

Wollongong Local Planning Panel Assessment Report | 6 March 2019

WLPP No.	Item No. 1
DA No.	DA- 2018/1275
Proposal	Use of Unit 1 for self-storage and construction of mezzanine level
Property	Lot 1 SP 89977, 1/21 Cemetery Road, Helensburgh
Applicant	Excelsa Build
Responsible Team	Development Assessment and Certification - City Wide Team (JP)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to the WLPP **for determination** pursuant to part 3 of Schedule 2 of the Local Planning Panels Direction, as the Development contravenes a development standard (Maximum Floor Space Ratio) imposed by an environmental planning instrument by more than 10%.

Proposal

The proposal seeks consent for the use of Unit 1 for self-storage, and the addition of an internal mezzanine for storage.

Permissibility

The site is zoned IN2 Light Industrial pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a 'self-storage unit' and is permissible in the zone with development consent.

Consultation

Details of the proposal were publicly exhibited in accordance with Appendix 1 of the Wollongong Development Control Plan (WDCP) 2009. No submissions were received.

Internal

Details of the proposal were referred to Council's Building Officer for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided.

Main Issues

The development seeks an exception from development standard, Clause 4.4 Floor Space Ratio contained within WLEP 2009.

RECOMMENDATION

It is recommended that DA- 2018/1275 be **approved** subject to the conditions at Attachment 3.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong City Wide Development Contributions Plan 2018

The proposal is satisfactory with regard to the applicable planning controls as discussed in the body of this report.

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the use of an existing industrial unit as a single self-storage unit, and the construction of an internal mezzanine level.

1.3 BACKGROUND

The overall fifteen-unit industrial development was approved under DA-2012/899 in September 2012. An abbreviated history of subsequent relevant development history is as follows:

Application	Description	Decision	Decision Date
DA-2018/950	Use of Units 2 and 3 as production of videos for entertainment, education and social media and use of constructed raised storage platforms (mezzanines)	Approved by Council (10% delegation) with FSR of 0.55	Nov 13 2018
DA-2015/827	Industrial - first use as a depot (mobile food van) and construction of an internal storage mezzanine	Approved by IHAP with FSR of 0.53	Aug 18 2015
DA-2015/666	Industrial - construction of an internal storage mezzanine	Approved by IHAP with FSR of 0.513	Aug 17 2015

No pre-lodgement meeting was held for the proposal.

Customer service actions

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

1.4 SITE DESCRIPTION

The site forms part of Helensburgh Business Park and is located at 21 Cemetery Road, Helensburgh and the title reference is Lot 103 DP 1147123. Unit 1 is located at 1/21 Cemetery Road, and the title reference Lot 1 SP 89977.

Situated on the land are fifteen light industrial units approved via DA-2012/899. The site is burdened by a 2m wide drainage easement located along the northern boundary that services Lots 101 and 102. The site is accessed via a driveway off Cemetery Road.

The site is generally rectangular in shape with a portion of the front boundary irregularly shaped to the south. The site has a frontage of 38.28m to Cemetery Road and a total area of 2994m². The land has a slight slope to the north east.

Surrounding development includes an Integral Energy Substation to the west, a church to the northwest, dwellings to the north and other light industrial developments to the immediate east. The surrounding light industrial developments were stages 1 and 2 of the Helensburgh business park and began construction in 2007.

Property constraints

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

- filled land
- contaminated land
- bushfire

There are no restrictions on the title that would preclude the development proposal.



Figure 1: Aerial photograph

1.5 SUBMISSIONS

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. No submissions were received following the notification.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Building Surveyor

Council's Building Officer has reviewed the application and given a satisfactory referral. Conditions of consent were recommended and are included in the consent.

1.6.2 EXTERNAL CONSULTATION

None required.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

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

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

7 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
 - (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

A review of Council's records indicates that the site has a contaminated site constraint. However, contamination matters have been considered in the assessment of the original application (DA-2012/899) and due to the nature of the application the provisions of SEPP 55 are considered

satisfied in this instance. There are no earthworks proposed and the proposal does not comprise a change of use, but is rather first use of the approved industrial units. As such, no concerns are raised in regard to contamination matters.

2.1.2 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 1 Preliminary

Clause 1.4 Definitions

self-storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

Note.

Self-storage units are a type of **storage premises**—see the definition of that term in this Dictionary.

storage premises means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.

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 IN2 Light Industrial.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong

The proposal is satisfactory with regard to the above objectives. The proposed use is permitted in the zone, does not adversely affect employment opportunities or undermine the viability of centres and will not result in adverse impacts on other land uses.

