

ASSESSMENT REPORT AND RECOMMENDATION

JRPP No.	Item No. 3
DA No.	DA-2011/770
Proposal	Construction of a mixed use building
Property	3 Rawson Street Wollongong - Lot 102 DP 1162470
Applicant	Caverstock Group Pty Ltd
Responsible Team	City Planning City Centre Team

Executive Summary

Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to Joint Regional Planning Panel pursuant to clause 13B(1)(a) of State Environmental Planning Policy (Major Development) 2005, as the development exceeds \$10 million capital investment value.

Proposal

The proposal is for construction of an 18 storey commercial and residential building. The building contains:

- Eighteen storey tower building
- Ground floor retail and business premises
- Office premises (levels 1-3)
- 77 residential units, comprising 1-3 bedrooms (levels 4-18)
- 230 parking spaces over four levels of parking (located within 2 basement, 1 ground and 1 mezzanine levels);
- Landscaping
- Dedication to Council of 29.5m² of Rawson Street frontage for footpath construction

Vehicular access is via Rawson Street.

Permissibility

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

Consultation

The proposal was publicly exhibited in The Advertiser newspaper between 20 July 2011 and 3 August 2011. Three submissions (objections) have been received.

The application has been referred to the Department of Planning and Council's Design Review Panel as required by WLEP 2009. Comment has been requested from the Roads and Traffic Authority (now known as Roads & Maritime Services or RMS) in accordance with SEPP (Infrastructure) 2007.

Main Issues

The main issues arising from the assessment of the application are:

- A variation is sought in relation to clause 8.6 of Wollongong Local Environmental Plan 2009, which sets minimum building separation distances. This occurs at the southern elevation and is a development departure under WLEP 2009. The applicant has submitted a development standard variation request. The concurrence of the Director-General has been obtained in accordance with the requirements of the LEP.
- Variations are also sought to the rear setback provisions of Wollongong Development Control Plan 2009.

RECOMMENDATION

It is recommended that Development Application DA-2011/770 be approved pursuant to Section 80 of the Environmental Planning & Assessment Act, 1979, subject to the conditions of consent contained within Attachment 8 to this report.

1. APPLICATION OVERVIEW

1.1 PROPOSAL

The proposal is for construction of an 18 storey commercial and residential building. The building contains:

- 230 parking spaces over four levels of parking (located within 2 basement, 1 ground and 1 mezzanine levels);
- Ground floor retail and business premises
- Office premises (levels 1-3)
- 77 residential units, comprising 1-3 bedrooms (levels 4-18)
- Landscaping
- Dedication to Council of 29.5m² of Rawson Street frontage for footpath construction

A scale model has been prepared, which shows the proposed development and surrounding existing and approved development.

Level	Building use	Car parking	Floor space	Residential Units	Maximum height (RL)
P4	Parking Storage Lifts Fire stairs	74 Resident <i>Inc. 4 Disabled</i> 26 Resident bicycle 1 Motorcycle	N/a	N/a	RL30.600
P3	Parking Storage Lifts Fire stairs 32m ² rain water tank/OSD tank	72 total car spaces 21 Resident + 16 Residential Visitor + 35 Commercial <i>Inc. 4 disabled resident</i> 6 Resident bicycle 5 Motorcycle	N/a	N/a	RL33.600
Ground (P2)	Storage Lifts Fire stairs Substation Fire control room Loading dock	27 Commercial	70m ² retail 80m ² residential lobby 40m ² commercial / retail lobby 445m ² 'shopfront'	N/a	RL37.650

Level	Building use	Car parking	Floor space	Residential Units	Maximum height (RL)
	Waste & recycling store Residential lobby Commercial/ retail lobby Essential services Showers & change room		(commercial) premises		
P1	Storage Lifts Fire stairs Essential services	57 Commercial <i>Inc. 2 commercial disabled</i> 35 Commercial bicycle 4 Motorcycle	N/a	N/a	RL40.300
01	Lifts Fire stairs Essential services Outdoor terrace Outdoor landscaping	N/a	1680m ² office	N/a	RL42.800
02	Lifts Fire stairs Essential services	N/a	1670m ² office	N/a	RL46.300
03	Lifts Fire stairs Essential services	N/a	1660m ² office	N/a	RL49.800
04	External 6m x 10m swimming pool External common recreation area Residential	N/a	398.7m ² residential	1 x 1 bedroom unit 1 x 2 bedroom units 2 x 3 bedroom units <i>(Inc. 1 adaptable unit)</i>	RL53.600
05	Residential	N/a	468m ² residential	3 x 1 bedroom units <i>(Inc. 1 adaptable unit)</i> 3 x 2 bedroom units	RL56.600

Level	Building use	Car parking	Floor space	Residential Units	Maximum height (RL)
06	Residential	N/a	468m ² residential	3 x 1 bedroom units (Inc. 1 adaptable unit) 3 x 2 bedroom units	RL59.600
07	Residential	N/a	468m ² residential	3 x 1 bedroom units (Inc. 1 adaptable unit) 3 x 2 bedroom units	RL62.600
08	Residential	N/a	468m ² residential	3 x 1 bedroom units (Inc. 1 adaptable unit) 3 x 2 bedroom units	RL65.600
09	Residential	N/a	435.6m ² residential	1 x 1 bedroom units 4 x 2 bedroom units (Inc. 2 adaptable unit)	RL68.600
10	Residential	N/a	465.5m ² residential	3 x 1 bedroom units (Inc. 1 adaptable unit) 3 x 2 bedroom units	RL71.600
11	Residential	N/a	465.5m ² residential	3 x 2 bedroom units 3 x 2 bedroom units	RL74.600
12	Residential	N/a	465.5m ² residential	3 x 1 bedroom units 3 x 2 bedroom units	RL77.600
13	Residential	N/a	465.5m ² residential	3 x 1 bedroom units 3 x 2 bedroom	RL80.600

Level	Building use	Car parking	Floor space	Residential Units	Maximum height (RL)
				units	
14	Residential	N/a	468m ² residential	3 x 1 bedroom units 3 x 2 bedroom units	RL83.600
15	Residential	N/a	473.9m ² residential	2 x 2 bedroom units 2 x 3 bedroom units	RL86.600
16	Residential	N/a	473.9m ² residential	2 x 2 bedroom units 2 x 3 bedroom units	RL89.600
17	Residential	N/a	473.9m ² residential	2 x 2 bedroom units 2 x 3 bedroom units	RL92.600
18	Residential	N/a	312.3m ² residential	2 x 3 bedroom units	RL98.600
Roof	Essential services	N/a	N/a	N/a	RL101.700
TOTAL		Total 230 car spaces 95 Resident <i>(Inc. 8 resident disabled)</i> 16 Residential Visitor 119 Commercial <i>(Inc. 2 commercial disabled)</i> 67 bicycle 10 motorcycle	Total GFA m² Residential 6850m ² Non-residential 5565m ²	Total 77 units <i>Inc. total 8 adaptable units</i> 29 x 1 bedroom units <i>(Inc. 5 adaptable unit)</i> 38 x 2 bedroom units <i>(Inc. 2 adaptable unit)</i> 10 x 3 bedroom units <i>(Inc. 1 adaptable unit)</i>	

1.2 BACKGROUND

The following applications are relevant to the subject proposal.

CD-2007/35 Two Lot Subdivision – Boundary Adjustment

On 15 November 2007, Council issued complying development certificate CD-2007/35 for *'Two lot subdivision - boundary adjustment'*.

The application related to Lots 100 and 101 DP 1040533 and effectively straightened a common boundary, resulting in more regular-shaped allotments. As a result of the application, a Telstra telecommunications base station and tower which had formerly been situated within Lot 100 was located on Lot 101.

Associated subdivision certificate SC-2011/40 was issued by Council on 27 May 2011 and the deposited plan has recently been registered. The proposed development (DA-2011/770) is entirely located within what is now known as Lot 102 DP 1162470, created by CD-2007/35.

DA-2009/1060

On 28 August 2009, the proponent lodged DA-2009/1060 *'Mixed use residential/commercial development over 19 levels staged development'*. The application proposed a building similar to the current application DA-2011/770. Council advised the applicant the proposal was not supported as the development exceeded the then 32 metre maximum height limit set for the site. On 4 March 2010, the applicant withdrew DA-2009/1060.

The Department of Planning subsequently approved a re-zone to raise the height limit to the current 65 metres.

Following the withdrawal of DA-2009/1060, the project was revised and on 29 April 2011 prior to the lodgement of the subject application a design review was conducted. The Design Review Panel recommended changes prior to lodgement of a new development application.

DA-2011/464 Demolition of Telstra Tower

On 9 June 2011, Council issued DA-2011/464 for *'Infrastructure land use - demolition of Telstra tower'*. The application related to Lot 101 DP 1040533 (Lot 102 in proposed subdivision CD-2007/35/the subject site). The application approved demolition of a telecommunications base station, lattice tower, gantry and supporting infrastructure.

All structures have been demolished.

1.3 SITE DESCRIPTION

The proposed development relates to Lot 102 DP 1162470. The 2686m² site is located at 3 Rawson Street Wollongong.

The land is currently vacant, and contains established palm trees and little other vegetation.

The site is located upon a prominent ridgeline, which runs generally east-west. Surrounding properties fall to the north and south. Neighbouring development includes commercial and residential buildings of 1-4 storeys (refer to the survey plan).

Site constraints

Council records list the site as being affected by the following constraints:

- acid sulfate soils

There are no restrictions noted on the title.

1.4 CONSULTATION

1.4.1 INTERNAL CONSULTATION

Geotech

The proposal is satisfactory with regard to geotechnical and stability matters. Conditions of consent are recommended.

Stormwater

The proposal is satisfactory with regard to stormwater and drainage matters. Conditions of consent are recommended.

Landscaping

The proposal is satisfactory with regard to tree removal and landscaping matters. Conditions of consent are recommended.

Traffic

The proposal is satisfactory with regard to car parking, vehicle loading and traffic generation matters. Conditions of consent are recommended.

