

**DEVELOPMENT ASSESSMENT REPORT – DA143/20
DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION
OF A MIXED-USE DEVELOPMENT COMPRISING A 6 LEVEL
RESIDENTIAL FLAT BUILDING, GROUND FLOOR COMMERCIAL
PREMISES AND BASEMENT CARPARKING
115 Martini Parade, Lithgow (Lots 608-611 DP 9370)**

1. PROPOSAL

Council has received a development application (DA143/20) by CK Design and Elcon Developments that seeks consent for the use of land at 115 Martini Parade, Lithgow (Lots 608-611 DP 9370) for a mixed use development containing commercial and residential land uses. The proposal involves the demolition of existing structures on the site and the construction of a 6-level building containing residential apartments on each level, commercial floor space on the ground level (off Martini Parade) and a basement level containing car parking (accessed off Martini Rifle Lane).

The land has an area of 1,396 square metres. The proposed development will provide a total floor area of 3,589 square metres comprising 325 square metres of commercial floor space on the ground level and 3,264 square metres of residential floor space spread across all six levels.

The proposal includes 14 car spaces on the ground level accessed via a driveway off Martini Parade. The basement level provides 55 car parking spaces with driveway access off Martini Rifle Lane.

The development includes 38 separate residential apartments that comprise a mix of 6 x 1 bedroom, 15 x 2 bedroom apartments and 17 x 3 bedroom apartments. Included in this mix is 1 adaptable apartment and 1 accessible apartment that can provide residential accommodation for disabled persons or the mobility impaired.

The details of the proposal are illustrated in the plan extracts and images below.



Artistic rendering of proposal viewed from Martini Parade



Southern elevation



Artistic rendering of proposal viewed from Main Street

Prior to the lodgement of the development application, the applicant engaged with Council's Planning staff and sought pre-DA lodgement advice. Preliminary plans were provided for review and an extensive list of comments and feedback provided to the applicant on 24 April 2020. The pre-DA advice was provided without prejudice and in good faith and is not considered to be an exhaustive summary of the information and documentation required to support a development application. The obligation remains with the applicant to ensure the submitted application adequately addresses all the relevant aspects of the development in accordance with statutory requirements.

In summary, the pre-DA advice provided information on the following items to be addressed in the development application:

- Plans and associated details required,
- Statement of Environmental Effects,
- Details of demolition proposed,

- Contamination assessment details (specifically a Stage 1 Preliminary Site Investigation),
- Geotechnical assessment,
- Details of proposed infrastructure servicing,
- Details of proposed stormwater management,
- Traffic an access assessment,
- Waste management details,
- Noise considerations,
- Assessment against SEPP 65 requirements,
- Consideration of local character and site context,
- BCA compliance information,
- Payment of fees and charges, and
- Public notification expectations.

Despite Council's assistance and recommendations above, some of the identified items have not been adequately addressed in the proposal as outlined in this report.

Following the lodgement of the development application, the applicant was also issued with correspondence requesting additional information to support the application. These items were considered insufficiently addressed or omitted and included:

- Demolition details,
- Contamination assessment,
- Geotechnical assessment and excavation details,
- Infrastructure servicing details,
- Stormwater management details,
- Traffic an access assessment details,
- Waste management details,
- Apartment Design Guide compliance table,
- Further consideration of design and amenity (particularly to address overshadowing impacts on 113 Martini Parade).

Not all of this information was submitted, despite it being requested both in the pre-DA advice and in Council's formal letter of request.

2. SUMMARY

This assessment considers the merits of the proposal and its likely impacts. Due to the deficiencies in the design and unreasonable environmental impacts identified in this report, it recommends that DA 143/20 be refused.

3. LOCATION OF THE PROPOSAL

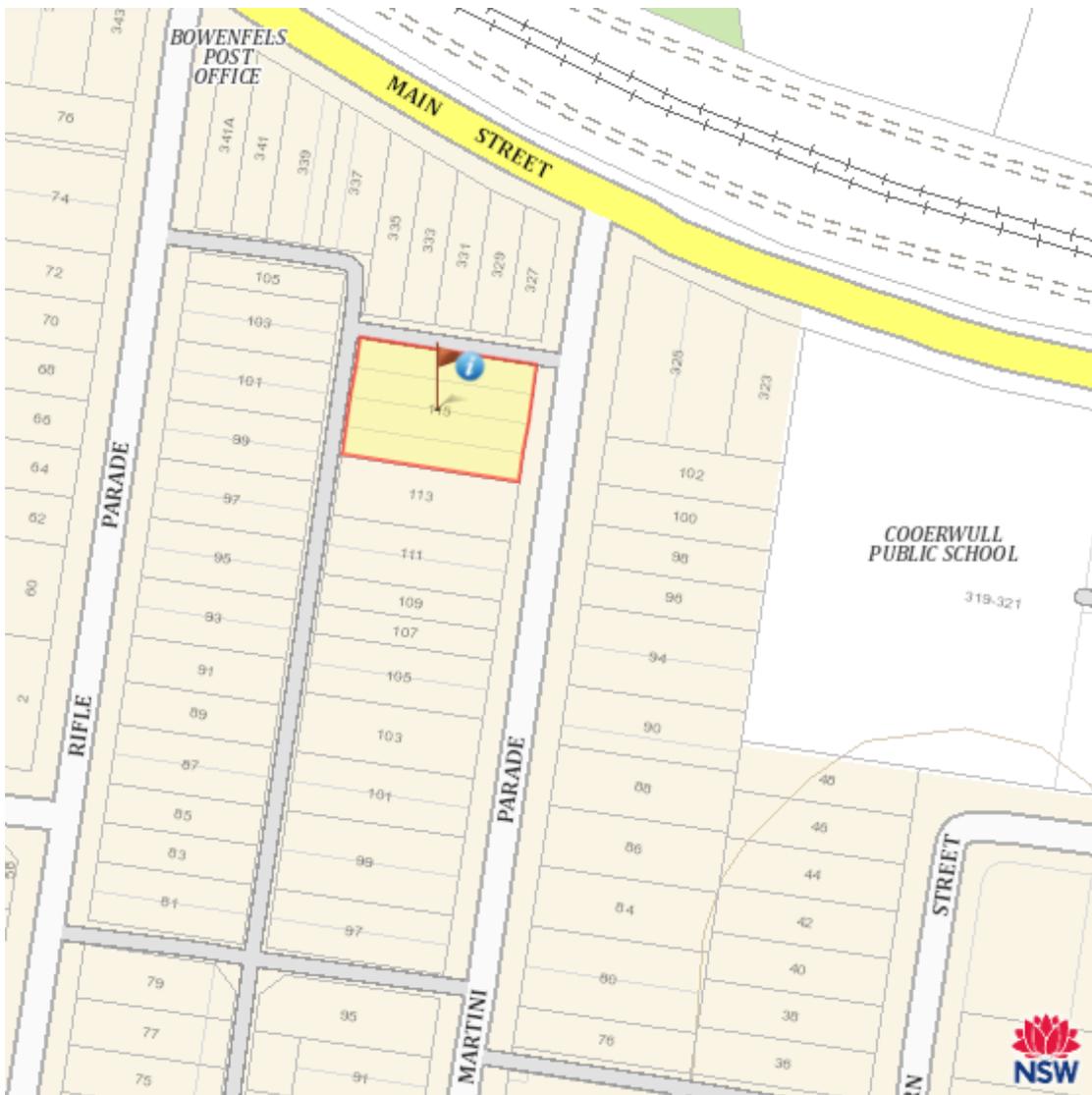
Legal Description : Lots 608-611 DP 9370
 Property Address : 115 Martini Parade, Lithgow

