

Wollongong Local Planning Panel Assessment Report – 20 May 2022

WLPP No.	Addendum Report to WLPP Item 2 – 29 March 2022
DA No.	DA-2021/901
Proposal	Mixed Use development - demolition of existing structures and construction of a 15 storey building comprising ground floor commercial/retail, residential shop top housing and associated parking
Property	2-8 Belmore Street WOLLONGONG
Applicant	ADM Architects
Responsible Team	Development Assessment & Certification – City Centre Team (BH)

ADDENDUM REPORT

This report should be read in conjunction with the Council Assessing Officer's report as presented to the Wollongong Local Planning Panel on 29 March 2022.

1 BACKGROUND AND EXECUTIVE SUMMARY

Reason for consideration by Wollongong Local Planning Panel (WLPP)

The proposal was referred to Local Planning Panel at its meeting held on 29 March 2022 for **determination** pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 (2) of the Local Planning Panels Direction of 30 June 2020, the proposal received over 10 unique submissions by way of objection and is development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.

The WLPP heard from objectors on 29 March 2022 and determined to defer the development application for the following reasons:

- The Panel agreed with Council staff that the issue of flooding and stormwater management had not been resolved but agreed that since the applicant has already engaged with Council with a view to providing the necessary documentation to address this issue, that a deferral was appropriate in this particular case rather than a refusal.
- Given that it is unclear whether the solution to flooding/stormwater issues will affect the height of the building, which building already exceeds the height development standard, the Panel would like the matter returned to it for consideration once the flooding and stormwater issue has been resolved.
- In submitting the matter back to the Panel with a supplementary report, the matter will be dealt with electronic meeting unless otherwise stated by the Chair.

The WLPP recommendation is contained at **Attachment 1**.

MATTERS OF CONCERN IDENTIFIED BY WLPP

The Panel required the applicant to address the matter of flooding and stormwater management which remained unresolved at the time of reporting the application to the Panel. The applicant has now submitted revised flood modelling and associated amended plans. Council's stormwater engineer is satisfied that the modelling, in conjunction with amended plans, satisfactorily addresses previous concerns in relation demonstrating compliance with the provisions of Wollongong City Council's Development Control Plan 2009, with respect to Chapter E13 – Floodplain Management and Chapter E14 – Stormwater Management.

The amended plans which form **Attachment 2** have been assessed by Council staff and are considered satisfactory. Notably the revised flooding modelling and amended plans demonstrate that there is no

requirement to increase in building height which was a matter of particular concern to the Panel. The building height as presented to the Panel on 29 March 2022 is unchanged and remains compliant with the height control.

2 CONCLUSION

The concerns raised by Council staff in relation to flooding and stormwater matters are considered to have been adequately resolved by the revised flood modelling and associated amended plans. This has not resulted in an increase in building height. The application is referred to the Panel for electronic determination in accordance with its decision made on 29 March 2022.

3 RECOMMENDATION

It is recommended that Development Application DA-2021/901 be granted consent pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, subject to the conditions contained in Attachment 3.

4 ATTACHMENTS

- 1 WLPP Recommendation from 29 March 2022
- 2 Amended Architectural plans
- 3 Draft Conditions
- 4 Original Council Assessing Officer's WLPP Report and Conditions as presented to WLPP meeting on 29 March 2022

ATTACHMENT 1: WLPP Recommendation from 29 March 2022

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	29 March 2022
PANEL MEMBERS	Sue Francis (Chair), Glenn Falson, Larissa Ozog, Bernard Hibbard (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 29 March 2022 opened at 5:00pm and closed at 5:36pm.

MATTER DETERMINED

DA-2021/901 - Lots 1 – 3 Section 5 DP 1258, Lot A DP 347697, 2-8 Belmore Street, Wollongong (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

The Panel was addressed by one submitter.

The Panel heard from the applicant’s representatives.

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at item 7, and the material presented at the meeting and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to defer the development application as described in Schedule 1 pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous

REASONS FOR THE DECISION

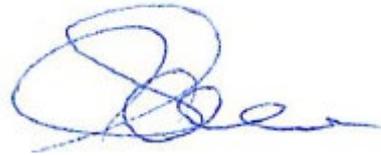
The reasons for the decision of the Panel were:

- The Panel agreed with Council staff that the issue of flooding and stormwater management had not been resolved but agreed that since the applicant has already engaged with Council with a view to providing the necessary documentation to address this issue, that a deferral was appropriate in this particular case rather than a refusal.
- Given that it is unclear whether the solution to flooding/stormwater issues will affect the height of the building, which building already exceeds the height development standard, the Panel would like the matter returned to it for consideration once the flooding and stormwater issue has been resolved.
- In submitting the matter back to the Panel with a supplementary report, the matter will be dealt with electronic meeting unless otherwise stated by the Chair.

PANEL MEMBERS



Sue Francis
(Chair)



Glenn Falson



Larissa Ozog



Bernard Hibbard
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/901
2	PROPOSED DEVELOPMENT	Mixed Use development - demolition of existing structures and construction of a 15 storey building comprising ground floor commercial/retail, residential shop top housing and associated parking
3	STREET ADDRESS	2-8 Belmore Street WOLLONGONG
4	APPLICANT	ADM Architects
5	REASON FOR REFERRAL	Under Clauses Clause 2(b) and 4(b) of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, the proposal received over 10 unique submissions by way of objection and is development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ Wollongong Local Environment Plan 2009 • NSW Apartment Design Guide • Wollongong Section 94A Development Contributions Plan • Draft environmental planning instruments: N/A • Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 • Planning agreements: N/A <ul style="list-style-type: none"> • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 92(1)(b) Demolition of a building. • Coastal zone management plan: N/A • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development

7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report dated 29 March 2022 • Written submissions during public exhibition: 24 • Verbal submissions at the public meeting: one (1)
8	SITE INSPECTIONS BY THE PANEL	<p>Virtual Site inspection – 29 March 2022. Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Sue Francis (Chair), Glenn Falson, Larissa Ozog, Bernard Hibbard (Community Representative) ○ <u>Council assessment staff</u>: Brad Harris
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT CONDITIONS	Attached to the council assessment report

I hereby certify that the information contained in this document is true and correct to the best of my knowledge and belief, and that I am a duly qualified and licensed professional engineer in the State of New South Wales. I am not aware of any circumstances that would render this information misleading or deceptive. I understand that this information is to be used for the purposes of the development application and that I will be held responsible for any errors or omissions. I understand that this information is to be used for the purposes of the development application and that I will be held responsible for any errors or omissions.

DATE	05.05.22	DESIGNED FOR	DA
SCALE	AS SHOWN		

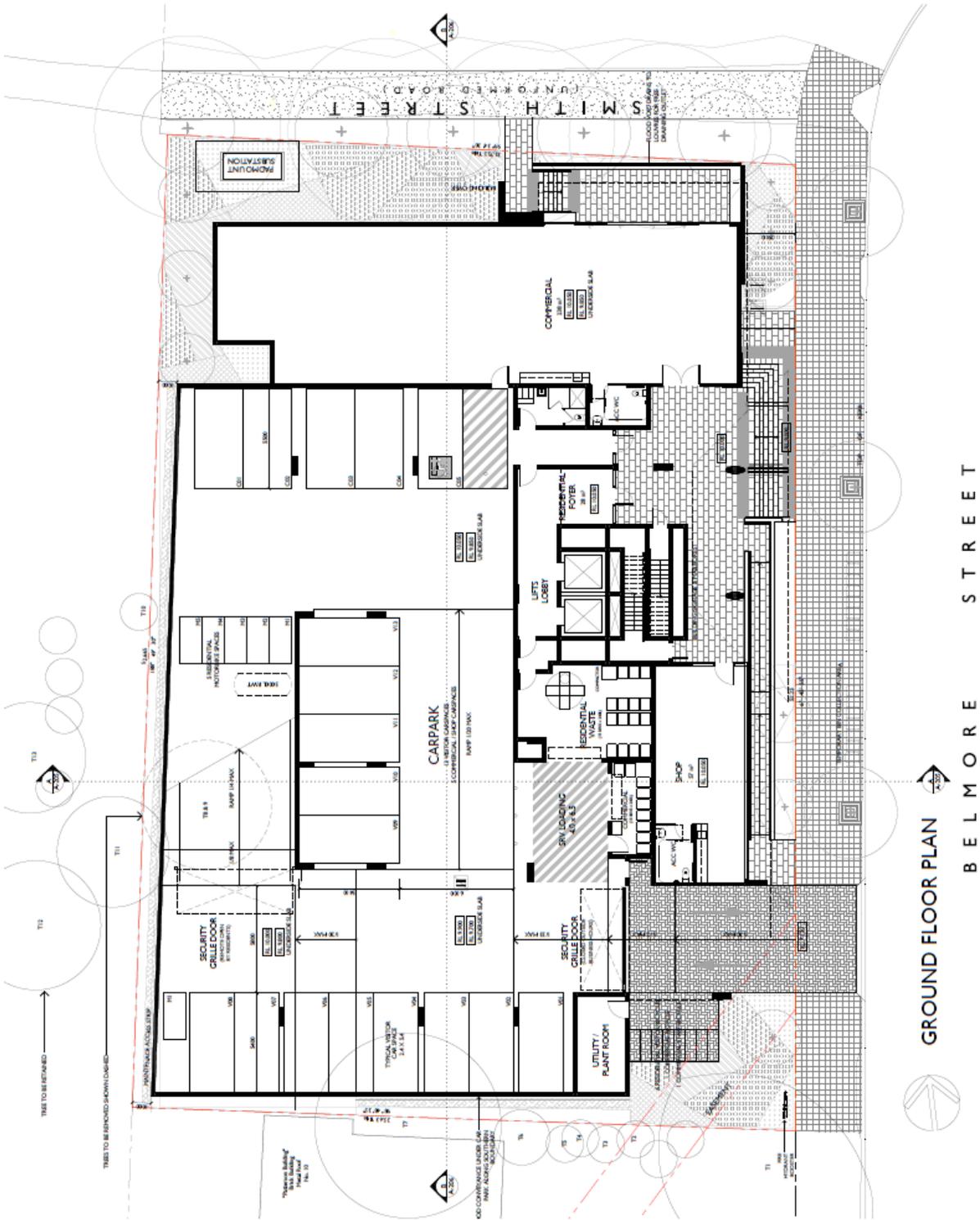
NOT FOR CONSTRUCTION



14 Smith St, Wollongong NSW 2520 Tel: 041 222 2222
 Fax: 041 423 4444 Email: info@adm.com.au www.adm.com.au

Project: 2407 TOP HOLDING DEVELOPMENT
 At: 24 BELMORE STREET WOLLONGONG
 For: BELMORE APARTMENTS WOLLONGONG PTY LTD

DEVELOPMENT APPLICATION	
Scale	1:100 @ A1
Drawn	1:200 @ A3
Check	ADH
Project No.	2020-35
Drawing No.	4-102
Date	F

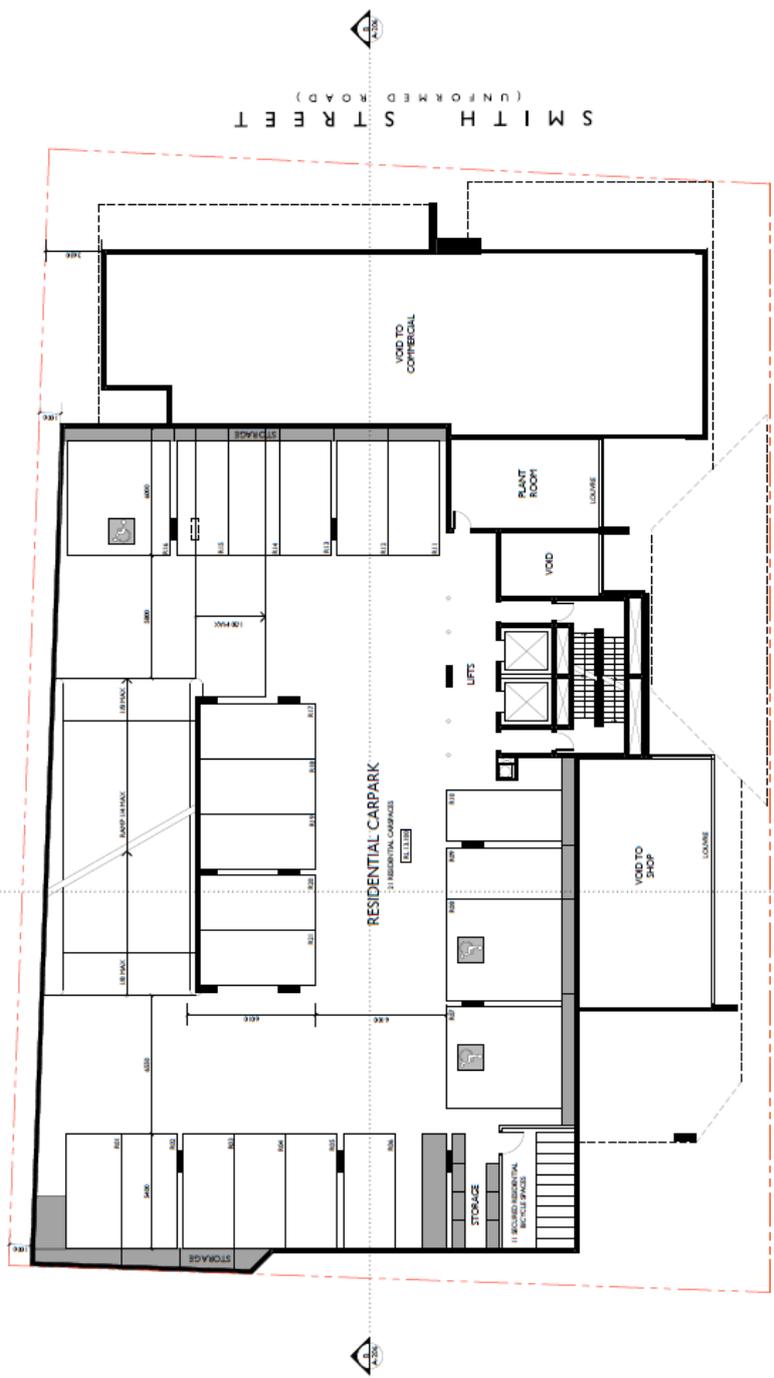


GROUND FLOOR PLAN
 BELMORE STREET

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DATE	DESCRIPTION
15/05/2022	ISSUE FOR ICA