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

*Advertising structures; Agricultural produce industries; Animal boarding or training establishments; Aquaculture; Boat building and repair facilities; Community facilities; Crematoria; Depots; Freight transport facilities; Garden centres; Hardware and building supplies; Helipads; Industrial retail outlets; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Mortuaries; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Roads; **Self-storage units**; Service stations; Sex services premises; Take away food and drink premises; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water treatment facilities*

The proposal is categorised as a 'self-storage unit' as defined below and is permissible in the zone with development consent.

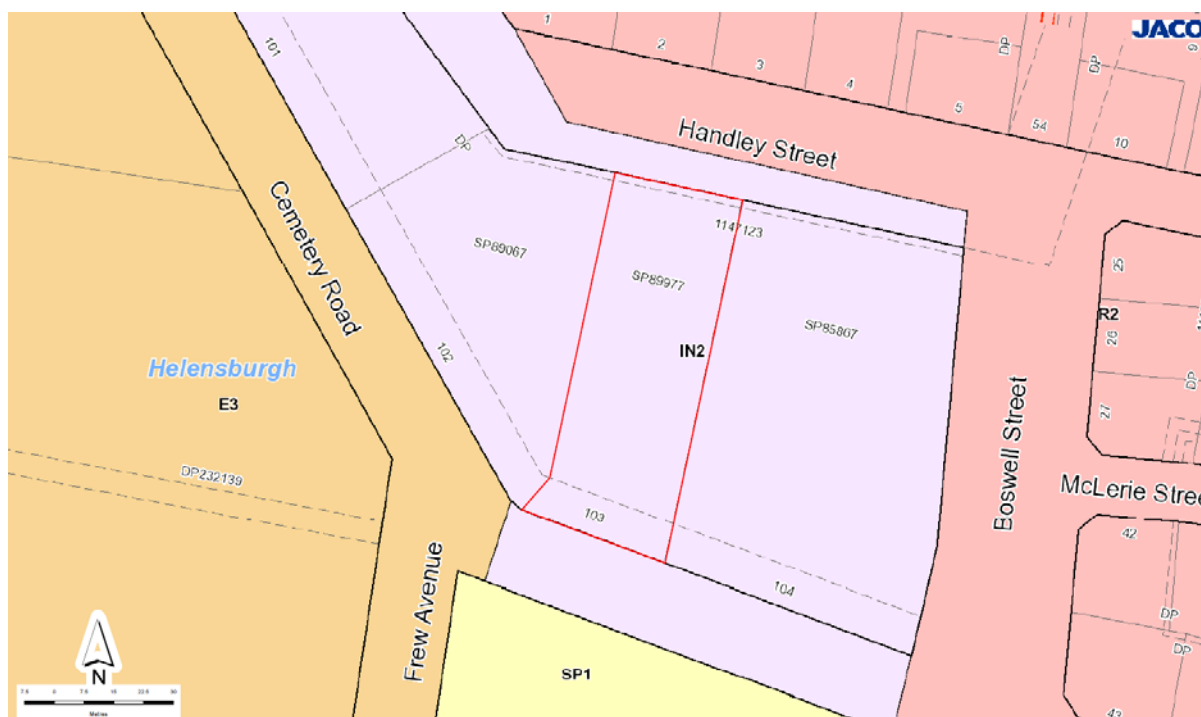


Figure 2: WLEP 2009 zoning map

Part 4 Principal development standards

Clause 4.4 Floor space ratio

The maximum floor space ratio for the zone is 0.5:1

The existing floor area for unit 1 is 83 m² and the proposed mezzanine will add an additional 30 m². Therefore, the total floor area for unit 1 will be 113 m².

The addition of mezzanines has occurred to numerous units in the complex, approved by Council and the Wollongong Independent Hearing and Assessment Panel (see section 1.3 Background above) and the site already exceeds 0.5:1 (total is 1663/2994m² = 0.55:1).

Unit 1 proposes an additional 30m² and the FSR for the site changes to 1693/2994m = 0.56:1. The cumulative variation for the site is then 13% and this equates to an additional 149.7m². Unit 1's proportion of this: 30/149.7 = 20% or 1.8% of the site's GFA.

The development standard for FSR could be considered as having been abandoned on this site in the case of construction of internal mezzanines, but only insofar as it does not adversely affect the bulk and scale of the existing buildings, or result in impacts on other matters such as parking.

A variation is sought for the FSR for Unit 1 for the mezzanine level, and justification is outlined under Clause 4.6 below.

