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Department of Planning
GPO BOX 39
SYDNEY NSW 2001
Attn : Ben Lusher
Metropolitan Projects

APPLICATION

MP-2006/257

Date

25 October 2010

Dear Sir/Madam

Development

A concept plan and major project application for proposed development is located on two sites. The development on the Dwyer's site sits on top of the podium formed by the council-approved mixed retail, commercial, cinema complex development, and comprises of a hotel of 6 floors accommodating 200 rooms, a conference facility, offices and restaurant. The development on the Oxford Tavern site comprises of a relocated tavern and retail at ground floor, two office levels, and a residential building above the podium including 10 floors and up to 60 apartments

Location

31 Crown Street, WOLLONGONG NSW 2500, Oxford Hotel, 47-51 Crown Street, WOLLONGONG NSW 2500, 16 Burelli Street, WOLLONGONG NSW 2500, 132-134 Corrimal Street, WOLLONGONG NSW 2500

I write in reference to the above concept plan and project application, and refer specifically to the email from Ben Lusher to Pier Panozzo dated 16 September 2010 seeking comment on the Preferred Project Report (PPR) submitted by the proponent. It is noted that the appendices to the PPR are not available on the Departments website, and as such it has not been possible to properly review the PPR. Nevertheless, the PPR as available has been reviewed and the following comments are provided for the Department's consideration.

In summary, Council maintains its objection to the proposed development, particularly in relation to the key threshold issue of the permissibility and appropriateness of the large retail premises proposed.

1. Retail Floor Areas

As you are aware, retail premises with floor areas greater than 400sqm are prohibited in the B4 Mixed Use zone. Council continues to raise **significant opposition** to the proposed retail floor areas in excess of 400sqm and considers the site to be inappropriate for the intensity of retail development proposed. As referred to in Council's previous submissions, the Wollongong City Centre Strategy and LEP seeks to concentrate retail development in the B3 Commercial Core zone and improve linkages with Wollongong Railway Station, with the principal retail areas being located west of the site the subject of this application. Approval of a major retail development at the eastern end of the city such as that proposed will undermine the retail focus of the core and shift activity away from the railway station and mall areas. This would be contrary to a number of key regional and local planning initiatives including specifically the aims and objectives of Wollongong LEP 2009, the objectives of the B3 and B4 zones, the Wollongong City Centre Economic Development Strategy, City Centre Vision and the Illawarra Regional Strategy. The proposal is likely to have adverse economic impacts which are unacceptable and are contrary to the public interest.

It is noted that Leyshon Consulting is of the view that the proposal will compliment and not detract from the viability of the commercial core. This is in direct conflict with the findings of the studies prepared to guide the formulation of the above strategy documents. Leyshon Consulting's opinion should be reviewed by a suitability qualified independent economic expert.

Despite various references within the PPR to DA-2004/1565 (the former Part 4 approval in respect of the Dwyer's site) being null and void, the proponent still seeks to take advantage of this consent. Page 25 states:-

"All of the prohibited uses are included in the Stage 1 component which is subject of a former Part 4 approval. In this instance, it is not considered appropriate or necessary to change the fundamental uses of the previously approved Part 4 Stage 1 component."

Council disagrees with this view. This earlier application was approved prior to the finalisation of the above planning strategies and the land uses approved at that time are no longer considered to be appropriate. Given the significance of the subject site in terms of its size and position within the city centre, the land uses approved within this previous application should be disregarded.

Council encourages the Department to refuse the large scale retail components of this development.

2. Design & Land Use

Council engaged *Design Urban* to undertake an urban design appraisal of the proposal. The following extracts of the appraisal are provided for the Department's consideration. A full copy of the appraisal will be made available if requested.

"The Retail Model and Non-Compliance with the LEP"

The development is proposed in three stages. However, each stage should be viewed independently and on its own merits as there is no guarantee that later stages will be constructed. Stage one should be viewed and analysed as a final product, with stages two and three as possible future development.

