

JRPP No.	2013STH032
DA No.	DA-2013/1419
Proposal	Construction of a 29 level (including basements) mixed use development incorporating retail, commercial, hotel, function, recreational and residential uses
Property	10-18 Regent Street Wollongong No. 10 – Lot 1 DP 13990 No. 12 – Lot 2 DP 13990 No. 14 – Lot 3 DP 13990 No. 16 – Lot 4 DP 13990 No. 18 – Lot 91 DP 1118346
Applicant	General Infrastructure Group Pty Ltd
Responsible Team	Development Assessment and Certification - City Centre Team (AS)

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 exceeding \$20 million [Clause 3 Schedule 4A of the Environmental Planning and Assessment Act 1979 and clause 21 of State Environmental Planning Policy (State and Regional Development) 2011]. The JRPP last considered the application on 1 December 2014 and deferred it; Table 1 below discusses the revised proposal against the deferral.

Proposal

The final revised proposal is for the construction of a 25 level mixed use building over 4 levels of basement parking. The building incorporates a hotel comprising 190 rooms/suites, 23 residential apartments and commercial floor space. The hotel is situated on levels 1-17, the commercial floor space on levels 1 & 4-6 and residential on levels 18-24. Parking for all three components is segregated across the basement levels. Vehicle access is via Regent Street. A vehicle drop off/pick up area for hotel guests is located on Rawson Street.

A departure to the Wollongong Local Environmental Plan 2009 (WLEP 2009) development standard for building separation (northern boundary) is proposed and was discussed in Council's report to the JRPP on 1 December 2014. The scheme considered by the JRPP on 1 December 2014 also incorporated a development departure to building height. The height has now been reduced to comply with the height limit.

Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan 2009. The proposal is defined 'shop top housing' and 'tourist and visitor accommodation' and is permissible with development consent.

Consultation

The final revised proposal was not required to be re-notified. See consultation at Section 2.9 for past notification.

Main issue

The central concern arising from the JRPP meeting of 1 December 2014 was the failure to achieve design excellence as required by WLEP 2009. The advice of the Design Review Panel (DRP) has been considered and it is considered that the final revised proposal now achieves design excellence.

RECOMMENDATION

It is recommended that the application be **approved** for the reasons contained in Attachment 9 to this report.

1. APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development) 2011

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 2013

Other comments / matters to be addressed

Design Review Panel

1.2 PROPOSAL

The plans submitted to the Joint Regional Panel represent the fifth major design iteration of this application. The first two versions were both non-complying in terms of floor space ratio (FSR) and height and were referred to Council's Design Review Panel (DRP) for comment. The applicant was advised Council did not support a scheme which proposed non-complying FSR and height.

The third version reported to JRPP on 21 October 2014 reduced the FSR to a level which complied with the maximum although this was achieved via internal loss of space rather than reducing the building footprint. As a result, there was little change to the proposed bulk and scale. The Design Review Panel viewed the third version and provided comment identifying parts of the building that should be redesigned. The JRPP on 21 October 2014 directed the applicant to address the comments of the DRP.

The fourth version of the project was submitted to Council on 30 October 2014, considered by the DRP on 6 November 2014 and referred to the JRPP meeting of 1 December 2014. At that meeting, Council recommended refusal of the application for the following reasons:

1. *Pursuant to the provisions of Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with Wollongong Local Environmental Plan 2009 with respect to demonstrating design excellence as required by clause 7.18 Design Excellence in Wollongong City Centre and at key sites.*
2. *Pursuant to the provisions of Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not achieve a high quality design and would adversely impact upon the existing and future desired streetscape.*
3. *Pursuant to the provisions of Section 79C (1) (d) of the Environmental Planning and Assessment Act 1979, it is considered that having regard for public submissions, the development is unsuitable with respect to design quality.*
4. *Pursuant to the provisions of Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979 it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.*

The JRPP on 1 December 2014 deferred the application pending a satisfactory response to the resolution. Council's development assessment staff now recommend approval of the application,

subject to conditions of consent. The final revised proposal following the JRPP meeting of 1 December 2014 makes amendments to:

- Context study, revised to show setbacks in relation to approved development and State Environmental Planning Policy No. 65 – Residential Flat Design Code
- Building height (reduced from 83m to 80m). There is no longer a building height development departure.
- Number of hotel levels (reduced from 18 to 17)
- Gross floor area (increased from 19980.2m² to 19982.4m²)
- Gross floor area composition (commercial was 4124.5m²/20.6% now 3786.6m²/18.9%; residential was 4178.9m²/20.9% now 4173.4m²/20.9%; hotel was 11676.8m²/58.5% now 12022m²/60.2%)
- Eastern elevation revised - refer Alternative I no screening
- Ground level/Level 1 - planter bed at western end of layback reduced to widen area for pedestrians; columns realigned with façade; operable glazing to north-eastern retail boundary; internal lounge building edge redefined. Western setback increased.
- Level 2– southern building edge/entry terrace redefined, vehicle drop-off entry/exit redefined, including 4 on-street (public/not for exclusive hotel use) parking spaces; paved plaza extended in south-east corner. Western setback increased.
- Levels 3 & 4– hotel rooms now look south instead of into void; some hotel rooms relocated to western side of Level 3; all hotel rooms access natural light and ventilation; alcove inserted into hotel corridor south-west. Western setback increased.
- Roof revised – northern end is non-trafficable; reduced façade to roof level, emphasising southern façade.
- Revised schedule of external finishes – updated to reflect Alternative I no screening

The final revised proposal seeks consent for:

- Construction of a 25 level 80.0 metre mixed use building comprising eighteen levels (inc. mezzanine) of hotel and commercial floor area, seven levels of residential apartments and four basement levels.
- Proposed gross floor area = 19980.2m²
- Proposed floor space ratio = 5.48:1 (3648.3m² site)
- Total residential units = 23 (20 x 3 bedroom, 2 x 3 bedroom sub penthouse, and 1 x 5 bedroom penthouse)
- Total hotel rooms = 190 (163 rooms + 27 suites)
- Total car parking spaces = 329
- Vehicle entry and exit to basement car park on Regent Street
- Hotel drop-off/pick up on Rawson Street
- Development departure to building separation.

