasonable impacts. The portion of the site on which the variation is sought does not contain any habitable floor space and is limited to retaining walls, a substation, letterbox wall, stairs, driveway, front fencing/walls and extensive landscaping. As a result, there will be no impacts in terms of bulk and scale, overlooking, overshadowing or the like, to any adjoining properties from that portion of the site on which the variation is sought</i></p> <ul style="list-style-type: none"> • <i>Orderly and economic development of land</i> <p><i>If compliance with the standard is enforced, development of the subject site for the purposes of multi dwelling housing, as is permitted in the subject R2 - Low Density Residential zone, cannot be delivered. As such, the exception will facilitate the orderly and economic use of the land.</i></p> <ul style="list-style-type: none"> • <i>Wollongong DCP 2009 is satisfied</i> <p><i>The development complies with the setbacks, private open space, visual amenity, solar access, built form and landscaping requirements of the DCP.</i></p> <p><u>Council comment:</u></p> <p>It is considered that the proposal has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as discussed throughout the report.</p> <p>The proposal presents a number non-compliances with the WDCP 2009 controls private open space, visual amenity, solar access, built form and landscaping as discussed in section 3.1.4 of the report. In addition, to poor design and landscaping outcomes raised by DRP in Attachment 3.</p>
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 applicant's written request is considered not to have adequately addressed the matters required to be demonstrated by subclause (3) as outlined above.
(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	There are no objectives for the minimum site width standard provided in clause 7.14 of WLEP 2009. However, Section 5.1 Minimum site width requirement Chapter B1 Residential Development in WDCP 2009 provides objectives in section 5.1.1 as follows:

<p>development within the zone in which the development is proposed to be carried out, and</p>	<p><i>(a) To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.</i></p> <p><i>(b) To encourage amalgamation of allotments to provide for improved design outcomes.</i></p> <p>The development controls in section 5.1.2 are as follows:</p> <p><i>1. The Wollongong LEP requires a minimum site width of 18 metres for multi-dwelling development. Site width is measured for the full width of the site, perpendicular to the property side boundaries.</i></p> <p><i>2. A minimum site width of 18m is required for attached dwelling development. Site width is measured for the full width of the site, perpendicular to the property side boundaries. This control may be varied for irregular shaped lots or where the development meets the requirements of setbacks, private open space, visual amenity, solar access, built form and landscaping.</i></p> <p><i>3. Sites should be amalgamated, where required, to achieve the minimum site width requirement.</i></p> <p>It is considered that sections 5.1.1 and 5.1.2, provides objectives and relevant development controls for achieving cl7.14 (1) of the WLEP 2009. This is consistent with Blasi v Wollongong City Council [2018] NSW 1074. This has been provided in the applicant's request and Council concurs.</p> <p>The objectives of the R2 zone as follows:</p> <ul style="list-style-type: none"> <i>• To provide for the housing needs of the community within a low density residential environment.</i> <i>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>The development is considered to be inconsistent with the above objectives.</p> <p><u>Section 5.1.1 of Chapter B1 of WDCP 2009</u></p> <p>Whilst it is recognised that there is sufficient size on the site to accommodate a multi-dwelling development, the development itself has not demonstrated that the proposed site is suitable for the proposed building envelope and adequate landscaping provision.</p> <p><u>R2 zone</u></p> <p>The proposal is satisfactory with regard to providing for housing needs of the community. However, the design and density of the development is not considered appropriate for the site, located in a prominent location with significant site constraints and would likely result in adverse environmental, cultural, amenity impacts and is inconsistent with the character of the locality as discussed in other sections throughout the report.</p> <p>The development is not considered to be in the public interest.</p>
	<p>(b) the concurrence of the Planning Secretary has been obtained.</p>
	<p>The concurrence of the Secretary has been provided via delegation to the Panel.</p>

It is considered the exception to the development standard is not capable of support.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

Part of the site is identified as a Heritage Conservation Area shown on the Heritage Map and described under Part 2, Schedule 5 of WLEP 2009, being the E2 zoned portion of the land located within the Illawarra Escarpment Landscape Area, item no. 6480 is required for works within a heritage conservation area and subdividing of land. Vegetation management works are proposed within the E2 zoned land.

In addition, the subject land is within the vicinity of the State general and landscape heritage item no. 5904 "Gleniffer Brae" and surrounding garden located at Wollongong Botanic Garden, Keiraville on Lot 3 DP 252694 and locally listed Kemira Colliery at Mount Keira Road, on Part Lot 31, 32 DP 751299 and Lot 1 DP 852788.

A Heritage Impact Statement (HIS) was submitted with the application and reviewed in conjunction other documents by Council's Heritage Officer. It was considered that the proposal will have significant visual and cultural impacts on Gleniffer Brae and the Illawarra Escarpment State Heritage Conservation Area as well as on Mount Keira. There are a number of deficiencies in the submitted HIS however, it has not adequately assessed the potential heritage impacts with regard visual impact of the proposal on the Illawarra Escarpment and Gleniffer Brae, failing to address the findings of the Visual Impact Assessment and Arborist Report submitted in the report.

The proposal sought is considered an overdevelopment of the site and will have significant visual and cultural impacts on Gleniffer Brae and the Illawarra Escarpment State Heritage Conservation Area as well as on Mount Keira. It is considered the heritage assessment submitted is inadequate and the proposal has not demonstrated it will conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The site is not currently serviced by electricity, water and the disposal and management of sewage. Advice received from Sydney Water indicates that water servicing should be available however amplifications may be required and wastewater services although extensions will be required to be undertaken to service the development where full details would be provided at the Section 73 application stage. Advice from Endeavour Energy received indicates an adequate supply of electricity can be made to service the development with the proposed new padmount substation on site.

Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate the site is affected by "Natural Resource Sensitivity – Biodiversity". Approximately 1.5 hectares of the mapped lands will be directly impacted as a result of the proposal.

Clause 7.2 reads as follows:

(1) The objective of this clause is to protect, maintain or improve the diversity and condition of the native vegetation and habitat, including—

- (a) protecting biological diversity of native flora and fauna, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the recovery of threatened species, communities, populations and their habitats.*

(2) This clause applies to land that is identified as "Natural resource sensitivity—biodiversity" on the Natural Resource Sensitivity—Biodiversity Map.

(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the impact of the development on—

- (a) native terrestrial flora and fauna and its habitat, and*
- (b) native aquatic flora and fauna and its habitat, and*
- (c) the ecological role of the land, waterways, riparian land or wetland, and*
- (d) threatened species, communities, populations and their habitats.*

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development is consistent with the objectives of this clause and—

- (a) the development is designed, sited and managed to avoid potential adverse environmental impact, or*
- (b) if a potential adverse environmental impact cannot be avoided, the development—*
 - (i) is designed and sited so as to have minimum adverse environmental impact, and*
 - (ii) incorporates effective measures so as to have minimal adverse environmental impact, and*
 - (iii) mitigates any residual adverse environmental impact through the restoration of any existing disturbed or modified area on the site.*

The application was referred to Council's Environment Officer and it was considered the proposal fails to demonstrate compliance with the requirements of this clause.

The proposal has not demonstrated that it has been designed to avoid or minimise adverse impacts on the environment with the sole constraint/reasoning for the design appearing to be the maximising the development footprint based on the geotechnical capability of the site. That results in all the trees situated on the within the development footprint to be removed in addition to 85% of the trees within the Asset Protection Zone.

As discussed above in section 2.1 and 3.1 of the report the proposal does not comply with the requirements of Biodiversity Conservation Act 2016 with significant deficiencies in the submitted BDAR including a number of threatened species not identified or surveyed including the EPBC Act listed Greyheaded Flying fox and there is a lack of discussion of impacts in particular indirect impacts on groundwater and stormwater infiltration for the land. Of the identified direct impacts in the BDAR only a portion of these impacts are offset in the Biodiversity Offset Scheme.

It is considered that significant opportunity exists to further avoid impacts to biodiversity across the site and the proposal does not respond to meeting the objectives of the clause.