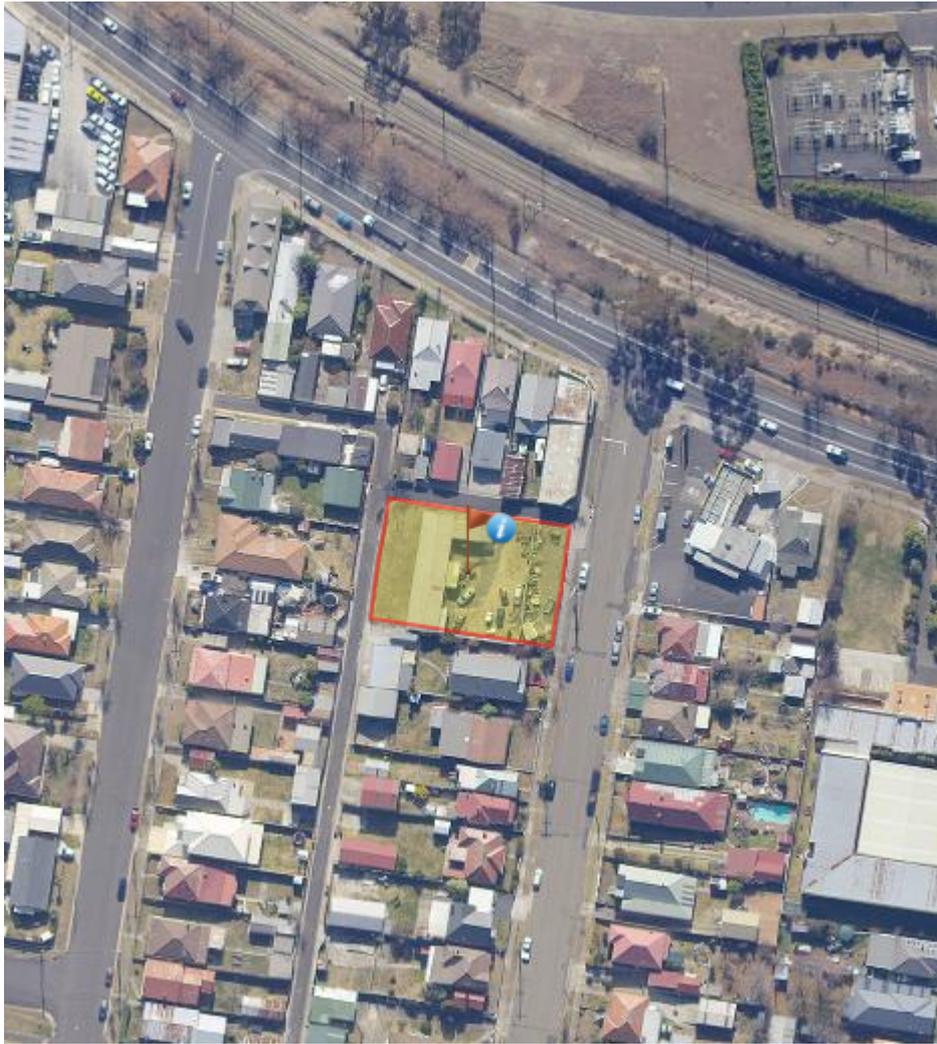
The land comprises four lots that were originally created as part of the "Coerwull Estate" subdivided in 1918. Historical records indicate all four lots have remained in a single

consolidated ownership over time and have been subject to business and light industrial land uses for many years.

The land has an overall area of 1,396 square metres with a frontage to Martini Parade of approximately 30.5 metres (100 feet). The land also has frontage to lanes on its northern and western side. This lane is identified by Council as Martini Rifle Lane. The western frontage to the lane is 30.5 metres and the northern frontage 45.7 metres (150 feet). Existing on the land are buildings and infrastructure relating to various business and light industrial uses undertaken on the land in its recent history.

Surrounding the land are a mix of established urban land uses. The predominant surrounding use comprises low density residential land uses to the south, east and west mainly consisting of detached dwellings. North of the land are properties fronting Main Street which include residential and business uses. This is illustrated on the map and aerial photography extracts provided below.



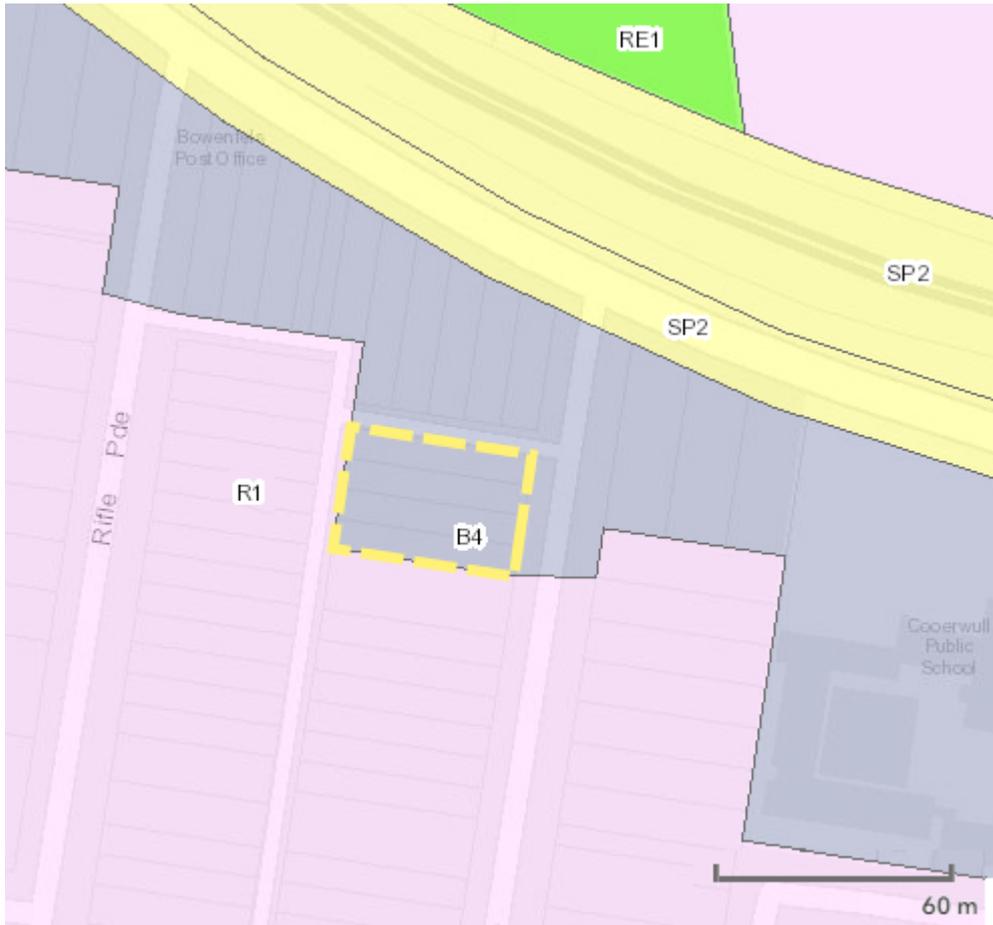


4. ZONING

The land is zoned B4 Mixed Use under the provisions of the *Lithgow Local Environmental Plan 2014* (see map extract below).

The objectives of the B4 zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To promote development that does not detract from the role of the town centre core commercial precincts.*
- *To promote the retention and reuse of heritage items as well as the retention of established buildings that contribute positively to the heritage and cultural values of lands at Portland.*
- *To maintain or improve the water quality of receiving water catchments.*



Lithgow LEP Zoning map extract

5. PERMISSIBILITY

The development application seeks consent for the use of the land for residential accommodation in the form of 38 apartments/dwellings within a residential flat building. The proposal also includes 325 square metres of commercial floor space (commercial premises) on the ground level.

Both residential accommodation in the form of a residential flat building and commercial premises are uses permitted with consent in the B4 zone. In general, these uses are both considered consistent with the objectives of the B4 zone.

5.1 POLICY IMPLICATIONS (OTHER THAN DCPs)

Lithgow Community Participation Plan

The development proposal is subject to community consultation in accordance with the above plan. Adjoining and affected landowners were notified of the proposal and its details were made available for public viewing. Notification was made to all adjoining and adjacent landowners along Martini Parade as well as landowners on Rifle Parade and Main Street whose properties back on to Martini Rifle Lane.

In response, 22 submissions were received raising objections to the proposal. The issues and concerns raised in the submissions are addressed separately in this assessment report.

