

<b>JRPP No.</b>	2016STH001
<b>DA No.</b>	<b>DA-2015/1655</b>
<b>Proposal</b>	Construction of a twenty-two storey shop top housing development incorporating 151 residential apartments, 10 retail spaces, gymnasium, child care centre and 209 basement parking spaces.
<b>Property</b>	10-18 Regent Street Wollongong No. 10 – Lot 4 DP 13990 No. 12 – Lot 3 DP 13990 No. 14 – Lot 2 DP 13990 No. 16 – Lot 1 DP 13990 No. 18 – Lot 91 DP 1118346
<b>Applicant</b>	Supomme Property Development Pty Ltd
<b>Responsible Team</b>	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].

Proposal

The application was lodged on 18 December 2015.

The proposal is for construction of a shop top housing development, comprising residential apartments, retail tenancies, a gymnasium and a child care centre. The building form is an eighteen storey tower with orientation north-south atop a 4-5 storey L-shaped podium. Car parking and waste collection would occur in basement levels.

The total number of apartments is 151 (25 x 1 bedroom, 95 x 2 bedroom and 21 x 3 bedroom). Sixteen adaptable apartments are proposed. On-site parking is provided for 209 cars. Waste storage and collection would occur via a garbage chute on the residential levels depositing to the garbage store on lower ground. Retail and child care waste would be manually transported to their dedicated waste storage room on lower ground. From the waste storerooms, a caretaker would transport bins to the waste loading dock on lower ground level. Vehicle access is via Regent Street. The maximum building height is 67m. The proposed gross floor area is 13462.31m<sup>2</sup>, with a floor space ratio of 3.69:1.

The building complies with the requirements of State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Buildings) and the Apartment Design Guide.

Council's Design Review Panel has provided comment on the development both before and after lodgement of the application and are satisfied that the proposal achieves design excellence and meets the design principles of SEPP 65. Their comments form attachment 5.

The proposed floor space ratio and building height comply with the requirements of Wollongong Local Environmental Plan 2009.

Permissibility

The 3648m<sup>2</sup> site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan 2009. The proposal is defined 'shop top housing', 'retail premises', 'recreation facility (indoor)' and 'child care centre' and is permissible with development consent.

Consultation

The proposal was notified in accordance with Council's Notification Policy. One submission has been received which is discussed at section 2.9 of this report.

Main issues

Development standard departures (building separation) are proposed.

#### RECOMMENDATION

It is recommended that the application be approved subject to conditions of consent contained in Attachment 7 to this report.

## 1. APPLICATION OVERVIEW

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### 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 Apartment 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 2015

Other comments / matters to be addressed

Design Review Panel

### 1.2 PROPOSAL

The applicant seeks consent for:

- Construction of a 22 storey/67m 'shop top housing' building comprising retail areas, child care centre, gymnasium and residential apartments. On-site parking is provided in the basement and lower ground level.
- Proposed gross floor area = 13462.31m<sup>2</sup>
- Proposed floor space ratio = 3.69:1 (3648m<sup>2</sup> site)
- Total residential units = 151 (35 x 1 bedroom, 95 x 2 bedroom and 21 x 1 bedroom). Sixteen adaptable apartments are proposed and located throughout the building.
- Ten retail spaces are located on lower ground and ground levels.
- A 100m<sup>2</sup> gymnasium with internal amenities is situated on ground level and accessed via the car park or street. The gymnasium is intended to be part of the communal space provided for the residential apartments.
- A 30-place childcare centre located on the ground level with associated outdoor play space in the north-west of the site. Dedicated parking is provided in the lower ground parking area. Access is available either from the street or car park.
- Total car parking spaces = 209
- Vehicle entry and exit to basement car park on Regent Street
- Dedication of land in the south-east corner to Council for road widening

The development comprises a four level podium with tower located in the south-eastern corner of the site. The site slopes down from Rawson Street towards the northern boundary. The driveway is located in the lowest part of the site, in the north-eastern corner. Because of this slope, the driveway on Regent Street occurs on the lower ground level.

The ten retail areas are located on lower ground (facing Regent Street) and ground level (facing both Regent and Rawson Streets). A 3m-deep awning runs the length of Rawson and Regent Streets. Pedestrian access to the shops is directly available from the public footpath and designated parking spaces on the lower ground level. The building has been pushed back from the boundary to deepen the areas in

front of the shops to facilitate café or other active uses. A loading dock on the lower ground level would service the shops. The total retail area is 1075m<sup>2</sup>.

The residential apartments are located on levels 1-20, with a roof terrace for Units 162 and 163 located on Level 21. The development includes 1, 2 and 3 bedroom apartments. The total number of apartments is 151 (35 x bedroom, 95 x 2 bedroom and 2 x 3 bedroom). Communal open space for the apartments is provided on ground level in the form of an uncovered landscaped area and roof terrace on Level 3. Sixteen 1 and 2 bedroom adaptable units are proposed throughout the building. All apartments have on-site car parking. A garbage chute/waste room is located on each residential level. Compacted waste bins are stored within a residential bin room on the lower ground level. From here, a building caretaker would transport bins to the waste loading room adjacent the Regent Street driveway entry.

A deep soil diagram shows area of deep soil positioned over the basement at the western edge of the site. The landscape plan identifies proposed vegetation.

A maximum 30-place child care centre is proposed on ground level, with adjoining outdoor play area extending west of the building. Access to the centre would be available via a covered path from Rawson Street, or shared retail and child care door from Regent Street or via a shared retail and child care lift from the lower ground car parking area. Fifteen parking spaces are allocated for the centre staff and parents. Child care waste would be stored in a dedicated room on the lower ground level and collected via private contractor from the waste loading room.

A gymnasium is proposed adjacent to the child care centre on ground level. Access would be available via the retail lobby on ground level and the Rawson Street building entry. The architect has advised that the gymnasium would operate for residents as part of their communal open space.

The building contains residential apartments, shops, childcare centre and gymnasium. The retail, gymnasium and childcare centre is accessed by pedestrians via building entry doors on Regent and Rawson Streets and also via the car park lifts within the lower ground level. Each of the retail spaces has doors directly onto the footpath area. Dedicated car spaces are provided on the lower ground level. The main residential lobby is located on the southern end of Regent Street, with lifts 1, 2 and 3 servicing the residential apartments and dedicated car parking levels. It is expected that these lifts would have security settings restricting access to residential tenants only. Residential visitor parking is located on the lower ground level.