Building

The proposal is satisfactory with regard to Building Code of Australia. Conditions of consent are recommended.

Property

The proposal is satisfactory with regard to dedication of part of the site to Council for road reserve. Conditions of consent are recommended.

Heritage

Council's heritage adviser noted the site is not identified as a heritage item however is in the vicinity of a group of shops at 234-264 Crown Street, listed as having local significance. The proposed development is likely to alter the setting of these shops, however it is noted the proposed scale and bulk of the development is within the planning guidelines set for the site. Council has approved a major development at 10-18 Regent Street, which would also change the backdrop to the shops.

Environment

The proposal is satisfactory with regard to contamination and site assessment. Conditions of consent are recommended.

Safe Community Action Team

Council's community safety officer raised initial concerns regarding the parking levels and safe design for occupants. These matters have been addressed in amended plans and/or conditions of consent and the proposal is satisfactory.

Community services

The proposal is satisfactory with regard to social planning matters. No conditions of consent were recommended.

Civil Works in the Road Reserve

The proposal is satisfactory with regard to construction matters. Conditions of consent are recommended.

1.4.2 EXTERNAL CONSULTATION

Department of Planning

The application was referred to the Department of Planning as the concurrence of the Director-General is required pursuant to clause 4.6 of Wollongong Local Environmental Plan 2009. Concurrence was provided on 5 August 2011.

RMS

The RMS considered the application at a meeting of the Southern Regional Development Committee on 28 July 2011. The RMS required changes to the application and advised these matters could be resolved with between the applicant and Council. These matters have been satisfactorily resolved.

Urban Design Review

As outlined in Section 2.1.7 below, a design review was conducted prior and post lodgement in accordance with the requirements of Clause 8.5(5) of WLEP 2009. The comments of the Design Review Panel are attached to this report.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

SECTION 79C ASSESSMENT

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
 - (v) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are addressed below.

2.1 SECTION 79C 1(A)(I) ANY ENVIRONMENTAL PLANNING INSTRUMENT

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

Part 3 of the SEPP sets out the aims of the policy and notes the Environmental Planning and Assessment Regulation 2000 has established a framework under which buildings are to be designed having regard to energy efficiency.

The applicant has submitted a BASIX certificate for the development, as required by Clause 50 of the Regulation.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) 2005

The Joint Regional Planning Panel is the determining authority for this proposal as it has a capital investment value of more than \$10 million [Clause 13B(1)(a)].

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

The land is not identified on Council's records as being contaminated, however the potential for contamination arising from past land uses has been investigated.

The applicant has prepared a Preliminary Site Assessment (Stage 1), which has identified on-site contamination. Council's environment officer has reviewed the assessment report and recommended conditions of consent requiring further works. It is recommended a Stage 2 assessment be undertaken which would include supplementary subsurface soil and groundwater sampling and waste classification for excavated material. This is appropriate to be undertaken prior to construction.

It is also recommended that a condition of consent is applied requiring remediation validation report prior to issue of the final occupation certificate.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

The proposed building is a 'residential flat building' as defined under State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and therefore the provisions of the SEPP apply.

A Design Verification Statement has been submitted.

Part 2 of the Policy sets out design quality principles for residential flat development. These must be considered in the assessment of the proposal pursuant to clause 30(2)(b) of the Policy and are discussed below.

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

The surrounding area is in transition with new mixed use developments proposed and being constructed within the precinct. The proposed mixed use is consistent with the desired character for the precinct, as expressed in Council's WLEP 2009 and WDCP 2009.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

The building is substantially within the height limit set for the site, and setbacks and floor space ratio are satisfactory.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

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.

The development was originally considered a positive response to the existing streetscape as it exhibits appropriate height, width, front setback and building separation, whilst facades display a high level of articulation and amenity. The Design Review Panel's comments have been addressed in the amended plans.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

The proposed density does not exceed Council's requirements for the site.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

The applicant has submitted a BASIX certificate for the development, which details measures to achieve water and energy efficiency.

The final plans maximise solar access to residential units and demonstrate satisfactory cross-ventilation and passive cooling techniques. The proposal complies with the requirements of State Environmental Planning Policy 64 (Design Quality of Residential Flat Development).

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

The proposal involves retention of three trees and removal of seven trees. Compensatory planting is proposed and detailed on the landscape plan. Vegetation is proposed on the building in close proximity to

residential units. Council explored replanting the mature palms both off-site and within the development. However, this was ultimately considered not feasible.

Council's landscape officer has reviewed the arborist reports and landscape plan and has no objection, subject to conditions.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

The final palms indicate residential areas of high amenity and functional commercial/retail space. Adaptable units at a rate required by Council have been provided, maximising amenity for future occupants. Residential balconies are adequately separated to provide privacy and situated to maximise desirable solar access.

Basement levels show waste storage and collection facilities, bicycle storage and shower/change-rooms. Vehicle parking for commercial and residential occupants is separated and visitor spaces are provided. Access to residential and commercial services would be restricted via security access codes.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Spaces within and on the edges of the development are well defined with private spaces secured. Residential and commercial tenant areas would be separated by a security system. Basement access would be controlled by a security gate.

Principle 9: Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

The proposed building is located within walking distance of public bus and train transport and support services such as medical and retail facilities. Each unit benefits from at least one balcony, accessible via the living areas. The balconies are designed to provide potential residents generous areas of useable private open space. Eleven adaptable units are provided. Garage parking areas provide additional storage areas for each unit.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The external appearance of the development is of a quality design with a range of materials proposed with good façade composition involving articulation, emphasis of the lower portion of the street façade, good transition from the street level to the building, definition of a base, middle and roof to the building.

30 Determination of development applications

(2) *In determining a development application for consent to carry out residential flat development, 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 in accordance with subclause (1), and*
- (b) *the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*

the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).

An assessment of the application against the Residential Flat Design Code is contained below.

Residential Flat Design Code

Standards/controls	Comment	Compliance
Part 1 – Local context		
Building Depth		
Max 18m (glass line to glass line)	The residential levels have a maximum depth of 17.6 metres	Yes
For wider buildings, must demonstrate how satisfactory daylight and natural ventilation are achieved		
Building Separation		
Objectives	Existing neighbouring buildings and future building envelopes have been plotted by the applicant on Plans DA 01.06-11.	Yes
<ul style="list-style-type: none">To ensure that new development is scaled to support the desired area character with appropriate massing and spaces between buildings.	Proposed separation provides acceptable solar access and visual and acoustic privacy for neighbouring sites.	
<ul style="list-style-type: none">To provide visual and acoustic privacy for existing and new residents.		
<ul style="list-style-type: none">To control overshadowing of adjacent properties and private or shared open space.		
<ul style="list-style-type: none">To allow for the provision of open space with appropriate size and proportion for recreational activities for building occupants.		
<ul style="list-style-type: none">To provide deep soil zones for stormwater management and tree planting, where contextual and site conditions allow.		
Developments that propose less than the recommended distances apart must demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved.		
Side and rear setbacks		
Objectives	The proposed building setbacks are variable and shown on Plans DA 01.06-11.	Yes
<ul style="list-style-type: none">To minimise the impact of development on light, air, sun,		

<i>Standards/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<p>privacy, views and outlook for neighbouring properties, including future buildings.</p> <ul style="list-style-type: none"> • Maintain deep soil zones • Maximise building separation to provide visual and acoustic privacy Where setbacks are limited by lot size and adjacent buildings, “step in” the plan to provide internal courtyards and limit the length of walls facing boundaries <p><u>Floor space ratio</u></p> <p>Refer to Council controls</p>	<p>Proposed FSR is 4.618:1</p>	<p>Yes</p>
<p>Part 2 – Site design</p> <p><u>Deep Soil Zone</u></p> <p>The rule of thumb is for a minimum of 25% of the open space area of site to be a deep soil zone.</p>	<p>The proposal does not incorporate deep soil zone, as the podium levels spread across nearly all the site. Plantings on common areas are proposed and these are endorsed by Council’s landscape officer.</p>	<p>No</p>
<p><u>Fences and walls</u></p> <p>Should provide amenity and improve the public domain.</p>	<p>Fences and walls used to delineate private and public spaces. No fencing proposed at ground level.</p>	<p>Yes</p>
<p><u>Landscape design</u></p> <p>To add value to residents’ quality of life within the development in the forms of privacy, outlook and views.</p>		
<p><u>Open Space</u></p> <p>The rule of thumb is for between 25-30% of the site area to be communal open space.</p> <p>The minimum recommended area of private open space for each apartment at ground level or similar space on a structure is 25m², minimum preferred dimension is 4m</p>	<p>Approximately 490m² (18%) of the site is communal open space, which complies with the requirements of WDCP 2009, where open space is to be provided on a per unit basis. The requirement under WDCP 2009 equates to 14% of the site.</p> <p>Ground floor (Level 4) units have more than 25m² private open space.</p>	<p>No</p>
<p><u>Orientation</u></p> <p>To optimise solar access to residential apartments within the development and adjacent development</p>	<p>The residential floors contain maximum 5 units and have been redesigned to maximise northern orientation. However, due to the orientation of the site, some units have openings only to the south-east.</p>	<p>Yes</p>
<p><u>Planting on Structures</u></p> <p>Species selection should be appropriate for capacity for soil depth and canopy.</p>	<p>Landscaping is proposed on commercial levels and Level 4 (residential/pool level)</p>	<p>Yes</p>