In addition to the above, following the call-in of the development application by Council and its resolution (20-225) at its Ordinary Meeting on 28 September 2020, a public meeting was held on the site of the proposed development. This meeting was held on site at 3.30pm on 2 November 2020 and enabled submitters and concerned community members to raise questions and have their concerns addressed. All surrounding residents were notified by mail and by letter box drop with details of the meeting. Councillors, staff, the applicant and surrounding residents attended the meeting.

5.2 FINANCIAL IMPLICATIONS

Section 94A (Section 7.12) Development Contributions Plan 2015

The development proposal is subject to the provisions of Council's contributions plan and will be subject to the payment of a levy of 1% of the estimated development cost if approved. The development application identifies an estimate development cost of \$12,115,891.00. If approval is granted, a consent condition will be imposed to require the payment of \$121,158.91 prior to the issue of a construction certificate in accordance with the above.

5.3 LEGAL IMPLICATIONS

Environmental Planning and Assessment Act 1979

In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance identified in Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are:

5.3.1 Any Environmental Planning Instruments

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	B4 Mixed Use	Yes
7.1	Earthworks	Yes
7.3	Stormwater management	Yes
7.5	Groundwater vulnerability	Yes
7.10	Essential services	Yes

The proposed uses (residential and commercial) are permitted with consent in the B4 Mixed Use zone.

The consistency with the proposal with the B4 zone objectives is described further in the table below:

Objective	Consistency of Proposal
<i>To provide a mixture of compatible land uses.</i>	The proposed uses are considered generally compatible with each other and with existing surrounding uses.
<i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>	The proposal sufficiently integrates suitable uses in a location that is generally accessible to public transport and that provides for walking and cycling.

<i>To promote development that does not detract from the role of the town centre core commercial precincts.</i>	The proposal includes commercial floor space (325m ²) with no specified or nominated use. Any future use of this commercial space is not expected to detract from the role of the Lithgow town centre.
<i>To promote the retention and reuse of heritage items as well as the retention of established buildings that contribute positively to the heritage and cultural values of lands at Portland.</i>	Not applicable
<i>To maintain or improve the water quality of receiving water catchments.</i>	Adequate provision can be made to ensure water quality is achieved.

Earthworks

Clause 7.1 requires Council to consider the impacts of any earthworks proposed with a development and be satisfied that it will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The earthworks proposed with the development will involve the partial excavation of the site adjacent to Martini Parade to enable the construction of the basement car parking level. Some filling is also proposed at the rear of the site adjacent to Martini Rifle Lane. In general, Council can be satisfied that the earthworks proposed as part of the development will not result in any unreasonable negative environmental impacts or impacts on adjoining land. If approval is granted to the development, consent conditions would be imposed to regulate the above.

Stormwater Management

Clause 7.3 requires Council to consider the proposed stormwater management of the development and to ensure it minimises the impacts of urban stormwater on land and on adjoining properties, native bushland and receiving waters. The above clause has not been addressed by the applicant in the Statement of Environmental Effects submitted in support of the application.

Details of proposed stormwater management and a Water Cycle Assessment Report have been submitted. These address the numeric and quantity requirements and have been needed to address the Water NSW requirements for development within the Sydney Drinking Water Catchment. The information submitted demonstrates that an improvement in the **quality** of water discharged from the site will be satisfactory and has addressed the Water NSW requirements.

The information submitted, however, does not adequately address the **quantity** of stormwater discharged from the site as a result of the development. Under clause 7.3 of the LEP, Council is required to be satisfied that a number of stormwater management outcomes are achieved before granting consent to a development proposal. These requirements are identified below with assessment comments in relation to the proposal.

Clause 7.3 Stormwater Management Requirements	Comments
--	-----------------

<p>(a) The development is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water</p>	<p>While the design of the proposal adequately conveys and treats stormwater runoff from the proposal to ensure water quality, it is considered insufficient attempts have been made in the design to maximise the use of water permeable surfaces on the site.</p>
<p>(b) The development includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water</p>	<p>As above, it is also considered insufficient consideration has been given to the incorporation of more on-site stormwater retention and potential reuse on the site (e.g. for garden maintenance and watering). Rather, the proposal primarily conveys all the stormwater runoff to the rear lane for direct and immediate discharge into the public stormwater system. Given the concentration of stormwater discharge expected from the site, this is considered an unacceptable outcome in the circumstances.</p>
<p>(c) The development avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact</p>	<p>As identified above, the proposal is not considered to have adequately addressed or implemented measures to retain and reuse stormwater runoff from the site. As a result, the concentrated discharge of stormwater from the site into Martini Rifle Lane and the expected impacts of this on the function of the lane and on surrounding properties has not been adequately addressed. It is considered the impacts of the stormwater runoff from the site is considered an unacceptable outcome.</p>

Groundwater Vulnerability

Clause 7.5 of the LEP requires Council to consider the impacts of the development on groundwater systems. The proposal is not expected to unreasonably impact on groundwater resources.

Essential Services

Clause 7.10 requires Council to be satisfied that adequate provision of essential services can be provided to the development. The land is located within an urban environment with access to all essential urban services. The application has been assessed by Council's Water and Wastewater officers as well as Endeavour Energy (electricity). No objections or concerns have been raised regarding essential servicing and it is considered, subject to relevant augmentation and service upgrades where required by the applicant, the proposal can be adequately serviced.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is supported by BASIX certificates for each of the proposed residential apartments in accordance with the requirements of this SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 of the SEPP requires Council to notify the electricity supply authority (Endeavour Energy) in relation to works that will penetrate the ground or will take place within 2m of an electricity distribution pole or within 5m of an exposed overhead electricity power line. Endeavour Energy was given notice of the proposal and provided a written response on 9 September 2020. No objections are raised to the proposal subject to adequate consideration and conditions relating to the necessary protections and upgrades to electricity infrastructure.

The proposal is "traffic generating development" under the provisions of Clause 104 and Schedule 3 of this SEPP. The proposal includes car parking for more than 50 vehicles and is located within 90 metres of a *classified road* (Main Street). The proposal includes a total of 69 car parking spaces over two levels.

Clause 104 is not addressed in the Statement of Environmental Effects submitted in support of the application. Traffic generation and the capacity of the existing road network has been addressed in the Traffic Impact Assessment submitted with the proposal. In accordance with clause 104 of this SEPP, the proposal was referred to Transport for NSW (former RMS) for review and comment. A response was provided on 8 October 2020 and raises several issues and identified deficiencies with the proposal as listed below. Council's officers concur with Transport for NSW's assessment of the proposal and the issues identified.

- The potential reconfiguration of the local traffic network by changing Martini Rifle Lane along the north elevation of the site from two-way traffic to one-way traffic in an eastbound direction. This directional restriction will result in a significant redistribution of local traffic which has not been considered in the assessment.
- The Traffic Impact Assessment (TIA) submitted with the application has only considered the impacts on the intersection of Martini Parade and Martini Rifle Lane. Given the proximity to Main Street and the redistribution of traffic resulting from the development, the intersections of Martini Parade/Main Street, Rifle Parade/Main Street and Rifle Parade/Martini Rifle Lane need to also be considered. This consideration should be in terms of quantification of changes in traffic movements (considering movement direction), impacts in capacity, functioning, and safety, and consideration of whether intersection geometry/design is suitable.
- The TIA has not provided any details on the date and day of the week in which the traffic counts were undertaken. This information should be provided to ensure it is representative of background traffic.
- The traffic generation and parking rates utilised in the TIA are not considered to be representative of the demand created by the characteristics of the locality. The locality is heavily car dependent. The site is located at a distance to public transport (350m to the nearest bus stop and 1.6km from the train station) and the public transport that is available is infrequent. It is considered that the demand would be more akin to a medium density residential flat building as opposed to a high density residential flat building.
- In relation to the parking provided:
 - The development has a total of 38 dwellings. A total of 37 unencumbering parking spaces have been provided for dwellings, resulting in one (1) dwelling having no allocated parking space. If any of these parking spaces are used for visitor parking

(as asserted in the TIA), this will further reduce the number of dwellings with a carparking space.