### 1.3 BACKGROUND

Several development applications have been lodged in relation to the site.

#### 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 floor space ratio (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 floor space ratio (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, all structures on the site have been removed and excavation commenced for a basement. The survey plan shows the physical extent and depth of the excavation. The proposed basement is not as deep but in parts is wider than the existing excavation.

Modification A allowed payment of only part of the total section 94A contribution (levied at 2% of the project cost) to be paid prior to issue of the Construction Certificate. Condition 67 specified:

***Stage 1 - \$50,600.00 shall be paid to Council prior to the issue of a Construction Certificate for bulk earthworks only. (As specified in the Affective Services Quotation being 100966-C-Rev4-SS/MH)***

In that regard, it is considered reasonable to deduct the excavation and demolition component from s.94A contributions levied for the proposed development. This is further discussed in section 2.3.2.

#### DA-2013/1419

On 30 July 2015, consent was granted to DA-2013/1419 for '*Construction of a 29 level (including basements) mixed use development incorporating retail, commercial, hotel, function, recreational and residential uses*'. It is understood this consent has not been acted upon.

#### DE-2016/168

On 21 September 2015, the proponent met with Council's Design Review Panel to discuss the project (DE-2015/168). A pre-lodgement meeting with Council staff was also held in November 2015 (PL-2015/106). Matters for redesign or further consideration were noted. Both these consultations occurred prior to lodging the subject development application. Council's Design Review Panel considered the development application on 4 March 2016 and those notes form Attachment 5.

#### Customer service actions

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

#### 1.4 SITE DESCRIPTION

The 3648m<sup>2</sup> 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 triangular portion of the Rawson and Regent Street road reserve adjoining Lot 91 DP 1118346 is intended to be dedicated to Council and has been excluded from the estimated site area.

The site is currently vacant. Demolition and bulk excavation works approved under DA-2009/750/A have commenced as approved, with the survey plan showing a lowest depth of RL24.32 (approximately 3 basement levels) in parts of the site.

The land naturally slopes down from the southern boundary (Rawson Street) to the northern boundary. As a result of excavation, parts of the site have been levelled, with the survey plan showing RL26.27 in the south-west and RL 26.08 in the north-west.

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. The street frontage is approximately 68m to Regent Street and 60m to Rawson Street. Traffic movement in Regent and Rawson Streets is two way, whilst Crown Lane is one way heading from the site east down to Crown Street.

Adjoining development is commercial. The property to the north is a seven storey office building, whilst the western neighbours are 3 and 5 storeys. The site is bordered by Regent Street in the east and Rawson Street to the 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. The nearest residential buildings are located at 1 Governors Lane and 7 Regent Street.

#### Property constraints

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

- Acid sulfate soils Class 5
- NSW coastal zone

There are no restrictions on the title.

## 1.5 CONSULTATION

### 1.5.1 INTERNAL CONSULTATION

The following Council officers reviewed the application and have no objection. Recommended conditions of consent are contained in Attachment 7.

- Community safety
- Environment
- Geotechnical
- Health
- Landscape
- Property
- Stormwater
- Subdivision
- Traffic

### 1.5.2 EXTERNAL CONSULTATION

#### **Design Review Panel**

The Design Review Panel (DRP) provided comment on 21 September 2015 (as DE-2015/168), 10 December 2015 and 4 March 2016.

The final comment forms Attachment 5.

Following the first DRP meeting, the applicant redesigned the development to improve the tower form, street interface and podium levels. Internal basement and apartment layouts were also reconfigured. Subsequent meetings led to refinements of these areas.

It is considered the final redesign submitted in December 2015 satisfactorily addresses matters raised by the DRP.

#### **Roads and Maritime Services(RMS)**

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 required the application be referred to RMS. On 3 February 2016, RMS advised Council that they do not object to the application. No conditions of consent were recommended.

#### **Endeavour Energy**

The application was referred to Endeavour Energy as required by clause 45 of State Environmental Planning Policy (Infrastructure) 2007. A response was received on 1 February 2016, which noted the location of overhead powerlines on Regent Street. Information of a generic nature was provided regarding the process for electricity connection. Formal conditions of consent were not recommended.

## 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 any draft planning agreement that a developer has offered to enter into under section 93F, and</i>	See section 2.4
<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).*

The site has been cleared as authorised under DA-2009/750/A. Prior to the demolition, the site contained residential dwellings and a restaurant. Based on a desktop audit of previous land uses, contamination is not considered a concern.

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

The application is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). The Policy came into effect on 26 July 2002. The development application was lodged after amendments which commenced on 17 July 2015.

The policy applies to:

- (a) the development consists of any of the following*
  - (i) the erection of a new building*
  - (ii) the substantial redevelopment or the substantial refurbishment of an existing building*
  - (iii) the conversion of an existing building and*
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- (c) the building concerned contains at least 4 or more dwellings.*

The proposed development is subject to the policy.

The application was accompanied by a statement by a qualified designer in accordance with Clause 50(1A).

The proposal must be evaluated in accordance with the nine SEPP 65 design quality principles. These are:

### **Principle 1: Context and neighbourhood character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

*Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

A context analysis has been provided, which demonstrates the suitability of the building form and location. The immediate area is a commercial zone, with a mix of scales and development types. The highest building in close proximity to the site is 7 storeys, however recent approvals have granted consent for mixed commercial and residential development up to 80m.

### **Principle 2: Built form and scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

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

*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 4-5 level podium contains retail areas at street front, with child care and gymnasium functions set behind. On both Rawson and Regent Streets, the building is setback to accommodate on street café seating. A 2-3 level basement provides car parking for the development. The location of the podium along the street edge reinforces the street pattern and is an appropriate height with regard to adjoining development. The Regent and Rawson Street corner appropriately responds to Crown Lane and both Rawson and Regent Street at ground level are activated by retail uses. The podium height and length has been established in response to Design Review Panel comments. The podium façade contains full height louvre screening for privacy. Residential apartments (1 and 2 bedroom) are located on levels 1, 2 and 3. These further activate the street.

The tower is located in the east of the site, with a north-south orientation. It sits below the 80m height limit. The elevations are articulated, with a curve introduced by a central recessed point in the east and



west elevations. This has the effect of suggesting fluidity and movement, and reduces perceived massing of the elevations. The upper section of the building tapers at the north, creating open terraces and private open spaces for some apartments.

