

21 Auburn Street, Wollongong - SSDA Scoping Meeting/SEARs Addendum

Project Name	21 Auburn Street, Wollongong
Date	Thursday, 20 June 2024
To	Department of Planning and Environment
From	Gyde Consulting (Gyde) on behalf of TQM Design Pty Ltd
Re	21 Auburn Street Scoping Meeting – Request for additional information

This Note has been prepared on behalf of TQM Design Pty Ltd by Gyde Consulting (Gyde) for the purposes of supporting a request for SEARs for a State Significant Development Application (SSDA) shop-top housing development (with infill affordable housing) at 21 Auburn Street, Wollongong.

A Scoping Meeting was held with the Department of Planning, Housing and Infrastructure (DPHI) on the 03rd June 2024. During the meeting it was agreed that the development was likely to be eligible for In-Fill Affordable Housing industry specific SEARs. However, the following additional information was requested by DPHI:

Table 1 Response to comments received

Additional Information Requested	Response
Shadow diagrams as at 21 June (including plans that show the overshadowing impacts on the communal open space areas on levels 1 and 21)	These are provided at Appendix 1 .
Your proposed plan for the Social Impact Assessment and the level of community engagement to be undertaken for your proposal	No longer relevant as the proponent has agreed to undertake SIA in accordance with the relevant guidelines.
The building separation proposed to the neighbouring properties, particularly the adjoining properties to the north and east of the subject site and justification for any non-compliances with clause 8.6 of the Wollongong LEP 2009	This is provided in the table below.
A high-level assessment against the ADG, in particular: site area, landscaping, deep soil zones, solar access, parking and building separation	<p>As agreed via email, the site area, level of landscaping, solar access and parking have been provided in the cover letter dated 17th May and shared with the Department in advance of the scoping meeting. The building separation is set out in this table below.</p> <p>With respect to deep soil, the proponent is seeking to maximise deep soil wherever possible. However, flood constraints and the existing drainage and access easements limit the potential locations for deep soil. A State Design Review Panel meeting has been scheduled for 03rd July and panel feedback will be sought on the landscaping proposals, including potential locations for deep soil. The level of deep soil proposed on the site will be confirmed at a later stage.</p>

Additional Information Requested		Response
Please provide confirmation that the EDC for the residential component of the development is >\$30m.		An Estimated Development Cost (EDC) report was submitted with the scoping meeting request. This demonstrates that the EDC for the scheme is \$61,764,254. It is acknowledged that this includes the entire development and not just the residential component. However, the development includes only 448.11sqm of commercial floorspace. This equates to approx. 3% of all GFA. The EDC is therefore considered to be sufficient to demonstrate that the residential component of the development is greater than \$30m. The EDC lodged with the SSDA will separate the residential and commercial EDCs.
Aboriginal Cultural Heritage Assessment Report (ACHAR) Methodology		Please find at Appendix 2 the proposed methodology for undertaking the ACHAR. We would be grateful of confirmation of the proposed methodology.
Summary of building separation - Wollongong Local Environmental Plan 2009 and the Apartment Design Guide		
Wollongong Local Environmental Plan 2009		
Clause	Proposed	Compliant
(2) Buildings on land within Zone E2 Commercial Centre or MU1 Mixed Use must be erected so that—		
8.6(2)(a) <i>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</i>	Northern boundary – 11.3m separation between podium and boundary proposed. This is because of the access easement shared with 19 Auburn Street to the north. Southern boundary – 34.7m separation between the podium and the boundary. This is because of the drainage easement running diagonally across the south west of the site.	No – Section 4.6 will be required. Please see further information below.
(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	Northern boundary – 9m from boundary, indicative layouts for adjacent site demonstrate an 18m separation can be achieved Southern boundary – between 30m and 44m between proposed building on site and indicative layouts for adjacent site (submitted for approval) Eastern Boundary – 12m to boundary, 23-28m between buildings	Yes
(c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level	Northern boundary – 14m separation to the boundary. As set out in the DCP Chapter D13 2.5.3 the 28m is split equally across the two sites with a minimum for each site of 14m between boundaries. Southern boundary – between 30m and 44m between proposed building on site and indicative layouts for adjacent site (submitted for approval) Eastern Boundary – 23.56m between the existing building at 38 Atchinson Street. 12m separation distance is achieved from the proposed building at 21 Auburn Street and the site boundary.	No - Section 4.6 will be required. Please see further information below.
(3) Despite subclause (2), if a building contains a dwelling, all habitable	Northern boundary – The indicative 19 Auburn Street future scheme designs demonstrate that this can be complied with.	Yes

Additional Information Requested		Response												
<p>parts of the dwelling including any balcony must not be less than—</p> <p>(a) 20 metres from any habitable part of a dwelling contained in any other building, and</p> <p>(b) 16 metres from any other part of any other building.</p> <p>(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.</p>	<p>Southern boundary – The indicative 23-27 Auburn Street future scheme designs demonstrate that this can be complied with.</p> <p>Eastern Boundary – Complies the adjacent building is 23m at the closest point.</p>													
Apartment Design Guide compliance														
<p>Building Separation Objectives 3F Visual Privacy</p> <table border="1"> <thead> <tr> <th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>12m – 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	12m – 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Please see above detailed assessment of the LEP compliance which are more onerous than the compliance levels in the ADG.</p>	<p>Yes</p>
Building Height	Habitable Rooms and Balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
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Over 25m (9+ storeys)	12m	6m												

Section 4.6 Requirements and standard to be varied

As noted above, a Section 4.6 application will be required to vary Clause 8.6(2)(a) and (c) of the Wollongong LEP. Clause 8.6(2)(a) and (c) require the following:

“...(2) *Buildings on land within Zone E2 Commercial Centre or MU1 Mixed Use 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...*
- (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.*

The objective of Clause 8.6 is:

“(1) *The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.*”

Clause 8.6(2)(a)

This clause requires that the erection of any new buildings in the commercial core be built to boundary. The new development at 21 Auburn Street proposes separation distances of 11.3m and 34.7m between the new building and the northern and southern boundaries respectively.