The elevation plans show two alternative designs (Alternatives H and I) as offered by the applicant. It is considered that Alternative I appropriately responds to the recommendations of the Design Review Panel and assessment is based on this alternative.

Table 1: Response to JRPP resolution of 1 December 2015

JRPP resolution 1 December 2014	Comment
1. That the application be deferred for the applicant to provide the following information: a. A detailed 3D massing model analysing the location of the tower having regard to its relationship with any adjacent towers, both existing and approved, and future building envelopes envisaged under planning controls, to demonstrate compliance with SEPP 65.	A satisfactory 3D model was provided as part of the context study, dated 7 June 2015. Refer Attachment 4.
b. An improved relationship to the public domain – specifically strategies to hotel drop off point.	Plan DA-11 shows the redesigned hotel drop off/pick up location, including trimming of the western planter. The DRP and Council's traffic engineer prefer this proposal.
c. Future development of the massing of the eastern façade to reduce perceived bulk of the building.	The revised eastern elevation (Alternative I – no screening) satisfactorily addresses the concerns of the DRP.
d. A detailed response to the Design Review Panel (DRP) comments with analysis and justification.	Attachment 5 satisfactorily addresses the DRP comments, up to and including the final DRP meeting on 11 May 2015.
2. That the applicant is recommended to undertake a documented peer review of the scheme prior to discussion with the DRP and any departures of the proposed design with the recommendations of the DRP are to be supported by the peer review.	The applicant engaged Borst and Conacher Architects to review the scheme that was considered by the JRPP on 1 December 2014. The peer review process led to recommendations for design changes, which have been made within the final design. Borst and Conacher's report addressing the DRP comments up to and including the DRP meeting 10 February 2015 forms Attachment 6.
3. That the applicant, architect and planner be invited to a further DRP panel meeting at the applicant's expense to present the additional information and outcome of the peer review.	Design Review Panel meetings were held on 10 February 2015 and 11 May 2015.

1.3 BACKGROUND

The proponent has lodged several recent applications for development on the land. These are:

DA-2006/1700

DA-2006/1700 sought consent for 'Construction of a 27 storey mixed use development comprising 9 levels of commercial space, 1 restaurant level, 1 level for recreation purposes of the residents, 16 residential levels over 3.5 levels of basement parking'. The application proposed non-complying FSR (5.225:1) and height (89m). A deferred commencement consent was issued on 28 September 2007. An operational consent was not issued and the consent lapsed.

DA-2009/750 (as modified)

On 18 December 2009, Council granted consent to *Construction of a 23 level mixed use building comprising of 9 levels commercial space, 1 restaurant level, 1 residential recreation level and 12 residential levels over 3.5 levels basement car parking*. The development incorporated FSR (5.12:1) and height (80m) that complied with the relevant controls. The consent was modified on 16 May 2014 (DA-2009/750/A). The modification related to payment of section 94A contributions. This consent has not lapsed and bulk excavation is currently occurring on the land as approved by DA-2009/750/A.

PL-2013/81

A pre-lodgement meeting was held on 25 September 2013 (PL-2013/81) for the development. The FSR and height both exceeded the permissible maximum. The applicant was advised compliance with both controls would be expected in a forthcoming development application.

Customer service actions

The property has does not have any outstanding customer service actions.

1.4 SITE DESCRIPTION

The 3648m² corner site is located at 10-18 Regent Street Wollongong and is comprised of five allotments; Lots 1-4 DP 13990 and Lot 91 DP 1118436. A 106m² area of the Rawson Street road reserve adjoining Lot 91 DP 1118346 is intended to be acquired from Council and has been included in the estimated site area.

The site is currently vacant. Bulk excavation works on the site approved under DA-2009/750/A have commenced as approved, with an excavated depth of approximately 3 basement levels.

The land slopes down from the southern boundary (Rawson Street) to the northern boundary. The survey plan shows existing levels of RL35.01 in the south to RL30.19 in the north-east.

The site is located within the Wollongong City Centre central business district and approximately 135m east of the Illawarra Railway and 80m north of Crown Street.

Adjoining development is commercial and seven storeys (north), three storeys (west) and roads Regent Street (east), Rawson Street (south). The land immediately to the west of the site has approval for a seventeen storey integrated care facility, which has not been constructed. Other development in the vicinity of the site includes commercial, retail and medium to high density residential buildings

Property constraints

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

- acid sulfate soils Class 5
- NSW coastal zone
- Road widening

There are no restrictions on the title. Easements for vehicle access are located on Lot 101 DP 746430 adjoining the western boundary.

1.5 CONSULTATION

1.5.1 INTERNAL CONSULTATION

Environment Officer

No objection, subject to conditions of consent.

Geotechnical Engineer

No objection, subject to conditions of consent.