<i>Standards/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>Stormwater management</u> <ul style="list-style-type: none"> To minimise the impacts of residential development and associated works on the health and amenity of natural waterways. To preserve existing topographic and natural features, including watercourses and wetlands. To minimise the discharge of sediment and other pollutants to the urban stormwater drainage system during construction activity. 	<p>Council's stormwater engineer has reviewed the drainage concept plan and has no objection. Conditions of consent are recommended.</p>	Yes
<u>Safety</u> <p>The rule of thumb is that a formal crime risk assessment be carried out for residential developments of over 20 new dwellings.</p>	<p>A Crime Prevention Through Environmental Design (CPTED) report has not been submitted. The project architects have incorporated CPTED principles into the building design. Council's SCAT officer has no objection to the proposal.</p>	No
<u>Visual privacy</u> <ul style="list-style-type: none"> To provide reasonable levels of privacy externally and internally, during the day and at night To maximise outlook and views from principal rooms and private open space without compromising visual privacy. 	<p>The residential levels are separated from commercial areas to avoid privacy conflicts. The residential units all contain balconies, which are separated from adjoining units.</p>	Yes
<u>Building entry</u> <ul style="list-style-type: none"> To create entrances which provide a desirable residential identity for the development. To orient the visitor To contribute positively to the streetscape and building façade design 	<p>The ground level (Level P2) contains the residential lobby and some retail and creates an appropriate focal point for visitors to the building.</p>	Yes

<i>Standards/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>Parking</u> <ul style="list-style-type: none"> To minimise car dependency for commuting and recreational transport use and to promote alternative means of transport- public transport, bicycling and walking. To provide adequate car parking for the building's users and visitors, depending on building type and proximity to public transport. 	Car parking is provided at a rate required by Council.	Yes
<u>Pedestrian Access</u> Barrier free access to at least 20% of dwellings.	All 77 units are accessible via building lifts, which service all parking and ground floor levels. 11 units are designed as adaptable units.	Yes
<u>Vehicle access</u> <ul style="list-style-type: none"> Generally limit the width of driveways to a maximum of 6 metres. Locate vehicle entries away from main pedestrian entries and on secondary street frontages. 	Driveway access is proposed from Rawson Street. The driveway is 6 metres wide at the building entrance.	Yes
Part 3 – Building Design		
<u>Apartment layout</u> <ul style="list-style-type: none"> Single-aspect apartments should be limited in depth to 8m from a window Back of a kitchen should be no more than 8m from a window Providing open space in the form of a balcony, a terrace, a courtyard or a garden for every apartment Locating main living areas adjacent to main private open space. Include adequate storage space. 	Single aspect units are no greater than 8 metres in depth. Kitchens are no greater than 8 metres from a window. All units have open space, either balcony or garden All living areas are adjacent to private open space. All units have internal storage.	Yes
<u>Apartment mix</u> <ul style="list-style-type: none"> To provide a diversity of apartment types, which cater for different household requirements now and in the future. To maintain equitable access to new housing by cultural and socio-economic groups. 	The proposed apartment mix is: 29 x 1 bedroom units: 38% 38 x 2 bedroom units: 49% 10 x 3 bedroom units: 13%	Yes

<i>Standards/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>Balconies</u> <ul style="list-style-type: none"> Provide primary balconies with a minimum depth of 2m. Developments that seek to vary from the minimum standards must demonstrate negative impacts from noise, wind can not be mitigated with design solutions. 	All balconies have a minimum depth of 2 metres.	Yes
<u>Ceiling heights</u> Minimum 2.7m for habitable rooms	All residential levels have minimum 2.7m ceiling heights	Yes
<u>Flexibility</u> <ul style="list-style-type: none"> To encourage housing designs which meet the broadest range of the occupants' needs as possible. To promote 'long life loose fit' buildings, which can accommodate whole or partial change of use. To encourage adaptive re-use. 	<p>The commercial/retail floors are able to be adapted to a range of uses.</p> <p>The residential apartments include specially designed adaptable units, which allow occupants to remain in their home as their health needs change.</p>	Yes
<u>Ground floor apartments</u> <ul style="list-style-type: none"> Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site. Provide ground floor apartments with access to private open space, preferably as a terrace or garden. 	The building has appropriately located commercial development on the ground floor, as required by Council's mixed use policies. A residential lobby is also located on the ground floor, however residential apartments are located above commercial areas in order to minimise amenity conflicts.	Yes
<u>Internal circulation</u> In general, where units are arranged off a double loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	Each residential floor contains a maximum of five units.	Yes
<u>Mixed use</u> Uses should complement each other and be separated to ensure privacy and acoustic amenity. Circulation systems should have regard to separate uses.	The building contains retail, office and residential development. These land uses are permissible in the zone and adequately separated within the building.	Yes

<i>Standards/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>Storage</u> Studio apartments – 6m ³ One-bedroom apartments – 6m ³ Two bedroom apartments – 8m ³ Three plus bedroom apartments – 10m ³	Storage is provided within each unit and in basement parking areas.	Yes
<u>Acoustic privacy</u> <ul style="list-style-type: none"> Adequate separation from neighbouring buildings. Unit arrangement to avoid noise transmission. 	Acoustic privacy is achieved through building setbacks and internal layout.	Yes
<u>Daylight access</u> Living rooms and private open spaces for at least 70% of apartments should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter. In dense urban areas a minimum of 2 hours may be acceptable.	56 units (72.6%) achieve required levels of solar access.	Yes
<u>Natural ventilation</u> 60% of residential units should be naturally cross ventilated.	57 units (74%) are naturally cross-ventilated.	Yes
<u>Awnings and signage</u> Awnings enhance the pedestrian experience.	No signage is proposed. The awning to the ground podium level provides shelter for pedestrians and is satisfactory.	Yes
<u>Facades</u> <ul style="list-style-type: none"> To ensure that new developments have facades which define and enhance the public domain and desired street character. To ensure that building elements are integrated into the overall building form and façade design. 	The proposed façade has been considered by Council and the Design Review Panel and is satisfactory.	Yes
<u>Roof design</u> <ul style="list-style-type: none"> To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings. 	A small portion of the roof exceeds the maximum height limit for the site, however this element is designed to integrate the lift services and results in a legible design. This is considered to be an Architectural Roof Feature under clause 5.6 of WLEP2009	Yes
<u>Energy efficiency</u> Efficient design and fixtures are to be maximised.	A BASIX certificate has been submitted.	Yes

<i>Standards/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>Maintenance</u> To ensure long life and ease of maintenance for the development.	Basement, roof and common areas are accessible for maintenance. External materials have been selected to be durable	Yes
<u>Waste management</u> Supply waste management plans as part of the development application.	Waste collection and storage will occur on level P2 (ground level). Details of waste chute/carousel system have been provided.	Yes
<u>Water conservation</u> <ul style="list-style-type: none"> To reduce mains consumption of potable water. To reduce the quantity of stormwater run off. 	On-site water storage is proposed (rainwater tank and OSD).	Yes

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY NO. 71 – COASTAL PROTECTION

The land is located within the coastal zone. However cl 1.9(2A) provides that SEPP 71 does not apply to the city centre.

It is noted that the development is not located on the coastal foreshore. The land does not form part of the coastal foreshore or provide public access to recreation areas.

2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposal is traffic generating development for the purposes of the SEPP, necessitating referral to the RMS. Clause 104 of the SEPP states that the consent authority must take into consideration any submission that the RMS provides as well as the following issues:-

- The accessibility of the site concerned, including:
 - the efficiency of movement of people and freight to and from the site and the extent of multipurpose trips, and
 - the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
 - Any potential traffic safety, road congestion or parking implications of the development.

The Regional Development Committee and the RMS reviewed the proposed development and identified matters for further amendment. The RMS indicated these matters were to be resolved to Council's satisfaction.

Council's traffic engineer has advised that amended plans satisfactorily resolve matters raised by the RMS.

2.1.7 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definition

The development is defined 'shop top housing' for the purposes of the LEP, and which is permissible with development consent in the B3 Commercial Core zone. Shop top housing is defined:

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

Note. *Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.*

Other relevant definitions include:

commercial premises means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Note. *Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.*

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Note. *Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.*

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,

- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Note. Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

mixed use development means a building or place comprising 2 or more different land uses.

Clause 1.8A Savings provision relating to pending development approvals

The application was lodged on 8 July 2011, and therefore the relevant WLEP2009 version is that current 25 June 2011–12 July 2011.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B3 Commercial Core.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

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

The proposal is satisfactory with regards to the above objectives. The proposed development includes residential and business components in an area identified for both land uses. The site is in close proximity to Wollongong train station and is serviced by local bus operators.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The height of buildings map sets a maximum 65 metre height limit for the site. The ceiling of Level 18 is contained within the 65 metre height limit, however the plant services and lift overrun marginally exceeds the maximum height. No habitable floor area exceeds the 65 metre limit. Refer architectural plan DA 01.07-09.

The applicant seeks a dispensation under clause 5.6 Architectural Roof Features for that part of the building projecting beyond 65 metres.

Clause 4.4A Floor space ratio – Wollongong city centre

Clause 4.4A provides a formula for maximum floor space for the site:

- (4) *The maximum floor space ratio for a building on land within a business zone under this Plan, that is to be used for a mixture of residential purposes and other purposes, is:*

$$(NRFSR \times NR/100) + (RFSR \times R/100):1$$

where:

NR is the percentage of the floor space of the building used for purposes other than residential purposes. [44.8]

NRFSR is the maximum floor space ratio determined in accordance with this clause if the building was to be used only for purposes other than residential purposes. [6]

R is the percentage of the floor space of the building used for residential purposes. [55.2]

RFSR is the maximum floor space ratio determined in accordance with this clause if the building was to be used only for residential purposes. [3.5]

$$\text{So, } (NRFSR \times NR/100) + (RFSR \times R/100):1$$

$$(6 \times 44.8/100) + (3.5 \times 55.2/100):1$$

$$= 2.688 + 1.932$$

$$= 4.62:1$$

In accordance with the formula above, the maximum floor space ratio (FSR) applicable to the development is 4.62:1. The proposed building has a FSR of 4.618:1, which complies with the maximum FSR.

Clause 4.6 Exceptions to development standards

Clause 4.6 provides for some flexibility in applying development standards and identifies the requirements which apply to development involving departures from the development standards outlined in the LEP. It provides that 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
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Director-General has been obtained.

This development involves a variation in respect of Clause 8.6 of the LEP which relates to building separation requirements. The applicant has provided a written request which seeks to justify the contravention of the development standard. The variation request forms Attachment 4. The concurrence of the Director-General of the Department of Planning & Infrastructure has been obtained for the variation and forms Attachment 7. This variation is discussed at Clause 8.6 below.