Given the existing right of way and drainage easements on the site, the potential location for a future building on the site was extremely constrained. The flood constraints of the site also limit the opportunity for at grade active frontage. As set out in the accompanying design package, the architect has carefully developed a scheme that responds and embraces the constraints of the site. Active frontages are proposed along Auburn Street and a new high-quality and attractive public plaza is proposed over the existing drainage easement.

Clause 8.6(2)(c)

This clause requires that a distance of 28m is achieved between neighbouring buildings above 45m in height. It is generally accepted that the separation distance is equally split between the two neighbouring lots. This would require a minimum of 14m separation between the building and the boundary. A separation distance of 12m is proposed on the eastern boundary.

As noted above, there are a number of existing constraints on the site that limit the development footprint. The accompanying design package sets out the design development over time and demonstrates how the design has been developed to ensure high quality amenity for future residents and neighbouring sites. The requirements of Clause 8.6(2)(c) are achieved on the northern and southern boundaries. A separation of 12m is proposed along the eastern boundary above 45m. This ensures a minimum separation distance of 23.32m between the existing building at 36-38 Atchinson Street and the proposed building.

The proposed development has been designed to protect the visual and acoustic privacy of occupants within the development and to neighbouring residential developments and the public domain. The residential floor plate will deliver a high level of amenity as all dwellings are sized in accordance with the ADG and achieve good solar access as well as ventilation.

On the basis of the above, the objectives of Clause 8.6 will be achieved- notwithstanding the non-compliance with the standard- and there are sufficient environmental planning grounds to justify the variation. A full 4.6 assessment will be provided to support the SSDA.

It is also worth noting that there has been a number of Clause 4.6 variations submitted to Wollongong Council specifically in relation to this standard, as listed below. All such variations have been supported by the relevant consent authority. In this case, the standard in question has been abandoned. A number of relevant variations, and the reasons for approval listed by Wollongong City Council are provided below:

- DA-2020/1465 - 15-19 Crown Street Wollongong NSW 2500 - Clause 8.6 - Building Separation: It has been demonstrated that 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.
- DA-2020/1292 - 46 Crown Street Wollongong NSW 2500 - Minor variation to Building Separation (Clause 8.6 of WLEP2009) Consistent with objectives of clause and no adverse amenity or visual impacts.
- DA-2020/80 - 290-294 Keira Street Wollongong NSW 2500 - Objectives Clause 8.6 are satisfied. The objectives of the B3 Commercial Core zone are satisfied. There are sufficient planning grounds to vary the building separation in this instance given the ability to comply with visual appearance, privacy and solar access objectives required in this Clause. The site is located within a commercial zone and the design is a direct repose to allow for housing within this zone.
- DA-2019/1123 - 35 Atchison Street Wollongong NSW 2500 - Sufficient environmental planning grounds to vary building separation as objectives of B3 zone and objectives of Clause 8.6 are met while providing required street frontage.
- DA-2018/1638- 71-77 Kembla Street WOLLONGONG NSW 2500 - Compliance with Clause 8.6 in this instance is 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. The non-compliant building separation distances provided better respond to the character of the precinct
- DA-2019/779 - 80 Market Street Wollongong NSW 2500 - Clause 8.6(2)(b) requires buildings on land within the B3 Commercial Core be erected so that 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. Objectives

Clause 8.6 are satisfied. The objectives of the B3 Commercial Core zone are satisfied. There are sufficient planning grounds to vary the building separation in this instance given the design of the building responds to the existing street tree and heritage item to the east. • That compliance with the building separation standard is unnecessary in the circumstances of the case as the objectives of the standard and zone objectives are met and strict compliance with the 12m building separation would result in a poorer design outcome.

- DA-2017/730 - 131-135 Keira Street Wollongong NSW 2500 - A written justification statement was provided by the applicant and is considered to have sufficiently addressed the requirements of clause 4.6(3) of WLEP2009 and relevant established LEC Court principles for exceptions to development standards. It is also considered having regard for the exception request that the proposed development has been designed appropriately given the nature and characteristics of the site and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

Summary and next steps

This note, and the cover letter dated 17th May, provide the additional information requested by the Department following the scoping meeting on 03rd June. We trust that the Department has the information required to issue the SEARs for this project.

Should you wish to discuss the content of this letter, please do not hesitate to contact Carlo Di Giulio (Associate Director) on carlod@gyde.com.au or (02) 9068 7500.

Yours sincerely



Carlo Di Giulio

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Appendix 1: Shadow Diagrams

Appendix 2: ACHAR Methodology