

JRPP No.	2013STH012
DA No.	DA-2013/986
Proposal	The demolition of the existing buildings and associated structures. The construction of a 14 storey mixed use development comprising ground floor retail and first floor retail/commercial space with two residential towers above over 2 basement parking levels.
Property	132-134 Corrimal Street & 47-51 Crown Street, Wollongong (Oxford Tavern)
Applicant	Urban Link Pty Ltd
Responsible Team	City Planning City Centre Team

Executive Summary

Reason for consideration by Joint Regional Planning Panel

The proposed development must be considered by the Joint Regional Planning Panel (JRPP) as it has a capital investment value of more than \$20 million [Clause 3 in Schedule 4A of the Environmental Planning and Assessment Act 1979].

Proposal

The proposal is for the demolition of the existing buildings and associated structures. With the construction of a 14 storey mixed use development comprising ground floor retail/commercial and first floor retail/commercial space with two residential towers containing a total of 135 apartments over 2 basement parking levels.

Permissibility

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

Consultation

The proposal was notified in accordance with Council's Notification Policy and received 5 submissions which are discussed at section 2.9 of the assessment report.

Main Issues

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

- A variation is sought in relation to Clause 8.6 of WLEP 2009 which provides minimum building separation distances. The LEP allows for a building to be built to the boundary up to the street frontage height or a maximum of 24m whichever is the lesser, should the development be proposing commercial space. However once there are residential components below the street frontage height that are at the same level as residential on adjoining properties then part (3) of this Clause is required to be met. In this regard, the proposed residential section of the building that has an interface with an adjoining residential development is required to be setback 20m. The proposed development does not comply with this control due to the building located adjoining the property to the west

The applicant has submitted a submission seeking a departure in relation to Clause 8.6. The concurrence of the Director-General of the Department of Planning has been obtained in accordance with the requirements of the LEP (see attachment 6).

- Archaeological heritage
- Road widening and the location of the basement within the road reserve requiring stratum subdivision.
- Mid-block pedestrian connection from Town Hall Place to Corrimal Street and the pedestrian safety issues raised by RMS and Council's Traffic Section
- Variation to building separation requirements contained within SEPP 65.
- Minor variations to the WDCP 2009 are proposed including side setbacks and driveway width.

The majority of the issues raised by the 5 objections though technically unresolved are considered to be adequately addressed either through design or conditions of consent.

RECOMMENDATION

It is recommended that conditional approval be granted to DA-2013/986 subject to the draft conditions contained in Attachment 4.

1 APPLICATION OVERVIEW

1.2 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP No. 65 – Design Quality of Residential Flat Development
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Infrastructure) 2007

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong Section 94A Development Contributions Plan 2012

Other comments / matters to be addressed

RMS

Heritage Council

Sydney Water Act

1.3 PROPOSAL

The proposal is for the demolition of the existing buildings and associated structures.

The construction of a 14 storey mixed use development comprising ground floor retail and first floor commercial space with two residential towers comprising a total of 135 apartments above over 2 basement parking levels providing for a total of 259 parking spaces.

A Stratum Sub-division to allow the widening of Town Hall Place with basement levels beneath. Stratum Sub-division to create commercial-retail strata and residential strata with appropriate management plans. Consent for initial use of the ground floor as retail shops. Consent for initial use of the level 1 as offices. Use of levels 2 to 13 inclusive as residential apartments.

The proposed development specifically incorporates the following:

- Two basement levels, containing parking, storage and ancillary rooms.
- The ground floor is predominantly a commercial-retail level with two arcades, commercial and retail foyers, loading areas, basement vehicular access and waste storage facilities,
- The 1st floor is predominantly a commercial level and extensive, secured, common open space areas for the residential strata are provided at the podium level.
- The 2nd floor to 6th floors are typical residential apartment floor plates in two separate tower elements. These levels contain 6 apartments in the south tower and 7 apartments in the north tower. (65 apartments)
- The 7th floor is a unique level that transitions the built form providing a 17.7m western boundary setback as the towers rise above level 7, this level contains 6 apartments in the south tower and 5 apartments in the north tower as well as a 200m² common open space podium. (11 apartments)

- The 8th floor to 12th floors are typical residential apartment floor plates in two separate tower elements. These levels contain 6 apartments in the south tower and 5 apartments in the north tower. (55 apartments)
- The 13th floors are a unique level, the penthouse levels. This level contains 2 apartments in the south tower and 2 apartments in the north tower. (4 apartments)

The photomontage below shows the proposed development as viewed from the intersection of Crown and Corrimal Streets looking south-west.



1.4 BACKGROUND

Whilst the site contains 5 lots the site history can be broken up into two separate uses; the Oxford Tavern and associated car parking located on the northern half of the property with car parking and access alongside the western boundary from Burelli Street and a service station located on the south eastern corner.

The Oxford Tavern

The site is known to have a history as a Hotel going back to 1839. A brief summary of this history is detailed below:

- Elliott's Family Hotel was built in 1839, its third storey added in 1893 and removed in c. 1930. It was known as the Royal Hotel from 1893-1916 and as Oxford Hotel after that date.
- The Exterior was changed in the 1930s, giving the Hotel today's look.
- The site comprised a Temperance Society's Hall; built in 1871, later used as a skating ring and demolished after fire in 1889 (this was on the area now occupied by the single storey components and the beer garden of the Oxford Tavern).

Service Station

Council's records indicate that a service station was approved on the site via DA-1963/57 on 9 August 1965 by the Minister for Local Government. The Minister for Local Government approved the application under section 342V (5) of the Local Government Act 1919 after the applicant appealed Council's initial refusal of the application.

The site had been used as a service station from this time until its closure. A development application for the removal of the underground tanks via DA-2003/5077 was lodged with Council on the 25 November 2003. After initial assessment Council advised the applicant that as the tanks had already been removed, retrospective consent could not be granted and that the proposal was considered Category 2 remediation work, as described in State Environmental Planning Policy 55, and therefore no development consent was required. This application was withdrawn on the 28 January 2004.

DA-2006/441

On the 11 April 2006, Belmorgan lodged an application on the subject site. The proposed application involved the following:

Demolition of the existing Oxford Hotel and associated structures and the construction of an 18 storey high mixed use development.

This application was withdrawn on the 24 August 2006.

MP-2006/0257

In November 2006, a proposal, involving the Oxford Tavern sites and the Dwyer's site, being the site located on the eastern side of Corrimal Street, was declared a major project under Part 3A of the *Environmental Planning and Assessment Act 1979*. The Director General's Requirements were issued on 20 March 2007.

The Major Project sought approval for concept plan approval for a mixed use development for:

Dwyer's site

- Stage 1 – a 5 level mixed use entertainment and leisure retail centre, and
- Stage 2 – an 8-level hotel, conference and restaurant facility above the Dwyer's podium.

Oxford Tavern site (Stage 3)

- comprising of a podium with mixed use tavern, retail and offices; and
- an office tower and residential tower above the podium.

The proposal was exhibited between 13 December 2007 and 31 January 2008. Seven submissions were received by the Department, of which four were from public authorities and three from the public and special interest groups. The preferred project report (PPR) was submitted on 7 September 2010 and the Department received 4 submissions in response to the PPR.

The application was reported to the Planning Assessment Commission (PAC) for determination. The PAC refused the application on the 21 September 2011.

Customer service actions

The property does not have any outstanding customer service actions.

1.5 SITE DESCRIPTION

The site comprises 5 lots and is bound by Corrimal Street to the east, Crown Street to the north, Burelli Street to the south and Town Hall Place to the west. The title references of the Lots are as follows

Lot 2, DP 70662, Lot 1, DP 71070 and Lot A, DP 396278 known as 47-51 Crown Street (Oxford Tavern)

Lot B, DP 396278 and Lot 10, DP 848550 known as 132-134 Corrimal Street (Service Station)

The site has a combined area of 4,191sq.m by survey. The site has frontage of 40.4m to Crown Street, a frontage to Corrimal Street of 99.155m and a frontage of 38.31m to Burelli Street.

The site slopes from the north western corner at the highest point to the southern boundary at the lowest point equating to a gradual fall of 2.21m over 102m.

Property conditions

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

- Flooding
- Contaminated land
- Coastal zone

There are no restrictions on the title to prevent that application

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Geotechnical Engineer

Council's Geotechnical Engineer has reviewed the application and given a satisfactory referral subject to conditions of consent.

Storm water Engineer

Council's Stormwater Engineer has reviewed the application and given a satisfactory referral subject to conditions of consent.

Landscape Architect

Council's Landscape Architect has reviewed the application and given a satisfactory referral subject to conditions of consent.

Traffic Engineer

Council's Traffic Engineer has reviewed the application and does not agree with the midblock pedestrian connection from Town Hall Place through to Corrimal Street. The mid block connection raises pedestrian safety concerns as this connection does not funnel pedestrians towards a safe crossing point being the signalised intersections along Corrimal Street at Burelli Street in the south and Crown Street at the northern corner.

The consistent advice provided by Council's traffic engineer and reiterated by the comments provided by RMS has been that the pedestrian access points through the building should be located on the corners as close to the signalised intersections as possible to encourage people to cross at the intersections.

However from a planning and urban design perspective the mid block connection in this case is a preferable outcome providing a visual linkage from Town Hall Place. This approach was also strongly recommended by Councils Design Review Panel. It is considered that a pedestrian barrier within the road reserve along the Corrimal Street frontage would deter people from crossing Corrimal Street mid block and direct them to the north and southern signalised intersection. Conditions have been provided addressing this matter and the development.

Subdivision Engineer

The application has been reviewed by Council's subdivision engineer and given a satisfactory referral subject to conditions of consent.

Heritage Officer

In the Heritage Officer's initial comments it was recommended that an approval of excavation works proposed be obtained under S.140 of the NSW Heritage Act. The applicant undertook the process and provided the requested approval. The approval was issued by the Office of Environment and Heritage (OEH), who have imposed nineteen conditions to this consent. It is recommended that the 19 conditions be mirrored in consent.

Environment Officer

Council's Environment Officer has reviewed the application and given a satisfactory referral subject to conditions of consent.

Property

Council's Property Officer has reviewed the application and given a satisfactory referral subject to ensuring that the stratum lot proposal is approved by the other relevant Divisions within Council and is adequate for Council's road requirements. This has been undertaken resulting in amended plans and proposed conditions of consent.

1.6.2 EXTERNAL CONSULTATION

Department of Planning and Infrastructure

The proposed development does not comply with the building separation controls contained with clause 8.6 of the Wollongong Local Environmental Plan 2009 (WLEP 2009). This variation has been discussed

further within this report. The concurrence of the Department of Planning and Infrastructure (DoPI) was requested to allow a variation to this control. The Director-General of the DoPI granted his concurrence to the building separation controls on the 27 November 2013 (ATTACHMENT 4).

Heritage Council

The site is not a listed heritage item however; the site is known to have a history as a Hotel going back to 1839. The NSW Heritage Act provides blanket protection for significant "relics" under the archaeological provisions of the NSW Heritage Act 1977. Given the long history of the site and potential for relics dating back to 1839, which is likely to have involved convict construction and evidence of one of Wollongong's earliest hotel buildings this potential archaeology would be protected by this section of the Heritage Act.

In light of the above and pursuant to the provisions contained within Clause 5.10 of the WLEP 2009 Council is required to seek comments from the Heritage Council.

Council received comments from the Heritage Council on the 13 December 2013. The Heritage Council advised that they also received a S140 application from the PSR Crown Investment for salvage of the archaeological resource at 47-51 Crown Street, Wollongong. The Heritage Council provided conditions that they believe are sufficient to manage the archaeological resource as the site should Council approve the application. The Heritage Council also determined the applicant's S140 application (2013/S140/30) by way of approval. (ATTACHMENT 6)

Roads and Maritime Services

The application is considered traffic generating development due to the number of car parking spaces proposed as part of the development. In this regard the application is required to be considered by RMS. RMS provided its advice to Council on 17 September 2013. The comments provided are as follows:

- *RMS has concerns with the proposed pedestrian access to Corrimal Street at the mid-block location shown, which encourages pedestrian to enter and exit the development site mid-block. This arrangement may increase unsafe mid-block crossing (jaywalking) of Corrimal Street.*
- *The pedestrian access layout for the development should corral pedestrians to cross the road at the signalised intersections of Crown Street and Corrimal Street and Burelli Street and Corrimal Street which incorporate appropriate pedestrian crossings.*
- *Council should consider requiring the developer to amend the site layout plans to remove the mid-block pedestrian access to Corrimal Street and corral pedestrians to the more suitable access and crossing locations available at the corners of the site, or Crown Street and Burelli Street.*

RMS indicates that subject to the resolution of the above issues to Council's satisfaction, RMS would not object to the development and conditions were provided.

As discussed further within the report the mid-block connection is a preferable outcome from a planning and urban design perspective however pedestrian safety becomes an issue. The applicant has addressed the pedestrian safety concerns with suggested conditions for pedestrian safety fencing which were referred to the RMS for consideration. RMS supported the draft conditions for the inclusion of a pedestrian safety fence.

In terms of the primary access to the building the RMS will not permit access off Corrimal Street and their strong preference is for all access to be off Town Hall place not Burelli Street. This is to alleviate queuing pressures on the signalised intersection of Burelli and Corrimal Streets

Sydney Water

The proposed development contains 135 residential dwellings within the residential flat building and as such under the requirements of Section 78 of the *Sydney Water Act 1994* the consent authority must give the Corporation notice of the application.

Sydney Water provided comments on the 11 October 2013 indicating that services are available to the site and a condition for Section 73 Certificate is to be placed on the consent.

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

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

SEPP 55 requires that, when assessing a development application, the consent authority must give consideration to whether the land to which the development application relates is contaminated. If so, consideration must be given to whether the land is suitable (in either its contaminated state or after remediation), for the purpose for which the development is proposed to be carried out.

The SEPP requires the consent authority to consider a preliminary investigation of the land as there may have been previous land uses which may have resulted in contamination. In this case the southern portion of the site was previously operating a service station which is considered a use that has the potential for contamination.

Whilst it has been identified that the underground storage tanks were removed in 2004 there were no remediation or validation works undertaken. Given the long history of proposed development on the site there has been numerous contamination reports undertaken by Coffey Geosciences Pty Ltd since 2005 identifying the contamination status of the site. These reports are listed below:

1. *Coffey Geosciences Pty Ltd (2003), Remediation and Validation Plan – Report Ref: E14497/1-AB, dated 24 November 2003;*
2. *Coffey Geosciences Pty Ltd (2005), Environmental Site Assessment, Lot 10 DP848550 and Lot B DP396278 Corrimal Street– Report Ref: E14497/2-AC, dated 19 April 2005;*
3. *Coffey Geosciences Pty Ltd (2005), Preliminary Environmental Site Assessment and Geotechnical Investigation, Cnr Corrimal And Burelli Streets Wollongong – Report Ref: E14497/3-AE, dated 19 July 2005; and*
4. *Coffey Environments Australia Pty Ltd (2011), Additional Contamination Assessment, Cnr Corrimal and Burelli Streets Wollongong - Report Ref: ENAUWOLL0437AA-R02, dated 23 February 2011.*
5. *Coffey Environments Australia Pty Ltd (2012), Summary of Contamination Issues, Cnr Corrimal and Burelli Streets Wollongong - Report Ref: ENAUWOLL0437AB-L01, dated 7 November 2012.*

Contamination assessment has identified that there are areas of soils impacted with petroleum hydrocarbons in the vicinity and downslope of the location of the underground storage tanks. This assessment has also found that groundwater contamination in the form of petroleum hydrocarbons has also occurred to the east of the location of the underground storage tanks. The reports indicate that due to the close proximity of the boundary hydrocarbon impacts may have been migrated offsite, however is not confirmed.

The application involves excavation of two basement levels and which entails the removal of impacted soil and groundwater, the reports concluded that the proposed change in land use and future development can be rendered suitable subject to the removal of the impacted soils and groundwater and offsite treatment of correct disposal of containment material.

This issue has been considered by Council's Environment Division who indicated that the proposed development involves excavation of soils up to a depth to accommodate two levels basement carpark and the report has recommended classifying the excavated soils prior to disposal than undertaking site remediation work. Appropriate conditions relating to waste classification, site validation report and site auditor's statement have been recommended.

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

The application is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65). Residential flat buildings are defined:

"residential flat building" means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*

(b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

The Policy came into effect on 26 July 2002.

Clause 50 of the Environmental Planning and Assessment Regulation 2000 states:

*(1A) A **development application** that relates to a residential flat development, and that is made on or after 1 December 2003, must be accompanied by a design verification from a qualified designer, being a statement in which the qualified designer verifies:*

(a) that he or she designed, or directed the design, of the residential flat development, and

(b) that the design quality principles set out in Part 2 of State Environmental Planning Policy No 65- Design Quality of Residential Flat Development are achieved for the residential flat development.

The application was accompanied by a Design Verification Statement in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000. The proposal must be evaluated in accordance with the design quality principles, and the Residential Flat Design Code.

Clauses 9-18 of the SEPP set out ten (10) design quality principles which must be considered in the preparation of the design of the building (Schedule 1(2)(5)(a) EP&A Regulation 2000).

These principles are addressed below in relation to the proposed building:

Principle 1: Context

The proposal is considered to be consistent with the desired future character of the area as identified through the development standards and controls applicable to the land.

Principle 2: Scale

Whilst the development is significantly larger than adjoining developments and some others in the locality, the bulk and scale of the development is consistent with the applicable planning controls for the area. The development is not considered to be out of context with regard to the desired future character of the area and the likely impacts of the development on the locality and adjoining development.

Principle 3: Built form

The design of the development is considered to positively contribute to the public domain and provide high level of amenity for the occupants by way of landscaped areas, private open space and the like.

Principle 4: Density

The density of the development complies with the maximum FSR permitted for the land. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. Contributions applicable to the development will go towards local infrastructure and facilities. The site is well situated with regard to existing public open space and services.

Principle 5: Resource, energy and water efficiency

The proposal is considered acceptable with regard to sustainable design as follows:

- BASIX Certificates provided indicating minimum requirements are met.
- A Site Waste Management and Minimisation Plan have been provided indicating recycling of materials from the demolished dwellings.
- The proposal is an efficient use of land in a location that is close to services and public open space.

Principle 6: Landscape

The proposal provides suitable landscaped areas and communal open space that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain.

Principle 7: Amenity

The proposal meets the minimum requirements for solar access, private and communal open space, storage, visual and acoustic privacy, access and the like.

Principle 8: Safety and security

The proposal is satisfactory with regard to safety and security.

Principle 9: Social dimensions

The proposal provides a mix of unit sizes and layouts appropriate to the locality

Principle 10: Aesthetics

The proposal is considered to be of a high quality with regard to its appearance. A mixture of materials and finishes is provided and the bulk of the development is suitably articulated.

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*

I 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 (RFDC) is contained within the Compliance table at ATTACHMENT 8. Variations to the RFDC are discussed in detail below:

Building Separation

Buildings or a component of a building with a height up to 12m are required to be separated from existing buildings surrounding the site. Between habitable rooms or balconies a separation of 12m is required. Where there are habitable rooms or balconies with an interface with non-habitable rooms, a separation of 9m is required. Where there is an interface between non-habitable rooms between buildings a 6m separation is required. This is extended to 18m between habitable rooms/balconies and 9m between non-habitable rooms over a height of 12m and below 24m.

Located to the west of the site is an 8 storey 'shop top housing' development known as Platinum (Approved via DA-2004/305). This development comprises 6 levels of residential ground floor and first floor commercial/retail over basement parking.

The eastern wall of Platinum has been built on the boundary i.e. a nil setback. This development precedes the WLEP 2009 and WDCP 2009 and the non-complying setbacks reduce the development potential of the subject development. The current setback controls within the WDCP 2009 cater for the building separation requirements, contained within the residential flat design code, between 2 developments through the boundary setback requirements requiring a 50/50 split.

The Platinum building has significantly reduced setbacks when it is compared to the required setbacks contained in the current Council controls being no separation between the habitable rooms without openings between the 2 buildings.

Where the proposed building is not located on the boundary the setbacks and separation requirements comply. It should be noted that if the proposed building was to be all commercial or have increased levels of commercial then all commercial components are not subject to building separation requirements and can be built on the boundary up to a height of 24m.

Reduced separation can be considered when proposed developments can demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved.

It is considered that the impact of the reduced separation in this location is minimal; privacy is not diminished as there are no proposed windows directly fronting this setback. The applicant has also demonstrated that adequate solar access to the property to the east is available. In this regard it is considered that this building separation variation is considered satisfactory.

Furthermore, the initial Design Review Panel meeting recommended that an element of the proposed northern tower could align in both plan and height with the Platinum building. This would help provide an appropriate transition in scale, allow more natural light on to the podium and create an opportunity for a roof garden with good northern solar access.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY NO. 71 – COASTAL PROTECTION

State Environmental Planning Policy No. 71 – Coastal Protection does not apply to land within the Wollongong City Centre pursuant to Clause 1.9(2A) of WLEP 2009.

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

SEPP BASIX applies to the development.

In accordance with Schedule 1 of the Regulations and SEPP 2004 a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The application is subject to the provisions contained with section 104 of State Environmental Planning Policy (Infrastructure) 2007 relating to traffic generating development. Schedule 3 of the SEPP indicates that a development having ancillary parking accommodation 200 or more motor vehicles is considered a traffic generating development. The proposed development provides parking for a total of 259 motor vehicles within two levels of basement.

Before determining a development application for development to which this clause applies, the consent authority must take into consideration any submission that the Roads and Maritime Service (RMS) provides in response to that proposed development.

The application was referred to RMS who provided comment to Council on 17 September 2013. The comments provided are as follows:

- *RMS has concerns with the proposed pedestrian access to Corrimal Street at the mid-block location shown, which encourages pedestrian to enter and exit the development site mid-block. This arrangement may increase unsafe mid-block crossing (jaywalking) of Corrimal Street.*
- *The pedestrian access layout for the development should corral pedestrians to cross the road at the signalised intersections of Crown Street and Corrimal Street and Burelli Street and Corrimal Street which incorporate appropriate pedestrian crossings.*
- *Council should consider requiring the developer to amend the site layout plans to remove the mid-block pedestrian access to Corrimal Street and corral pedestrians to the more suitable access and crossing locations available at the corners of the site, or Crown Street and Burelli Street.*

RMS indicated that subject to the resolution of the above issues to Council's satisfaction, RMS would not object to the development and conditions were provided.

It should be noted that Council's traffic section concurs with the issues raised above and also suggested the application be amended and the mid-block connection be removed and redirected to the corners.

The preferred outcome from a planning and urban design perspective on such a substantial and key site is a direct connection with the existing mid-block link of Town Hall Place and the arcade through Platinum contrary to the advice from RMS or Council's traffic section.

The applicant was advised of the RMS and Traffic Section concerns and amended plans were submitted with the inclusion of a glass pedestrian fence located within the road reserve along Corrimal Street. Council's Traffic Section and RMS have advised that a glass pedestrian fence is not considered suitable as it is structurally unsound and maintenance of such is impossible.

The applicant proposed conditions relating to a suitable pedestrian fence which were referred to RMS. RMS advised that *"their strong preference is to corral the pedestrians to safe crossings locations (traffic signals) via the internal the design of the building, i.e. remove the midblock pedestrian access. Such a solution eliminates the desire line for pedestrians to cross midblock, negates the need for additional ongoing maintenance costs associated with a fence (or alternative structure) and eliminates any urban amenity impacts (real or perceived) that a fence introduces"*.

However RMS goes on to accept the conditions suggested by the applicant and provided the following response:

- *RMS has indicated Council would be responsible for maintaining the pedestrian fence, noting page 11 of the attached Limits of Responsibility defines Council as responsible for kerb and gutter, and road reserve.*
- *Any fence would need to be compliant with RMS requirements.*
- *RMS does not consider justification has been provided for the retention of the midblock access.*
- *Based on the above, RMS does support the proposed draft condition e. in Daintry Associates' letter dated 10 January 2014.*

In terms of the primary access to the building the RMS will not permit access off Corrimal Street and their strong preference is for all access to be off Town Hall place not Burelli Street. This is to alleviate queuing pressures on the signalised intersection of Burelli and Corrimal Streets

In this regard conditions relating to the pedestrian fence and the conditions required by RMS in the initial response have been included in draft conditions.

2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

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:*
 - (a) is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and*
 - (b) contributes to the vitality of the Wollongong city centre.*

The proposal is satisfactory with regard to the above objectives.

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

2 Permitted without consent

Building identification signs; Business identification signs

3 Permitted with consent

Advertising structures; Amusement centres; Boarding houses; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Helipads; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Self-storage units; Seniors housing; Service stations; Sex services premises; Shop top housing; Tourist and visitor accommodation; Veterinary hospitals; Wholesale supplies

4 Prohibited

Any development not specified in item 2 or 3

The proposal is categorised as a 'shop top housing' as described below and is permissible in the zone with development consent.

Clause 1.4 Definitions

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.

Clarification from Councils Counsel was sought regarding the above definition. Counsel advised that the definition merely requires dwellings above ground floor retail or business premises. It does not require, at least from the definition, ancillary or related uses, such as parking or residential lobbies, to be also located above retail or business premises. There are many examples of shop top housing with ground level lobbies and car parking.

Council is unaware of any recent case that has particular bearing on this question. The Court has recently referred for separate determination (15 November 2013) a question as to whether shop top housing can also be residential accommodation for the purposes of the Canterbury City EPI (*Hrsto v Canterbury City Council* [2013] NSWLEC 195). However, it will be some time before that decision is handed down, and it would appear to have limited application to the Wollongong LEP in any event

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed building height at the tallest point has a height of 48m this does not exceed the maximum of 48m permitted for the site. There is however an architectural roof feature that is permissible that extends beyond the 48m and is further discussed within this report.

Clause 4.4A Floor space ratio – Wollongong city centre

The maximum FSR permitted for a wholly residential building is 3.5:1 and for a wholly commercial building the permitted FSR 6:1. When a development combines the two uses then the formula contained within the LEP applies. The FSR is determined by way of percentage of each component.

The proposed development incorporates 76.5283% residential and 23.4717% commercial. In this regard the formula for devising the maximum permitted FSR for the site is as follows:

$$(6 \times 23.4717/100) + (3.5 \times 76.5283/100) = (1.408) + (2.678) = 4.086:1$$

An FSR of 4.086:1 allows for a maximum of 17,126.47sq.m of gross floor area.

The site has an area of 4,191.5sq.m and the proposed development has a gross floor area of 17,118.25sq.m which equates to an FSR of 4.084:1 which complies with the maximum allowable.

It should be noted the area of road widening is zoned B3 Commercial Core and can and has been included within the calculation of lot size for the purposes of FSR.

Clause 4.6 Exceptions to development standards

The subject site does not comply with Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use.

The variation statement submitted by the applicant has been assessed 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 generally 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.

In relation to (a)(ii), the following comment is provided:

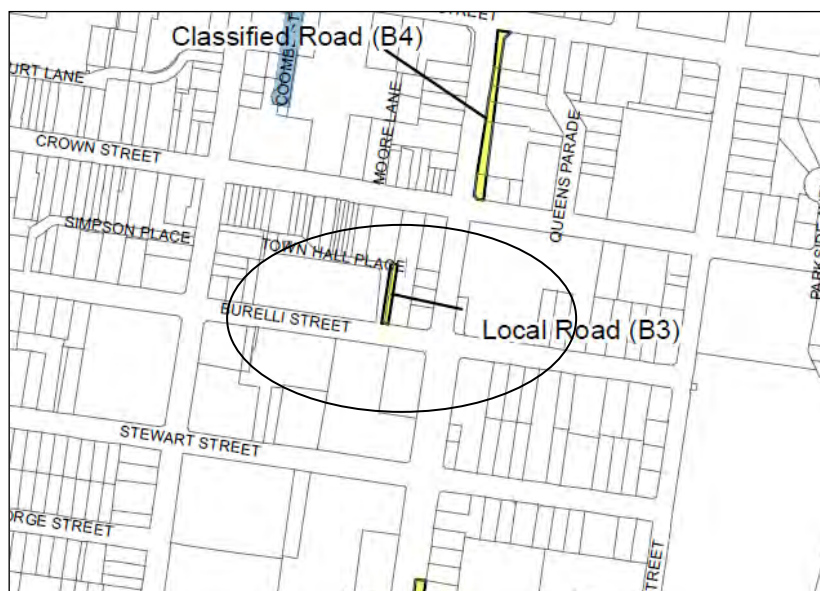
The zero set-back on the eastern boundary with the Platinum building supported because it reflects the pattern of development fronting Crown Street in this section of the city centre, where separation does not exist between buildings.

In accordance with Clause 4.6(4)(b), the concurrence of the Director-General has been obtained for the variation. The variation is supported and is further discussed below.

Part 5 Miscellaneous provisions

Clause 5.1A Land Reserved for Acquisition

As identified within the Land Reservation Acquisition Map, see extract below, Town Hall Place is affected by road widening.



The objective of this clause is to limit development on certain land intended to be acquired for a public purpose. Specifically development consent must not be granted to any development on land to which this clause applies other than development for the purpose specified being a local road. In this case the proposed development incorporates the required road widening and satisfies this clause.

Clause 5.5 Development within the coastal zone

Whilst the site is located within the Coastal Zone the land is not identified as being impacted by coastal hazards. However, consent cannot be granted to development on land within the coastal zone unless the consent authority has considered the following matters:

Consent must not be granted unless Council has considered clause (2) and (3) of clause 5.5.

(2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:

(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:

- (i) maintaining existing public access and, where possible, improving that access, and*
- (ii) identifying opportunities for new public access, and*

The proposal will not affect public access to the foreshore.

(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:

- (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
- (ii) the location, and*
- (iii) the bulk, scale, size and overall built form design of any building or work involved, and*

The site is zoned R1 general residential. The area is characterised by single dwelling-houses and residential flat buildings. The proposed building is considered suitable for the site in regards to bulk and scale and comparable with the surrounding area.

The design of the bulk and scale of the building is compatible with other development in the locality.

(c) the impact of the proposed development on the amenity of the coastal foreshore including:

- (i) any significant overshadowing of the coastal foreshore, and*
- (ii) any loss of views from a public place to the coastal foreshore, and*

The proposal would have minimal impact on the amenity of the coastal foreshore.

(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

It is considered the proposal would have minimal impact on the visual amenity and scenic quality of the coast.

(e) how biodiversity and ecosystems, including:

- (i) native coastal vegetation and existing wildlife corridors, and*
- (ii) rock platforms, and*
- (iii) water quality of coastal waterbodies, and*
- (iv) native fauna and native flora, and their habitats, can be conserved, and*

The proposal would have minimal impact on biodiversity and ecosystems. The proposal does not involve any tree removal and is not known to contain any areas mapped Natural Resource Sensitivity – Biodiversity. The proposal would have no impact on ecosystems within the beach environment.

(f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:

- (i) on the proposed development, and*
- (ii) arising from the proposed development, and*

The site is not mapped Coastal Hazards.

(g) the cumulative impacts of the proposed development and other development on the coastal catchment.

The proposal would have minimal cumulative impact on the coastal catchment.

(3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:

- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

The proposal will not affect public access to or along the coastal foreshore.

- (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*

The site is sewerage.

- (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.*

Stormwater drainage from the development will be connected to existing drainage system.

Clause 5.6 Architectural Roof Features

There is a small projection over the 48m height limit from the southern tower being the blade wall that protrudes 1.2m above the 48m height limit and the highest points of the triangular shaped roof protrude 0.5m. A small portion of the blade wall on the northern tower protrudes 0.4m above the 48m and is also considered an architectural roof feature.

These architectural elements are integrated into the roof which contributes to the overall design of the building. In this regard the requirements of clause 5.6 are required to be considered. These are outlined below:

Cl.5.6 states:

(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:

- (i) comprises a decorative element on the uppermost portion of a building, and*

The feature is a decorative element

- (ii) is not an advertising structure, and*

The feature is not an advertising structure.

- (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and*

The feature does not include any floor space and is not capable of modification to include floor space.

- (iv) will cause minimal overshadowing,*

The location of the feature in comparison to adjoining development will mean that it will cause minimal overshadowing – overshadowing impacts are discussed further in other sections of this report and are considered to be acceptable.

The proposed architectural roof feature satisfies the above criteria.

Heritage 5.10

The site is not a listed heritage item however; the site is known to have a history as a Hotel going back to 1839. Given the long history of the site and potential for relics dating back to 1839 exists.

A brief summary of this history is detailed below:

- a. Elliott's Family Hotel was built in 1839, its third storey added in 1893 and removed in c. 1930. It was known as the Royal Hotel from 1893-1916 and as Oxford Hotel after that date.
- b. The Exterior was changed in the 1930s, giving the Hotel today's look.
- c. The site comprised a Temperance Society's Hall; built in 1871, later used as a skating ring and demolished after fire in 1889 (this was on the area now occupied by the single storey components and the beer garden).
- d. The Elliott's Hotel site included a well at the rear (as shown in the Ca.1856 Plan of Carriage and Footways" and is likely to have included early cellar structures.

The NSW Heritage Act provides blanket protection for significant "relics" under the archaeological provisions of the NSW Heritage Act 1977. Given the long history of the site and potential for relics dating back to 1839, which is likely to have involved convict construction and evidence of one of Wollongong's earliest hotel buildings this potential archaeology would be protected by this section of the Heritage Act.

In this regard Clause 5.10.7 is required to be considered. Specifically, before consent can be granted under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies), Council must notify the Heritage Council of its intention to grant consent, and then take into consideration any response received from the Heritage Council.

Council received comments from the Heritage Council on the 13 December 2013. The Heritage Council advised that they also received a S140 application from the PSR Crown Investment for salvage of the archaeological resource at 47-51 Crown Street, Wollongong. The Heritage Council provided conditions that they believe are sufficient to manage the archaeological resource as the site should Council approve the application. The Heritage Council also determined the applicant's S140 application (2013/S140/30) by way of approval.

Part 6 Urban release areas

Not applicable

Part 7 Local provisions – general

Clause 7.1 – Public Utility Infrastructure

Development consent must not be granted on unless the consent authority is satisfied that suitable arrangements can be made for the supply of water, electricity and disposal of sewage. The site is connected to Sydney water and as such has access to water supply and sewage disposal. Electricity is also available to the site.