Due to the slope of the site, a reasonably large area of open space is available at ground level at the rear of the site. This provides an outdoor play area for the child care centre and communal open space for residents.

An area of deep soil zone (on structure) is provided on the western boundary.

### **Principle 3: Density**

*Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

The proposed density complies with the requirements of WLEP 2009, which allows both residential and commercial uses on the site.

### **Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes.*

*Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.*

The development achieves ventilation and solar access as required by SEPP 65 and the Apartment Design Guide.

The *Water Sensitive Urban Design Strategy and Report* prepared by Sparks and Partners details methods to reduce wastage and improve water quality. Specific measures include rainwater collection and reuse, and use of enviropods and stormfilter cartridges within the on-site detention tank.

Solar panels are to be installed on the roof.

A BASIX certificate has been provided which identifies sustainability measures. All development application stage commitments have been indicated on the proposed plans.

### **Principle 5: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.*

*Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.*

A landscape plan and management plan has been prepared by Formed Gardens. A reasonably large area of vegetated communal open space is located on the ground level, adjacent to areas of deep soil (on structure) plantings. Additional landscaping is provided on Level 3 in the form of communal open space for residents.

Public domain plantings are consistent with Council's Public Domain Technical Manual.

### **Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being*

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

The development complies with SEPP 65 and the Apartment Design Guide criteria for ventilation, solar access, storage, parking, building depth, privacy, ceiling height, apartment size, common circulation, private and communal open space, lobbies and adaptable housing.

#### **Principle 7: Safety**

*Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

Security measures have been implemented. These include traffic signalling systems and signage within carparking areas and controlled access to circulation spaces. Additional security benefits result from passive surveillance offered by location of private and communal open space areas.

#### **Principle 8: Housing diversity and social interaction**

*Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.*

*Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.*

The development contains 1,2, and 3 bedroom apartments. Sixteen adaptable housing apartments are proposed, which exceeds the 10% minimum required by WDCP 2009. All apartments exceed minimum size requirements set by the Apartment Design Guide.

Communal open space is provided in the form of covered spaces (the gymnasium) and outdoor landscaped areas. Potential retail tenancies/cafes on the ground and lower ground floors may offer additional opportunities for social interaction. The on-site child care centre may allow for resident parents or grandparents to more readily interact in a home setting.

#### **Principle 9: Aesthetics**

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.*

*The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

Council's Design Review Panel has considered the project on three occasions. Each meeting further refined the project to the point where the Panel's matters for review have been satisfactorily resolved.

The final building form incorporates a slender tower, with recessed central sections on east and west elevations reducing perceived massing. Additional tapering to north and roof sections reduce the building bulk. The tower suggests movement with its wave-like pattern of balustrades. This further reduces the bulk of the building. Views east to the escarpment would encompass a building of lesser height than previous approvals and with a fluidity appropriate for the topography.

The 4-5 storey podium now extends further to side boundaries and is of a height that complements adjoining development. The framing portal embeds a decorative, fluid feature into retail and residential spaces and grounds the podium to the street. Use of open retail spaces along the entire street frontage provides for activation. A single vehicle entry and exit reduces interruptions in the façade and maximises the extent of public domain improvements.

Clause 30(2) requires the consent authority to be satisfied that the development has adequate regard to the design quality principles and the objectives specified in the Apartment Design Guide for the relevant design criteria.

As demonstrated above and in the compliance table at Attachment 6, the development satisfies this requirement.

### 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 692178M dated 16 December 2015 has been submitted and is satisfactory. Development application commitments are shown on the proposed plans.

### 2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Clause 104 refers to traffic generating development identified in Schedule 3 of the SEPP. The development is located within 90m of a classified road and contains more than 75 dwellings and therefore referral to Roads and Maritime Services is required. In correspondence dated 3 February 2016, 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 proposal is satisfactory with regard to the above objectives. The proposed mixed use development has the potential to contribute to the vitality of the city centre. Retail and child care functions are proposed that would service the needs of the community. Public transport would be readily accessible to the development.

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 mixed use building comprising separate land uses; retail (*‘retail premises’*), and residential apartments (*‘residential flat building’*). Dwellings are prohibited in the zone, however where they are provided above retail floor space, together they are defined as ‘shop top housing’. A child care centre and gymnasium are also proposed. The child care centre is permissible in its own right, as is the gymnasium (*‘recreation facility (indoor)’*). The applicant has indicated the gymnasium is part of the residential apartment’s communal open space area, and would therefore be ancillary to the shop top housing definition. Notwithstanding, as the residential apartment component does not require a gymnasium to comply with its own definition and SEPP 65 requirements, the potential for this to be operated independently has been considered.

Shop top housing, retail premises, child care centre and recreation facility (indoor) are described below and are permissible in the B3 Commercial Core zone with development consent. It is noted the definition of shop top housing also permits business premises.

##### 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.*

The plans show 151 dwellings located above ground floor ‘retail’ floor space.

*dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.*

*residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing*

**Note.** Residential flat buildings are a type of *residential accommodation*— see the definition of that term in this Dictionary.

*residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following*

- (a) attached dwellings,*
- (b) boarding houses,*
- (c) dual occupancies,*
- (d) dwelling houses,*
- (e) group homes,*
- (f) hostels,*
- (g) multi dwelling housing*
- (h) residential flat buildings,*
- (i) rural workers’ dwellings,*
- (j) secondary dwellings,*
- (k) semi-detached dwellings,*
- (l) seniors housing*
- (m) shop top housing*

*but does not include tourist and visitor accommodation or caravan parks.*

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

- (a) bulky goods premises,***
- (b) cellar door premises,***
- (c) food and drink premises,***
- (d) garden centres,***
- (e) hardware and building supplies,***
- (f) kiosks,***
- (g) landscaping material supplies,***
- (h) markets,***
- (i) plant nurseries,***
- (j) roadside stalls,***
- (k) rural supplies,***
- (l) shops,***
- (m) timber yards,***
- (n) vehicle sales or hire premises,***

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

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

***child care centre means a building or place used for the supervision and care of children that:***

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and***
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,***  
***but does not include***
- (c) a building or place used for home-based child care, or***
- (d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian,***  
***or***
- (e) a baby-sitting playgroup or child-minding service that is organised informally by the parents of the children concerned, or***
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or***
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or***
- (h) a service that is concerned primarily with the provision of:***

- (i) *lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or*
- (ii) *private tutoring or*
- (i) *a school, or*
- (j) *a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.*

***recreation facility (indoor)*** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

## **Part 4 Principal development standards**

### **Clause 4.3 Height of buildings**

The maximum permitted height for the land is 80 metres. The maximum building height is 67m from ground level prior to the excavation commenced under DA-2009/750/A and 77m from the current surveyed ground level.