NOT FOR CONSTRUCTION



LEVEL 1 FLOOR PLAN
(MEZZANINE)

B E L M O R E S T R E E T



Project
ADM ARCHITECTURE
SHOP TOP HOUSING
DEVELOPMENT

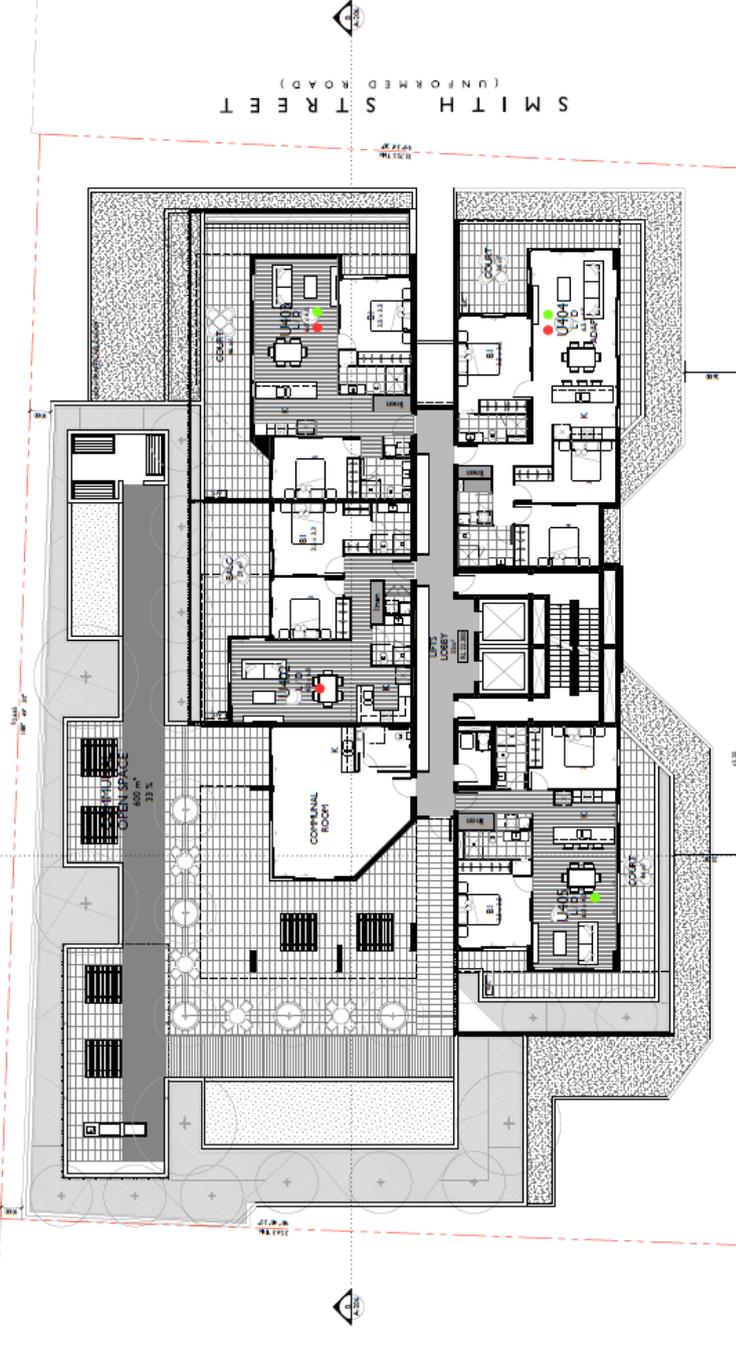
At
24 BELMORE STREET
WOLLONGONG
For
BELMORE APARTMENTS
WOLLONGONG PTY LTD

The DEVELOPMENT APPLICATION LEVEL 1 FLOOR PLAN	
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Drawn	1:200 @ A3
Checked	MAY 2022
LOD	5
Project No.	ADM
Drawing No.	4-103
Date	F

NOT FOR CONSTRUCTION
 DATE: 2023.03.23
 DRAWING NO: A-106

NOT FOR CONSTRUCTION

LEGEND
 ● SLOTTED ACCESS
 ● CROSS REFERENCE



LEVEL 4 FLOOR PLAN

BELMORE STREET

SMITH STREET
 (UNFORMED ROAD)



adm
 ARCHITECTURE
 14 BELMORE STREET
 WOLLONGONG NSW 2520
 TEL: 02 4221 1111
 WWW.ADMARCHITECTURE.COM.AU

Project: PROPOSED HOUSING DEVELOPMENT

A1 14 BELMORE STREET WOLLONGONG

For: BELMORE APARTMENTS WOLLONGONG PT LTD

The DEVELOPMENT APPLICATION TITLE FLOOR PLAN

Scale: 1:100 (B, A) 1:200 (E, F) Date: 10/07/2022

Level: 4
 LDD: 3
 Drawing No: A-106

Project No: 2023-12
 Drawing No: A-106

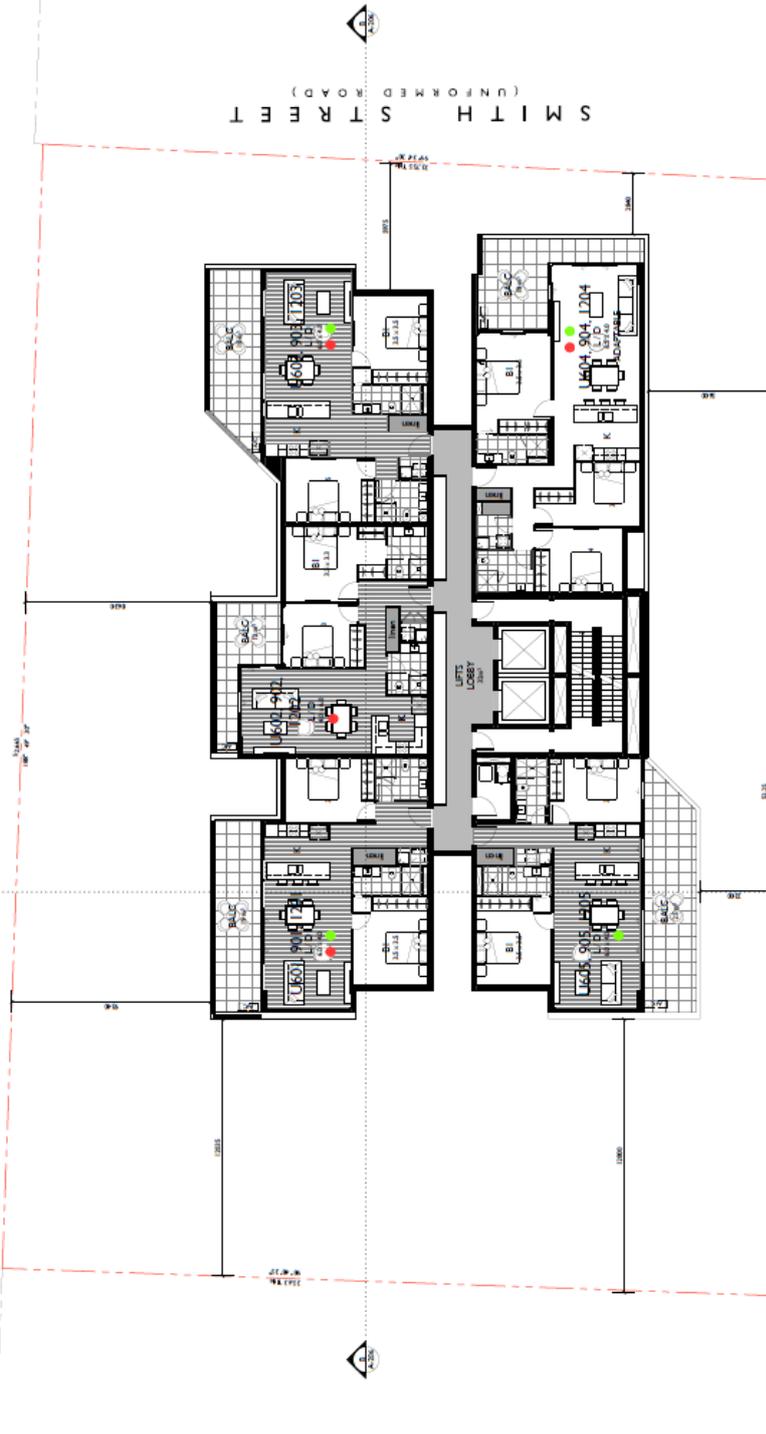
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DATE	CHG'S	DESCRIPTION
18.03.21		ISSUE FOR DA

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LEGEND

- SUNLIGHT ACCESS
- CROSS VENTILATION



LEVEL 6, 9 & 12 FLOOR PLAN

BELMORE STREET

SMITH STREET (UNFORMED ROAD)



Project:
PROPOSED
SHOP TOP HOLDING
DEVELOPMENT

A. 10/100 SMITH STREET
WOLLONGONG

80 MORE APARTMENTS
WOLLONGONG PTY LTD

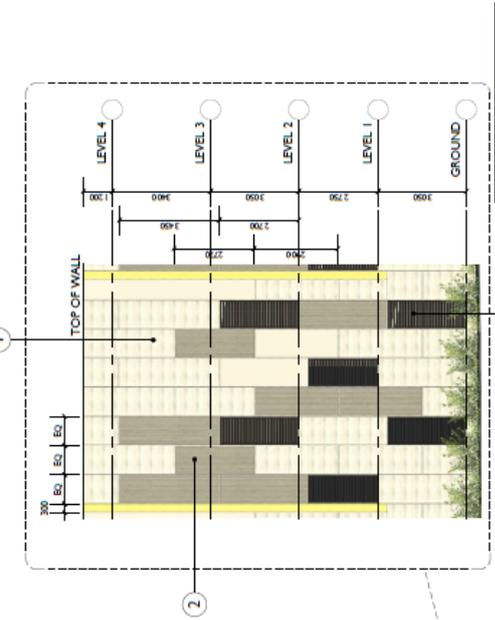
DEVELOPMENT APPLICATION
LEVEL 6, 9 & 12 FLOOR PLAN

Scale	As Shown
Date	MAY 2022
Client	Client
Design	ADM
Project No.	A-198
Sheet	F

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DATE	DESCRIPTION
F 18/05/22	ISSUED FOR DA

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- 1 PRE CAST CONCRETE PANEL OFF FORM CONCRETE
- 2 PRE CAST CONCRETE PANEL LINE
- 3 POWDER COAT MONUMENT HOURLINES