When viewed in this light, stage one is essentially a mall-based shopping centre.

The model of retail in the proposal for Stage One is similar to that of the Wollongong Central shopping centre to the west. Both rely heavily on an internal mall or arcade and internally focussed anchors for their retail viability. Both also have some retail (mainly restaurants and coffee shops) fronting surrounding streets, particularly Crown Street.

The Preferred Project Report argues that, *"The retail centre in this location would coexist comfortably in an economic sense with Wollongong Central"*. This is not the point. The continued health and vitality of shops and businesses located between these centres and elsewhere in the city centre are likely to be negatively impacted by this development. Wollongong is a city centre, not a shopping centre, and quality and vitality in the public realm and in buildings which front the public realm must receive priority in this location. In the past this has not occurred and quality in the public realm of the Wollongong city centre has declined.

It is argued that in order to revitalise the city centre an attractor on the east is needed. At the same time the PPR indicates that the *"best attribute"* of Wollongong is in fact the beach to the east of the city centre. This clearly is the prime attractor. The commercial core as defined by the B3 zone does not need to be expanded, all that is required is the delivery of a high quality public realm with high quality active frontages to streets which connect the city centre core to the beach. An internally focused shopping centre attractor is not appropriate to make this urban connection because of the past and present effect this typology has had on quality in the public realm.

The Gravity Project does not comply with the LEP as four proposed premises are greater than 400sqm. These are a supermarket of 5,390sqm, a DDS of 3,760sqm, and two mini-major outlets of 1,232sqm and 802sqm respectively. Advice from Leyshon Consulting indicates that, *"without the presence of such tenant it is impossible to sustain a shopping centre of the scale proposed"*.

Again, this is not a shopping centre, but a city centre, where retail should be the *consequence* of a high quality public realm, and not the driver of development in the centre. There is approximately 900 linear metres of shop frontage on both sides of Crown Street between Corrimal Street and Church Street. This zone is likely to be detrimentally effected by the creation of a 20,318sq.m shopping centre as proposed, not to mention retail on Burelli Street and on cross streets in the city centre."

Active Frontage

The ground level plans have been assessed in terms of their contribution to a high level of “good active frontage”. In many cases retail is shown adjacent to the street, but this same retail fronts the internal mall or arcade. From observation of many centres, it is unlikely that this retail will front the street as the priority, but simply “back onto” the street, or at best provide a mediocre frontage condition.

Clearly buildings have service requirements such as fire escapes, vehicle entries, and the like. However, it is reasonable to expect that at least 80% of the building facade at ground floor level in a city centre context should provide a high level of active frontage.”

The active frontage performance of the development has been analysed by Design Urban, who has identified the following level of expected performance:

Dwyer’s Site

25% Good Active Frontage

44% Mediocre Frontage

31% Poor Frontage

Oxford Tavern Site

21% Good Active Frontage

67% Mediocre Frontage

12% Poor Frontage

“Retail which fronts both an internal mall or arcade and the street is unlikely to provide good active frontage to streets. This is certainly the case in Wollongong Central and many other similar shopping centre typologies. For this reason these facades are rated as “mediocre” in terms of active frontage. This rating also applies to outlets such as taverns which tend to provide relatively poor frontage conditions.

From this assessment it can be seen that the Oxford Tavern site is likely to perform much better than Stage One on the former Dwyer’s site. The very wide vehicular entry portals remove a significant amount of good frontage potential, and until Stage Two is built the hotel reception area is unlikely to be active and will present a blank facade to the street. The large internal mall is likely to capture a high percentage of pedestrian activity at the expense of the streets.

Despite this the best level of “good” active frontage that can be achieved will only be 25% of the buildings perimeter at ground floor. This is a poor outcome.