Miscellaneous provisions

Clause 5.5 Development within the coastal zone

The matters identified within Clause 5.5(2) have been considered and no concerns are raised. The development is not located directly on or near to the coastal foreshore. The proposal will not restrict public access to recreation areas or the coast. The proposal is not expected to have adverse impacts on

flora or fauna and no overshadowing or loss of views in regard to the coastal environment is expected. Coastal processes are unlikely to adversely impact the proposal in the future given the distance of the site from the foreshore.

Clause 5.5(c) of the LEP requires the consent authority to be satisfied that:-

- (a) the proposed development will not impede or diminish, where practicable, the physical, landbased right of access of the public to or along the coastal foreshore, and
- (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
- (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

The consent authority can be satisfied of these matters.

Clause 5.6 Architectural roof features

The purpose of this clause is to ensure the built skyline has regard to natural features and to establish what parts of a building may exceed the height limit.

The proposal involves an area of blade wall encasing lift overrun and plant services. The wall is designed to soften the impact of the essential services by incorporating them into a design element consistent with the levels below.

Development consent is not to be granted unless the consent authority is satisfied:

- (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
- (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

The proposed elements protruding beyond 65 metres satisfy these requirements. They are a decorative feature, are not an advertising feature, do not include floorspace and would not cause more than minimal overshadowing and building services are fully integrated into the design of the roof feature.

Clause 5.9 Preservation of trees or vegetation

The proposal involves tree removal. Council's landscape officer has reviewed the application and advised they have no objection to the tree removal, subject to conditions.

Clause 5.10 Heritage conservation

The site is not heritage listed nor is it located within a heritage conservation area, however there are a number of nearby heritage items which may be affected by development of the subject site. The listed heritage items within proximity of the site are a group of shops at 234-264 Crown Street.

The proposal has been considered by Council's Heritage Adviser. No conditions of consent are recommended.

Local provisions – general

Clause 7.1 Public utility infrastructure

Existing infrastructure is in place for the supply of water, electricity, and the disposal and management of sewerage. These utilities can be extended to service the proposed development. If the application is

supported, conditions should be imposed requiring the developer to make the required arrangements with the relevant servicing authorities.

Clause 7.5 Acid Sulfate Soils

The subject site is classified as Class 5 acid sulphate soils. There is the potential for the development to impact in the groundwater table and as such groundwater control measures are considered to be necessary to ensure that there are minimal effects on groundwater levels away from the site. If the application is supported, conditions of consent should be imposed in relation to these issues.

Clause 7.6 Earthworks

The proposal incorporates earthworks to accommodate the basement car park. The matters for consideration in Clause 7.6(3) have been considered and no significant concerns are raised.

7.13 Ground floor development on land within business zones

This clause seeks to ensure active uses are provided at the street level to encourage the presence and movement of people. Clause 7.13(3) states that development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:

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

The proposed development satisfies this clause.

Clause 7.14 Minimum site width

Residential flat buildings are required to have a minimum site width of 24 metres. Whilst the building is strictly defined as shop top housing, it is reasonable to require a similar site width. The land has a width of approximately 68 metres to Rawson Street, narrowing to 35 metres along to rear (southern) boundary.

Part 7 Local provisions—Wollongong city centre

The site is located within the area identified as the Wollongong City Centre. Accordingly Part 8 of the LEP applies.

Clause 8.1 Objectives for development in Wollongong city centre

The proposed development is considered to be consistent with the LEP objectives for the Wollongong City Centre.

Clause 8.4 Minimum building street frontage

A street frontage width of at least 20m is required for the development of land within the B3 Commercial Core zone. The subject site satisfies this clause as it has street frontages greater than 20m.

Clause 8.5 Design excellence

Clause 8.5 requires the consent authority to be satisfied that the proposal exhibits design excellence prior to granting development consent. The objective of this clause is to deliver the highest standard of architectural and urban design.

In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) whether the proposed development detrimentally impacts on view corridors,*
- (d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,*
- (e) how the proposed development addresses the following matters:*

- (i) the suitability of the land for development,
- (ii) existing and proposed uses and use mix,
- (iii) heritage issues and streetscape constraints,
- (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
- (v) bulk, massing and modulation of buildings,
- (vi) street frontage heights,
- (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
- (viii) the achievement of the principles of ecologically sustainable development,
- (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
- (x) impact on, and any proposed improvements to, the public domain.

Sub-clause 5 requires developments exceeding 35 metres to be reviewed by a Design Review Panel. The above matters have been considered in detail by the Design Review Panel on two occasions. The Panel reviewed draft plans on 29 April 2011 prior to lodgement and then again on 22 July 2011 following lodgement.

Generally, the Panel raised issue with the initial draft design as despite complying with all LEP controls, it did not actively respond to the site context. Departures from the LEP standards were not discouraged in order to achieve a better design outcome. The final plans have regard to the Panel's comments

The Panel's full comments are provided at Attachment 6. The following comments have been extracted from the design reviews in relation to the above matters:-

Design excellence criteria

Panel comment	Council comment
<i>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</i>	
'The proposed building relates appropriately to its site and generally offers a good level of amenity to its future residents.'	The development adequately responds to Council's planning policies for the site and makes a positive contribution to the Wollongong City Centre.
<i>(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,</i>	
'A materials board has been provided, material selection and aesthetic treatment are considered reasonable.'	The development incorporates an acceptable design palette of materials and colours. Landscaping is proposed to define common recreation areas and enhance the public domain.
<i>(c) whether the proposed development detrimentally impacts on view corridors,</i>	
N/a	The development is not considered to adversely impact on views through the site. The building complies with building envelope controls. Views from Flagstaff hill will not be adversely affected as the building's long axis is orientated east-west.
<i>(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,</i>	
N/a	N/a
<i>(e) how the proposed development addresses the following matters:</i>	

Panel comment	Council comment
<i>(i) the suitability of the land for development,</i>	
<p>‘Given its scale especially, it is clear that while the proposal is appropriate in terms of uses, its refinement as a building within a specific urban context and viewed from many vantage points should be carefully considered.</p> <p>A more detailed contextual analysis has been developed by the applicant. As part of this analysis a physical model has been provided that clearly shows the relationship of the proposed building with its existing and potential future context. This information has been used to develop the form of the building, which now responds to the future context of the site in a more considered manner.</p>	<p>The development has been refined from earlier tower and podium designs. The site is identified in Council’s planning policies as land suitable for mixed use development of the proposed scale.</p>
<i>(ii) existing and proposed uses and use mix,</i>	
<p>‘The proposal provides a good mix of commercial, retail and residential uses. The range and mix of apartment types is also commendable.’</p>	<p>The land is currently vacant and has historically been used for residential and commercial development. The proposed mixed use building incorporates office, retail and residential land uses. The unit mix includes 1, 2 and 3 bedroom units.</p>
<i>(iii) heritage issues and streetscape constraints,</i>	
N/a	<p>As noted earlier in the report, the site is not identified as a heritage item. The nearest heritage items are located at 234-264 Crown Street and are a group of two-storey shops. The proposed building will provide a new backdrop to these shops, however is considered acceptable and consistent with Council’s planning policies.</p>
<i>(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i>	
<p>‘The repositioned tower / refined tower form provides a stronger relationship between tower and podium. The tower form has also improved the amenity of residential the units and balcony configuration.’</p>	<p>The proposed tower satisfactorily provides amenity to occupants of the building and also has regard to neighbouring buildings. The proposal generally complies with setback controls, and the Department of Planning has endorsed the proposed building separation.</p>
<i>(v) bulk, massing and modulation of buildings,</i>	
<p>‘The scale and density of the proposal is consistent with the future desired character of the area that has been established by the current planning controls’</p>	<p>The building sits within identified envelope controls for the site.</p>
<i>(vi) street frontage heights,</i>	
N/a	<p>The building design incorporates a street frontage height and is satisfactory.</p>
<i>(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</i>	
N/a	<p>The development incorporates acceptable building materials and energy efficiency features. The proposed residential units and neighbouring</p>

Panel comment	Council comment
	properties demonstrate adequate solar access. The applicant has submitted a wind effects report, which is satisfactory.
<i>(viii) the achievement of the principles of ecologically sustainable development</i>	
N/a	The submitted BASIX certificate is satisfactory.
<i>(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,</i>	
N/a	Council's traffic engineer has indicated they have no objection to the proposed parking and circulation. Conditions of consent are recommended.
<i>(x) impact on, and any proposed improvements to, the public domain.</i>	
Revised documentation clearly shows that the base of the building responds to Rawson Street in an appropriate manner. A gated entry has been provided to the residential car park at level 3.'	The presentation to the public domain is considered satisfactory. The treatment of the podium levels on Rawson Street responds to the site topography and needs of the different tenants.

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

This clause provides that buildings must be erected so that:-

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

Clause 8.6(3) provides that, despite the above provisions, if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than:

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

For the purposes of this clause, street frontage height means the height of that part of a building that is built to the street alignment. The podium levels are built to the street alignment, and therefore the building incorporates a street frontage height.

The applicant has provided cross-sections and 3D views of the proposed building separation, showing existing neighbouring buildings and potential development envelopes on neighbouring sites (Plans DA 01.07–11). Plans DA 01.05 and 06 contrast the proposed development footprint with that of a strictly complying development. The Design Review Panel criticised early iterations of the development, which fully complied with separation controls, as failing to respond to the site context. Plan DA 01.05 shows setbacks particularly to the south-western and eastern neighbours would be lesser with a complying development.

The Statement of Environmental Effects provides a table showing proposed separation having regard to the requirements of clause 8.6. It shows there are non-compliances with regard to sub-clauses 2(b), 3(a) and 3(b). In the table, compliance is discussed in terms of plan view and line of sight (ie. distance from one building element to another, which may be a diagonal distance of several storeys where two buildings are of different heights). It is considered appropriate to have regard to line of sight distances as they more accurately reflect the impact of the proposal upon existing and proposed buildings.