### **Clause 4.4A Floor space ratio – Wollongong city centre**

The total gross floor area proposed is 13462.31m<sup>2</sup> (12387.31m<sup>2</sup> residential and 1075m<sup>2</sup> non-residential).

The maximum floor space ratio (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 92% residential and 8% commercial.

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

$$(6 \times 8/100) + (3.5 \times 92/100) = 0.48 + 3.22 = 3.70 = \text{maximum FSR } 3.70:1$$

An FSR of 3.70:1 allows for gross floor area of 13497.6m<sup>2</sup>. The proposed gross floor area is 13462.31m<sup>2</sup> (FSR 3.69:1) which does not exceed the maximum.

### **Clause 4.6 Exceptions to development standards**

The development comprises several development departures in relation to building separation (clause 8.6). The objectives of clause 4.6 are:

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Consent must not be granted unless the consent authority has considered a written request from the applicant seeking to justify the development departure. The request must demonstrate that compliance with the standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravention of the standard. The applicant has provided a written request, which forms Attachment 4.

Further, development consent must not be granted unless the consent authority is satisfied the applicant's written request is adequate and that the development would be in the public interest. The concurrence of the Secretary is required.

These matters are addressed below:

**Table 1: WLEP 2009 clause 4.6**

<b>WLEP 2009 clause 4.6 proposed development departures</b>	
<b>Proposed development departure 1</b>	
Development departure	Rawson Street (western) boundary has a 3m setback at Levels 1-4, where nil setback is required.
WLEP 2009 requirement	<p><i>(2) Buildings on land within Zone B3 Commercial Core or B4 Mixed Use must be erected so that:</i></p> <p><i>(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</i></p> <p>The development does not incorporate a street frontage height. Therefore, this clause seeks no separation (i.e. nil setback) up to Level 8/24m on Rawson Street.</p>
Addressed by applicant?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p>Yes</p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>Yes</p>
Consent authority satisfied?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p>As outlined in this report, the proposed development has regard to the objectives of the R1 General Residential zone and there are no unreasonable impacts from the proposal, despite this departure.</p> <p>Compliance is unreasonable as the objective of the clause '<i>to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access</i>' is best achieved by contravention of the standard. The relevant objective is for the purpose of visual appearance. The context analysis and Design Review Panel process identified the location, age, quality and likelihood for redevelopment of adjoining buildings. The adjoining building is an office building with its own side setback of 4.63m inconsistent with the current controls. For this reason, a continuous wall/street front could not be achieved. Furthermore, an inherent feature of the design of the podium is the curved framing portal. This feature would be weakened if abutting the boundary. Providing the 3m setback ensures space is available to comprehend the curves and discrete framing of the podium, having regard to potential redevelopment of the adjoining site.</p> <p>The proposed development has demonstrated that a functional building can be provided (subject to minor variations), including appropriate car parking and access, landscaping and private open space areas, without detrimentally impacting the surrounding properties.</p> <p>In summary, it is concluded that the development standard is unreasonable or unnecessary in the circumstances of the case</p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>Clause 7.18 of WLEP 2009 requires developments to embody design excellence. Architectural form, innovation, detailing and materials are required to improve the amenity and quality of the public domain. The proposed side setback and podium design achieves this. The Design Review Panel process involved detailed contextual modelling to best determine appropriate building separation. Assessment of the proposal under the applicable planning controls has determined that besides the proposed variation to the building separation requirement, the development is largely compliant with the applicable controls as demonstrated in this report. The proposed design mitigates any adverse impacts from the reduced separation. In addition, solar access is not compromised to adjoining lots and amenity, (privacy, visual, acoustic etc.) of the surrounding lots and general area will not be unreasonably impacted by the development. The proposed building has been designed to respond appropriately to the limitations posed by the adjoining building to the north and is considered to be a reasonable development outcome for the site. The proposed building will not detrimentally impact solar access or visual and acoustic privacy, and is an appropriate urban form that will contribute positively to the streetscape. In summary it is considered that there are sufficient site specific environmental planning grounds to justify contravening the development standard.</p>
Secretary's concurrence obtained?	Council has delegation to exercise the Secretary's concurrence to LEP development standard departures.

<b>Proposed Development Departure 2</b>	
Development departure	Regent Street (northern) boundary has a 6m setback, where nil setback is required.
WLEP 2009 requirement	<p><i>(2) Buildings on land within Zone B3 Commercial Core or B4 Mixed Use must be erected so that:</i></p> <p><i>(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</i></p> <p>The development does not incorporate a street frontage height. Therefore, this clause seeks no separation (i.e. nil setback) up to Level 6/24m on Regent Street.</p>
Addressed by applicant?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and</i></p> <p>Yes</p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>Yes</p>
Consent authority satisfied?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and</i></p> <p>Compliance is considered unreasonable. The adjoining building has a cut-out in the front setback, which has the effect of inserting a gap between the side boundary and the rest of the building, part of which is built to the boundary. This renders establishment of a continuous wall impossible. Functionally, the proposed building is well served by the 6m setback, as it allows the residential apartments within the podium to achieve visual and acoustic privacy, solar access and ventilation. If strict compliance was proposed, it is likely the residential apartments on the northern elevation would not satisfy Apartment Design Guide design criteria. Having residential apartments on the north-eastern elevation activates the street and brings people into the elevation, rather than presenting as a solely commercial building.</p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>The design excellence provisions of WLEP 2009 encourage high quality design. The design quality of the development is assisted by the proposed setback.</p>
Secretary's concurrence obtained?	Council has delegation to exercise the Secretary's concurrence to LEP development standard departures.
<b>Proposed Development Departure 3</b>	
Development departure	Building separation 7.63m to Rawson Street where 16m required (Levels 1-3)
WLEP 2009 requirement	<p><i>(a) 16 metres from any other part of any other building</i></p> <p>The proposed building contains habitable rooms and balconies on the building exterior. The proposed minimum separation between habitable areas and any other building is 7.63m to Rawson Street (Levels 1-3).</p>
Addressed by applicant?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and</i></p> <p>Yes</p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>Yes</p>
Consent authority satisfied?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and</i></p> <p>It is considered unnecessary to require strict compliance with the separation requirement, having regard to the relatively small interface between the proposed building and the existing adjoining commercial (office) building. The area in question is a 12m<sup>2</sup> balcony of one apartment only. The balcony appears to correspond with the location of the stairwell in the adjoining building and therefore lengthy visual intrusion between buildings is not expected. Furthermore, if compliance with building separation was proposed, it is likely that this part of the building would not be able to be used as an apartment. Potentially, the design of the podium with its upper levels used as apartments would be compromised.</p>