Clause 4.6 Exceptions to development standards

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.4
Is the planning control in question a development standard	Yes

4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes. The applicant has submitted a Clause 4.6 Statement (Attachment 2) with the following justification:</p> <ul style="list-style-type: none"> • The proposal does not impact on the key purpose of the control, namely the bulk and scale of the building on the site, as it is an internal addition where the height of the unit can easily accommodate the mezzanine. • Council has approved mezzanines in other units within the development resulting in floor space ratios above the requirement of the standard. <p>Based on the above, the applicant states that compliance with the floor space ratio control of 0.5:1 is considered to be unreasonable and unnecessary.</p>
that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes. The 'sufficient planning grounds' to justify contravening the floor space ratio control of 0.5:1 are outlined in the applicant's Clause 4.6 Statement. The applicant has noted environmental planning grounds that justify the departure also include:</p> <ul style="list-style-type: none"> • The development standard is a performance-based control with the intention to control the bulk and scale of the development. This proposal will not affect the intent of this control as the mezzanine proposal is only internal and does not impact on the existing bulk and scale of the building. • Increasing the gross floor area does affect other planning matters, such as parking. • Council has approved mezzanines in other units within the development resulting in floor space ratios above the requirement of the standard.
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's written request adequately addresses the matters required to be demonstrated under subclause 3. The variation to the floor space ratio is requested due to the requirement for additional storage by the owner, and equity within the overall development.</p> <p>The resulting variation to the development standard is considered by the applicant to be minor. The applicant considers that the development will not lead to adverse visual or environmental impacts.</p> <p>The Clause 4.6 Statement has provided reasonable justification that the development achieves the objectives of Clause 4.4, the objectives of the IN2 zone and has sufficient planning grounds to justify the variation.</p> <p>The applicant is of the view that requiring compliance with the maximum floor space ratio is not necessary in this instance.</p>
the proposed development will be in the public interest	The objectives of Clause 4.4 Floor Space Ratio are:

<p>because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p>(a) <i>to provide an appropriate correlation between the size of a site and the extent of any development on that site,</i></p> <p>(b) <i>to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,</i></p> <p>(c) <i>to ensure buildings are compatible with the bulk and scale of the locality.</i></p> <p>With regard to the above, it is considered that the addition of an internal mezzanine in this instance will have no impact. The extent of the development, density and intensity, and bulk and scale established under DA-2012/899 for the original 15 industrial units are not increased by this proposal.</p> <p>The objectives of the IN2 Light Industrial Zone are:</p> <ul style="list-style-type: none"> • <i>To provide a wide range of light industrial, warehouse and related land uses.</i> • <i>To encourage employment opportunities and to support the viability of centres.</i> • <i>To minimise any adverse effect of industry on other land uses.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</i> • <i>To support and protect industrial land for industrial uses.</i> • <i>To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong</i> <p>The development is consistent with the above objectives as outlined below:</p> <ul style="list-style-type: none"> • The storage unit is a permitted use in the zone • The proposal does not adversely affect employment opportunities or undermine the viability of centres • The proposal will not result in adverse impacts on other land uses <p>Given that the development is consistent with the objectives of Clause 4.4 and the objectives of the zone, the proposed variation to the floor space ratio is considered to be in the public interest.</p> <p>The development standard for FSR could be considered as having been abandoned on this site in the case of construction of internal mezzanines, but only insofar as it does not adversely affect the bulk and scale of the existing buildings, or result in impacts on other matters such parking.</p>
<p>the concurrence of the Secretary has been obtained.</p>	<p>No. This application is beyond the 10% assumed concurrence delegated to Council, and is therefore referred to the Local Planning Panel for determination.</p>

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The proposal is located in close proximity to the Local Heritage Item No 6123 (cemetery). The use of the unit is not envisaged to have an adverse impact on the adjacent item.

Part 7 Local provisions – general

Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate the site is affected by “Natural Resource Sensitivity – Biodiversity”. However, due to the nature of the proposed development, being for use of the unit and the addition of an internal storage mezzanine, the provisions of clause 7.2 are considered satisfied in this instance.

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

None applicable.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER B5 INDUSTRIAL DEVELOPMENT

The proposal relates to the use of Unit 1 as a storage unit and construction of an internal mezzanine for storage. Chapter B5 requires the first use of a unit to be considered by Council. The remaining controls in Chapter B5 are of limited relevance. Consequently, the majority of the controls within this Clause have been addressed within the original application for the industrial unit complex (DA-2012/899).