The design of the vehicle entrances and the hotel porte cochere is poor. The pedestrian path is significantly disrupted for more than 70 metres along Burelli Street. This is a significant disruption which is contrary to the Objectives and Controls contained in the DCP. Clause 4.3.2 requires a setback of 1.5 metres from any neighbouring residential property. This has not been demonstrated on these plans.

Contextual Response

The development proposal on the former Oxford Tavern site is generally appropriate in scale for a city centre development. The mix of land uses is supported.

The proposal for the former Dwyer’s site is somewhat over-scaled and relates very poorly to existing residential development to the east. At its eastern boundary the proposed building will be more than 20 metres high and less than 3metres from the site boundary. Shadow projections show that even in September the site will be significantly overshadowed in the afternoon period. This will significantly reduce the amenity of those buildings and any future residential development which may occur on that site.

The retail building typology is questioned for its appropriateness in the B4 zone adjacent to the city centre, especially as policy clearly points to the need to recreate a high quality public realm. Both the LEP and the provisions of the DCP argue for the achievement of a high quality public realm, and while this proposal argues that this is being achieved, close scrutiny and measurement provide an evidence-based argument that this is not necessarily likely to be achieved, especially by Stage One of the proposal. There is also no guarantee that the project will proceed beyond Stage One. The staging of the development proposes an additional risk.

The intent of the provisions of the B4 zone in the LEP is clearly to limit the creation of this type of development on the periphery of the city centre. Corrimal Street is a conduit of significant volumes of traffic, and something of a physical and psychological “edge” to the core area. For this reason it is a logical eastern boundary to the commercial core which should remain. This suggests that the limit of retail floor plates to less than 400 sqm should be enforced. The role of this part of the city between the beach and the commercial core has been defined through policy, and rather than further stretching the core to the east with inappropriate city centre development typologies, the core should be supported by mixed use development as set out in the LEP provisions.

It is suggested that a redesign of the proposal on the former Dwyer’s site be contemplated. This redesign should focus all retail on the streets, and be linked and positively connected to the “movement economy” (footfall) which exists between Wollongong’s main asset, the beach, and the city centre. Retail performance along Crown Street between Kembla and Corrimal Streets indicates that this is a viable proposition, especially with an increased local residential population. At higher levels within the building it is appropriate to include entertainment facilities such as those proposed, as well as some commercial space and the proposed hotel. These should be provided earlier rather than later as suggested by the staging of the project.”

3. Compliance with Relevant Planning Instruments and Council Codes & Policies

Council expects that the proposed development will be assessed with regard to the applicable local environmental planning instruments and relevant policies including Council’s Section 94A Development Contributions Plan.

Pursuant to Clause 7 of this Plan, a levy of 1% of the cost of carrying out the development should be applied to the proposed development. Given the age of the development documentation provided, to ensure that an appropriate levy is imposed, a more recent detailed cost estimate report should be provided in accordance with Clause 13 of the Plan.

This and other suggested conditions are outlined in Attachment A.

4. Heritage

Council’s Heritage Advisor is of the view that, while the Oxford Hotel is not a listed heritage item, it may have some heritage value and it would appear that the history and significance of Oxford Hotel were not comprehensively researched for the purposes of the current project.

The original hotel on this site was first created in 1839. It would appear, from research by the Illawarra Historical Society, that portions of the building may survive encapsulated in extant fabric. The building has undergone a degree of change in the 170 years since its original creation, indicating the ongoing use for such a long period of time that it is deemed to carry a degree of potential social significance in its own right. The current exterior fabric of the building is of some interest for its Inter-war aesthetics.

The National Trust also raised concern regarding the potential value of the Oxford Hotel. Anecdotal evidence suggests that portions of the upper floor may date back to the early stages of the hotel. There is thus a possibility that wall cavities, underfloor spaces and other areas of the building and grounds may contain potentially significant relics.

The c. 2007 heritage report for the site did not assess these two key aspects of potential adverse impact of new development on heritage values.

