

Attachment 5: Applicant's Variation Request WDCP 2009

'Provided below is justification for this non-compliance pursuant to Clause 9(2) of Chapter A1 of the DCP.'

Item to be addressed	Commentary
(a) Identify the development control subject of the variation request; and	DCP Clause 2.5 Side and rear building setbacks and building separation
(b) Identify the objectives of that control; and	<p>2.5.2 Objectives, states:</p> <p>a) To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, wind mitigation, and privacy.</p> <p>b) To achieve usable and pleasant streets and public domain areas in terms of wind mitigation and daylight access.</p>
(c) Justify why the specific provisions of the policy do not make appropriate provisions with regard to the subject application; and	<p>The non-compliance will have a negligible impact upon pedestrian amenity at the street level in terms of wind mitigation and daylight access. In terms of wind mitigation, the impact will be negligible as, again, there is no potential 'tunneling' effect given development to the east or south of the site is limited to a building height of 32m.</p> <p>In terms of daylight access the site has a northern frontage so therefore has no impact to Rawson Street; while the impact to Crown Street (to the south) will be negligible given the extent of shadow impacts already experienced as a result of existing development to the northern side of that street frontage.</p>

(d) Confirm that the development will not have a greater adverse impact on residential amenity than if compliance was achieved; and	<p>The proposed development is located on a site of considerably higher elevation than those properties adjoining to the south. This, coupled with the 32m height limit to future development to the Crown Street properties, means there will remain a major discrepancy in the potential building heights between development wither side of the rear boundary to the site.</p> <p>Refer to the submitted section drawings sun shadow drawings prepared by Marchese Partners and included as an appendix to this application.</p>
(e) Show how the development will achieve objectives of the zone contained in the relevant LEP; and	The development will achieve the objectives of the B3 Commercial Core Zone. Refer to the zone objectives commentary provided earlier in this report.
(f) Show how the development will achieve objectives of the DCP; and	The development will achieve the objectives of the DCP. Refer to the DCP objectives commentary provided on the following page of this report.
(g) Justify why compliance with the provisions of this plan is unreasonable or unnecessary in the particular circumstances of the case.	<p>It is submitted that compliance with the provisions of this plan is unnecessary given the particular circumstances of this application.</p> <p>It is noted in the Design Review Panel minutes of 29 April 2011:</p> <p><i>Whilst the development controls are based on sound principles they do not allow the proposal to positively respond to the specific contextual constraints and opportunities of the site, to provide the best design outcome for the site.</i></p> <p>The Panel's recommendations continue with:</p> <p><i>The form of the tower is also controlled by council's set back controls. The resultant tower plan is a narrow, twisting form that is difficult to plan without negative impacts on internal amenity. It is therefore questioned whether this form provides optimum internal amenity for residents. Potential to further develop and refine the tower form should be explored as part of the contextual analysis site.</i></p> <p>Providing greater side setbacks to the east and west at the expense of the rear setback enables a 'condensing' of the width of the tower. This design approach has been adopted for the combined effect of enhancing the view sharing potential with properties to the north of the site; and enhancing the internal</p>

	<p>amenity for residents within the tower as highlighted in the Design Review Panel's minutes of 29 April 2011.</p> <p>Secondly, the 'jagged' nature of the southern property boundary presents particular design challenges in that full compliance with the DCP rear setback provision would result in a lesser quality of residential tower, as acknowledged by the Design Review Panel in their 29 April 2011 minutes. Moreover, given the fragmented nature of the neighbouring allotments fronting Crown Street it is highly unlikely that a 'full block' tower development can occur on these sites.</p> <p>Finally, the noncompliance will have a positive impact on internal residential amenity and a negligible impact on residential amenity to adjoining properties, as discussed above.</p>
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Compliance with DCP Objectives:

Chapter A1, Clause 5 provides the aims and objectives of the DCP. It is noted, under Chapter A1 of the DCP, that Council may use its discretion to consider a variation to the development controls where it is of the opinion that the proposed development is consistent with the objectives of the zone as contained in the relevant LEP and the relevant objectives of this DCP.

Provided in the table below is a summary of the proposal's compliance with the DCP objectives.

DCP Objective	Commentary
(a) To provide detailed development controls within a single document which support the Local Environmental Plan.	Noted
(b) To encourage urban design excellence.	The proposal is a clear demonstration of urban design excellence. The building, once completed, will be a landmark development for the City of Wollongong.
(c) To ensure appropriate information is submitted with Development Applications.	Noted
(d) To ensure that development contributes to the quality of the natural and built environments, taking into account any inherent natural topographical or landscape constraints of the subject site.	The proposal is fully compliant with the objectives of all development standards under the LEP, including the objectives for the Wollongong City Centre. The proposal is also compliant with the objectives of all relevant DCP provisions.
(e) To encourage development that contributes to the quality of the public domain.	This is evident though the design's compliance with street frontage height and awning requirements set under the LEP and DCP as well as

	the potential to significantly reactivate the street frontage to the corresponding section of Rawson Street.
(f) To ensure future development responds positively to the qualities of the site and the character of the surrounding locality.	The site benefits from an extensive northerly aspect as well as being in excess of 2,600m ² in area. This has presented an excellent opportunity to establish a development that fulfills Council's stated objectives for the B3 Zone. The proposal reflects the positive elements of the site by presenting a residential tower that is orientated northwards thereby enabling the compliance with all 10 design principles associated with SEPP65.
(g) To encourage a range of dwelling stock to increase housing choice and availability in the Illawarra Region.	The proposed dwelling mix exceeds Council's desire for a minimum of 10% one bedroom units. This adds to the potential affordable housing mix in the city centre.
(h) To encourage the provision of housing that is accessible and adaptable to meet the existing and future needs of all residents, including people with a disability.	The proposal complies with the accessible and adaptable housing requirements provided in the DCP. For details refer to the submitted architectural plans and accessibility report included as appendixes to this report.
(i) To ensure housing is of a high design standard and energy efficient.	The proposal complies with this requirement. The design is compliant with SEPP65 requirements therefore ensuring a high design standard and energy efficiency.
(j) To ensure commercial and industrial development is of a high design standard and energy efficient.	The commercial component of the development is designed to a very high standard in order to attract the best possible tenants and to provide future employees and visitors with an attractive environment in which to work.
(k) To ensure new development is consistent with the desired future character for the area as stated within the LEP and this DCP.	As discussed earlier in this report the proposal is fully compliant with the desired future character for the zone.
(l) To ensure new development contributes to safe and liveable environments.	The development has been designed to comply with CPTED principles.
(m) To support the provision of safe and efficient public transport services.	As the proposal will see the influx of new residents, employees and visitor it will contribute to the patronage of existing public transport services.
(n) To protect new development from the threat of bushfire.	Not applicable
(o) To protect areas of high scenic and aesthetic value.	The development will present as a landmark development for Wollongong and is in accordance with Council's vision for landmark buildings to the city centre.