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

A condition in relation to BCA/National Construction Code is recommended in Attachment 3. Compliance with the Access to Premises standards will be a matter for consideration under the Construction Certificate.

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

An assessment of the application was undertaken against the controls contained in Chapter E3 and it is considered that due to the nature of the proposal, being use as a storage unit and the addition of an internal storage mezzanine, that the controls are satisfied in this instance.

CHAPTER E11 HERITAGE CONSERVATION

The proposal is located in close proximity to the Local Heritage Item No 6123 (cemetery). However, due to the nature of the proposal it is not envisaged to have an adverse impact on the adjacent item.

CHAPTER E16 BUSHFIRE MANAGEMENT

The Bushfire Risk of the site was considered within DA-2012/899. An appropriate Bush Fire Protection Assessment report was submitted with the application. Conditions were imposed within the 2012 consent in this regard.

CHAPTER E20 CONTAMINATED LAND MANAGEMENT

See section 2.1.1 of this report.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2018

The estimated cost of works is \$15,000 and a levy is not applicable under this plan as the threshold value is \$100,000.

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

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

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

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

No demolition is proposed and the subject site is not located in the coastal zone.

93 Fire safety and other considerations

Relevant conditions have been recommended by Council's Building Surveyor.

94 Consent authority may require buildings to be upgraded

The building is not required to be upgraded.

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

Context and Setting:

The proposal is considered to be compatible with the existing context and setting of the subject site and surrounding area.

It is considered that the proposed development is appropriate 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.

Access, Transport and Traffic:

The subject unit is provided with the number of spaces required by Council's DCP. The proposal is not envisaged to result in unreasonable traffic impacts within the site or surrounding area.

Public Domain:

The proposal is not envisaged to have an adverse impact on the public domain of the area.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are adequate to service the proposal.

Heritage:

The proposal is located in close proximity to the Local Heritage Item No 6123 (cemetery). The proposed mezzanine is not envisaged to have an adverse impact on the nearby item. As such, no heritage items will be impacted by the proposal.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water, which can be readily extended to meet the requirements of the proposed development.

The proposal is not envisaged to have unreasonable water consumption.

<p><u>Soils:</u></p> <p>The proposal is not envisaged to have impacts on the soils of the site.</p>
<p><u>Air and Microclimate:</u></p> <p>The proposal is not expected to have negative impact on air or microclimate.</p>
<p><u>Flora and Fauna:</u></p> <p>There is no vegetation removal or landscaping proposed or required.</p>
<p><u>Waste:</u></p> <p>No adverse waste will result from the proposed development. A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction.</p>
<p><u>Energy:</u></p> <p>The proposal is not envisaged to have unreasonable energy consumption.</p>
<p><u>Noise and vibration:</u></p> <p>A condition will be attached to any consent granted that nuisance be minimised during any construction, demolition, or works.</p>
<p><u>Natural hazards:</u></p> <p>Council records list the site as bushfire hazard affected, however this has been addressed by the previous application (DA-2012/899). Therefore, there are no natural hazards affecting the site that would prevent the proposal.</p>
<p><u>Technological hazards:</u></p> <p>Council records list the site as filled land and contaminated land affected. These matters have been satisfactorily addressed by previous site remediation works and application for the construction of the industrial unit complex via DA-2012/899. Therefore, there are no technological hazards affecting the site that would prevent the proposal.</p>
<p><u>Safety, Security and Crime Prevention:</u></p> <p>This application does not result in greater opportunities for criminal or antisocial behaviour.</p>
<p><u>Social Impact:</u></p> <p>This application is not envisaged to result in increased opportunities for negative social impacts.</p>
<p><u>Economic Impact:</u></p> <p>The proposal is not expected to create negative economic impact.</p>
<p><u>Site Design and Internal Design:</u></p> <p>The proposal identifies departures from development standard 4.4 of WLEP 2009 as discussed in section 2.1.2 of this report. It is considered that reasonable amenity will be maintained for other industrial tenants and nearby residential properties.</p>
<p><u>Construction:</u></p> <p>Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.</p>

Cumulative Impacts:

The proposal is not expected to have negative cumulative impacts.

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

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

The proposal was exhibited in accordance with Council's Notification Policy in Appendix 1 of Wollongong Development Control Plan 2009 (WDCP 2009) and no submissions were received.

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

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3 CONCLUSION

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

The proposal seeks an exception to development standard Clause 4.4 Floor space ratio of WLEP 2009, and a justification statement has been provided that sufficiently addresses the requirements of Clause 4.6. This exception has been considered and is capable of support.

All referrals are satisfactory and there are no outstanding issues.