Health Inspector

No objection, subject to conditions.

Heritage Officer

No objection, subject to conditions of consent.

Landscape Architect

No objection, subject to conditions of consent.

Property Officer

On 4 February 2014, Council's Property Officer advised they have no objection, subject to finalisation of part road closure of Lot 91 DP 1118346 and transfer to the applicant. This matter can be addressed via conditions of consent.

Safer Community Action Team (SCAT) Officer

No objection, subject to conditions of consent.

Social Planner

No objection, subject to conditions of consent.

Stormwater Engineer

No objection, subject to conditions of consent.

Traffic Engineer

No objection, subject to conditions of consent.

1.5.2 EXTERNAL CONSULTATION**Department of Planning**

The Department's concurrence is required for the proposed building separation development departure. This relates to the northern boundary. The Department issued concurrence on 4 November 2014. This concurrence was included in the 1 December 2014 JRPP meeting report.

As the building height has been reduced to the permitted maximum 80 metres, a development departure is no longer proposed and the concurrence to building height (previously provided) is not required.

Endeavour Energy

On 3 March 2014, Endeavour Energy advised Council they have no objection to the development. Conditions of consent were not recommended. The final revised plans are not required to be referred to Endeavour Energy.

Roads and Maritime Services

In correspondence received 30 September 2014, the RMS advised they have no objection. No conditions of consent were recommended. The final revised plans are not required to be referred to RMS.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 SECTION 79C ASSESSMENT

(1) Matters for consideration—general

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

<i>(a) the provisions of:</i>	
<i>(i) any environmental planning instrument, and</i>	See section 2.1
<i>(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	See section 2.2
<i>(iii) any development control plan, and</i>	See section 2.3
<i>(iiia) any planning agreement that has been entered into under section 93F, or</i>	See section 2.4

<i>any draft planning agreement that a developer has offered to enter into under section 93F, and</i>	
<i>(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,</i>	See section 2.5
<i>(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),</i>	See section 2.6
<i>that apply to the land to which the development application relates,</i>	
<i>(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	See section 2.7
<i>(c) the suitability of the site for the development,</i>	See section 2.8
<i>(d) any submissions made in accordance with this Act or the regulations,</i>	See section 2.9
<i>(e) the public interest.</i>	See section 2.10

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

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

7 Contamination and remediation to be considered in determining development application

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

There is no previous history of uses that could be considered to be potentially contaminating. The site is unlikely to be contaminated and is suitable for the proposed residential and commercial

development. The excavation of soils has commenced under DA-2009/750 to accommodate a 3 level basement carpark. The land is considered suitable for the purpose for which the development is proposed to be carried out.

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. The final revised proposal has been evaluated in accordance with the design quality principles, and the Residential Flat Design Code.

Clauses 9-18 of the SEPP set out the ten design quality principles. These are:

Principle 1: Context

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

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

The applicant has provided a revised contextual analysis, including 3D modelling as required by the JRPP. The DRP formerly expressed reservations with the building’s relationship to surrounding existing and approved development. They noted a comprehensive contextual analysis had not been provided, which would ordinarily show the development as a response to the site context and confirm the suitability of the final proposed development. The revised context plans adequately provide this information.

The DRP had previously noted that the changes to the Rawson/Regent corner significantly improved connection to the Wollongong retail precinct.

The DRP’s earlier concern about the design of the eastern elevation and resulting impact on streetscape and views to the site has been resolved. The revised design satisfactorily reduces apparent width and bulk when viewed from the east. The lower level (streetscape view) is improved as a result of the remodelling of the podium and a more coherent connection with the tower results.

Principle 2: Scale

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

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

The final revised proposal has reduced the building height to 80.0m which complies with the maximum height permitted in WLEP 2009. The DRP had expressed concern that from a distance, viewers would perceive the squat proportions of the eastern elevation, enhancing the building bulk, where two more slender elements would be preferable. The revised elevation introduces a recessed central spine, visually separating the building into two components.

The DRP acknowledged improvements made prior to 1 December 2014 (realignment of commercial floorplates, removal of deep recessed commercial balconies and increased setback to the western boundary). These elements have been retained in the final revised proposal.

Principle 3: Built form

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

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The DRP in their final comment on 11 May 2015 provided detailed suggestions in relation to building form to improve the tower profile and treatment of the façade. The final revised proposal has successfully addressed matters raised by the DRP. These include the massing of the eastern elevation, the upper level profile and the relationship between the tower and podium.

The DRP also recommended changes to the hotel pick-up/drop off. The former port-cochere arrangement has been modified, with a 4-vehicle layback located partially in the road reserve to function both as hotel and general public short-term parking. Pedestrians would be required to enter the site in order to progress along the northern side of Rawson Street. The paved plaza/path has been widened to 4.7m to facilitate pedestrian access and minimise conflict with vehicles.

Principle 4: Density

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

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

The final revised proposal complies with the maximum FSR permitted for the land. The final plans satisfactorily amend the building floorplan to remove deep recessed commercial balconies and large commercial voids which were reported to JRPP on 21 October 2014. These areas had the effect of reducing the proposed FSR however occurred at the expense of quality design and a useable floorplan.

Principle 5: Resource, energy and water efficiency

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

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

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

- BASIX Certificate has been provided indicating minimum requirements are met.
- A Site Waste Management and Minimisation Plan has been provided
- The proposal is an efficient use of land in a location that is close to services and public open space.

Principle 6: Landscape

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

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

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

The final revised 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. Consideration could be given to providing communal open space areas exclusively for residents.