Clause 7.3 Flood planning area

Before determining an application for consent to carry out development on flood prone land, the consent authority must consider a number of matters relating to flooding. These include the impact of the proposed development on flood behaviour, the risk of flood damage to property and persons, the safety in time of flood of the site of the development and of any buildings or works intended to be erected or carried out, and the provisions of any floodplain management plan adopted by the Council that apply to the land. These matters have been considered by Council's Stormwater Section and no concerns are raised.

Clause 7.5 Acid Sulphate Soils

The proposal is identified as being affected by class 5 acid sulphate soils. Council's Environment Officer has reviewed the Acid Sulphate Soil Management Plan and is satisfied with the recommendations made. Appropriate conditions of consent are recommended in this regard.

Clause 7.13 Ground floor development on land within business zones

As the site is located within the B3 Commercial Core developments are required to ensure active uses are provided at the street level to encourage the presence and movement of people. Specifically this clause requires that development consent must not be granted for development for the purpose of a building 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 orientates the ground floor retail to the street to allow for the active interface. Whilst there is an internal pedestrian link through to Town Hall Place the individual retail spaces are accessible from the street frontages. It is considered that the proposed development satisfactorily addresses this clause.

Part 8 Local provisions—Wollongong city centre

Clause 8.1 Objectives for development in Wollongong city centre

The objectives of this part are as follows:

- (a) to promote the economic revitalisation of the Wollongong city centre,*

The proposal is considered to contribute to revitalisation of the Wollongong city centre by providing efficient use of space for a mixture of compatible uses in close proximity to services.

- (b) to strengthen the regional position of the Wollongong city centre as a multifunctional and innovative centre that Encourages employment and economic growth,*

The proposal will contribute to employment and economic growth through construction and eventual use.

- (c) to protect and enhance the vitality, identity and diversity of the Wollongong city centre,*

The proposal provides a mixture of commercial and residential uses and is considered satisfactory With regards to this objective.

- (d) to promote employment, residential, recreational and tourism opportunities within the Wollongong city centre,*

The proposal provides employment opportunities and a range of residential dwelling types.

- (e) to facilitate the development of building design excellence appropriate to a regional city,*

The design of the building is considered to be of high quality. The site is considered to be a significant site due to its location as the gateway to the main retail area of the Wollongong CBD and the corner elements of the building suitably define the importance of the site and location. The design was critiqued by the design review panel and is considered to exhibit design excellence which is further discussed below

- (f) to promote housing choice and housing affordability,*

The proposal provides a mixture of 2 and 3 bedroom units that are expected to contribute towards housing choice and affordability in Wollongong.

- (g) to encourage responsible management, development and conservation of natural and man-made resources and to ensure That the Wollongong city centre achieves sustainable social, economic and environmental outcomes,*

The proposal is an efficient use of space in an accessible location that is considered to encourage use of public transport and existing services.

- (h) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of the Wollongong city Centre for the benefit of present and future generations.*

The proposal is not expected to result in any negative impacts on natural or cultural heritage.

Clause 8.4 Minimum building street frontage

Development consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres or more on land within the Zone B3 Commercial Core. The site has a frontage of 99m to Corrimal Street and as such complies.

Clause 8.5 Design excellence

The objective of this clause is to deliver the highest standard of architectural and urban design.

This clause applies to development involving the construction of a new building or external alterations to an existing building.

Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the matters outlined in Clause 8.5.4 as follows:

- (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.*

Consideration has been given to these matters. In relation to (a), it is considered that the development provides for a high standard of design, materials and detailing appropriate for the building type and its location. In relation to (b), it is considered that the form and appearance of the development will improve the quality of the public domain. In relation to (c), the development does not detrimentally impact on view corridors as discussed further within this report. In relation to (d), the development will not overshadow any part of McCabe Park. In relation to (e), the site is considered to be suitable for the development, it provides for appropriate uses, the site is located within the heritage precinct of lower Crown Street and the continuous retail frontage requirements have been met. The height, form and design are considered to appropriately relate to the streetscape. The tower has a reasonable relationship with the neighbouring mixed use buildings. The bulk, mass and modulation of the building are considered to be reasonable. The street frontage height of the building complies with relevant controls. In relation to (vii), the proposal will not have an unreasonable environmental impact. Overshadowing impacts are not unreasonable.

Design Review

In addition to the design excellence criteria outlined above, Clause 8.5.5 stipulates that development consent must not be granted to a building that is, or will be, greater than 35 metres in height unless a design review panel has reviewed the design of the proposed development:

The design review panel meeting was held on the 4 June 2013. This meeting was held as part of the pre-lodgement process. The panel made recommendations that were required to be addressed and form part of the design for the lodgement of the development application.

Once the application was lodged the Panel was referred the development application which incorporated the revised design. The Panel provided the following conclusion and recommendation in regard to the application.

Refinements made to the building form and pedestrian circulation strategies have helped to improve the proposals relationship with its immediate context. The most significant of these developments is the introduction of the arcade providing a direct continuation of Town Hall Place, which creates a critical connection to the existing urban grain of the town centre. However if the proposal is to meet a standard appropriate for this prominent town centre location further development is necessary, as outlined below:

- a. Redesign podium to provide a functional area of common open space exclusively for the use of residents*
- b. Increase height / improve spatial quality of arcade (clear documentation showing dimensions and describing the quality of the space is required).*
- c. Further development and a more detailed level of information is required for façade treatments, the treatment of the podium is of particular concern.*
- d. Provide an equitable level of accessibility to all retail tenancies.*
- e. Further development of accessible units*
- f. Further development of the waste management strategy.*

The applicant provided amended plans and details in regards to the above requirements that were considered during the assessment of the application. The current plans have incorporated the recommendations of the Panel and it is now considered that the development adequately satisfies the design excellence criteria contained within this clause of the WLEP 2009.

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

The proposed development does not comply with the building separation requirements contained within Clause 8.6 of the Wollongong Local Environmental Plan 2009. The intent of Clause 8.6 is to encourage commercial development and in this regard allows building to the boundary up to the street frontage height or a maximum of 24m, whichever is the lesser, for development comprising commercial space. However once there are residential components on adjoining properties that also contain residential at the same level then part (3) of this Clause is required to be met.

As the commercial component is only located on the ground floor and does not extend above the height of the adjoining residential buildings then the residential components of the building do not enjoy such a reduced setback. In this regard, the proposed residential section of the building that has an interface with an adjoining residential development is required to be setback 20m. The proposed development does not comply with this control due to the building located on the adjoining the property to the east, known as Platinum.

In this regard an assessment against the requirements of clause 4.6 'exceptions to development standards' are required to be undertaken. The Director-General of the DoPI granted concurrence to the building separation controls on the 27 November 2013 (see attachment 6).

The applicant submitted a written request. As can be seen below that applicant explains that compliance with the development standard is unreasonable and unnecessary.

"Platinum on Crown has a 7-storey high (RL29.35m) rendered masonry wall with no openings facing east on the boundary line of the site (See: Figure 1). This unarticulated high and long wall presents an undesirable urban form outcome, inconsistent with the current LEP and DCP provisions. It was clearly contemplated, by the nature of Platinum on Crown's design, that any new building on the Oxford Tavern site would be built at the same zero setback to the boundary, not only along the high portion, but also along the lower portion (RL15.135m).

A better environmental outcome is achieved in terms of ESD, architectural form and appearance and in terms of internal amenity with no adverse environmental effects upon any neighbours. The setback objectives are not thwarted by both the proposal with the Platinum on Crown building holding NIL setbacks in generally the same location. the setback objectives are relevant and are achieved notwithstanding the numeric non-compliance with clause 8.6(3) because two blank walls will face one another without any openings in either of the walls.

Clause 8.6 objectives are to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access. The objectives would be defeated and thwarted by requiring compliance as the most desirable setback in this specific location and circumstance is NIL, therefore compliance is unreasonable.

There has been no detailed analysis of compliance or otherwise with the development standard as it applies to adjoining sites. It is noted however, that the height, shape bulk and external configuration of the proposal has been established through the design process to be compatible with the neighbouring developments, more specifically Platinum on Crown and to meet the desired future character as articulated by the LEP and DCP.

The zone is B3 Commercial Core and this high-density mixed-use development is appropriate to the land and neighbouring land similarly zoned B6. The desired future character of this locality will only be achieved by any development of the Oxford Tavern site being constructed at a NIL setback to Platinum on Crown such that the large unarticulated existing and proposed walls face each other at a NIL setback.”

On review of the current controls and objectives for the commercial core and the applicant’s justification it is agreed that compliance with the development standard in this case is considered unreasonable and unnecessary.

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 for all other aspects of the development. The application also complies with setback requirements contained within the DCP at the interface level to the adjoining residential development for all other aspects of the development.

In light of the applicant’s written request and when considering all aspects of the development standard and the exception clause it is considered that a variation in this case is acceptable.

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

Merge of Wollongong Local Environmental Plan (West Dapto) 2010 with Wollongong Local Environmental Plan 2009

This planning proposal seeks to transfer all land currently under the Wollongong (West Dapto) LEP 2010 (to be repealed) to the Wollongong LEP 2009 so that there will be a single principal Local Environmental Plan covering the Wollongong Local Government Area.. The planning proposal was publicly exhibited from 29 September 2012 until 29 November 2012. This matter has been considered and has no bearing on the proposal.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

Variations to WDCP2009 are discussed below, compliance tables can be found at attachment 8

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

Whilst ‘shop top housing’ is a form of residential accommodation it is not required to be assessed against the controls contained within this chapter as identified in the introduction

This chapter contains residential development controls for dwelling-house, secondary dwelling, semidetached dwelling, dual occupancy, attached dwelling, multi-dwelling housing (villas and townhouses), residential flat building developments in standard residential zones.

This chapter of the DCP applies to all residential zoned land within the City of Wollongong Local Government Area (LGA.) including E4 Environmental Living.

The requirements for the subject development, being a ‘shop top housing’ within the city centre are contained within Chapter D13, assessment to follow.

CHAPTER B3: MIXED USE DEVELOPMENT

Whilst ‘shop top housing’ is a mixed use development it is not required to be assessed against the controls contained within this chapter as identified in the introduction

This chapter of the DCP outlines the development standards which specifically apply to mixed use development. This chapter relates to mixed use development to lands outside the Wollongong City Centre. Where mixed use development is proposed within the Wollongong City Centre reference should be made to the Part D of the DCP which provides the specific controls for mixed use development within the Wollongong City Centre.

The requirements for the subject development, being a ‘shop top housing’ within the Wollongong City Centre are contained within Chapter D13, assessment to follow.

CHAPTER B4 – DEVELOPMENT IN BUSINESS ZONES

Whilst Chapter B4 applies to development within business zones Clause 5.1 states that *the specific planning requirements for development upon any land within the Wollongong City Centre are contained in Part D (Locality Based/ Precinct Plan) of this DCP*. In this regard the controls contained within Chapter B4 do not apply to the city centre and only Chapter D13 applies.

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.

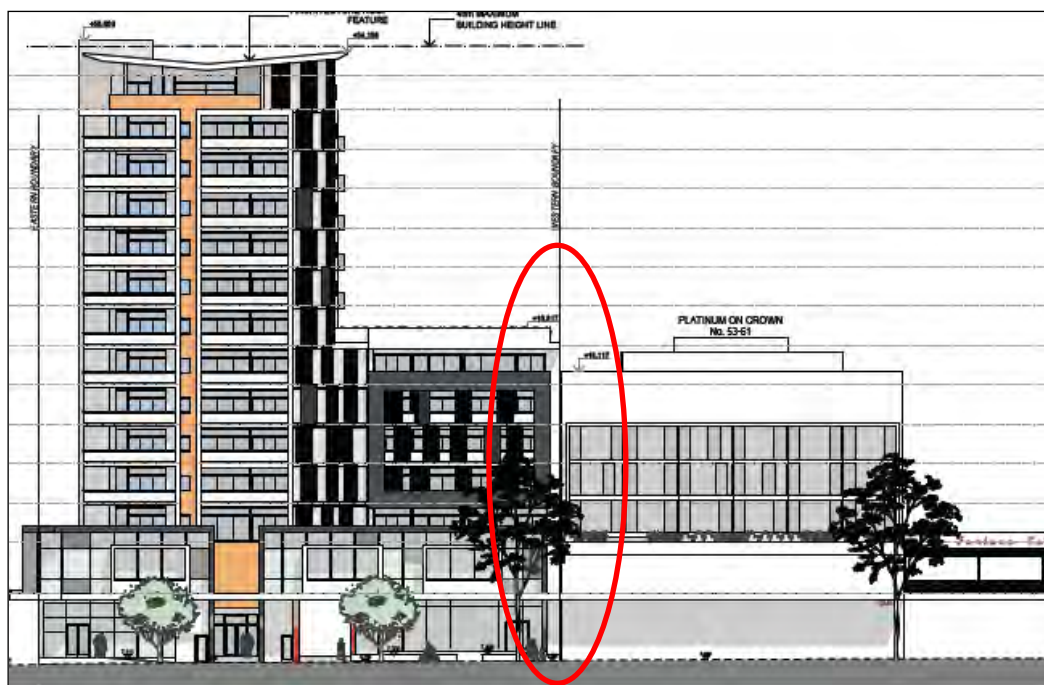
Section 2.5 Side Setbacks

The Residential Flat Design Code (RFDC) associated with SEPP 65 specifies separation controls between buildings. It is assumed that the separation control is split and shared between each development. The setbacks contained within the WDCP 2009 cater for the building separation requirements between 2 developments through the boundary setback requirements.

As specified in WDCP 2009 the required side setbacks for levels below street frontage height is 0m above street frontage height is 12m. The street frontage height is that portion of the building that is built on the front boundary setback which must be no lower than 12m and no higher than 24m. In this case the ground and first floors are located on the front setback. In this regard the building portion above street frontage height is required to have a side setback of 12m.

The area of noncompliance is that portion of the building that proposes a nil setback where it abuts the 'Platinum' building adjoining the subject site to the east above street frontage height. 'Platinum' was development with a nil side boundary setback whilst the remainder of the development complies with the side and rear setback requirements

To clearly understand the proposed building in relation to Platinum, the area of non compliance illustrated below shows the relationship between the two buildings.



Given the existing arrangement of 'Platinum on Crown' establishing a blank wall on the boundary the most appropriate urban design outcome is to allow for the adjoining building to abut this existing wall. As discussed earlier within the report 'Platinum' was approved under a different set of controls which do not comply with the controls required by WDCP 2009 or the RFDC.

Reduced setbacks can be considered when proposed developments can demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved.

In the subject case the impact of the reduced setback in this location is considered minimal as privacy is not diminished as there are no proposed windows directly fronting this setback. The applicant has also demonstrated that adequate solar access to the property to the east is available. Whilst view loss is occurring it is not as a result of the reduced setback but rather the development of the site in general. In this regard it is considered that this side setback variation in providing a continuous street frontage is desirable outcome.

Section 3.6 Driveway width

The driveway width in this location is required to be no greater than 5.4m. In the proposed driveway is 6m in width. Council's Traffic section has reviewed the plans and has agreed that the driveway in this case is suitable at 6m in width. In this regard the variation to the maximum width of the driveway is considered acceptable in this case.

Section 3.7 Encroachment (Basement)

Section 3.7.2(b) specifies that longitudinal development under the road reserve is not permitted. The siting of basement car parks beneath the road reserve is not permitted for private developments. Specifically stratum road closures for this purpose will not be permitted.

In this case the basement is to be positioned within the current allotment however the site is subject to road widening. Once the road widening has occurred the basement will be positioned within the road reserve. In light of this, the provision of stratum basement is considered acceptable in this case

Council's property section and road design section have accepted the stratum basement and draft conditions have been provided.

Section 3.10 Views and View Corridor

The objective of this clause is to maintain and enhance views from the city centre to the foreshore, escarpment and significant objects (such as the lighthouse) wherever possible. The existing views to be protected are shown in the picture below.



As can be seen from the above extract of the DCP the subject site is located outside of the view corridor of the lighthouse through to the escarpment. However the street corridor view from the top of Crown Street and towards the ocean is required to be maintained. The setbacks required by the DCP are compliant and as such it is considered that the view corridor extending form the top of Crown Street to the ocean is maintained.

However, currently there is no development on the subject site higher than 2 storeys. As a result some units within the adjoining Platinum building to the west enjoy views from to the east.

Residential levels 4 to 7 of Platinum are setback 7.9m to the balcony and 10.5m to the building with level 8 setback further at 10.5m to the balcony and 14m all from the Crown Street frontage. This is a much greater setback than that of the proposed building which has a setback of 4m to the residential component fronting Crown Street. Therefore the subject building is positioned 3.9m further forward of the Platinum building.

For level 3 to 7 there are no windows on the eastern elevation of the 'Platinum' building in the portion positioned on the boundary. The portion at the Crown Street frontage with balconies facing east has louvers and as such any view lost will from a north easterly aspect from the northern balcony.

Level 8 in the 'Platinum' building does have east facing windows that are located 4.5m from the boundary and a continuous balcony that wraps around from the north to east. This east facing balcony is located on the boundary.

The eastern view lost from the top most easterly unit of Platinum is significant. The unit will retain its northern view however the eastern and south-eastern views as a result of this development will no longer exist apart from the view afforded between the proposed residential towers.

As mentioned above the assessment and determination of this building pre-dates the current controls but the requirements of SEPP65 were in force. This building does not comply with the 50/50 split setback that would now be required to cater for the required building separation and contributes to the view loss. Furthermore, it is important to understand that any view loss is not just as a result of the subject proposal but is a function of the density and height controls of the precinct to the east bounding Corrimal, Crown, Harbour and Bank Streets. The planning controls for this area anticipate high density mixed use buildings with a height limit of 48m. The area is one of transition with one building to this height having been approved (DA-2010/905) along with the recently constructed western grandstand of Win Stadium which has a height of 31.95m and another significant development directly across the road to the east (known as the Dwyer's site) has been the subject of preliminary Council discussion and has been through a pre-DA design review panel process.

View sharing principles – Land and Environment Court

As part of assessing the impact of view sharing Council has considered the planning principle previously established in *Tenacity Consulting v Waringah [2004] NSWLEC 140*

Step 1. What views will be affected?

The first step establishes a system for assessing different kinds of views.

The Court said: "26 *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*"

There will be a loss of distant ocean views and a constriction of views within and around Win Stadium to the east and east-southeast of the Platinum building as evidenced in the inspection and photographs taken from the penthouse unit.

The exact extent of view loss will vary unit to unit within the Platinum development depending upon the RL of each unit and its current orientation, i.e. south western units already have a very constricted views, where as south eastern units currently have panoramic views through an approximate 110 degree arc from the east-northeast to south.

Step 2. From what part of the property are views obtained?

The Court said: "27 *The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*"

In this case the ocean view is the most valuable however this is the view that is to the east and across properties and a large expanse of undeveloped land. As indicated above the block beyond Corrimal Street to the east of the site is largely undeveloped and the majority of the site has not yet reached its full

development potential. If amendments were to be made to the proposed development to retain some of the eastern view would likely be removed once this further block is developed

Step 3. What is the extent of the impact?

The Court said: "28 *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*"

In the current undeveloped landscape some units within the Platinum building has enjoyed views in an east to south easterly arc, but these views are interrupted by Win Stadium and other significant residential buildings. In this regard it is expected that in some cases the extent of view affectation will be compounded by the proposal so that they could be considered moderate to severe.

Step 4. What is the reasonableness of the proposal that is causing the impact?

The Court said: "29 *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*"

Whilst there are some areas of non-compliance, on their own they do not contribute to the view loss. It is considered that the proposed development has been designed in a way which limits the massing of the residential towers to the corners of the site with separation between them to cater for internal amenity with the added benefit of protecting some views across the site. The current design is also a response to the comments of the design review panel. View loss is inevitable having consideration to existing surrounding development and the desired future character envisaged by the planning controls of the subject precinct and the precinct to the east.

The applicant has also addressed the issue within the SEE as outlined below:

Applicants Response

"The proposal will result in loss of views from; in particular, apartments within Platinum on Crown, the adjoining mixed use development to the west of the site. Given the proposals 48m Height of Building (HOB), the application must be subject to wide notification including residents that may lose views who occupy elevated sites north and north west of the site.

The south-eastern units in Platinum on Crown in particular, currently achieve panoramic views across and over the site towards the pacific ocean and south to Port Kembla. These views will be impacted to a significant extent by the proposal.

The building has been carefully design to provide a 24.2m separation between the two tower elements, The competing demands (Council's own development standards and development controls) dictate outcomes i.e. block edge development at lower levels 4m set\ backs at upper levels, separation requirements (the list of standards and controls are clear from the contents of this SEE). The design is a result of the LEP and DCP provisions.

View loss is inevitable. In our opinion the loss of views that will result from the proposal is the result of the desired future character that Council's LEP and DCP as well as SEPP 65 in particular seek to deliver. They are planned impacts that do not arise from any breach of the principal development standards or development controls.

This is a substantially complying proposal. In particular it is noted that principal development standards of HOB and FSR which combine to limit the overall height and bulk of the building fully comply.

The proposals setbacks other than the zero setback (complimenting Platinum on Crown) and separation to adjoining developments slipt between two residential tower elements with a gap above the commercial levels of 24.2m are all complying.

The view affectation outcomes are both planned and reasonable in the circumstances of the case. It is impossible to redesign the proposal at the levels of LEP and DCP compliance demonstrated by the proposal, to address the single issue of view loss without significant departure from Council's LEP and DCP provisions.

The Applicant has deliberately designed a complying proposal in the form of a skilful design to achieve the desired future character. It is the desired future character itself that delivers these impacts.

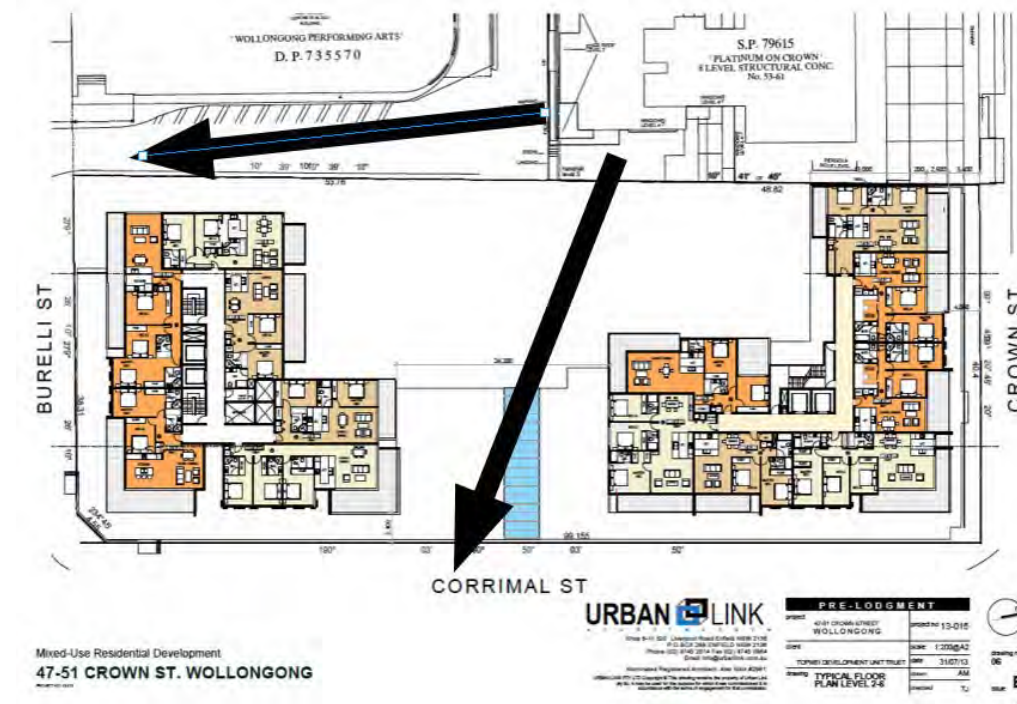


Figure 15 - Retained views from Platinum of Oxford

Views to the east-south east through the gap between the two residential tower elements will be retained.

These are considered valuable as these open view lines significantly reduced one sense of enclosure and combined with the significant separation between the proposed residential towers and Platinum on Crown well in excess of 24m east to west and south-east to northwest, the proposal is considered to be the most skilful design possible.

Whilst one may always redistribute bulk in a different location to open up private views, the building must be considered against all relevant EPI and DCP aims and objectives. In the context of desirable urban design outcomes benefiting the public domain, i.e. strong built form addressing the corners Corrimal Street with both Crown Street and Burelli Street and the desired future character as articulated by the DCP, the proposal is the most skilful design reasonably possible given the site numerous constraints and EPI and DCP provisions.”

Section 6.2 Housing Mix

The proposed development provides for 2 and 3 bedroom units with no 1 bedroom apartments. The proposed unit mix for residential apartments is 64.4% (2 Beds) 35.6% (3 Beds). Whilst there has been an omission of the 10% of 1-bedroom apartments the development has compensated with a 35.6% of 3 bedroom units.

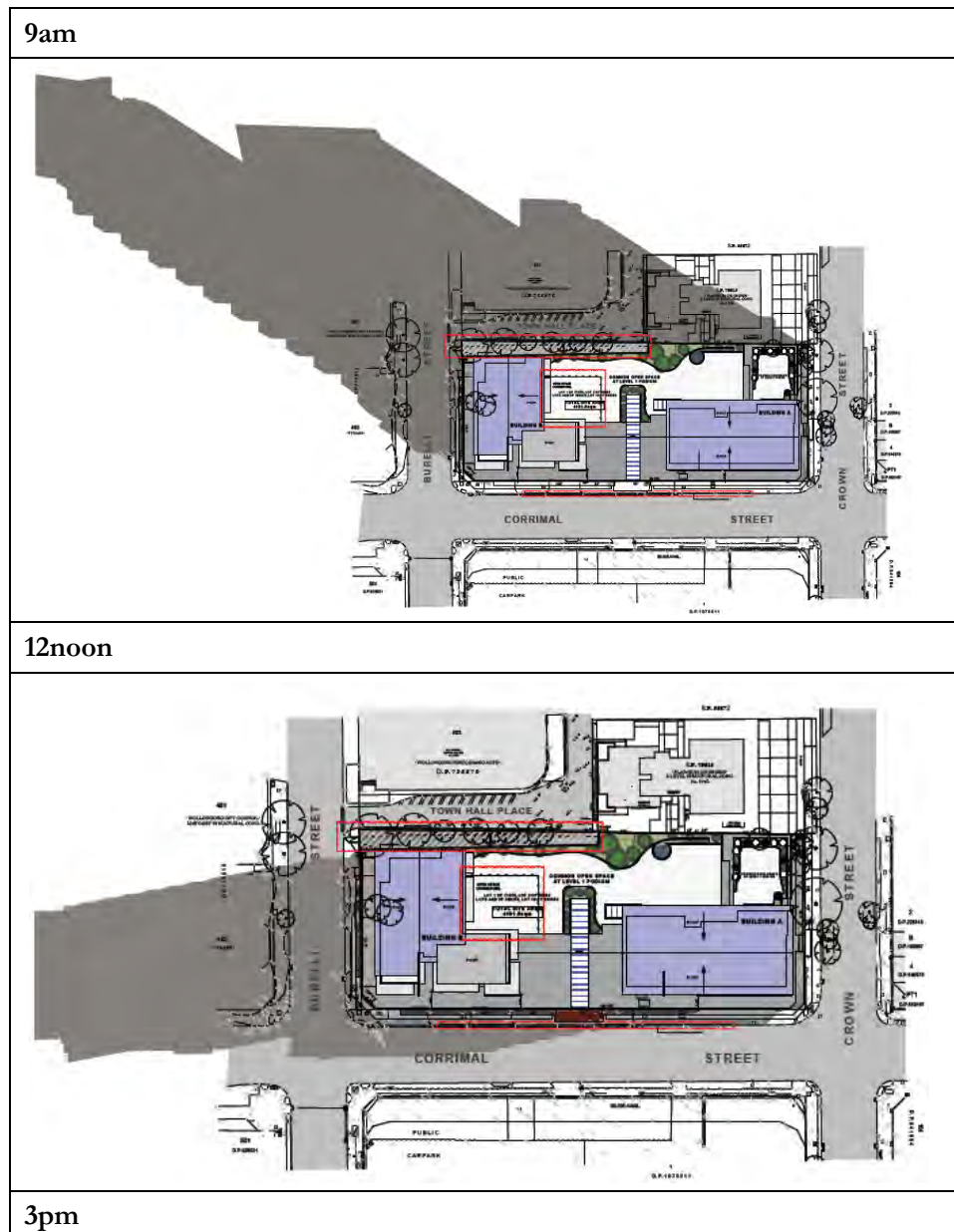
This does not strictly accord with the DCP numeric controls, nevertheless, the B3 zone objectives to provide for a wide range of other suitable land uses that serves the needs of the local and wider community are achieved.

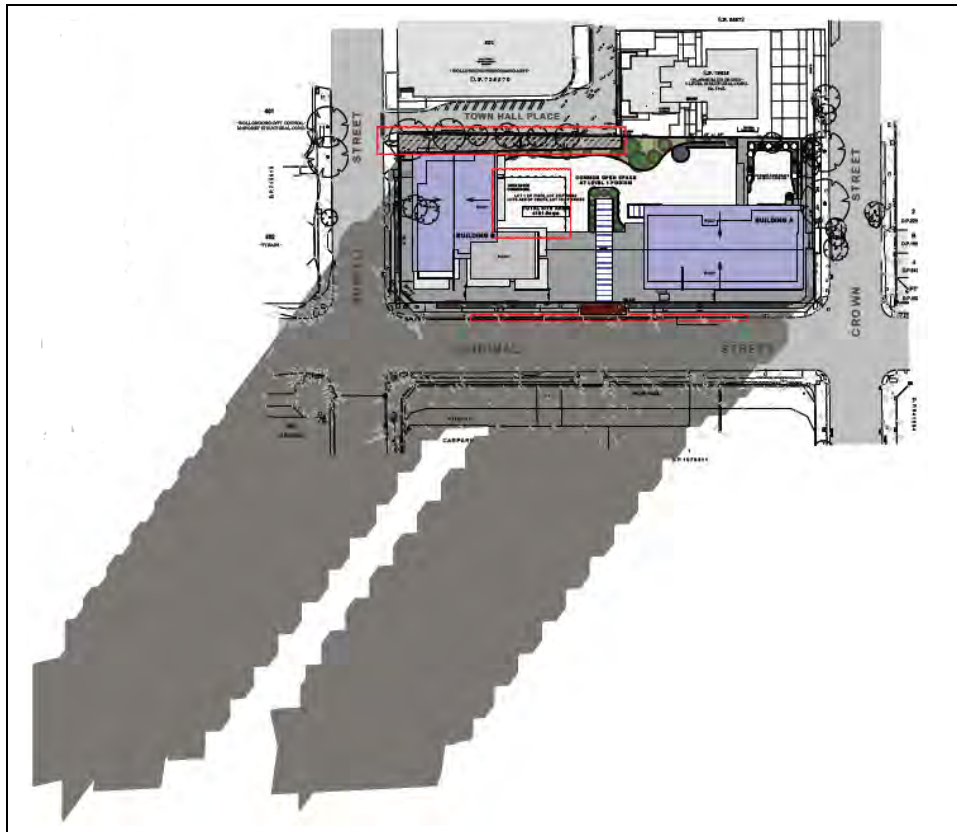
The applicant has indicated that there is a need for high quality generously sized apartments in the B3 Commercial Core zone to meet these needs. As well there is a lack of 3 bedroom accommodation in the

B3 Commercial zone at present. The applicant has also indicated that the proposal's quality is reinforced by the omission of 1 bedroom apartments as the targeted need is those seeking 2-3 bedroom residences, those downsizing from larger homes wishing to be accessible to public transport, employment, retail, commercial and service facilities, and will contribute to the vitality of the Wollongong city centre. In this location the omission of 1 bedroom apartments is considered acceptable in this case.

Section 6.9 Shadows

The requirement of the DCP is that adjacent residential buildings and their common spaces must receive at least 3 hours of direct solar access between 9am and 3pm on the 21 June. The shadow diagrams indicate that the building to the west known as Platinum will receive 3 hours over the period between the hours of 12noon and 3pm.





It should be noted that the location of some of the Platinum units, specifically units 10, 18, 28 and 31, are located on the southern side of building with their associated private open space facing south east. With unit 30 facing directly south with only a small portion of private open space facing east. Whilst the shadows cast from the subject building will not impact on the Platinum building from 12noon, due to the location of the southern units they will receive limited solar access as a worst case scenario on the 21 June as Platinum will shadow itself.

This is the same scenario for the common open space that has also been located on the south eastern side of the building albeit under an undercroft with only a pool with access to the sky.

As discussed earlier within of this report the platinum building does not comply with setbacks established by the building separation controls of SEPP 65 being 50% of the required building separation. The building would not comply with the current WDCP 2009 in regards to setbacks that cater for building separation and future equitable development. The design is not the best location for common open space due to limited solar access and not a location that is encouraged by SEPP65 or WDCP 2009. This should not unduly impact on the subject application or sterilise development opportunity on the property.

As part of assessing the impact of overshadowing Council has considered planning principle previously established in *Parsonage v Ku-ring-gai* (2004) NSWLEC 347 but has now been replaced with a new planning principles established in the case of *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082:-

“Where guidelines dealing with the hours of sunlight on a window or open space leave open the question what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person’s eye level, assessment of the adequacy of solar access should be undertaken with the following principles in mind, where relevant:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal’s design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*
- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.”*

At present the existing units in Platinum receive full sun as the subject site is currently contains a number of single and two storey buildings. However the WLEP 2009 and WDCP 2009 permits building development to a height limit of 48m and a maximum floor space ratio of 6:1, which will achieve a high density development outcome in this locality. 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 this regard the proposed development provides for adequate solar access to the property to the south and east. It is considered that this proposal is a reasonable development expectation for the subject site having regard to the high density controls.

Section 6.12 Visual Privacy

The development has been designed with compliant setbacks where there are openings and in this regard visual privacy is achieved and will not be impacted on within the development or on the surrounding developments. However the location of the common space on the podium adjoining Platinum has the potential to overlook the balcony and unit of the eastern units within platinum as it is located at a higher level and shares a common wall. It is considered appropriate in this regard to create a wider planter bed along the western boundary of the common open space podium and provide a screen that extends to a height of 1.8m above the floor level of the common space. A condition on the consent will reflect this requirement.

Section 6.13 Acoustic Privacy

The applicant submitted an acoustic report as part of the application addressing the road traffic noise impact. As part of that report it was recommended that *“the predicted internal noise levels indicate that improved glazing is to be required along the northern, eastern, southern and western facades where living areas and sleeping areas are located. In these areas, heavy laminated acoustic glass or double glazing is likely to be required”*.