Clause 7.3 Flood Planning

Council records identify the site to be flood affected in uncategorised flood risk precinct. The application has been reviewed by Council's Stormwater Officer where it has been provided the flooding within the vicinity of the site is confined to the watercourses within valleys to the north and south of the development. The development itself is located wholly above the flood planning level and satisfies the requirements of this clause.

Clause 7.4 Riparian lands

Despite a watercourse traversing the south west corner of the site, Council records do not identify the land to be mapped riparian land. It is noted that NRAR did not consider the proposal to be Integrated Development under the Water Management Act 2000 as discussed in section 1.6.2.

Clause 7.6 Earthworks

A significant amount of bulk earthworks are proposed across the site to accommodate the proposed design with a maximum cut of up to 10m and fill up to 4-5m predominantly along the ridgeline of the property. This will result in the built form to be associated with significant podium areas, a series of high retaining walls and suspended parts of the driveway for the development. The site is located on a prominent ridgeline and is highly visible from numerous vantage points. The works are considered to impact the visual amenity of adjoining properties, surrounding area and the wider locality.

The earthworks with the associated built form will also result in the indirect impacts with the diversion of a significant catchment area (approximately 15,000sqm) to the existing drainage system in Andrew Avenue where this runoff currently does not drain. This will remove a significant portion of natural surface and subsurface flows from existing vegetated area within the site and within the natural valley and watercourses north and south of site. There has been limited to no consideration of the impacts of this diversion. The proposal will disrupt and have a detrimental effect on the existing drainage patterns in the locality and the potential for adverse impacts on a watercourse or environmentally sensitive areas.

In addition, significant land reshaping works are proposed for entire APZ zones along the NE and SW slopes of the site to be covered in an extensive network of 0.6m wide paths constructed a few metres

within each other shown on the APZ Maintenance Path Plan prepared by Land Team at **Attachment 1**.

The application has been reviewed by Council's Stormwater and Environment Officers and unsatisfactory referral advice has been provided with regard to this matter. It is considered the earthworks associated with the proposal will have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land.

Clause 7.8 Illawarra Escarpment area conservation

Council's records identify the site corresponding with the E2 zoned portion of the site to be within the Illawarra Escarpment area. Vegetation management works are proposed within this area with a number of inconsistencies and deficiencies within the VMP submitted.

Whilst most of the development with the built form located in the R2 zoned portion, the land is affected by this constraint and is immediately adjacent to the escarpment and on the foothills below Mt Keira. As such, the site forms part of the escarpment vista at this location due to the topography of the site and is an important interface between the developed residential areas of Keiraville, and the vegetated backdrop of the escarpment.

The site slopes steeply up from Cosgrove Avenue and adjoins large tracts of bushland leading up to Mt Kiera. The development is proposed for the prominent ridgeline area of the site and is highly visible from all surrounding areas. The proposal is not sympathetic to the environmental values of the escarpment and does not present a gradual transition to environmentally sensitive areas within the escarpment.

Council is not satisfied that the development of the land will be located so as to minimise any adverse impact on the natural features and environment of the Illawarra Escarpment, and will incorporate on the land, conservation and rehabilitation measures to enhance the Illawarra Escarpment.

Clause 7.14 Minimum site width

The minimum site width for a multi dwelling housing development required to be at least 18 metres. A portion of the site at the access handle towards the frontage of site has a minimum width of 16.88m when measured perpendicular the site boundaries. A Clause 4.6 variation request has been provided and it is considered that the proposed development has not demonstrated that it will achieve a better outcome for the site to the meet the objectives of clause 4.6 of WLEP 2009 to support a departure to the minimum site width. Refer to further discussion under Clause 4.6 above.

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

3.3.1 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT) 2019

This development application was lodged with Council on 7 January 2020 prior to the commencement of SEPP (Koala Habitat Protection) 2019 that commenced on the 1 March 2020. Section 15 contains savings provision relating to development applications, that if a development made, but not finally determined before the commencement of this Policy in relation to land to which this Policy applies must be determined as if this Policy had not commenced. Therefore, SEPP (Koala Habitat Protection) 2019 is considered a proposed instrument in the assessment of this application.

The City of Wollongong is identified within Schedule 1 as land to which this Policy applies. Wollongong is located within the South Coast Koala Management Area.

Part 2 Development control of koala habitats

Clause 10 of the SEPP applies as the land is not identified on the *Koala Development Application Map* and does not have an approved koala plan of management applying to the land. Therefore, Council is required to be satisfied that land is not core koala habitat.

core koala habitat means—

- (a) *an area of land where koalas are present, or*
- (b) *an area of land—*
 - (i) *which has been assessed by a suitably qualified and experienced person in accordance with the Guideline as being highly suitable koala habitat, and*
 - (ii) *where koalas have been recorded as being present in the previous 18 years.*

The land is to be assessed in accordance with (b). Under the *Draft Koala Habitat Protection Guideline*, if potential habitat is present in the subject site, then the subject site must be considered as to whether it is core Koala habitat. To assess whether the subject site is core Koala habitat, it must contain feed trees listed in Schedule 2 of the SEPP. The BDAR identifies the presence of the following tree species that are also in Schedule 2:

<i>Allocasuarina littoralis</i>	Black She-oak
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Corymbia maculata</i>	Spotted Gum
<i>Eucalyptus paniculata</i>	Grey Ironbark

As outlined in section 1.5 and 1.6 of the Guideline, if the proponent does not consider the site to be Core Koala Habitat, then a survey must be undertaken in accordance with Appendix C of the Guideline. The BDAR report has not demonstrated that this has been undertaken and the requirements of the Guideline been adhered to. A Koala Assessment Report has not been provided. Therefore, it is considered the application has not demonstrated that the proposal meets the requirements of this proposed instrument.

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

3.4.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER A1 – INTRODUCTION

The applicant has identified and sought a number of variations in WDCP 2009 as provided in the in section 5.2.1 of the submitted SEE at **Attachment 8**.

The WDCP 2009 variations sought by the applicant relate to:

- Section 4.17 of Chapter B1 Residential Development - Retaining wall heights;
- Section 5.1.2 of Chapter B1 Residential Development – Minimum site width; and
- Section 12.2.2 of Chapter E14 Stormwater Management– On-site stormwater detention design requirements (Note: Chapter E14 of WDCP 2009 was amended on 23 March 2020, Section 12.2.2 is now known as section 10.2.2).

It is noted that the applicant has not provided that the variation statements in accordance with clause 8 of Chapter A1 of WDCP 2009. Notwithstanding, the variations sought are not supported and discussed in the relevant chapters in WDCP 2009 below.

In addition to those variations identified by the applicant, a number of non-compliances have been identified in Council's assessment of the application that are discussed below in considering WDCP 2009 that have not been addressed.

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The proposal is considered to be inconsistent with the principles of Ecologically Sustainable Development. The proposal does not maintain and enhance existing vegetation with the extent of tree removal sought and species selection for the landscaping plantings does not adequately address the recommendations of the VMP.

The proposal has not demonstrated it will improve the biodiversity values, with the conservation of biodiversity and ecological integrity as a fundamental consideration in the design of the proposal as discussed in section 2.1, 3.1 and throughout the report. There are a number of deficiencies with the submitted water cycle management study with regard to the design of WSUD treatment measures and location of the gross pollutant traps and the design of the proposal is inconsistent with general WSUD principles. The proposal will also remove a significant natural catchment including natural surface and subsurface flows from the vegetated areas downstream of the development and the potential environmental/ecological impacts that have not been considered.

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

This Chapter applies to all residentially zoned land in the LGA. Section 4 provides general residential controls which apply to all dwelling houses, dual occupancies, secondary dwellings, ancillary structures and semi-detached dwellings. Section 5 provides controls that must also be taken into consideration for development for the purposes of Multi-Dwelling Housing.