Council therefore recommends that the Department:

1. Prepare a detailed research on history of Oxford Hotel and a full assessment of its heritage value before assessing the impact of the proposal on heritage values; and
2. Prepare an archaeological assessment of the building and site to determine levels of potential impact on any archaeological values of the place.

Should this additional research indicate potential heritage significance, it will be appropriate to manage that significance in accordance with the relevant guidelines of the NSW Heritage Council.

5. Traffic

Council's Traffic Division has reviewed the proposal and has provided the following comments in addition to those provided by the NSW Roads & Traffic Authority (RTA):-

Pedestrian Accessibility/Safety

The configuration of the pedestrian arcade within the Oxford Site development results in a mid-block entry/exit point which is at odds with the City Centre Access and Movement Strategy and the City Centre DCP resulting in pedestrians crossing the road in mid-block locations without safe crossing facilities. It is noted that the RTA has requested that a pedestrian fence be installed along the kerb of Corrimal Street between Burelli and Crown which would address this concern. This fencing would need to be installed along the western side of Corrimal Street at the back of the kerb.

The proposed 0.9m footpath alongside the Porte Cochere is too narrow. In justifying this width the traffic report refers to the minimum requirements in Austroads (1995, p19). However Austroads also recommends a range of widths necessary to cater for people with limited mobility. It states that where possible, sufficient footpath width should be provided to allow two wheelchairs to pass. This requires a minimum of 1.5m footpath width but a desirable width of 1.8m. Council has a responsibility to provide equal access for people with disabilities.

If this development is approved in its current form, it is recommended that a number of conditions be imposed in relation to traffic matters. These are outlined in Attachment A.

6. Stormwater Management

Council's Stormwater Division attempted to locate the landscape plans and stormwater plans referred to in the PPR documentation, being appendices G, S and Z, however these documents could not be located. As such, no additional comments have been provided in relation to this matter nor have any draft conditions been recommended for imposition.

7. Contamination

Coffey prepared the preliminary environmental and geotechnical site assessment report on 19 July 2005 which identified both soil and groundwater contamination and recommended that a Phase 2 contamination investigation be undertaken. The Phase 2 contamination report was requested in Council's submissions of 29 January 2008 and 29 May 2009. The proponent claims that the Stage 2 contamination investigation has been undertaken and completed, however no such report has been submitted.

The issues of site contamination, remediation and validation are major outstanding issues which should be resolved prior to determination of the project. If the proponent has submitted the Phase 2 contamination report to the Department, Council would appreciate the opportunity to review this report.

8. Design Review

As noted in Council's previous submissions, an architectural design competition is required to be held in relation to the development in accordance with Clause 22B of Wollongong City Centre LEP 2007. To date a design competition has not been held and the proponent requests that a design competition be held in association with the subsequent Project Applications for Stages 2 and 3:-

"It is considered most appropriate for any design competition to be held after concept plan approval so as more detailed aspects such as ESD and materials can be explored. It is considered that the parameters approved as part of the concept plan will allow amendment of the building envelope where warranted in the context of the competition."

The proponent suggests that it would be appropriate to address this issue as a condition of consent.

Council considers it imperative that the architectural design competition be held at concept stage, which is the critical time at which the height, building envelopes and density are determined. The subject sites have a large combined area and this development represents one of the most significant developments to occur within the Wollongong city centre. It is crucial that an exceptional design be arrived at, and accordingly Council would encourage the Department to insist that the design competition to be undertaken now. At a bare minimum, a design review should be undertaken by a suitably qualified panel, as is the current requirement of WLEP 2009.

9. Crime Prevention Through Environmental Design

It is noted that Council, in its submission dated 29 January 2008, raised numerous concerns in relation to crime prevention through environmental design issues. The concerns raised were quite significant and required design amendments. It appears that none of the identified issues have been resolved through amended plans and the proponent seeks to address the concerns through conditions. If the Department is of a mind to approve the application in its current form, it is recommended that conditions of consent be imposed in relation to the concerns raised. These matters are outlined in Attachment A.