Council requested further reporting in regards to the impact of noise created on Friday and Saturday nights within the city centre given the location within the eatery and nightlife precinct. An addendum acoustic report was submitted with upgrades to some windows and doors required to reduce the city centre noise impact.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This application has been considered against the requirements of this chapter and found to be acceptable. The application will be conditioned to comply with the BCA and relevant Australian Standards in regards to access.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Council’s Safe Community Action Team has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

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

Council’s Traffic section has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

CHAPTER E5: BASIX (BUILDING SUSTAINABILITY INDEX)

A BASIX Certificate was submitted with the application.

CHAPTER E6: LANDSCAPING

Council's Landscape section has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

CHAPTER E7: WASTE MANAGEMENT

Council's Traffic section has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

CHAPTER E14 STORMWATER MANAGEMENT

Council's stormwater section has assessed the application and provided conditions. In this regard the requirements contained within this chapter have been considered.

2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2012)

The development is subject to the provision of section 94A Development Contribution as the proposed development has a construction value of greater than \$200,000. Within the B3 Commercial Core zone in the Wollongong City Centre an additional 1% levy is applied to all development with a cost of more than \$250,000 and that increases the gross floor area (i.e. total levy of 2%). In this regard the section 94A contribution payable is \$766,300.

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 involves demolition and as such the provisions of AS 2601-2001: The Demolition of Structures applies. A condition will be attached to the consent in this regard.

The site is located within the Coastal Zone 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

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

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

There is no Coastal Zone Management Plan currently applicable to the land. Whilst being in the coastal zone, the land is not identified as being impacted by coastal hazards and there are not expected to be any adverse impacts on the coastal environment arising from the development.

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

Context and Setting:

In regard to the matter of context, the planning principle in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The development will result in overshadowing of the multi-dwelling development to the east. This is not however considered unacceptable given the circumstances of the case. The development is within the allowable height and FSR for the site. The affected dwellings will additionally still receive the 3 hours of sunlight required by the DCP and RFDC.

In regard to the visual impact, the development is considered to be largely in harmony with the surrounding buildings and character of the street. The area is characterised by a mixture of low to high density residential developments. It is likely that more high density developments will occur in future given the height and FSR maximums for the area.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible height and FSR for the land, and existing and future character of the area, and is considered to be compatible with the local area.

Context and Setting:

The building is much higher than existing development immediately surrounding the site to the north,

south and east; however the height is consistent with the controls contained within the City Centre LEP. The form, character and finishing materials and colours are consistent with contemporary trends.

Access, Transport and Traffic:

The proposal is generally satisfactory with regard to these matters. Access is suitable, there is sufficient car parking provided within the site and manoeuvring complies with relevant standards.

Public transport is available within reasonably close proximity of the site. Wollongong Railway station is located within 400m of the site, in addition to taxi ranks and bus stops.

Public Domain:

The development will not have an unreasonable impact on the public domain.

Awnings are proposed across the Burelli, Corrimal and Crown Street footpaths.

Utilities:

The applicant indicates that existing utility services are available to the subject site and will be adequate to service the proposal.

Heritage:

Heritage is to be managed through condition of consent from the Heritage Council.

Other land resources:

The proposal is not envisaged to impact upon any valuable land resources subject to appropriate management being employed during construction.

Water:

The site is presently serviced by Sydney Water. It is expected that services can be extended and augmented to meet the requirements of the proposed development. Sydney Water approval will be required prior to construction.

No adverse water quality impacts are expected as a result of approval of the proposed development subject to soil and water management measures being implemented during construction. Conditions can be imposed in this regard.

The proposal is not expected to involve excessive water consumption. The applicant indicates that rainwater collection and reuse are proposed, and water efficient fixtures will be used. This will assist in reducing reliance on potable water.

Soils:

The site is known to be contaminated and contain acid sulphate soils. The proposed development involves excavation of soils up to a depth to accommodate two levels basement carpark and the report has recommended classifying the excavated soils prior to disposal than undertaking site remediation work. Appropriate conditions relating to waste classification, site validation report and site auditor's statement have been drafted. Impacts on soil resources through erosion and sedimentation during construction can be mitigated. If approved, conditions should be imposed in relation to the implementation of erosion and sedimentation controls.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

There is no vegetation removal or landscaping proposed or required.

Waste:

A waste storage room is proposed at ground floor area with sufficient capacity and private collection is to be arranged. Draft conditions have been proposed in this regard.

Energy:

The proposal is not expected to involve unreasonable energy consumption; a substation is incorporated into the ground floor of the building.

Noise and vibration:

The proposal will only generate noise and vibration impacts during construction. These will be limited in duration and can be mitigated through compliance with consent conditions. Conditions should be imposed in this regard if consent is granted.

Natural hazards:

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

The site is within uncategorised flood risk precinct. Assessment has been undertaken by Council's Stormwater Section who has provided conditions. Similarly acid sulphate soils have been addressed as outlined above.

Technological hazards:

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

Safety, Security and Crime Prevention:

The application was considered by Council Safe Community Action Team who have provided conditions to the application

Social Impact:

The proposal is not expected to create any negative social impacts.

Economic Impact:

The proposal is not expected to result in any negative economic impacts. The proposal will provide additional commercial floor area within the CBD of Wollongong which will support economic growth and the creation of additional employment opportunities.

Site Design and Internal Design:

The application seeks consent for a number of departures from the WLEP2009 and WDCP2009, as outlined previously within this report. The variations sought relate to building separation, setbacks, view loss and other minor variations. The variations sought are considered to be reasonable in this instance.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Sufficient arrangements appear to have been made in relation to access/egress, car parking, servicing and waste management.

Construction:

Construction impacts are likely to be significant given the size of the site and the scale of development proposed. Construction impacts can be managed however and if approved, it is recommended that conditions be imposed in relation to matters such as hours of work, implementation of erosion and sedimentation controls, impacts on the road reserve, protection of excavations, impacts on neighbouring buildings, and the like. It is appropriate that dilapidation reports be prepared for the building and infrastructure immediately bounding the site. Draft conditions have been proposed in this regard

If consent is granted, an additional condition will be attached to any consent granted that WorkCover be contacted for 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 regard 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

The application was notified to adjoining and adjacent properties from 28 August 2013 to 18 September 2013 in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. 5 submissions were received and the main issues identified are discussed below.

Table 1: Submissions

Concern	Comment
<p><u>1. Building appearance</u></p> <p>The building is ugly.</p>	<p>The proposed development has been considered by Council's Design review Panel and considered to be suitable from an urban design perspective. The building is of a modern appearance and creates an appropriate entrance to the significant commercial core.</p>
<p><u>2. Height</u></p> <p>"It is too high & should be no higher than the platinum building next door"</p> <p>"The building overall is too imposing & too close to the frontage of all streets it borders. In short, this ugly building needs softening & needs to appear far less imposing than current drawings."</p> <p>"We would like you to reconsider the height of the buildings as I am sure many others would agree. The current scale of Wollongong's buildings is in keeping with sensitive environmental considerations. We were under the impression that there was a limit on the height of buildings in the city. We could be wrong or there has been a change of council policy on this issue, nevertheless we believe it is too high and ask you to reconsider."</p>	<p>As discussed earlier within the report the maximum height limit allowable is 48m pursuant to the provisions contained with WLEP 2009. The subject building complies with this height limit. The building is also compliant in relation to floor space and setbacks. The application has been the subject of a pre and post DA lodgement design review panel process which has resulted in a redesign which improves internal and external amenity and appearance.</p>
<p><u>3. Loss of Views</u></p> <p>"The development to be approx 8 meters forward of our unit (i.e.) further north, and again obstructing on any small ocean view we were hoping to retain, as a result of the height and boundary set backs on DA, we will lose 100% of ocean views A simple amendment would be to reduce the height by 1 level on westerly side of development which as per plan is the common area approx 2 metres above our balcony, by removing common area we will regain a very small ocean view"</p>	<p>As discussed within the report the building to the west of the subject site known as 'Platinum' currently benefits from uninterrupted views as the subject site and the precinct to the east bounding Corrimal, Crown, Harbour and Bank Streets. The planning controls for this area anticipate high density mixed use buildings with a height limit of 48m. This area is in transition and has not yet been developed to reach full potential.</p> <p>As a result of the proposed development the existing views to the east in some cases are completely deleted. The units orientated to the north will still have views to the north and west.</p> <p>The unit that is affected most by view loss is the top most unit on the eastern side.</p> <p>The suggestion of the removal of a level at the interface with the common boundary is not considered reasonable.</p>
<p><u>4. Privacy</u></p> <p>...and also our privacy which will force us to have curtains drawn at all times.</p> <p>A simple amendment would be to reduce</p>	<p>A reduction in height would exacerbate noise impacts on other units in Platinum also increasing overlooking for the residents within the common open space of the proposed building by the residents of Platinum.</p>

Concern	Comment
the height by 1 level on westerly side of development which as per plan is the common area approx 2 metres above our balcony, by removing common area as it is directly over our balcony, also set back the distance between our boundary's and balcony's to enable us a little privacy.	As discussed within the report the location of the common space on the podium adjoining Platinum has the potential to overlook the balcony and unit of the eastern unit within platinum as it is located at a higher level and shares a common wall. It is considered appropriate in this regard to create a wider planter bed along the western boundary of the common open space podium and provide a screen that extends to a height of 1.8m above the floor level of the common space. A condition on the consent will reflect this requirement.
<u>5. Overshadowing</u> "The current plan blocks the morning sun from the platinum apartments as it juts out too far to the south on Burelli St. The Platinum apartment owners corporation has discussed the addition if roof solar panels to make the Platinum building more energy efficient. This building may block the sun from this important future plan."	As discussed within the report Platinum will receive the required minimum 3 hours sunlight from the hours of 12noon.
<u>6. Construction Timeframe</u> "An explanation of the time for the demolition & new build. This could be a very disruptive time for owners & tenants in the platinum apartments & could impact on rents & tenancy take up during the demolition & construction time. As an apartment owner I would wish to be compensated for any financial loss & inconvenience to platinum owners and/or tenants. A firm time frame for demolition & construction needs to be established."	The construction timeframe is not known at this stage. The applicant will be required to notify the adjoining properties prior to demolition commencing. It will also be a condition of consent that dilapidation reports be undertaken on the adjoining building prior to construction commencing so that the impact of construction and demolition can be fully determined and rectified in the event of damage.
<u>7. Traffic</u> "The road at the back of the IPAC is too short & narrow to cope with increased traffic to parking at both apartment blocks. It is already difficult to get in & out of the Burelli Street entrance/ exit.	The proposal incorporates the road widening that will be undertaken as part of the development. The widening and the provision of an additional footway on the eastern side of Town Hall Place is included as part of this application. Council's Traffic Engineers have reviewed the application and indicated that Town Hall place has the capacity to cater for the increased traffic. The RMS will not permit access off Corrimal Street and their strong preference is for all access to be off Town Hall place not Burelli Street. This is to alleviate queuing pressures on the signalised intersection of Burelli and Corrimal Streets
<u>8. Pedestrian Safety</u> With respect to the specific point to accommodate two lanes of traffic in Town Hall Lane. It needs to be noted that via the IMB foyer egress, the South Eastern exit, large numbers of people arrive and leave for performances. As a safety consideration we would strenuously insist that the footpath	As stated above the road widening will be undertaken as part of the development. The widening and the provision of an additional footway on the eastern side of Town Hall Place is included as part of this application. The RMS will not permit access off Corrimal Street and their strong preference is for all access to be off Town Hall place not Burelli Street. This is to alleviate queuing pressures on the signalised intersection of Burelli and

Concern	Comment
there should not be made smaller. Likewise, the Stage Door entrance in the Eastern wall of the building, further toward Crown Street, is used extensively. At its most demanding periods large numbers of young children (in their hundreds) use this entrance to arrive for and leave after performances. It is essential from a safety perspective that the width of the footpath here is not diminished at all.	Corrimal Streets
<u>8. Out of Character</u> “It needs to be more in keeping with the platinum apartments & the historic atmosphere of lower Crown St”	The density and height controls of the precinct dictate the desired future character of the area. It is acknowledged that it is the first building to propose the 48m height along Crown Street. However, to the east bounding Corrimal, Crown, Harbour and Bank Streets the planning controls anticipate high density mixed use buildings with a height limit of 48m. The proposed development complies with the height and FSR controls and will not be out of character once re-development of the area occurs.
<u>9. Noise Generation</u> A simple amendment would be to reduce the height by 1 level on westerly side of development which as per plan is the common area approx 2 metres above our balcony, by removing common area and also eliminate the effect of parties and noise coming from common area, as it is directly over our balcony.	A reduction in height would exacerbate noise impacts on other units in Platinum also increasing overlooking for the residents within the common open space of the proposed building by the residents of Platinum. Reducing the height would create an issue of overlooking for the residents within the common open space of the proposed building by the residents of Platinum. As discussed within the report the location of the common space on the podium adjoining Platinum has the potential to overlook the balcony and unit of the eastern unit within platinum as it is located at a higher level and shares a common wall. It is considered appropriate in this regard to create a wider planter bed along the western boundary of the common open space podium and provide a screen that extends to a height of 1.8m above the floor level of the common space. Therefore improving any impact of noise generation on Platinum. A condition on the consent will reflect this requirement.
<u>9. Security</u> “Another concern is our security due to the building being so close to our balcony, which also makes it possible for someone to intrude on to our unit.”	As indicated above the provision of a 1.8m screen and the wider planter bed will improve security to the unit adjoining within Platinum.
<u>10. Relationship with IPAC</u> “We would like the DA process to be aware that the Illawarra Performing Arts Centre has been in operation since 1988. The operations at IPAC can, amongst other activities, involve; · Large numbers of people coming and going late at night and early in the morning through stage door out into Town Hall	The assessment of the application has considered all surrounding uses including IPAC. The provision and road widening and an additional footway has been included as part of this application. Council’s traffic engineer has indicated that Town Hall Place has the capacity and width to cater for the increased traffic and types of vehicles the proposed development will generate. The RMS will not permit access off Corrimal Street and

Concern	Comment
<p>Lane.</p> <ul style="list-style-type: none"> · Matinee Performances. · The use of the Loading Dock on Town Hall Lane – which often means very large and loud semi-trailers manoeuvring into position early in the morning or late at night. · Continuous access is required to and from Town Hall lane for vehicles to IPAC via Town Hall Lane for deliveries and pick-ups to the theatres and cafe. · Continuous use of the loading zone on Town Hall Lane. · Noise from the dock during loading, unloading or performances can be loud. · The use of bins which are necessarily kept in Town Hall Lane. <p>IPAC requires these activities to be noted because an inability to access the lane, to present shows with large numbers of people including community groups or to work in the loading dock unrestrained would seriously inhibit our operations.</p>	<p>their strong preference is for all access to be off Town Hall place not Burelli Street. This is to alleviate queuing pressures on the signalised intersection of Burelli and Corrimal Streets.</p>

11. Property Devaluation

“The value of our unit will decrease substantially given the negative affect on our ocean views and privacy, therefore we are prepared to defend and prevent any depreciation to our unit.”

The amenity impacts have been discussed above including view and privacy impacts. Depreciation of properties cannot of itself considered in the assessment process under section 79C of the Act.

Submissions from public authorities

Discussed earlier within the report.

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 is therefore considered to be in 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 Wollongong Local Environmental Plan 2009 It is also consistent with the requirements of Wollongong Development Control Plan 2009 The concurrence of the Director General of Planning and Infrastructure has been granted.

Submissions received during the notification and assessment of the application have been considered within the report and addressed through re-design and recommended conditions through any consent issued

There being no outstanding issues or unreasonable additional impacts from the proposal, it is recommended that the application be approved pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, subject to conditions at Attachment 4.

ATTACHMENTS

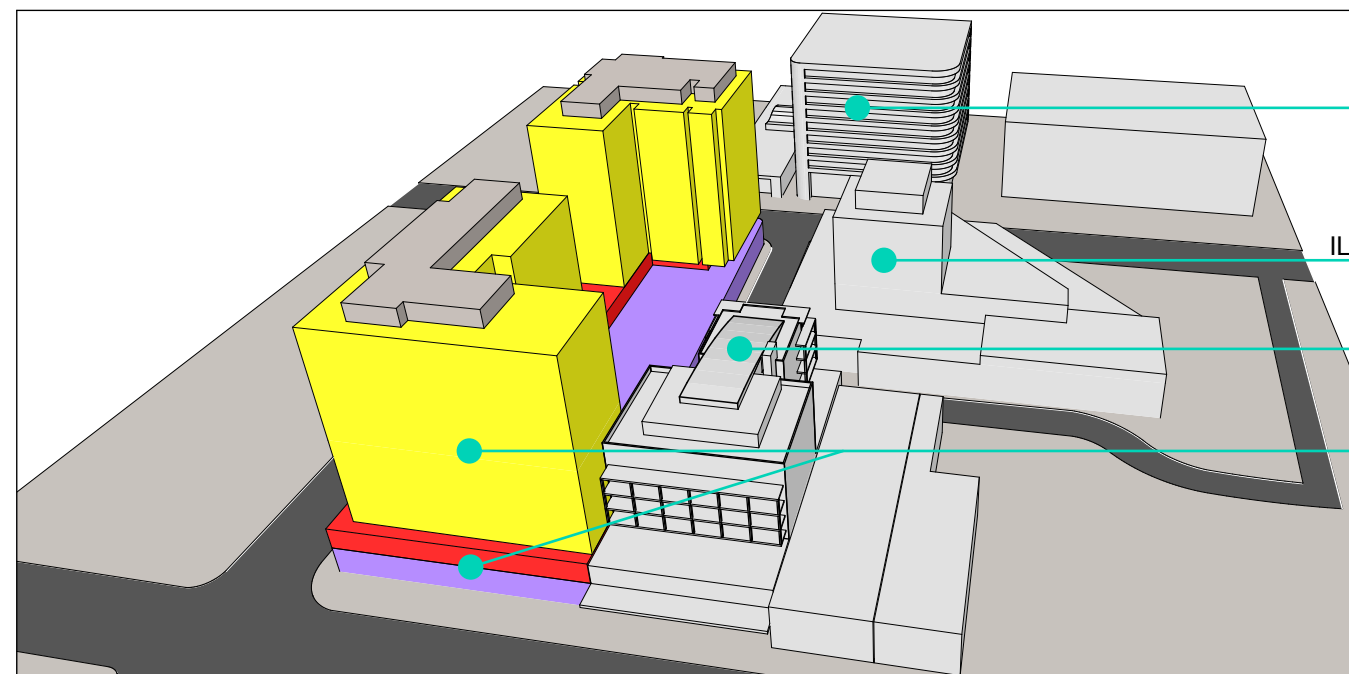
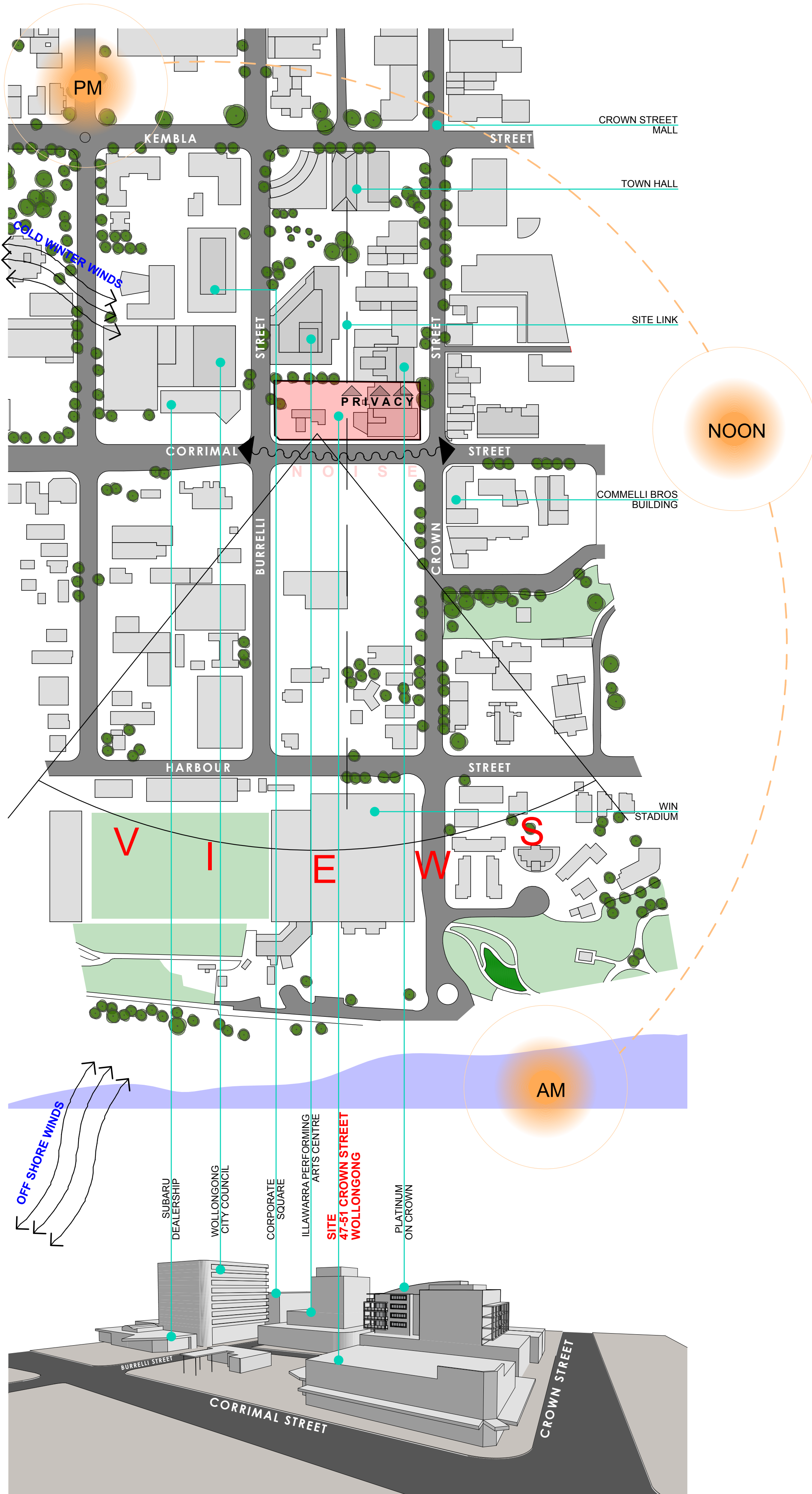
1. Aerial photograph
2. Wollongong Local Environmental Plan 2009
3. Plans
4. Draft conditions
5. Director General concurrence
6. Heritage Council comments
7. Clause 4.6 variation
8. Compliance Table



Location Map (Aerial Photograph)