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

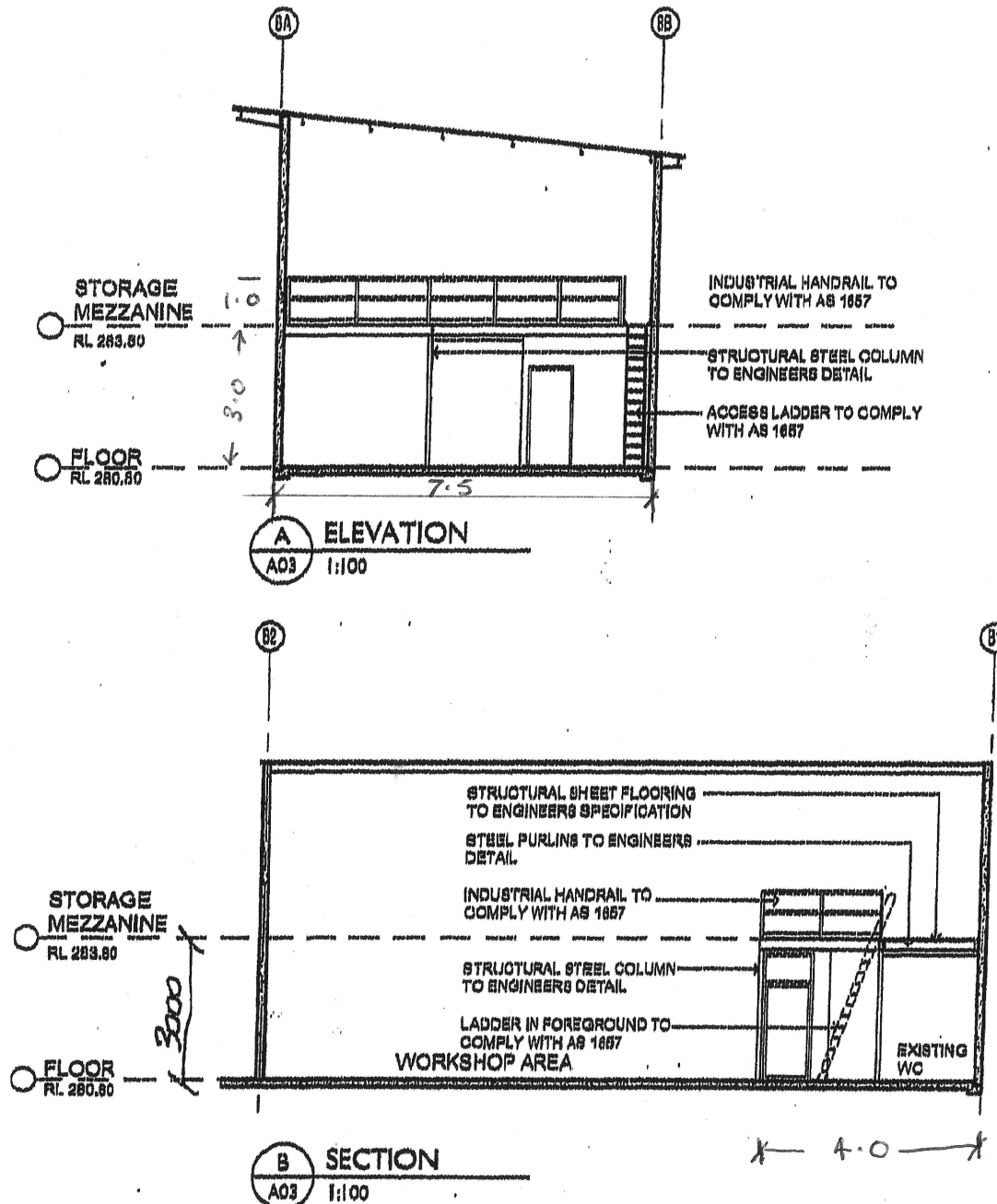
4 RECOMMENDATION

It is recommended that the development application be approved subject to the conditions at Attachment 3.