The objectives of Chapter B1 are as follows:

- (a) To ensure a high standard of residential development within the City of Wollongong LGA.*
- (b) To encourage new residential development that is sympathetic to the existing streetscape and neighbourhood character of a particular locality.*
- (c) To encourage residential development that reflects the desired future character of individual suburbs within the Wollongong City LGA.*
- (d) To manage residential development in order to maximise the retention of significant remnant trees and other natural features in particular localities.*
- (e) To encourage innovative housing design and energy efficient housing which embraces the highest possible architectural, environmental and amenity standards.*
- (f) To promote residential development that achieves the principles of ecologically sustainable development.*
- (g) To encourage a mix of housing forms within the city to assist in achieving urban consolidation initiatives particularly in localities close to business centres and railway stations and to assist in providing housing affordability.*
- (h) To ensure that Crime Prevention through Environmental Design (CPTED) principles are holistically embraced in the design of any residential development.*

It is considered the proposal has failed to demonstrate that it adequately addresses the objectives of Chapter B1 Residential Development as discussed within the controls below and throughout the report.

4.0 General Residential controls

Controls/objectives	Comment	Compliance
<u>4.12 Site servicing</u>		No
<ul style="list-style-type: none"> letterboxes in an accessible location air-con, satellite dishes and other ancillary structures to be located away from street frontage, not in a place where they are a skyline feature and adequately setback all dwellings must be provided with open air clothes drying facilities, accessible, screened and high degree of solar access 	<p>Letterboxes are provided north of the driveway at the frontage of the site to Cosgrove Avenue. Accessibility is raised as future residents would most stop their vehicle at the entrance to check mail rather than walk due to the difficulty and distance from the proposed dwellings.</p> <p>Concern is raised to the location of future satellite dishes on the proposed buildings and potential visual impact due to the prominent location of the site.</p> <p>The location of the proposed communal clothes drying facilities for Buildings 1-4 whilst screened, are hidden amongst the built form typically located on the ground level (situated on the same level of the garages however, beneath the podium level). The areas are located towards the southern side of the building with a fair distance to walk from some dwellings and access would be via the garage door on and driveway on the lower ground level or along the podium on the ground level and down a set of stairs.</p> <p>The drying areas are also located on the southern side of the buildings where it would appear these areas will not receive a high degree of solar access. The open-air clothes drying areas do not appear to receive an adequate amount of solar access especially in mid-winter. The clothes drying area for</p>	

Building 3 does not appear to be accurately shown on the floor plans.

It is considered the proposal has not adequately demonstrated the communal open air clothes drying facilities for Buildings 1-4 are easily accessible or receive a high degree of solar access.

4.13 Fire Brigade Servicing

- All dwellings located within 60m of a fire hydrant
- Provision for adequate access in accordance with Fire & Rescue NSW

The applicant has provided that all proposed dwellings to have access to a fire hydrant as required by AS2419.1.

It is noted that comments from NSW RFS provided in section 1.6.2 of the report raised concern of the ability of the development to provide reticulated water in accordance with the provisions of AS2419.1 – 2005 due to the density and location of the proposal. It is considered this concern relates to the ability of required water pressure to be provided due to the distance and steepness of the dwellings within the site.

In addition, as a fire brigade vehicle will be required to access the site. The proposed grades of the SW access (one way) driveway will exceed the maximum 25% in AS 2890.1. It is understood that Fire & Rescue NSW requires the grade not to exceed 15.5% - 18.3%.

Therefore it is considered the proposal has not adequately demonstrated that all dwellings can be serviced by fire fighting vehicles in accordance with this control.

No

4.14 Services

- Encourage early consideration of servicing requirements
- Consideration of siting of any proposed substation to minimise its visual impact on the streetscape

The site is not currently serviced by electricity, water and the disposal and management of sewage. Advice received from Sydney Water indicates that water servicing should be available however amplifications may be required and wastewater services although extensions will be required to be undertaken to service the development where full details would be provided at the Section 73 application stage. Advice from Endeavour Energy received indicates an adequate supply of electricity can be made to service the development with the proposed new padmount substation on site.

A substation is proposed within the 6m front setback of the site and concerns are raised over the potential visual impact on the streetscape and impacts on the adjoining property, No. 12 Cosgrove Avenue. The landscape perspectives submitted provide a view of the development/site from the

No

	<p>Cosgrove Avenue frontage, do not show the proposed substation.</p> <p>In reviewing the Endeavour Energy requirements that need to be met including landscaping measures and clearances from the substation. It is considered that the current design does not appear to meet their design requirements as insufficient detail has been provided in relation to the proposed substation to ensure there will not be adverse visual impacts on the streetscape or the adjoining property.</p>	
<p><u>4.16 View sharing</u></p> <ul style="list-style-type: none"> To protect and enhance view sharing, significant view corridors A range of view sharing measures to be considered for building design 	<p>It is considered insufficient information has been provided to determine whether the proposal has the potential to impact views from adjoining and nearby properties to the Illawarra Escarpment/Mount Keira.</p>	No
<p><u>4.17 Retaining walls</u></p> <ul style="list-style-type: none"> To ensure well designed retaining walls that are structurally sound To minimise any adverse stormwater drainage, visual, amenity or overlooking impacts upon adjoining properties. To guide the design and construction of low height aesthetically pleasing retaining walls. 	<p>This control allows the maximum height of a retaining wall of 1m and setback greater than 900mm from a side or rear boundary. A variation to retaining walls greater than 1m may be considered on steeply sloping sites.</p> <p>Limited details have been provided of the proposed retaining walls, with a Retaining Wall Layout Plan either indicating 6m or 10m high walls.</p> <p>The proposal in addition to the seeking a variation of the height of the retaining wall, the terracing controls of 1:1.</p> <p>The design of proposal results in extensive bulk earthworks significantly altering the landform and existing drainage for the site, requiring the provision of extensive retaining walls that will be visually dominant and physically over-bearing up to 10m high that represent an overdevelopment of the site. It is also considered the proposed landscaping to screen these walls will provide limited visual relief.</p> <p>Therefore, it is considered the proposal is inconsistent with the objectives of the control as it does not preserve and enhance the natural features and characteristics of the site, result in adverse impacts on stormwater drainage and visual amenity for the site.</p>	No – variation sought but not supported.
<p><u>4.18 Swimming Pool and Spas</u></p>	<p>No swimming pool or spas are proposed.</p>	N/A
<p><u>4.19 Development near a railway corridors and major road</u></p>	<p>The site is not located near a railway corridor or major road.</p>	N/A

5.0 Attached dwellings and multi -dwelling housing

Controls/objectives	Comment	Compliance
<p><u>5.1 Minimum Site Width Requirement</u></p> <p>Minimum 18m</p>	<p>The minimum site width for a multi dwelling housing development required to be at least 18 metres. A portion of the site, along the length at the access handle towards the frontage of site has a minimum width of 16.88m when measured perpendicular the site boundaries.</p> <p>Section 3.2.6 of this report, Clause 4.6 WLEP 2009 variation request to discusses this matter and it is considered the proposal does not meet the objectives of this control.</p>	<p>No – variation sought but not supported.</p>
<p><u>5.2 Number of Storeys</u></p> <p>R2 zone – 2 storeys</p>	<p>The maximum number of storeys for the site is 2 storeys. It appears that part of Building 4 as associated with Unit 44 could be 3 storeys. It is considered that a component of ground level comprising of the garage will form a storey. As the definition of a storey in Appendix 4 of WDCP 2009 does not excluding parking/garage.</p>	<p>No</p>
<p><u>5.3 Front Setbacks</u></p> <p>6m min required to facade</p>	<p>The proposed dwellings are setback within the site and exceeds the 6m requirement.</p>	<p>Yes</p>
<p><u>5.4 Side and Rear Setbacks</u></p> <p>R2 low density residential zone requires a minimum side/rear setback of 0.8 x ceiling height</p> <p>Where balconies or windows of living areas face the rear boundary at first floor level or above, a minimum 1.0m x ceiling height is required</p>	<p>The proposed side and rear setbacks well exceed the required control.</p> <p>The applicant considered that section 5.4.2.2 applies and has addressed the controls for basement parking areas for residential flat buildings in Section 6 of Chapter B1. However, it is considered this section does not apply to the proposal as it is not categorised as an attached dwelling.</p>	<p>Yes</p>
<p><u>5.5 Building Character and Form</u></p>	<p>The design of the buildings and dwellings do not provide an identifiable and desirable street address or allow for outlook and surveillance towards the internal driveway or common areas of the development.</p> <p>The design of the buildings is insular with the majority of the entrances to the dwellings all internally facing into a long narrow podium area with the majority of the dwellings set above the driveway isolating the building from the street. Therefore, the entrances to the dwellings are not visible from the internal road/driveway.</p> <p>The placement and design of the entrances to the dwellings accessed via a podium area appear to be tucked in slightly from the building façade and with limited ability for casual surveillance as the door entrance is situated on the side rather facing the podium. The only window that overlooks the podium level with the entrance is for a bedroom that is to be screened for privacy. In addition, a number of southern</p>	<p>No</p>