- A total of eight (8) visitor parking spaces are required to be provided in association with the residential component of the development. Seven (7) combined commercial and visitor spaces plus one (1) dedicated visitor parking space has been provided. No justification has been provided for the dual use of these spaces, however, would provide a compliant supply for visitor use.
- The commercial component of the development requires nine (9) parking spaces, noting the two commercial units should be calculated separately. Four (4) stacked spaces have been provided plus two (2) accessible parking spaces. This is a shortfall of three (3) commercial parking spaces.
- The development has not included any consideration or provision of loading facilities for the commercial tenancies or residential facilities (removalist vehicles).
- The development relies upon kerbside collection of bins. This will impact on on-street parking on collection night. No consideration has been given to this.
- In relation to the access driveways:
 - The access driveway to the carpark on the northern lane will not achieve the entering sight distance or sight distance to pedestrians as required by section 3.2.4 of AS2890.1; and
 - The access driveway to the carpark on Martini Parade will not achieve the sight distance to pedestrians as required by section 3.2.4 of AS2890.1.
- Consideration of any crash history of the impacted intersections.

State Environmental Planning Policy No 55—Remediation of Land

This SEPP requires the assessment of a development application to consider the potential contamination of land and whether remediation is required to make the land suitable for the proposed use. The development application has been submitted with a Stage 1 Preliminary Site Investigation that considers the potential contamination of the site in accordance with State Government Guidelines. This investigation reviews the historical uses of the site and its current condition and assesses the likelihood of potential contamination and whether the site can be remediated to make it suitable for the proposed use.

The preliminary site investigation submitted in support of the proposal identifies three potential areas of environmental concern affecting the site. These are identified as:

- Potential presence of metals, hydrocarbons, pesticides, chemicals and asbestos in the soil resulting from past uses of the site for storage and maintenance of mechanical plant and other machinery and from uncontrolled filling of the site,
- Potential presence of metals, hydrocarbons, phenyls and other chemicals in the groundwater due to the presence of the nearby service station and mechanical workshop, and
- Hazardous building materials existing on the site (including asbestos, lead, etc.) in existing buildings and infrastructure.

The preliminary site investigation recommends a Stage 2 Detailed Site Investigation be undertaken to determine the extent and location of potential contaminants on the site and, where required as part of the detailed investigation, the remediation of the site.

Council is satisfied with the above and ordinarily, if the application was to be supported, would recommend consent conditions requiring the completion of the detailed site

investigation and any necessary subsequent remediation of the site prior to the issue of a construction certificate.

In summary and based on the above, the land is not considered to be seriously contaminated to an extent that, without remediation, cannot be made suitable for the proposed use.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (2002)

The provisions of this SEPP apply to the proposal in accordance with Clause 4(1) which provides the following:

- (1) *This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed-use development with a residential accommodation component if:*
 - (a) *the development consists of any of the following:*
 - (i) *the erection of a new building,*
 - (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
 - (b) *the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
 - (c) *the building concerned contains at least 4 or more dwellings.*

Clause 28(2) of this SEPP also provides that:

- (2) *In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
 - (a) *the advice (if any) obtained from the design review panel, and*
 - (b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
 - (c) *the Apartment Design Guide.*

The applicant has submitted that the proposal has been designed having regard to the design quality principles of the SEPP and in accordance with the Apartment Design Guide. A Design Verification Statement and an assessment table addressing the various provisions of the Apartment Design Guide have been submitted in support of the proposal.

The Design Verification Statement seeks to address the design quality principles specified in schedule 1 of the SEPP. In summary, particularly in relation to the site in its context and the established (and likely future) character of the surrounding neighbourhood, the design of the proposal is considered excessive for the site and is not supported from a design perspective. The Design Quality Principles of the SEPP are addressed further in the table below.

Design Quality Principle	Assessment Comments
<p><i>Principle 1: Context and neighbourhood character</i></p> <p><i>Good design responds and contributes to its context. Context is the key natural</i></p>	<p>The proposed development, particularly its bulk and scale, is highly different to the established context and neighbourhood character. The</p>

<p><i>and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>application documentation seeks to justify this by stating the proposal is part of an area undergoing transformation and will be a catalyst for further similar development in Lithgow.</p> <p>From an urban design and land use outcome perspective, Council's assessment staff are not opposed to the redevelopment of the site and its transition. However, in the circumstances the proposed development is considered excessive in the context. The design of the building and its bulk and scale having regard for the site's context, the neighbourhood character (both current and future) and the streetscape is considered inappropriate and is not supported.</p>
<p><i>Principle 2: Built form and scale</i></p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The proposal, particularly its bulk and scale, is not considered appropriate on the site having regard for the existing and desired future character of Martini Parade and its surrounds. Although there is no prescribed building height limit or floor space ratio on the land under current LEP controls, the proposed building is of a scale that is considered excessive in the context of the character of the area. Martini Parade and its surrounds are expected to remain characterised by low density single and two storey residential uses for the immediate term. In this regard, the height of the proposed building is excessive for the site. Council staff are more likely to be supportive of a reduced height, bulk and scale that provides a greater transitional built form and respects the predominant low density built form prevailing in the locality.</p>
<p><i>Principle 3: Density</i></p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed</i></p>	<p>In general, no issues are raised with the density of the proposal, despite the bulk and scale issues identified. There are no prescribed limitations to density in Council's development controls (LEP). The land is considered suitable for medium density development but perhaps at a scale somewhat less than the proposal given the limitations of the</p>

<p><i>infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>site, the surrounding uses and the location of the site relative to surrounding infrastructure and services. The proposal has a relatively high floor space ratio of 2.6:1 which is typically only expected in a high density, inner city or CBD built environment.</p>
<p><i>Principle 4: Sustainability</i> <i>Good design combines positive environmental, social and economic outcomes.</i> <i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>The proposal is considered generally neutral from a sustainability perspective with the proposal not demonstrating any specific design excellence or attempt to accommodate the environmental opportunities and constraints of the site and its surrounds. All dwellings proposed in the development will have a good level of natural cross ventilation and sunlight. It is noted that the general design guidelines have not been prepared having regard for the climate of Lithgow. In particular, concern is raised with the areas of communal open space and the courtyard area of the proposal that will be mostly shaded all year round. In this regard, it is considered that the proposal has not been specifically designed having regard for the Lithgow climate and the utility and amenity of the private and shared spaces in the development.</p>
<p><i>Principle 5: Landscape</i> <i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i> <i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i> <i>Good landscape design optimises useability, privacy and opportunities for</i></p>	<p>Generally, the landscaping proposed in the development is satisfactory. In the circumstances, given the location of the site and its potential to contributed to a transitional built form, it would be preferred to see greater open space on the site integrated with the design. This would include greater setbacks to the site boundaries, opportunities for deep soil zones and landscaped outdoor areas at ground level and the integration of environmental performance measures into the design (such as stormwater attenuation and reuse, reduced mass, improved landscaping and respect for neighbour's amenity. The proposal having reduced, to no setbacks, particularly to the southern and western boundaries, results in</p>

<p><i>social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i></p>	<p>significant visual and privacy impacts on surrounding low density residential land uses.</p> <p>It is further noted that the elevation plans and artistic 3D renders of the proposal are misleading in that they show potential trees and plantings in locations that are not physically possible.</p>
<p><i>Principle 6: Amenity</i></p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	<p>Generally, the proposed dwellings will have adequate amenity. Little regard appears to have been given to the amenity of neighbouring properties, particularly the adjoining property to the south (113 Martini Parade) which will be significantly overshadowed by the development.</p> <p>While the development can be generally supported from an amenity perspective for future occupants of the dwellings, the proposal is not supported due to the excessive and unreasonable negative amenity impacts on adjoining properties.</p>
<p><i>Principle 7: Safety</i></p> <p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The application has not been supported by a specific assessment against the principles of Crime Prevention Through Environmental Design (CPTED). General comments have been provided by the applicant which are considered acceptable in the circumstances. If Council is inclined to support the proposal, it is recommended the application provide a CPTED assessment report for the proposal prepared by a qualified consultant which would enable Council and the NSW Police to assess the veracity of the proposal regarding security and safety.</p>
<p><i>Principle 8: Housing diversity and social interaction</i></p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well designed apartment developments respond to social context by providing</i></p>	<p>The proposal incorporates a range of apartment sizes, areas of communal open space and provision for adaptable and accessible apartments. Further, the apartments are generally well designed and laid out to provide a good level of ventilation and solar access. In this regard, the proposal is supported from</p>