Principle 7: Amenity

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

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

The amenity for commercial tenants has been improved by changes to the floorplate which alter the dimensions of the commercial floor space and increased setbacks to the western boundary.

Amenity of residential tenants is generally good, with no adjoining buildings at a comparable height.

Hotel guest amenity has been improved by the rearrangement of hotel rooms on Levels 3 and 4 and provision of alternating eastern double height balconies/voids. All hotel rooms located on the building edge now have windows. Views have been maximised and all hotel rooms have access to natural light. Previous concerns about dead-end hotel corridors have been addressed by the widening of corridor ends. Way-finding on the hotel room levels has generally improved.

Principle 8: Safety and security

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

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

The final revised proposal is satisfactory with regard to safety and security. Secure access is provided to parking areas associated with each of the hotel, commercial and residential uses.

Principle 9: Social dimensions

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

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

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

The final revised proposal provides 3 and 5 bedroom units. Three adaptable housing apartments are provided. Affordable housing as regulated by a social housing provider is not proposed.

Principle 10: Aesthetics

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

Council's reasons for refusal at the JRPP meeting of 1 December 2014 centered on design excellence. In all its meeting notes, the Design Review Panel expressed concern that the proposal did not adequately embody design excellence. The final DRP comments (11 May 2105) made several suggestions to resolve outstanding design matters. These are set out in Attachment 7 and can be summarised:

- Context – verification of proposal in built context
- Eastern elevation - bulk, tower expression, podium refinement
- Hotel pick-up/drop off – the hotel's relationship with general pedestrian and vehicular traffic
- Internal amenity (hotel) – lack of access to external windows and natural light, conflict between privacy and light from reliance on voids
- Internal amenity (commercial) – floor plate depth.

The final revised proposal satisfactorily resolves the DRP's concerns in the following manner:

- Context – a comprehensive context study has been provided. This includes 3D modelling of the tower in relation with other approved developments and the current nearby permissible building envelopes. The study verifies suitability of the tower location, setbacks and height. Separation distances to other sites are shown in relation to SEPP 65.
- Eastern elevation – significant remodelling of the tower has occurred. Various more complicated treatments previously presented to the DRP have been not adopted in the final design. The apparent scale has been reduced by the insertion of the central recess, visually separating the eastern elevation into two components. The external treatment has been simplified, with the tower expression reflected in the podium exterior. The central recess, acting as a spine, anchors the podium to the tower and successfully unites the two elements. The apparent weight of the upper part of the roof has been lightened by the differentiation between the northern and southern glazing. By terminating the northern glazing at roof level, the southern glazing appears to sail lightly past, introducing movement at the very top of the building. The overall building height has been reduced to 80m, which complies with the building height control in WLEP 2009.
- Hotel pick-up/drop off – the DRP previously expressed concern at the interplay between hotel users and general public pedestrians in Rawson Street. The previous hotel porte cochere has been pushed partially off the site and a 4.5m wide layback is now provided over the boundary. This layback area would provide parking for 4 cars. Council's traffic engineer notes that as these spaces are on public land, they would be available to the public and not designated for hotel patrons. Time limited parking signage would be needed to encourage turn-over of these spaces. Referral to Council's traffic committee is required. Use of the footpath area for parking eliminates pedestrian opportunities. This has been addressed by provision of a paved plaza extending the length of the Rawson Street boundary and wrapping around Regent Street corner. The DRP had recommended a minimum 4m paved area width, and the final design width is 4.7m. The south-eastern entry terrace has also been widened to result in a more identifiable building entry.
- Internal amenity (hotel) – the majority of hotel rooms have been reconfigured to look out onto Rawson and Regent Streets, with window openings providing access to natural light and views. The remaining rooms are situated on the building edge and directly view north or west. A central atrium runs through Levels 3-6 providing additional internal light. The western hotel corridor logically leads from the lifts to the building edge, with way finding aided by the central atrium. The building width at this point prevents a circular path of travel, as rooms have been relocated to the building edge for improved light and views. Notwithstanding, the corridor end has been widened to reduce the sense of enclosure at this point.
- Internal amenity (commercial) – the DRP noted the depth of the commercial floor plate on Levels 4-6 may prevent access of natural light and reduce general occupant comfort. The

building depth has been reduced to a maximum depth to core of 17m (east-west) and 14.9 (north-south). An indicative internal layout has been provided, showing a lobby/reception area. It is noted the commercial area is provided as essentially an open area and occupants would configure their own internal space. Three commercial lifts directly access the commercial area and there may be potential for more than one tenant to use each commercial space.

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).*

Assessment of the application against the Residential Flat Design Code was included in the 1 December 2014 JRPP report.

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

The residential apartments are subject to the SEPP. BASIX certificate 502459M dated 20 November 2013 has been submitted for the apartments and is satisfactory.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Clause 104 refers to traffic generating development identified in Schedule 3 of the SEPP. The proposal incorporates shops and commercial premises exceeding 1000m² and therefore requires referral to Roads and Maritime Services. In correspondence received 30 September 2014, the RMS advised they have no objection. No conditions of consent were recommended.

2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011

The development is required to be referred to the Joint Regional Planning Panel pursuant to clause 21 of the SEPP.

2.1.7 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Wollongong Local Environmental Plan 2009 was gazetted on 26 February 2010. The relevant provisions are addressed below.

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 final revised proposal is satisfactory with regard to the above objectives. The land use proposal for mixed use development has the potential to contribute to the vitality of the city centre.