<p><u>5.6 Access / Driveway Requirements</u></p>	<p>units in buildings 1-4 only have a door entrance at the podium level.</p> <p>It is also considered that dwellings and location of the entrances will have difficulty accommodating the movement of furniture.</p> <p>Diagrams have been provided which demonstrate that adequate manoeuvring can be achieved to and from all car parking spaces with all vehicles able to leave the site in a forward direction.</p> <p>An 6m wide crossover is proposed that is within and the proposed driveway is 6.5m wide. The driveway is setback greater than 1.5m from the side boundaries.</p> <p>However, part of the proposed driveway grades are not in accordance with AS2890.1 and exceed the maximum 25% along the south west portion of the loop road that is one way. Several long sections of the driveway have grades at 26.8%.</p>	<p>No</p>
<p><u>5.7 Car Parking Requirements</u></p>	<p>Car parking is provided in the basement of the buildings and at grade and is not visible from the streetscape.</p> <p>The proposed development has not been designed to be accessible for pedestrians and cyclists. Pedestrian access through the site consist of steep narrow paths/stairs that are obscured from view and not clear or identifiable wayfinding and circulation for the development is very poor.</p> <p>The proposed car parking has not been integrated to the design to minimise visual impacts, with the basement car parking visible on a number of the buildings and the upper ground level situated on a podium level above the parking and 'ground floor level'.</p> <p>Visitor parking areas are not clearly defined. With some at grade spaces located at the northern end of the buildings however, 3 visitor spaces are located in the resident garage ground level of building 2. These spaces would not be clearly identifiable to a visitor and access arrangements are unclear.</p> <p>Refer to Chapter E3 of WDCP 2009 for further discussion on parking provisions and other associated matters.</p>	<p>No</p>
<p><u>5.8 Landscaping Requirements</u></p> <p>Min. 30% of site area must be provided as landscaped area</p> <p>Min. 1.5m wide landscaping beds alongside & rear boundaries</p>	<p>Due to the size of the site and area available the proposal is able to meet the numerical controls with required minimum landscape area and landscaping alongside the boundaries of the site.</p> <p>Despite the numerical compliance it is considered the proposal is inconsistent with the objectives of the control.</p>	<p>No</p>

	<p>As discussed previously the proposal as not been designed preserve and retain existing native trees and vegetation with the removal of all trees with the development footprint and 85% within the APZ, totalling 253 trees that are in reasonable health. Insufficient landscaping has been proposed with only 53 trees to be planted.</p> <p>The landscape design for the site appears to have been developed in response to the proposed architectural plans. The proposed built form of the dwellings on podiums with buildings in close vicinity to each other prevents the ability for substantial planting to be integrated within the development.</p> <p>See further discussion at Chapter E6 below.</p>	
<p><u>5.9 Deep Soil Planting</u></p> <p>The deep soil may extend along the full length of the rear of the site, with a minimum width of 6m.</p> <p>No structures, basement carpark, driveways, hard paving, decks, balconies or drying areas are permitted within the deep soil zone.</p> <p>The deep soil zone shall be densely planted with trees and shrubs.</p>	<p>The proposal provides the required amount of deep soil zone required for the site area however, the siting for deep soil planting in the development has not been designed with appropriate site analysis and is situated in convenient/left over areas, being the areas that are not developable.</p> <p>Deep soil planting has not been provided within the site context or controls, being located to the rear (western boundary) where the site abuts the foothills of Mount Keira and the Illawarra Escarpment. This would provide a linkage of adjacent deep soil zones on development sites and to provide habitat for native indigenous plants and birdlife in line with the objectives of the control. Other options that could be considered is centrally within the site of the development, so dwellings overlook the deep soil area rather than dwellings overlooking each other which introduces amenity impacts.</p>	No
<p><u>5.10 Communal Open Space</u></p> <p>Developments with more than 10 dwellings must incorporate communal open space. The minimum size of this open space is to be calculated at 5m² per dwelling. Any area to be included in the communal open space calculations must have a minimum dimension of 5 metres.</p> <p>Where a minimum of 15% of the site is provided as a deep soil zone, combined use of part of the deep soil zone as communal open space may occur.</p> <p>Areas of the communal open space should contain paving, children's playground equipment, barbeques, shade structures, swimming pools or the like,</p>	<p>The proposal is for a 47 multi-dwelling housing development and as such COS with a minimum area of (13 x 47) 235sqm is required. The nominated main communal open space is Eagle Nest Park located at the rear of the site south of Building 5.</p> <p>The location is not considered easily accessible and is not within a reasonable distance from each dwelling.</p> <p>The applicant has also identified informal areas of COS primarily located on the southern side of the buildings comprising of fitness trail station and informal meeting spaces within the APZ. Access to the APZ areas are unclear due to the steepness of the site and located south of the one way driveway. There is poor linkage of the COS that is scattered across the site.</p> <p>Insufficient information has also been provided to demonstrate the COS area will receive the</p>	No

however these cannot be located within the deep soil zone.

At least 50% of the communal open space area must receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on June 21.

5.11 Private Open Space (POS)

Ground level POS with 4m x 5m minimum dimensions

70% of dwellings must receive minimum 3 hours direct sunlight to POS between 9am-3pm on June 21

Design private open spaces so that they act as direct extensions of the living areas of the dwellings they serve.

Clearly define private open space through use of planting, fencing or landscaping features.

Screen private open space where appropriate to ensure privacy.

required solar access during mid-winter. No shadow diagrams were submitted with regard to the COS area.

There is lack of consideration of how each space contributes to an integrated 'communal open space masterplan' that provides for a variety of social and recreational activities for the anticipated demographic of the development and relates strongly to its environmental context.

The terrace areas that are directly connected to the living areas of the dwelling have been considered the POS.

All units have POS with a minimum area of 4m x 5m. They are located a significant distance (greater than 1.5m) from the site boundaries.

It is considered that living area terraces (main POS for the dwellings) on the upper ground level and the bedroom terraces on the ground floor located on the eastern side of building 4 will result in overlooking along the entire western façade of the western dwellings in building 3, that include bedrooms and the associated terraces situated on the level 1 and upper ground level and other windows and vice versa. It is identified that the same potential issue is likely to occur with some of the eastern dwellings in building 3 overlooking dwellings in building 2, in particular Units 10-12.

Screening measures have been proposed to try and ameliorate amenity impacts between these dwellings as mentioned above, refer to plan DA/100 at **Attachment 1**. It is considered that landscaping measures cannot be relied upon as a permanent provision of privacy and despite the provision of privacy screens and opaque balustrades, it is considered overlooking can still occur and the main POS area for the dwellings will cause acoustic privacy impacts on bedroom areas of adjacent dwellings.

At least 70% of the dwellings are required a minimum of three hours of sunlight on June 21 to 50% of the POS.

Insufficient information has been provided to demonstrate the proposal meets this requirement. The solar access plans provided have only been provided at 9am and 11am only.

Therefore, it is unclear if the proposal meets the requirements this control.