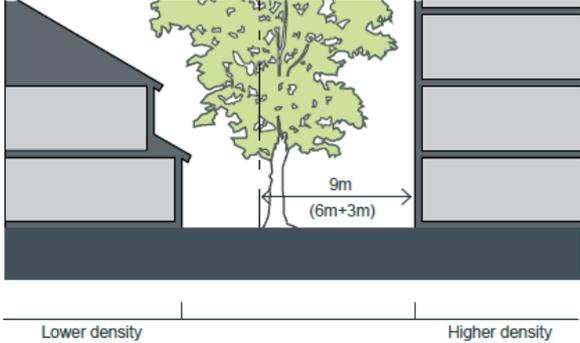
<p><i>housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<p>housing diversity and social interaction perspectives.</p>
<p><i>Principle 9: Aesthetics</i></p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>The external design of the proposal appears to have been undertaken to maximise dwelling/floor space yield and does not reflect the context of the site and surrounding built form or its current and expected future character. It is acknowledged this development is the first of its kind in the locality and there are no existing benchmarks nor local design controls or design standards to guide such built form. Notwithstanding, and as commented elsewhere, the bulk and scale of the proposed building in its context and how it interacts with surrounding uses and the established built form is not acceptable in the circumstances. In the neighbourhood context, the proposal does not present a quality aesthetic outcome and does not respond to the local context.</p>

SEPP 65 also requires Council as the consent authority to consider the provisions of the Apartment Design Guide (ADG). The ADG was published by the NSW Department of Planning and Environment in July 2015 as a resource to improve the planning and design of residential apartment development in NSW.

The applicant has submitted a compliance table that seeks to address how the design of the proposed development complies with the relevant provisions of the ADG. Council has assessed the proposal against the design provisions of the ADG. The table below addresses areas of significance where it is considered the proposal does not adequately address or does not comply with the ADG.

ADG Provisions	Comments
<i>Part 3 – Siting the development</i>	
Objective 3B-2	Due to the bulk and height of the proposed built form, the proposal will significantly overshadow the dwelling adjoining the land at 113 Martini Parade. As demonstrated in the

ADG Provisions	Comments
Overshadowing of neighbouring properties is minimised during mid winter	shadow diagrams submitted in support of the proposal, the adjoining dwelling will almost be entirely in shade at mid winter. Despite attempts in the design to increase setbacks along the southern boundary, the adjoining dwelling remains overshadowed. This is considered an unacceptable outcome and the proposal is not supported in this regard.
Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security	Although not considered a significant issue, it is the opinion of Council's assessment officers that a better public-private interaction outcome could be achieved given the context of the site and the character of the locality. Although permitted in the B4 zone, the land is not considered highly desirable for commercial land uses and it is considered that a better land use outcome would be the incorporation of residential land uses at ground level facing the street (Martini Parade) that would provide a better integrated connection with the existing surrounding low density residential built environment.
Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	The ADG encourages the incorporation of deep soil zones as indicated in the objective. In the context of the subject site, this is considered a critical element that has not been incorporated into the design. Deep soil zones and the inclusion of landscaping and tree planting on the site would assist in achieving a better integration of the development with adjoining land uses. Given the above, the absence of deep soil zones in the design is not supported. It is considered that the development application has inadequately justified why the design criteria and design guidance provided in the ADG under this objective should not be met.
Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy	The ADG provides direction on acceptable building separation in circumstances where medium/high density development adjoins low density areas such as in the circumstance of the subject site. The development application has not adequately addressed this and has not justified why a greater separation of the building from the side boundary has not been provided. The ADG recommends a building setback of 9 metres in circumstances where the adjoining

ADG Provisions	Comments
	<p>land contains lower density development (see image below). It is considered that if the design included a greater boundary setback from the southern boundary, some of the overshadowing and bulk/scale issues of the development could be mitigated.</p>  <p>The proposed development will result in a solid masonry wall with no setback along most of the boundary with 113 Martini Parade. This wall will be up to 6 metres in height and will represent a significant monolithic bulk against the boundary of 113 Martini Parade. In addition, above the ground level, Levels 1, 2 and 3 of the building have a minimal setback of 3.5 metres from the property boundary. The proposed setbacks are not consistent with the direction and guidance provided in the ADG and represent a significant unreasonable negative impact on the amenity of the adjoining dwelling at 113 Martini Parade.</p>
<i>Part 4 – Designing the building</i>	
<p>Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments</p>	<p>The design guidance under this objective in the ADG specifies the desired maximum number of apartments accessed from a circulation core on a single level is eight. In the proposed development, levels 1 and 2 have 9 apartments accessed from the single core.</p> <p>The development also includes corridors longer than 12m from the lift core. The ADG recommends these be articulated and incorporate design elements. The ADG also recommends that the design of common circulation spaces maximise opportunities for dual aspect apartments. Although these aspects of the design are not considered highly significant, they are relevant and the</p>

ADG Provisions	Comments
	applicant has not provided any justification as to why the recommendations of the ADG should not be met in the circumstances.
<p>Objective 4L-1</p> <p>Street frontage activity is maximised where ground floor apartments are located</p>	<p>Due to the slope of the site, the ground level apartments adjacent to the southern elevation are not at actual ground level. The ADG recommends direct street access be provided to ground floor apartments and encourages activity through front gardens, terraces and the facade of the building. As discussed above, from a design perspective and having regard for neighbourhood character, residential frontages to Martini Parade would be preferred.</p> <p>The ADG also encourages innovation and varied land uses such as home office spaces to be located along street frontages and ground floor apartment layouts that support small office home office (SOHO) use. This could be a suitable land use option for the site more so than standard non-specific commercial space as proposed. It is considered also that a design that incorporates these elements would also assist in the transitional built form from the B4 zone to the R1 Residential zone further along Martini Parade.</p>
<p>Objective 4O-2</p> <p>Landscape design contributes to the streetscape and amenity</p>	<p>The bulk, scale and mass of the proposed building provides limited opportunities at ground level to provide landscape design that contributes to the streetscape and amenity, particularly in the context of the surrounding neighbourhood character. As discussed above, if the development included ground level apartments with external landscaping as well as deep soil areas on the site, a much higher level of desirability from a landscape design perspective would be achieved.</p>
<p>Objective 4S-2</p> <p>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents</p>	<p>The ground level commercial and residential uses share common access areas whereas residential circulation areas should be clearly defined. The applicant has not provided sufficient justification for this. Where commercial and residential uses are combined, there needs to be greater delineation, separation and security measures addressed.</p>
<p>Objective 4T-1</p>	<p>The proposal incorporates awnings over most of the Martini Parade footpath as well as for</p>

ADG Provisions	Comments
<p>Awnings are well located and complement and integrate with the building design</p>	<p>part of the Martini Rifle Lane frontage along the northern elevation. In the context of the site and its surrounds, given there are no existing awnings or general commercial land uses in the vicinity, the concept of the awning is not supported in the circumstances. The provision of a full, CBD style commercial frontage in the circumstances of the site is not supported. Furthermore, the awning over the lane frontage is insufficiently detailed, particularly in relation to how this will be compatible with traffic movements in the lane and whether a pathway will be provided within the lane.</p>
<p>Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters</p>	<p>As detailed earlier in this report, the proposal does not sufficiently incorporate stormwater retention, reuse and mitigation elements in the design in accordance with the LEP requirements. This is further reinforced by this objective in the ADG. The subject application cannot be supported without adequate water sensitive urban design systems are designed by a suitably qualified professional integrated into the design.</p>
<p>Objective 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</p>	<p>General provision for waste storage and management is provided in the design. Minimal details of waste management during the operation/occupation of the development has been provided. In accordance with the ADG, it is preferable to contain waste storage areas within the basement away from residential uses as an essential amenity outcome. The proposal to convey and store numerous 240L bins from the ground level lobby area to the street frontage for collection is considered an undesirable outcome for both the amenity of future residents/occupants of the building and for the amenity of the neighbourhood. There are several cumulative impacts of this aspect of the proposal including the use of residential entry lobbies for the conveyance of bulk waste, the visual intrusion of multiple waste bins on Martini Parade to enable waste collection, the impacts of this on street parking, the need for waste vehicles to partially block Martini Parade for extended periods during waste collection activities. For the reasons above, the proposed waste management for the</p>

ADG Provisions	Comments
	development is considered unacceptable and is not supported.