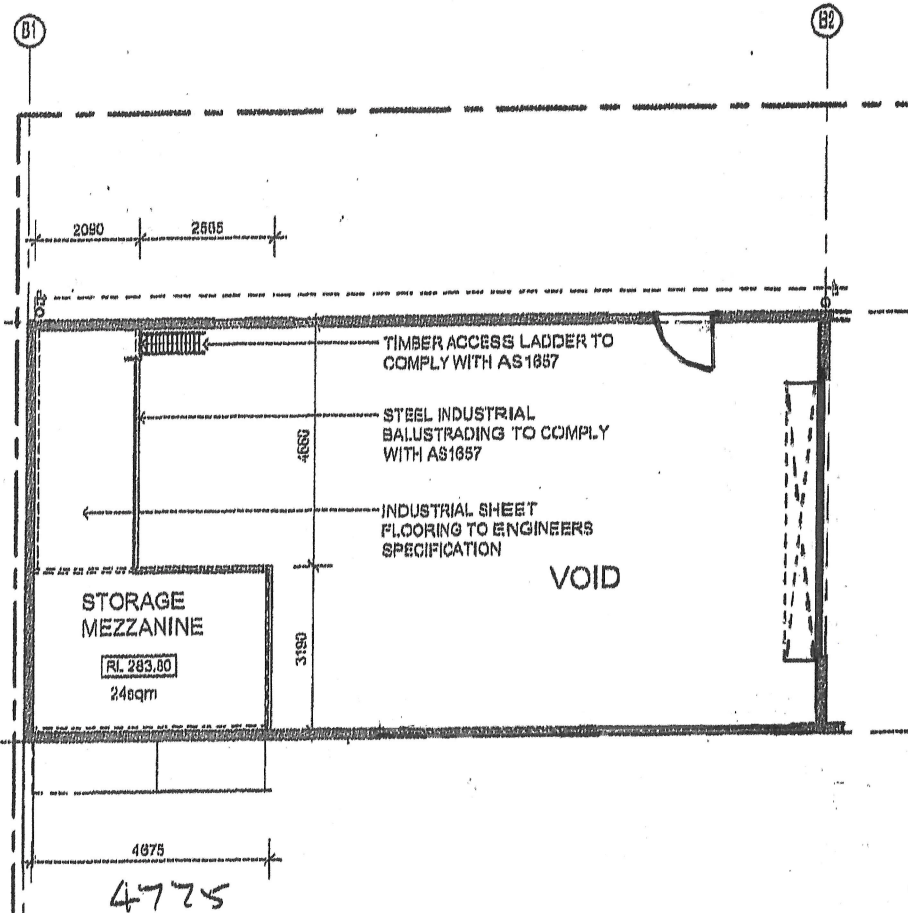
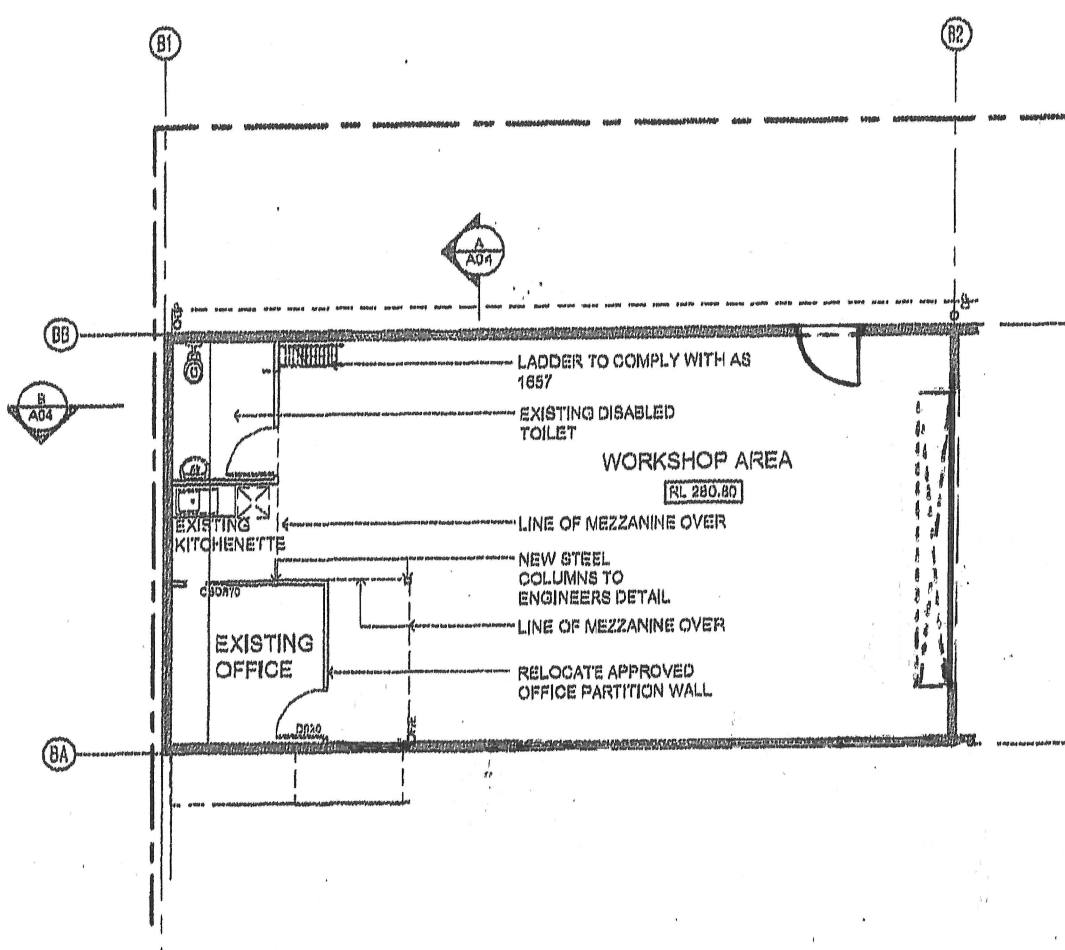
5 ATTACHMENTS