No

5.12 Solar Access Requirements

Windows to living rooms of adjoining dwellings must receive 3

Insufficient information has been provided to demonstrate that at least the POS of 70% of

No

<p>hours of sunlight between 9.00am and 3.00pm on 21 June.</p> <p>At least 50% of the private open areas of adjoining residential properties must receive at least 3 hours of sunlight between 9.00am and 3.00pm on June 21.</p> <p>The primary balcony of at least 70% of the dwellings within a multi dwelling housing development shall receive a minimum of three hours of direct sunlight between 9.00am and 3.00pm on June 21.</p> <p>Windows to north facing living rooms for each of the subject dwellings in the development must receive at least 3 hours of sunlight between 9.00am and 3.00pm on 21 June.</p> <p>At least 50% of the private open space area for each of the subject dwellings in the development must receive at least 3 hours of sunlight between 9.00am and 3.00pm on 21 June.</p>	<p>the dwellings and north facing living room windows receive the minimum of three hours of sunlight between 9am and 3pm on 21 June. The solar access plans provided have only been provided at 9am and 11am only.</p> <p>It is also considered insufficient information has been provided to demonstrate windows to living rooms of adjoining dwellings (those affected on Cedar Grove) must receive 3 hours of sunlight and at least 50% of the private open areas of adjoining residential properties must receive at least 3 hours of sunlight between 9.00am and 3.00pm on June 21.</p> <p>Further detail and clarification was requested with an inset of the shadow diagrams plans to be provided of the adjoining properties and property address marked. This included showing the existing dwellings along Cedar Grove on the diagrams and identify living room windows of dwellings potentially affected.</p> <p>Therefore, it is unclear if the proposal meets the requirements of this control.</p>	
<p><u>5.13 Additional Control for Multi Dwelling Housing - Dwelling Mix and Layout</u></p> <p>Required for greater than ten (10) dwellings</p> <p>Provide a mix of dwelling sizes and layouts within larger multi-dwelling developments having ten (10) or more dwellings. This could include both variation in the number of bedrooms and gross floor areas of apartments, variety in the internal design or incorporating one, two and three bedroom dwellings to accommodate various resident requirements.</p>	<p>The proposed development includes a mix of 3- and 4-bedroom dwellings.</p> <p>There is also a mix of 12 dwelling types in the development, with each dwelling varying in size and design.</p>	<p>Yes.</p>
<p><u>5.14 Additional Control for Multi Dwelling Housing - Adaptable Housing</u></p> <p>If more than 6 dwellings at least 10% of all dwellings (at least one) must be adaptable</p>	<p>A minimum of 10% of the dwellings are required to be adaptable which equates to 5 dwelling. 5 adaptable dwellings are proposed in Units 10, 25, 40, 47 & 48. Post adaptation details have been provided.</p> <p>An Access Report prepared by an experienced and qualified Access Consultant also accompanies the DA which confirms that the dwellings are capable of complying with AS 4299-1995.</p>	<p>Yes</p>
<p><u>5.15 Additional Control for Multi Dwelling Housing – Crime</u></p>	<p>The design of the proposal is considered to be unsatisfactory in regard to safety and crime</p>	<p>No</p>

CHAPTER B2 – RESIDENTIAL SUBDIVISION

The application seeks strata subdivision of the proposed dwellings. A draft strata subdivision plan has been submitted with the application that has been reviewed by Council's Subdivision Officer and conditional satisfactory referral advice has been provided.

CHAPTER B6: DEVELOPMENT IN THE ILLAWARRA ESCARPMENT

Whilst there is no built form in the E2 zoned land for the site, there are works proposed associated with the VMP. The site contains lands within the Illawarra Escarpment between RL 50-150m and zoned E2 therefore it is considered this chapter applies. The site is located within the Mount Keira precinct.

Controls/objectives	Comment	Compliance
<u>5 Visual impact assessment</u>	<p>As the site forms part of the Illawarra Escarpment and the proposed built form will sit in the foreground of the escarpment, a visual impact assessment report is required for the application.</p> <p>A Visual Impact Assessment (VIA) report submitted by Urbaine Architecture. Page 10 of this report provides that: <i>"A Canon EOS Full Frame Digital Camera with fixed focal length 35mm lens was used to take all viewpoint photos, at an eye level of 1600mm"</i>.</p> <p>Concerns are raised over the accuracy of the visual impact assessment provided due to the lens used to take the photos and the age of the proposed vegetation/planting used in the photomontages. Based on the VIA report submitted a wide-angle lens (35mm) was used for the report submitted. It is understood that photographs for the viewpoints are to be taken by a 50mm lens to best represent the perspective of the human eye. In addition, clarification is sought the age of the trees for the development used within the VIA, from discussions at the DRP meeting it was indicated that semi to mature trees were used and it is considered the montages should use trees of 3-5 years to provide a reasonable representation of the development.</p> <p>Based on the above concerns on accuracy of the VIA it is considered unclear whether the level of visual impact of the proposal on the Illawarra Escarpment as presented in accurate.</p>	No
<u>6 Aboriginal heritage</u>	<p>The site has no known Aboriginal sites or places of Aboriginal cultural heritage significance recorded. However, it is acknowledged that Mount Keira containing high cultural landscape significance. This is confirmed from a submission received by the Illawarra Local Aboriginal Land Council during the assessment of the application.</p> <p>A Finalised Aboriginal Cultural Heritage Assessment Report and Archaeological Report that addresses the OEH comments on the proposal and also fully acknowledges the cultural significance of Mount Keira to the local Aboriginal Community is required and has not been provided.</p>	No
<u>7 Heritage (European)</u>	<p>Part of the site is identified as a Heritage Conservation Area shown on the Heritage Map and described under Part 2, Schedule 5</p>	No

	<p>of WLEP 2009, being the E2 zoned portion of the land located within the Illawarra Escarpment Landscape Area.</p> <p>In addition, the subject land is within the vicinity of the State general and landscape heritage item "Gleniffer Brae" and surrounding garden located at Wollongong Botanic Garden and locally listed Kemira Colliery.</p> <p>It is considered the heritage assessment submitted is inadequate and the proposal has not demonstrated it will conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.</p> <p>Refer to discussion under Clause 5.10 of WLEP 2009 in section 3.2.6 and Chapter E11 below.</p>	
<u>8 Threatened species impact assessment</u>	The application was referred to Council's Environment Officer and unsatisfactory referral advice was provided. Refer to discussion in section 2.1 and 3.1 of the report on this matter.	No
<u>9 Geotechnical / land instability issues</u>	The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development. The proposal was considered satisfactory and matters could be conditioned if consent was granted.	Yes
<u>10 Subdivision requirements</u>	The proposal seeks the strata subdivision of the proposed dwellings. It is considered the majority of the development controls are not relevant to the development as the built form works are not located within the E2 – Illawarra Escarpment. With the exception of the consideration of the subdivision on bushfire prone land where the proposal is unsatisfactory as matters were raised by the RFS, refer to discussion in section 1.6.2 of the report.	No
<u>11 Dwelling and outbuilding design requirements</u>	It is noted that proposed dwellings will not be located in the identified Illawarra Escarpment land corresponding with the E2 zoned land on the site. However, as discussed throughout the report concerns have been raised over the siting and orientation of the buildings on the site upon the prominent ridgeline and that the proposal has not be designed to suit the natural landform and other constraints of the site with the extensive removal of trees and vegetation.	N/A

12 General Requirements

Further details were required on the proposed deer fencing in the VMP area from Council's Environmental Officer.

No

The proposed landscaping proposed is considered insufficient, refer to discussion in Chapter E6 below.

The proposed concept stormwater design is not supported, refer to discussion in Chapter E14 below.

Sydney Water have provided that water servicing is available with amplifications required. NSW RFS have raised concerns with the ability to provide reticulated water for the site in accordance with the AS, refer to discussion in section 1.6.2 of the report.

Concerns are raised with the waste management for the site discussed in Chapter E7.

Riparian corridor management concerns have been raised by Council's Environment Officer, discussion in Chapter E23.