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 final revised proposal is categorised as a mixed use building comprising three separate land uses; hotel ('tourist and visitor accommodation'), commercial, and residential apartments ('residential flat building'). Where residential units are provided above commercial floor space, together they are defined 'shop top housing'.

Shop top housing and tourist and visitor accommodation are described below and are permissible in the B3 Commercial Core zone with development consent.

Clause 1.4 Definitions

Residential apartments:

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.*

The ground floor plan (Level 1) shows 'commercial' floor space including a shop in addition to the hotel.

Commercial, including Level 1 shop:

commercial premises means any of the following:

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

Hotel:

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) *backpackers' accommodation,*
- (b) *bed and breakfast accommodation,*
- (c) *farm stay accommodation,*
- (d) *hotel or motel accommodation,*

- (e) serviced apartments,
but does not include:
- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:

- (a) comprises rooms or self-contained suites, and
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note. Hotel or motel accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The maximum permitted height for the land is 80 metres. The final revised proposal reduces the height of the building by one storey, to a maximum height of 80m. The highest element occurs at RL115.688.

A development departure in relation to building height is no longer proposed.

Clause 4.4A Floor space ratio – Wollongong city centre

Since reporting to JRPP on 1 December 2014, the gross floor area has marginally increased from 19980.2m² to 19982.4m². The proposed floor space ratio (FSR) is 5.48:1.

The maximum FSR permitted on the land for a building only used for residential purposes is 3.5:1 and 6:1 where it is used only for non-residential purposes. Where a proposed building incorporates a mixture of residential and non-residential floor space, the formula detailed in subclause 4 applies.

The proportion of land use mix is 20.9% residential and 79.81% commercial.

The formula for devising the maximum permitted FSR for the site is as follows:

$$(6 \times 79.81/100) + (3.5 \times 20.9/100) = 4.788 + 0.731 = 5.519 = \text{FSR } 5.51:1$$

A FSR of 5.51:1 allows for gross floor area of 20136.79m². The proposed gross floor area is 19980.2m², which does not exceed the maximum.

Clause 4.6 Exceptions to development standards

A development departure to building separation (northern boundary, clause 8.6) remains and the development departure process specified in clause 4.6 applies. This was discussed in Council's report to JRPP report on 1 December 2014.

Clause 4.6 specifies that prior to consent being granted, Council must be 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.

Specifically, on Levels 7 and 8 the building separation to 6-8 Regent Street varies between nil and 3.349m, where 12m is required.

The building at 6-8 Regent Street does not extend higher than proposed Level 8. Plan DA32-T (east elevation) shows the separation between the proposed building and the adjoining building at 6-8 Regent Street. On proposed level 7, there would be a nil setback (and consequently nil separation) where the proposed fire stairs adjoin the boundary. Other parts of the building are set back 3.349m (therefore 3.349m separation). On Level 8 the stairs are removed and a setback of 3.349m (3.349m separation) is proposed. In this regard, non-compliance with this clause is proposed.

In relation to (a)(i), the applicant provided a statement on 30 October 2014, which satisfactorily addresses matters raised in subclause (3). The statement was forwarded to the Department of Planning.

In relation to (a) (ii), the proposed separation is considered satisfactory as the existing building has a nil setback to the shared boundary, it does not contain residential uses and the relevant part of the southern elevation has no openings. The existing building has a maximum height corresponding to Level 8 of the proposed building and therefore the separation in question occurs on only 2 levels. The proposed building activities occurring on Levels 7 and 8 are primarily hotel recreation functions, with outdoor areas and restaurants etc. No sensitive residential function would be affected. Therefore, it would be unreasonable to require the full 12m separation in the circumstances.

The concurrence of the Director General (now Secretary General) was obtained in a letter dated 4 November 2014.

Part 5 Miscellaneous provisions

Clause 5.5 Development within the coastal zone

The land is located within the NSW Coastal zone, however is not identified in Council's hazard mapping as being impacted by coastal hazards. The final revised proposal is considered to comply with matters noted in subclause 3(d), namely.

(3)(d) the proposed development will not:

- (i) be significantly affected by coastal hazards, or
- (ii) have a significant impact on coastal hazards, or
- (iii) increase the risk of coastal hazards in relation to any other land.

Clause 5.6 Architectural roof features

In the report to JRPP on 1 December 2014, Council discussed what parts of the roof were considered to be an architectural roof feature. This distinction was particularly relevant as the building height exceeded the maximum permitted.

The final revised proposal does not include architectural roof features and the overall height complies with the maximum.

Clause 5.9 Preservation of trees or vegetation

The final revised proposal does not involve removal of trees.

Clause 5.10 Heritage conservation

There are no heritage items in the vicinity of the site.

Part of the site, (no. 18 Regent Street) was at one time identified as an item of local heritage significance. Council's heritage officer has advised that Schedule 5 of Wollongong Local Environmental Plan 2009 was amended prior to lodgement of the application and 18 Regent Street is no longer identified as having heritage significance.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The application was referred to Endeavour Energy for comment. On 3 March 2014 Endeavour Energy advised they have no objection. Former development on the land was connected to utilities and it is expected that the proposed development would be able to be serviced.

Clause 7.5 Acid Sulfate Soils

The Acid Sulfate Soils Map indicates the site as being affected by acid sulfate soils Class 5. Council's environment officer has reviewed the application and recommended conditions of consent relating to soil quality, water and sediment management.