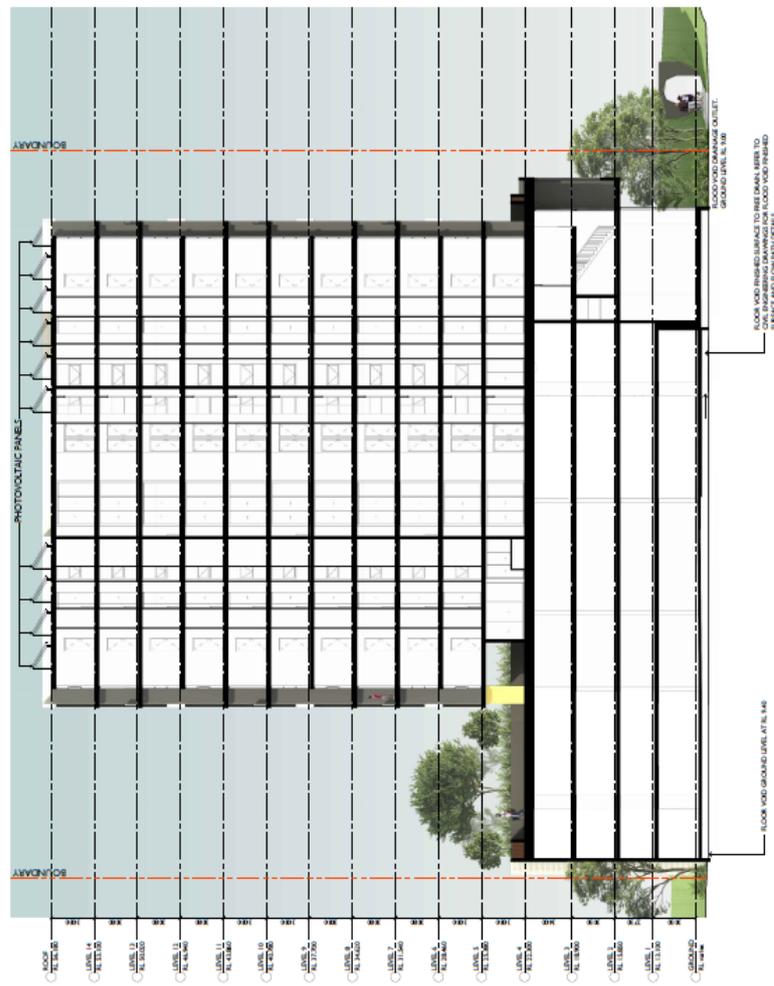
PROPOSED SHOP TOP HOUSING DEVELOPMENT
 34 BELMORE STREET WOLLONGONG
 BELMORE APARTMENTS WOLLONGONG PT LTD
 The DEVELOPER APPLICATION
 WEST ELEVATION
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 Checked: ADM
 LGD: 5
 Project No.: 2020-15
 Drawing No.: A-204
 Scale: F



WEST ELEVATION

NOT FOR CONSTRUCTION
 F 06/03/22 06/03/22 FOR DIA

REV	DATE	DESCRIPTION
F	06/03/22	06/03/22 FOR DIA



adm
 WOLLONGONG NSW 2500 AUSTRALIA
 TEL: 02 4228 8400 FAX: 02 4228 8453 www.adm.com.au

PROJECT: PROPOSED SHOP TOP HOUSING DEVELOPMENT
 SITE: 1/155-161 WOLLONGONG STREET WOLLONGONG
 CLIENT: BEMORE APARTMENTS WOLLONGONG PTY LTD

DEVELOPMENT APPLICATION SECTION B-B

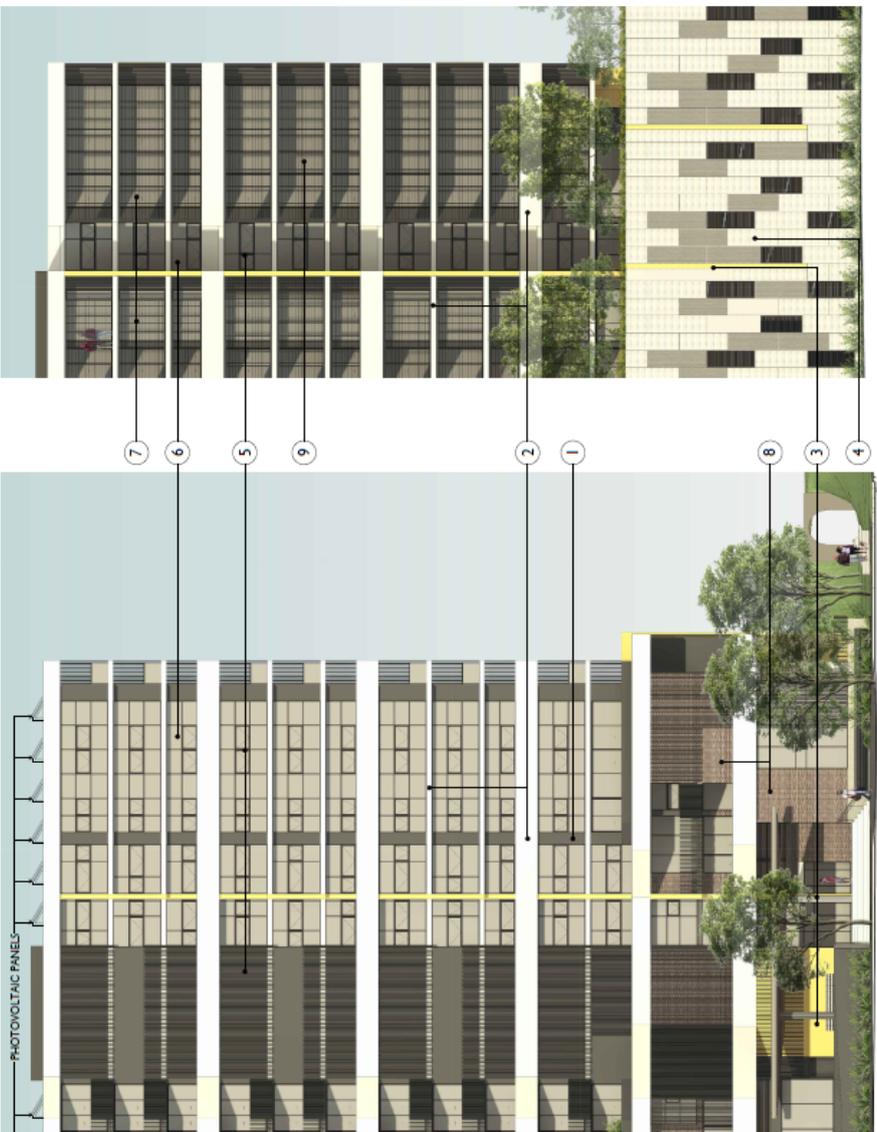
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Drawn by:	11/05/2022
Checked by:	11/05/2022
Scale:	1:100
Project No.:	2002-25
Client Ref.:	4-226
Sheet No.:	1

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DATE	18.05.22	ISSUED FOR DA
BY		

NOT FOR CONSTRUCTION

1	DULUX MONUMENT WALLS, WALLS, STAIRCASES
2	DULUX NATURAL WHITE WALLING
3	DULUX SOFT SUN PAVING
4	PRECAST CONCRETE PANELS & OFF FORM CONCRETE
5	COLORBOND MONUMENT WINDOW PANELS, VERTICAL SCREENING, DOWNLINES
6	GREY TINTED GLASS FACED GLAZING GLASS BALUSTRADES
7	VERTICAL LOUIRE PROCESSED METALS
8	AUSTRAL BRICK COMMONWEALTH
9	CLEAR GLAZING PROCESSED METALS DOWNLINES



COLOUR AND MATERIALS SCHEDULE



Project: BELMORE APARTMENTS WOLLONGONG DEVELOPMENT
Address: 24 BELMORE STREET WOLLONGONG
Client: BELMORE APARTMENTS WOLLONGONG PTY LTD

Scale	1:100
Drawn	MAY 2022
Checked	
LOD	5
ADPH	
Project No.	ADM
Drawn No.	A-501
Issue	1

ATTACHMENT 3 – Draft Conditions

Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Project No. 2020-25 Drawing Nos. A101-F 10 A110-F, A201-F to A-206F and A301-F And A501-A dated May 2022 prepared by ADM Architects and Drawing No. 4084-F101 Sheets 1.1 -C and 1.2-C dated 27 October 2021 prepared by DSB Landscape Architects and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

General Matters

2 Geotechnical

- a The application needs a formal referral to Railcorp under their infrastructure SEPP as the development is within 25m of their property and will entail ground penetration in excess of 2m.
- b All work is to be in accordance with the geotechnical recommendations contained in the report dated 23 March 2021 by Geofirst.
- c All earthworks including drainage, retaining wall and footing construction is to be subject to Level 1 geotechnical supervision as defined in Australian Standard AS3798 Guidelines for Earthworks for Commercial and Residential Developments. Where necessary amendments are to be made to the designs during construction based on supplementary geotechnical advice given during the supervision to ensure that the completed works accommodates all encountered geotechnical constraints.
- d Foundation systems are to be designed for Class P soils with all footings to be founded within the underlying weathered bedrock as recommended by the geotechnical consultant.
- e All excavations for foundations are to be inspected by the geotechnical consultant and certified that the ground has been suitably prepared for the placement of footings.

3 Stormwater Quality Management

- a The stormwater treatment system must achieve pollutants and nutrients removal minimum: GP – 90%, TSS – 80%, TP – 55% and TN – 40%
- b It is strata management responsibility to maintain the stormwater filtration system.

4 Separate Development Applicants for Café and Restaurants

Separate development applicants must be lodged by tenants or operators of café and restaurants.

5 Site Auditor Statement (SAS) and Site Auditor's Report (SAR)

The submission of SAS and SAR is required from a NSW EPA accredited site auditor pursuant to the provisions of Part 4 of the Contaminated Land Management Act 1997 confirming that the site is suitable for the proposed development prior to the issue of the Construction Certificate.

The site auditor's report shall verify that:

- a the site is not affected by soil and/or groundwater contamination, above the NSW EPA threshold limit criteria; and
- b the site is suitable for the proposed development.

These two documents (SAS and SAR) are to be issued by the Auditor direct to Council. No third party submissions will be accepted.

6 Site Remediation

Site assessment Remediation Action Plan

Undertake the site remediation work as per the DSI prepared by Environmental Consulting Service Pty Ltd dated May 2021.

7 **Mailboxes**

The developer must install mailboxes along street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

8 **Separate Consent Required for Advertising Signage**

This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development, under Schedule 2 of Wollongong Local Environmental Plan 2009.

Any new application for advertising signage must be submitted to Council in accordance with Chapter C1 – Advertising and Signage Structure of Wollongong Development Control Plan 2009.

9 **Maintenance of Access to Adjoining Properties**

Access to all properties not the subject of this approval must be maintained at all times and any alteration to access to such properties, temporary or permanent, must not be commenced until such time as written evidence is submitted to Council or the Principal Certifier indicating agreement by the affected property owners.

10 **Occupation Certificate**

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

11 **Tree Retention / Removal**

The developer shall retain the existing tree(s) indicated in the Arboricultural Impact Assessment by Moore Trees dated October 2021 consisting of tree(s) numbered 1 – 7 and 10 - 13 on the adjacent sites.

Any branch pruning, which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS4373-2007.

All tree protection measures are to be installed in accordance with Australian standard AS4970-2009 Protection of Trees on development Sites.

All recommendations in the Arboricultural Impact Assessment by Moore Trees dated October 2021 are to be implemented including and not restricted to remedial tree pruning, dead wood removal, fencing and signage, sediment buffer, stem protection, establishing tree protection zones and watering and root hormone application if required.

This consent permits the removal of trees numbered 8 and 9 as indicated in the Arboricultural Impact Assessment Moore Trees dated October 2021. No other trees shall be removed without prior written approval of Council.

12 **Details of Flood Conveyance/Storage Areas**

The Construction Certificate plans for the development shall include flood conveyance/storage areas, including engineered void spaces beneath the car park suspended slab and within the building, and openings in the perimeter walls and internal walls of the building as required, to ensure the site's pre-development flood conveyance/storage function is maintained with no increase in flooding elsewhere as a result of the development. The design of the flood conveyance/storage areas shall be in accordance with:

- Letter from JN Responsive Engineering titled 'Re: DA 2021/901 – PROPOSED MIXED USE DEVELOPMENT – 2-8 BELMORE STREET, WOLLONGONG' dated 14 April 2022 (JN Ref: CLTR- Q0200055.09A) and associated post development flood model condition;
- JN Responsive Engineering plan titled 'PMF STORAGE PLAN' (JN Drawing Reference: Q0200055/C010) Revision C dated 6/5/2022;
- JN Responsive Engineering plan titled 'AEP 1% STORAGE PLAN' (JN Drawing Reference: Q0200055/C011) Revision C dated 6/5/2022;
- ADM Architects Plan titled 'NORTH ELEVATION' (Drawing No. A-201) Issue F dated 5/5/2022;
- ADM Architects Plan titled 'EAST ELEVATION' (Drawing No. A-202) Issue F dated 5/5/2022;
- ADM Architects Plan titled 'SOUTH ELEVATION' (Drawing No. A-203) Issue F dated 5/5/2022;
- ADM Architects Plan titled 'WEST ELEVATION' (Drawing No. A-204) Issue F dated 5/5/2022;
- ADM Architects Plan titled 'SECTION A-A' (Drawing No. A-205) Issue F dated 5/5/2022;
- ADM Architects Plan titled 'SECTION B-B' (Drawing No. A-206) Issue F dated 5/5/2022;

The details of the flood conveyance/storage areas shall be prepared by a suitably qualified civil engineer and shall include internal dimensions, invert/soffit levels, cross-sections, longitudinal sections, flood storage volumes, details of floodwater entry/exit points and dimensions, and finished surface treatment. These details shall ensure the design function of the flood conveyance/storage areas is in accordance with the proposed post-development condition flood modelling by JN Responsive Engineering (described the above referenced letter dated 14 April 2022). Evidence that these requirements have been satisfied shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate. This evidence must include a letter of certification from a suitably qualified civil engineer stating that the requirements of this condition have been satisfied.