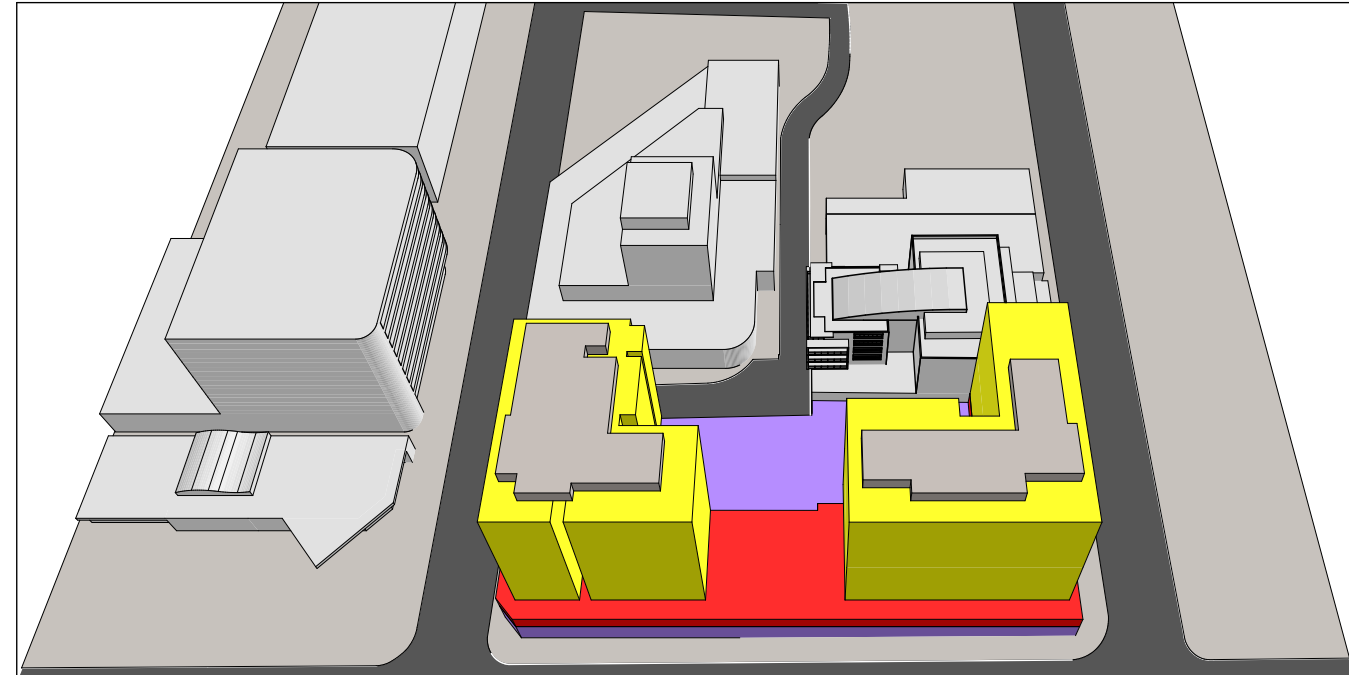
WLEP 2009 zoning map



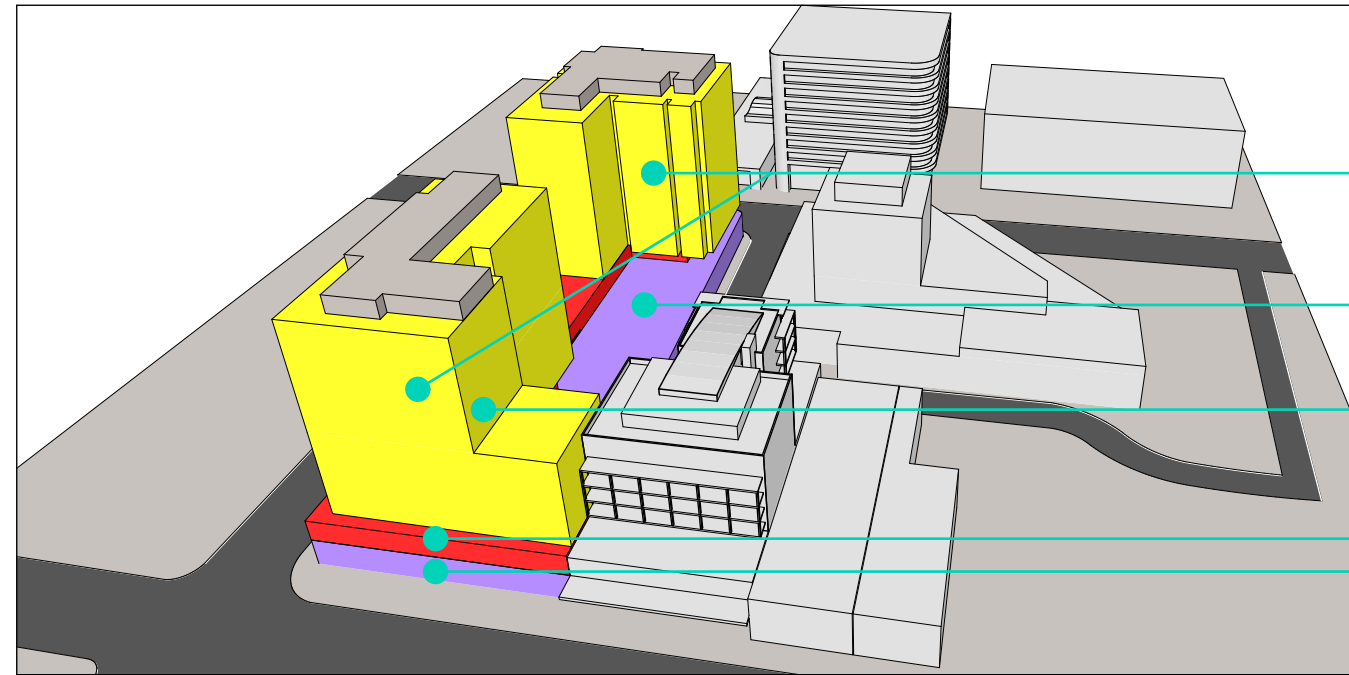


CONCEPTUAL ANALYSIS 1

- WOLLONGONG CITY COUNCIL
- ILLAWARRA PERFORMING ARTS CENTRE
- PLATINUM ON CROWN
- STRONG STREET EDGE

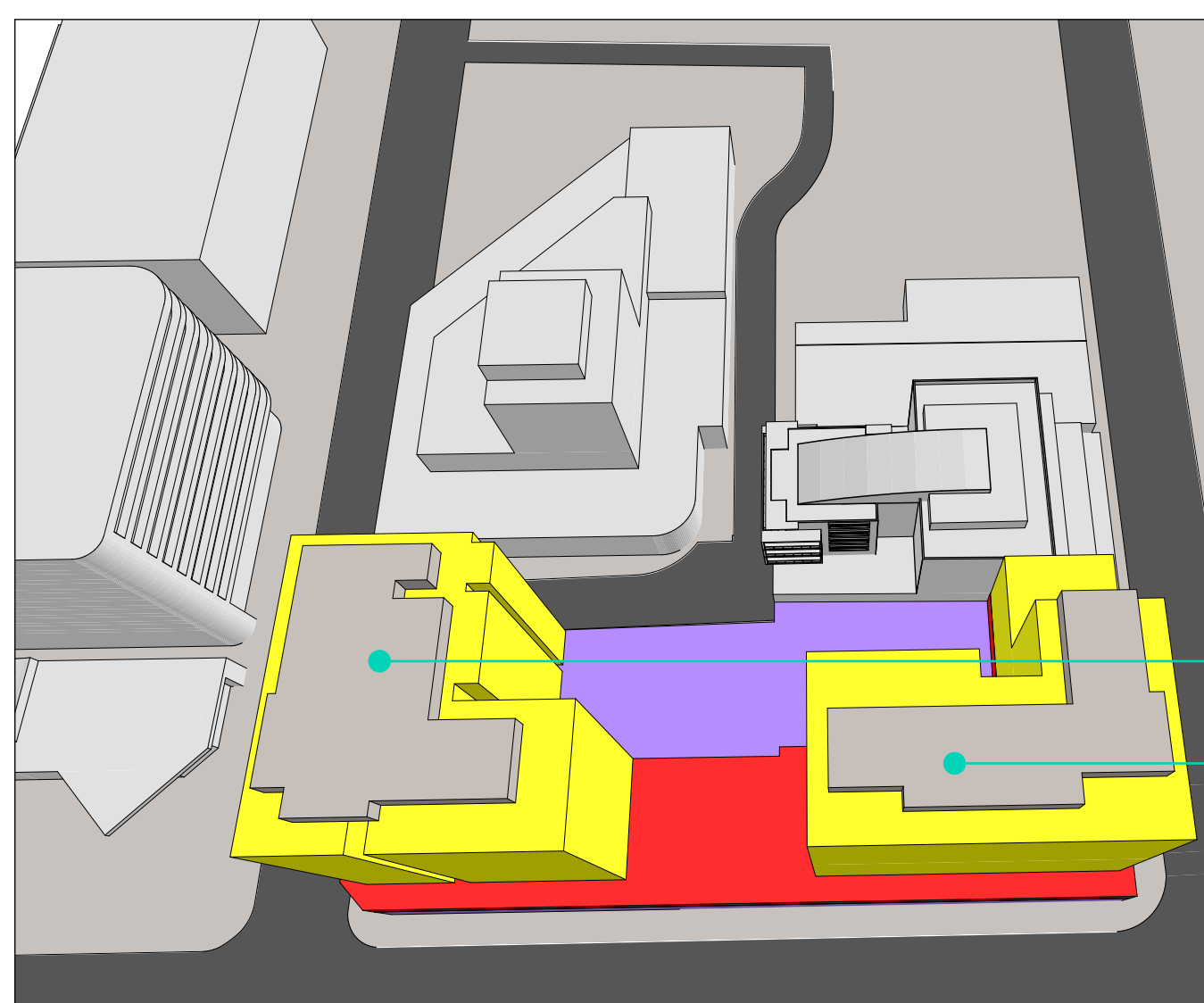


CONCEPTUAL ANALYSIS 2



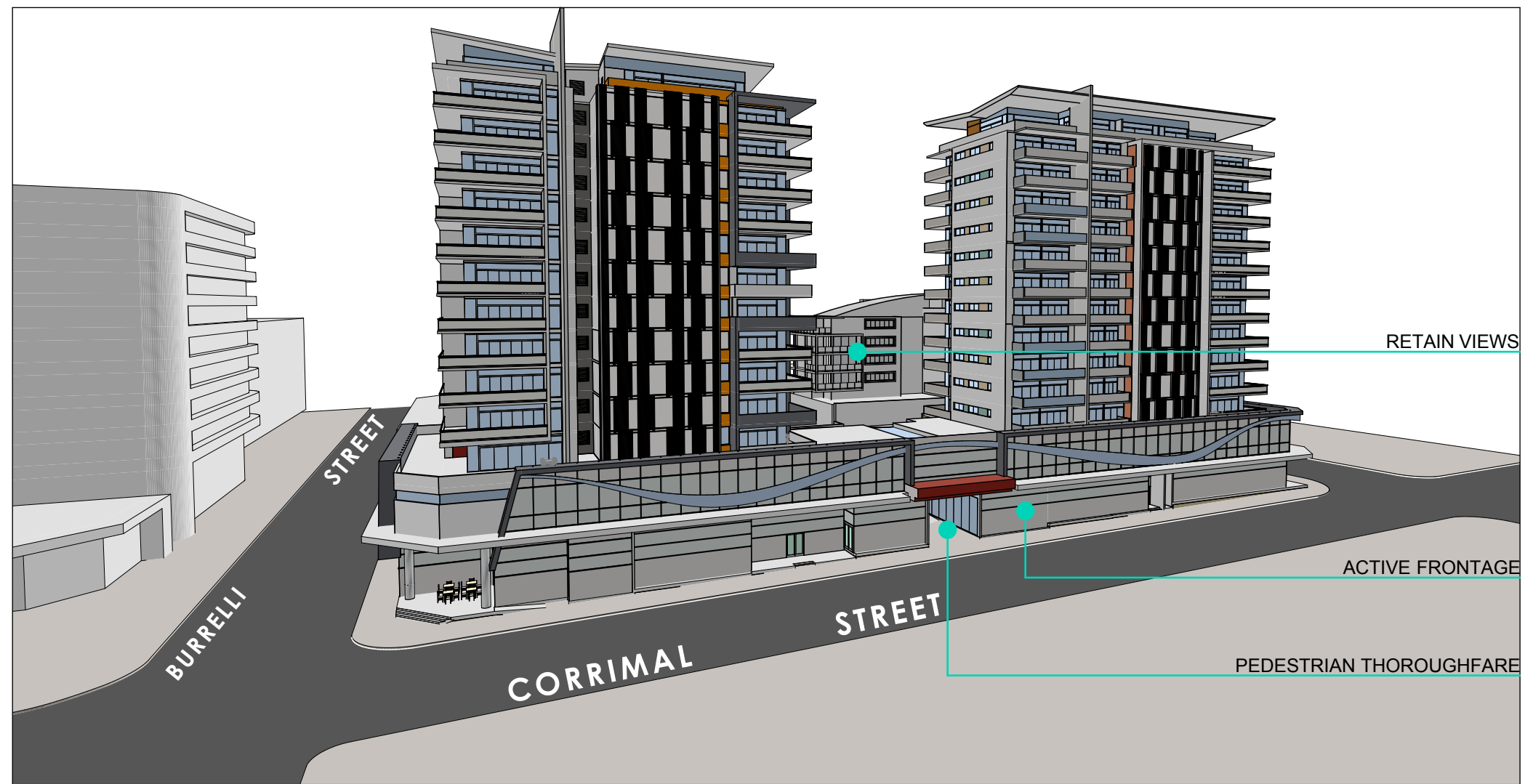
CONCEPTUAL ANALYSIS 3

- NORTHERN EXPOSURE
- RAISED LANDSCAPED PODIUM
- RESIDENTIAL COMPONENT
- OFFICE RETAIL



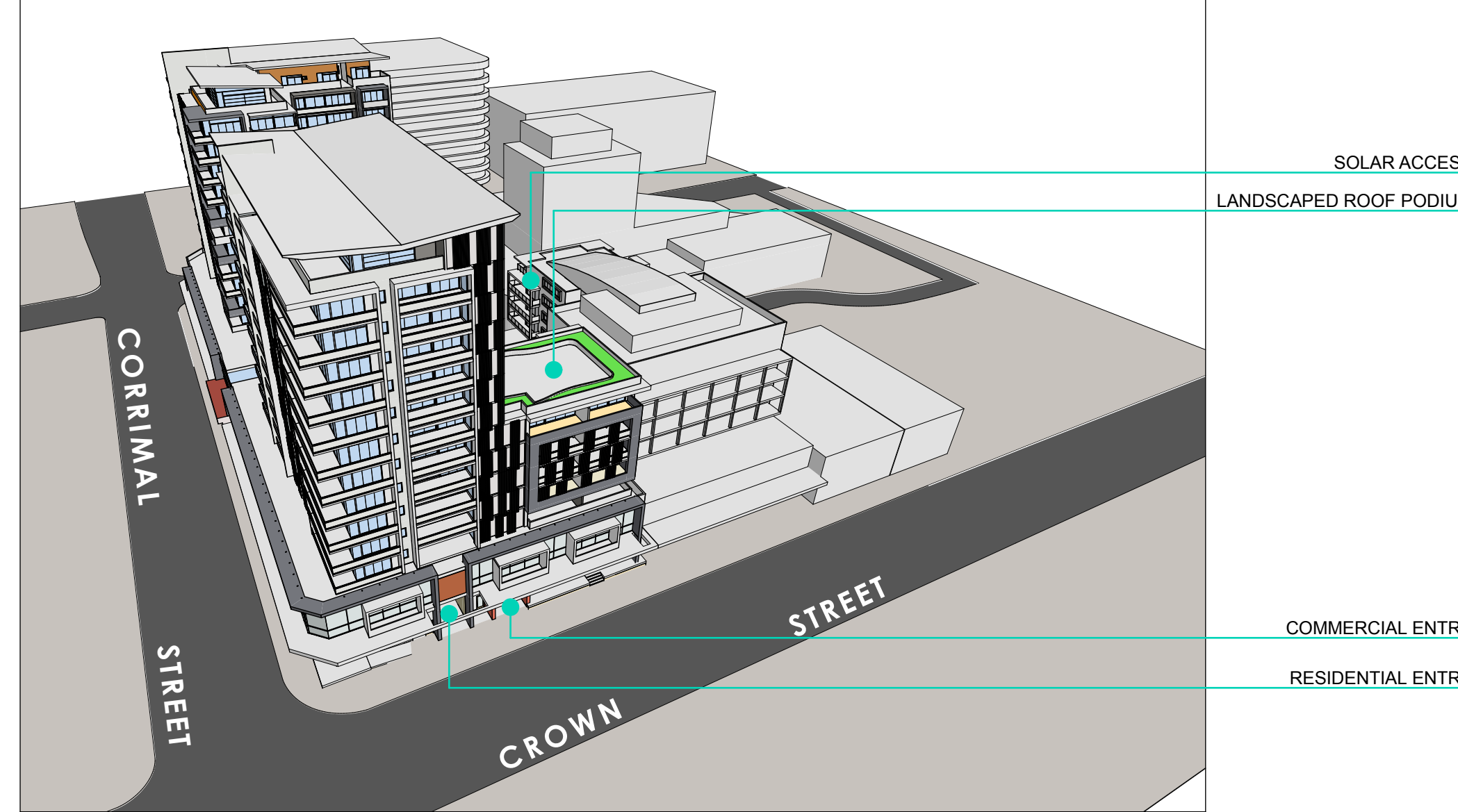
CONCEPTUAL ANALYSIS 4

- BLOCK B
- BLOCK A



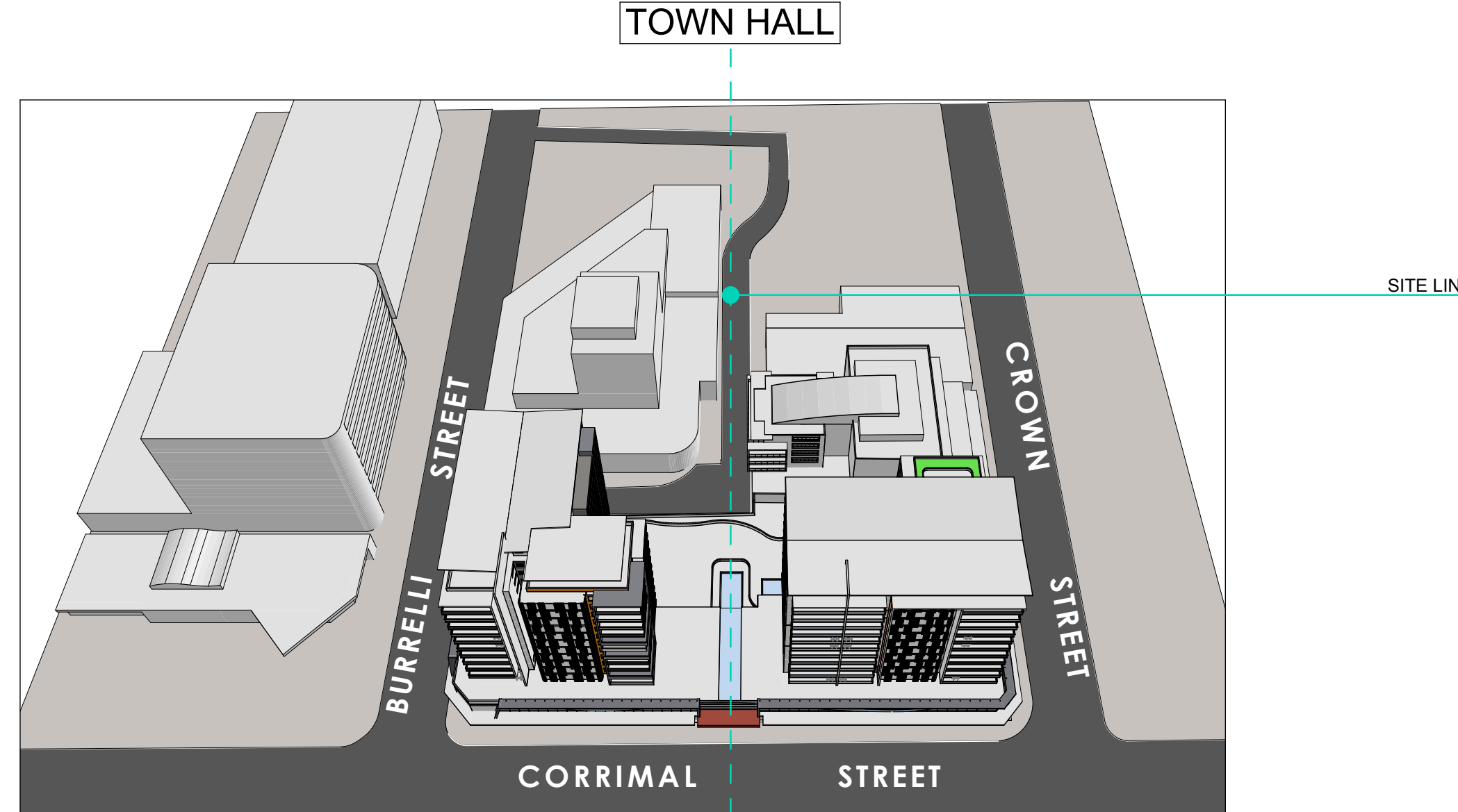
DESIGN REPOSE PERSPECTIVE 1

- RETAIN VIEWS
- ACTIVE FRONTAGE
- PEDESTRIAN THOROUGHFARE



DESIGN REPOSE PERSPECTIVE 2

- SOLAR ACCESS
- LANDSCAPED ROOF PODIUM
- COMMERCIAL ENTRY
- RESIDENTIAL ENTRY



DESIGN REPOSE PERSPECTIVE 3

- SITE LINK

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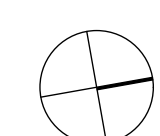
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Email info@urbanlink.com.au

DEVELOPMENT APPLICATION

project 47-51 CROWN STREET WOLLONGONG project no 13-015

client PSR CROWN INVESTMENTS scale 1:100@ A1 date 06/11/2013

drawing SITE & CONCEPTUAL ANALYSIS drawn AM checked TJ



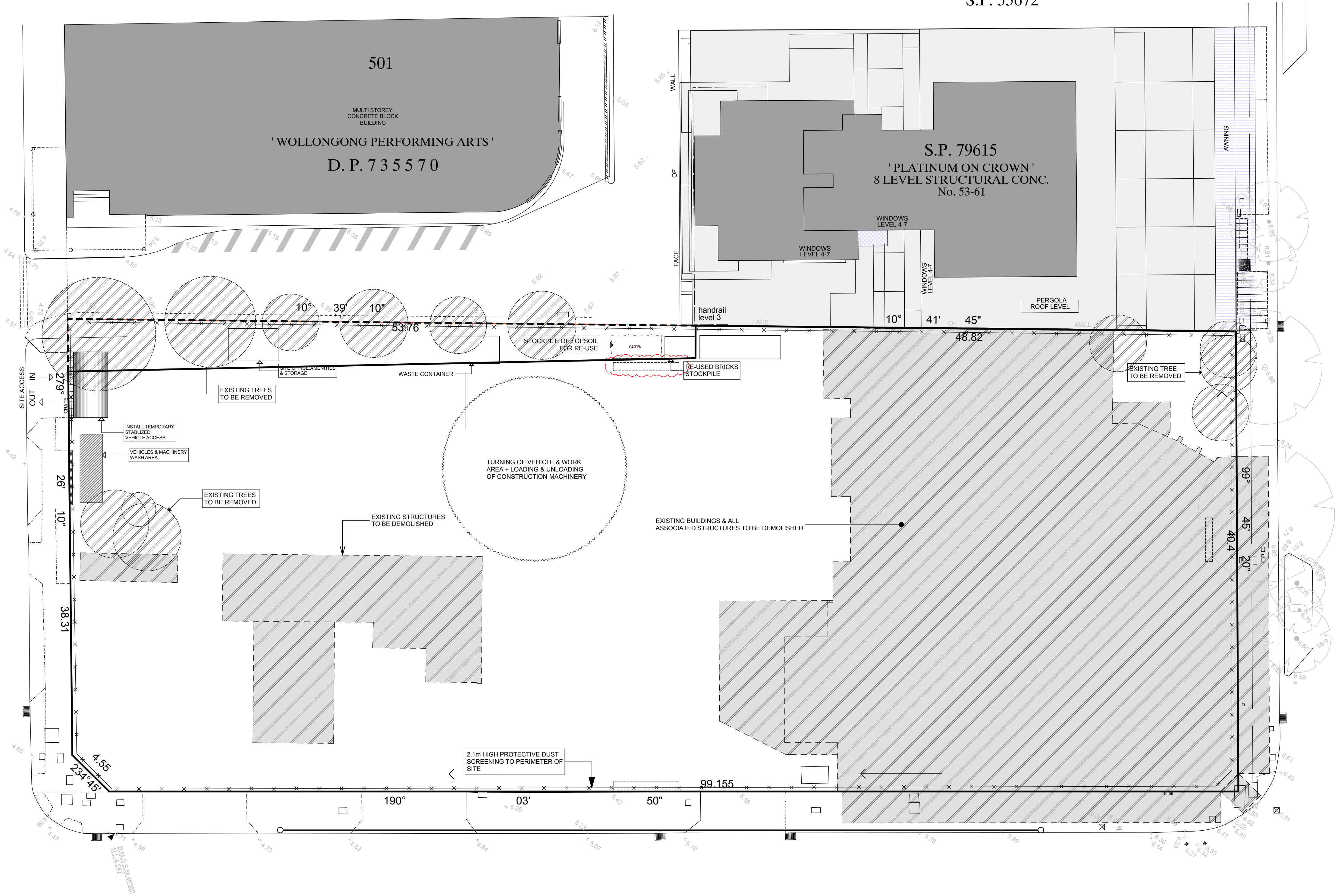
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issue B

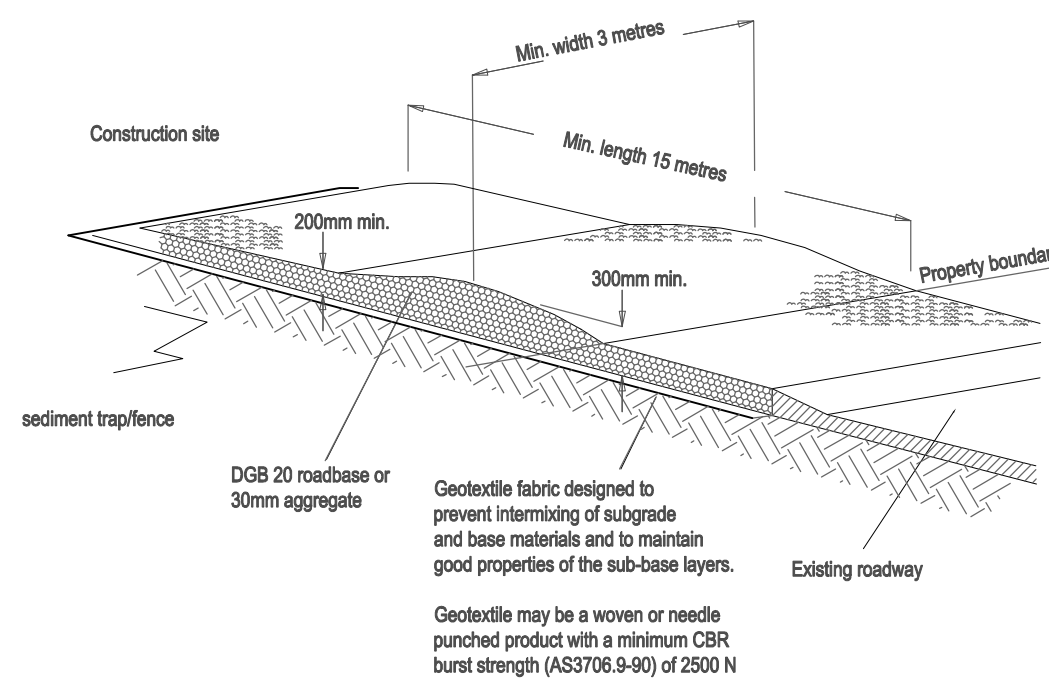
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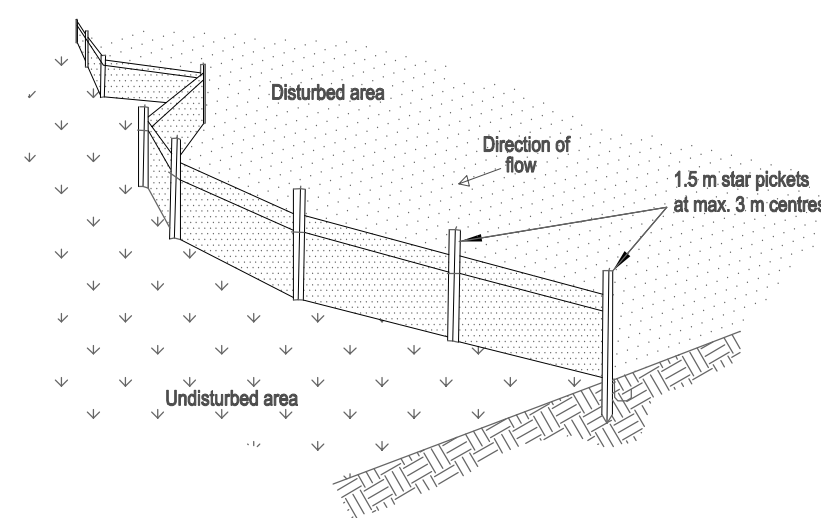




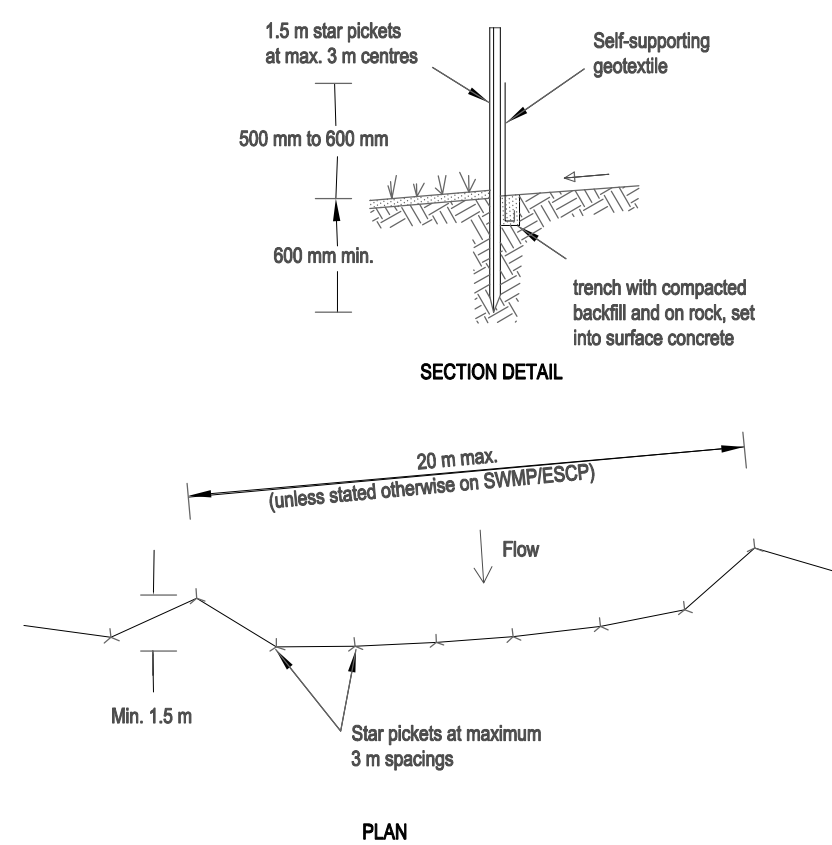
01 DEMOLITION & MANAGEMENT PLAN
1:200



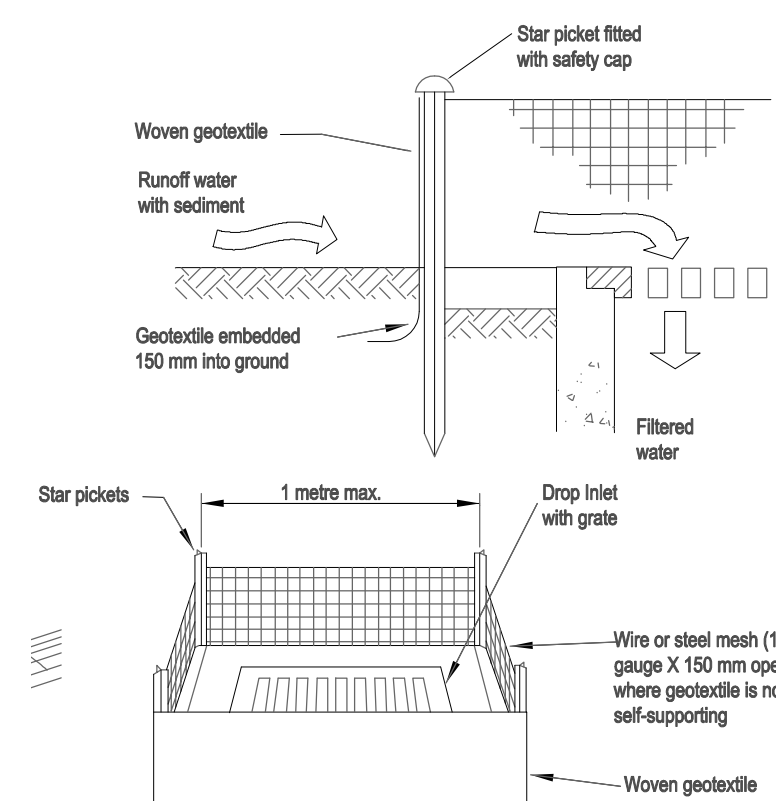
DETAIL - STABILISED SITE ACCESS
(SOURCE: "SOILS AND CONSTRUCTION", LANDCOM, 2004)



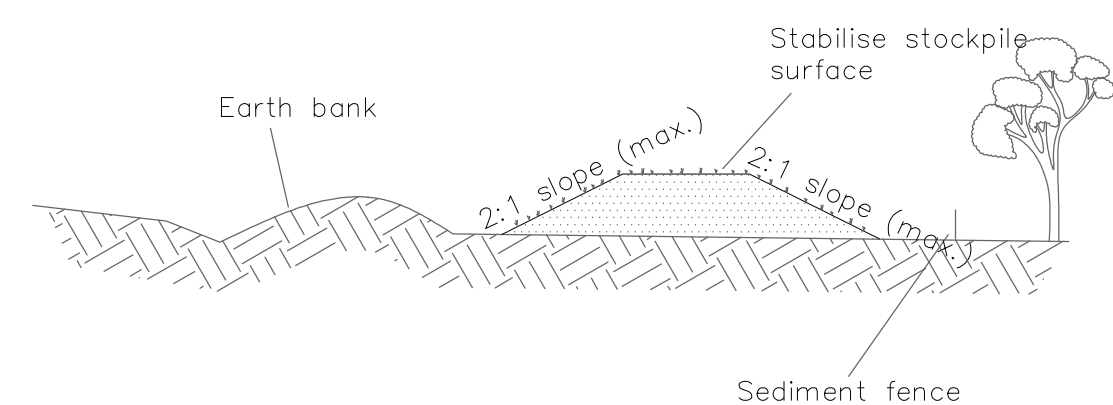
DETAIL - SEDIMENT FENCING
(SOURCE: "SOILS AND CONSTRUCTION", LANDCOM, 2004)



PLAN



DETAIL PIT PROTECTION
(SOURCE: "SOILS AND CONSTRUCTION", LANDCOM, 2004)



TYPICAL STOCKPILE DETAIL
(SOURCE: "SOILS AND CONSTRUCTION", LANDCOM, 2004)

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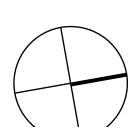
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DEVELOPMENT APPLICATION

project 47-51 CROWN STREET WOLLONGONG project no 13-015

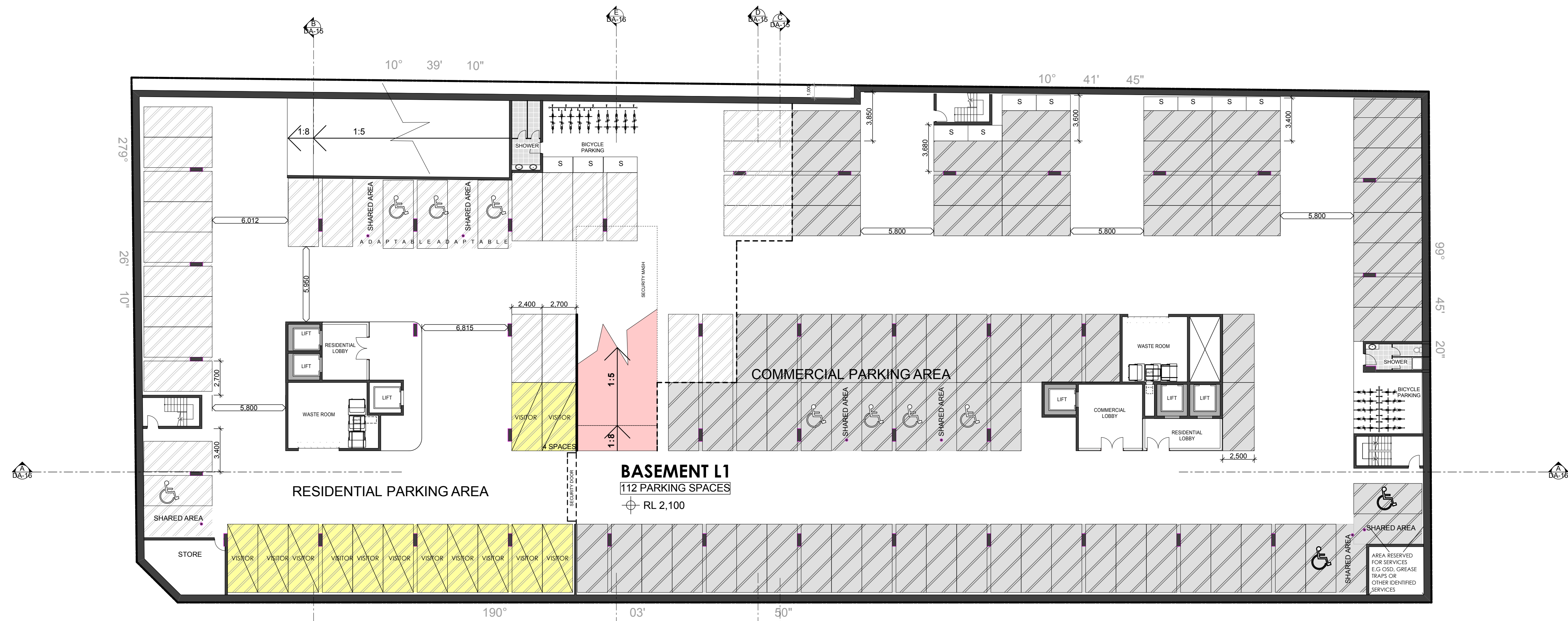
client PSR CROWN INVESTMENTS scale 1:100@ A1 date 06/11/2013

drawing DEMOLITION PLAN drawn AM checked TJ

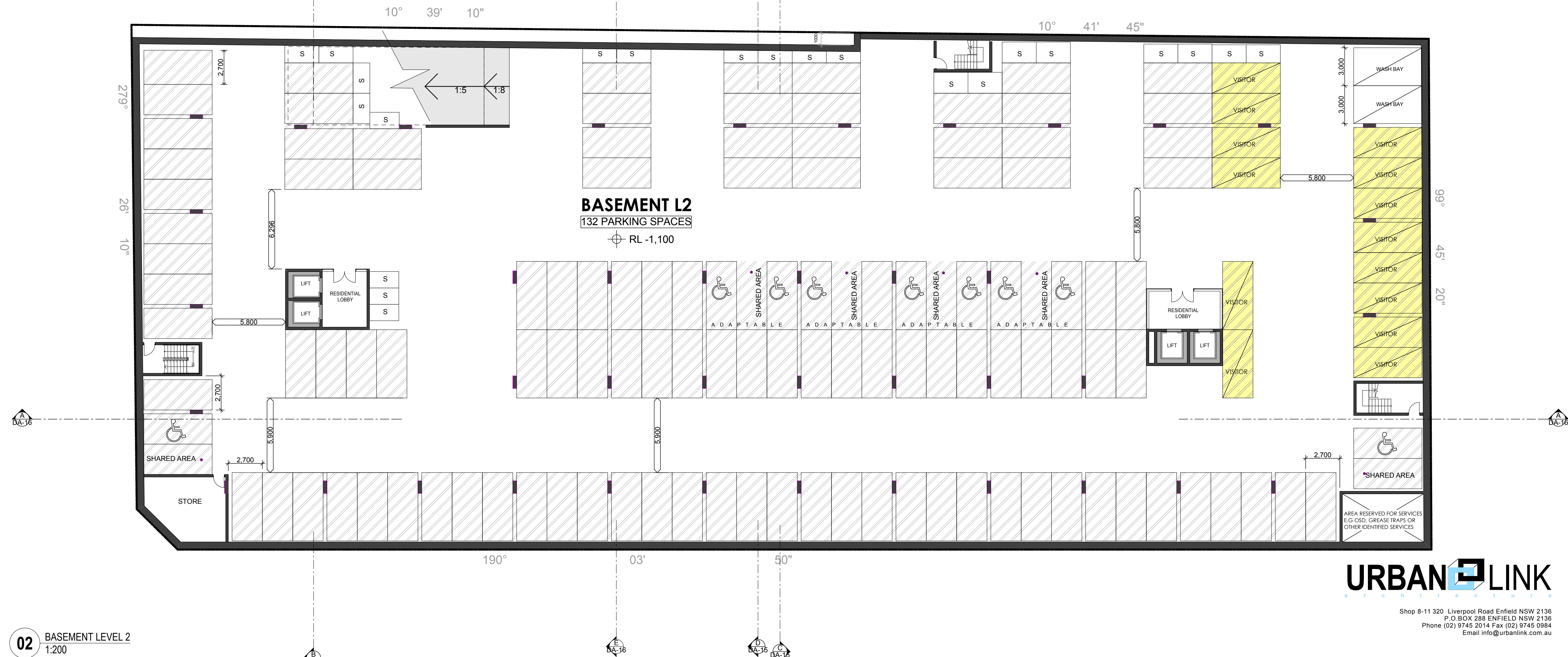


drawing no DA-05

issue B



01 BASEMENT LEVEL 1
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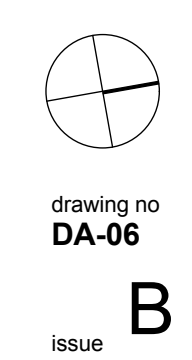
02 BASEMENT LEVEL 2
1:200



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client	PSR CROWN INVESTMENTS	scale	1:100@ A1
drawing	BASEMENT PLAN	date	06/11/2013
		drawn	AM
		checked	TJ