CHAPTER D1 – CHARACTER STATEMENTS

Keiraville

Existing Character

Keiraville is set in a natural amphitheatre on the foothills of the Illawarra escarpment, below Mount Keira. Keiraville is home to the University of Wollongong, which is the main tertiary academic centre for the Illawarra Region. The suburb is in relative close proximity to Wollongong City Centre and is serviced by major road network links such as the Southern Freeway and Mount Ousley Road. It is also serviced by regular bus services to and from the city centre. Keiraville has a natural leafy setting and is characterised by a mix of housing types, including detached dwelling-houses on varied residential lot sizes as well as boarding-houses, villas, townhouses and walk up residential flat buildings. The detached dwelling-houses are predominantly single storey to two storey in height and are of a face brick or weatherboard construction with tiled hipped roof forms. The Wollongong Botanic Gardens and 'Glennifer Brae' historic house and gardens are also located within Keiraville. The Keiraville retail and business centre is a vibrant village centre which provides for the daily convenience needs of the surrounding residential population and university workforce.

Desired Future Character

Keiraville will remain a leafy suburb with a mix of housing types ranging from detached dwelling-houses, boarding-houses, villas, townhouses and some residential flat buildings. In this regard, additional medium density developments are likely to occur within reasonable walking distance to the University of Wollongong, especially in residential precincts directly to the east and south of the Wollongong Botanic Gardens. The Keiraville retail and business centre will remain a village centre and will continue to provide for the daily retailing and business service needs of the surrounding residential population and workforce. Higher order retailing and business services will continue to be obtained from Wollongong City Centre and the Fairy Meadow and Figtree town centres.

Council comment:

The proposed development is considered to be inconsistent with the existing character of Keiraville, being in terms of density as a multi-dwelling development of 47 dwelling and the built form presented in 5 buildings that are predominantly bulky in form and on a podium at a sensitive location.

Whilst the development type is supported as desired future character, the design of the development is not considered appropriate for the site and will result in extensive removal of trees and vegetation as discussed in other sections throughout the report.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Control/objective	Comment	Compliance
3.1 Lighting	Security and low-level bollard lighting will be provided throughout the development including at entry and exit points, along pedestrian routes and in communal open space areas, along driveways, in all parking areas and at entries to buildings.	Yes
3.2 Natural surveillance and sightlines	<p>The majority of the entrances to the dwellings all internally facing into a long narrow podium area and in some instances set above the adjacent driveway, isolating the building from the street. Therefore, the entrances to the dwellings are not visible from the internal road/driveway.</p> <p>The placement and design of the entrances and podium level have limited or no ability for casual surveillance.</p> <p>Pedestrian access through the site is not clearly defined and consists of steep narrow paths that are obscured from view.</p> <p>Casual surveillance of the hardstand visitor car parking spaces is limited.</p> <p>The location of the communal drying areas for buildings 1-4 that appear hidden and potential areas of entrapment.</p> <p>Building 4 has the bins at one end of the floor with no clear sightlines from each dwelling and is not considered safe.</p>	No
3.3 Signage	Due to the scale of the development it is considered wayfinding and indicative signage plans are required to be provided.	No
3.4 Building design	It is considered that the proposed development does satisfy CPTED principles in minimising areas of entrapment and concealment refer to discussion at 3.2 above.	No
3.5 Landscaping	It is generally considered the proposed landscaping will not create areas of concealment and entrapment.	Yes
3.6 Public open space and parks.	There are no areas of public open space proposed or required.	N/A
3.7 Community facilities & Public Amenities	There are no community facilities located within the development as proposed.	N/A
3.8 Bus stops and taxi ranks	There are bus stops located within vicinity of the subject site.	Yes

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

A traffic impact assessment was submitted with the proposal found that the existing local roads on approach to the site will have adequate capacity to accommodate the proposed development-generated traffic (roughly 1 vehicle every 2 minutes in the AM and PM peak hours). The relevant intersections

have been modelled in SIDRA and will operate with good levels of service during these times. The internal manoeuvring for passenger vehicles, aisle widths, parking dimensions generally comply with AS2890.1.

There are several long sections of the southern access driveway which have grades of 26.8% which exceed the maximum 25% stated in AS2890.1. It is considered these grades are unlikely to be acceptable to RFS and NSW Fire and Rescue who will need to service the site in a fire emergency. In addition, the proposal has not demonstrated swept paths for the access road that emergency vehicles such as the 'general' and 'specialist' fire appliances detailed on page 8 of the NSW Fire Safety Guidelines. The internal grades within the development also exceed the maximum grades for a fire appliance are 16.6% (page 14 of NSW Fire Safety Guidelines).

The proposal provides for the required car and bicycle parking provision for residents and visitors as provided below:

	<i>Rate</i>	<i>Calculation</i>	<i>Required</i>	<i>Provided</i>	<i>Compliance</i>
Multi-dwelling housing (13 townhouses)					
<i>Resident</i>	Units >110sqm, 2 spaces per dwelling	47 x 2	94	94	Yes
<i>Visitor</i>	0.2 spaces per dwelling	47 x 0.2	9.4	15	Yes
<i>Bicycle parking</i>	1 bicycle space per 3 dwellings (residents) and	47/3	15.6	47 (provided in garage of dwelling)	Yes
	1 bicycle space per 12 dwellings (visitors)	47/12	3.9	4	Yes
<i>Motorbike parking</i>	1 motorcycle space per 15 dwellings	47 / 15	3.1	4	Yes

Three (3) of the visitor car parking spaces are located in the garage level of building 2 and access arrangements these spaces are unclear.

The proposed visitor bicycle parking spaces are located in the secure ground level/garage area of building 2 and adjacent to the services parking bay located in the utility and waste management area. It is considered the bicycle parking spaces for visitors are not easily accessible or able to be clearly identified. Both parking areas are hidden, where the bicycle space in the utility area would not be visible if a vehicle was parked in the services parking bay. Both locations of the bicycle parking spaces are not considered practical or appropriately located.

This area provides one (1) parking bay for service contractors. It is considered that location of this parking bay is considered impractical in the event the service contractors requires to access the buildings within the site as the it is located and traversing the driveway up to the buildings are a significant distance away and in reality contractors will drive to the required location within the site.

Section 3.11.4 of the SEE outlines that removalist vehicles are also use the service parking bay and a change to use a light vehicle vans is required to proceed further up the internal driveway to the buildings. To adequately accommodate this arrangement, it is considered more than one parking bay will be required to be provided in the utility area. Furthermore, the reality of managing a removalist truck then transitioning to a light van vehicle for the 47 dwellings at all times is considered to be difficult and potentially impractical for future residents.

Due to the topography, constraints and single access point of the site it is considered a Preliminary Construction Traffic Management Plan would be required to be submitted as part of the application. This has not been provided.

CHAPTER E6: LANDSCAPING

Landscape plans and an arborist report was submitted. Council's Landscape Officer reviewed the application and has provided unsatisfactory referral advice. The submitted landscape plans do not meet minimum requirements set out the chapter. Tree numbering from arborist report has not been shown on the landscape plans and tree numbering on tree protection plan in the arborist report is unclear. A number of contradictions are also shown in submitted plans and reports. In the NE corner of site three trees are shown for removal on plan however, the arborist report provides that seven are required to be removed. Access for all landscaped areas and the roof gardens have not been shown. There are fall heights from roof gardens in excess of three storeys in some instances and safe maintenance access has not been demonstrated. Overall, insufficient landscaping has been proposed for the development with only 53 trees proposed to be installed where a total of 253 trees proposed to be removed with more than half of which are rated SULE 1 & 2 and fifteen (15) trees to be removed are also hollow bearing trees.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided in accordance with this chapter. Communal waste storage areas are proposed within each garage level for Buildings 1-4, with building 5 having their own bins for waste and recycling. Details of green waste bins for the development have not been provided. A waste/recycling utility area is proposed located towards the front of the site at the end of the access handle. It is proposed that a private contractor will transfer the bins from each building of the development to this utility area for Council's collection. It is unclear if the proposed waste collection point within the site can accommodate the 43 x 240 bins for the development on collection day. Council's Traffic Officer has reviewed the application and that waste collection from within the site and swept paths show that this can occur with a 12.5 metre Large Rigid Vehicle.