I would like to thank the Department for providing Council with the opportunity to review and supply comments on the proposal. The Department's consideration of these issues during the assessment of this Project would be appreciated. If any additional information is supplied by the proponent, Council would appreciate the opportunity to review such information.

Should you require any clarification of the above matters please contact Theresa Whittaker of Council's City Planning Division on (02) 4227 7481.

Yours faithfully



Peter Kofod
Acting General Manager
Wollongong City Council

Attach.

ATTACHMENT A – SUGGESTED CONDITIONS

If the development is approved, it is recommended that conditions be imposed in relation to the following matters. This list is not a comprehensive list:-

- A Section 94A levy of 1% of the cost of carrying out the development should be applied to the proposed development. Council's standard condition in relation to this matter is as follows:-

Section 94A Levy Contribution

The following Section 94A Levy Contribution is required towards the provision of public amenities and services in accordance with the Wollongong City Council Section 94A Development Contributions Plan.

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Wollongong City Council Section 94A Development Contributions Plan, a contribution of \$##### shall be paid to Council prior to the commencement of works.

The amount to be paid will be adjusted at the time of actual payment, in accordance with the provisions of the Wollongong City Council Section 94A Development Contributions Plan. The Consumer Price Index All Group Index Number for Sydney at the time of the development application determination is 170.5.

The following formula for indexing contributions is to be used:

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

Where

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

$CP1$ is the Consumer Price Index (all groups index for Sydney) used in the proceeding indexation calculation

$CP2$ is the Consumer Price Index (all groups index for Sydney) at the time of indexation.

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

Payment of the S94A levy must be by cash or bank cheque only. A copy of the Wollongong City Council Section 94A 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.

(Reason: To provide high quality and diverse public amenities and services to meet the expectations of the existing and new residents of Wollongong City Council).

- **Car parking**

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 (2004), except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

- **Queuing Areas**

At an entry point, the queuing area to be provided between the vehicular control point and the property boundary shall be sufficient to allow a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road. No parking space manoeuvres shall be allowed to take place within the queuing area. The size of the queuing area may be determined using AS2890.1.

- Town Hall Place is not to be accessed by articulated service vehicles.

- The development shall make provision for 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.

- **Oversized Transportation**

If transportation of oversized or over mass materials or machinery is required, the applicant shall obtain a permit for an oversized and over mass load from the RTA Special Permits Unit.

- **Site Management, Pedestrian and Traffic Management (Where Works are Proposed in or from a Public Road Reserve)**

The submission, as part of an application for a permit under Section 138 of the Roads Act 1993, of a Site Management, Pedestrian and Traffic Management Plan to Council's Manager Regulation and Enforcement for approval is required, prior to works commencing on the site. This plan shall address what measures will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and shall be in compliance with the requirements of the latest versions of Australian Standard AS1742 - Traffic Control Devices for Works on Roads and the RTA Traffic Control at Worksites Manual.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:

- a) proposed ingress and egress points for vehicles to/from the construction site;
- b) proposed protection of pedestrians, adjacent to the construction site;
- c) proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- e) proposed method of loading and unloading excavation machines, building materials formwork and the erection of any part of the structure within the site;
- f) proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period;
- g) proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed where works are in progress in any road reserve and shall be in accordance the latest versions of the NSW Roads and Traffic Authority's Specification - "Traffic Control at Work Sites Manual" and the Australian Standard AS1742. - "Manual of Uniform Traffic Control Devices" and accompanying field handbooks (SAA HB81);
- h) proposed method of support of any excavation, adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering; and
- i) proposed measures to be implemented, in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the roadway.

The approved plan shall be implemented, prior to the commencement of any works upon the construction site.

Note: Any proposed works or placement of plant and equipment and/or materials within any road reserve will require the separate approval of Council, prior to the commencement of such works, pursuant to the provisions of the Roads Act 1993.