01 GROUND FLOOR PLAN - RETAIL
1:200

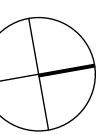
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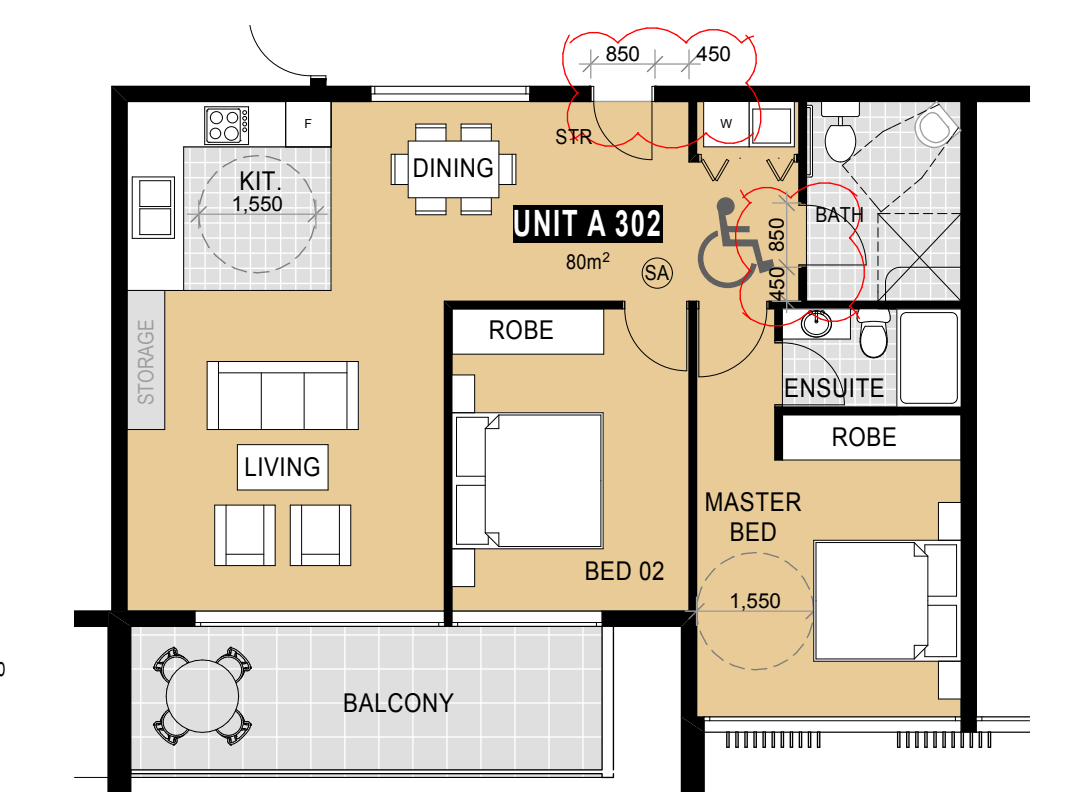
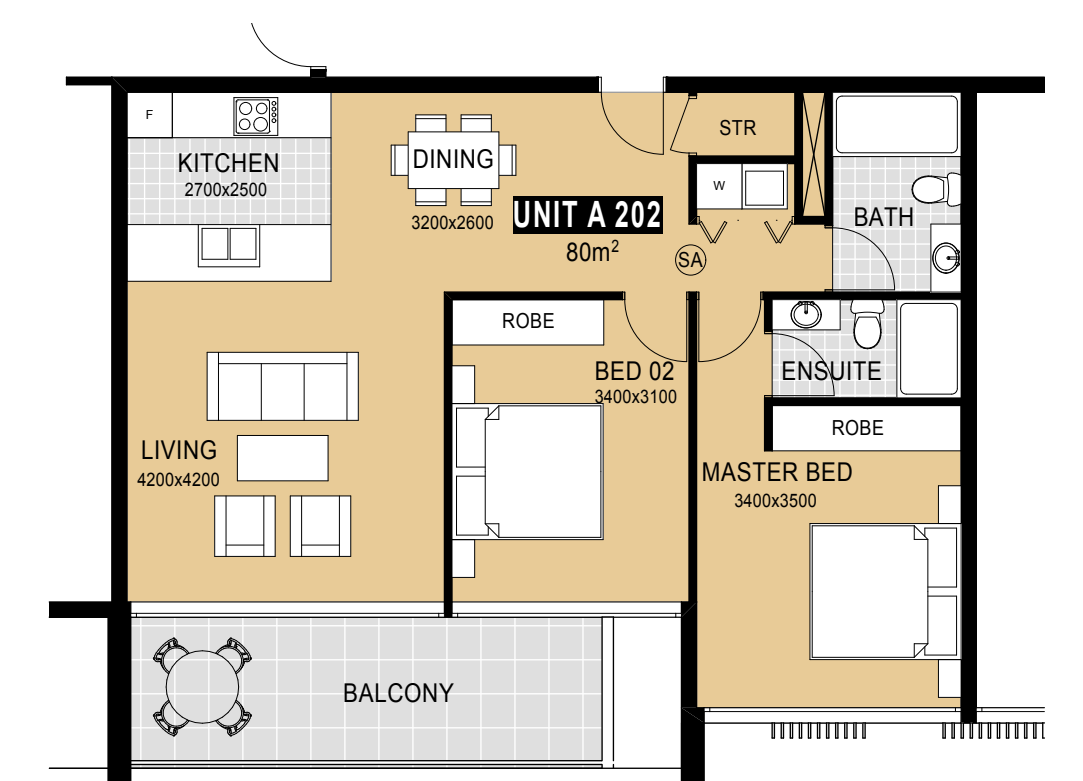
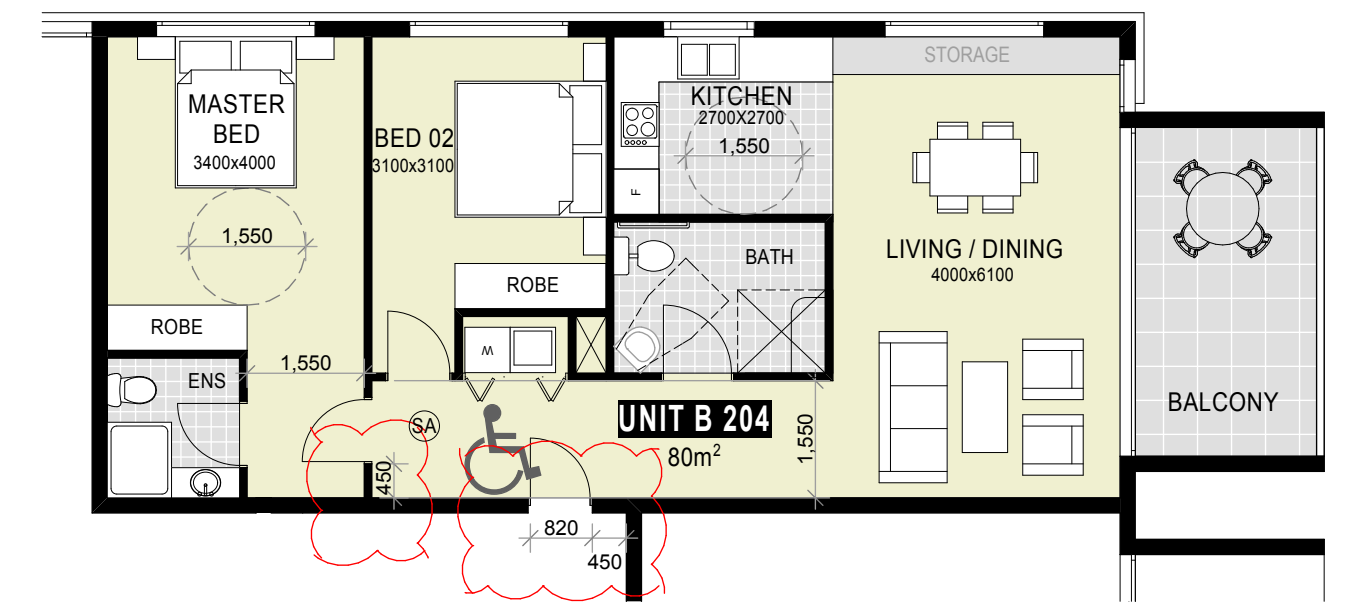
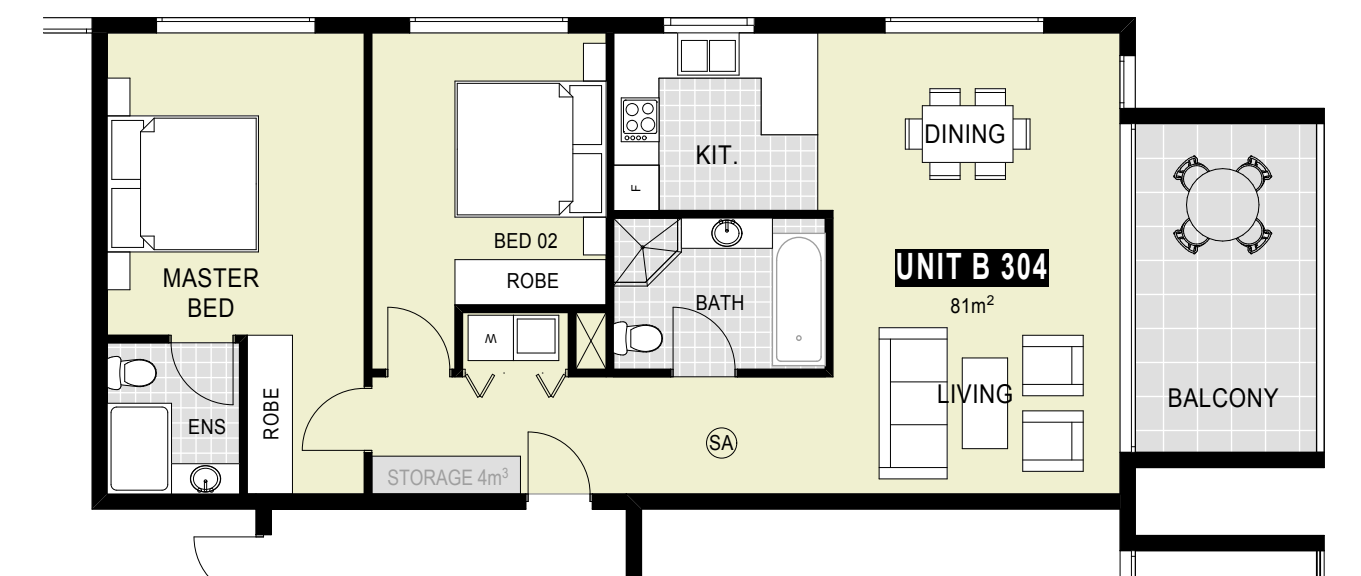
DEVELOPMENT APPLICATION

project	47-51 CROWN STREET WOLLONGONG	project no	13-015
client	PSR CROWN INVESTMENTS	scale	1:100@ A1
drawing	GROUND FLOOR PLAN	date	06/11/2013
		drawn	AM
		checked	TJ
		issue	B



drawing no
DA-07

[illegible]



AS4299 Adaptable Housing

- 920 Entry door(s) with lever handle 1000-1100mm AFFL (including foyer entry and ground floor) and 520mm latch side clearance as shown.
- 670 (min) internal doors with lever handles 1000-1100mm AFFL with 470mm latch side clearance as shown to the main bedroom.
- Level transition where changes in internal flooring (carpet to tiles / timber).
- Slip resistant flooring to R10 or equivalent for the bathrooms, kitchen, laundry, outdoor terrace.
- Low level threshold (50mm maximum) to outdoor terrace / balcony to enable wheelchair access.
- Light switches 1000-1100mm AFFL.
- Double GPO's 600-1100mm AFFL.
- Double GPO's, TV and phone outlets as shown (minimum required by AS4299).
- Fridge GPO or two-way isolating switch to be in a reachable position (900-1100mm AFFL) when the fridge is in-situ.
- Double GPO over the 800mm length workbench within 300mm of the front of the bench.
- Isolating switch for the cooktop.
- Lever taps throughout, including a long lever kitchen tap.
- Ensuite toilet setout 450-460 from near side wall to pan centre.
- Valls adjacent the ensuite toilet, shower and bathtub shall be strengthened to enable future grabrail installations. Eg. Stud walls include 12mm ply sheathing at appropriate locations for future grabrails.
- Kitchen shall provide a wall oven, cooktop and 800mm length workbench adjacent that can be adjusted in height at a later date if required by an occupant.
- Carpark spaces shall provide opportunity to provide 3800mm width X 6000mm length X 2500mm height on a generally level surface.

Ramps to be provided with handrails as per AS1428.1 & AS1428.2

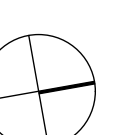
01 TYPICAL RESIDENTIAL FLOOR PLAN LEVEL 2-6
1:200

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DEVELOPMENT APPLICATION

project	47-51 CROWN STREET WOLLONGONG	project no	13-015
client	PSR CROWN INVESTMENTS	scale	1:100@ A1
		date	06/11/2013
drawing	TYPICAL FLOOR PLAN LEVEL 2-6	drawn	AM
		checked	TJ
		issue	B



drawing no
DA-09

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01 SEVENTH FLOOR PLAN
1:200

The architectural site plan illustrates two residential buildings and their surrounding context. The building on the left, 'WOLLONGONG PERFORMING ARTS' (D.P. 735570), is a multi-storey concrete block. The building on the right, 'PLATINUM ON CROWN' (S.P. 79615), is an 8-level structural concrete building. The plan includes detailed floor plans for both buildings, showing room layouts, furniture placement, and structural elements like lifts and stairs. Dimensions are provided for the buildings and the site, including a total width of 53.76m and a total depth of 48.82m. The plan also shows the location of the buildings relative to the street and the surrounding area, including a 'WALL' and 'AWNING' over Level 2.

Building Details:

- 'WOLLONGONG PERFORMING ARTS' (D.P. 735570):** A multi-storey concrete block building. The floor plan shows units with living/dining areas, kitchens, bedrooms, and bathrooms. The building is oriented with its long side facing the street.
- 'PLATINUM ON CROWN' (S.P. 79615):** An 8-level structural concrete building. The floor plan shows units with living/dining areas, kitchens, bedrooms, and bathrooms. The building is oriented with its long side facing the street.

Dimensions and Orientation:

- Overall Dimensions:** 53.76m (width) x 48.82m (depth).
- Orientation:** The plan is oriented with North at the top. The buildings are located on a site bounded by a 'WALL' and 'AWNING' over Level 2.

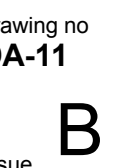
Structural and Functional Elements:

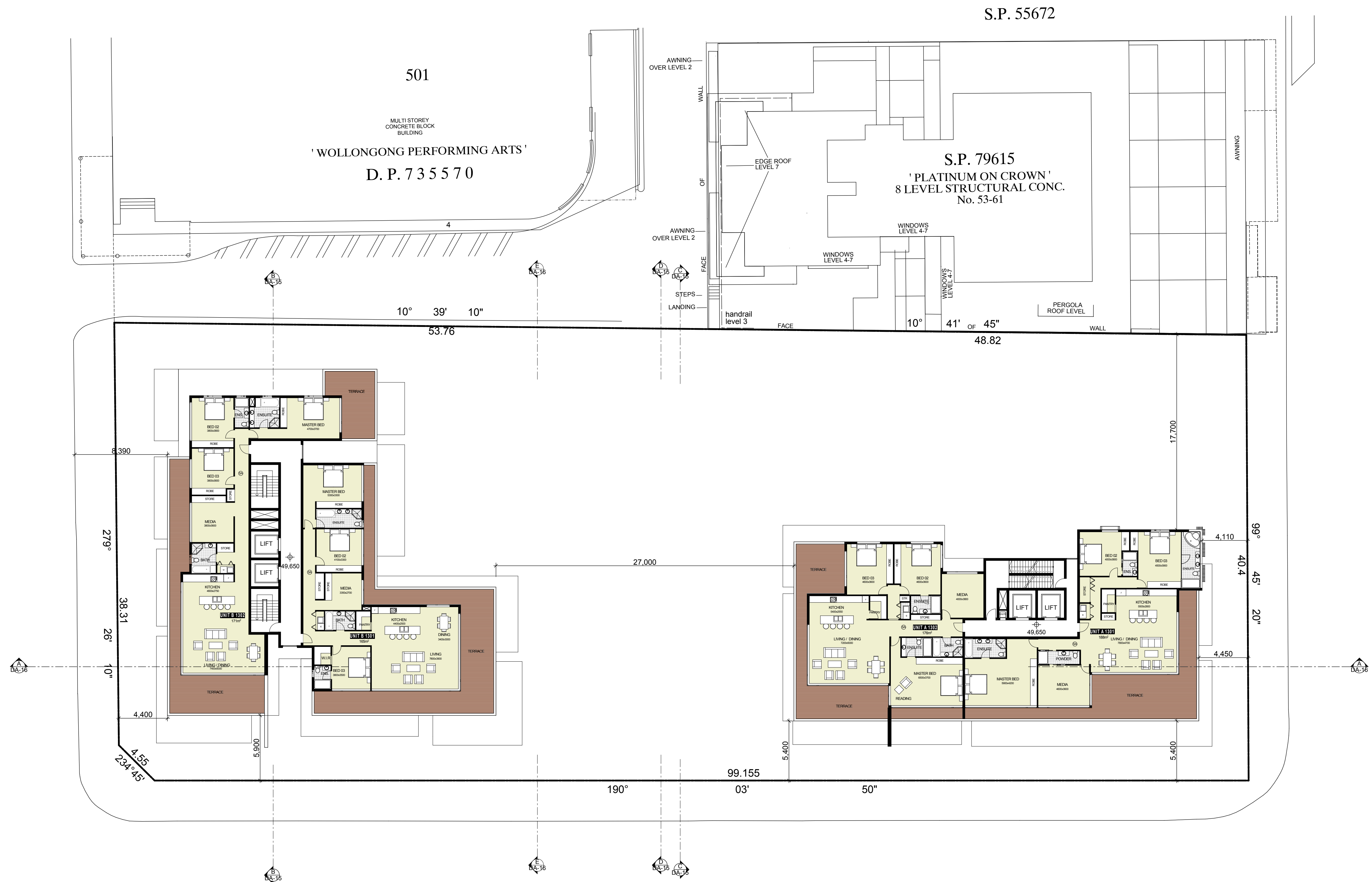
- Structural Elements:** The plan shows the structural layout of the buildings, including walls, columns, and beams. Key structural features include the 'EDGE ROOF LEVEL 7' and 'PERGOLA ROOF LEVEL'.
- Functional Elements:** The plan shows the functional layout of the buildings, including living/dining areas, kitchens, bedrooms, and bathrooms. Key functional features include the 'LIFT' and 'STAIRS'.

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project	47-51 CROWN STREET WOLLONGONG	project no	13-015
client	PSR CROWN INVESTMENTS	scale	1:100 @ A1
		date	06/11/2013
drawing	TYPICAL FLOOR LEVEL 8-12	drawn	AM
		checked	TJ





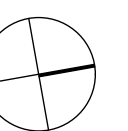
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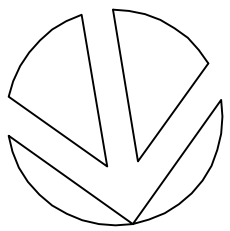
DEVELOPMENT APPLICATION

project	47-51 CROWN STREET WOLLONGONG	project no	13-015
client	PSR CROWN INVESTMENTS	scale	1:100@ A1
drawing	PENTHOUSE FLOOR	date	06/11/2013
		drawn	AM
		checked	TJ
		issue	B



drawing no
DA-12

issue
B

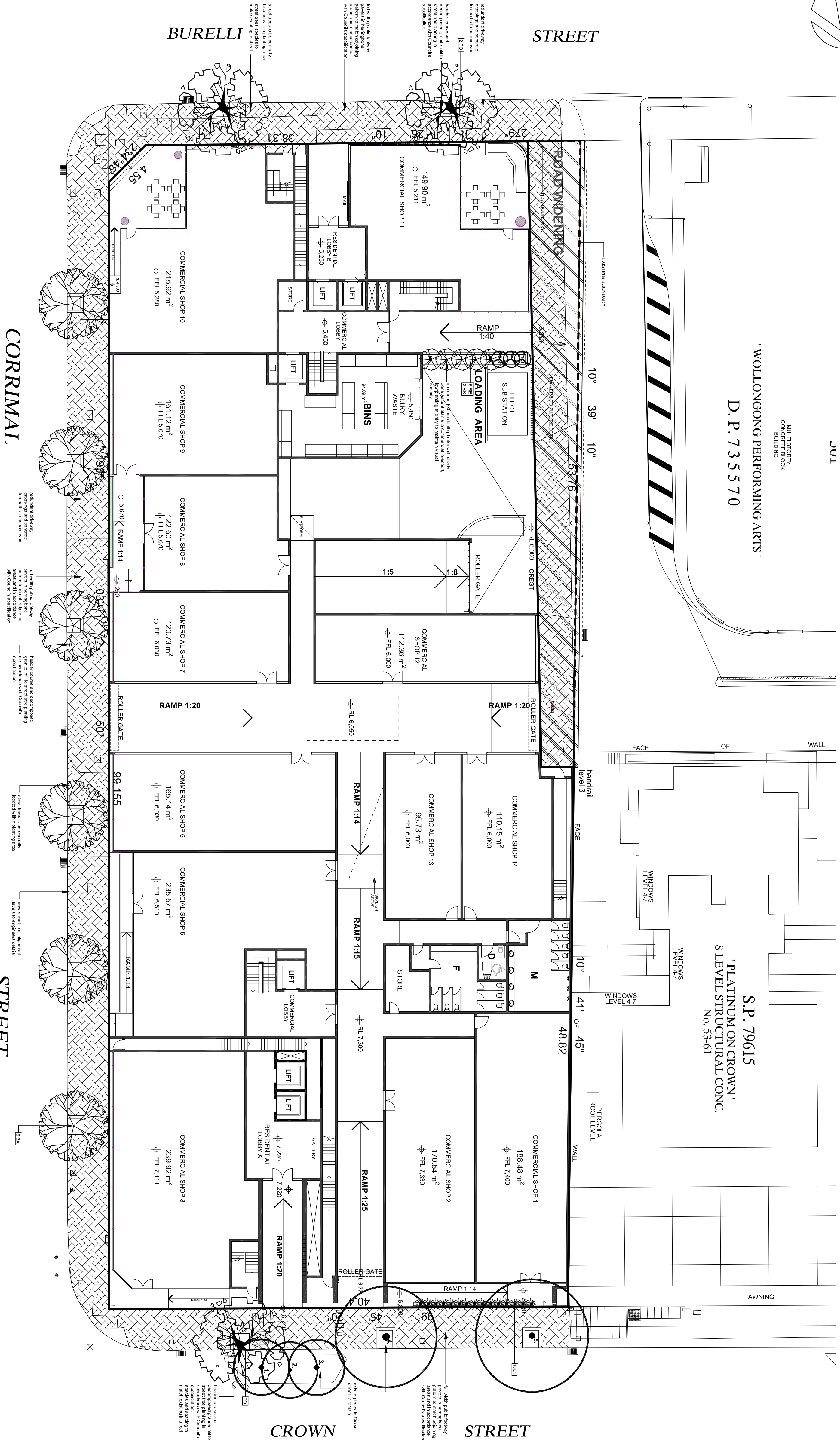


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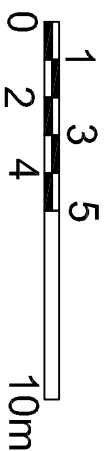
'WOLLONGONG PERFORMING ARTS'
MULTI STOREY
COMMERCIAL BUILDING
D.P. 7.3 5 5 7 0

S.P. 79615
'PLATINUM ON CROWN'
8 LEVEL STRUCTURAL CONC.
No. 53-61

PLANT SCHEDULE - GROUND FLOOR				
SPECIES	No.	Ref Size	Max. Hgt.	COMMON NAME
Platanus orientalis (Crown St & Burrell St)	3	100tr	10m+	Oliveleaf Plane
Bracteantha racemiflora (Crown St)	6	100tr	8m	Bracteantha Flame Tree
Platanus orientalis	5	22tr	2.5m	Slender Lady Palm
Platanus orientalis	3	200mm	1.2m	Slender Lady Palm
Lonicera 'Nelly'	15	150mm	0.8m	Blue Mat Rush



Landscape plan- ground floor 1:200



CORRIMAL

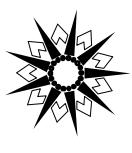
STREET

CROWN

STREET

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- NOTES
1. Vehicular pavement, fencing and built structure details shall be to Architect's specification.
2. All surface and sub-surface drainage requirements shall be to Engineers' details.
3. All dimensions shall be taken in preference to scaling.
4. All dimensions shall be taken in preference to scaling.
5. Contractors shall verify the location of all site features prior to commencing works.
6. Soil testing has not been undertaken as part of the preparation of this design.
7. A search of underground services has not been undertaken as part of the preparation of this design. It is recommended that Contractors contact DIAL BEFORE YOU DIG ON 1100 prior to commencing any works.
8. It is recommended that an approved root barrier be installed to manufactures recommendations to all tree planting in the vicinity of structures, walls and hard pavement areas.
9. It is recommended that an approved root barrier be installed to manufactures recommendations to all tree planting in the vicinity of structures, walls and hard pavement areas.
10. Common mass planted beds will require a fully automated irrigation system which is to be designed and installed by an irrigation consultant prior to planting.

B	AMENDED PAVING ALIGNMENT	20.01.14
A	REVISED ARCHITECTURAL DESIGN	07.11.13
Rev. no.	Description	Date
ARBORIST:		
SURVEY:	K F WILLIAMS & ASSOC.	
HYDRAULIC:		
ARCHITECT:	URBANLINK	
CLIENT:	OXFORD TOWERS/ PSR CROWN INVESTMENTS	



ZENITH
Landscape Designs
19 Ardlen Place, Sutherland
Ph: 9453 2200 Fax: 9453 3300
E: info@zenithlandscapes.com.au

47-51 CROWN STREET
WOLLONGONG

TITLE	LANDSCAPE PLAN- GROUND FLOOR	
STATUS	DA	SCALE: 1:200
DRAWN:	MAG	SHEET: 1 OF 3
CHECKED:	MFG	REVISION:
DATE	01.08.13	DRAWING No. 13-2715LO1 B



Plane Tree



Illawarra Flame Tree



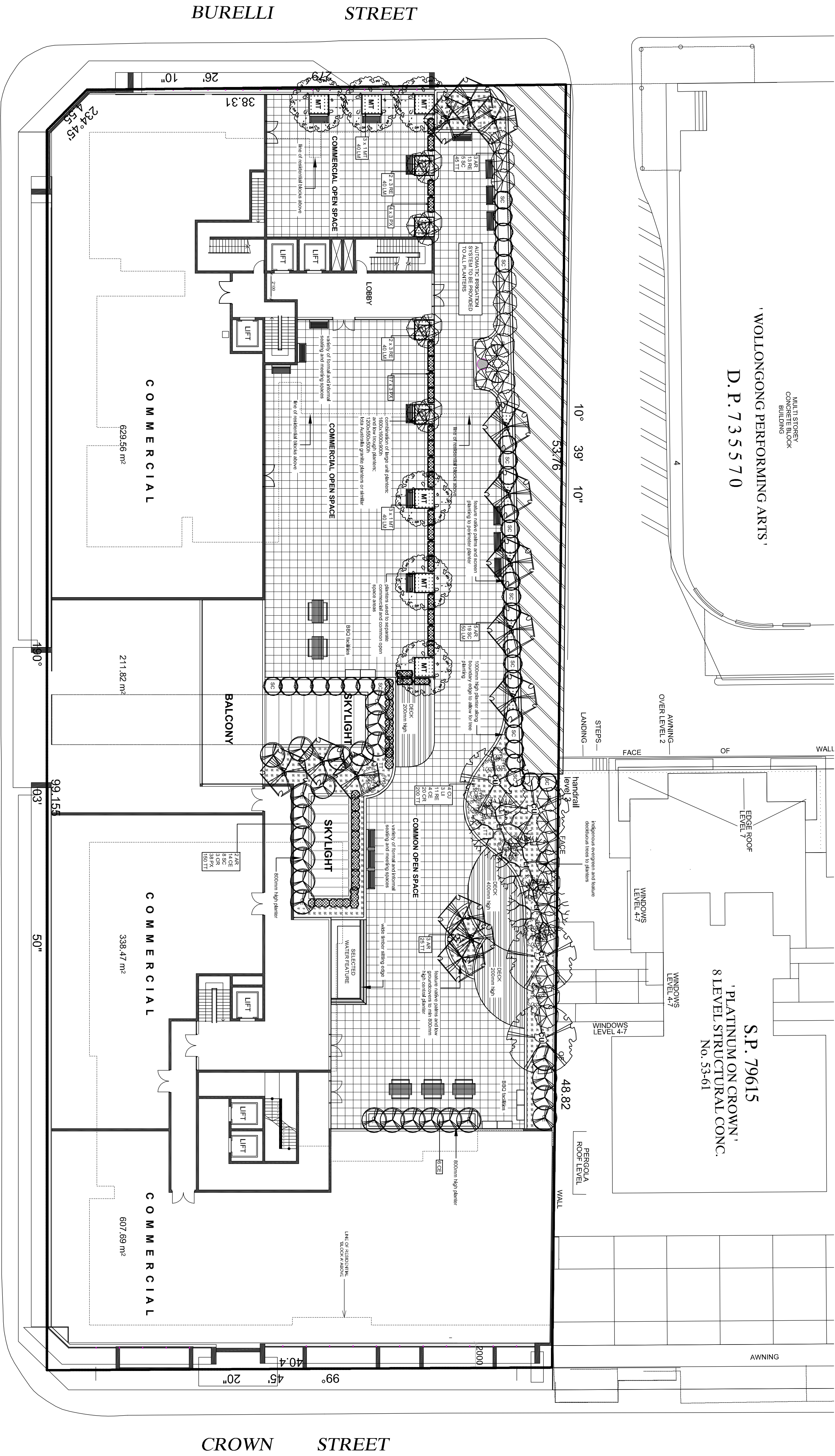
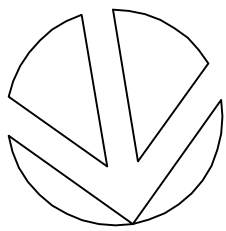
Slender Lady Palm



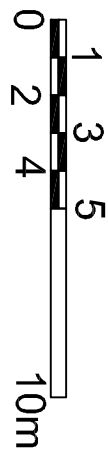
Silver Lady Fern



Blue Mat Rush



Landscape plan- Level 1 1:200



CORIMAL STREET

CROWN STREET

BURELLI STREET

COMMERCIAL

COMMERCIAL

COMMERCIAL

'WOLLONGONG PERFORMING ARTS'
D.P. 735570

S.P. 79615
'PLATINUM ON CROWN'
8 LEVEL STRUCTURAL CONC.
No. 55-61


PLANT SCHEDULE - LEVEL 1					
STAGES	No.	POS. SBN.	Mat. Lfth.	Stake	COMMON NAME
1	1	100B	6m	yes	Tuckeroo
2	2	100B	6m	yes	Tuckeroo
3	3	100B	6m	yes	Tuckeroo
4	4	100B	6m	yes	Tuckeroo
5	5	100B	6m	yes	Tuckeroo
6	6	100B	6m	yes	Tuckeroo
7	7	100B	6m	yes	Tuckeroo
8	8	100B	6m	yes	Tuckeroo
9	9	100B	6m	yes	Tuckeroo
10	10	100B	6m	yes	Tuckeroo
11	11	100B	6m	yes	Tuckeroo
12	12	100B	6m	yes	Tuckeroo
13	13	100B	6m	yes	Tuckeroo
14	14	100B	6m	yes	Tuckeroo
15	15	100B	6m	yes	Tuckeroo
16	16	100B	6m	yes	Tuckeroo
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21	21	100B	6m	yes	Tuckeroo
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99	99	100B	6m	yes	Tuckeroo
100	100	100B	6m	yes	Tuckeroo

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NOTES
1. Vehicular pavement, fencing and built structure details shall be to Architect's specification.
2. All surface and sub-surface drainage requirements shall be to Engineers details.
3. All dimensions shall be taken in preference to scaling.
4. All dimensions shall be taken in preference to scaling.
5. Contractors shall verify the location of all site features prior to commencing works.
6. Soil testing has not been undertaken as part of the preparation of this design.
7. A search of underground services has not been undertaken as part of the preparation of this design. It is recommended that Contractors contact DIAL BEFORE YOU DIG ON 1100 prior to commencing any works.
8. It is recommended that an approved root barrier be installed to manufacturers recommendations to all tree planting in the vicinity of structures, walls and hard pavement areas.
9. Common mass planted beds will require a fully automated irrigation system which is to be designed and installed by an irrigation consultant prior to planting.