Due to the issues identified above, the proposal does not adequately address the Design Quality Principles or the Apartment Design Guide and therefore does not satisfy the requirements of SEPP 65.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The land is located within the Sydney Drinking Water Catchment and is subject to the provisions of this SEPP. The development is required to achieve a neutral or beneficial effect on water quality. The proposal has been referred to WaterNSW as the responsible authority for the catchment who have provided concurrence to the approval of the proposal subject to conditions.

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.3.3 Any Development Control Plan

Nil.

5.3.4 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?

Nil.

5.3.5 Any matters prescribed by the regulations that apply to the land

None applicable.

5.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Context, Setting and Adjoining Landuses

The subject land is on the edge of the mixed-use business and residential corridor of Main Street and has been long occupied by small scale business and light industrial land use activities. Adjoining the land on its eastern, southern and western sides are extensive areas of low-density residential land uses characterised by detached dwelling houses. To the north of the land is a business premises currently occupied by a mower and small machinery sales and service premises. Diagonally opposite the site is a service station.

Generally, the site context and setting is a low density urban residential environment dominated by residential uses with a few ancillary/supportive retail and business uses. The proposed development represents a significant increase in density and although it is anticipated further intensification of density will occur in the locality, in the circumstances, the proposal is an increase of an unacceptable scale. AS detailed in this report, the proposal does not appropriately integrate within the built environment of the locality and does not

address the established streetscape nor the existing and desired future character of the locality. Because of this, it is argued that the bulk and scale of the development and its associated external impacts will result in an unacceptable over development of the site. It is considered that this site is suitable for a higher density, but at a scale that is compatible with the surrounding streetscape and neighbourhood character and that comprises a built form that better respects the amenity of the surrounding land uses.

Visual and Amenity Impacts

Due to the bulk and scale of the development and in the context of the site and its surrounds, a significant visual and amenity impact on the surrounding locality will result. This is mainly due to the height of the building and its lack of setbacks from the site's boundaries. Insufficient justification has been provided with the application documentation that demonstrates why a development of the bulk and scale proposed is appropriate in the locality given its current and expected (or desired) future character.

The proposed development has not been designed to respect the streetscape or character of the locality and provides no transition from what is proposed, to the existing single dwelling character directly adjoining. The proposed development, with zero setbacks at ground level, and significant overshadowing impacts due to upper-level setbacks, comprises a potentially suitable built form in a higher density CBD or CBD periphery precinct. In the circumstances of the subject site which directly adjoins low density residential land uses, the proposed development does not present a respectful and well considered urban design outcome having regard for the existing streetscape, surrounding built form and neighbourhood character.

In the circumstances, a development of higher density could be supported on the site in principle, but subject to a better design outcome that not only addresses the amenity of future residents/occupants of the development but also that respects and acknowledges the amenity and ongoing use of the surrounding land uses. In its current form, the proposal is considered to result in an unacceptable visual and amenity impact on the surrounding locality. In particular, the proposed built form will significantly overshadow the adjoining dwelling to the south resulting in unacceptable amenity impacts.

Services

In general, the site and proposed development can be adequately serviced.

Access and Traffic

Several issues have been identified regarding vehicular access and traffic generation of the development (see comments received from Transport for NSW summarised above). Further to this, the proposal has been assessed by Council's development engineer who has provided the following comments:

- The proposed "one-way restriction on existing laneway" has not been sufficiently justified and will result in potential cumulative impacts on the essential need for 6m wide two-way movement laneways in this area. It does not address the impacts on, or provide any solutions for, traffic circulation on the remaining two-way sections of the lane. For a development of this scale, the dedication of land for lane widening along the full length of northern frontage and western frontage could be justified.
- The proposed zero boundary setbacks from the lane restricts opportunities for placing necessary services, such as stormwater pipes, pits, OSD and associated maintenance space.
- The tandem car parking spaces as proposed in the development are undesirable.

- Concern is raised in relation to the proposed placement of waste bins in Martini Parade for collection.
- The proposed basement access is not acceptable. The access cannot be located within 6m from the tangent points of the intersection according to AS 2980.01 Figure 3.1 – Prohibited locations of access driveways. The crest of the access ramp to the basement must be greater than 300mm above the top of kerb level to prevent the overland flow of stormwater from the laneway into the basement.
- The splay corner for the intersection of the laneway needs to be 4m×4m at a minimum and is to be dedicated to Council as public road. The proposed structural elements overhanging/protruding over the boundary of the subject land (including the required splay area) is not acceptable.
- The largest commercial vehicle to be used for proposed commercial/retail use is not clear. The turning paths at end of the proposed service lane are not acceptable for potential large vehicles entering the site. The loading bays for removalist vehicle/waste collection vehicle are not clear.
- Any 'no stopping' signage proposed on Martini Parade conflicts with the potential waste collection vehicle parking location and on street parking/amenity and is not acceptable.
- Sight distance for the intersection of the laneway with Martini Parade and proposed service lane/driveway has not been demonstrated to achieve compliance with AS2890. The location of the waste collection vehicle and garbage bin location on the street verge areas will likely conflict with this.
- The total visitor parking spaces and commercial parking space is incorrect. Shared parking spaces can only be counted as either a visitor parking space or commercial parking space. The visitor parking and commercial parking spaces are considered insufficient for the proposal. Employee parking spaces for the proposed commercial/retail areas are not clear.

Having regard for the above and in conjunction with the feedback from Transport for NSW, the proposal is not supported due to traffic and access impact.

Flora and fauna

The land contains no significant vegetation and does not comprise significant habitat.

Noise

No details have been provided in the proposal as to the location of any air conditioning plant or other mechanical elements other than a nominal space on the ground level. In this regard, it is considered that insufficient detail has been provided to demonstrate that relevant mechanical plant required for the development can be accommodated on the site such that it will not adversely impact on the amenity of the surrounding neighbourhood by way of noise generation.

Contamination and Soils

As detailed earlier in this assessment, the proposal has been submitted with a Stage 1 Preliminary Site Investigation that has considered the potential contamination of the site. Subject to adequate regulation and follow-up investigation, it is considered the land could be appropriately remediated and is suitable for the proposal. It is proposed to excavate most of the site. Subject to future geotechnical investigation, it is considered the soils on the site are suitable for the proposal and no negative impacts are expected.

Water

The development has demonstrated an acceptable level of stormwater runoff quality to the satisfaction of WaterNSW. As detailed earlier in this assessment, it is considered that insufficient information has been submitted in relation to how water will be managed in the development, including the retention and reuse of stormwater. No consideration of the principles of water sensitive urban design have been demonstrated in the design of the proposal or the consideration of the impacts of the concentration of stormwater discharge into Martini Rifle Lane and downstream environments which is considered unacceptable in the circumstances. Council's development engineer has considered the proposal and in relation to stormwater has provided the following comment:

- The submitted stormwater drainage plan is not acceptable. Stormwater On-Site Detention (OSD) needs to be provided and is to demonstrate that there will be no increase in runoff from the site as a result of the development under all durations for all the storms up to and including the 1% AEP (1 in 100 year) event.

Waste

A construction and demolition waste management plan has been submitted in support of the proposal which is considered acceptable.