13 Flows from Adjoining Properties

Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels. The above requirements must be clearly shown on construction certificate plans prior to the release of the construction certificate.

14 Designated Overland Flow Paths

Details of designated overland flowpaths located along the northern and western boundary of the property shall be provided with the detailed drainage design. These overland flowpaths must be contained entirely within the property boundary and must be capable of catering for the 1 in 100 year ARI storm event flows from the contributing catchment area. The overland flowpaths shall be free of any vegetation and/or structures that are likely to impede natural overland flow, or make provision for such obstructions, so there will be no adverse stormwater impacts upon future dwellings and adjoining properties. Full Manning's calculations shall be provided on the capacity of this overland flowpaths. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.

15 Sizing of Drainage – All roof gutters, downpipes, pits, and pipelines draining roof areas and other impervious surfaces with no deliberate overflow path to the on-site stormwater detention (OSD) facility, shall be designed to cater for a 1 in 100 year ARI storm event in accordance with AS 3500.3 – Plumbing and Drainage (Stormwater Drainage). Details of gutter/downpipe/pipeline sizes and locations shall be reflected on the Construction Certificate plans.

- 16 **Water Entering Road Reserve**
Provision shall be made for a minimum 200mm wide grated box drain along the boundary of the property at the vehicular crossing/s to prevent surface water entering the road reserve. This requirement shall be reflected on the Construction Certificate plans.
- 17 **Depth and Location of Services**
The depth and location of all services (ie gas, water, sewer, electricity, telephone, traffic lights, etc) must be ascertained and reflected on the Construction Certificate plans and supporting documentation.
- 18 **Details of Proposed Pit and Pipeline**
Details of the proposed connecting pipeline to the Council pit, within the existing drainage system shall be provided in conjunction with the detailed drainage design for the site. Connection is to be made in accordance with Wollongong City Council Standard Drawings. This requirement shall be reflected on the Construction Certificate plans and supporting documentation
- 19 **2.125 Certification for Landscape and Drainage .**
The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifier prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.
- 20 **Stormwater Drainage Design**
A detailed drainage design for the development must be submitted to and approved by the Principal Certifier prior to the release of the Construction Certificate. The detailed drainage design must satisfy the following requirements:
- a Be prepared by a suitably qualified civil engineer in accordance with Chapter E14 of Wollongong City Council's Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept plan/s lodged for development approval, prepared by JN Responsive Engineering, Reference No. Q0200055 C002, issue D, dated 06/05/22.
 - b Include details of the method of stormwater disposal. Stormwater from the development must be piped to Council's existing stormwater drainage system.
 - c Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.
 - d Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design. Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.
- 21 **Flood Level Requirements**
The following requirements shall be reflected on the Construction Certificate plans, prior to the release of the Construction Certificate:

- a The minimum habitable floor levels must be constructed in accordance with the levels shown on the Ground Floor Layout Plan prepared by adm Architects Ref 2020-25 Dwg No A-102 Rev F dated 5/5/2022.
- b Any portion of the building or structure below the 1 % AEP flood level plus 0.5 metres freeboard should be built from flood compatible materials. Where materials are proposed and not listed in Appendix B of Chapter E13 of the Wollongong DCP2009, relevant documentation from the manufacturer shall be provided demonstrating that the materials satisfy the definition of 'flood compatible materials' as stated in Chapter E13 of the Wollongong DCP2009.
- c The proposed building shall be designed to withstand the forces of floodwater, debris and buoyancy up to the Probable Maximum Flood (PMF) level plus 0.5 metres freeboard.

22 **On-site STORMWATER detention (OSD) Design**

The developer must provide on-site stormwater detention (OSD) storage for stormwater runoff from the development. The design and details of the OSD system must be provided in conjunction with the detailed drainage design and approved by the Principal Certifier prior to the release of the Construction Certificate. The OSD design and details must satisfy the following requirements:

- a Must be prepared by a suitable qualified engineer in accordance with Chapter E14 of the Wollongong DCP 2009.
- b Must include details of the Site Storage Requirement (SSR) and Permissible Site Discharge (PSD) values for the site in accordance with Section 10.2.4 of Chapter E14 of the Wollongong DCP2009.
- c The OSD facility must be designed to withstand the maximum loadings occurring from any combination of traffic (with consideration to residential and heavy vehicles), hydrostatic, earth, and buoyancy forces. Details must be provided demonstrating these requirements have been achieved.
- d The OSD facility shall incorporate a minimum 900mm x 900mm square lockable grate for access and maintenance purposes, provision for safety, debris control screen, and a suitably graded invert to the outlet to prevent ponding.
- e Must include discharge control calculations (i.e. orifice/weir calculations) generally in accordance with Section 10.2.6 and 10.5.4 of Chapter E14 of the Wollongong DCP2009.
- f Details of the orifice plate including diameter of orifice and method of fixing shall be provided.
- g Must include details of a corrosion resistant identification plaque for location on or close to the OSD facility. The plaque shall include the following information and shall be installed prior to the issue of the occupation certificate:
 - The structure is an OSD facility, being part of the stormwater drainage network, and is not to be tampered with.
 - Identification number DA-2021/901.
 - Any specialist maintenance requirements.
- h Must include a maintenance schedule for the OSD system, generally in accordance with Chapter E14 of the Wollongong DCP2009.

- 23 **Council Road Reserve Works – Driveway and Crossings**
All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be removed and the area appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Details and locations are to be shown on the Construction Certificate Plans.

- 24 **No Adverse Run-off Impacts on Adjoining Properties**
The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater run-off.

Prior to the Issue of the Construction Certificate

- 25 **Present Plans to Sydney Water**
Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.
The Principal Certifier must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.
Visit www.sydneywater.com.au or telephone 13 20 92 for further information.

- 26 **Section 73 Compliance Certificate**
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Builders and Developers" section of the web site www.sydneywater.com.au then search to "Find a Water Servicing Coordinator". Alternatively, telephone 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice of Requirements must be submitted to the Principal Certifier prior to issue of the Construction Certificate.

- 27 **Endeavour Energy Requirements**
The submission of documentary evidence from Endeavour Energy to the Principal Certifier is required confirming that satisfactory arrangements have been made with Endeavour Energy for the provision of electricity supplies to the development, prior to the release of the Construction Certificate.

Note: Applications should be made to Customer Connections – South Coast, Endeavour Energy PO Box 811 Seven Hills NSW 1730.

- 28 **Glass Reflectivity Index**
The reflectivity index of the glass used in the external façade of the building shall not exceed 20 per cent. The details and samples of the glass to be used are to be submitted with the

Construction Certificate together with written evidence that the reflectivity of the glass is 20 per cent or less.

29 **Car Parking and Access**

The development shall make provision for the following:

Residential

- a 62 residential car parking spaces (including 7 spaces capable of adaption for people with disabilities)
- b 13 residential visitor car parking spaces
- c 5 residential motorcycle parking spaces
- d A minimum of 21 secure (Security Class B) residential bicycle spaces
- e A minimum of 6 residential visitor bicycle spaces (Security Class C)

Commercial

- 5 commercial car parking spaces (including 1 car parking space for people with disabilities)
- 1 commercial motorcycle parking space
- A minimum of 1 secure (Security Class B) employee bicycle space
- A minimum of 1 commercial visitor bicycle space (Security Class C)

This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

30 The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

31 Each disabled person's parking space must comply with the current relevant Australian Standard AS2890.6 – Off-street parking for people with disabilities. This requirement shall be reflected on the Construction Certificate plans.

32 **Designated Loading/Unloading Facility**

The designated loading/unloading facility must be clearly delineated with appropriate signage and or line marking to ensure the area is kept clear at all times. The designated loading/unloading facility shall be shown on the Construction Certificate plans.

33 The provision of suitable barriers, line-marking and painted signage delineating vehicular flow movements within the car parking areas. These details shall be reflected on the Construction Certificate plans.

34 A change in driveway paving is required at the entrance threshold within the property boundary to clearly show motorists they are crossing a pedestrian area. Between the property boundary and the kerb, the developer must construct the driveway pavement in accordance with the conditions, technical specifications and levels to be obtained from Council's Manager Works. This requirement shall be reflected on the Construction Certificate plans and any supporting documentation.

35 **Rail Noise**

Any dwelling erected upon this site shall be designed and constructed in accordance with the recommendations and requirements of NSW Department of Planning (2008) *Development*

near Rail Corridors and Busy Roads – Interim Guideline. This requirement shall be reflected on the Construction Certificate plans and supporting documentation for the endorsement by the Principal Certifier, prior to the issue of the Construction Certificate

36 **Landscaping**

The submission of a final Landscape Plan will be required in accordance with the requirements of Wollongong City Council DCP 2009 Chapter E6 and the approved Landscape Plan (ie as part of this consent) for the approval by the Principal Certifier, prior to the release of the Construction Certificate.

37 The submission of a final Landscape Plan to the Principal Certifier, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:

- a planting of indigenous plant species native to the Illawarra Region such as : *Syzygium smithii* (syn *Acmena smithii*) Lilly pilly, *Archontophoenix cunninghamiana* Bangalow palm, *Backhousia myrtifolia* Grey myrtle, *Elaeocarpus reticulatus* Blueberry ash, *Glochidion ferdinandii* Cheese tree, *Livistona australis* Cabbage palm tree, *Syzygium paniculatum* Brush cherry.
 - i. A further list of suitable suggested species may be found in Wollongong Development Control Plan 2009 – Chapter E6: Landscaping;
- b a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
- c the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees; and
- d any proposed hard surface under the canopy of existing trees shall be permeable and must be laid such that the finished surface levels match the existing level. Permeable paving is to be installed in accordance with the manufacturer’s recommendations.

The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate.

38 The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifier prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.

39 The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the Principal Certifier prior to release of the Construction Certificate.

40 **Tree Protection and Management**

The existing trees are to be retained upon the adjoining properties and shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:

- a Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- b Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.

- c Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.
- 41 Bicycle parking facilities must have adequate weather protection and provide the appropriate level of security as required by the current relevant Australian Standard AS2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.
- 42 **Property Addressing Policy Compliance**
 Prior to the issue of any construction certificate, the developer must ensure that any site addressing complies with Council's **Property Addressing Policy** (as amended). Where appropriate, the developer must also lodge a written request to Council's **Infrastructure Systems & Support – Property Addressing** (propertyaddressing@wollongong.nsw.gov.au), for the site addressing prior to the issue of the construction certificate. Please allow up to 3-5 business days for a reply. Enquiries regarding property addressing may be made by calling 4227 8660.
- 43 **Footpath Paving City Centre**
 The developer is responsible for the construction of footpath paving for the entire frontage of the development for the full width of the verge. The type of paving for this development shall be in accordance with the Wollongong City Council Public Domain Technical Manual.
- A nominal two percent (2%) minimum one percent (1%), maximum two and a half percent (2.5%) cross fall to be provided from property line to back of kerb. Any changes of level, ramps or stairs and associated tactile markers and handrails are to be contained with the property boundary.
- The driveway entry threshold from the property boundary line to the face of kerb is to match the footpath material and be designed to withstand predicted traffic loadings.
- The driveway threshold finish within property boundary line is to contrast with driveway entry.
- The footpath and driveway entry on the council property must be installed to the satisfaction of WCC Manager of Works.
- A Landscape Plan is to be submitted to Council for approval prior to the issue of the Construction Certificate showing proposed paving, footpath design levels, street tree details and location of all services.
- 44 **Street Trees City Centre**
 The developer must address the street frontage by installing street tree planting. The number and species for this development are three Waterhousia 'Green Avenue' for Belmore Street and five Lagerstroemia indica for the northern boundary adjacent to the public path. The trees shall be 200 litre container size in accordance with AS 2303:2018 Tree stock for landscape use. Tree pit detailing is to be in accordance with the Wollongong City Council Public Domain Technical Manual. Dial Before You Dig must be consulted prior to any excavation on site. Pot holing must be carried out to determine service location. Location of street tree plantings to be sited to ensure no conflict occurs with street light poles.
- Tree pits must be adequately mulched, plants installed and tree guard/staking/tree grille/edging installed to the satisfaction of WCC Manager of Open Space.
- These requirements shall be reflected on the Construction Certificate plans and any supporting documentation.
- 45 **Development Contributions - City Centre**
 Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Wollongong City-Wide Development Contributions Plan, a monetary contribution of

\$447,944.54 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

This amount has been calculated based on the estimated cost of development and the applicable percentage rate as outlined in Clause 25K of the Environmental Planning and Assessment Regulation 2000.

The contribution amount will be subject to indexation until the date of payment. The formula for indexing the contribution is:

$$\text{Contribution at time of payment} = \$C \times (\text{CP2}/\text{CP1})$$

Where:

\$C is the original contribution as set out in the Consent

CP1 is the Consumer Price Index; All Groups CPI; Sydney at the time the consent was issued

CP2 is the Consumer Price Index; All Groups CPI; Sydney at the time of payment

Details of CP1 and CP2 can be found in the Australian Bureau of Statistics website – Catalogue No. 6401.0 - Consumer Price Index, Australia.