B		AMENDED PAVING ALIGNMENT	20.01.14
A		REVISED ARCHITECTURAL DESIGN	07.11.13
Rev. no.	Description	Date	

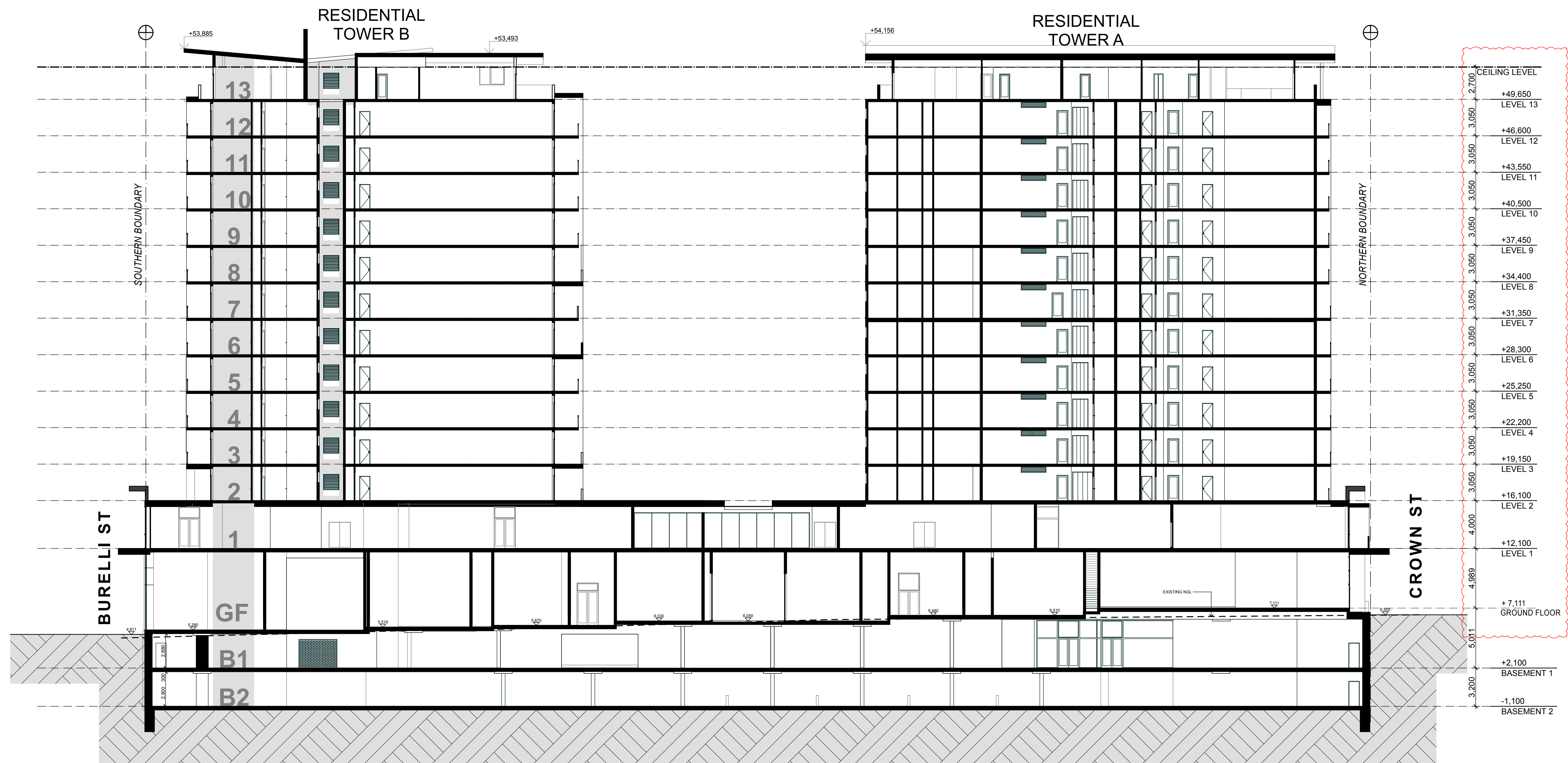
SURVEY:	K F WILLIAMS & ASSOC.
HYDRAULIC:	
ARCHITECT:	URBANLINK
CLIENT:	OXFORD TOWERS/ PSR CROWN INVESTMENTS



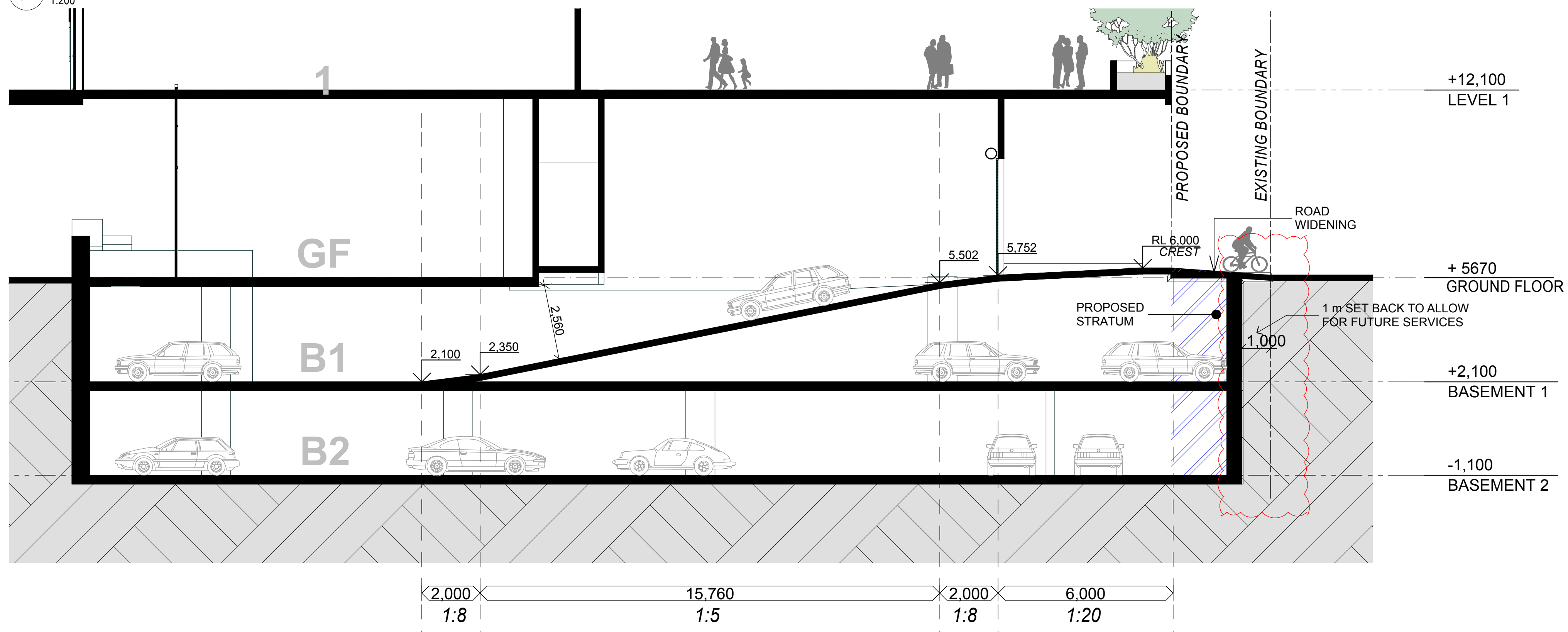
ZENITH
Landscapes Designs
19 Ashten Place, Sutherland
Ph: 94532007 Fax: 9453300
E: info@zenithlandscapes.com.au

47-51 CROWN STREET WOLLONGONG

TITLE		LANDSCAPE PLAN- LEVEL 1	
STATUS		DA	
DRAWN:		MAG	
CHECKED:		MFG	
DATE		01.08.13	



01 SECTION A-A
1:200



02 SECTION E-E
1:100

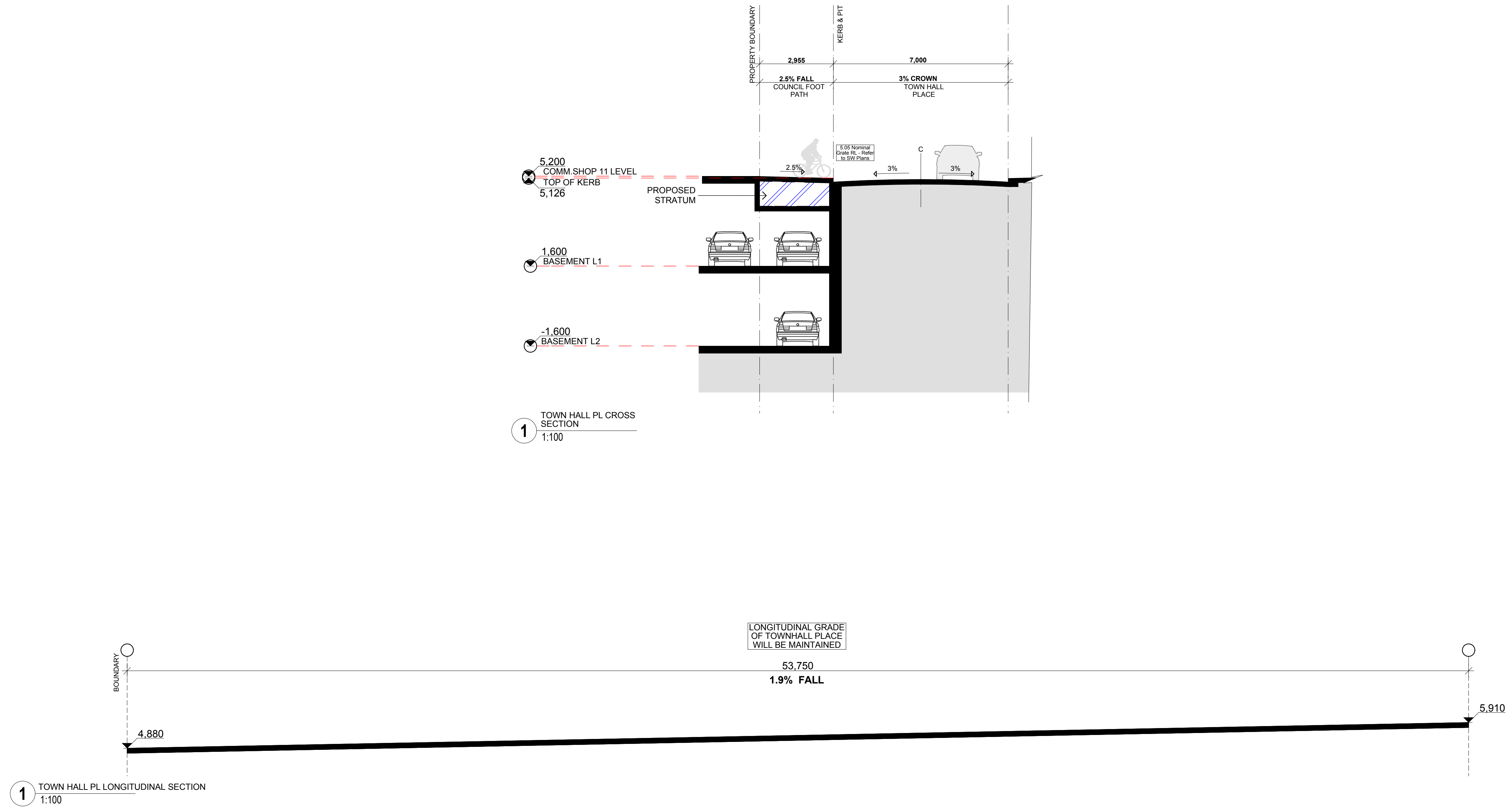
URBAN LINK
ARCHITECTS

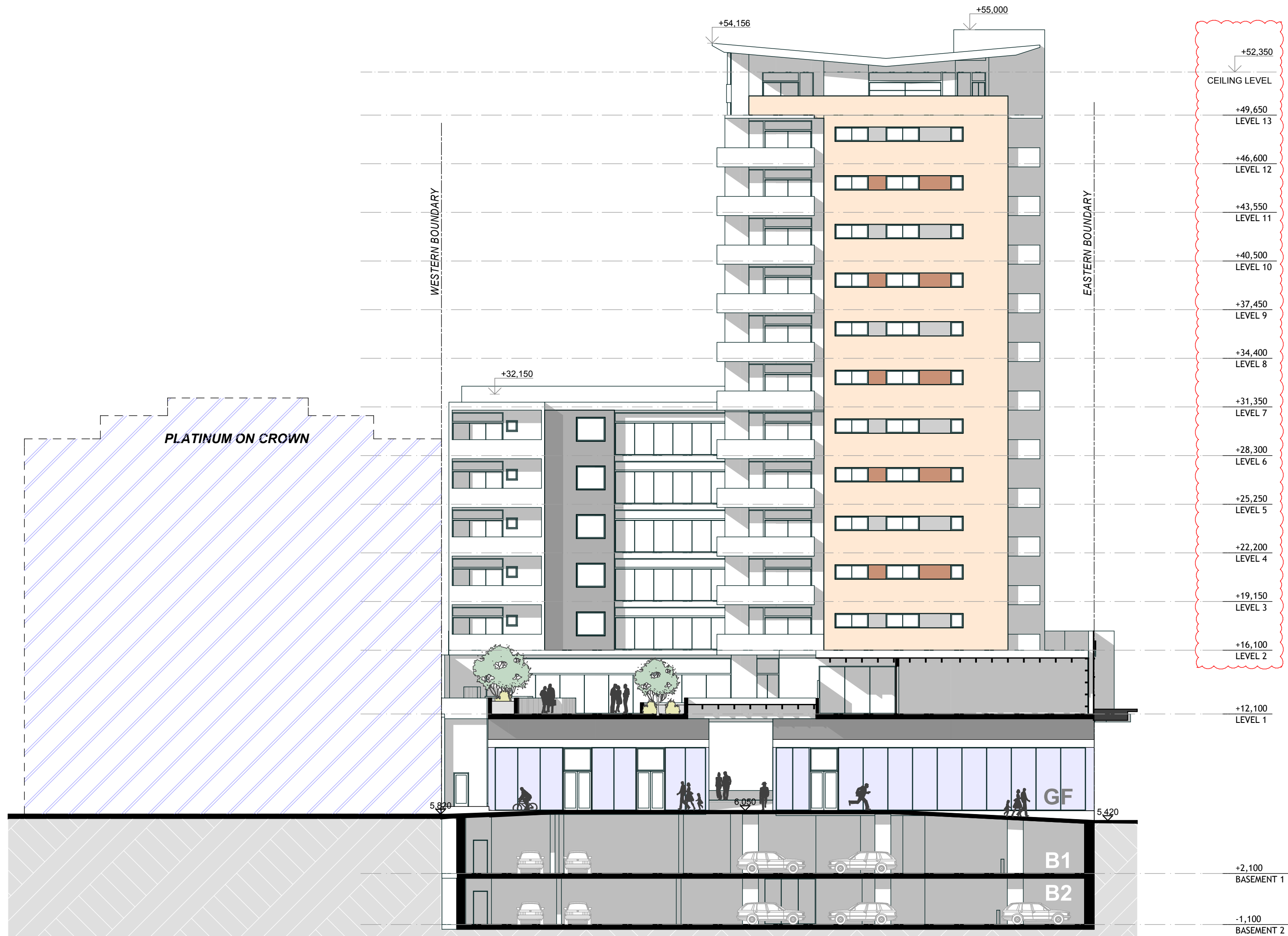
Shop 8-11 320 Liverpool Road Enfield NSW 2136
P.O. BOX 288 ENFIELD NSW 2136
Phone (02) 9745 2014 Fax (02) 9745 0984
Email info@urbanlink.com.au

DEVELOPMENT APPLICATION

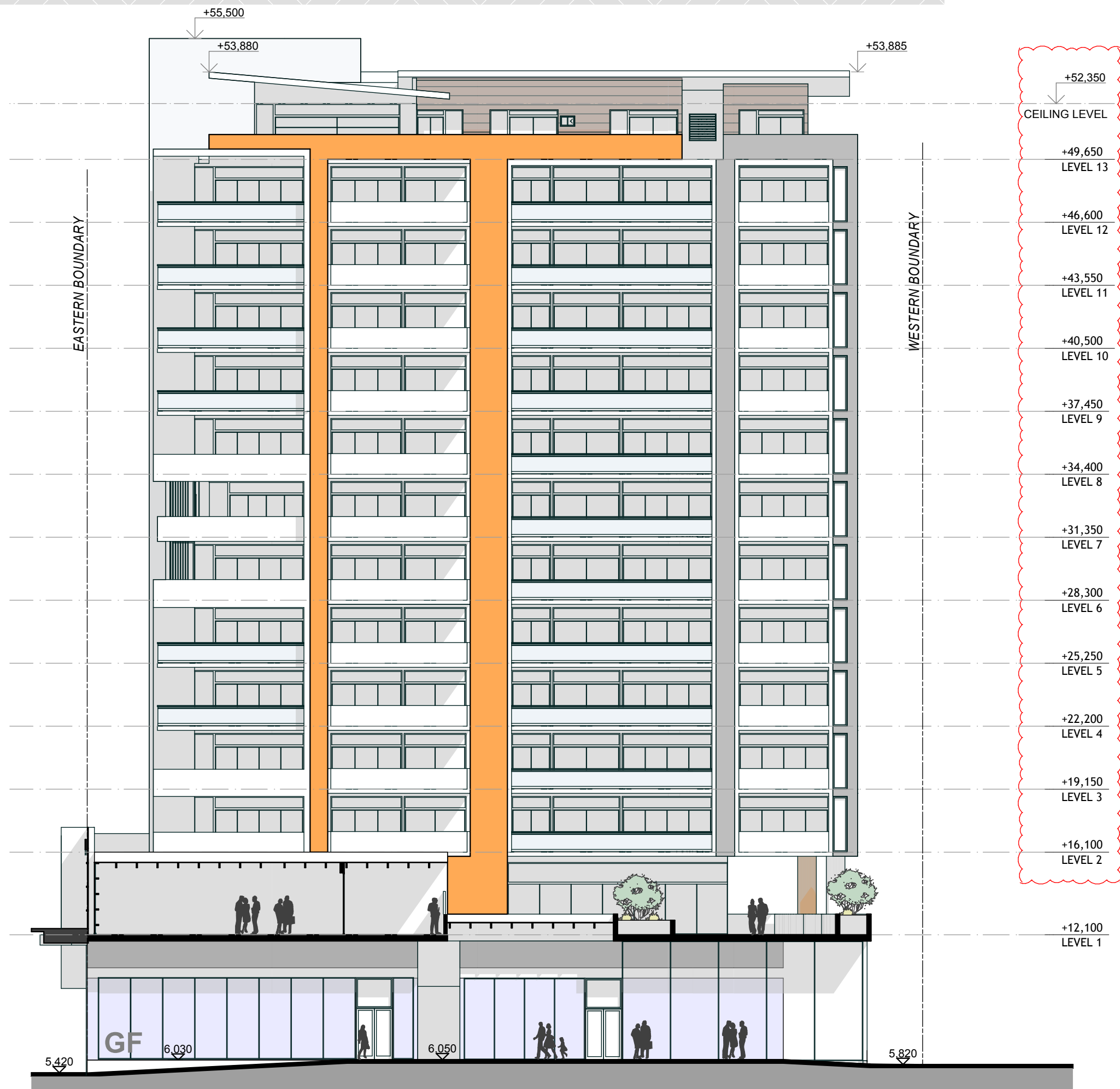
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client	PSR CROWN INVESTMENTS	scale	1:100@ A1
drawing	SECTIONS	date	06/11/2013
checked	TJ	drawn	AM
issue	B		

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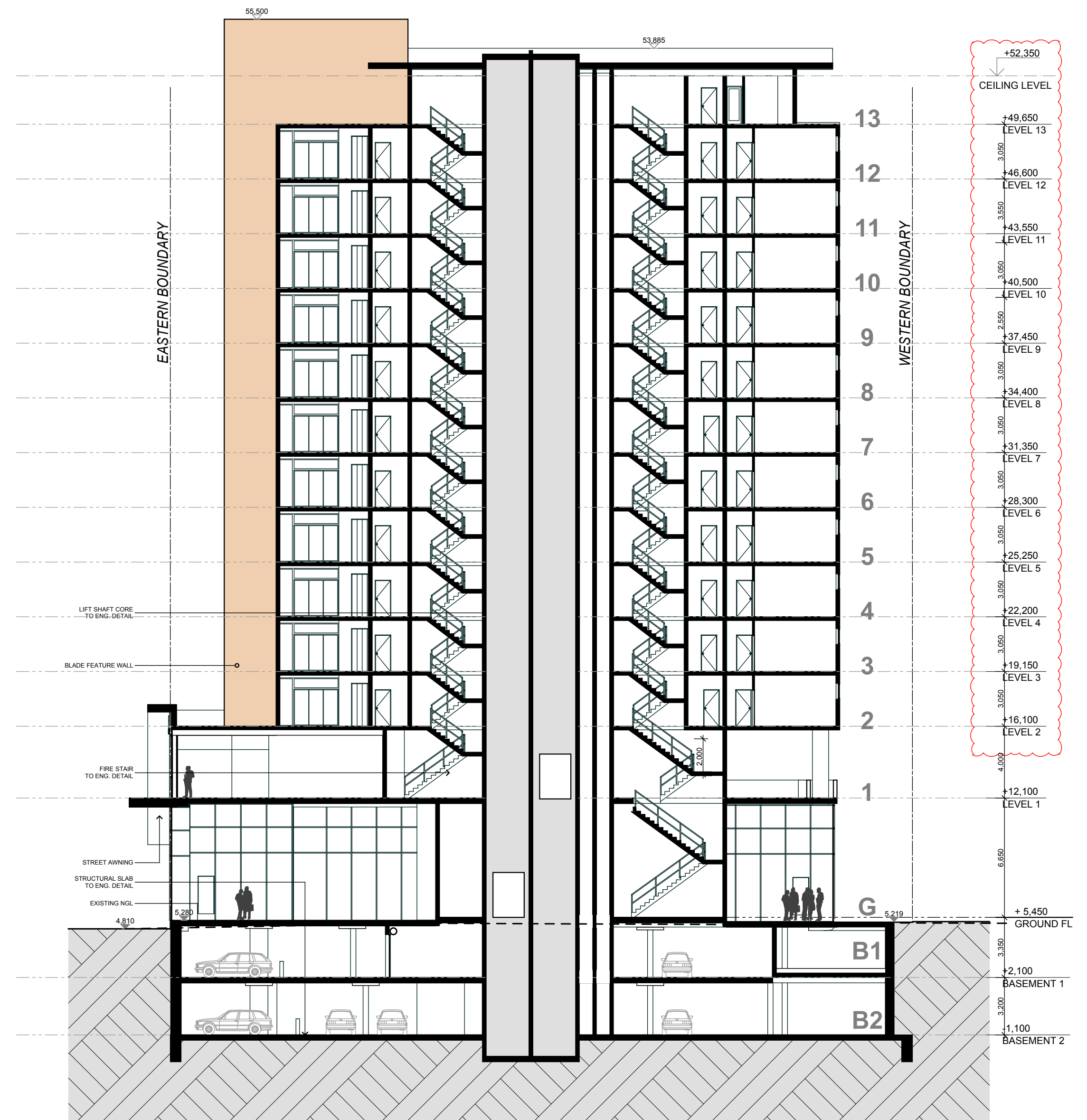




01 BUILDING A - SOUTHERN ELEVATION
1:200



02 BUILDING B - NORTHERN ELEVATION
1:200



03 SECTION B-B
1:200

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DEVELOPMENT APPLICATION

project 47-51 CROWN STREET WOLLONGONG project no 13-015

client PSR CROWN INVESTMENTS scale 1:100@ A1

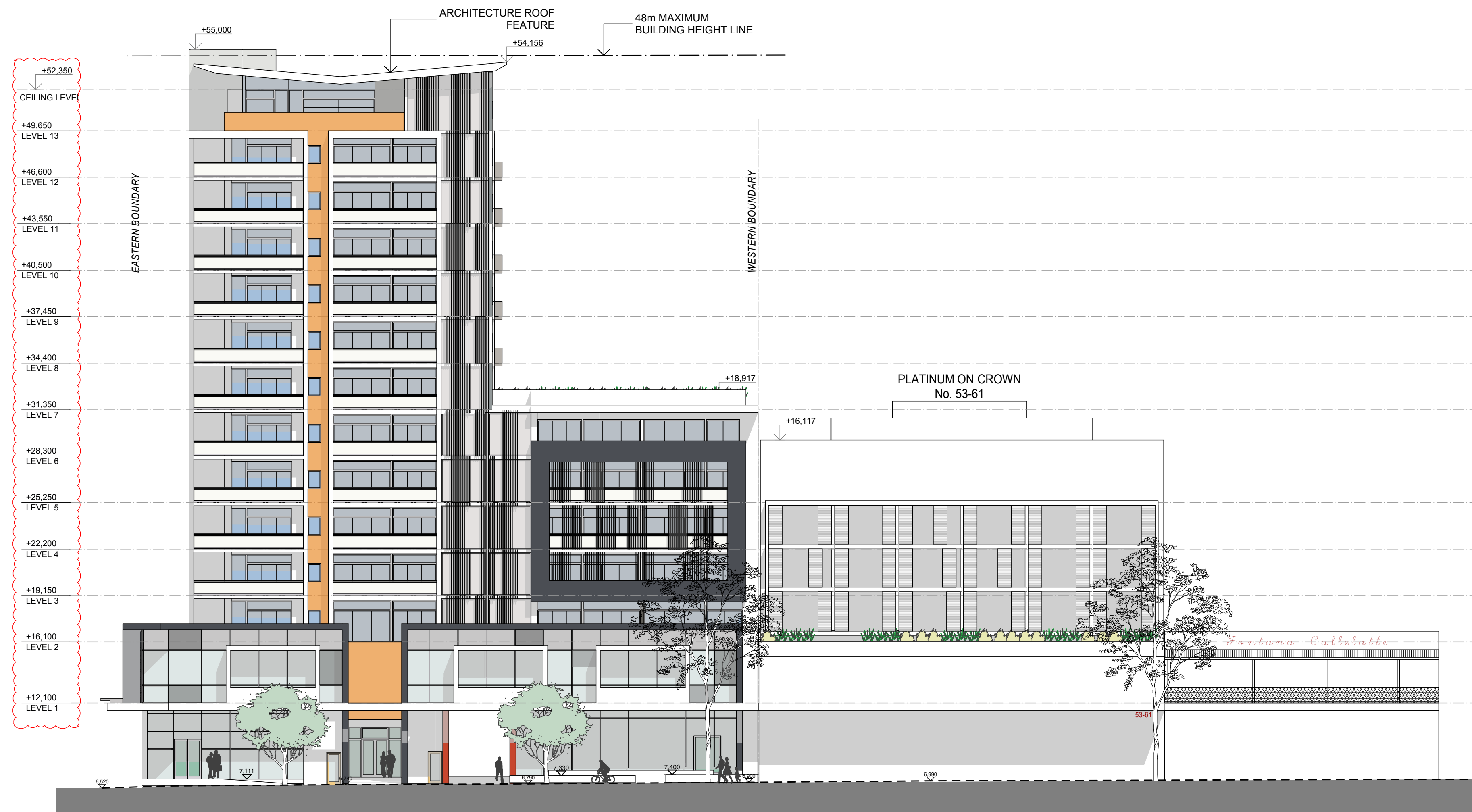
date 06/11/2013

drawing COURT-YARD ELEVATIONS drawn AM

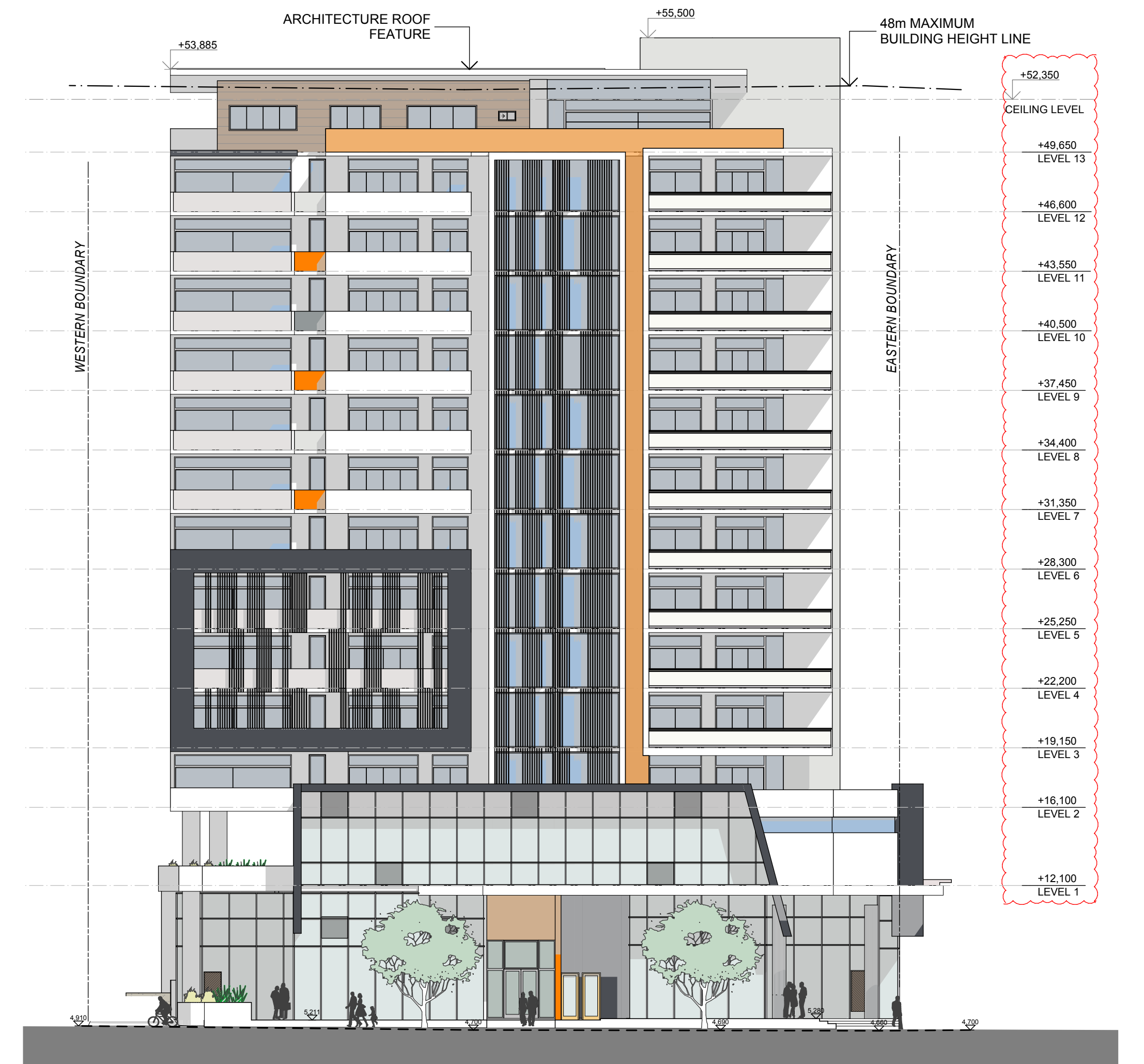
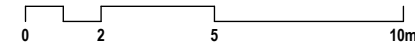
checked TJ

drawing no DA-15

issue B



01 NORTHERN (CROWN ST) STREETSCAPE ELEVATION
1:200



02 SOUTHERN ELEVATION
1:200

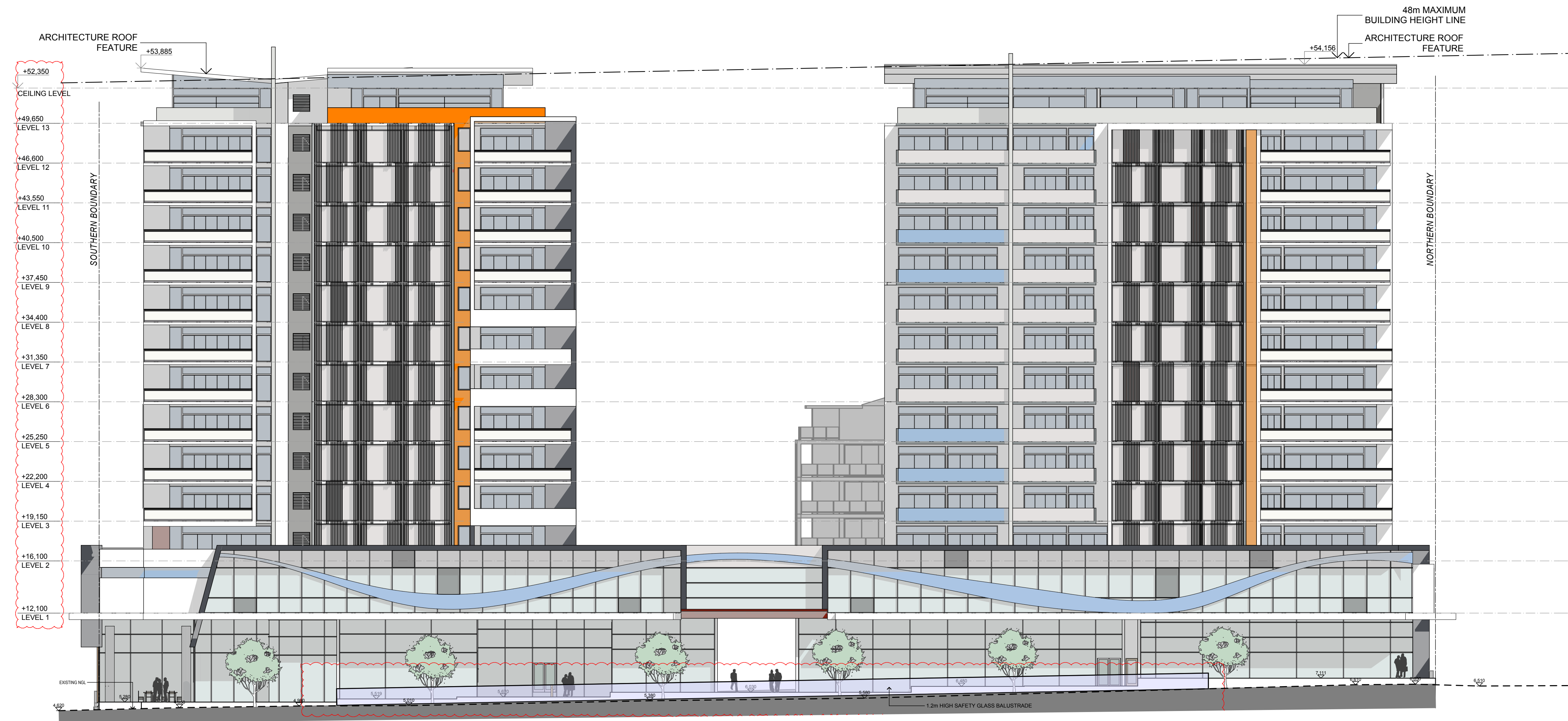
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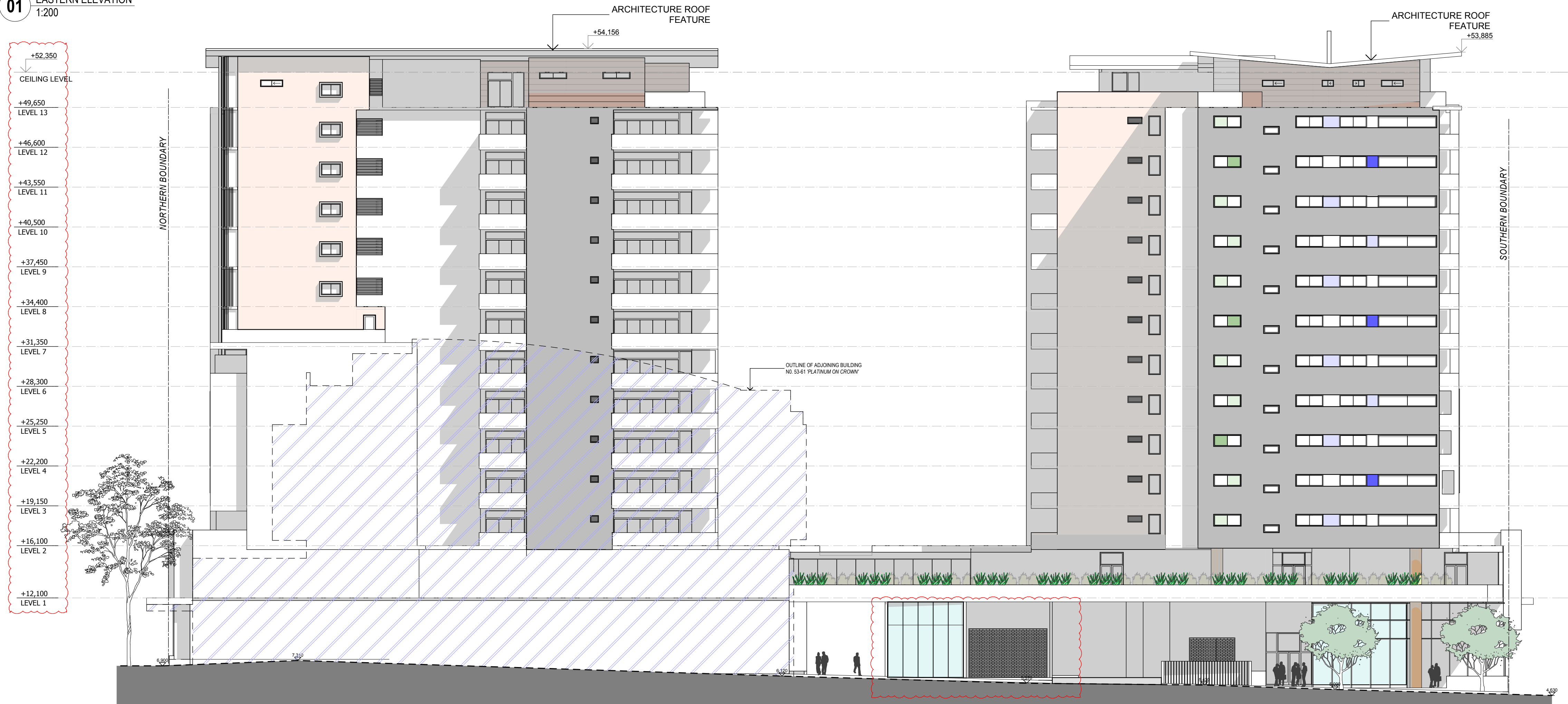
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DEVELOPMENT APPLICATION

project	47-51 CROWN STREET WOLLONGONG	project no	13-015	drawing no	DA-13
client	PSR CROWN INVESTMENTS	scale	1:100@ A1	drawn	AM
drawing	ELEVATIONS	date	06/11/2013	checked	TJ
				issue	B



01 EASTERN ELEVATION
1:200



02 WESTERN ELEVATION
1:200

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Email info@urbanlink.com.au

DEVELOPMENT APPLICATION

project	47-51 CROWN STREET WOLLONGONG	project no	13-015
client	PSR CROWN INVESTMENTS	scale	1:100@ A1
drawing	ELEVATIONS	date	06/11/2013
		drawn	AM
		checked	TJ
		issue	B

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Planning & Infrastructure

Contact: Graham Towers
Phone: 4224 9467
Fax: 4224 9470
Email: graham.towers@planning.nsw.gov.au

The General Manager
Wollongong City Council
Locked Bag 8821
Wollongong DC
NSW 2500

Dear Mr Farmer

DIRECTOR-GENERAL'S CONCURRENCE

DA 2013/986 – Proposed Mixed Use development comprising of 18 commercial suites and 135 residential dwellings at 47 – 51 Crown Street & 132 – 134 Corrimal Street, Wollongong.