As detailed in this report, insufficient details have been provided in relation to the operational needs of the development during occupation and how waste will be adequately managed, stored and removed from the site. The details submitted indicate a waste disposal room within the ground floor of the development adjacent to and accessed from residential access corridors. It is proposed to convey many 240L waste bins from the waste storage room through the residential corridor to the Martini Parade frontage where these will be placed for collection on a weekly basis. This is considered an unacceptable outcome for several reasons and is not supported. Unreasonable impacts are expected resulting from:

- The need to store and convey bulk waste adjacent to and through residential access areas
- The need to accommodate many bins on the street on waste collection day,
- The unreasonable impacts on traffic circulation resulting from the need for the waste collection vehicle to occupy and block Martini Parade for extended periods
- The visual and amenity impacts on the neighborhood from the need to place a large number of bins in the street

Natural Hazards

The land is not known to be affected by any natural hazards.

Social and Economic Impacts

Generally positive economic impacts would be expected from the development. There may be some social benefits resulting from the increase of housing stock for the Lithgow locality. However, having regard for the negative impacts of the proposal identified in this assessment report, it is considered, on balance, that the negative social impacts resulting from the proposal would outweigh any positive impacts.

5.3.7 The Suitability of the site for the development

In principle, and generally in accordance with the Lithgow LEP provisions, the site can be considered suitable for an increased density of permissible land uses. In the circumstances however, as addressed in this assessment report, it is considered the bulk and scale of the proposal is excessive for the site and results in unreasonable and unacceptable environmental

impacts. This includes impacts on the residential amenity of the surrounding neighbourhood and, to an extent, the future occupants of the development, impacts on the streetscape due to the incompatibility of the built form with existing and future character, traffic impacts due to insufficient consideration of the access and traffic circulation constraints of the site. For these reasons and based on the proposal's bulk and scale, it is considered the proposed development is an unsuitable development of the site in its current form.

5.3.8 Any submissions made in accordance with this Act or the Regulations

The development application was referred to internal Council staff and external agencies for review and comment as summarised below.

Referred to	Response
WaterNSW (for concurrence in accordance with Sydney Drinking Water SEPP)	No objection raised – supported subject to consent conditions (water quality outcomes addressed)
Transport for NSW (RMS) (as traffic generating development in accordance with Infrastructure SEPP)	Unable to support the proposal – numerous issues raised (see summary in this report)
Endeavour Energy (due to proximity to electricity infrastructure in accordance with Infrastructure SEPP)	In principle support given subject to compliance with relevant electricity supply requirements
NSW Police – Community Policing Officer	Unable to provide comment in absence of Crime Prevention Through Environmental Design Assessment (Note – if this development were to be supported it would need to be supported by an adequate crime prevention assessment)
LCC Strategic Planner	No comments received
LCC Development Engineer	Unable to support due to information deficiencies (see comments in this report relating to traffic, access and stormwater)
LCC Water and Wastewater Officer	No objections raised subject to relevant water and wastewater connection approvals being obtained
LCC Building Officer	No objections raised – if approved, development will need to obtain Construction Certificate and demonstrate compliance with the National Construction Code (Building Code of Australia)

Response to Public Exhibition

The development application was placed on public exhibition in accordance with the Lithgow Community Participation Plan. Landowners surrounding the development were notified of the proposal and invited to review the proposal and provide comments. Landowners in Martini Parade, Rifle Parade and Main Street were provided written notification of the

proposal. The application documents were made available for public viewing on Council's website and at Council's customer service counter for 28 days up to 2 October 2020.

In response to the public exhibition, 22 written submissions were received. Of these, 20 raised objections to the proposal. One submission requested further information without objecting. One submission indicated support for the proposal. It is relevant to note that many of the submissions identified that they are not opposed to increased development of this nature in Lithgow, but generally submit that it should be undertaken on a more suitable site with less impacts. The issues and concerns raised in the objections received are summarised in the table below.

ISSUE RAISED	ASSESSMENT COMMENTS
Over development of the site, inconsistent with surrounding locality	Council's assessment staff agree with this position as detailed in this assessment report. The bulk and scale of the proposal and the lack of regard for impacts on adjoining properties as well as the incompatibility of the design with the streetscape and character of the locality are identified as significant issues. For these reasons the proposal is not supported.
Overshadowing impacts	As discussed in this report, the proposed built form will have significant and substantial overshadowing impacts on the adjoining property at 113 Martini Parade. The existing dwelling on this land and its rear yard/private open space will receive virtually no sunlight during mid-winter. This is an unacceptable outcome, and the proposal is not supported in this regard.
Excessive height, 6 storeys in a predominately single storey area	The Lithgow Local Environmental Plan 2014 contains no building height limits or floor space ratio controls which are typically used to regulate building height and bulk. In this regard, there are no statutory limitations on the building's proposed height. However, as addressed in this report, the height of the building combined with the overall design of the development are expected to result in unacceptable environmental impacts. These impacts include residential amenity, streetscape and compatibility with the character of the locality.
Precedent set for higher buildings	As noted above, the Lithgow Local Environmental Plan 2014 contains no statutory maximum building height limitations. As such, if this proposal were to proceed, it would not change any existing allowances for building height. However, due to the deficiencies and

	<p>issues raised with the building design, if the proposal was to be approved, it could be argued that it would be difficult to resist similar such developments even though every development must be considered on its own merits and individual context.</p>
<p>Loss of views</p>	<p>Generally, loss of views is not a specific consideration in development assessment based on principles long established by the Land and Environment Court.</p>
<p>Inadequate setbacks, no deep soil zones (see Apartment Design Guide)</p>	<p>Council's assessment staff agree with this position as detailed in this assessment report. The bulk and scale of the proposal and the lack of regard for impacts on adjoining properties, the limited landscaped area and site setbacks as well as the incompatibility of the design with the streetscape and character of the locality are identified as significant issues. For these reasons the proposal is not supported.</p>
<p>Car parking and traffic impacts</p>	<p>As detailed in this report, several issues with car parking and traffic generation have been identified in the assessment of the proposal. This includes insufficient parking numbers, inappropriate car parking configuration, vehicular access points that do not demonstrate safety/visibility compliance with Australian Standards. For these reasons the application is not supported.</p>
<p>Increased congestion for school drop off/pick up</p>	<p>If the development were to proceed, it would likely contribute to some traffic congestion. If all other identified issues and deficiencies with traffic, parking and vehicular access were adequately addressed, congestion impacts by the development would need to be reconsidered.</p>
<p>Increased traffic in Martini Rifle Lane, lane unsuitable for access</p>	<p>The development relies on access from Martini Rifle Lane. This has been identified in the assessment as having insufficient justification and does not demonstrate compliance with standard requirements for vehicular access. The application suggests the conversion of part of the lane to one-way traffic but has not adequately justified or demonstrated how traffic movements and circulation would be impacted or would function in the locality. For these reasons the application is not supported.</p>

<p>Privacy impacts on surrounding properties, overlooking</p>	<p>Due to the height of the building, most of the balconies proposed would enable occupants to overlook many of the surrounding dwellings and their private open space areas. Given the separation of the proposed building from neighbouring properties and because the overlooking would not be "direct", this would not normally be considered as a significant negative impact. However, in the circumstances of the case and given the identified incompatibility of the proposal in the context of the scale and character of the surrounding neighbourhood, this impact is considered a valid concern and should be better addressed. In this regard, the application is not supported.</p>
<p>Negative impacts on property values</p>	<p>This issue is often raised as an objection to many development proposals and is typically not a matter for consideration in development assessment where a proposal is permitted with consent. Generally, a neutral impact on property values would be expected in the circumstances with numerous other economic and social factors affecting market values. It is expected, however, due to the substantial impacts on the adjoining property (113 Martini Parade) that a potential impact of 'saleability' of this property may result given the corresponding change in the zoning boundary. However, as stated above, impacts on property values is not a matter for consideration under the EP&A Act in the determination of a development application.</p>
<p>Insufficient capacity of stormwater system</p>	<p>As identified in this assessment, the proposal will increase and concentrate stormwater discharge into the lane and insufficient details have been submitted in support of the proposal with regard to downstream stormwater impacts and how these might be mitigated. For this reason the proposal is not supported.</p>
<p>No retention and reuse of stormwater</p>	<p>As identified in this assessment, and in combination with the issue above, the proposal will increase and concentrate stormwater discharge into the lane and insufficient details have been submitted in support of the proposal with regard to on site retention and reuse of stormwater to minimise discharge quantities and downstream impacts.</p>