Clause 7.6 Earthworks

The final revised proposal involves excavation of approximately 8 metres and construction of a four-level basement. Council's geotechnical engineer has advised that *'most of the excavation will be in hard bedrock and difficulty is expected. The depth of rock excavation will also result in some stress relief in the exposed face. Geotechnical advice will be required to assess this and to advise on appropriate treatments to avoid adverse effects to adjoining properties'*. Relevant conditions of consent are contained in Attachment 9.

Clause 7.13 Ground floor development on land within business zones

As the site is located within the B3 Commercial Core zone, development is required to ensure active uses are provided at the street level to encourage pedestrian movements between the development and the public streets. Council must be 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 ground floor/Level 1 (refer Attachment 3) satisfies both requirements.

Clause 7.14 Minimum site width

The minimum required site width for development in the B3 Commercial Core zone is 24 metres. The survey plan shows the site has approximate dimensions of 60.49m along Rawson Street and 68.73m on Regent Street.

Clause 7.18 Design Excellence in Wollongong City Centre and at Key Sites

The objective of this clause is *'to deliver the highest standard of architectural and urban design'* and applies to the development. Clause 7.18(4) sets out specific design matters.

Clause 7.18(5) specifies that a Design Review Panel must consider applications for buildings exceeding 35 metres.

Council's Design Review Panel reviewed the application on six occasions and provided comments on 31 January 2014, 11 April 2014, 11 September 2014, 6 November 2014, 10 February 2015 and 11 May 2015. These comments address the requirements of clause 7.18(4) and 7.18(5).

The most recent comment dated 11 May 2015 forms Attachment 7.

The specific design requirements are set out in subclause (4).

- (4) *In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
 - (c) *whether the proposed development detrimentally impacts on view corridors,*
 - (d) *whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,*
 - (e) *how the proposed development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*

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

As required by subclause (3), development consent must not be granted unless in the opinion of the consent authority, the proposed development exhibits design excellence. Having regard to matters raised by the Design Review Panel, the architect's written response (Attachment 5) and the final revised proposal, the project satisfactorily achieves design excellence. In particular, the bulk and massing of the building has been reduced and a more coherent modulation results from changes to the eastern elevation and podium levels. Overall, a higher standard of architectural treatment is now proposed, with the building suitability verified by the more rigorous context analysis. Changes made to materials and detailing now successfully unite the tower and podium elements.

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,*
- (b) to strengthen the regional position of the Wollongong city centre as a multifunctional and innovative centre that encourages employment and economic growth,*
- (c) to protect and enhance the vitality, identity and diversity of the Wollongong city centre,*
- (d) to promote employment, residential, recreational and tourism opportunities within the Wollongong city centre,*
- (e) to facilitate the development of building design excellence appropriate to a regional city,*
- (f) to promote housing choice and housing affordability,*
- (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,*
- (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 application meets these objectives. The final revised proposal is for a permissible mixed use commercial and residential building in a business zone. The site is well located in relation to transport options. Council previously expressed concern that the proposal did not achieve design excellence appropriate to its context. As discussed in relation to clause 7.18, the final revised proposal has responded to the DRP comments. The final revised proposal is considered to achieve design excellence.

Clause 8.2 Wollongong City Centre – land to which Part applies

The land is located within the Wollongong City Centre

Clause 8.4 Minimum building street frontage

The development provides the minimum 20m street frontage required by this clause.

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

The building is built to the Regent Street boundary at levels 1-6 (approximately 23.8m above existing ground) and Rawson Street boundary at levels 1-5 (approximately 17.3m above existing ground). Therefore, a street frontage height of 23.8m is proposed.

(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

For the purpose of this clause, the only adjoining building is 6-8 Regent Street, which is built to the shared boundary (ie. the proposed building's northern boundary). The proposed building complies with this clause.

(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

For the purpose of this clause, 'above street frontage height and less than 45 metres' refers to Levels 7-15. The buildings on the western elevation (2-4 Rawson Street and 1 Governor's Lane) are separated further than 12 metres from the proposed building.

The building at 6-8 Regent Street does not extend higher than proposed Level 8. Plan DA32-T (east elevation) shows the separation between the proposed building and the adjoining building at 6-8 Regent Street. On proposed level 7, there would be a nil setback (and consequently nil separation) where the proposed fire stairs adjoin the boundary. Other parts of the proposed building are set back 3.349m (therefore 3.349m separation). On Level 8 the stairs are removed and a setback of 3.349m (3.349m separation) is proposed. In this regard, non-compliance with this clause is proposed.

The impacts of the non-compliance on Levels 7 and 8 are not considered significant in relation to the existing adjoining building, however future redevelopment of 6-8 Regent Street would inherit a setback of only 3.349m to the boundary. It would be incumbent on the developer of 6-8 Regent Street to address the relationship between the two buildings.

On 30 October 2014 the applicant provided a clause 4.6 variation statement which was forwarded to the Department of Planning and Infrastructure. The concurrence of the Director General (now Secretary General) has been provided.

(c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.

Not applicable

(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.

Not applicable

(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.

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

At the date of lodgement (26 November 2013), this proposal had been exhibited in 2012. The planning proposal sought 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 gazetted on 6 June 2014.

The planning proposal does not raise any concerns with regard to the subject application.

At the date of lodgement the amendment to SEPP 65 had not been proposed. Draft amendment to SEPP 65 was placed on exhibition from the 23 September 2014 to 31 October 2014. The amendments to SEPP 65 came into effect on 17 July 2015 and contain savings provisions. An assessment of the proposal against draft SEPP65 was found to be consistent with the draft policy.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

Several chapters of WDCP 2009 apply to the development. Chapter D13: Wollongong City Centre provides the majority of specific design guidelines for the development. Attachment 8 details compliance with these provisions.