I refer to your request for the concurrence of the Director General of the Department of Planning and Infrastructure for the above application under clause 4.6 of Wollongong Local Environmental Plan 2009 in relation to a proposed variation to the development standard under clause 8.6 - Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use.

I advise that the Director General has decided to grant his concurrence to the variation to the building separation development standard in this instance.

Should you have any further questions in relation to this matter, please contact Graham Towers on 4224 9467.

Yours sincerely



Mark Parker
Local Planning Manager
Southern Region



Contact: Katrina Stankowski
Phone: (02) 9873 8569
Fax: (02) 9873 8550
Email: Katrina.Stankowski@heritage.nsw.gov.au
File No: A1762126
Job ID: 13/19880
Your Ref: DA-2013/986

Ms Rachel Harrison
Senior Development Project Officer
Wollongong City Council
Locked Bag 8821
WOLLONGONG DC NSW 2500

Dear Ms Harrison

RE: Heritage comments DA-2013/986 – Construction of Mixed use development including two levels of basement parking at 47-51 Crown Street, Wollongong.

I refer to your letter dated the 20th of November referring the above development to the Heritage Council for comment. It is noted that this development was referred in accordance with Clause 5.10(7) of the Wollongong Local Environment Plan 2009 due to the potential of the site to contain archaeological remains relating to the ongoing development and use of the Oxford Hotel, which was originally constructed c. 1838.

Attached to your report was a copy of a Biosis report titled '*47-51 Crown Street, Wollongong, NSW- Historical Archaeological Assessment and Research Design*' dated 11 November 2013 and relevant plans relating to the proposed development.

At the same time, the Heritage Council also received a S140 application from PSR Crown Investment for salvage of the archaeological resource at 47-51 Crown Street, Wollongong.

The Heritage Council has chosen to determine the S140 application (2013/S140/30) in advance of providing comment to Wollongong City Council. The Heritage Council considers that should Wollongong City Council choose to approve DA-2013/986, the archaeological conditions below are sufficient to manage the archaeological resource at the site and accordingly, no further comments will be provided at this stage.

Approved Archaeological Works

01. All works shall be in accordance with the approved research design and methodology outlined in '*47-51 Crown Street, Wollongong, NSW, Historical Archaeological Assessment and Research Design*' by Biosis, dated 11 November 2013,

except as amended by the following conditions:

02. This permit covers the removal of locally significant relics, only.
03. This archaeological approval is valid for five (5) years from the date of approval. Requests for extensions beyond this time must be made in writing prior to expiry of the

permit.

Fieldwork

04. The Heritage Council of NSW or its delegate must be informed of the commencement and completion of the archaeological program at least 5 days prior to the commencement and within 5 days of the completion of work on site. The Heritage Council and staff of the Heritage Division, Office of Environment & Heritage authorised under section 148(1) of the 'Heritage Act, 1977', reserve the right to inspect the site and records at all times and to access any relics recovered from the site.
05. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in *'47-51 Crown Street, Wollongong, NSW, Historical Archaeological Assessment and Research Design'* by Biosis, dated 11 November 2013, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
06. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately. The Excavation Director must inform the Office of Environment and Heritage in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974.
07. The Heritage Council of NSW must approve any substantial deviations from the approved research design outlined in *'47-51 Crown Street, Wollongong, NSW, Historical Archaeological Assessment and Research Design'* by Biosis, dated 11 November 2013, including extent and techniques of excavations, as an application for the variation or revocation of a permit under section 144 of the 'Heritage Act, 1977'.
08. The Applicant must ensure that the approved Primary Excavation Director nominated in the section 140 application number 2013/S140/30, Dr Iain Stuart, is present at the site supervising all archaeological fieldwork activity likely to expose significant relics. If the approved Primary Excavation Director, Dr Iain Stuart, will be absent from the site for more than 50% of the duration of the archaeological activity, the Applicant must forward for the written approval of the Heritage Council or its delegate the details of a Secondary Excavation Director, Joint Director or Site Director in charge for this period.
09. The Applicant must ensure that the approved Primary Excavation Director nominated in the section 140 application 2013/S140/30, Dr Iain Stuart, takes adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with relevant Heritage Council guidelines.
10. The Applicant must ensure that the nominated Excavation Director briefs all personnel involved in the project about the requirements of the NSW 'Heritage Act 1977' in relation to the proposed archaeological program. This briefing should be undertaken prior to the commencement of on-site excavation works.
11. The Applicant must ensure that the nominated Excavation Director and the excavation team is given adequate resources to allow full and detailed recording to be undertaken to the satisfaction of the Heritage Council.

12. The Applicant must ensure that the site under archaeological investigation is made secure and that the unexcavated artefacts, structures and features are not subject to deterioration, damage, destruction or theft during fieldwork.
13. The Applicant is responsible for the safe-keeping of all relics recovered from the site.

Analysis and Reporting

14. The Applicant must ensure that the approved Primary Excavation Director or an appropriate specialist, cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
15. The Applicant must ensure that a summary of the results of the field work, up to 500 words in length, prepared by the approved Primary Excavation Director nominated in the section 140 form, Dr Iain Stuart, is submitted to the Heritage Council of NSW for approval within one (1) month of completion of archaeological field work. This information is required in accordance with section 146(b) of the 'Heritage Act, 1977'.
16. The Applicant must ensure that a final excavation report is written by the approved Primary Excavation Director nominated in the section 140 application 2013/S140/30, Dr Iain Stuart, to publication standard, within one (1) year of the completion of the field based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW in accordance with section 144 of the 'Heritage Act, 1977'.
17. The Applicant must ensure that one (1) electronic copy of the final excavation report is submitted on CD to the Heritage Council of NSW together with two (2) printed copies of the final excavation report. These reports are required in accordance with section 146(b) of the 'Heritage Act, 1977'. The Applicant must also ensure that further copies are lodged with the local library and/or another appropriate local repository in the area in which the site is located. It is also required that all digital resources (including reports, context and artefact data, scanned field notes, other datasets and documentation) should be lodged with a sustainable, online and open-access repository.
18. The Applicant must ensure that the information presented in a final excavation report includes the following:
 - a/. An executive summary of the archaeological programme;
 - b/. Due credit to the client paying for the excavation, on the title page;
 - c/. An accurate site location and site plan (with scale and north arrow) and including geo-reference data;
 - d/. Historical research, references, and bibliography;
 - e/. A statement of archaeological significance for the site (pre-excavation) and for the archaeological collection (post-excavation).
 - f/. Detailed information on the excavation including the aim, the context for the excavation, procedures, treatment of artefacts (cleaning, conserving, sorting, cataloguing, labelling, scale photographs and/or drawings, location of repository) and analysis of the information retrieved;

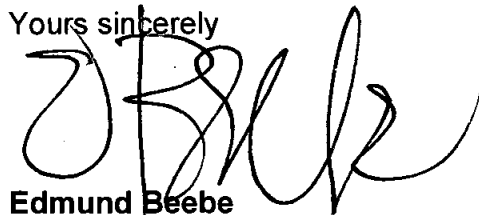
- g/. Nominated repository for the items;
- h/. Detailed response to research questions (at minimum those stated in the Heritage Council approved Research Design);
- i/. Conclusions from the archaeological programme. This information must include a reassessment of the site's heritage significance; statement(s) on how archaeological investigations at this site have contributed to the community's understanding of the on-going use of the site as a hotel, a comparison to other early hotel sites from the Wollongong area; recommendations for the future management of the site and how much of the site remains undisturbed;
- j/. Details of how this information about this excavation has been publicly disseminated (for example, provide details about Public Open Days and include copies of press releases, public brochures and information signs produced to explain the archaeological significance of the site).

Interpretation

19. The Applicant must ensure that at the completion of archaeological works, the results of the archaeological programme are interpreted within the completed redevelopment of the site. This interpretation should help the public understand the history and significance of the site.

If you have any questions regarding the above advice, please feel free to contact Katrina Stankowski at Katrina.Stankowski@heritage.nsw.gov.au.

Yours sincerely



Edmund Beebe
Acting Conservation Manager
Heritage Division
Office of Environment & Heritage
Department of Premier & Cabinet

As Delegate of the NSW Heritage Council

Our Ref: 2013-2011-0150
Your Ref: DA-2013-986

Tuesday, 29 October 2013

Rachel Harrison
Senior Development Project Officer
Wollongong City Council



Dear Ms Harrison,

Re: Clause 4.6 Objection to Clause 8.6(3) of Wollongong LEP 2009 (LEP)
The Site: 47-51 Crown Street and 132-134 Corrimal Street, Wollongong

I have been instructed by the Applicant to seek an exception to clause 8.6(3) of the LEP pursuant to clause 4.6 of the LEP.

I rely upon:

1. [PS 08-003 - Department of Planning](#)
2. [Varying Development Standards: A Guide August 2001 - NSW Department of Planning & Infrastructure.](#)

The Site

The site is as detailed by clause 3.2 of the Statement of Environmental Effects.

Submission

It has been established by a series of decisions in the Land and Environment Court that generally in order to maintain an objection that compliance with a standard is unreasonable or unnecessary, it is first necessary to discern the underlying object or purpose of the standard.

To found an objection it is then necessary to be satisfied that compliance with the standard is unnecessary or unreasonable in the circumstances of the case. Although the court has urged a generous application of SEPP No. 1 and has repeatedly declined to attempt exhaustively to define the limits of the dispensing power and, in particular, what is embraced by the expression "circumstances of the case", it is now established that it is not sufficient merely to point to what is described as an absence of environmental harm to found an objection (cf *Wehbe v Pittwater*, *Memel Holdings* etc.).

Furthermore, the objection is not advanced by an opinion that the development standard is inappropriate in respect of a particular zoning. In *Wehbe v Pittwater Council* [2007] NSWLEC 827 Preston CJ is very clear where he says:

"An objection would not be well founded by an opinion that the development standard is inappropriate in respect of a particular zoning (the consent authority must assume that standard has a purpose)."

Therefore, it is now established that although the discretion conferred by SEPP No. 1 is not to be given a restricted meaning and its application is not to be confined to those limits set by other tribunals in respect of other legislation, it is not to be used as a means to effect general planning changes throughout a municipality such as are contemplated by the plan

making procedures set out in Part III of the *Environmental Planning and Assessment Act 1979*. These principles may be reasonably applied to clause 4.6 of the Standard Instrument LEP.

Again Preston CJ confirms this when he states in *Wehbe* that:

"The dispensing power under SEPP 1 also is not a general planning power to be used as an alternative to the plan making power under Part 3 of the Act."

See also *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported).

Objections must therefore justify the departure from a development standard having regard to the above principles. In *Winton Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001) it was established that in order to apply the principles of the *Hooker* case five (5) questions should be asked. These questions form the basis of this process.

This objection under clause 4.6 of the LEP applies the "[Varying development standards: a guide](#)", published by the NSW Department of Planning and Infrastructure (DoPI) dated August 2011.

The DoPI guidelines require that the following questions be answered:

1. What is the name of the environmental planning instrument that applies to the land?

[Wollongong Local Environmental Plan 2009](#)

2. What is the zoning of the land?

B3 Commercial Core

3. What are the objectives of the zone?

Zone B3 Commercial Core

1 Objectives of zone

- *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:*
 - (a) Is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and*
 - (b) Contributes to the vitality of the Wollongong city centre.*

4. What is the development standard being varied?

Sub-clause (3) of Clause 8.6 of the LEP

8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use

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

(2) Buildings on land within Zone B3 Commercial Core or B4 Mixed Use must be erected so that:

(a) there is no separation between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and

(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.

(3) Despite subclause (2), 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.

(4) For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.

(5) In this clause:

street frontage height means the height of that part of a building that is built to the street alignment.

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 8.6(3)

6. What are the objectives of the development standard?

The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.

7. What is the numeric value of the development standard in the environmental planning instrument?

All habitable areas and balconies must be 20m from any habitable part of a dwelling contained in any other building and 16 m from any other part of any building.

8. What is proposed numeric value of the development standard in your development application?

The proposal is a NIL setback for that portion of the proposal abutting the east-facing wall of the neighbouring building known as Platinum on Crown (53-61 Crown Street, Wollongong).

9. What is the percentage variation (between the proposal and the environmental planning instrument)?

100%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?
- a. Platinum on Crown has a 7-storey high (RL29.35m) rendered masonry wall with no openings facing east on the boundary line of the site (See: Figure 1). This unarticulated high and long wall presents an undesirable urban form outcome, inconsistent with the current LEP and DCP provisions. It was clearly contemplated, by the nature of Platinum on Crown's design, that any new building on the Oxford Tavern site would be built at the same zero setback to the boundary, not only along the high portion, but also along the lower portion (RL15.135m).

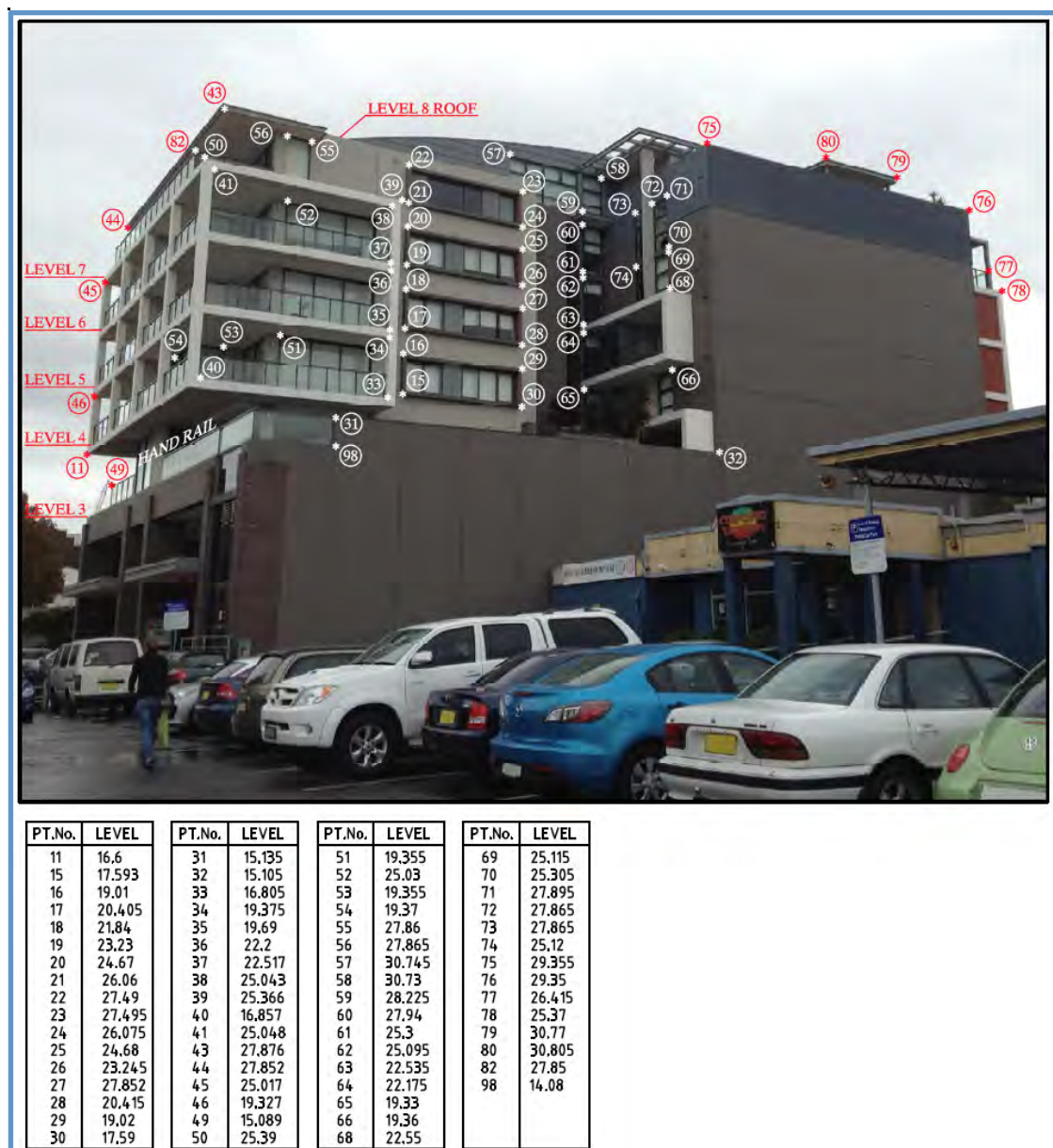


Figure 1 - Eastern Elevation Platinum on Crown

- b. The objectives of the development standard to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access have been achieved notwithstanding the numeric non-compliance with the objectives of the development standard as addressed by:

- i. Clause 9.1 of the Statement of Environmental Effects as to views
 - ii. Clause 9.2 of the Statement of Environmental Effects as to solar access as supported by the expert report prepared by Steve King issued 15 August 2013.
 - iii. Clause 9.3 of the Statement of Environmental Effects as to privacy.
 - iv. The Design Review Panel, design verification and SEPP 65 through design documentation and amended plans as to urban design outcomes.
- c. Council's Pre-Lodgement Notes – PL-2013/34 state with respect to the proposal's relationship with 53-61 Crown Street (Platinum on Crown) "it is suggested that an element of the proposed northern tower could align in both plan and height with the adjoining building."
11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The objects of this Act are:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,

Strict compliance would result in the refusal of a development, that through the design process, pre-DA advisory process, the application process including review by the Design Review Panel demonstrates design excellence including demonstration of its environmental sustainability.

Through further detailed design refinements required by the Design Review Panel it exhibits design excellence consistent with the objects of the Act, SEPP 65, RFDC, LEP and DCP.

Compliance in the circumstances of this case would produce a worse outcome.

12. Is the development standard a performance-based control?

The development standard IS NOT performance based. The development standard however, contains specific objectives and the objectives are achieved on a performance basis despite the numeric non-compliance.

13. Would strict compliance with the standard, in this particular case, be unreasonable or unnecessary? Why?

Applying [Wehbe v Pittwater Council \[2007\] NSWLEC 827](#), one or more of the following tests adequately justify why it is unreasonable and unnecessary to strictly comply with FSR development standards:

- a. the objectives of the standard are achieved notwithstanding noncompliance with the standard;

Submission: A better environmental outcome is achieved in terms of ESD, architectural form and appearance and in terms of internal amenity with no adverse environmental effects upon any neighbours. The setback objectives are not thwarted by both the proposal with the Platinum on Crown building holding NIL setbacks in generally the same location.

- b. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Submission: the setback objectives are relevant and are achieved notwithstanding the numeric non-compliance with clause 8.6(3) because two blank walls will face one another without any openings in either of the walls. This is addressed in detail under clause 10(a-d) above.

- c. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Submission: Clause 8.6 objectives are to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access. The objectives would be defeated and thwarted by requiring compliance as the most desirable setback in this specific location and circumstance is NIL, therefore compliance is unreasonable.

- d. the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Submission: There has been no detailed analysis of compliance or otherwise with the development standard as it applies to adjoining sites. It is noted however, that the height, shape bulk and external configuration of the proposal has been established through the design process to be compatible with the neighbouring developments, more specifically Platinum on Crown and to meet the desired future character as articulated by the LEP and DCP.

- e. compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

Submission: This is not applicable. The zone is B3 Commercial Core and this high-density mixed-use development is appropriate to the land and neighbouring land similarly zoned B6. The desired future character of this locality will only be achieved by any development of the Oxford Tavern site being constructed at a NIL setback to Platinum on Crown such that the large unarticulated existing and proposed walls face each other at a NIL setback.

Clause 4.6 Objection Summary

This Clause 4.6 submission represents a very robust justification for the variation to the development standard in the context of the urban form outcomes already acknowledged by the Design Review Panel and Council (through the pre-lodgement (pre-DA) meeting and notes) as the best outcome for the site and its neighbour.

The objectives of clause 8.6 are specifically addressed by the SEE and supporting information as detailed above.

The Court has established on numerous occasions that it is insufficient merely to point to an absence of environmental harm in order to sustain an Objection under SEPP No.1 *Gergely & Pinter v Woollahra Municipal Council* (1984); *Hooker Corporation Pty Ltd v Hornsby Shire Council* (1986) *Winten Property Group Ltd v North Sydney Council* (2001) and *Memel Holdings Pty Ltd v Pittwater Council* (2001) and *Wehbe v Pittwater Council* [2007].

Rather, it is necessary to demonstrate that the strict application of the development standard in question would actually hinder the attainments of the objects of the Act. In other words, would the application of the development standard result in a more optimal environmental or ecologically sustainable outcome than would occur in circumstances where the departure from the standard were permitted using the dispensing power of SEPP No. 1. (Equivalent to clause 4.6 of the LEP).

The submissions under questions above, in tandem with the Statement of Environmental Effects and supporting documents, establish that the application will better attain the objects of the Act, SEPP 65-RFDC and the LEP, with specifically with respect to the objectives of cause 8.6 of the LEP.

It must be demonstrated, that there is a positive environmental or community outcome that arises directly out of the non-compliance. This clause 4.6 objection to the development standard and the highly competent architectural design of Urban Link Pty Ltd demonstrate a better outcome. In particular the 7 storey unarticulated sidewall of Platinum on Crown will be obscured by new built form by Oxford on Crown.

Once it has been established that there is a positive outcome associated with the area of non-compliance, and that compliance with the standard would hinder the attainment of that outcome then it is necessary to establish the impact of the non-compliance. This should be done by clearly and accurately determining the extent of non-compliance.

There are no adverse environmental impacts.

The design provides SEPP 65-RFDC and DCP compliant separation ensuring acceptable acoustic and visual privacy and optimal solar access

Significantly worse environmental impacts would result from complying setbacks. The high and long unarticulated rendered masonry wall of Platinum on Crown would remain visible in the urban environment. That is an unattractive and undesirable outcome only remedied by the proposed NIL setback.

This assessment is not a merit assessment of the entire development, but rather an assessment of the specific impacts that may arise from the purported non-compliance (cf Winton Properties/Memel Holdings).

Turning one's mind to the merits of the applicant's case for objecting to the development standard (not the absence of any environmental harm) and at this application stage, without the benefit of assessing any submissions that may be made, it is submitted that the impacts of the NIL setback will deliver a better environmental outcome, that the Council and the JRPP should accept the clause 4.6 objection and apply its mind to the pure merits of the proposal.

This clause 4.6 submission should prevail to the extent that it allows a merit assessment.

The rigour of the submission rests primarily upon the design excellence exhibited by the proposal, including the better environmental outcomes to and from the development that will be delivered by the proposal.

Assumed Concurrence From The Director General of the Department of Planning

Clause 7 of SEPP 1 states that:

Where the consent authority is satisfied that the objection is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims of this Policy as set out in Clause 3, it may, with the concurrence of the Director, grant consent to that development application notwithstanding the development standard the subject of the objection referred to in clause 6.

In March 1989, Circular B1 advised councils that they may assume the Director-General of Planning & Infrastructure's concurrence under SEPP 1 in relation to all development applications, with the following exceptions:

- a. To erect a dwelling on an allotment of land zoned rural or non-urban or within the zones listed in Schedule A to Circular B1 (the WLEP does not contain any of the zones specified);
- b. To subdivide land which is zoned rural or non-urban or within the zones listed in Schedule A to this Circular B1 (again, the WLEP does not contain any of the zones specified).

Council's may assume the Director-General's concurrence under SEPP 1 in relation to these applications but only if;

- i. Only one allotment does not comply with the minimum area; and
- ii. That allotment has an area equal to or greater than 90 percent of the minimum area specified in the development standard.

Circular PS 08-003 Variations to development standards, dated May 2008, confirmed those arrangements;

"To avoid any doubt, this notification does not vary existing notifications to councils for assumed concurrence of the Director-General in respect of applications under SEPP 1. "

There is tension between Circular PS 08-003, and PS08-014 - Reporting Variations to Development Standards dated 14 November 2008.

PS08-014 states under 'further requirements' that provided that any development application which involve a SEPP 1 related to a departure greater than 10% from a development standard should be determined by Council.

On the face of the planning circular (PS-08-014), it is accepted that the requirement for any application seeking a variation greater than 10% in standards under SEPP 1 is a suggestion for 'good practice'. It is our view that this is not a fetter on Council or JRPP's assumed concurrence under clause 64 of the *Environment Planning and Assessment Regulation 2000* ("the Regulation") because PS 08-03 explicitly confers assumed concurrence.

We are nevertheless advised by Council and the Wollongong Regional Office of the Department of Planning and Infrastructure (DoPI) that in the case of Wollongong City Council, following the ICAC review of previous issues, that the Director General has specifically withdrawn the Council's assumed concurrence and that this clause 4.6 submission must be referred to the Regional Office of the DOPI to obtain concurrence.

The applicant would request the DoPI in addressing the above to contact the Applicant if any additional information is required to enable concurrence to be given.

The Department's intention that substantive departures (i.e. those which exceed 10%) from a development standard are determined in an open and transparent forum, are supported by the Applicant and the JRPP is capable of delivering this outcome.

Conclusion

A better environmental outcome is achieved by the proposal abutting the existing large blank unarticulated east facing wall of the neighbouring building Platinum on Crown, at a NIL boundary setback, as proposed.

Please don't hesitate to contact me on 0408 463 714 or by email brett@daintry.com.au.

Yours faithfully,



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Residential Flat Design Code

SEPP 65 – Residential Flat Design Code		
	Required	Comment
PART 1.0 LOCAL CONTEXT		
Residential Flat Building Type	Suitable for site context	Residential Flat Building (tower apartment)
Amalgamation and Subdivision	Encouraged	The subject site consists of five lots, it is recommended consolidation be required as a condition of consent if DA is supported.
Building Envelopes Height	Test height against FSR to ensure good fit.	Proposed building height is within the maximum permitted in the zone.
Building Envelopes – Building Depth	In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.	<p>Northern Tower – greatest depth of 17m at the widest point. However all apartments having good access to natural light and ventilation with the maximum depth of largest apartment is 10m. Satisfactory daylight access available to all units. Satisfactory daylight access available to all units.</p> <p>Southern Tower- greatest depth of 18m. However all apartments having good access to natural light and ventilation with the maximum depth of largest apartment is 10m. Satisfactory daylight access available to all units.</p> <p>The proposal considered acceptable.</p>
Building Envelopes – Building Separation	<p><u>Objectives</u></p> <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. To provide visual and acoustic privacy for existing and new residents. To control overshadowing of adjacent properties and private or shared open space. To allow for the provision of open space with appropriate size and proportion for recreational activities for building occupants. To provide deep soil zones for 	<p><u>Northern Tower</u></p> <p><u>Western Boundary</u></p> <p>Located to the west of the site is an 8 storey ‘shop top housing development’ known as Platinum (Approved via DA-2004/305. This development comprises 6 levels of residential ground floor and first floor commercial/retail over basement parking.</p> <p>The eastern wall of the development has been built on the boundary ie. a nil setback.</p> <p><u>Ground and First Floor</u></p> <p>Commercial/Retail floor built to boundary. Complies</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	<p>stormwater management and tree planting, where contextual and site conditions allow.</p> <p>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.</p> <p>Up to four storeys/12 metres</p> <ul style="list-style-type: none"> - 12 metres between habitable rooms/balconies - 9 metres between habitable/balconies and non-habitable rooms - 6 metres between non-habitable rooms <p>Five to eight storeys:</p> <ul style="list-style-type: none"> - 18m between habitable rooms/balconies - 13m between habitable rooms/balconies and non-habitable rooms - 9m between non-habitable rooms <p>Nine storeys plus</p> <ul style="list-style-type: none"> - 24m between habitable rooms/balconies - 18m between habitable rooms/balconies and non-habitable rooms - 12m between non-habitable rooms 	<p><u>Levels 2-6</u></p> <p>Levels 2- 6 contain the residential units and as such separation is applicable. The proposed building incorporates a NIL setback to abut the Platinum building with the same portion of the building at a NIL setback.</p> <p>This section of the building does not comply with the SEPP as there is required to be a separation of 6m between non-habitable rooms (without openings). This is discussed further within the report</p> <p>The portion of the building that is not built on the boundary is setback 17m and as such more than adequately complies with building separation.</p> <p><u>Level 7</u></p> <p>Level 7 contains a podium along the nil boundary portion of wall. This podium is located at a higher RL than that of the adjoining Platinum</p> <p><u>Levels 8-12</u></p> <p>Setback 17.7m to the boundary. Complies</p> <p><u>Level 13</u></p> <p>Setback 17.7m to the boundary. Complies</p> <p><u>Eastern Boundary</u></p> <p>There is no residential interface on the eastern boundary being the Corrimal Street frontage.</p> <p><u>Northern boundary</u></p> <p>There is no residential interface on the eastern boundary being the Crown Street frontage</p> <p><u>Southern Tower</u></p> <p><u>Western Boundary</u></p> <p>There is no interface with residential on the western boundary for the southern tower.</p> <p><u>Southern Boundary</u></p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
		<p>There is no residential interface on the southern boundary being the Burelli Street frontage.</p> <p><u>Eastern Boundary</u></p> <p>There is no residential interface on the eastern boundary being the Corrimal Street frontage.</p> <p><u>Internal Separation</u></p> <p>24m from the 2nd level and up</p>
Street Setbacks	<p>Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.</p> <p>Relate setbacks to the area's street hierarchy.</p> <p>Identify the quality, type and use of gardens and landscaped areas facing the street.</p>	<p>The building complies with the 0m front setback identified with the WDCP2009 to Corrimal and Burelli Streets and a 2m setback to Crown Street. The proposal complies.</p>
Side + Rear Setbacks	<p><i>Objectives</i></p> <ul style="list-style-type: none"> To minimise the impact of development on light, air, sun, privacy, views and outlook for neighbouring properties, including future buildings. 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>Test side and rear setback with building separation, open space and deep soil zone requirements.</p> <p>Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space</p>	<p>The setbacks are generally reasonable. Complies with the WDCP2009 and is further discussed within this section.</p>
Floor Space Ratio	<p>Test the desired built form outcome against FSR to ensure consistency with</p>	<p>The maximum permitted FSR within WLEP 2009 is 4.086:1 the proposed development provides for an FSR of</p>

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	Required	Comment
	other building envelope controls	4.084:1 The proposal complies.
PART 2.0 SITE DESIGN		
Deep Soil Zones	A minimum of 25% of the open space area of the site should be a deep soil zone; more is desirable.	The site is located within the city core and as such allows for boundary to boundary commercial development. Deep soil zones within the commercial core are not required. Podium planting is required and been provided.
Fences and Walls	<p>Compatible with existing street character.</p> <p>Delineate public and private domain.</p> <p>Select durable materials.</p> <p>Enhance open spaces by incorporating planter boxes, seats, BBQs etc.</p>	The subject site is located within the commercial core. The ground floor is to be used entirely for commercial/retail activities and car parking. At this level there is no delineation of public and private domains required. The proposal complies.
Landscape Design	<p>Improve amenity of open space.</p> <p>Contribute to streetscape character and public domain.</p> <p>Improve energy efficiency & solar efficiency of dwellings and private open spaces.</p> <p>Landscape to contribute to site's characteristics.</p> <p>Contribute to water and stormwater efficiency.</p> <p>Provide sufficient depth of soil above slabs to enable growth of mature trees.</p> <p>Minimise maintenance.</p>	Landscape plan has been provided, and reviewed by Council's Landscape Officer. It is satisfactory and provides for dense planting within podium.
Open Space	<p>The area of communal open space (includes landscaping) should generally be at least between 25 and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.</p> <p>Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space</p>	<p>Communal open space:</p> <p>The site is located within the commercial core and as such 25% of the site being 1,048sq.m cannot be provided.</p> <p>However the proposal provides for 1,044.76m² of north and west facing communal open space at the podium level with an additional 150.09 of south facing space that will likely be assigned as open space to the commercial tenancy adjoining. On level 7 of the building there</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	<p>and/or in a contribution to public open space.</p> <p>The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4 metres</p>	<p>is a further 200m² of communal open space. The extent of communal open space is extremely generous and is considered satisfactory.</p> <p>Private open space: The units have allocated balconies also achieve a minimum of 4m dimension in one direction.</p>
Orientation	<p>Plan the site to optimise solar access by:</p> <ul style="list-style-type: none"> ▪ positioning and orienting buildings to maximise north facing walls where possible ▪ providing adequate separation within the development and to adjacent buildings <p>Select building types or layouts which respond to the streetscape while optimising solar access. Where streets are to be edged and defined by buildings, design solutions include:</p> <ul style="list-style-type: none"> ▪ align buildings to the street on east-west streets ▪ use courtyards, L-shaped configurations and increased setbacks to northern (side) boundaries on north-south streets. ▪ Optimise solar access to living spaces and associated private open spaces by orienting them to the north. ▪ Detail building elements to modify environmental conditions, as required, to maximise sun access in winter and sun shading in summer. 	<p>The subject site is orientated on a north-south axis.</p> <p>A minimum number of units have single aspects. Building is aligned in accordance with the RFDC.</p> <p>The proposal complies.</p>
Planting on Structures	Recommended plant sizes are provided for varying situations.	<p>Podium planting proposed in planter beds. Council's Landscape Officer has reviewed the landscape plan and has no objection in relation to this aspect of the landscaping works.</p> <p>The proposal complies.</p>
Stormwater Management	<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 	Stormwater plan provides for on-site detention and rainwater collection and reuse. Stormwater plan appears to be consistent with the landscape plan.