The table indicates the only instance of a line of sight separation to a future building envelope relates to the southern elevation and its relationship with 284-286 Crown Street which is occupied by single and two storey commercial premises. The degree of variation is less than 1 metre.

The applicant has provided a variation statement in respect of Clause 8.6 as required by Clause 4.6 of the LEP. This variation statement is attached in full to this report (refer to Attachment 4). The applicant states that the primary reasons for the variation are as follows:-

- The proposed building provides a more sophisticated urban design outcome, than earlier designs which were a response only to the separation controls and not based upon a context analysis.
- Strict application of separation controls would result in reduced opportunities for view sharing between the subject site and properties to the north; loss of residential amenity for occupants of the residential units; and a more abrupt relationship between the tower and podium elements of the building.

The variation statement submitted has been considered in relation to the matters set out in Clause 4.6(4), which states:

“Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.”

In relation to (a)(i), the applicant’s variation statement addresses the matters outlined in the clause and seeks to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

The application complies with the setback controls contained within SEPP 65 and Residential Flat Design Code at the interface level with the adjoining residential development. However, these controls are inconsistent with the provisions of Clause 8.6 of WLEP 2009. Clause 6 of SEPP 65 states:

In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.

It is considered that the development is appropriately designed for the area, there will be no adverse impacts on the amenity of future building occupants in surrounding sites; and there are no adverse impacts in terms of access to daylight, outlook, view sharing, ventilation, wind mitigation and privacy.

The proposal is not expected to result in any significant negative impacts on the locality and will promote revitalisation of the city centre, which is consistent with the objectives of development in the zone and of a type envisaged by the relevant controls. As such, there are considered to be sufficient grounds to justify the variation in this instance

In accordance with Clause 4.6(4)(b), the concurrence of the Director-General has been obtained for the variation.

2.2 SECTION 79C 1(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

2.3 SECTION 79C 1(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER B3: MIXED USE DEVELOPMENT

Chapter B3 of the DCP does not apply to the development as Clause 1.1 states it applies only to land outside the City Centre.

CHAPTER B4: DEVELOPMENT IN BUSINESS ZONES

Section 3.3 of this chapter states that business or commercial office development should be located within the corridor formed by Crown Street between Corrimal Street to the east and the railway line to the west. The site is located within this area and therefore the development's commercial component is appropriate. The Chapter also states that retail activity in the City Centre should be located on Crown Street, between Keira and Kembla Streets. It is noted that the site is located west of this area, however the retail component of the development is minor and meets the broader objectives of WLEP 2009.

Clause 5.1 states that the specific planning requirements for development upon any land within the Wollongong City Centre are contained in Part D13 of the DCP.

CHAPTER D13 – WOLLONGONG CITY CENTRE

The site is located within the Wollongong City Centre, as defined in WLEP 2009 and WDCP 2009. Chapter D13 applies to the development and prevails over other parts of the DCP where there is any inconsistency.

2 Building form

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>2.1 General</u>		
<u>2.2 Building to street alignment and street setbacks</u>		
Build to nil setback at street frontage height and 4m minimum street setback above street frontage height.	There is nil setback at street frontage height. The north-eastern corner of the building proposes 1.45m (balcony) and 3.5m (wall) above street frontage height.	No - refer variation request below
<u>2.3 Street frontage heights in commercial core</u>		
Street frontage height of buildings in the Commercial Core are not to be less than 12m or greater than 24m above mean ground level on the street.	Street frontage height approximately 18.5 metres	Yes
<u>2.4 Building depth and bulk</u>		
Residential apartments in the commercial core – max floor plate 900sqm above 24m in height; max depth 18m	No residential floor above 24 metres has a floor plate exceeding 900m ² All units have a depth less than 18 metres	Yes
All points on an office floor should be no more than 10m from a source of daylight (eg. window, light well or skylight) in buildings less than 24m in height, and no more than 12.5m from a window in buildings over 24m in height.	All points of the office areas on levels 01, 02 and 03 are within 12.5m from natural light source.	Yes

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>2.5 Side and rear building setbacks and building separation</u>		
<i>Commercial Core</i>		
Up to street frontage height: nil side and rear setback	<i>Up to street frontage height:</i> Eastern boundary (side): Nil Southern boundary (rear): Nil Western boundary (side): Nil	Yes
Residential uses between street frontage height and 45 metres: 12m side and 12m rear setback	<i>Residential uses between street frontage height and 45 metres</i> Eastern boundary (side): >15.2m Southern boundary (rear): 3.6-11.5m Western boundary (side): >20m	No – refer variation request below
All uses above 45m: 14m	<i>All uses above 45m</i> Eastern boundary (side): >15.2m Southern boundary (rear): 3.6-11.5m Western boundary (side): >20m	Yes
<u>2.6 Mixed used buildings</u>		
Provide flexible building layouts which allow variable tenancies or uses on the first two floors of a building above the ground floor	The podium levels nominate areas for retail and commercial uses. These areas provide flexibility for future tenant changes.	Yes
Minimum floor to ceiling heights are 3.3 metres for commercial office and 3.6 metres for active public uses, such as retail and restaurants in the B3 Commercial Core zone	The minimum proposed floor to ceiling height for the retail/commercial floors is 3.3m.	Yes
Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook.	Separate services are provided.	Yes
Locate clearly demarcated residential entries directly from the public street.	Residential lobby would be visible from Rawson Street.	Yes
Clearly separate and distinguish commercial and residential entries and vertical circulation	Residential and commercial lobbies are separate.	Yes
Provide security access controls to all entrances into private areas, including car parks and internal courtyards.	Secure access is proposed.	Yes
Provide safe pedestrian routes through the site, where required.	The podium levels occupy all the site, and therefore no external access is proposed. Safe internal circulation is provided.	Yes
Front buildings onto major streets with active uses.	The site has a frontage only to Rawson Street.	Yes
Avoid the use of blank building walls at the ground level.	The treatment of walls are shown on the elevations. There is no blank wall to	Yes

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
For mixed use buildings that include food and drink premises uses, the location of kitchen ventilation systems shall be indicated on plans and situated to avoid amenity impacts to residents	Rawson Street. Food and drink tenancies are not proposed.	N/a
<u>2.7 Deep soil zone</u> For residential components in mixed use developments in the Commercial Core, the amount of DSZ may be reduced commensurate with the extent of non-residential uses. Where non-residential components result in full site coverage and there is no capacity for water infiltration, the deep soil component must be provided on structure, in accordance with the provisions of Section 2.8. In such cases, compensatory stormwater management measures must be integrated within the development to minimise stormwater runoff.	A landscape plan has been submitted. Plantings on structures is proposed however no deep soil zone has been specified. Council's landscape officer has no objection.	Yes
<u>2.8 Landscape design</u> Refer to Council's Public Domain Technical Manual and Chapter E6 of this DCP	A landscape plan and arborist report has been submitted. Council's landscape officer has no objection.	Yes
<u>2.9 Planting on structures</u> Design areas to provide adequate soil depth and space for tree canopy.	The landscape plan shows plantings on Level 4. Council's landscape officer has no objection.	Yes
<u>2.10 Sun access planes</u> Refers to specific sites	N/a	N/a
<u>2.11 Development on classified roads</u> As originally submitted, the land was part of an allotment with access to Crown Street, a classified road. As a result of registration of DP 1162470, the site does not have access to a classified road.	N/a	N/a

Variations Sought:-

1. Clause 2.2 Building to street alignment and street setbacks

The applicant has provided the following justification in relation to reduced setbacks provided above street frontage height to the Rawson Street frontage (1.45-3.45m where 4m is required):

In response to the April 2011 Design Review Panel comments in relation to tower location and its relationship to the lower podium, the design of the tower encroaches at its north-eastern corner within the 4m front setback line. The proposal now offers a front setback from the property boundary of 1.45m to the nearest residential balcony and 3.5m to the glass line associated with those units to the north-eastern corner of the tower. As can be seen in the submitted floor plans the extent of encroachment within the front setback zone is minor. The resulting design effect enhances the relationship of the tower to the podium level while maintaining compliance with Council's front setback objective of adding articulation to the urban form of the building's northern elevation.'

Comment:-

As noted elsewhere within this report, the application was referred to the Design Review Panel for comment. The following specific comments were provided in this regard:-

‘The repositioned tower/refined tower form provides a stronger relationship between tower and podium. The tower form has also improved the amenity of residential units and balcony configuration.’

On the basis of the Panel’s comments, the reduced setback is supported as a better design outcome is achieved without adversely impacting on the surrounding land.

2. Clause 2.5 Side and rear building setbacks and building separation

The applicant has provided the following justification in relation to reduced rear setback (3.6-11.5m provided where 14m is required):

‘As evidenced in the submitted architectural drawings the rear setback for the tower level of the building varies between 11.5m and 3.6m. There are a number of reasons for this encroachment and each is addressed in the table below’

The table forms Attachment 5 to this report.

Comment:-

As noted elsewhere within this report, the application was referred to the Design Review Panel for comment. The following specific comments were provided in this regard:-

‘A contextual study including a physical model has been provided. The standard and detailed level of documentation provided by the applicant is commendable. The contextual study has been used to develop the form of the building, which now responds to the future context of the site in a more considered manner. The proposed building relates appropriately to its site and generally offers a good level of amenity to its future residents.

The repositioned tower/refined tower form provides a stronger relationship between tower and podium. The tower form has also improved the amenity of residential units and balcony configuration.’

On the basis of the Panel’s comments, the reduced setback is supported.