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.

CHAPTER B3: MIXED USE DEVELOPMENT

Despite ‘shop top housing’ being 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.

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.

An assessment of the application against WDCP 2009 was previously reported to JRPP and is contained within the compliance table at Attachment 8.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This application has been considered against the requirements of this chapter and found to be acceptable. A total of 3 of the 23 residential units are nominated as adaptable (13%) and the subsequent car parking spaces have been allocated to the adaptable units.

In addition, 9 adaptable hotel rooms/suites and associated car parking spaces have been provided.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Crime prevention has been addressed in the Statement of Environmental Effects. Measures implemented to reduce crime and provide personal safety include separation of car parking, building access control, signage in public areas, elimination of blindspots and places of entrapment and lighting and CCTV.

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

A Traffic Impact Assessment has been provided. As noted earlier, the RMS has no objection to the development.

Car parking is provided in the four basement levels, with ingress and egress from Regent Street. Basement Level 1 (the upper basement level) includes loading dock/delivery areas with a vehicle turntable. The Rawson Street frontage contains a layback for 4 vehicles, which should be time-limited to facilitate turn-over. An application to install time-limited signage would need to be referred to Council's Traffic Committee.

Council's traffic engineer reviewed the application is advised the proposed parking is satisfactory.

The proposed vehicle servicing arrangements will not cater for large rigid vehicles, so it is appropriate to limit service vehicles to medium rigid vehicles via condition of consent.

CHAPTER E5: BASIX (BUILDING SUSTAINABILITY INDEX)

A BASIX Certificate was submitted with the application.

CHAPTER E6: LANDSCAPING

A satisfactory landscape plan was submitted with the development application prepared by a qualified landscape architect. Minor changes to the terrace areas following the 1 December 2014 JRPP meeting will require a revised landscape plan. A condition of consent is proposed requiring a revised landscape plan.

CHAPTER E7: WASTE MANAGEMENT

A waste storage room is located on Basement Level 1. All tenants would be required to take waste to the storage room, from where collection would be by private contractor.

Council's traffic engineer has not objected to the proposed waste arrangements.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's geotechnical engineer in relation to site stability and the suitability of the site for the development. No objection is raised and appropriate conditions of consent are recommended.

CHAPTER E13 FLOODPLAIN MANAGEMENT

Council's Stormwater Section has assessed the application and advised they have no objection.

CHAPTER E14 STORMWATER MANAGEMENT

A stormwater drainage plan was submitted with the DA. The stormwater plan has been considered by Council's Stormwater Division and is considered to be acceptable.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

Earthworks proposed to facilitate construction of the basement car park have been considered with regard to the objectives and provisions of Chapter E19 and are considered to be acceptable.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Methods to mitigate erosion and sedimentation dispersal can be implemented.

2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2013)

Contributions are payable in accordance with Council's section 94A development contributions plan, which came into effect on 16 September 2013. Clause 1 specifies that all development exceeding \$200,000 shall pay a 1% levy and where development is proposed in the B3 Commercial Core; an additional levy of 1% applies.

The applicant has sought a reduction in the total amount payable, based on a 'credit' for payment made in relation to the earthworks component of DA-2009/750 (as modified).

If the applicant seeks the benefit of deducting payment made for the earlier consent (which has been activated) is recommended that a condition of consent be imposed requiring DA-2009/750 to be surrendered prior to issue of the DA-2013/1419 Occupation Certificate, at which time the levies paid would be refunded.

Full up-front payment of levies associated with DA-2013/1419 is required.

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.

Not applicable – no demolition is proposed.

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.

Not applicable.

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.

Not applicable.

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

The land is located within the NSW Coastal Zone, however is not identified in Council's hazard mapping as being impacted by coastal hazards.

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

Context and Setting

The proposed development is considerably higher than existing development in the vicinity, however the current planning controls permit development up to 80 metres in height. The revised context study details recent approved (not yet built) developments, which include heights up to 65m.

In terms of compatibility with the existing neighbourhood, height is only one element. The proposed setbacks, floor space ratio, building form and connection with surrounding streets are also to be considered. Council's Design Review Panel has provided comment on six occasions since the application was lodged, in response to each version of the development. The final Panel comments nominate three areas for improvement, and of these, two relate to the surrounding context. All three matters have been satisfactorily addressed in the revised scheme.

Access, Transport and Traffic:

Roads and Maritime Services has advised they have no objection to the development. Council's traffic engineer has provided conditions of consent. Council's Design Review Panel suggested improvements could be made to vehicle access in the Rawson Street frontage. A revised drop-off/pick-up location is now proposed, which addresses these concerns.

Public Domain:

Council's Design Review Panel noted in 2014 that changes made to the Rawson/Regent corner improve the connection to the public domain. However, at the time the Panel had reservations regarding the proposed undercroft on Rawson Street. An alternative vehicle drop-off and pick up strategy is now proposed and has been considered by Council's traffic engineer.

The Panel's 2015 recommendations for widening the Rawson Street paved area, cutting back the planter and removing conflict between cars and pedestrians have been implemented.

Utilities:

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

Heritage:

No heritage items will be impacted by the proposal.

Other land resources:

Geotechnical conditions have been addressed and Council's geotechnical engineer has no objection to the proposed development. No adverse impact upon valuable land resources is anticipated.