- 1 Architectural Plans
- 2 Applicant Exception to Development Standard Statement
- 3 Conditions

Attachment 1 - Architectural Plans



DEVELOPMENT APPLICATION ALTERATION TO INTERNAL FITOUT	
CP Property (Illawarra) Pty Ltd UNIT 1 21 CEMETERY ROAD, HELENSBURGH LOT 103 DP 1147123	
title: ELEVATION & SECTION	A04
scale: 1:100 @ A3	date: JANUARY 2018 rev: A
drawn: KL	



DEVELOPMENT APPLICATION
ALTERATION TO INTERNAL FITOUT

CP Property (Illawarra) Pty Ltd
UNIT 1
21 CEMETERY ROAD, HELENSBURGH
LOT 103 DP 1147123

title: FLOOR PLANS

A03

scale: 1:100 @ A3

date: JANUARY 2018

rev: A

drawn: KL



4.8 Written request to vary the development standard in WCC LEP 2009

Written request to vary the development standard in WCC LEP 2009 clause 4.4 Floor Space Ratio, for Unit 1, 21 Cemetery Road Helensburgh with clause 4.6 – Exceptions to the development standard

The proposal is for a mezzanine level in Unit 1, 21 Cemetery Road Helensburgh. In this case there will be no impact on the building's existing bulk and scale or any operational activities on the site. The proposal is to occur entirely within the unit.

4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

It will be demonstrated in this written request that compliance to the development standard is unreasonable or unnecessary in the circumstances of this case. That the flexibility in this case will achieve a better economic outcome for the use of the unit and will have no additional or adverse impacts on the site.

This written request is set out as follows:

Part 1 - Background to variation

Part 2 – Response the WCCLEP2009 clause 4.6 3 (a) (b)

4.9 Part 1 Background to variation

1. Name of the environmental planning instrument that applies to the land.

Wollongong Local Environmental Plan 2009

2. Zoning of the subject land



The site is zoned IN2 Light Industrial

3. Objectives of the zone

Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.

The proposed use of the mezzanine is for storage, a permissible use in the zone and meets the objectives of the zone.

4. The development standard being varied

Maximum Floor Space Ratio

WCC LEP 2009 clause - 4.4 Floor space ratio

5. The objectives of the development standard

The objectives of this clause are as follows:

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,
- (c) to ensure buildings are compatible with the bulk and scale of the locality.

a. The numeric value of the development standard in the environmental planning instrument

The maximum floor space ratio is 0.5:1

b. The proposed numeric value of the development standard in the development application

A variation is sought for the FSR for Unit 1.

The addition of a mezzanine has occurred to numerous units in the complex. The units that have a mezzanine has been tabulated and this is provided at Appendix 1.

DA 2018/950 is for a mezzanine for units 2 and 3. This application is awaiting determination. Unit 1 proposes an additional 30m² if these applications are approved, the FSR for the site changes to 0.565:1.

c. The total percentage variation over 0.5:1 including Units 1, 2 and 3 is 13%.



4.10 Part 2 Response the WCCLEP2009 clause 4.6 3 (a) (b)

4.10.1 4.6 Exceptions to development standards (WCCLEP 2009 clause 4.6) 3 (a) (b)

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

IN2 Objectives (outlined in 3 above)

The proposed use of the unit and mezzanine owner's requirements for storage that meets the objectives of the zone.

Clause 4.4 objectives (outlined in 5 above)

Strict compliance to the Floor Space Ratio is considered unreasonable as the mezzanine proposal does not impact on the bulk and scale of the building on the site as it is an internal addition where the height of the unit can easily accommodate this storage mezzanine.