	For these reasons the proposal is not supported.
Capacity of existing infrastructure (water and sewer)	The issues raised with the occasional failure of the stormwater system and potential limits on capacity of the water system are acknowledged. The application was referred to Council's Water and Wastewater Officer for review and comment. No objections are raised in relation to the proposal from an infrastructure servicing perspective subject to consent conditions.
Building not visually appealing, out of character with locality	The visual aspects of the building's design is considered appropriate. However, in the circumstances of the site and its context and having regard for the various issues identified with the bulk and scale of the proposal, the application is not supported. As detailed in this report, the proposal is considered to have an unreasonable level of negative environmental impacts including impacts on the amenity of surrounding residents, incompatibility with the streetscape and lack of respect in the design with the character of the locality.
Incompatible with streetscape	As detailed in this assessment, the proposal is considered incompatible with the streetscape and the character of the locality for a number of reasons. These include the bulk and scale of the development, its lack of appropriate setbacks and its failure to appropriately integrate with the surrounding built environment. For these reasons the application is not supported.
No demand for the development	Demand for a development proposal (and its economic viability) is not a consideration in development assessment. The development proposed is permitted with consent under the Lithgow Local Environmental Plan 2014 and Council is obliged to assess and determine the application on its merits.
Inappropriate location, better suited closer to business areas or on other sites	A number of submissions raised concerns with the development but suggested it would be better suited to other sites. While this is acknowledged, Council is obliged to assess the development as proposed on the subject land. Development opportunities and proposals for other land are assessed separately and equally on their own merits.

<p>Construction and demolition activity impacting on school children, negative impacts during construction</p>	<p>If approval were to be granted there would be some short term impacts on the locality during construction activity. These impacts can be minimised and would be regulated by conditions of consent to alleviate any potential impacts.</p>
<p>Size of building will obstruct drivers' views</p>	<p>This concern has not been substantiated. Although of a large scale, the built form would be fully contained within the subject land and would not obstruct drivers' views.</p>
<p>No evidence that multi-level residential accommodation required in Lithgow</p>	<p>Demand or requirement for a development proposal is not a consideration in development assessment. The development proposed is permitted with consent under the Lithgow Local Environmental Plan 2014 and Council is obliged to assess and determine the application on its merits.</p>
<p>Concern over commercial space with no defined occupants/use</p>	<p>The application is not required to nominate a specific use for the commercial space. This area could be occupied by a range of business, office and/or retail uses. While concern is potentially raised with regard to the need and suitability of the site for the proposed use, it is permitted with consent on the land and Council is obliged to assess the proposal on its merits without specific regard to supply and demand. If approval were granted, any future use or occupancy of the commercial space would need to have separate development consent or would need to occupy the premises in accordance with any consent conditions imposed on the approval.</p>
<p>Fire risk, limitations on fire brigade access</p>	<p>This is not a specific consideration for Council's assessment of the proposal. Being in an established urban environment, it is typically accepted that an adequate level of fire fighting service can be provided by Fire and Rescue NSW. Further to this, the building is required to be designed and constructed in accordance with the requirements of the Building Code of Australia which specifies the extent of internal fire fighting and fire protection infrastructure within the building.</p>
<p>Developer is not a local; economic benefits will leave town</p>	<p>This is not a relevant consideration for development assessment. Generally, economic impacts from well-designed development spread well beyond just the initial construction stage.</p>

Insufficient green space, landscaping and outdoor areas	This has been raised in the assessment as a significant shortcoming in the design. It is considered that more landscaped areas and deep soil zones (to enable trees) on the site would improve its amenity and reduce the impacts on the surrounds. Due to the deficiencies in the design in this regard, the proposal is not supported.
Ambulance access, no elevators	The design plans incorporate lift access to all levels. At detailed design stage prior to construction, a building of this nature is required to ensure adequate access can be provided to all levels in accordance with the Building Code of Australia.
Inaccurate information in the statement of environmental effects re past uses	This is acknowledged and has been addressed in the Stage 1 Preliminary Site Investigation undertaken to assess the potential contamination of the site.
Impacts of waste collection, multiple bins on Martini Parade	This has been addressed in this report as a potential impact. The application has inadequately addressed the impacts of the waste disposal and collection method proposed. The application is not supported in this regard.
Site should be zoned industrial to encourage economic growth	This is not a valid consideration for this proposal.
Impacts on television signal	Impacts on television signals and radio waves are not typically considered in the assessment of development applications.
Unsightly washing being dried on balconies	This concern is acknowledged. If approval were granted a consent condition could be imposed to regulate this matter, however, it would be difficult to enforce other than by a future Body Corporate.
Emotional distress due to demographic change	Demographic change is not a consideration in the assessment of a development application.
Martini Rifle Lane is privately owned	This has been raised with Council's Infrastructure Services team who have confirmed Martini Rifle Lane is a public road.

5.3.9 The public interest

The public interest is best served by the orderly and economic use of land for permissible uses in a form which is cognisant of and does not impact unreasonably on the use and development of surrounding land.

Having regard for the various issues raised in this assessment and the identified deficiencies in the development proposed, the proposal is not considered to be in the public interest. Although permissible on the land, the proposal in its current form will result in an unacceptable level of unreasonable impacts on the locality and surrounding lands. For these reasons the approval of the proposal is not considered in the public interest.

6. DISCUSSION AND CONCLUSIONS

The proposed development is a permissible use of the land and generally satisfies the requirements for development in the B4 zone. However, as outlined in this report and as highlighted in the submissions received objecting to the proposal, there are a number of issues with the design of the proposal and several deficiencies in the details submitted with the application that result in it being an unsuitable use of the site. Because of this the application cannot be supported in its current form and is recommended for refusal. The reasons for refusal are based on the various matters addressed in this assessment report and are specified in Schedule A.

7. ATTACHMENTS

Schedule A – Reasons for refusal

8. RECOMMENDATION

THAT development application DA 143/20 is refused for the reasons outlined in this report and as set out in Schedule A.

Report prepared by: Lachlan Sims

Reviewed by: Paul Cashel

Signed:.....

Signed:.....

Dated:.....

Dated:.....

Schedule A

REASONS FOR REFUSAL

1. The development application has inadequately addressed the requirements of Clause 7.3 of the *Lithgow Local Environmental Plan 2014* and Council is not satisfied that the proposed development –
 - a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
 - b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
 - c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.
2. The traffic generating characteristics of the development have been inadequately addressed and Transport for NSW (RMS) have not given support to the proposal in accordance with Clause 104 of *State Environmental Planning Policy (Infrastructure) 2007*.
3. The design of the development has not adequately addressed the Design Quality Principles and the relevant objectives of the Apartment Design Guide as required under Clause 28(2) of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (2002)*, specifically regarding –
 - a) Context and neighbourhood character,
 - b) Built form and scale,
 - c) Amenity,
 - d) Aesthetics,
 - e) Overshadowing of adjoining properties,
 - f) Transition between public and private open space,
 - g) Provision of deep soil zones,
 - h) Building separation and setbacks,
 - i) Amenity of common circulation spaces,
 - j) Landscape design and streetscape/amenity,
 - k) Placement of awnings (character),
 - l) Stormwater treatment, and
 - m) Waste storage and disposal and impacts on streetscape.
4. The expected negative impacts of the development on the surrounding locality including –
 - a) Bulk and scale and its impacts on the character of locality and its compatibility with the streetscape,
 - b) Visual impacts (on the streetscape and surrounding locality),
 - c) Amenity impacts (particularly privacy loss and the significant overshadowing of adjoining properties)

- d) Traffic and parking (insufficient assessment and non-compliant design of vehicular accesses and car parking spaces), and
 - e) Stormwater impacts resulting from the concentration of discharge, downstream effects due to increased volumes, lack of adequate on-site detention and reuse and insufficient integration of water sensitive urban design).
5. The proposal is an unsuitable use and development of the site in its current form.
 6. Approval of the development is not in the public interest.