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	Required	Comment
	<p>natural features, including watercourses and wetlands.</p> <ul style="list-style-type: none"> To minimise the discharge of sediment and other pollutants to the urban stormwater drainage system during construction activity 	The proposal complies.
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings	<p>The proposal has been reviewed by Council's SCAT and conditions have been provided.</p> <p>The proposal complies.</p>
Visual Privacy	<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>Building layout has been designed to minimise opportunities for direct overlooking.</p> <p>Balconies are sited such that overlooking between balconies is not possible.</p> <p>The proposal is considered acceptable.</p>
Building Entry	<p>Provide as direct a physical and visual connection as possible between street and building entry.</p> <p>Provide safe and secure access</p> <p>Provide equal access</p> <p>Provide separate entries for vehicles and pedestrians</p> <p>Appropriate design and location of mail boxes</p>	<p>Proposed building entry is located on the ground level. Entry is reasonably well defined between retail and commercial tenancies.</p> <p>Entry is safe. It is assumed that key control will be required.</p> <p>Access is level. Access from adaptable parking spaces within the basement will be via the lift. Conditions will be required to be imposed in relation to compliance with AS 4299.</p> <p>Ramp to basement is separate to pedestrian entry.</p> <p>Mail boxes are appropriately located adjacent to the main pedestrian entry and close to the frontage.</p> <p>The proposal complies.</p>
Parking	<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, 	<p>All parking is provided within basement parking.</p> <p>A total of 245 parking spaces have been provided. The parking complies with the WDCP 2009.</p>

SEPP 65 – Residential Flat Design Code		
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	depending on building type and proximity to public transport	
Pedestrian Access	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p> <p>Follow the accessibility standard set out in AS1428 (part 1 and 2), as a minimum</p> <p>Provide barrier free access to at least 20% of dwellings in the development</p>	<p>Pedestrian access available from the street.</p> <p>Pedestrian access between car parking level and the rest of the building is via the fire stairs or lift.</p> <p>Barrier free access appears to be available to all units.</p> <p>The proposal complies.</p>
Vehicle Access	<p>Generally limit the width of driveways to a maximum of 6 metres</p> <p>Locate vehicle entries away from main pedestrian entries and on secondary street frontages</p>	<p>Proposed driveway width 6.0 metres. There are two driveways from Town Hall Place, one for services and one for parking.</p> <p>Vehicular and pedestrian access are located combined point from Town Hall Place the paving details are separated. There is only vehicle access to the site from Town Hall Place. Pedestrian access to the site is also via Burelli, Corrimal and Crown Streets.</p> <p>The proposal complies.</p>
PART 3.0 BUILDING DESIGN		
Apartment Layout	<p>Single aspect apartments should be limited in depth to 8 metres from a window</p> <p>The back of a kitchen should be no more than 8 metres from a window</p> <p>The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts</p> <p>Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory daylighting and natural ventilation should be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation)</p>	<p>The single aspect units have a maximum depth of 8m</p> <p>All kitchens comply.</p> <p>Units all have a width greater than 4m.</p> <p>All units have satisfactory solar access and natural ventilation.</p> <p>The proposal complies.</p>
Apartment Mix	Provide a variety of apartment types between studio-, one-two-, three- and	The proposed apartment mix:

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	Required	Comment
	<p>three plus-bedroom apartments, particularly in large apartment buildings. Variety may not be possible in small apartment buildings, for example, up to six units.</p> <p>Refine the appropriate apartment mix for a location by:</p> <ul style="list-style-type: none"> ▪ Considering population trends in the future as well as present market demands ▪ Noting the apartments' location in relation to public transport, public facilities, employment areas, schools and universities ▪ Locate a mix of one- and three bedroom apartments on the ground level where accessibility is more easily achieved for disabled, elderly people or families with children. ▪ Optimise the number of accessible and adaptable apartments and cater for a wide range of occupants. Australian Standards are only a minimum. ▪ Investigate the possibility of flexible apartment configurations, which support change in the future (see Flexibility). 	<p>Total 135 units</p> <ul style="list-style-type: none"> • 0 x 1 bedroom units • 87 x 2 bedroom units • 48 x 3 bedroom units <p>Whilst there are no one bedroom units the mix in this location is considered to be appropriate</p> <p>All apartments accessible via lift.</p> <p>10 units identified as adaptable.</p> <p>No units are nominated as being specifically 'affordable housing'.</p> <p>The proposal complies.</p>
Balconies	<p>Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context - noise, wind - cannot be satisfactorily mitigated with design solutions.</p> <p>Require scale plans of balcony with furniture layout to confirm adequate, usable space when an alternate balcony depth is proposed.</p>	<p>All units comply.</p>
Ceiling Heights	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <p>-in mixed use buildings: 3.3m minimum for ground floor retail or commercial and</p>	<p>Ceiling heights are 2.7m or more to all rooms. Complies</p>

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	Required	Comment
	<p>for first floor residential, retail or commercial to promote future flexibility of use</p> <p>-in residential flat buildings in mixed use areas: 3.3m minimum for ground floor to promote future flexibility of use</p> <p>-in residential flat buildings or other residential floors in mixed use buildings:</p> <p>- in general, 2.7m minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</p> <p>-for two storey units 2.4m minimum for second storey if 50 percent or more of the apartment has 2.7m minimum ceiling heights</p> <p>-for two-storey units with a two-storey void space, 2.4 metre minimum ceiling heights</p> <p>-attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum ceiling slope.</p> <p>Developments which seek to vary the recommended ceiling heights must demonstrate that apartments will receive satisfactory daylight (eg. shallow apartments with large amount of window area).</p>	
Flexibility	<p>Provide robust configurations which use multiple entries and circulation cores, especially in buildings with 15m+ length</p> <p>Provide apartment layouts which accommodate changing use of rooms</p> <p>Use structural systems which support a degree of future change in building use</p> <p>Promote accessibility and adaptability.</p>	<p>Single entry and single lift core is considered to be appropriate having regard to the size of the development.</p> <p>All units are physically accessed via lifts.</p> <p>Minimal flexibility built into design. This is considered to be appropriate having regard to the zoning of the site and the character of the neighbourhood.</p> <p>10 adaptable units are proposed and all units should be accessible.</p>
Ground Floor	Optimise the number of ground floor	No ground floor units are proposed as

SEPP 65 – Residential Flat Design Code		
	Required	Comment
Apartments	<p>apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</p> <p>Provide ground floor apartments with access to private open space, preferably as a terrace or garden.</p>	<p>the site is located with the commercial core and as such it is not encouraged to place residential on the ground floor as active street frontages are required.</p> <p>Complies</p>
Internal Circulation	<p>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. Exceptions may be allowed:</p> <ul style="list-style-type: none"> • For adaptive re-use buildings • Where developments can demonstrate the achievement of the desired streetscape character and entry response • Where developments can demonstrate a high level of amenity for common lobbies, corridors and units (cross over, dual aspect apartments) 	<p>Lift services maximum 7 units on each floor. Complies.</p>
Mixed Use	<p>Complementary uses</p> <p>Consider building depth and form in relation to each uses requirements for servicing and amenity</p> <p>Design legible circulation systems which ensure safety</p> <p>Ensure building positively contributes to public domain</p> <p>Address acoustic requirements</p> <p>Recognise ownership/lease patterns and separate requirements for BCA assessment</p>	<p>The commercial use is separate to the residential uses. The operation of the commercial component should not interfere with the residential.</p> <p>Satisfactory</p>
Storage	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> ▪ studio apartments 6m³ ▪ one-bedroom apartments 6m³ 	<p>All units have been provided with a storage area within the basement car park. Each of the storage areas has sufficient capacity. Complies</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	<ul style="list-style-type: none"> ▪ two-bedroom apartments 8m³ ▪ three-plus bedroom apartments 10m³ 	
Acoustic Privacy	<p>Use site and building layout to maximise potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings.</p> <p>Arrange apartments within a development to minimise noise transition between flats.</p> <p>Design internal apartment layout to separate noisier spaces from quieter spaces.</p> <p>Resolve conflicts between noise, outlook and views.</p> <p>Reduce noise transmission from common corridors or outside the building by providing seals at entry doors.</p>	<p>Suitable separation distances provided</p> <p>Like areas within units generally abut. Most units appear to be reasonably well designed with regard to acoustic privacy.</p> <p>As above.</p> <p>Details of entry seals are not provided. This could be dealt with by a condition of consent if the proposal is approved.</p> <p>Complies.</p>
Daylight Access	<p>Living Rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter. In dense urban areas a minimum of two hours may be acceptable</p> <p>Limit the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 10 percent of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).</p>	<p>The applicant indicates that 70.9 % of units will receive a min of three hours sunlight between 9am and 3pm.</p> <p>No single aspect unit faces south there is however 10% of units that are single aspect.</p> <p>Complies</p>
Natural Ventilation	<p>Building depths, which support natural ventilation typically range from 10 to 18 metres.</p> <p>60% of residential units should be naturally cross-ventilated.</p>	<p>Building depth measured from front to rear exceeds 18m. east-west depth variable – up to 22.5m which does not meet the 18m however the maximum depth of the unit is 7.5m and therefore achieves the natural ventilation</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	<p>25% percent of kitchens within a development should have access to natural ventilation.</p> <p>Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily be achieved, particularly in relation to habitable rooms.</p>	<p>requirements.</p> <p>76.3 % of the proposed units are cross ventilated.</p> <p>56% of kitchens have access to natural ventilation</p> <p>Single aspect apartments are limited to a maximum depth of 8m All units will receive sufficient solar access and are all naturally ventilated.</p> <p>The proposal complies.</p>
Awnings and Signage	<p><i>Objectives:</i></p> <p>Provide shelter for public streets</p> <p>Ensure signage is in keeping with desired streetscape character and with scale, detail and design of the development.</p>	<p>Awnings are proposed over the footpath as they are required by WDCP 2009</p> <p>No signage is proposed at this stage.</p>
Facades	<p>Consider the relationship between the whole building form and the façade and/or building elements.</p> <p>Compose facades with appropriate scale, rhythm and proportion, which respond to the building's use and the desired contextual character.</p>	<p>Design is of a reasonably high standard. External finishes appear to be of a high standard.</p> <p>All elevations are reasonably well treated with regard to modulation, articulation and fenestration. This assists in reducing the perception of bulk. Appropriate materials will be used.</p> <p>The proposal complies.</p>
Roof Design	<p>Relate roof design to the desired built form.</p> <p>Design the roof to relate to the size and scale of the building, the building elevations and three dimensional building form.</p> <p>Design roofs to respond to the orientation of the site, eg. by using eaves and skillion roofs to respond to sun access.</p> <p>Minimise visual intrusiveness of service elements by integrating them into the design of the roof.</p>	<p>Most of the proposed roof is angled, and complies with the maximum height limits. This is considered to be appropriate with regard to the design of other buildings within with precinct.</p> <p>Service elements are not incorporated into the roof design.</p> <p>The proposal complies.</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	Support use of roofs for quality open space in denser urban areas.	
Energy Efficiency	<p>Incorporate passive solar design techniques to optimise heat storage in winter and heat transfer in summer.</p> <p>Improve the control of mechanical space heating and cooling.</p> <p>Provide or plan for future installation of photovoltaic panels.</p> <p>Improve efficiency of hot water systems.</p> <p>Reduce reliance on artificial lighting.</p> <p>Maximise efficiency of household appliances.</p>	<p>BASIX certificate submitted in relation to the units.</p> <p>Units are designed with dual aspect, or minimum depth and so have solar access and cross ventilation. This will assist in reducing energy usage through mechanical heating and cooling.</p> <p>BASIX certificate requires use of efficient appliances.</p> <p>The proposal complies.</p>
Maintenance	<p>Design windows to enable cleaning from inside the building, where possible.</p> <p>Select manually operated systems, such as blinds, sunshades, pergolas and curtains in preference to mechanical systems.</p> <p>Incorporate and integrate building maintenance systems into the design of the building form, roof, and façade.</p> <p>Select appropriate landscape elements and vegetation and provide appropriate irrigation systems.</p> <p>For developments with communal open space, provide a garden maintenance and storage area, which is efficient and convenient to use and is connected to water and drainage.</p>	<p>Some of the windows will be accessible from either inside the building or from balconies.</p> <p>Council's Landscape Officer is satisfied generally with planting, subject to some changes being made. Conditions have been recommended in this regard.</p> <p>No details have been provided in relation to maintenance of the podium planting. If properly planted, these will not require significant maintenance works.</p> <p>The proposal considered acceptable.</p>
Waste Management	Supply waste management plans as part of the development application submission as per the NSW Waste Board	<p>Waste storage area is provided at ground floor level. Bins will be privately collected on site.</p> <p>The proposal complies.</p>
Water Conservation	Rainwater is not to be collected from roofs coated with lead or bitumen based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of	<p>Roofing materials – metal deck roof sheeting.</p> <p>BASIX certificate makes provision for</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	leaves and debris.	rainwater collection and reuse on site. The proposal complies.

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>		
Building form and character refers to the individual elements of building design that collectively contribute to the character and appearance of the built environment. The Wollongong City Centre LEP includes provisions for land use, building heights and sun access planes, floor space ratio and design excellence. The development provisions in this section of the DCP on building form are intended to encourage high quality design for new buildings, balancing character of Wollongong with innovation and creativity. The resulting built form and character of new development should contribute to an attractive public domain in central Wollongong and produce a desirable setting for its intended uses.	It is considered that the development complies with the objectives of the zone and complies with the height and FSR requirements contained within the WLEP 2009. It is considered that the application provides for appropriate built form within this location	Yes
<u>2.2 Building to street alignment and street setbacks</u>		
Commercial Core Build to the street alignment or specified setback with 4m minimum further setback above street frontage height. Balconies may project up to 600 mm into front building setbacks, provided the cumulative width of all balconies at that particular level totals no more than 50% of the horizontal width of the building façade, measured at that level. Balconies are not permitted to encroach above the public road reserve. The Commercial Core, Mixed Use (city edge) and Enterprise Corridor zones are subject to requirement for corner properties to provide a 6m x 6m corner splay.	The building is being built to the street alignment up to the 8 th floor.	Yes
<u>2.3 Street frontage heights in commercial core</u>		
The 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 front as shown in Figure 2.3.	The development provides for zero setback to the building on the western boundary however the commercial façade is setback to allow for pedestrian access ramps. The proposal seeks to replicate the existing podium height of the Platinum on Oxford building. This horizontal line then continues around the corner into Corrimal Street and	Yes

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
	maintains the same RL to and then around the corner into Burrelli Street.	
<u>2.4 Building depth and bulk</u>		
<p>The maximum floorplate sizes and depth of buildings are</p> <p>Non-residential in Commercial Core above 24m height 25m is 1,200m²</p> <p>Residential and serviced apartments in Commercial Core above 24m height is 18m and 900m²</p>	The proposal adopts shallow depth residential towers consistent with the SEPP 65, the RFDC and this control.	Yes
<u>2.5 Side and rear building setbacks and building separation</u>		
<p>Up to street frontage heights commercial = 0m</p> <p>Residential uses (habitable rooms) between street frontage height and 45m = 12m</p> <p>All uses (including non-habitable residential) between street frontage height and 45m = 6m</p> <p>All uses above 45m = 14m</p>	<p>No setback is required for the commercial levels lower than 24m in height. Once there is a residential component within these levels it is required to be setback.</p> <p>To the west of the site is Platinum, positioned at a zero side boundary setback. The proposal seeks a variation to the side setback for the residential levels 2-6. Facing Crown Street adjoining Platinum of Crown to the west.</p> <p>From level 7 to level 13 the side setback to Platinum on Oxford is fully compliant at 17.7m. The zero side set back to the western boundary with Platinum on Crown (Ground to level</p> <p>Rear setbacks full comply.</p>	No – Variation sought
<u>2.6 Mixed used buildings</u>		
<p>Provide flexible building layouts which allow variable tenancies or uses on the first two floors of a building above the ground floor.</p> <p>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. In the B4 Mixed Use zone, the ground floor and first levels of a building shall incorporate a minimum 3 metre floor to ceiling height clearance, to maximise the flexibility in the future use of the building.</p> <p>Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook.</p> <p>Locate clearly demarcated residential entries directly from the public street.</p>	<p>The proposed development complies with the ceiling height requirement.</p> <p>The ground floor allows for a flexible layout and it is possible that commercial could be provided on the second floor of the development.</p> <p>Separate commercial loading dock has been provided</p> <p>Separate residential entry has been provided.</p>	Yes
<u>2.7 Deep soil zone</u>		
All residential developments must include a deep soil zone (See Figure 2.14).	Within the commercial core the deep soil cannot be provided on the ground floor as	Yes

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<p>The deep soil zone shall comprise no less than 15% of the total site area preferably provided in one continuous block and shall have a minimum dimension (width or length) of 6 metres.</p> <p>For residential components in mixed use developments in the Commercial Core, Mixed Use (city edge) and Enterprise zones, the amount of deep soil zone 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.</p> <p>Where deep soil zones are provided, they must accommodate existing mature trees as well as allowing for the planting of trees/shrubs that will grow to be mature trees.</p>	<p>the commercial can be building boundary to boundary. A deep soil zone is being provided on the podium level.</p> <p>The site has an overall area of 2,098sq.m. 15% of this equates to 314.7sq.m. The development provides for 337sq.m.</p>	
<u>2.8 Landscape design</u>		
	Council's landscape section has assessed the application and raise no objection to the proposal and has provided conditions	Yes
<u>2.9 Planting on structures</u>		
Provide sufficient soil depth and area to allow for plant establishment and growth.	Council's landscape section has assessed the application and raise no objection to the proposal and has provided conditions	Yes
<u>2.10 Sun access planes</u>		
Relevant height and setback controls for development adjacent to key public spaces apply.	The subject site is not located adjoining or within the vicinity of a key site	N/A
<u>2.11 Development on classified roads</u>		
Consent must not be granted to the development of land that has a frontage to a classified road unless the consent authority is satisfied that:	Corrimal Street is a classified road. All vehicular access is via Town Hall Place.	Yes
Where practicable, vehicular access to the land is provided by a road other than the classified road.		

3 Pedestrian amenity

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 General</u>		
<p>Pedestrian amenity incorporates all those elements of individual developments that directly affect the quality and character of the public domain. The pedestrian amenity provisions are intended to achieve a high quality of urban design and pedestrian comfort in the public spaces of the city centre. The pedestrian environment provides people with their primary experience of and interface with the city. This environment needs to be safe, functional and accessible to all. It should provide a wide variety of opportunities for social and cultural activities. The pedestrian environment is to be characterised by excellence of</p>	It is considered that the development contributes to high pedestrian amenity	Yes

design, high quality materials and a standard of finish appropriate to a regional city centre.

3.2 Permeability

Where possible, existing dead end lanes are to be extended through to the next street as redevelopment occurs.

New through site links should be connected with existing and proposed through block lanes, shared zones, arcades and pedestrian ways and opposite other through site links.

The site is not identified as requiring permeability being by way of through links.

However, Town Hall Place borders the site to the west which is then linked to Crown Street via pedestrian arcade/thoroughfare the applicant has chosen to provide for a continuation of this link and provide a pedestrian arcade/thorough from Town Hall Place through to Corrimal Street. As has been discussed elsewhere within this report RMS and Council's Traffic Section have been against its inclusion from a pedestrian safety perspective as they wish to see pedestrian funnelled towards the signalised intersections of Corrimal with Crown and Burelli Streets. However from and urban design the midblock link is encouraged in this case.

Satisfactory subject to conditions

3.3 Active street frontages

In commercial and mixed use development, active street fronts are encouraged in the form of non-residential uses on ground level.

Active street fronts in the form of non-residential uses on ground level are required along streets, lanes and through site links shown in Figure 3.4 for all buildings in the Commercial Core and Tourist zones, and for mixed use buildings in the Mixed Use (city edge) and Enterprise zones.

Residential developments are to provide a clear street address and direct pedestrian access off the primary street front, and allow for residents to overlook all surrounding streets.

The development proposes an active street frontage by way of commercial/retail located on the ground floor.

Clearly delineated residential entry points are proposed.

Yes

3.4 Safety and security

Ensure that the building design allows for casual surveillance of accessways, entries and driveways.

Avoid creating blind corners and dark alcoves that provide concealment opportunities in pathways, stairwells, hallways and carparks.

Provide entrances which are in visually prominent positions and which are easily identifiable, with visible numbering.

Provide adequate lighting of all pedestrian access ways, parking areas and building entries. Such lighting should be on a timer or movement detector to reduce energy consumption and glare nuisance.

Provide security access controls where appropriate..

Council's Safe Community Action Team assessed the application and provided conditions to the application.

Yes

3.5 Awnings		
Continuous street frontage awnings are to be provided for all new developments as indicated in Figure 3.6.	A continuous awning is being provided across the frontage of the property	Yes
Awning design must match building facades and be complementary to those of adjoining buildings.		
3.6 Vehicular footpath crossings		
In all other areas, one vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be generally permitted.	Two vehicle entry points are being proposed and one is large then the maximum 5.4m provisions.	No – Variation sought
Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts or streets with major pedestrian and cyclist activity.	This issue has been discussed further within the report.	
Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Internal on-site signal equipment is to be used to allow shared access. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date.		
3.7 Pedestrian overpasses, underpasses and encroachments		
New overpasses over streets will generally not be approved. In exceptional circumstances, new overpasses over service lanes may be considered by the consent authority subject to assessment of impacts on safety and crime prevention, streetscape amenity and activation of the public domain. In such circumstances, overpasses are to be fully glazed, not greater than 6 metres wide or more than one level high. Refer to AS 5100.1 – 2004.	See report	No – Variation sought
Longitudinal development under the road reserve is not permitted. The siting of basement carparks beneath the road reserve is not permitted for private developments. Stratum road closures for this purpose will not be permitted.		
Underpasses may be considered by the consent authority for direct connection under adjacent streets to railway stations: i) Where they would substantially improve pedestrian safety and accessibility, and ii) Incorporate active uses, particularly at entry and exit points.		
3.8 Building exteriors		
Articulate facades so that they address the street and add visual interest.	It is considered that the building exterior of the building provides for good design and interest.	Yes
External walls should be constructed of high quality and durable materials and finishes with ‘selfcleaning’ attributes, such as face brickwork, rendered brickwork, stone, concrete and glass.	Building alignment and setbacks are appropriate	
Finishes with high maintenance costs, those susceptible to degradation or corrosion from a coastal or industrial	Appropriate material and finishes selection	
	The proportions are acceptable. Building is modulated and well articulated.	
	Variety of materials are used	

environment or finishes that result in unacceptable amenity impacts, such as reflective glass, are to be avoided.

Limit opaque or blank walls for ground floor uses to 30% of the street frontage.

Maximise glazing for retail uses, but break glazing into sections to avoid large expanses of glass.

The design of roof plant rooms and lift overruns is to be integrated into the overall architecture of the building.

3.9 Advertising and signage

Signs are to be designed and located to:

- i) Relate to the use of the building,
- ii) Be visually interesting and exhibit a high level of design quality,
- iii) Be integrated and achieve a high degree of compatibility with the architectural design of the supporting building having regard to its composition, fenestration, materials, finishes, and colours, and ensure that architectural features of the building are not obscured,
- iv) Have regard to the view of the sign and any supporting structure, cabling and conduit from all angles, including visibility from the street level and nearby higher buildings and against the skyline, and
- v) Have only a minimal projection from the building.

No advertising is proposed at this point in time

N/A

3.10 Views and view corridors

Existing views shown in located with the view corridor are to be protected to the extent that is practical in the planning and design of development.



The subject site is not located within the established view corridor
Discussed further within the report

Satisfactory

4 Access, parking and servicing

Objectives/ controls	Comment	Compliance
4.1 General		
This section contains detailed objectives and controls on pedestrian access, vehicular access, on-site parking and site facilities, including refuse collection and	It is considered that the application complies with the requirements of this section of the DCP	Yes

removal. To satisfy the aims and zoning objectives of the Wollongong LEP 2009, controls in this section aim to: a) Facilitate the development of building design excellence appropriate to a regional city; b) Require parking and servicing provisions to be contained within development sites to an amount and rate adequate for the economic and sustainable growth of the city centre; c) Provide for safe and secure access; d) Minimise impacts on city amenity, the public domain and streetscape, and e) Ensure that access is provided for the disabled and mobility impaired.		
4.2 Pedestrian access and mobility		
<p>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.</p> <p>The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.</p> <p>The development must provide continuous access paths of travel from all public roads and spaces as well as unimpeded internal access.</p> <p>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.</p>	The building entry is clearly visible and unobstructed access is available	Yes
4.3 Vehicular driveways and manoeuvring areas		
	Two driveways 6m in width are proposed. Council's traffic section have assessed the application and have raised no objection to the location of the driveway	Yes
4.4 On-site parking		
<p>On-site parking must meet the relevant Australian Standard (AS2890.1 2004 – Parking facilities, or as amended).</p> <p>On-site vehicle, motorcycle and bicycle parking is to be provided in accordance with Part E of this DCP.</p> <p>To accommodate people with disabilities, provide a minimum of 1% of the required parking spaces, or minimum of 1 space per development, (whichever is the greater) as an appropriately designated and signed disabled parking space.</p>	<p>Discussed within the E3 chapter within the report.</p> <p>The proposed development provides for 245 parking spaces which comply with the minimum requirements.</p>	Yes
4.5 Site facilities and services		
<p>Mail boxes</p> <p>Provide letterboxes for residential building and/or commercial tenancies in one accessible location adjacent to the main entrance to the development.</p>	Mailboxes have been provided for within an appropriate location	Yes

<p>Communication structures, air conditioners and service vents</p> <p>a) Locate satellite dish and telecommunication antennae, air conditioning units, ventilation stacks and any ancillary structures:</p> <p>i) Away from the street frontage,</p> <p>ii) Integrated into the roof scape design and in a position where such facilities will not become a skyline feature at the top of any building, and</p> <p>A master antennae must be provided for residential apartment buildings. This antenna shall be sited to minimise its visibility from surrounding public areas.</p> <p>Waste (garbage) storage and collection <i>General (all development)</i> All development is to adequately accommodate waste handing and storage on-site. The size, location and handling procedures for all waste, including recyclables, is to be determined in accordance with Council waste policies and advice from relevant waste handling contractors.</p> <p>Service docks and loading/unloading areas Provide adequate space within any new development for the loading and unloading of service/delivery vehicles.</p> <p>Fire service and emergency vehicles</p> <p>Utility Services Development must ensure that adequate provision has been made for all essential services including water, sewerage, electricity and telecommunications and stormwater drainage to the satisfaction of all relevant authorities.</p>	<p>It will be conditioned for that these provisions are provided for in an appropriate location.</p> <p>The development provides for a garbage room of an appropriate size and location.</p> <p>Adequate service/loading dock has been provided within the development. Council's traffic section reviewed this aspect and raised no objections</p> <p>Adequate provision. Also required to comply with the BCA</p> <p>It will conditioned that the adequate arrangement and clearance certificates obtained from relevant utility authorities prior to the release of a construction certificate.</p>	
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5 Environmental management

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
5.1 General		
This section deals with energy efficiency requirements of buildings, water use and conservation, wind and solar impacts and waste management.	It is considered that the building achieves energy efficiency.	Yes
5.2 Energy efficiency and conservation		
<p>Residential</p> <p>New dwellings, including multi-unit development within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).</p>	BASIX Certificate has been submitted as part of this application	Yes

Non-Residential Comply with the Building Code of Australia energy efficiency provisions.	The plans indicate that proposed building complies with Section J of the BCA. A construction certificate cannot be issued without such compliance	
5.3 Water conservation		
Residential New dwellings, including a residential component within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX). Non-residential Water saving measures are to be incorporated into non-residential building.	A BASIX certificate has been issued for the application The plans indicate that proposed building complies with Section J of the BCA. A construction certificate cannot be issued without such compliance	Yes
5.4 Reflectivity		
New buildings and facades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers. Visible light reflectivity from building materials used on facades of new buildings should not exceed 20%. Subject to the extent and nature of glazing and reflective materials used, a Reflectivity Report that analyses potential solar glare from the proposed development on pedestrians or motorists may be required.	A schedule of finishing external materials and colours was submitted with the application. If approved, material reflectivity will be limited to 20% as required by the DCP	Yes
5.5 Wind mitigation		
	A wind effects report was submitted with the application.	Satisfactory
5.6 Waste and recycling		
	Sufficient storage has been supplied within the building for garbage storage. Adequate arrangements for collection have been made that Council's Traffic section has raised no objection.	Yes

6 Residential development standards

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
6.1 SEPP 65 and residential flat design code		
	RFDC discussed earlier in a table of compliance	Yes
6.2 Housing choice and mix		
To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size: i) Studio and one bedroom units must not be less than 10% of the total mix of units within each development, ii) Three or more bedroom units must not be less than	Total 135 units <ul style="list-style-type: none"> 0 x 1 bedroom units = 0% 87 x 2 bedroom units = 64.4% 48 x 3 bedroom units = 35.6% Whilst there are no one bedroom units the	No – discussed within the report

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
<p>10% of the total mix of units within each development, and</p> <p>iii) For smaller developments (less than six dwellings) achieve a mix appropriate to locality.</p> <p>For residential apartment buildings and multi-unit housing, 10% of all dwellings (or at least one dwelling) must be designed to be capable of adaptation for disabled or elderly residents.</p>	<p>mix in this location is considered to be appropriate.</p> <p>Within the development 6 units are adaptable equating to 12%.</p>	
<u>6.3 Dwelling houses</u>		
		N/A
<u>6.4 Multi dwelling housing</u>		
		N/A
<u>6.5 Dual occupancy</u>		
		N/A
<u>6.6 Basement Carparks</u>		
The scale and siting of the basement car park must not impact upon the ability of the development to satisfy minimum landscaping and deep soil zone requirements.	As the development involves ground floor commercial that can be built boundary to boundary no deep soil is being provided within this development.	Yes
<u>6.7 Communal open space</u>		
Developments with more than 10 dwellings must incorporate communal open space. The minimum size of this open space is to be calculated at 5m ² per dwelling. Any area to be included in the communal open space calculations must have a minimum dimension of 5m.	<p>The proposal is for 135 dwelling apartments, requiring 5m² per apartment the minimum communal open space is 675m².</p> <p>The proposal provides 1,044.76m² of north and west facing communal open space at the podium level with an additional 150.09 of south facing space that will likely be assigned as open space to the commercial tenancy adjoining. On level 7 of the building there is a further 200m² of communal open space.</p> <p>The extent of communal open space is extremely generous and is considered satisfactory</p>	Yes
<u>6.8 Private open space</u>		
Private open space must be provided for each dwelling within a residential apartment building in the form of a balcony, courtyard, terrace and/or roof garden.	Each dwelling has been provided with a balcony, complying with the minimum size and depth.	Yes
Private open space for each dwelling within a residential apartment building must comply with the following:		
i) The balcony must have a minimum area of 12m ² open space a minimum depth of 2.4 metres.	70.9% of the balconies receive 3 or more hours of sunlight on the 21 June	
The primary private open area of at least 70% of the dwellings within a residential apartment building must receive a minimum of three hours of direct sunlight between 9.00am and 3.00pm on June 21.		

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
6.9 Overshadowing		
<p>The design of the development must have regard to the existing and proposed level of sunlight which is received by living areas and private open space areas of adjacent dwellings. Sensitive design must aim to retain the maximum amount of sunlight for adjacent residents. Council will place greatest emphasis on the retention of sunlight within the lower density residential areas.</p> <p>Adjacent residential buildings and their public spaces must receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.</p>	<p>The development overshadows the eight storey residential building to the west however the required three hours of solar access is provided.</p> <p>This issue has been further discussed within the report.</p>	Yes
6.10 Solar access		
<p>The living rooms and private open space of at least 70% of apartments should receive a minimum of three hours of direct sunlight between 9.00am and 3.00pm.</p> <p>The number of single aspect apartments with a southerly aspect (south-westerly to south-easterly) is limited to a maximum of 10% of the total number of apartments proposed.</p>	<p>70.9% of the dwellings will receive 3 or more hours of sunlight on the 21 June.</p> <p>No single aspect unit faces south there is however 10% of units that are single aspect.</p>	Yes
6.11 Natural ventilation		
<p>A minimum of sixty percent (60%) of all residential apartments shall be naturally cross ventilated.</p> <p>Twenty five percent (25%) of kitchens within a development must have access to natural ventilation. Where kitchens do not have direct access to a window, the back of the kitchen must be no more than 8m from a window.</p> <p>Single aspect apartments must be limited in depth to 8m from a window.</p>	<p>76.3% of units a naturally cross ventilated.</p> <p>56% of kitchens have access to natural ventilation</p> <p>Single aspect apartments are limited to a maximum depth of 8m</p>	Yes
6.12 Visual privacy		
<p>The internal layout of buildings should be designed to minimise any direct overlooking impacts occurring upon habitable rooms and private balcony / open space courtyards, wherever possible by separating communal open space and public domain areas from windows of rooms, particularly sleeping room and living room areas.</p>	<p>It is considered that the application is suitable in regards to visual privacy. Discussed further within the report.</p>	Yes
6.13 Acoustic Privacy		
<p>Residential apartments should be arranged in a mixed use building, to minimise noise transition between apartments by 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);.</p>	<p>Like uses have been arranged in similar areas</p> <p>It is not anticipated that the development will generate significant noise.</p>	Yes
6.14 Storage		
<p>For residential apartment buildings provide a secure space to be set aside exclusively for storage as part of the basement.</p>	<p>Storage has been provided for all units at the rear of the car spaces</p>	Yes

7 Planning controls for special areas

<i>Objectives/ controls</i>	<i>Comment</i>	<i>Compliance</i>
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<u>7.1 Special areas with heritage items</u>		
	The site is located within the east Crown precinct. There are no special controls that relate to the site.	Satisfactory
<u>7.2 Special areas and Development Standards</u>		
	The proposal will not thwart the achievement of the heritage objectives as the heritage items are located upon the northern site of Crown Street and the site is south of these items having no solar affectation upon them. The new awnings to the street is satisfaction of the DCP requirement for contiguous awnings around the site will provide a pleasant spatial link between the railway station and the foreshore. The numeric controls are designed to address the northern side of Crown Street and the fine grained shop historic shop fronts and building to the north. The proposal does not detract from the heritage significance along the northern side of Crown Street.	Satisfactory
<u>7.3 Non-residential development in the enterprise corridor zone</u>		
		N/A
<u>7.4 Special area design guidelines</u>		
		N/A
<u>7.5 Design excellence</u>		
	Discussed within the LEP	Yes

8 Works in the public domain

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.	Council's landscape section has assessed the application and provided conditions in regards to the public domain.	Yes
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