As the proposal is only for storage within the existing unit the parking matters remain the same as existing for this unit and the site.

Considering this, the proposal does comply with the intent of the objectives of Clause 4.4 objectives.

Strict compliance with this development standard has been passed by DA 2015/666 and DA 2015/827 (see table in appendix 1) that went to IHAP and were approved. Therefore, it can be assumed that strict compliance is not necessary as the mezzanine proposals do not impact on the bulk and scale of the existing building or the functioning of the site as a whole. This is because these mezzanines are all internal developments that assist with storage thus the economic use within the units.

The proposal for these reasons will not adversely impact on any of the objectives of the FSR control.

4.10.2 Environmental Planning and Assessment Act 1979

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

(c) to promote the orderly and economic use and development of land,

This proposal and what can be determined from the past approvals for mezzanines on the site have all been for storage to assist the operation of the unit uses and meet this objective.



(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

4.10.3 WCCLEP 2009

Clause 4.4 – Floor Space Ratio

The Development Standard

The development standard is a performance-based control with the intention to control the bulk and scale of the development. This proposal will not affect the intent of this control as the mezzanine proposal is only internal and does not impact on the existing bulk and scale of the building.

4.10.4 Other Environmental planning controls

SEPP's

No relevant SEPP's identified by Council Assessing Officers in past mezzanine applications that have been approved.

WCCLEP 2009

The mezzanine proposal meets the zone objectives in assisting the economic use of the Unit.

Development Control Plan 2009

Chapter B5 Industrial Development

The mezzanine proposal does not impact on the current parking and traffic movements on the site as approved in DA 2012/899.

The mezzanine proposal does not impact on the required disabled parking space for the site or the disabled toilet facility in the Unit 1.

The mezzanine proposal does not impact on the CEPTED requirements for the site as approved in DA2012/899.

The mezzanine proposal does not impact on the site's current operational waste management operations.

The mezzanine proposal does not impact on the site's current security procedures.

The mezzanine proposal does not impact the environmental planning controls. Only the Floor Space Ratio from WCCLEP2009 – clause 4.4, which as discussed is internal to the unit and for storage.



5 Appendix 1

Unit 1 Cemetery Road Helensburgh

WCC LEP 2009

Land use zoning -IN2

FSR 0.5:1

DA	Unit	GFA	GFA mezzanine
DA2012/899	15 units -whole site	Site area= 2994 GFA = 1290.5 on plan	
DA 2014/82	10	1290.5	24
DA 2014/710	11		40.5
	12		40.5
DA 2014/711	4		27.17
DA 2014/789	14		30.8
DA 2014/790	13		34
DA 2014/889	15	On review actual built GFA 1242.1m2	67.6
DA 2015/576 29 June	8	Officer original GFA = 1236.4m2	25.47
DA 2015/666 IHAP review	5		37.8
DA 2015/827 IHAP review	7		43.9
DA 2018/950 Awaiting determination	2		25.906
	3		23.443
DA 2018/1029 rejected	1 CI 4.4 FSR>0.5:1 CI 4.6 not sufficient		30
			Total mezzanine GFA to 0.55:1 = 410m2 Site total mezzanine GFA (incl U2, U3 & U1) = 451.04m2 Total site GFA = 1693.14 FSR =0.565:1 13%over 0.5:1

Attachment 3 – Conditions

Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Drawing No A03-A and A04-A dated January 2018 prepared by KL 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 Construction Certificate

A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The submission to Council of two (2) copies of all stamped Construction Certificate plans and supporting documentation is required within **two (2)** days from the date of issue of the Construction Certificate, in the event that the Construction Certificate is not issued by Council.

3 Occupation Certificate

An Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority 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.

4 Building Work - Compliance with the Building Code of Australia

All building work must be carried out in compliance with the provisions of the Building Code of Australia.

Prior to the Commencement of Works

5 Appointment of Principal Certifying Authority

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

- a Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment irrespective of whether Council or an accredited private certifier is appointed; and
- b notify Council in writing of their intention to commence work (at least two days notice is required).

The Principal Certifying Authority must determine when inspections and compliance certificates are required.

Prior to the Issue of the Occupation Certificate

6 Portable Fire Extinguisher

Prior to the issue of an Occupation Certificate, install portable fire extinguisher within Unit 1 in accordance with Part E1.6 of the National Construction Code Series Volume 1 (BCA) and Australian Standard AS2444.

Use of the Site/Operational

7 Loading/Unloading Operations/Activities

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.