3 Pedestrian amenity

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 General</u>		
<u>3.2 Permeability</u>		
Through-site links should be provided in accordance with Figure 3.1.	N/a	N/a
<u>3.3 Active street frontages</u>		
Active street frontage (entrance to retail, shop front, glazed entries to commercial lobbies, café/restaurant, active office uses such as reception) required along streets, lanes and through site links for all buildings;	The proposed building provides an active frontage. The podium levels contain lobbies, retail and commercial spaces and large expanse of glazing.	Yes
Active ground floor uses are to be on the same level as the footpath and be accessible directly from the street;	The commercial levels are directly accessible from Rawson street.	Yes
Provide multiple entrances for large developments including an entrance on each street frontage.	N/a	N/a

3.4 Safety and security

Building design to provide for casual surveillance of access ways, entries and driveways	The building incorporates active uses to the podium level street frontage and residential units above. Casual surveillance is available from these areas.	Yes
Avoid providing concealment opportunities	Concealment opportunities are not apparent.	Yes
Provide entrances in visually prominent positions; easily identifiable	Entrances are visible from Rawson Street and exits are visible within the lobbies.	Yes
Provide adequate lighting of pedestrian accessways, parking areas and entries	Lighting details have not been provided, but can be conditioned	Yes
Provide clear lines of sight and well-lit routes through the development	The public access areas have clear lines of sight. Lighting details have not been provided but can be conditioned.	Yes
For large scale retail and commercial development with a GFA of over 5,000m ² , provide a 'safety by design' assessment in accordance with the CPTED principles.	An assessment has not been provided, however CPTED principles have been incorporated in to the building design. Councils SCAT officer has not raised any objection to the proposal.	No
Security controls where appropriate	Security access to lifts and parking levels is proposed.	Yes
Ensure building entrance(s) including pathways, lanes and arcades for larger scale retail and commercial developments are directed to signalised intersections rather than mid-block in the Commercial zone, Mixed Use (city edge) and Enterprise Corridor zones.	The site is located mid-block. The proposed building entry is on Rawson Street, from where access to nearby retail areas and transport will be apparent.	Yes

3.5 Awnings

Continuous street awning required across both frontages	A continuous awning is proposed to Rawson Street	Yes
Awning design to match building facades and be complementary to adjoining buildings	The awning is an integral component of the building design.	Yes
Min soffit height 3.3m; low profile, slim vertical fascias not to exceed 300mm height; setback 1.2m from the kerb; min 2.4m deep.	The soffit height is approximately 4.6 metres and the awning extends to the property boundary. The awning has a depth of approximately 2.4 metres.	Yes
Provide under awning lights to facilitate night-time use and improve public safety.	Lighting details have not been provided but can be conditioned.	Yes

3.6 Vehicular footpath crossings

One vehicle access point only generally permitted.	One access is proposed.	Yes
Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts.	The site only has access to Rawson Street, which is a minor local road.	Yes
Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Where appropriate, new buildings should provide vehicle	N/a	N/a

access points so that they are capable of shared access at a later date.		
A double lane crossing with a maximum width of 5.4m may be permitted for safety reasons	The proposed driveway width is 6 metres at the building entrance. Councils' traffic engineer has no objection.	Yes
Doors to vehicle access points are to be roller shutters or tilting doors fitted behind the building façade.	The driveway door is a roller type.	Yes
Vehicle entries are to have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes are to be visible from the street.	The roller door is all visitors will see from Rawson Street. No service ducts or pipes would be visible.	Yes
<u>3.7 Pedestrian overpasses, underpasses and encroachments</u>		
New overpasses will not be supported. Overpasses may be considered.	N/a	N/a
<u>3.8 Building exteriors</u>		
Consider new buildings in terms of appropriate alignment and street frontage heights; setbacks, appropriate finishes and materials; façade proportions	The applicant has submitted comprehensive design analysis plans.	Yes
Balconies and terraces should be provided on low rise parts of buildings; gardens encouraged	Private open space gardens are proposed for residential units on Level 4.	Yes
Articulate facades	The building tower element in particular incorporates a high degree of articulation and movement. The Design Review Panel have no objection.	Yes
External walls should be constructed of high quality and durable materials and finishes with 'self-cleaning' attributes, such as face brickwork, rendered brickwork, stone, concrete and glass.	A schedule of finishes has been provided, which shows building materials include painted concrete and powder-coated aluminium.	Yes
Avoid expanses of any one material	The faced incorporates several materials.	Yes
Finishes with high maintenance costs, those susceptible to degradation or corrosion from a coastal or industrial environment or finishes that result in unacceptable amenity impacts, such as reflective glass, are to be avoided.	These are not proposed.	N/a
Limit opaque or blank walls for ground floor uses to 30% of the frontage	There is no blank or opaque wall element.	N/a
Break glazing into sections to avoid large expanses	Ground floor glazing is punctuated by blade walls. The residential tower component is highly articulated and glazing is broken into segments.	Yes
Highly reflective finishes and curtain wall glazing are not permitted above ground floor level	These are not proposed.	N/a
Materials sample board to be provided with DA	A materials board has been provided	Yes

Minor projections up to 450mm from building walls may extend into public space but only if it does not contribute to gross floor area and there is a public benefit such as expressed cornice lines that assist in enhancing the streetscape, protections such as entry canopies that add visual interest and amenity. Projections should not detract from significant views and vistas	and is satisfactory. There are no projections into public property.	Yes
Roof plant rooms and lift overruns to be integrated into overall design of building	The roof plant services and lift overrun has been integrated in to an architectural roof feature.	Yes
<u>3.9 Advertising and signage</u>		
Signage is to relate to the use of the building and be of high quality.	No signage is proposed	N/a
<u>3.10 Views and view corridors</u>		
Views shown on figure 3.12 are to be protected where practical.	The site is shown on figure 3.12 as within the broad sweep of views to the escarpment. The applicant's context analysis has identified other views through the site. These views are protected by the proposed design.	Yes

4 Access, parking and servicing

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.1 General</u>		
<u>4.2 Pedestrian access and mobility</u>		
Main building entry points should be clearly visible from primary street frontages and enhanced as appropriate with awnings, building signage or high quality architectural features that improve clarity of building address and contribute to visitor and occupant amenity.	The ground floor entry is made apparent by the retail entry and shopfront onto Rawson Street. It is expected that building identification signage will assist visitors to the site.	Yes
The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standard (AS 1428 Pt 1 and 2, AS 2890 Pt 1, or as amended) and the Disability Discrimination Act 1992 (as amended).	Council's traffic engineer has indicated they have no objection to the proposal. Standard conditions of consent regarding compliance with Disability Discrimination Act and the Building Code of Australia are recommended.	Yes
The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.	Barrier-free access is provided on all floors, including parking levels.	Yes
The development must provide continuous access paths of travel from all public roads and spaces as well as unimpeded internal access.	Conditions of consent are recommended regarding footpath upgrade.	Yes
Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain	Council's landscape officer has reviewed the plans and has no objection. Standard conditions regarding	Yes

(street) with appropriate slip resistant materials, tactile surfaces and contrasting colours in accordance with Council's Public Domain Technical Manual.	compliance with Council's Public Domain Technical Manual are recommended.	
Building entrance levels and footpaths must comply with the longitudinal and cross grades specified in AS 1428.1:2001, AS/NZS 2890.1:2004 and the Disability Discrimination Act.	Council's landscape officer has reviewed the plans and has no objection. Standard conditions regarding compliance with Council's Public Domain Technical Manual are recommended. Standard conditions of consent regarding compliance with Disability Discrimination Act and the Building Code of Australia are recommended.	Yes
<u>4.3 Vehicular driveways and manoeuvring areas</u>		
Vehicular driveways and manoeuvring areas should comply with relevant Australian Standards. They should be integrated into the design of the building and have regard to any services within the road reserve.	Council's traffic engineer has no objection.	Yes
<u>4.4 On-site parking</u>		
Compliance with relevant standards.	Council's traffic engineer has no objection.	Yes
Council may require a geotechnical report.	A geotechnical report has been provided.	Yes
Above ground level car parking is to have a minimum floor to ceiling height of 2.8m so it can be adapted to another use in the future.	No above ground parking is proposed	N/a
On-site vehicle, motorcycle and bicycle parking is to be provided in accordance with Part E of the DCP.	Parking has been provided at the rate required in Part E. Council's traffic engineer has no objection.	Yes
On-site parking is to be accommodated underground, or otherwise integrated into the design of the building.	All parking is located with basement or podium parking levels.	Yes
<u>4.5 Site facilities and services</u>		
Mail boxes	The location of mailboxes has not been shown but could be conditioned.	N/a
Communication structures, air conditioners and service vents	Communication structures, air conditioners and service vents are located on each floor	Yes
Waste (garbage) storage and collection	Waste storage and collection is proposed on Level P2 (ground floor). Council's traffic engineer has reviewed the proposed waste system and has no objection.	Yes
Fire service and emergency vehicles	A dedicated emergency services bay is not shown, however access for vehicles would be available within loading or parking areas or the footpath.	Yes
Utility Services	Connection to utilities is a matter for	Yes

the applicant prior to Construction Certificate. Standard conditions of consent are recommended.

5 Environmental management

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.1 General</u>		
<u>5.2 Energy efficiency and conservation</u>		
New dwellings are to demonstrate compliance with SEPP (BASIX).	A BASIX certificate has been provided and is satisfactory.	Yes
Efficient control of mechanical spaces heating and cooling	These are matters for construction certificate certification	N/a
Efficient hot water systems	These are matters for construction certificate certification	N/a
Reduce reliance on artificial lighting	These are matters for construction certificate certification	N/a
Energy efficiency report to be provided which demonstrate a commitment to achieve no less than a 4 star rating under the Australian Building Greenhouse Rating Scheme	Details of the ABGRS have not been provided. Alternative systems include the Green Building Council of Australia (Green Star) program. Standard conditions are recommended requiring the building to meet the requirements of Part J of the Building Code of Australia.	N/a
<u>5.3 Water conservation</u>		
New dwellings are to demonstrate compliance with SEPP (BASIX).	A BASIX certificate has been provided and is satisfactory.	Yes
Incorporate water saving measures – energy efficient fixtures, taps, appliances; stormwater capture and reuse; select water efficient plants for landscaping; use non-potable water for watering landscaping and landscape features; operating details for pools and water features.	The BASIX certificate indicates water saving features will be employed.	Yes
<u>5.4 Reflectivity</u>		
Visible light reflectivity from building materials used on facades of new buildings should not exceed 20%.	It is recommended a condition of consent be applied regarding maximum reflectivity levels.	Yes
New buildings should not result in glare that causes discomfort or threatens safety to drivers or pedestrians	The proposed materials are not expected to cause glare or discomfort.	Yes
<u>5.5 Wind mitigation</u>		
To ensure public safety and comfort, the following maximum wind criteria shall be met by new buildings – 13 metres/second along major pedestrian streets, parks and public places, and 16 metres/second in all other streets.	A wind effects report has been submitted which reviews wind projections along Rawson Street and within the development.	Yes
Site design for new buildings shall include:- setback tower from lower structures to protect pedestrians from strong wind downdrafts at the	The applicant's design context analysis includes consideration of wind effects.	Yes

base of the tower; ensure that tower buildings are well spaced to allow breezes to penetrate the city centre; ensure usability of open terraces and balconies.