The following payment methods are available:

METHOD	HOW	PAYMENT TYPE
Online	http://www.wollongong.nsw.gov.au/applicationpayments Your Payment Reference: 1366721	<ul style="list-style-type: none"> • Credit Card
In Person	Wollongong City Council Administration Building - Customer Service Centre Ground Floor 41 Burelli Street, WOLLONGONG	<ul style="list-style-type: none"> • Cash • Credit Card • Bank Cheque
PLEASE MAKE BANK CHEQUE PAYABLE TO: Wollongong City Council (Personal or company cheques are not accepted)		

A copy of the Wollongong City-Wide Development Contributions Plan and accompanying Fact Sheet may be inspected or obtained from the Wollongong City Council Administration Building, 41 Burelli Street, Wollongong during business hours or on Council's web site at www.wollongong.nsw.gov.au

Prior to the Commencement of Works

46 Construction Environmental Management Plan

- a Submit a construction environmental management to Principal Certifier, the plan shall address as minimum the vehicle traffic, odour and vapour, dust, plant and machinery noise, water and sediment management, surface water, subsurface seepage and accumulated excavation water, sediment from equipment and cleaning operations, site security, working hours, contact information, incident response and contingency management.
- b Submit an excavated soil material disposal plan to Principal Certifier, with the batching, sampling and analysis procedures as per the DECCW (2009) *Waste Classification*

Guidelines. The plan shall be prepared by a suitably qualified and experienced consultant. A copy of the plan shall be forwarded to council.

47 **Sign – Supervisor Contact Details**

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a stating that unauthorised entry to the work site is not permitted;
- b showing the name, address and telephone number of the Principal Certifier for the work; and
- c showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

48 **Temporary Toilet/Closet Facilities**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a a standard flushing toilet; and
- b connected to either:
 - i the Sydney Water Corporation Ltd sewerage system or
 - ii an accredited sewage management facility or
 - iii an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

49 **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifier. No building work is to commence until the fence is erected.

50 **Demolition Works**

The demolition of the existing structures on the site shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifier. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

51 **Demolition Notification to Surrounding Residents**

Demolition must not commence unless at least 2 days written notice has been given to adjoining residents of the date on which demolition works will commence.

52 **Hazardous Material Survey**

At least one week prior to demolition, the applicant must prepare a hazardous materials survey of the site and submit to Council a report of the results of the survey. **Hazardous**

materials includes, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must include at least the following information:

- a the location of hazardous materials throughout the site;
- b a description of the hazardous material;
- c the form in which the hazardous material is found, eg AC sheeting, transformers, contaminated soil, roof dust;
- d an estimation (where possible) of the quantity of each particular hazardous material by volume, number, surface area or weight;
- e a brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials, and where appropriate, reference to relevant legislation, standards and guidelines;
- f identification of the disposal sites to which the hazardous materials will be taken.

53 **Asbestos Hazard Management Strategy**

An appropriate hazard management strategy shall be prepared by a suitably qualified and experienced licensed asbestos assessor pertaining to the removal of contaminated soil, encapsulation or enclosure of any asbestos material. This strategy shall ensure any such proposed demolition works involving asbestos are carried out in accordance with SafeWork NSW requirements (<http://www.safework.nsw.gov.au>). The strategy shall be submitted to the Principal Certifier and Council (in the event that Council is not the Principal Certifier prior to the commencement of any works.

The approved strategy shall be implemented and a clearance report for the site shall be prepared by a licensed asbestos assessor and submitted to the Principal Certifier and Council (in the event that Council is not the Principal Certifier), prior to the issue of an Occupation Certificate or commencement of the development. The report shall confirm that the asbestos material has been removed or is appropriately encapsulated based on visual inspection plus sampling if required and/or air monitoring results and that the site is rendered suitable for the development.

54 **Consultation with SafeWork NSW – Prior to Asbestos Removal**

A licensed asbestos removalist must give written notice to SafeWork NSW at least five (5) days before licensed asbestos removal work is commenced.

55 **Contaminated Roof Dust**

Any existing accumulations of dust in ceiling voids and wall cavities must be removed prior to any demolition work commencing. Removal must take place by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter.

56 **Waste Management**

The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and reusable materials.

57 **Supervising Arborist – Tree Inspection and Installation of Tree Protection Measures**

Prior to the commencement of any demolition, excavation or construction works, the supervising arborist must certify in writing that tree protection measures have been inspected and installed in accordance with the arborist's recommendations and relevant conditions of this consent.

58 **Certification from Arborist - Adequate Protection of Trees to be Retained**

A qualified arborist is required to be engaged for the supervision of all on-site excavation or land clearing works. The submission of appropriate certification from the appointed arborist

to the Principal Certifier is required which confirms that all trees and other vegetation to be retained are protected by fencing and other measures, prior to the commencement of any such excavation or land clearing works.

59 **Works in Road Reserve - Minor Works**

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the roads act. It is advised that all applications are submitted and fees paid, 5 days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

- a All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's Road reserve".
- b Any existing damage within the immediate work area or caused as a result of the work/ occupation, must also be restored with the final works.

60 **Tree Protection**

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970-2009).

Tree protection zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

During Demolition, Excavation or Construction

61 **Installation of WSUD treatment train**

The proponent shall install the WSUD infrastructure (water quality improvement devices) as stated in the stormwater quality management plan prepared by JN Engineering Consulting dated 16 February 2021.

62 **Implementation of all the building construction recommendation (walls, ceiling, floor and Façades Glazing) of acoustic report**

Implement building acoustic treatment as recommended in Section 5.2 of acoustic report prepared by Harwood Acoustic dated 5 May 2021 to comply with the with the NSW SEPP Infrastructure 2007 – Development Near Rail Corridors & Busy Roads –Interim Guidelines.

LAeq levels are not exceeded:

- a in any bedroom in the building 35dB(A) at any time between 10pm and 7am
- b anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40dB(A) at any time between 10pm and 7am.

63 **Mechanical Plants and Exhaust Ventilation system
Mechanical Exhaust**

Centralised mechanical exhaust ventilation must be provided to the building and all commercial kitchens such as cafes and restaurants cooking appliances installation as per AS4674-2004, AS1668.2-1991 and the grease filters to comply with AS1530.1.

Outdoor Air Conditioning or refrigeration units

The outdoor units for refrigeration system including air conditioners shall have suitable acoustic enclosure to comply with the noise guidelines.

Duct system

The ducting within the building must be mounted on vibration reducing pads to minimise vibration effect for residential and commercial spaces to comply with the vibration guidelines.

Environmental Wind Control

Implement all the mitigation measures stated in SLR Consulting Assessment Report dated May 2021 to minimise wind effects.

64 **Copy of Consent to be in Possession of Person carrying out Tree Removal**

The Developer/Applicant must ensure that any person carrying out tree removal is in possession of this development consent and/or the approved landscape plan, in respect to the tree(s) which has/have been given approval to be removed in accordance with this consent.

65 **Restricted Hours of Construction Work**

The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the Principal Certifier and Council. No work is permitted on public holidays or Sundays.

Allowable construction activity noise levels must be within the limits identified in the NSW EPA Interim Construction Noise Guidelines (ICNG) July 2009. ICNG are also applied for blasting, rock hammer and drilling, external plant and equipment.

<https://www.environment.nsw.gov.au/resources/noise/09265cng.pdf>

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a the variation in hours required (length of duration);
- b the reason for that variation (scope of works);
- c the type of work and machinery to be used;
- d method of neighbour notification;
- e supervisor contact number;
- f any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

66 **Site Management**

Stockpiles of sand, gravel, soil and the like must be located to ensure that the material:

- a Does not spill onto the road pavement and
- b is not placed in drainage lines or watercourses and cannot be washed into these areas.

67 Should during construction any waste material or construction material be accidentally or otherwise spilled, tracked or placed on the road or footpath area without the prior approval of Council's Works Division this shall be removed immediately. Evidence that any approval to place material on the road or road reserve shall be available for inspection by Council officers on site at any time.

- 68 **Dust Suppression Measures**
Activities occurring during the construction phase of the development must be carried out in a manner that will minimise the generation of dust.
- 69 **Asbestos – Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist**
The removal of any asbestos material must be carried out by a licensed asbestos removalist if over 10 square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with SafeWork NSW requirements (<http://www.safework.nsw.gov.au>).
- 70 **Asbestos Clearance Certificate**
The internal floor area affected or likely to be affected, by scattering of asbestos pieces, particles or fibres during demolition or cutting into the building, is to be cleaned by vacuuming by a contractor approved by SafeWork NSW. A Clearance Certificate to certify that the site area is free of asbestos is to be submitted to Council by a licensed asbestos assessor within fourteen (14) days of the completion of renovations (or prior to the Occupation Certificate being issued).
- 71 **Asbestos Waste Collection, Transportation and Disposal**
Asbestos waste must be prepared, contained, transported and disposed of in accordance with SafeWork NSW and NSW Environment Protection Authority requirements. Asbestos waste must only be disposed of at a landfill site that can lawfully receive this type of waste. A receipt must be retained and submitted to the Principal Certifier, and a copy submitted to Council (in the event that Council is not the Principal Certifier), prior to commencement of the construction works.
- 72 **Provision of Waste Receptacle**
The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.
- 73 **Excess Excavated Material – Disposal**
Excess excavated material shall be classified according to the NSW Environment Protection Authority's Waste Classification Guidelines – Part 1: Classifying Waste (2014) prior to being transported from the site and shall be disposed of only at a location that may lawfully receive that waste.
- 74 **Provision of Taps/Irrigation System**
The provision of common taps and/or an irrigation system is required to guarantee that all landscape works are adequately watered. The location of common taps and/or irrigation system must be implemented in accordance with the approved Landscape Plan.
- 75 **Podium Planting**
All podium planting areas are to have a waterproofing membrane that can provide a minimum 10 year warranty on product. Protective boarding is to be installed to protect membrane from damage.

All podium planting areas to be provided with an adequate drainage system connected to the stormwater drainage system. The planter box is to be backfilled with free draining planter box soil mix.

If selected mulch is decorative pebbles/gravel, the maximum gravel pebble size is 10mm diameter.

76 **Survey Report for Floor Levels**

A Survey Report must be submitted to the Principal Certifier verifying that each floor level accords with the floor levels as per the approved plans under this consent. The survey shall be undertaken after the formwork has been completed and prior to the pouring of concrete for each respective level of the building (if the building involves more than one level). All levels shall relate to Australian Height Datum.

77 **Piping of Stormwater to Existing**

Stormwater for the land must be piped to Council's existing stormwater drainage system.

78 **No Adverse Run-off Impacts to Adjoining Neighbours**

The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

79 **Fences**

Any new fences constructed on the site and located in the flood plain shall be of a type that will not obstruct the free flow of floodwaters and not cause damage to surrounding land in the event of a flood.

Prior to the Issue of the Occupation Certificate

80 **Acoustic Compliance Report**

The developer shall submit a noise compliance report prepared by an acoustic consultant who is a member of the Australian Acoustic Society (AAS) or the Association of Australian Acoustic Consultants (AAAC) in relation to the building compliance with the NSW SEPP Infrastructure 2007 – Development Near Rail Corridors & Busy Roads –Interim Guidelines. A copy of the acoustic compliance report must be submitted to Principal Certifier and forward a copy to council.

81 **Completion of Landscape Works**

The completion of the landscaping works as per the final approved Landscape Plan is required prior to the issue of Occupation Certificate.

82 **Completion of Landscape Works on Council Owned or Controlled Land**

The Developer must complete all landscape works required within Council's road reserve, or other Council owned or controlled land, in accordance with the conditions of this consent. The total cost of all such landscape works shall be fully borne by the Developer and any damage to Council's assets shall be the subject of restoration works sufficient to restore the asset to its previous state and configuration previous to the commencement of works. Evidence that this requirement has been met must be satisfied prior to the issue of the Occupation Certificate.

83 **Arborist Verification – Street Tree Installation**

Prior to the issue of Occupation Certificate, the developer must supply certification in the form of a report, including photographic evidence, from an AQF Level 5 Arborist to the Principal Certifier and Wollongong City Council to verify:

- a The tree stock complies with AS 2203:2018 Tree Stock for Landscape Use
- b The tree pits have been constructed and the trees installed in accordance with the requirements of the Wollongong City Council City Centre Public Domain Technical Manual and arboricultural best practice.

84 **Drainage**

The developer must obtain a certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified civil engineer, to confirm that all stormwater drainage and on-site detention works have been constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor must be submitted. These plans and certification must satisfy all the stormwater requirements stated in Chapter E14 of the Wollongong DCP2009. This information must be submitted to the Principal Certifier prior to the issue of the final Occupation Certificate.

85 **Restriction on Use over On-Site Detention Facility**

The applicant must create a restriction on use under the Conveyancing Act 1919 over the on-site detention system. The following terms must be included in an appropriate instrument created under the Conveyancing Act 1919 for approval of Council:

"The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures.

Name of the authority having the power to release, vary or modify the restriction referred to is Wollongong City Council."

The instrument, showing the restriction, must be submitted to the Principal Certifier for endorsement prior to the issue of the Occupation Certificate and the use of the development.