- **Redundant Crossings**

Any existing vehicular crossings rendered unnecessary by this development must be removed and the footpath and normal kerbing and guttering must be restored. This work shall be carried out by a Council recognised concrete contractor at the developer's expense.

- **Temporary Road Closure(s)**

If a road closure is required an approval must be obtained from City of Wollongong Traffic Committee and Wollongong City Council.

Note: It may take up to 6 weeks for approval. An application for approval must include a Traffic Control Plan prepared by a suitably qualified person which is to include the date and times of closure and any other relevant information. The traffic control plan shall satisfy the requirements of the latest versions of Australian Standard AS1742 – Traffic Control Devices for Works on Roads and the RTA Traffic Control at Worksites Manual

- **Prior Approval from Council for any Works in Road Reserve**

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Regulation and Enforcement Division 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. A traffic control plan prepared and implemented by a suitably qualified person must be submitted for approval and the appropriate fees paid, a minimum of five working days prior to the expected implementation. The traffic control plan shall satisfy the requirements of the latest versions of Australian Standard AS1742 – Traffic Control Devices for Works on Roads and the RTA Traffic Control at Worksites Manual.

Note: This includes temporary road closures for the delivery of materials, plant and equipment, concrete pours etc.

- **Crime Prevention Through Environmental Design Matters:**

- The setting aside of car parking areas for use by patrons of businesses operating after hours including the cinema complex, liquor store, and restaurants; appropriate signage to identify the nominated areas
- Security of the car parking area to reduce the likely incidence of anti-social and criminal behaviour from occurring
- Removal of potential concealment and entrapment areas;
- Use of graffiti-resistant materials and shutters;
- Location of ATMs away from the street frontages to prevent 'ram raiding' or vandalism;
- Implementation of security and surveillance of public toilets throughout the complex;
- Implementation of security and surveillance of the liquor store to reduce the opportunity for armed robberies and opportunistic theft;
- Use of signage and security to prevent the consumption of liquor within the car parking areas adjacent to the liquor store;
- Position of toilet facilities to ensure availability of natural surveillance, particularly those located behind the restaurants within level 1 of the Dwyer's Site building.

- **Excavated Material**

Given the quantity of material likely to be excavated from the site in order to accommodate the basement construction, a condition should be imposed requiring the submission of a detailed site waste management and minimisation plan which provides details in relation to the amount and type of excavated material and the proposed destination of this material.

- **Public Domain Technical Manual**

All of the required public domain works shall be carried out in strict compliance with Council's Public Domain Technical Manual.

- **Footpath Pavement**

The developer is responsible for the construction of footpath paving for the entire frontage of the development.

The footpath must be installed in accordance with the specifications of the Public Domain Technical Manual. The footpath must be installed to the satisfaction of Wollongong City Council's Manager of Works. A minimum two percent (2%), maximum two and half percent (2.5%) cross fall is to be provided from the property boundary to the back of kerb. This requirement shall be indicated on the final Landscape Plans.

- **Driveway Entrance**

The footpath is to extend across the driveway entrance to provide for pedestrian preference. Vehicle ramps are to be provided at the entry point and the footpath pavement extended across the driveways in accordance with the requirements of the Public Domain Technical Manual.

Details of this requirement shall be within the civil and landscape plans and supporting documentation.

- A change in driveway paving is required at the entrance threshold to clearly show motorists they are crossing a pedestrian area. The developer must construct the paving in accordance with the conditions, technical specifications and levels to be obtained from the specifications of the Public Domain Technical Manual

- **Street Trees**

The developer must install street tree plantings to the street frontages in accordance with the Wollongong City Council Public Domain Technical Manual.

Tree pits must be detailed in accordance with the Public Domain Technical Manual and installed to the satisfaction of Wollongong City Council's Manager City Works. Contact *Dial Before You Dig* and undertake any necessary pot holing to determine the location of existing services before excavating tree pits.