CHAPTER E10 ABORIGINAL HERITAGE

A draft Aboriginal Cultural Heritage Assessment Report and Archaeological Report (ACHAR) was submitted with the application. The site has no known Aboriginal sites or places of Aboriginal cultural heritage significance recorded. However, it is acknowledged that Mount Keira containing high cultural landscape significance. This is confirmed from a submission received by the Illawarra Local Aboriginal Land Council during the assessment of the application.

The application was reviewed by Council's Heritage Officer and unsatisfactory referral advice was provided. A Finalised Aboriginal Cultural Heritage Assessment Report and Archaeological Report that addresses the OEH comments on the proposal and also fully acknowledges the cultural significance of Mount Keira to the local Aboriginal Community is required and has not been provided.

In addition, the Heritage Impact Assessment report should also provide additional assessment of the impacts of the development on the cultural significance of the Illawarra Escarpment, including the heritage values defined within the Illawarra Escarpment Heritage Study and by the local Aboriginal Community (including within the Illawarra Escarpment Aboriginal Heritage Assessment). Furthermore, an Aboriginal Heritage Interpretation Strategy has not be submitted as recommended by OEH.

The application was referred to DPIE – Environment, Energy and Science for concurrence with regard to whether the proposal requires an Aboriginal heritage impact permit (AHIP) under section 90 of the National Parks and Wildlife Act 1974 and General Terms of Approval required. Correspondence received by Council dated 22 January 2020 provided that the application does not require an AHIP or GTAs as the Aboriginal cultural heritage assessment report submitted has not identified any Aboriginal objects within the proposed development area and harm to Aboriginal objects is not being proposed.

CHAPTER E11 HERITAGE CONSERVATION

Part of the site is identified as a Heritage Conservation Area shown on the Heritage Map and described under Part 2, Schedule 5 of WLEP 2009, being the E2 zoned portion of the land located within the Illawarra Escarpment Landscape Area, item no. 6480 is required for works within a heritage conservation area and subdividing of land. Vegetation management works are proposed within the E2 zoned land.

In addition, the subject land is within the vicinity of the State general and landscape heritage item no. 5904 "Gleniffer Brae" and surrounding garden located at Wollongong Botanic Garden, Keiraville on Lot 3 DP 252694 and locally listed Kemira Colliery at Mount Keira Road, on Part Lot 31, 32 DP 751299 and Lot 1 DP 852788.

A Heritage Impact Statement (HIS) was submitted with the application and reviewed in conjunction with other documents by Council's Heritage Officer. It was considered that the proposal will have significant visual and cultural impacts on Gleniffer Brae and the Illawarra Escarpment State Heritage Conservation Area as well as on Mount Keira. There are a number of deficiencies in the submitted HIS however, it has not adequately assessed the potential heritage impacts with regard to the visual impact of the proposal on the Illawarra Escarpment and Gleniffer Brae, failing to address the findings of the Visual Impact Assessment and Arborist Report submitted in the report.

The proposal sought is considered an overdevelopment of the site and will have significant visual and cultural impacts on Gleniffer Brae and the Illawarra Escarpment State Heritage Conservation Area as well as on Mount Keira. It is considered the heritage assessment submitted is inadequate and the proposal has not demonstrated it will conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development with regard to the Geotechnical reports submitted with the application dated 2017 by Coffey Geotechnics and 2019 by GHD.

The reports confirm that the proposed construction area is at low to moderate risk of slope instability with weathered bedrock determined at shallow depth. Recommendations are made for bulk earthworks, excavation conditions and construction of footings. In this regard the excavations up to 10m in depth are proposed most of which will be in weathered bedrock. The proposal is considered satisfactory and matters could be conditioned if consent was granted.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is identified to be flood affected in uncategorised flood risk precinct. The application has been reviewed by Council's Stormwater Officer where it has been provided the flooding within the vicinity of the site is confined to the watercourses within valleys to the north and south of the development. The development itself is located wholly above the flood planning level and complies with provisions of this chapter.

CHAPTER E14 STORMWATER MANAGEMENT

The proposed concept stormwater management plan proposes to divert a significant additional catchment area (approximately 15,000m²) from the site to Council's existing stormwater drainage system in Andrew Avenue where this runoff currently does not drain.

In existing conditions, the areas proposed to be diverted drain to existing vegetated areas within the site and within the natural valley and watercourses north and south of the site. The total catchment area diverted from these vegetated areas is approximately 8,500m² for the northern catchment and 11,000m² for the southern catchment. The proposal will remove a significant natural catchment and natural surface and subsurface flows from these existing vegetated areas.

The proposal is contrary to the requirements of this chapter, which requires that natural catchment boundaries are to remain unaltered, and in situations where proposed impervious areas straddle natural catchment boundaries, multiple separate OSD systems shall be provided.

In addition, there are other deficiencies with the proposed stormwater management for the development that is inconsistent with the requirements of the chapter. The application has been reviewed by Council's Stormwater Officer and unsatisfactory referral advice has been provided where the proposal cannot be supported.

CHAPTER E15 WATER SENSITIVE URBAN DESIGN

The proposal involves more than 20 dwellings and requires the incorporation of appropriate water sensitive urban design measures for the development. A water cycle management study that proposes a bioretention basin for the development has been submitted. The application has been reviewed by Council's Environment Officer and it is considered the proposal is inconsistent with general WSUD principles in addition with the impacts of the proposed diversion of the catchment that will remove a significant portion of natural surface and subsurface flows from existing vegetated area is not supported. In addition, deficiencies with the WCMS submitted with regard to the design of WSUD treatment measures and location of the gross pollutant traps. The proposal does not satisfy the requirements of this chapter.

CHAPTER E16 BUSH FIRE MANAGEMENT

A bushfire assessment report was submitted with the application. The proposal is Integrated Development for a Special Fire Protection Purpose under section 4.46 of the EP& A Act 1979 and section 100B of the Rural Fires Act 1997 as the development seeks subdivision on bushfire prone land requiring a Bush Fire Safety Authority from the NSW RFS. Details of the proposal were referred to the NSW RFS and correspondence was provided to Council dated 21 April 2020 requesting additional information. Further RFS correspondence dated 3 August 2020 provided to Council that the RFS cannot support the proposed development as the requested information has not been received within the legislative timeframe to allow for assessment of the application against the aims and objectives of Planning for Bushfire Protection 2006. Refer to section 1.6.2 for discussion on the matters. Therefore, the matters raised by the RFS remain outstanding and General Terms of Approval were not issued for the application.

In addition, significant land reshaping works for APZ zones along the NE and SW slopes of the site to be with the entire area to covered in an extensive series of 0.6m wide paths constructed a few metres within each other for the purposes of APZ Maintenance, that is not considered necessary or required and other options are available to maintain the APZ areas.

The landscaping for the site and does not appear to comply with Appendix 5 PFBP 2006 and recommendations of the submitted bushfire assessment report. The submitted landscape plans conflict with these requirements. The elevation and section plans provided indicate tree canopies touching and overhanging dwellings. Furthermore, Eagle Nest Park is partially located within the proposed APZ and proposed to be mass planted with shrubs and trees which would be inconsistent with the requirements for PFBP 2006.

CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

The proposal seeks to remove all trees with the development footprint and 85% of trees within the proposed asset protection zone. That results in a significant number of trees to proposed to be removed at an approximate total of 253 trees where more than half with a SULE rating of 1a and 2a in addition to 15 hollow bearing trees. It is considered the design of the proposal does not seek to maximise the protection of existing vegetation; protect and enhance native vegetation, habitat for native fauna and biodiversity or for its scenic values and to retain the unique visual identity of the landscape in accordance with its cultural heritage and landscape significance. Therefore, inconsistent with the objectives of this chapter.