86 **Positive Covenant On-Site Detention Maintenance**

A positive covenant shall be created under the Conveyancing Act 1919, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule (application number to be referenced).

The instrument, showing the positive covenant must be submitted to the Principal Certifier for endorsement prior to the issue of the Occupation Certificate and the use of the development.

87 **On-Site Detention, Structural Certification**

The submission of a certificate from a suitably qualified practising civil and/or structural engineer to the Principal Certifier is required prior to the issue of the Occupation Certificate. This certification is required to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

88 **Structural Soundness Certification**

The submission of a report from a suitably qualified and experienced structural engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate and commencement of use. This report is required to verify that the development can withstand the forces of floodwater, debris and buoyancy up to and including the Probable Maximum Flood (PMF) plus 0.5m freeboard.

89 **Flood Affection Certification**

The submission of a report from a suitably qualified and experienced civil (floodplain management) engineer to the Principal Certifying Authority is required, prior to the issue of

any Occupation Certificate. The Engineer must certify that the plans in accordance with the Flood Study submitted This report is required to certify that the development, including car park suspended slab, proposed flood storage void openings, including extent, invert/obvert levels, floodwater entry/exit points, conveyance volume and flood conveyance capacity is in accordance with the Construction Certificate plans, and that the 'as-constructed' development will not detrimentally increase the potential of flood affectation on other development or properties with respect to the loss of flood storage, changes in flood levels/velocities, and/or alteration of flood conveyance.'

90 Drainage and Flood Storage Work As Executed

The developer shall obtain written verification from a suitably qualified civil engineer, stating that all stormwater drainage and related works, and flood conveyance/storage areas, have been constructed in accordance with the approved Construction Certificate plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor shall be submitted. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels), flood conveyance/storage areas (incl. internal dimensions, invert/soffit levels, cross-sections, longitudinal sections, flood storage volumes, details of floodwater entry/exit points and dimensions, and finished surface treatment), and finished ground and pavement surface levels. This information shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

91 Restriction on use – Flood Storage/Conveyance Areas

The applicant must create a restriction on use under the Conveyancing Act 1919 requiring the flood conveyance/storage areas (including void spaces, openings, and floodwater entry/exit points) to remain open and free of obstructions to ensure the unimpeded flow and storage of water in these areas in the event of a flood. The instrument must also require that the registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to the flood conveyance/storage areas on the lot(s) burdened without the prior consent in writing of the authority benefited. The instrument, created under the Conveyancing Act 1919, shall contain a provision that this clause may not be altered, modified or extinguished, except with the written consent of Wollongong City Council. Evidence that these requirements have been satisfied shall be submitted to the Principal Certifier prior to the release of any Occupation Certificate.

Operational Phases of the Development/Use of the Site

92 Street Tree Establishment Period – City Centre

The Developer must comply with the terms of an approved landscape maintenance program for a minimum period of 12 months to ensure that all landscape works within Council's road reserve or Council owned or controlled land becomes well established by regular maintenance. The Street Tree Establishment Period shall commence from the issue of the Occupation Certificate.

The program must include the following elements: watering, weeding, litter removal, mulching, fertilising, tree guard and grate maintenance, and pest and disease control.

Details of the proposed program must be submitted with the Landscape Plan to the Principal Certifier for approval prior to release of the Construction Certificate.

ATTACHMENT 4 – Original Council Assessing Officer’s WLPP Report and Conditions as presented to WLPP meeting on 29 March 2022

WLPP No.	Item No.2
DA No.	DA -2021/901
Proposal	Mixed Use development - demolition of existing structures and construction of a 15 storey building comprising ground floor commercial/retail, residential shop top housing and associated parking
Property	2-8 Belmore Street WOLLONGONG
Applicant	ADM Architects
Responsible Team	Development Assessment and Certification - City Centre Major Development Team (BH)
Prior WLPP meeting	NA

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel- Determination

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Clauses Clause 2(b) and 4(b) of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, the proposal received over 10 unique submissions by way of objection and is development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.

Proposal

The proposal is for demolition of existing structures and construction of a 15 storey building comprising ground floor commercial/retail, shop top housing and associated parking.

Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a shop top housing and is permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council’s Notification Policy and received twenty four (24) submissions which are discussed at section 8 of the assessment report.

Main Issues

The main issues are flood affectation, impact of rail noise, relationship to the street.

RECOMMENDATION

It is recommended that the application be refused.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies

- SEPP 55 – Remediation of Land
- SEPP 65 Design Quality of Residential development
- SEPP (Infrastructure) 2007
- SEPP (Building Sustainability Index: BASIX) 2004

SEPP 55 and Infrastructure were in force upon lodgement of the application but have since been repealed by the SEPP consolidation project. The savings and transitional provisions in the SEPPs being repealed have not be transferred to the new consolidated SEPPs because all savings and transitional provisions continue to have effect despite their repeal pursuant to sections 5(6) and 30(2)(d) of the Interpretation Act 1987.

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal is a for demolition of existing structures and the construction of a 15 storey building being a shop top housing development. There 13 storeys of residential comprising 63 apartments (7 x 1 bedroom, 45 x 2 bedroom and 11 x 3 bedroom) above ground floor commercial premises above sleeved parking for 76 cars in addition to motorcycle and bicycle parking. Communal open space is provided on the level 4 podium.

Having regard to the flood affectation of the site, the ground floor is elevated above the Belmore Street frontage with steps and a pedestrian ramp providing access to the building.

1.3 BACKGROUND

There was no consultation with Council prior to lodgement and there are no historic applications relevant to the proposal.

Design Review Panel (DRP) post lodgement

The application was considered by the Design Review Panel (DRP) on 16 September 2021. The Panel concluded that a more detailed contextual analysis was required to inform the proposal's interfaces with its neighbours. A major component of this analysis would need to address the potential future developments on the neighbouring sites to the south and demonstrate how the proposal contributes to a cohesive pattern of development for the city block. Other design issues that were required to be addressed included:

- Increased setbacks to, and further articulation of, the four storey podium (southern and western edges).
- Refinement of street entry
- Refinement of communal open space
- The provision of SOHO type units to activate the northern interface with the pedestrian lane.
- Minor refinements to unit planning
- Further development is recommended to incorporate more textured materials (such as brick) into the form of the building.

These issues were addressed by the applicant and amended plans were subsequently submitted on 4 November 2021.

Council's architect has reviewed the amended plans and the DRP comments and provided the following comments on the amended plans:

- *The 1m setback to the rail corridor seems consistent with Sydney Trains, however it does not allow for planting as suggested by the DRP. Council has approved a 1m setback to the railway corridor further south in Belmore Street.*
- *The façade sufficiently articulated and can be supported.*
- *The built form study provided demonstrates that the site immediately to the south is difficult to redevelop and will likely require major infrastructure works – I would be preferable for the subject site and the adjacent site to the south be amalgamated. The step and minimal setback from the south-eastern boundary dictates how the south should be developed rather than benefiting it.*
- *The use of platform lifts are not supported – this was a suggestion by the Panel which has resulted in an inequitable access solution. Otherwise, generally the entry foyer is a better outcome than previously proposed.*
- *A deep soil zone has not been provided, however it is acknowledged that this is a city centre site.*
- *Generally the COS issues, materials, and the entrance issues have been addressed adequately.*

Further to the above comments revised plans have been submitted which provides a satisfactory solution in respect to the access ramp on the street frontage. The visual impact has been minimised and the need for platform lifts for disabled access are not required. Having regard to the above comments by Council's architect, the amended plans are generally considered to have satisfied the concerns raised by the DRP .

The development as amended is considered to exhibit design excellence as required by Clause 7.18 of Wollongong Local Environmental Plan (LEP) 2009 and responds appropriately to the design quality principles of SEPP 65.

The DRP notes are included as Attachment 4 with the applicant's responses being provided as Attachment 5.

Customer service actions

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

1.4 SITE DESCRIPTION

The site is located at 2-8 Belmore Street Wollongong and the title reference is Lot 1 Sec 5 DP1258 (2 Belmore Street), Lot 2 Sec 5 DP 1258 (4 Belmore Street), Lot 3 Sec 5 DP1258 (6 Belmore Street) and Lot A DP347697 (8 Belmore Street). The site area is 1,810m². The site is regular in shape and relatively flat.

Adjoining development is as follows:

- North: Unformed Street
- East: Belmore Street
- South: Council car park
- West: Railway Line

The locality is characterised by the railway line which runs along the rear of the site and a mix of high density residential development, a public car park to the south and the former gasworks site to the north which is currently being rehabilitated.

Property constraints

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

- Acid sulphate soils: Class 5 No concerns are raised in this regard.

- Flooding: The site is identified as being located within a uncategorised flood risk precinct.
- Easement: The site is affected by a stormwater easement which transverses the south-eastern corner of the site.
- There are no restrictions on the title.



Figure 1: Site photograph (Source: Google Maps)

1.5 SUBMISSIONS

The application was notified between 23/8/21 and 7/9/21 in accordance with Council’s Community Participation Plan 2019. Twenty four (24) submissions were received and the issues identified are discussed below.

Table 1: Submissions

Concern	Comment
<p>Building Height</p> <p>Concerns are raised in respect of the breach in the height limit and more generally in relation to the height of the building in relation to existing development.</p>	<p>The proposal exceeds the height limit by 400mm attributable to the lift overrun and solar panel array. A minor variation has been requested and the arguments for variation are not supported given the uncertainty in relation to the flood levels which may lead to additional height breach.</p>
<p>Inadequate Parking</p> <p>Concerns are raised that insufficient parking is provided to cater for both residential and commercial use. On street parking in the locality is already in short supply.</p>	<p>The parking provided is in accordance with the TfNSW Guidelines as required by the Apartment Design Guide. Council’s Traffic engineer supports the parking arrangements for the development.</p>

Concern	Comment
<p>Traffic impacts</p> <p>Concerns have been expressed in relation to traffic generation exceeding the capacity of surrounding street network leading to safety concerns.</p>	<p>The traffic likely to be generated has been assessed by Council's traffic engineer as being unlikely to adversely impact the surrounding street network.</p>
<p>Overshadowing</p> <p>The issue of the adequacy of the submitted Shadow diagrams has been raised and there are concerns that the building will overshadow units and private open space within Victoria Square development on the eastern side of Belmore Street.</p>	<p>To clarify the shadowing impacts the applicant was requested to provide sun eye diagrams. These indicate that there is no significant overshadowing impacts from the proposed development. However, as the floor levels are likely to increase the full impacts are uncertain</p>
<p>Privacy impacts</p> <p>Concerns that units within the development will look down into private open space of Victoria Square.</p>	<p>The distance (including road separation) between the subject development and the Victoria Square development on the eastern side of Belmore Street is sufficient to ameliorate any overlooking impacts.</p>
<p>Geotechnical concerns</p> <p>Concern regarding stability of the building having regard to proximity to railway line.</p>	<p>The application was supported by a geotechnical report and has been referred to Sydney Trains who have raised no concerns and have recommended conditions of consent. Council's Geotechnical engineer has also provided a satisfactory referral.</p>
<p>Rail Noise</p> <p>Concerns that the impact of rail noise has not been adequately considered.</p>	<p>The proposal has been supported by a Rail Noise Intrusion Assessment prepared by an acoustical engineer. Sydney Trains have been consulted and have not raised concerns in relation to the proposal. Council's environment officer has provided a satisfactory referral.</p>
<p>Streetscape impact</p> <p>The building will have unacceptable impact on streetscape. Photomontages do not address all views and are considered misleading.</p>	<p>The proposed development has been considered by the Design Review Panel (DRP) and Council's internal architect. No significant concerns have been raised in relation to streetscape impact. Photomontages do not cover every potential view of the building but are considered sufficient to assist in the overall assessment of the proposal.</p>
<p>Out of Character</p>	<p>The SEPP 65 design report provides an overview of the design principles. A full compliance table against the detailed provisions of</p>

Concern	Comment
<p>The proposal is considered out of character with the area (height, bulk, scale). The SEPP65 Design Report provided appears to be lacking detail.</p>	<p>the Apartment Design Guide (SEPP 65) has been provided and is considered satisfactory. The proposal is the type of development envisaged for the zone.</p>
<p>View Loss View loss will be experienced by residents within Victoria Square development.</p>	<p>Although some view loss toward the west is inevitable with a building of this height, such view loss is to be expected and is not considered fatal to the application.</p>
<p>Inadequate greenspace Insufficient greenspace is provided within the development. More generally the over development of the area with high density housing does not allow sufficient open space to be provided.</p>	<p>Whilst deep soil planting is not provided, this is considered acceptable within the context of the city centre and the mixed-use development characterisation. Adequate community open space is provided on the landscaped podium for the amenity of residents. Council's landscape officer is satisfied with the landscape design for the proposed development.</p>
<p>Lack of consultation with aboriginal community Aboriginal community should be consulted regarding potential impacts on aboriginal heritage.</p>	<p>There is no statutory requirements for a referral to Aboriginal groups where there is no identified aboriginal heritage sites on or adjacent to the subject site.</p>
<p>Need for commercial space With so many vacant commercial tenancies within the city centre the need for more commercial space is questioned.</p>	<p>The demand for commercial space is related to a number of factors including the economic climate. The zoning permits commercial development and this is considered appropriate in the context of the site which is situated within the area defined as the city centre by the Wollongong Environmental Plan 2009.</p>
<p>Site contamination The proximity of the site to the abandoned gasworks in Smit Street is likely to present contamination issues.</p>	<p>A combined preliminary and detailed site investigation was submitted with the application and has been assessed as satisfactory by Council's environmental officer. Appropriate conditions of consent were recommended.</p>
<p>Lack of Construction Management Plan.</p>	<p>The concurrent construction of developments in close proximity to each other is not able to be controlled. However, standard conditions apply which control hours of construction works and minimisation of</p>

Concern	Comment
Lack of details in relation to management of construction impacts. Concern regarding cumulative impacts of multiple building projects being undertaken at one time.	noise and dust to reduce amenity impacts on surrounding properties. It is considered that a construction management plan should be submitted.
Wind impacts Likelihood of wind tunnel effects have not been modelled.	A Qualitative Wind Statement has been prepared by an appropriately qualified consultant which evaluated the existing wind characteristics and made recommendations in respect to wind amelioration measures. Appropriate conditions of consent could be recommended.