	<p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>The necessity for 16m building separation is not demonstrated. The objective of the clause to ensure privacy is adequately achieved in the current design.</p>
Secretary's concurrence obtained?	Council has delegation to exercise the Secretary's concurrence to LEP development standard departures.
<b>Proposed Development Departure 4</b>	
Development departure	Proposed northern separation of 14.90m where 16m building is required (Levels 6-7)
WLEP 2009 requirement	<p><i>(a) 16 metres from any other part of any other building</i></p> <p>The proposed building contains habitable rooms and balconies on the building exterior. The proposed minimum separation between habitable areas and any other building is 14.90m to Regent Street (Levels 5-7).</p>
Addressed by applicant?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p>Yes</p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>Yes</p>
Consent authority satisfied?	<p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p>The proposed building separation of 14.90m is the result of a 14.90m setback within the subject site. The adjoining building is built to the boundary and therefore contributes nothing to building separation. It is considered unreasonable to require full separation of 16m to be provided within the development site.</p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p>The objectives of this clause are to ensure visual privacy, appearance and solar access. All the apartments on the northern elevation on Levels 5-7 comply with requirements for cross ventilation and solar access. The corresponding elevation of the adjoining commercial (office) building contains no openings where it is built to the boundary, and windows only in that part which is setback 6m from the boundary. It is not anticipated that the proposed northern elevation apartments would experience intrusion on their privacy.</p>
Secretary's concurrence obtained?	Council has delegation to exercise the Secretary's concurrence to LEP development standard departures.

## 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 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 5.9 Preservation of trees or vegetation

The site does not contain any vegetation.

### Clause 5.10 Heritage conservation

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

## Part 7 Local provisions – general

### Clause 7.1 Public utility infrastructure

The existing building was connected to utilities and it is expected that the proposed development would be able to be serviced. Two existing power poles are located in the area nominated for public domain paving and street tree planting. These may need to be removed or relocated. Conditions regarding connection to utility providers are recommended.

### 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 survey plan shows levels across the site of generally RL24, with some areas of soil material stockpiles as high as RL35. The proposed basement has a lowest level of RL24.00. Therefore, there proposal involves only minor excavation to reduce the whole site to RL24.00.

Council's geotechnical engineer has advised

*The geotechnical report dated 19 April 2007 by Douglas Partners has been reviewed in conjunction with a site inspection and comparison with known geotechnical studies of the general area.*

*... In this regard the geotechnical report is considered satisfactory.*

*In regards to this latest development proposal I note that significant excavation has already been undertaken. I also note that this new proposal is significantly smaller than the previous one however the geotechnical constraints on development would be largely the same. Some further excavation in bedrock will be required which will encroach into the zone of influence of adjoining structures. This will require further geotechnical supervision and advice. Rock anchors across property boundaries is not recommended unless the written agreement of the affected property owners is obtained.*

Conditions of consent are recommended to address these matters.

### Clause 7.13 Ground floor development on land within business zones

As the site is located within the B3 Commercial Core zone, Council 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 facing both Rawson Street and Regent Street (refer Attachment 3) satisfies both requirements.

### Clause 7.18 Design excellence

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

- (3) 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.*
- (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,*

The proposed building is the result of incremental changes as recommended by Council staff and Council's Design Review Panel. A schedule of finishes has been provided. The mixed use building adequately provides retail floor space at ground level, and addresses the corner location

through design of the podium levels. These tenancies are ideally suited to cafes or restaurants or shops with customer seating. Level access is provided into the building for pedestrians on both Rawson and Regent Streets.

***(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,***

The contextual analysis has examined the existing and potential streetscape. The scale of the podium responds to existing development adjoining the site. The landscape concept proposes street tree planting on Rawson and Regent Streets and open space planting on ground and podium levels. Residential apartments are located on the periphery of the building and all present balconies to the street.

***(c) whether the proposed development detrimentally impacts on view corridors,***

Views have been analysed in the contextual analysis. The site lies within the view corridor of Wollongong lighthouse/Belmore Basin /the escarpment, however recent approved high-rise projects in Rawson Street, if constructed, are likely to interrupt these views. The tower is articulated and the central recess results in a reduced perceived width.

***(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map.***

Not applicable

***(e) how the proposed development addresses the following matters:***

***(i) the suitability of the land for development,***

The site is zoned to allow mixed commercial and residential development. The land is not flood affected or known to be at risk of geotechnical instability. The land is located in close proximity to public transport.

***(ii) existing and proposed uses and use mix,***

The proposed retail and residential mix satisfies the zone objectives and floor space ratio controls set out in WLEP 2009. Apartments include 1, 2 and 3 bedroom dwellings. Sixteen adaptable dwellings are proposed.

***(iii) heritage issues and streetscape constraints,***

No heritage items are located in close proximity to the site. The existing and proposed streetscape has been considered and explored in the contextual analysis.

***(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,***

Existing and proposed towers have been modelled in the contextual analysis. The tower is located in the east of the site, with a north-south orientation that is appropriate given the shape of the site, the topography and built form pattern in the vicinity. Adequate separation is provided, assisted by the location of the footprint and surrounding road network.

***(v) bulk, massing and modulation of buildings,***

These aspects have been refined over successive Design Review Panels. The building consists of a 4-5 level L-shaped podium and a tower located in the east of the site. The prominent street corner has been emphasised through podium design and placement of retail spaces and building entries. The roof line has been refined in response to Design Review Panel comments.