Wind effects report to be submitted for all buildings greater than 32m in height and for buildings over 50m, results of a wind tunnel test are to be included in the report

A wind effects report has been submitted.

Yes

5.6 Waste and recycling

DAs for non-residential development must be accompanied by a waste management plan that addresses best practice recycling and reuse of construction and demolition materials, use of sustainable building materials that can be reused or recycled at the end of their life, handling methods and location of waste storage areas in accordance with the provisions of Section 4.4.3 of this DCP; procedures for the on-going sustainable management of green and putrescible waste, garbage, glass, containers and paper, including estimated volumes, required bin capacity and on-site storage requirements.

A waste management plan has been submitted and is satisfactory.

Yes

6 Residential development standards

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>6.1 SEPP 65 and residential flat design code</u>		
SEPP 65 provisions are repeated in this chapter.	The residential tower is subject to the provisions of SEPP 65.	Yes
<u>6.2 Housing choice and mix</u>		
1 bedroom and 3 bedroom units must form not less than 10% each of the total unit mix.	The proposed building contains 38% 1 bedroom units and 13% 3 bedroom units.	Yes
Minimum 10% of all dwellings must be adaptable.	The building contains 14% adaptable units	Yes
<u>6.3 Dwelling houses</u>	N/a	N/a
<u>6.4 Multi dwelling housing</u>	N/a	N/a
<u>6.5 Dual occupancy</u>	N/a	N/a
<u>6.6 Basement Carparks</u>		
The roof of any basement podium, measured to the top of any solid wall located on the podium, must not be greater than 1.2m above natural or finished ground level, when measured at any point on the outside walls of the building. On sloping sites, a change in level in the basement must be provided to achieve this maximum 1.2m height.	The building contains 5 podium levels over two basement car park levels. The basement levels do not protrude above 1.2 metres.	Yes
Ventilation grilles must be integrated into the	Ventilation grilles are not shown on the	N/a

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
design of the façade of the building to minimise their visual impact.	plans.	
<u>6.7 Communal open space</u>		
Developments with more than 10 residential units must provide communal open space, at a rate of 5m ² per unit (385m ² required).	Communal open space is provided on Level 4. This totals approximately 490m ² .	Yes
<u>6.8 Private open space</u>		
Private open space (POS) should be sited in a location which provides privacy, solar access, and pleasing outlook and has a limited impact on neighbours.	Each unit has private open space in the form of a garden or balcony.	Yes
Design private open spaces so that they act as direct extensions of the living areas of the dwellings.	All private open space directly adjoins living areas	Yes
Clearly define private open space through planting, fencing or landscaping features.	All open space is separated by balcony walls or plantings or low fencing.	Yes
Screen private open space to ensure privacy.	All private open space is screened from neighbouring units.	Yes
Where POS is provided in the form of a balcony, the following requirements must also be met:		
<ul style="list-style-type: none"> • Avoid facing side setbacks; min area of 12sqm and minimum depth of 2.4 metres. 	All balconies exceed 12m ² and have dimensions of at least 2.4 metres	Yes
<ul style="list-style-type: none"> • Primary balcony of at least 70% of the dwellings must receive a min 3 hours of direct sunlight between 9.00am and 3.00pm on June 21. 	Satisfactory solar access is provided to 72% of units.	Yes
<ul style="list-style-type: none"> • Balconies must be designed and positioned to ensure sufficient light can penetrate into the building at lower levels. 	Satisfactory solar access is provided to 72% of units.	Yes
<u>6.9 Overshadowing</u>		
Sensitive design must aim to retain the maximum amount of sunlight for adjacent residents.	The site is oriented east/west, however the tower element has been rotated north-east/south-west to minimise shadowing. The shadow diagrams supplied with the application indicate that the development will cast shadows towards the south-west through to south-east on 21 June.	Yes
A minimum of 3 hours sunlight to adjoining buildings is required on 21 June.	The shadow diagrams show properties to the south and south-east of the site are likely to receive less than 3 hours sunlight. It is noted the area is undergoing transition and heights ranging from 32-80 metres on adjoining properties are permitted. The neighbouring sites to the south are susceptible to shadowing given the	No

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
	precinct subdivision pattern (comprising consolidated allotments on Rawson Street running in a east-west direction and Crown Street allotments running north-south)), and the south-facing slope, which has the effect of lengthening shadows, exacerbating the overshadowing impact of any development. Despite this, the LEP permits a height limit of 65m and a floor space ratio of up to 6:1 within this area, which will achieve a high density development outcome. It is noted that the proposed development complies with the applicable height and floor space controls provided by the LEP and also generally complies with the required building setbacks and bulk controls contained within the DCP and Residential Flat Design Code. In view of Council's long held policy position that the area was to be developed to a relatively high density it is considered that this impact is outweighed by the overall planning considerations.	
<u>6.10 Solar access</u>		
Maximise the number of apartments with a dual orientation	The majority of the proposed units have dual orientation.	Yes
Living rooms and POS of at least 70% of apartments should receive a minimum of 3 hours of direct sunlight between 9.00am and 3.00pm	72% of units will achieve the required solar access.	Yes
<u>6.11 Natural ventilation</u>		
Building depth of between 10 and 18m; maximum depth of 21m measured from the outside of the balcony.	The residential levels have a maximum depth of 17.6 metres	Yes
Minimum of 60% of all units shall be naturally cross ventilated	75% of units are naturally cross-ventilated.	Yes
25% of kitchens within a development must have access to natural ventilation	Only the single aspect units do not have direct access to natural ventilation.	Yes
Single aspect units must be limited in depth to 8m from a window	All single aspect units have depths no greater than 8 metres	Yes
<u>6.12 Visual privacy</u>		
New buildings should be sited and oriented to maximise visual privacy between buildings through compliance with minimum front, side and rear setback / building separation requirements	The layout of units prevents overlooking.	Yes
Internal layout of buildings should be designed to minimise any direct overlooking impacts occurring upon habitable rooms and private balcony / open	Private open space areas are separated by privacy walls/screens.	Yes

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
space courtyards		
6.13 Acoustic Privacy		
Residential apartments should be arranged in a mixed use building, to minimise noise transition between apartments by: <ul style="list-style-type: none"> Locating busy, noisy areas next to each other and quieter areas, next to other quieter areas (eg living rooms with living rooms and bedrooms with bedrooms); Using storage or circulation zones within an apartment to buffer noise from adjacent apartments, mechanical services or corridors and lobby areas; and Minimising the amount of party (shared) walls with other apartments 	<p>Busy and noisy areas are located next to each other.</p> <p>Lifts and stairwells are grouped in a core on each of the residential levels. The use of unit foyers and hallways reduces noise.</p> <p>Shared walls have been minimised, with the majority of units adjoining only two other units.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
All residential apartments within a mixed use development should be designed and constructed with double-glazed windows and / or laminated windows, solid walls, sealing of air gaps around doors and windows as well as insulating building elements for doors, walls, roofs and ceilings etc; to provide satisfactory acoustic privacy and amenity levels for occupants within the residential and / or serviced apartment(s)	These construction details are a matter for the applicant at construction certificate stage.	Yes
Noise transmission from common corridors or outside the building is to be minimised by providing seals at entry doors.	These construction details are a matter for the applicant at construction certificate stage.	Yes
6.14 Storage		
All units must be provided with storage: <ul style="list-style-type: none"> 1 bedroom units: 3m², 3m³ 2 bedroom units: 4m², 8m³ 3 bedroom units: 5m², 10m³ 	All units have satisfactory internal storage.	Yes

7 Planning controls for special areas

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
7.1 Special areas with heritage items		
Development must have regard to the significance of the special areas, including heritage significance and planning policies for the development site.	<p>The site is located immediately west of Area 1: Crown Street Shops, located at 230-278 Crown Street and including 1 Rawson Street and 9 Crown Lane.</p> <p>This area contains several heritage items (230-364 Crown Street), although these do not directly adjoin the site. The shops are not a conservation area.</p> <p>The development is likely to alter the backdrop to the shops when looking</p>	Yes

	west from Crown Street, however the proposal satisfies the bulk and scale controls set for the site.	
<u>7.2 Special areas and Development Standards</u>		
These relate to development within a special area.	N/a	N/a
<u>7.3 Non-residential development in the enterprise corridor zone</u>	N/a	N/a
<u>7.4 Special area design guidelines</u>		
No guidelines have been developed.	N/a	N/a
<u>7.5 Design excellence</u>		
A Design Review Panel is required to assess applications for development exceeding 35 metres in height.	The application has been assessed by the Design Review Panel. Amendments have been made to the satisfaction of the Panel.	Yes

8 Works in the public domain

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
Any development requiring works to be carried out within the public domain in the Wollongong City Centre will be subject to compliance with the requirements of the Wollongong City Centre Public Domain Technical Manual at Appendix 2 to this DCP and any other specific Council requirements.	The works proposed on Rawson Street frontage are consistent with the provisions of the Public Domain Technical Manual.	Yes

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

The applicant has provided an access report, which concludes the proposed design meets legislative requirements. Since the report was prepared, the architects have improved the mix of adaptable units.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Council's community safety officer has reviewed the proposal. No conditions of consent are recommended.