1.6 CONSULTATION

1.6.1 1.6.1INTERNAL CONSULTATION

Council's Landscape Architect, Traffic Engineer Geotechnical Engineer and Environment Officer have provided satisfactory referrals.

- Council's Stormwater Officer requested additional information in the form of a flood study to ascertain the impact of the development on the flood characteristics of the area. Although a flood study was submitted it requires revision to ensure the modelling used is compatible with Council's modelling. This is still under review at the time of writing this report. It is anticipated that the floor levels of the building will need to be raised in response. Accordingly, the recommendation will that the application be refused.

1.6.2 EXTERNAL CONSULTATION

Sydney Trains

As the site adjoins the rail corridor to the west, concurrence was sought under Clause 86 of the SEPP (Infrastructure) 2007. Sydney Trains have provided their concurrence and their requirements are included in the recommended conditions.

Endeavour Energy

The proposal was referred to Endeavour Energy. Advice was received dated 8 September 2021 raising no objection to the proposal subject to certain recommendations and supporting information being forwarded the applicant.

2 2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

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

NSW BIODIVERSITY CONSERVATION ACT 2016

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

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

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

No native vegetation is proposed to be cleared for the development. The minimum subdivision lot size for the land under WLEP 2009 is 449sqm. Therefore, the proposal does not trigger the requirement for a biodiversity offset scheme and the site is not identified as being of high biodiversity value on the Biodiversity Values Map.

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

Council's Environment Officer has reviewed the application and considered the proposal satisfactory with regards the requirements of the BC Act subject to imposition of conditions relating to the above matters.

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

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

Historically site has been used for automotive repair businesses. A combined Preliminary Site Investigation (PSI) and Detailed Site Investigation (DSI) prepared by Environmental Consulting Service Pty Ltd has been submitted. This report has been audited by a recognised site auditor and Council's Environment Officer provided appropriate conditions of consent in relation to remediation and validation under the provisions of the Contaminated Land Management Act. Having regard to the above, no concerns are raised regarding contamination related to the intended residential use of the land and the site is considered to be suitable for the proposed development with regard to clause 7 of this policy subject to conditions.

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

The development meets the definition of a 'residential flat building' as it is more than 3 storeys and comprises more than 4 dwellings. Therefore the provisions of SEPP 65 apply. The application is accompanied by a statement by a qualified designer in accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000.

With regard to Clause 28(2)(a), the advice from the DRP has been considered as outlined in Part 1.3 of this report. With regard to Clause 28(2)(b), the design quality of the development has been considered in accordance with the design quality principles is outlined below. With regard to Clause 28(2)(c), the Apartment Design Guide has been considered below and in Attachment 7.

Principle 1: Context and neighbourhood character

Applicant's Statement of Compliance:

The proposal has been developed in relation to the desired future character of the area as set out by 2009 Wollongong Local Environmental Plan. The proposal provides residential uses above commercial (shop) uses consistent with the objectives of the zoning. The siting of the residential building relates to its Belmore Street and Smith Street (unformed) frontages. The design provides a strong street address which through a highly detailed podium reinforces the future street wall height. The height of the podium is also consistent with the newer developments being constructed

in the locality. The building is complementing to the existing and desired future character of the locality through considered modulation and façade treatment.

Council comment:

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

Principle 2: Built form and scale

Applicant's Statement of Compliance:

The proposed building is appropriate in terms of its bulk and height in relation to the current and desired future character of the area. The overall height complies with what is identified as the maximum permissible height for the site as defined by the 2009 Wollongong Local Environmental Plan. The articulation of the built form has been considered relative to both the immediate and broader character of Crown Street. The proposed scale, bulk and height have been informed by the evolving status and desired future character of the location.

Council comment:

The bulk and scale of the development is consistent with the applicable planning controls for the area. The development is not considered to be out of context with regard to the desired future character of the area and the likely impacts of the development on the locality and adjoining development.

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

Principle 3: Density

Applicant's Statement of Compliance:

The proposal meets the density objectives of the site as defined by the 2009 Wollongong Local Environment Plan. The development comprises of a mix of residential uses which will enable the highest and best use of the site to be realised, in turn supporting a mix of apartment types and sizes. The envelope is consistent with what is envisaged for the site and locality. The density is appropriate and can be sustained by the existing infrastructure and services within the location.

Council comment:

The density of the development complies with the maximum FSR permitted for the land. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. Contributions applicable to the development will go towards local infrastructure and facilities. The site is well situated with regard to existing public open space and services.

Principle 4: Sustainability

Applicant's Statement of Compliance:

Apartments have been designed to optimise thermal performance, provide increased amenity to occupants and reduce greenhouse emissions and therefore the cost of energy supply. Where possible, layouts promote cross ventilation and a north easterly orientation. PV cells on the roof and water harvesting are also part of the proposal.

Council comment:

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

BASIX Certificates provided indicating minimum requirements are met.

A Site Waste Management and Minimisation Plan has been provided indicating recycling of materials from the demolished dwellings.

The proposal does not impact on any heritage items or environmentally sensitive areas

The proposal is an efficient use of land in a location that is close to services and public open space.

Principle 5: Landscape

Applicant's Statement of Compliance:

The landscape design integrated with the building design and arrangement of external public and communal spaces. The landscape elements proposed play an important role in defining the key spaces within and around the site and enhance the occupant's privacy across the public and private thresholds. The species proposed have been selected in consideration of the climatic conditions of the site, the existing ecosystem, water management on the site and their long-term success in relation to these factors. There is no existing vegetation within the site to be maintained.

Council comment:

The proposal provides suitable landscaped areas and communal open space that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain including the adjacent rail corridor.

Principle 6: Amenity

Applicant's Statement of Compliance:

The building has been designed to optimise unit internal amenity, maintain the amenity of the adjoining properties and provide adequate open space between them. The plans indicate that well proportioned and functioning apartment layouts can be achieved to provide a good degree of internal residential amenity for future occupants. Appropriate room sizes and shapes are provided and supported by access to sunlight and ventilation, sufficient storage, efficient layouts and service areas. Access to view westward to the escarpment and northward are maximised

Council comment:

The proposal meets the minimum requirements for solar access, private and communal open space, storage, visual and acoustic privacy, access and the like.

Principle 7: Safety

Applicant's Statement of Compliance:

The proposal optimises safety and security both within the development and public domain. Apartment layouts have been designed to provide overlooking of the public spaces and communal areas whilst providing privacy for the occupants. The public spaces are clearly defined and distinct from private space. They are well lit and avoid dark, dead-end spaces that are not visible. The building entry points are clearly defined from the public domain.

Council comment:

The proposal is satisfactory with regard to safety and security.

Principle 8: Housing diversity and social interaction

Applicant's Statement of Compliance:

There are a variety of floor plan types ranging in sizes, orientation and layout, providing a good array of housing choices for different community groups. Eleven (18%) apartments are adaptable to meet the requirements of AS4229 and the same number of apartments also meet the Silver Livable Standard.

Council comment:

The proposal provides a mix of unit sizes and layouts appropriate to the locality.

Principle 9: Aesthetics

Applicant's Statement of Compliance:

The proposal contributes to both the existing streetscape and desired future character of the area. The buildings structure and architectural proportions respond both to its internal uses and external environmental factors. The articulation of the design responses to the immediate and broader urban fabric of Wollongong City Centre through considered form, modulation and sensitive materiality. A highly detailed façade using a variety of shapes and materials is proposed. The modulation coupled with the recessive entry provides a simple solution to achieving a strong visual connection between Belmore Street and the entry lobby. The podium forms a base to the tower which aligns with the height and proportions of newer buildings under construction in the locality. The tower above the podium is sited parallel to Belmore Street, with the narrow side orientated north/south. The tower location bookends to the west end of Smith Street. The tower form is simple and refined, establishing a high aesthetic standard for future development in this locality.

Council comment:

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

2.2.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Clause 102 - *Impact of road noise or vibration on non-road development* applies to any development for residential accommodation on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles a rail corridor that the consent authority considers likely to be affected by noise and vibration.

In accordance with *Subclause 3*, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am;*
- (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

An Acoustic Report has been provided with the DA which concludes:

"A train noise and vibration intrusion assessment for a proposed mixed use development to be constructed at 2 to 8 Belmore Street, Wollongong, NSW has been undertaken. Train noise levels have been measured in the vicinity of the development Site and used in conjunction with previous measurements to calculate internal noise levels within each of the proposed future dwellings. Train noise levels are considered realistic and representative of this section of the rail line.

Recommendations are made in Section 5 of this Report to ensure that the internal noise level requirements set by Clause 87 of SEPP (Infrastructure) 2007 will be met for this development."

Council's Environment officer has not raised any concerns in relation to this assessment and conditions of consent were recommended.

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

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

2.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

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

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 B3 Commercial Core.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of the Wollongong city centre as the regional business, retail and cultural centre of the Illawarra region.
- To provide for high density residential development within a mixed use development if it—
 - (a) is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and
 - (b) contributes to the vitality of the Wollongong city centre.

The proposal is satisfactory with regard to the above objectives.

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

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

The proposal is categorised as a **Shop top housing** as defined above and is permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

Not applicable

Clause 4.3 Height of buildings

The proposed building height of 48.4m exceeds the maximum of 48m permitted for the site. A Clause 4.6 Variation has been submitted to address this non-compliance and is contained in **Attachment 6**. An assessment of the applicant's Clause 4.6 Variation is addressed below:

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 Building Height
Is the planning control in question a development standard	Yes

4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	A satisfactory clause 4.6 variation has been submitted.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Environmental planning grounds justifying the variation are that the objectives of the height control are met notwithstanding the minor breach in the numerical control for building height.
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	<p>The applicant's request has adequately addressed the matters required to be addressed by subclause (3).</p> <p>In summary the justification relies on compliance with the building height standard in this instance being unnecessary as there are no unreasonable impacts arising from the non-compliance and the development is consistent with the objectives of the standard despite the non-compliance.</p> <p>The applicant notes that the non-compliance relates only to the lift overrun and solar panels and these elements are consistent with the architectural roof features outlined in Clause 5.6 of WLEP 2009.</p> <p>Further, it is argued that the flood level that is applicable to the site has required the floor level to be raised 1m above ground level which contributes to the height exceedance.</p> <p>The exceedance is 0.4m which represent a minor (0.8%) variation and will not detrimentally impact surrounding properties.</p>
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>The objectives of clause 4.3 Height of Buildings are:</p> <p>(a) <i>to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i></p> <p>(b) <i>to permit building heights that encourage high quality urban form,</i></p> <p>(c) <i>to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></p> <p>The objectives of the B3 zone are:</p> <ul style="list-style-type: none"> • <i>To provide a wide range of retail, business, office, entertainment, community and other suitable land</i>

	<p><i>uses that serve the needs of the local and wider community.</i></p> <ul style="list-style-type: none"> • <i>To encourage appropriate employment opportunities in accessible locations.</i> • <i>To maximise public transport patronage and encourage walking and cycling.</i> • <i>To strengthen the role of the Wollongong city centre as the regional business, retail and cultural centre of the Illawarra region.</i> • <i>To provide for high density residential development within a mixed use development if it—</i> <ul style="list-style-type: none"> <i>(a) is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and</i> <i>(b) contributes to the vitality of the Wollongong city centre.</i> <p>Whilst the proposed development is consistent with the objectives of the zone, it is inconsistent with the objectives of the standard. This is based on the unresolved nature of the flood levels which is likely to result in a further raising of floor levels. Therefore, the impacts of the proposed development on local amenity are uncertain.</p> <p>The public benefit is served in this instance by insisting on strict compliance with the standard.</p>
(b) the concurrence of the Secretary has been obtained	The WLPP can exercise assumed concurrence in this instance as the consent authority.

Clause 4.4 Floor space ratio

As per WLEP mapping the site a maximum of 1.5:1.