***(vi) street frontage heights,***

The building is setback from the street and therefore the project does not incorporate street frontage height.

***(vii) environmental impacts such as sustainable design, overshadowing wind and reflectivity,***

These impacts have been adequately addressed in sub consultant reports and architectural plans.

*(viii) the achievement of the principles of ecologically sustainable development,*

A thermal comfort and BASIX assessment has been submitted. This demonstrates that efficiency goals are able to be achieved through construction materials and internal fixtures.

*(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*

Pedestrian access is available on both Rawson Street and Regent Street. Vehicular access is provided via the driveway on Regent Street. Parking for retail, childcare and residential visitors is separated from residential apartment tenants. Waste storage and collection would occur within the building.

*(x) impact on, and any proposed improvements to, the public domain.*

Public domain improvements are detailed on the landscape concept plan.

Clause 7.18(5) specifies that a Design Review Panel must consider applications for buildings exceeding 35 metres. Council's Design Review Panel provided comments on 21 September 2015 and 10 December 2015, prior to lodgement of the application, and on 4 March 2016 post-lodgement. The 4 March 2016 comments forms Attachment 5. Improvements suggested by the Panel have been implemented in the final plans submitted to Council in April 2016.

## **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 proposal is for a permissible commercial and residential building in a business zone. The site is well located in relation to public transport options. The Design Review Panel has assessed the application and recommended changes, which have been made. The building contains a mix of 1, 2 and 3 bedroom dwellings including adaptable dwellings. A BASIX certificate has been provided and is satisfactory. Impacts on nearby vegetation have been considered.

### 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 land has a street frontage exceeding 20m as required by this clause.

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

Several departures to building separation are proposed. These have been noted in relation to clause 4.6.

The proposed building has the following front setbacks:

- Lower ground level: 3.5m (Regent)

- Ground level: 3.5m (Rawson) and 3.5m (Regent)
- Levels 1-3: nil-3m (Rawson) and 800mm (Regent)
- Level 4: nil-3m (Rawson) and 3.8m (Regent)
- Level 5-21: 9.5m (Rawson) and 3.8m (Regent)

Proposed side setbacks are:

- Lower ground level: nil (west) and nil (north)
- Ground level: nil, 20.89m and 22.90m (west) and 3.05m, 6m, 8.05m and 9.6m (north)
- Levels 1-3: 3m, 15.55m, 22.21m, 22.70m (west) and 8.29m, 8.06m, 9.79m and 6m (north)
- Levels 4-21: 3m, 15.55m, 22.21m, 22.70m (west) and 8.29m, 8.06m, 9.79m, 6m, and 14.9m (north)

As noted above, the building is set back from the street alignment at all levels. This was a response to the proposed function of the lower ground and ground level retail spaces and a method to activate the street frontage. This setback was endorsed by the Design Review Panel. As a result, the building does not incorporate a 'street frontage height' which is defined in the clause as *'the height of that part of a building that is built to the street alignment'*.

Due to the site topography, the interface with adjoining buildings occurs at proposed levels ground-Level 4/16m (Rawson Street) and lower ground-Level 7/29.5m (Regent Street).

The proposed building separation is:

- Rawson Street: adjoining property building setback 4.63m
  - + nil (ground level/4m) = 4.63m separation
  - + 3m (levels 1-4/5-16m) = 7.63m separation
- Regent Street: adjoining property building setback nil (lower ground-Level 7/29.5m)
  - + nil (lower ground level/4.5m) = nil separation
  - + minimum 6m (ground level-Level 4/4.6-20.5m) = 6m separation
  - + minimum 14.90m (level 5-7/23.5-29.5m) = 14.90m separation

The requirements of the clause are:

***(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***

As noted earlier, the development does not incorporate a street frontage height. Therefore, this clause seeks no separation (i.e. requires nil setback) up to Level 8/24m on Rawson Street and Level 6/24m on Regent Street. Departure proposed – refer clause 4.6.

***(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***

As no street frontage is proposed, this clause is interpreted as requiring at least 12m separation between Level 8/24m and Level 15/45m (not applicable) on Rawson Street and between Level 6/24m and Level 15/45m on Regent Street. Complies.

***(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:***

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

Not applicable - there are no habitable parts in adjoining buildings.

***(c) 16 metres from any other part of any other building***

The proposed building contains habitable rooms and balconies on the building exterior. The proposed minimum separation between habitable areas and any other building is 7.63m to Rawson Street (Levels 1-3) and 6m to Regent Street (Levels 1-3) and 14.9m (Levels 5-7). Departure proposed – refer clause 4.6.

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

Nil.

## **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 6 details compliance with these provisions. Some variations are proposed, however these generally relate to criteria which are inconsistent with SEPP 65 Apartment Design Guide (car parking).

#### **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**

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 ‘shop top housing’ situated 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 Wollongong city centre and only Chapter D13 applies.

#### **CHAPTER C5 – CHILD CARE CENTRES**

A maximum 30-place child care centre is proposed on the ground level. The applicant has indicated the anticipated enrolment would be:

- 0-2 years: 8 children
- 2-3 years: 10 children
- 3-5 years: 18 children

Chapter C5 specifies compliance with the applicable regulatory framework. Currently, the National Quality Framework sets operational requirements for child care centres nationally. Prior to operation of the centre, registration in accordance with the NQF would be required.

## 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 in relation to WDCP 2009 is contained within the compliance table at Attachment 6.

## CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This application has been considered against the requirements of this chapter and is satisfactory. A total of sixteen (10.59%) of the 151 residential units are nominated as adaptable. Level access is provided for pedestrians into both the retail and residential lobbies. Lifts service all parking levels and provide access to the residential and commercial areas. An access report by AE&D Access was provided, which addresses compliance with Australian Standards, the Building Code of Australia and Chapter E1.

## 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 areas, building access control, and passive surveillance. The communal open space areas on ground level and Level 3 would be in view of the residential apartments.

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

An *Assessment of Traffic and Parking Implications* prepared by Transport and Traffic Planning Associates has been submitted. As noted earlier, the RMS has no objection to the development.

Car parking is provided in the two basement levels and on the lower ground level. Ingress and egress for all vehicles is via the driveway on Regent Street. A loading bay for trucks and other service vehicles is located just inside the driveway entry on Regent Street.

Parking for cars, bicycles and motorcycles complies with Chapter E3. Dedicated parking spaces for the retail and childcare functions have been kept separate from residential parking.