Water:

The site has previously been 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 would be required prior to construction.

Methods of reducing water consumption are addressed in the BASIX Certificate.

Soils:

The site contains acid sulfate soils however is not known to be contaminated. The proposed development involves further excavation of soils to a depth to accommodate four basement levels. Impacts on soil resources through erosion and sedimentation during construction can be mitigated through appropriate controls.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate. Wind effects have been considered by the applicant and are satisfactory.

Flora and Fauna:

There is no vegetation removal proposed. Landscaping has been proposed and is satisfactory.

Waste:

A waste storage room is proposed on Basement 1. Tenants would be required to take their garbage to the waste storage room and collection would be via private contractor.

Energy:

The proposal is not expected to result unreasonable energy consumption. Methods to reduce energy consumption are detailed in the BASIX certificate.

Noise and vibration:

The proposal would result in noise and vibration impacts during construction, which could be mitigated through consent conditions. There is a potential for noise impacts on nearby development emanating from private open space areas and the outdoor terraces, however this is not considered significant.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposed development. The land is not located within a known flood risk precinct.

Technological hazards:

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

Safety, Security and Crime Prevention:

Council's Safe Community Action Team officer reviewed the application and recommended conditions of consent. These are detailed in Attachment 9.

Social Impact:

The proposal is not expected to result in adverse social impact.

Economic Impact:

The proposal is not expected to result in adverse economic impact. The proposed building incorporates commercial, hotel and residential floor space in the Wollongong City Centre. These activities would positively contribute to the local economy in terms of productivity and employment.

Site Design and Internal Design:

The application seeks consent for development incorporating a departure from Council's building separation development standard. Adequate justification has been provided and the concurrence of the Department of Planning has been obtained.

Council's Design Review Panel identified several areas requiring refinement in order to satisfactorily demonstrate design excellence as required by WLEP 2009. These matters have been adequately addressed in the revised design.

Construction:

Construction impacts are likely to be significant given the size of the site and scale of the development proposed. Notwithstanding, these impacts can be adequately managed by conditions of consent relating to hours of work, protection of adjoining properties during excavation, impacts on public roads and sediment and erosion controls.

Cumulative Impacts:

The project has now been informed by a comprehensive contextual analysis. Both height and FSR have now been reduced to comply with WLEP 2009.

The Design Review Panel previously expressed concern that the bulk and massing of the building (particularly the eastern elevation) is not desirable and should be remodelled. This has occurred.

Approval of the project in its current form is considered acceptable.

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

Does the proposal fit in the locality?

The revised context study demonstrates that the proposal is suitable for the context of the site. The final revised proposal includes 3D modelling and shows existing and approved (not yet constructed) development.

Are the site attributes conducive to development?

There are no site constraints that would prevent the development, and the revised contextual analysis demonstrates the appropriateness of the proposed building form, height floor space ratio, land use etc. The topography of the site has been taken into account and is acknowledged as a site constraint; however the site's location in a prominent position in the City Centre also creates an opportunity for community and commercial benefits resulting from a high quality development.

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

The application was notified to neighbouring development and local newspaper in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. The initial plans were notified 6 December 2013-14 January 2014 and the second set of plans notified 28 July 2014- 13 August 2014. The revised final plans have not been advertised as the potential impacts on neighbouring development are not considered to have increased as a result of the amendments. Previous submissions were discussed in the JRPP report of 1 December 2014.

Submissions from public authorities

Responses from the Department of Planning, RMS and Endeavour Energy have been discussed earlier in this report.

3. SECTION 79C 1(E) THE PUBLIC INTEREST

Having regard to matters discussed earlier in this report and as required by Section 79C of the Environmental Planning and Assessment Act, approval of the proposal in its final revised form is considered to be consistent with the public interest.

The site is one of the most prominent in Wollongong having regard to the topography and current height limits set out in WLEP 2009. That Plan required assessment of the application by Council's Design Review Panel.

The Panel considered all five major iterations of the proposal and provided comment on each. In relation to the plans viewed by the Panel in May 2015, the Panel nominated specific strategies to rectify a number of deficiencies. The final revised proposal satisfactorily addresses these matters.

The proposal contains non-compliances with planning controls, which of itself is not a reason for refusal as they are adequately justified through a comprehensive contextual analysis. The revised external appearance and internal floorplan is now satisfactory. The requirements of clause 7.18 of WLEP 2009 require Council to be satisfied the proposal achieves design excellence. As discussed above, this requirement is achieved.

4. CONCLUSION/RECOMMENDATION

This application has been assessed having regard to Section 79C(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 (WLEP 2009), relevant State Environmental Planning Policies, and all Council DCPs, Codes and Policies.

The application involves a variation to the northern boundary building separation, which has been supported by a satisfactory justification statement. The concurrence of the Director General has been obtained as required by clause 4.6 of WLEP 2009.

On 11 May 2015 Council's Design Review Panel identified matters to improve design excellence as required by clause 7.18 of WLEP 2009. These matters have been satisfactorily resolved and the development is considered to achieve design excellence.

Therefore, it is recommended that the proposed development is approved with conditions contained in Attachment 9.

ATTACHMENTS

1. Aerial Photograph
2. Zoning Map Wollongong Local Environmental Plan 2009
3. Plans
4. Context Study
5. PRD Architects response to Design Review Panel
6. Peer review Design Excellence report
7. Design Review Panel comment
8. Compliance Table
9. Draft conditions of consent