CHAPTER E18 THREATENED SPECIES

The applicant submitted a BDAR and the application was reviewed by Council's Environment Officer where unsatisfactory referral advice was provided. Refer to discussion of this matter in section 2.1 and 3.1 of the report.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

A significant amount of bulk earthworks are proposed across the site to accommodate the proposal design with a maximum cut of up to 10m and fill up to 4-5m predominantly along the ridgeline of the property. This will result in the built form to be associated with significant podium areas, a series of high retaining walls and suspended parts of the driveway for the development. In addition, significant land reshaping works for APZ zones along the NE and SW slopes of the site to be with the entire area to covered in an extensive series of 0.6m wide paths constructed a few metres within each other for the purposes of APZ Maintenance, that is not considered necessary or required.

The natural feature of the escarpment foothill will be significantly altered through extensive excavation and levelling with the site located on a prominent ridgeline that is highly visible from throughout the city. The works is considered to impact the visual amenity of from adjoining properties, surrounding area and the locality.

The earthworks with the associated built form will also result in the indirect impacts with the diversion of a significant catchment area (approximately 15,000sqm) to the existing drainage system in Andrew Avenue where this runoff currently does not drain. This will remove a significant portion of natural surface and subsurface flows from existing vegetated area within the site and within the natural valley and watercourses north and south of site. There has been limited to no consideration impacts of this diversion. The proposal will disrupt and have a detrimental effect on the existing drainage patterns in the locality and the potential for adverse impacts on a watercourse or environmentally sensitive area.

The application has been reviewed by Council's Stormwater and Environment Officers were concerns are raised with unsatisfactory referral advice. The proposal is inconsistent with a number of objectives of this chapter.

CHAPTER E20 CONTAMINATED LAND MANAGEMENT

Council's Environment Officer has reviewed the proposal and provided a satisfactory referral response. See further discussion at SEPP 55 at section 3.2.1 of the report.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

A Soil and Water Management Plan has been submitted and reviewed by Council's Environment Officer to be insufficient. In accordance with the requirements of this chapter, a Water Management Plan (required for a site and development of this scale) has not been provided to include all site soil and water management issues whereby Erosion and Sediment Control Plan is but one part of the overall management requirements. In addition, plans have not included engineered solutions based on detailed numerical assessment of the probable site behaviour during construction. The plan submitted has not been prepared in accordance with the NSW Landcom publication titled *Managing Urban Stormwater: Soils and Construction Vol.1, 4th ed.* March 2004 (Blue Book) or the latest version of this publication.

CHAPTER E23: RIPARIAN LAND MANAGEMENT

There is a watercourse that traverses along the adjoining properties north east of the site and another watercourse on the site located in the south west corner. These watercourses are both identified as Category 1 watercourses, requiring a 50m riparian corridor under this chapter. Despite the land not mapped as riparian land under Clause 7.4 in WLEP 2009. The width of the required results in the riparian corridor for the watercourse adjacent situated NE extending into the site. The riparian corridor areas are generally satisfactory with the exception of portion of the APZ that falls within a section of the corridor along the north of the site that is not supported.

The proposal will remove a significant portion of natural surface and subsurface flows from existing vegetated areas within the site and within the natural valley and watercourses north and south of the site. The total catchment area diverted from these vegetated areas is approximately 8,500m² for the northern catchment and 11,000m² for the southern catchment. This has the potential to significantly impact upon the hydrology and ecology of the riparian corridor and has not been assessed and will not be supported.

3.4.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

The estimated cost of works is \$30,394,293 and a levy of 1% is applicable under this plan as the threshold value is \$200,000.

3.5 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.

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

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

N/A – The proposal does not involve demolition.

93 Fire safety and other considerations

N/A – New buildings are proposed.

94 Consent authority may require buildings to be upgraded

N/A – New buildings are proposed.

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

Context and Setting:

The design of the proposal has not appropriately addressed the significant environmental constraints and visual prominence of this site including the steep topography of the site. The proposed large flat building footprints impose themselves upon the natural topography of the site, creating building forms that appear far too dense and urban for the visually sensitive context of the site and its immediate surrounds. Whilst the proposal is compliant with the FSR and height controls, there are a number of non-compliances with WDCP 2009 that will result in environmental, visual and amenity impacts.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning, and existing character of the area, and is considered to be incompatible with the local area.

Access, Transport and Traffic:

Access, servicing and some parking matters are considered to be unresolved. The driveway grades are non-compliant and

Public Domain:

The proposal is not considered to be conducive the site and would set an undesirable precedent for development within the local area. The cumulative impact of similar development could likely have an adverse impact upon the public domain of the area.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply.

Heritage:

The proposal will likely have visual and cultural impacts on heritage items the Illawarra Escarpment and Gleniffer Brae are impacted by the proposal.

Other land resources:

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

Water:

The site is presently serviced by Sydney Water, which can be provided that can be extended meet the requirements of the proposed development subject to augmentation works.

The proposal is not envisaged to have unreasonable water consumption.

Soils:

The proposal could have negative impacts on the soil profile from the diversion of catchment area that will impact ground water and subsurface flows.

Air and Microclimate:

The proposal could have potential negative impact on the microclimate with indirect impacts from the diversion of catchment area that will impact ground water and subsurface flows.

Flora and Fauna:

The proposal is likely to have negative impacts on flora and fauna.

Waste:

The proposal could have the potential impacts with regard to adequate waste storage for the development.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

No construction noise/acoustic assessment and management plan was submitted with the application. It is considered the proposal could result in potential noise impacts related to the extensive amount of excavation and associated machinery and truck movements.

Natural hazards:

Council records list the site as bushfire affected the proposal has not demonstrated compliance with the requirements for Planning for Bushfire Protection 2006.

Technological hazards:

Council records list the site as unstable land affected. Council's Geotechnical Officer has reviewed the application in relation to site stability and considered the proposal satisfactory and matters could be conditioned if consent was granted.

Safety, Security and Crime Prevention:

This application could give rise to opportunities for criminal or antisocial behaviour due to the building design and lack of natural sightlines and surveillance opportunities.

Social Impact:

The proposal may create negative social impact by poor amenity for future residents within the development by way of privacy and overlooking concerns and limited accessibility to communal open space.

Economic Impact:

The proposal is not expected to create negative economic impact.

Site Design and Internal Design:

The proposal results in non-compliances to WLEP 2009 and WDCP 2009 which have not been appropriately addressed by the development proposal. The site and internal design are therefore considered to be unsatisfactory.

Construction:

It is considered there could be potential construction impacts for the proposal due to the topography of the site and limited access.

Cumulative Impacts:

In consideration of the matters outlined throughout this report, the proposal is considered likely to result in adverse cumulative impacts.

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

Does the proposal fit in the locality?

It is considered the proposal is likely to have negative impacts on the amenity of the locality and adjoining developments.

Are the site attributes conducive to development?

The proposal has not adequately addressed the constraints of the site. As such, it is considered that the site attributes are not conducive to the proposed development and it is therefore the application is not supported.

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

Refer to section 1.5.

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

The application is likely to have unreasonable impacts on the environment and the amenity of the locality. The proposal is considered inappropriate with consideration to site constraints, contrary to the relevant planning controls and in the current form, approval would not be considered in the public interest.

4 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 inconsistent with the relevant planning instruments. Having regard to the above information, the application is considered to be unsatisfactory.

The proposed development has not been designed appropriately give the constraints and characteristics of the site and has the potential to result in significant adverse impacts. The development as proposed is considered to be an overdevelopment of the site and has the potential to set an undesirable precedent. Approval of the development would not be considered in the public interest.

5 RECOMMENDATION

DA-2020/4 be refused pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, subject to the reasons for **Refusal** provided at **Attachment 9**.

6 ATTACHMENTS

- 1 Plans – Architectural, Landscape, Engineering Plans
- 2 Aerial Photographs and WLEP 2009 zoning map
- 3 Design Review Panel meeting minutes and recommendations
- 4 Council's letter to the applicant 8 May 2020
- 5 Applicant's response letter 30 June 2020
- 6 Record of SRPP briefing 25 August 2020
- 7 Clause 4.6 Exception Request
- 8 Statement of Environmental Effects
- 9 Draft reasons for refusal