Clause 4.4A states:

(2) Despite clause 4.4, the maximum floor space ratio for a building on land within a zone specified in Column 1 of the Table to this subclause, on land with a site area and street frontage specified opposite that zone in Column 2 of the Table, is—

- Site area equal to or greater than 800 square metres and less than 2000 square metres and a street frontage equal to or greater than 20 metres is a per subclause (3)

(3) For land within Zone B3 Commercial Core with a site area equal to or greater than 800 square metres and less than 2,000 square metres and a street frontage equal to or greater than 20 metres, the maximum floor space ratio for any building on that site is—

(a) $(2 + 1.5X):1$ —if the building is used only for residential purposes, or

(b) $(3.5+2.5X):1$ —if the building is used only for purposes other than residential purposes, where—

X is the $(\text{site in square metres} - 800)/200$

(4) The maximum floor space ratio for a building on land within a business zone under this Plan, that is to be used for a mixture of residential purposes and other purposes, is—
 $(NRFSR \times NR/100) + (RFSR \times R/100):1$

where—

NR is the percentage of the floor space of the building used for purposes other than residential purposes.

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

R is the percentage of the floor space of the building used for residential purposes.

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

Using the above formula the maximum permitted FSR for the site is:

Site Area = 1808m²

$X = (1808-800)/1200 = 0.84$

2.3.1.1.1 Res $(2+1.5X) = 3.26$

$0.95 \times 3.26 = 3.097$

2.3.1.1.2 Com $(3.5+2.5X) = 5.6$

$0.05 \times 5.6 = 0.28$

$= 3.377:1$

Permissible GFA = $3.377:1 \times 1808m^2 = 6105.6m^2$

The development proposes an FSR of 3.377:1 (or 6104.8m²) including one (1) surplus residential car space. The proposal complies with the applicable development standard in this regard.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is already serviced by electricity, water and sewerage services.

The application was referred to Endeavour Energy in accordance with (cl. 45) of SEPP Infrastructure 2007 and no concerns have been raised.

A condition could be imposed upon the development consent requiring approval from the relevant authorities for the connection of electricity, water and sewerage to service the site.

Clause 7.3 Flood planning area

The site is mapped as being within an uncategoryed flood risk precinct, In this regard a flood study has been submitted by the applicant and reviewed by Council's stormwater engineer. The flood study is considered unsatisfactory as there is insufficient information to assess the flood impacts resulting from reduced flood conveyance caused by the proposed development, particularly in relation to the reduction in available flow conveyance area along the southern boundary and across the south-eastern corner of the site.

In this regard, Council's engineer has advised that the flood study provided needs to incorporate Council's conduit blockage requirements and be calibrated against Council's adopted flood study for existing conditions.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulphate soils. The objective of this Clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The works will not be Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

Council's environment officer has not required an acid sulphate soils management to be prepared. Appropriate conditions of consent are recommended in this regard.

Clause 7.6 Earthworks

The earthworks required to facilitate the development are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.

Clause 7.13 Certain land within business zones

The objective of Clause 7.13 is to ensure active uses are provided at the street level to encourage the presence and movement of people. The clause prevents development consent from being granted unless the consent authority is satisfied that the ground floor of the building:

- (a) will not be used for the purpose of residential accommodation, and*
- (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.*

The proposal provides active uses at ground floor level addressing the Belmore Street frontage and accordingly the requirements of this clause are therefore satisfied.

Clause 7.14 Minimum site width

(2) Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.

The subject site complies with this requirement having a width of 52.25 metres

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

The requirements of this clause have been considered. The architectural aspects of the development are consistent with the provisions for design excellence as follows:

- The site is suitable for the development
- The use is compatible with the existing and likely future uses in the locality
- There are no heritage restrictions or impacts
- The proposal is not expected to result in any adverse environmental impacts.
- The proposal is satisfactory with regard to access, servicing and parking (subject to revised plans being submitted to address Level 1 manoeuvrability)

Part 8 Local provisions—Wollongong city centre

Clause 8.1 Objectives for development in Wollongong city centre

The objectives of this Part and (in so far as it relates to the Wollongong city centre) clause 7.18 are as follows—

- (a) to promote the economic revitalisation of the Wollongong city centre,*
- (b) to strengthen the regional position of the Wollongong city centre as a multifunctional and innovative centre that encourages employment and economic growth,*
- (c) to protect and enhance the vitality, identity and diversity of the Wollongong city centre,*
- (d) to promote employment, residential, recreational and tourism opportunities within the Wollongong city centre,*

- (e) to facilitate the development of building design excellence appropriate to a regional city,
- (f) to promote housing choice and housing affordability,
- (g) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that the Wollongong city centre achieves sustainable social, economic and environmental outcomes,
- (h) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of the Wollongong city centre for the benefit of present and future generations.

The proposal has been assessed against the above objectives and is considered acceptable.

Clause 8.4 Minimum building street frontage

(2) Development consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres or more on land within Zone B3 Commercial Core, B4 Mixed Use or B6 Enterprise Corridor.

The site is zoned B3 Commercial Core and this clause applies. The site frontage exceeds 20m and the requirements of the clause are satisfied.

Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use

This Clause seeks to ensure sufficient separation of buildings for visual appearance, privacy and solar access reasons. In accordance with *Sub-clause 2*, buildings on land within Zone B3 Commercial Core must be erected so that:

- “(a) there is no separation between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and*
- (b) there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and*
- (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.*

Despite subclause (2), if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than:

- (a) 20 metres from any habitable part of a dwelling contained in any other building, and*
- (b) 16 metres from any other part of any other building.*

(4) For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.

(5) In this clause:

***street frontage height** means the height of that part of a building that is built to the street alignment.”*

The proposed development design provides a zero setback to each elevation at street frontage height, consistent with a commercial edge and stepped in line with the building line criteria. Above Street Frontage Height the development provides a 2.8m and 4.9m to the northern boundary which is an unformed laneway on Smith Street and minimum 11.9m to the southern boundary in excess of the 20m (when shared between sites) thereby complying with this clause.

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

2.4.1 Draft Environment SEPP

The Explanation of Intended Effect for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 9.1 Local Planning Directions where appropriate.

The SEPP was made on 1 March 2022 (SEPP (Biodiversity and Conservation) 2021). and is not considered relevant to the proposal.

2.4.2 Draft Remediation of Land SEPP

The Explanation of Intended Effect for the Remediation of Land SEPP and the Managing Land Contamination guidelines were exhibited between 25 January 2018 and 13 April 2018.

The proposed SEPP: provides a state-wide planning framework for the remediation of land requires consent authorities to consider the potential for land to be contaminated when determining development applications clearly lists the remediation works that require development consent introduces certification and operational requirements for remediation works that can be undertaken without development consent.

The SEPP was made on 1 March 2022 (SEPP (Resilience and Hazards) 2021). The new SEPP directly transfers the provisions of SEPP55 which have been considered in this report.

2.4.3 Draft Design and Place SEPP

The Secretary has emphasised that, for the purposes of section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the draft proposed Design and Place State Environmental Planning Policy (DP SEPP) 2021 is not notified to any consent authorities. The draft DP SEPP is therefore not a mandatory matter for consideration under the Act.

2.4.4 Draft Housing SEPP

Public exhibition of the Housing SEPP Explanation of Intended Effect was exhibited between 29 July and 9 September 2020. The NSW Housing Strategy: Housing 2041 is the NSW Government's plan to meet the State's housing needs over the next 20 years. The Housing SEPP will support delivery on this strategy by driving the development of affordable and diverse housing

The SEPP was made on 1 March 2022 (SEPP (Housing) 2021) and is not considered relevant to the proposal.

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

3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009 and found to be satisfactory. Minor variation to Chapter D13 – City Centre controls are addressed below. The full table of compliance can be found at Attachment 8 to this report.

Maximum Building Depth

Section 2.4.3 of Chapter D13 stipulates a maximum building depth of 18m for residential and serviced apartments in the commercial core. The proposed development has a maximum building depth of 20m and therefore, exceeds the maximum numerical requirement.

The objectives of this control are:

- a) *To promote the design and development of sustainable buildings.*
- b) *To achieve the development of living and working environments with good internal amenity and minimise the need for artificial heating, cooling and lighting.*
- c) *To provide viable and useable commercial floor space.*
- d) *To achieve usable and pleasant streets and public domain at ground level by controlling the size of upper level floor plates of buildings.*
- e) *To achieve a city skyline sympathetic to the topography and context.*

- f) *To allow for view sharing and view corridors.*
- g) *To reduce the apparent bulk and scale of buildings by breaking up expanses of building wall with modulation of form and articulation of facades.*

The applicant seeks a variation to this control as the proposed building depth is 20. The applicant has argued that the objectives of the control seek to ensure the development is appropriate for the context and has sufficient ventilation and reduce reliance on mechanical ventilation. In this regard it is stated that the development complies with SEPP BASIX and Chapter E2 of WDCP 2009 which outline sustainability principles. Additionally, the development complies with the required cross ventilation requirements of the ADG (70%).

Comment:

The proposed building depth is considered acceptable and it has been suitably demonstrated that the objectives of the control are met.

Mixed Use Buildings

Clause 2.6.3 requires a flexible building layout which allow variable tenancies or uses on the first two floors of a building above the ground floor. The minimum floor to ceiling heights are 3.3 metres for commercial office and 3.6 metres for active public uses, such as retail and restaurants in the B3 Commercial Core zone.

The application proposes a variation to this control for the ground level where a ceiling height of 3.05m is provided.

The objectives of this control are:

- a) *To encourage a variety of mixed-use developments in the city centre.*
- b) *To create lively streets and public spaces in the city centre*
- c) *To increase the diversity and range of shopping and recreational activities for workers, residents and visitors.*
- d) *To enhance public safety by increasing activity in the public domain on week nights and on weekends.*
- e) *To minimise potential conflicts and achieve compatibility between different uses.*
- f) *To minimise conflicts between permitted land use and heritage buildings.*
- g) *To ensure that the design of mixed-use buildings addresses residential amenity.*
- h) *To create separate, legible and safe access and circulation in mixed use buildings.*
- i) *To ensure that mixed use buildings address the public domain and the street.*

In this regard, the applicant has indicated that the minimum floor to ceiling height meets the requirements of the national Construction Code and that the floor to ceiling height will not limit the development from achieving the objectives of the control for this portion of the development as the space will achieve internal amenity given its location and glass curtain walls.

In this regard it is accepted that achieving strict compliance will not likely achieve a better outcome for the development and that the proposed ceiling height will be acceptable for future occupation of the commercial spaces.

3.2 Wollongong City Wide Development Contributions Plan

The estimated cost of works is \$ \$22,016,500 and a levy of 2% is applicable under this plan as the threshold value is \$250,000 and the site is located within the city centre.

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

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

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

The 2000 Regulation continues to have effect as the application was lodged prior to 1 March 2022.

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

Conditions of consent are recommended with regard to demolition.

93 Fire safety and other considerations

Not applicable

94 Consent authority may require buildings to be upgraded

Not applicable

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

The proposal is considered unacceptable with regard to the likely impacts.

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

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site however the full extent of impacts cannot be determined at this time due to uncertain flood levels.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal subject to resolution.

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

The submissions received have been addressed in this report – See Section 1.5.

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

The proposal is not considered to be in the public interest.

10 CONCLUSION

This application has been assessed having regard to the heads of consideration under section s4.15(1) of the Environmental Planning and Assessment Act 1979. The proposed development is permissible with consent and has regard to the objectives of the zone but does not fully comply with the building height control. The applicant has followed the process set out in clause 4.6 of WLEP2009 and adequately justified the development standard departures. The Variation request is unable to be assessed as unreasonable having regard to unresolved flooding issues that may necessitate a further increase in building height.

Minor variations are proposed to controls contained in WDCP 2009 in relation to building depth and ceiling heights for the first two levels in a mixed-use development. These variations are minor and it is considered that notwithstanding the variations the objectives of the controls are satisfied.

The recommendations of the Design Review Panel have been adopted in the revised plans and matters raised by the panel are satisfactorily resolved. Internal referrals are satisfactory with the exception of stormwater, external referrals are satisfactory and submissions have been considered in the assessment.

It is considered that the proposed development has been designed appropriately given the nature and characteristics of the site and, subject to flood issues being resolved, is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

In relation to the stormwater referral, Council's stormwater engineer has advised that the applicant's submitted flood study provides insufficient information to fully assess the flood impacts resulting from reduced flood conveyance caused by the proposed development, particularly in relation to the reduction in the available flow conveyance area along the southern boundary and across the south-eastern corner of the site. The proposal therefore cannot be supported until such time as the potential flooding impacts are resolved.

11 RECOMMENDATION

It is recommended that development application DA-2021/901 be refused subject to the reasons contained in Attachment 9.

12 ATTACHMENTS

- 1 Aerial photograph
- 2 WLEP zoning map
- 3 Plans
- 4 Design review panel notes
- 5 Applicant's response to design review panel
- 6 Clause 4.6 variation request
- 7 ADG compliance table
- 8 WDCP 2009 compliance table
- 9 Draft reasons for refusal