## CHAPTER E5: BASIX (BUILDING SUSTAINABILITY INDEX)

A BASIX Certificate has been provided.

## CHAPTER E6: LANDSCAPING

A landscape concept plan by Formed Gardens has been submitted. Landscaping is provided on the ground level and on Level 3 in the communal open space area. Street trees are proposed in association with public domain improvements in both Rawson and Regent Streets.

## CHAPTER E7: WASTE MANAGEMENT

Separate waste storage rooms for the child care centre, retail areas and residential apartments are located within the lower ground level car parking area.

Residential occupants would direct their waste and recycling to the storage room via a chute located on all residential levels. The waste and recycling would remain separate and be compacted within the storage room. From there, a caretaker would then transport the bins to the loading dock on lower ground level for collection by a private contractor. Retail and child care waste would be manually taken to the respective storage rooms and then transported to the loading dock for collection by a private contractor. These arrangements are satisfactory.

## 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. Appropriate conditions have been recommended and no objection is raised.

#### CHAPTER E14 STORMWATER MANAGEMENT

A stormwater drainage plan has been provided. The stormwater plan has been considered by Council's Stormwater Division and is satisfactory. Conditions of consent are recommended.

#### CHAPTER E15 WATER SENSITIVE URBAN DESIGN

A *Water Sensitive Urban Design Strategy Report* prepared by Sparks and Partners has been provided. It details methods for water reuse and management, which have been incorporated into conditions of consent.

#### CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

Earthworks proposed to facilitate construction of the basement car park have been carried out on site in as enabled by DA-2009750/A. Minor reshaping would be required to bring the whole site to RL24.00 for the basement.

#### CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Methods to mitigate erosion and sedimentation dispersal are required to be implemented. Conditions of consent are recommended.

### 2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN (2015)

Contributions are payable in accordance with Council's section 94A development contributions plan, which came into effect on 26 October 2015. Clause 1 specifies that all development exceeding \$200,000 shall pay a 1% levy. An additional 1% is payable as the development is located in the B3 Commercial Core zone, increases gross floor area and is valued over \$250,000. Therefore, a total 2% levy applies to the development.

The total capital investment value detailed in the Newton, Fisher and Associates costing is \$39,519,062.00. They note that this total figure includes \$3,000,000 for 'demolition, excavation and shoring works previously completed'. This references demolition and bulk earthworks undertaken as enabled by DA-2009/750/A, which granted consent to a basement with lowest depth of RL24.00. It is noted that the basement approved under DA-2009/750/A did not extend to all boundaries as does the proposed development. As discussed in section 1.3 all structures have been removed from the site and the basement level excavated is currently deeper than that required by the proposed development, which sets basement level 2 at RL24.90. Therefore, the total project value of the proposed development can be considered to be the \$39,519,062.00, less \$3,000,000 for works already undertaken (and S.94A contributions paid) under DA-2009/750/A.

It is reasonable then, to set a 2% levy on a total amount of \$36,519,062.00, which would equate to \$730,381.24. It follows also, that the \$50,600.00 s.94A contribution paid in relation to DA-2009/750/A should also be deducted from the amount payable.

Therefore, a total s.94A contribution of \$679,781.24 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)

Clauses 92, 93 and 94 do not apply to the development.

### 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 potential 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. Recent development consents on nearby sites authorised heights up to 80m, indicating the take up of new development in line with WLEP 2009.

The site is located in primarily a commercial precinct, at the highest point within the Wollongong central business district. It is readily accessed on foot from Crown Lane, Market Street and Railway Parade.

Newer consents in the vicinity allow for high density mixed use buildings which if built, would introduce a substantial residential population in this area. Shadowing impacts as a result of these existing consents and the proposed development have been considered.

The contextual study demonstrates the development is of a scale and form compatible with existing and potential development in the vicinity.

The land is located with good access to Wollongong train station, buses operating along Crown and Keira Streets and the local road network.

### **Access, Transport and Traffic:**

Roads and Maritime Services has advised they have no objection to the development. Council's traffic engineer has also advised the proposal is satisfactory and recommended conditions of consent.

### **Public Domain:**

Landscaping works are proposed on Council's footpath, and satisfy the requirements of Council's Public Domain Technical Manual. Awnings are proposed over the Rawson Street and Regent Street road reservation, and are satisfactory.

### **Utilities:**

The existing building received all utilities and conditions of consent are recommended regarding utility connection. A substation location has not been identified.

### **Heritage:**

No heritage items are located within the immediate vicinity.

### **Other land resources:**

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

### **Water:**

The site has previously been serviced by Sydney Water. It is expected that services could be provided to meet the requirements of the proposed development. Sydney Water approval would be required prior to construction. Conditions of consent are recommended.

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

### **Soils:**

The site contains Class 5 acid sulfate soils and is not known to be contaminated. The proposed development involves minor excavation of soils only, as bulk excavation has already been undertaken on the site. Impacts on soil resources through erosion and sedimentation during construction would be mitigated through appropriate action. Conditions of consent are recommended.

### **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. Street tree planting is proposed on the footpath on Rawson Street and Regent Street. This vegetation is expected to increase pedestrian comfort at ground and lower podium levels.

#### Flora and Fauna:

There is no existing vegetation on the site and therefore no impacts upon flora or fauna are expected.

#### Waste:

A waste and recycling disposal chute would direct all residential waste to the waste storage room on lower ground level. Retail and child care waste would be managed separately. All collection would occur by private contractor within the loading room on the lower ground level.

#### 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 Acoustic Logic report concludes that implementation of specific glazing and seals would result in the building meeting noise standards specified in SEPP (Infrastructure) 2007. The proposal itself would result in noise and vibration impacts during construction, which could be mitigated through consent conditions. Following occupation, there is potential for noise impacts on nearby residential development emanating from private open space areas and the communal 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 community safety officer reviewed the application and recommended conditions of consent. Residential and retail functions are separated and it is expected that security access controls would be implemented in all pedestrian and vehicular areas. Passive surveillance of the surrounding street network is provided on the podium and upper residential levels.

#### Social Impact:

The proposal is not expected to result in adverse social impact. Council's minimum standards for housing diversity/unit mix and adaptable dwellings have been achieved. All dwellings exceed minimum sizes recommended in the Apartment Design Guide.