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

Councils' traffic engineer has advised they have no objection to the proposed parking, loading and circulation. Conditions of consent are recommended.

CHAPTER E5: BASIX (BUILDING SUSTAINABILITY INDEX)

A BASIX certificate for the residential units has been submitted and is satisfactory.

CHAPTER E6: LANDSCAPING

Council's landscape officer has advised they have no objection to the proposed tree removal and compensatory planting. Conditions of consent are recommended.

CHAPTER E7: WASTE MANAGEMENT

The applicant proposes waste storage in the car park on the ground level (Level P2). Councils' traffic engineer has advised they have no objection to the proposed waste storage and collection system. Conditions of consent are recommended.

CHAPTER E11 HERITAGE CONSERVATION

The land does not contain an item of environmental heritage. The development is not considered to have an adverse impact on heritage items.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

Council's geotechnical engineer has advised they have no objection in relation to site stability and the suitability of the site for the development. Conditions of consent are recommended.

CHAPTER E14 STORMWATER MANAGEMENT

Councils' stormwater engineer has advised they have no objection to the proposed treatment of stormwater. Conditions of consent are recommended.

CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

Council's landscape officer has advised they have no objection to the proposed tree removal and compensatory planting. Conditions of consent are recommended.

2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2010)

The estimated cost of works is \$45,000,000. A section 94A levy is applicable in accordance with Councils' contributions plan.

2.4 SECTION 79C 1(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 93F, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 93F

There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.

2.5 SECTION 79C 1(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?

- (1) *For the purposes of section 79C (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:*
- (a) *in the case of a development application for the carrying out of development:*
 - (i) *in a local government area referred to in the Table to this clause, and*
 - (ii) *on land to which the Government Coastal Policy applies,*
the provisions of that Policy,
 - (b) *in the case of a development application for the demolition of a building, the provisions of AS 2601.*

The application does not involve demolition.

The site is located on land to which the Government Coastal Policy applies however the NSW Coastal Policy 1997 only applies to the seaward part of the LGA.

93 Fire safety and other considerations

- (1) *This clause applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.*

- (2) *In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use.*
- (3) *Consent to the change of building use sought by a development application to which this clause applies must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.*

Note. The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

- (4) *Subclause (3) does not apply to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4).*
- (5) *The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.*

N/a - the application does not involve change of building use.

94 Consent authority may require buildings to be upgraded

(cf clause 66B of EP&A Regulation 1994)

- (1) *This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where:*

(a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or

(b) the measures contained in the building are inadequate:

(i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or

(ii) to restrict the spread of fire from the building to other buildings nearby.

(c) (Repealed)

- (2) *In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*

(2A), (2B) (Repealed)

- (3) *The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.*

N/a - the application does not involve change of building use.

115 What are the requirements for an application for modification of a development consent?

Not applicable.

2.6 SECTION 79C 1(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT

Not applicable – Council has not prepared a Coastal Zone management Plan.

2.7 SECTION 79C 1(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

The proposal relates well to its setting and exhibits design excellence.

Access, Transport and Traffic:

The site is well located with regard to public transport. Sufficient car parking is proposed within the development and provision has been made for motorcycle and bicycle parking as required. Servicing arrangements are satisfactory.

The project is likely to generate significant traffic volumes, however Council's traffic engineer has reviewed the applicant's SIDRA analysis and Traffic Impact Assessment and advised they have no objection. Traffic is able to be absorbed into the local network without adverse impact on the performance of the local road network.

Public Domain:

The development would have positive impacts upon the public domain. The currently vacant site would be revitalised, redundant crossings would be removed and traffic access would be maintained from Rawson Street.

The building incorporates a satisfactory treatment at podium level, including a dominant lobby, awning and openings to Rawson Street.

Street tree planting is proposed and the building incorporates landscaping.

Utilities:

It is anticipated that utilities would be available to service the development as the site has been occupied formerly.

Heritage:

The land does not contain items of environmental heritage. No heritage items will be adversely 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:

Servicing: The site is presently serviced by Sydney Water, and it is expected that this can be readily extended to meet the requirements of the proposed development. Sydney Water approval would be required prior to construction of the development.

Water quality: No adverse water quality impacts are anticipated. If the application was supported, conditions of consent could be applied regarding integrity of groundwater.

Usage: If the application was supported, conditions could be imposed requiring the use of energy efficient fixtures and fittings as indicated on the BASIX certificate.

Soils:

Soil resources may be impacted during construction. If the application was supported, conditions of consent could be imposed requiring suitable erosion and sedimentation controls.

It is also recommended conditions of consent are imposed regarding dilapidation reports and protection of neighbouring buildings during construction.

Air and Microclimate:

Some changes to wind conditions can be expected in the immediate area as a result of the proposed development. The applicant's Pedestrian Wind Environment Statement has been reviewed and impacts are considered acceptable.

Flora and Fauna:

The land does not contain habitat for any threatened or endangered species. Tree removal and compensatory landscaping is proposed and is considered acceptable.

Construction waste:

The applicant has provided a waste management plan in relation to construction waste, which is satisfactory.

Operational waste

The applicant has provided a waste management statement which details waste storage and collection for the development. This is satisfactory.

Energy:

A BASIX certificate has been provided for the project and is satisfactory.

Noise and vibration:

Noise and vibration impacts are likely to be significant during the construction of the building. The applicant has submitted a Preliminary Geotechnical Assessment, which is satisfactory. If the application is supported, it is recommended an earthworks plan be prepared having regard to the findings of the Preliminary Geotechnical Assessment.

Long term noise impacts are not expected once construction is complete.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal. The land is identified as containing acid sulfate soils, however these impacts can be managed via appropriate construction controls.

Safety, Security and Crime Prevention:

This application does not result in any opportunities for criminal or antisocial behaviour. Council's community safety officer has reviewed the application.

Social and economic impacts:

The proposal will provide additional commercial floor area within the Wollongong CBD which will support economic growth and the creation of additional employment opportunities.

The Vision statement for the city centre identifies that economic development within the city could be bolstered through improving the quality of building stock and urban design within the city, making it an attractive and desirable place to work and live.

Construction:

Construction impacts are likely to be significant given the scale of development proposed. Construction impacts can be managed however and if the consent authority was of a mind to approve the application, it is recommended that conditions be imposed in relation to matters such as hours of work, construction vehicles parking, implementation of erosion and sedimentation controls, impacts on the road reserve, protection of excavations, impacts on neighbouring buildings, and the like.

Acid sulphate impacted groundwater is expected to be encountered during excavation which will require management. The depth of excavation will encroach into the zone of influence of foundations of neighbouring structures and for this reason, if the application is supported, conditions could be imposed in relation to protection of nearby buildings. Some hard bedrock will need to be removed; geotechnical guidance is recommended for the selection of excavation techniques to minimise noise and vibration nuisance.

If the application is supported, a condition of consent could also be applied requiring WorkCover to be contacted for any demolition or use of any crane, hoist, plant or scaffolding.

Cumulative Impacts:

The proposal is not expected to have any negative cumulative impacts.

2.8 SECTION 79C 1(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regards to the zoning of the site and is not expected to have any 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.

2.9 SECTION 79C 1(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

In accordance with WDCP 2009, the application was publicly exhibited between 20 July 2011 and 3 August 2011. Three (3) submissions were received and the main issues identified are discussed below.

General	Specific concern	Council comment
Solar access	Loss of solar access to residential unit at 8/290 Crown Street.	Plans DA 07.07-07.09 (shadow study) show the unit will be in shadow from 12pm, as it is located directly south of the development. This discussed in detail above.
Building materials	Treatment of southern wall of the development – requests solid wall with painted concrete finish	Plan DA 08.01 (material board) does not specify the wall treatment. It is recommended a condition of consent is applied regarding the wall to be painted concrete finish.
Exhibition process	Short duration of advertising period. Development description too concise. No map showing properties notified. Requests an extension in order for Neighbourhood Forum 5 to discuss the application.	The application was notified in accordance with WDCP 2009, submissions were able to be considered prior to finalisation of this report. The development was described this way on the application form, and correctly describes the development. The objector was provided with a map. The objector was provided with additional time however further submissions were not received.
Equitable access	Requested adaptable units include 2 and 3 bedroom dwellings.	The applicant revised the plans and now proposes 1, 2 and 3 bedroom adaptable units.
Building height	The building exceeds the old Telstra Tower height (on land adjoining the site) and the Tower formed an informal	WLEP 2009 sets the height limit for the site (65 metres) which exceeds the former Telstra building height.

	maximum height.	
Floor space ratio	Is the FSR correct?	The applicant's calculations have been reviewed and are correct.

2.10 SECTION 79C 1(E) THE PUBLIC INTEREST

The application is not expected to have any negative 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 approval is considered consistent with the public interest.

3. RECOMMENDATION

This application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C(1) of the Environmental Planning & Assessment Act 1979. The proposal is permissible with consent in the B3 Commercial Core zone under the provisions of Wollongong Local Environmental Plan 2009 and is consistent with applicable provisions of the LEP with the exception of the variation identified in this report. It is also consistent with the requirements of Wollongong Development Control Plan 2009 with the exception of the variations identified in this report. The variations sought have been assessed in detail within this report and are considered to be reasonable. The concurrence of the Director General of the Department of Planning has been granted.

The concerns raised in submissions have been addressed above.

There being no outstanding issues or unreasonable additional impacts from the proposal, it is recommended that DA-2011/770 be approved pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, subject to conditions at attachment 8.

ATTACHMENTS

Attachment 1: Aerial Photograph

Attachment 2: Zoning Extract

Attachment 3: Plans

Attachment 4: Applicant's variation statement in relation to Clause 8.6 of WLEP 2009

Attachment 5: Applicant's variation statement in relation to Chapter D13 Part 2.5 WDCP 2009

Attachment 6: Design Review Panel's comments 8 August 2011

Attachment 7: Director-General's concurrence to WLEP 2009 variation

Attachment 8: Draft Conditions