#### Economic Impact:

The proposal is not expected to result in adverse economic impact. The proposed building incorporates retail and residential floor space in the Wollongong City Centre, which is permitted in the B3 zone.

#### Site Design and Internal Design:

Council's Design Review Panel identified several areas requiring refinement and these have been resolved. A contextual analysis has been provided which satisfactorily demonstrates the 'fit' of the building within the existing and potential streetscape.

Where the application proposes departures to development standards, these have been adequately justified. No easements are required and vehicle and pedestrian access to the site is readily available. All required on-site parking has been provided. Waste collection would occur in a loading dock. Residential and retail functions have been separated to allow for reduced conflict between residents and retail tenants. Impacts of road noise have been considered and materials required to achieve mandatory noise levels are specified in conditions of consent. A BASIX certificate has been provided and is satisfactory.

### Construction:

Construction impacts are likely to be considerable given the location of the site and scale of the development. These impacts can be 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 proposed shop top housing development is permissible in the B3 Commercial Core zone and meets the zone objectives. Impacts on nearby development have been considered and the proposal is not expected to unreasonably constrain future development. Improvements to the public domain are proposed. All required on-site parking is provided and the RMS have not identified concerns regarding the capacity of the local road network. Proximity to Wollongong train station has the potential to increase public transport use.

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

### Does the proposal fit in the locality?

The existing locality is predominantly commercial (office), with some retail and residential buildings. The site's proximity to Wollongong train station and Crown Street would situate the proposed occupants within an established commercial precinct with considerable residential amenity.

The proposed shop top housing development with separate child care centre is a permissible use in the B3 Commercial Core one. Building height and floor space ratio comply with WLEP 2009. Development departures are proposed to adjoining commercial buildings, and have been adequately justified.

Refinements identified by Council's Design Review Panel have been implemented.

### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal. A comprehensive contextual analysis has been submitted which demonstrates the impact of the proposed building on the existing and potential streetscape.

## **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 notification period was 18 January 2016-22 February 2016.

One submission from NSW Ports has been received (objection). Matters raised are discussed in Table 1 below:

**Table 1: Submission**

Concern	Comment
<b>Exposure to acoustic impacts of rail operation</b> NSW Ports has an interest in the operation of the NSW rail network, which services both passenger and freight trains. It considers that the applicant's acoustic assessment should be revisited as measurement does not include the maximum ( $L_{Amax}$ ) noise generated by rail operations. $L_{Amax}$ noise is the loudest noise experienced during the test period, as opposed to $L_{Aeq}$ level, which is an average	The acoustic assessment prepared by 'Acoustic Logic' assesses the impacts of rail related noise upon the proposed development. It satisfactorily addresses the requirements of SEPP (Infrastructure) and uses the same measurement criteria set out in the SEPP. There is no requirement for measuring the $L_{Amax}$ levels of trains. The assessment specifies glazing types required in order to achieve compliance with the SEPP.  The report is consistent with the Department of Planning's <i>'Development Near Rail Corridors and Busty Roads – Interim Guidelines'</i> .  Council's environment officer has reviewed both the

Concern	Comment
<p>over the test period.</p> <p>NSW Ports is concerned that if residents of the building experience high noise levels, freight operations may be constrained in response to resident complaints.</p> <p>NSW Ports advise there are currently 12 trains arriving and departing from the Port. Freight train movements are projected to grow to about 17 trains a day.</p> <p>The submission concludes that the Authority has no objection subject to the following:</p> <ul style="list-style-type: none"> <li>• The proponent undertakes additional noise monitoring to determine the existing <math>L_{Amax}</math> levels experienced at the site.</li> <li>• The proposed acoustic design mitigation measures are reviewed, particularly during night time. Air should be ducted into bedrooms from a quiet area not exposed to rail noise or through acoustically treated ventilators.</li> <li>• The proponent should clarify the date the measurements were taken.</li> <li>• Internal noise levels are only achievable if windows and doors remain closed. Future residents or purchasers should be notified of rail activities and advised of the potential impacts if mitigation measures are negated.</li> </ul>	<p>submission and the acoustic assessment and has no objection to the development, subject to compliance with mandatory <math>L_{Aeq}</math> levels.</p> <p>In relation to the specific action recommended by the Authority:</p> <ul style="list-style-type: none"> <li>• It is not considered necessary to require a higher standard of measurement than that prescribed under SEPP (Infrastructure) and the Department of Planning Guidelines.</li> <li>• The acoustic assessment specifies bedroom ducting.</li> <li>• It is unclear from the assessment whether the monitoring occurred on a weekday or weekend. Notwithstanding, the <math>L_{Aeq}</math> levels are not expected to be significantly different.</li> <li>• The Department of Planning Guidelines anticipates development may need to have windows and doors closed to the rail noise source. Notification of the location of the rail line and potential to experience rail noise is not considered necessary.</li> </ul>

#### Submissions from public authorities

NSW Ports provided a submission, which is discussed above.

#### 2.10 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 current form is consistent with the public interest.

Council's Design Review Panel has assessed the development on three occasions, and suggested design changes to improve the function and appearance of the building. Their final comments form Attachment 5. Matters raised have been satisfactorily resolved in the revised proposal submitted to Council in April 2016.

Community consultation has been undertaken in accordance with the legislation and matters raised in the submission have been thoroughly considered.

### 3. CONCLUSION

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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 Council Development Control Plans and policies.

The proposed development has appropriate regard to the objectives of the B3 zone and is permissible with Council's consent. The proposal generally complies with the essential criteria and intent of the relevant controls. Development departures to building separation are proposed and have been justified. Council's Design Review Panel identified matters which in their opinion should be addressed in order to achieve design excellence, and these matters have been resolved.

The proposed development has been designed appropriately given the constraints and characteristics of the site, and is consistent with the existing and desired future character of the area. The submissions have been considered and the development is unlikely to result in significant adverse impacts on the amenity of the surrounding area.

### 4. RECOMMENDATION

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It is recommended that in its current form, the proposed development be approved subject to the draft conditions of consent detailed in Attachment 7.

### ATTACHMENTS

1. Aerial Photograph
2. Zoning Map Wollongong Local Environmental Plan 2009
3. Proposed plans
4. WLEP 2009 clause 4.6 development departure written request
5. Design Review Panel comments
6. Compliance table
7. Draft conditions of consent