



VARIATIONS STATEMENT

The proposed development has been purposefully designed to provide an appropriate environmental outcome for the subject site and the Wollongong City Centre as a whole. In doing so, several minor variations to the development standards contained within Wollongong Local Environmental Plan (LEP) 2009 and Wollongong Development Control Plan (DCP) 2009 have been adopted. This Statement is prepared for Council's consideration to identify the development standards variations sought and to provide appropriate justification in this instance.

WOLLONGONG LEP 2009

Clause 8.6 of the LEP provides building separation distances for developments within Zone B3 Commercial Core or Zone B4 Mixed use with the objective:-

“ . . . to ensure sufficient separation of buildings for reason of visual appearance, privacy and solar access.”

Part 2(a) of this clause identifies a development standard to which the proposed development does not comply, being:

“(2) Building 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 street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser”

The proposed development observes a building separation distance at the Burelli Street frontage of 12 metres to “Corporate Square” to the east (5 metres to site boundary) and 20 metres to “Mission Australia” building to the south (2 metres to proposed site boundary) for the street frontage height.

Clause 4.6 of the LEP provides the mechanisms to allow development standard variations with the objectives of providing an appropriate degree of flexibility to achieve better outcomes. In this regard, justification for variations must demonstrate:

- “(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

The primary reason for non-compliance with the development standard in this instance is that the adjoining buildings presently observe building setbacks from their existing site boundaries and therefore “. . . . no separation between neighbouring buildings . . .” cannot practically be achieved. In addition to this, the proposed development forms part of the Mid City Square Master Plan which incorporates a pedestrian linkage between Burelli Street and Stewart Street as required by Council DCP 2009 (Chapter D13 : 3.2.3 Pedestrian Links). Accordingly, a 5 metre wide building setback to the site boundary in Burelli Street has been adopted to incorporate this required pedestrian linkage.

The 2 metre wide building setback to the proposed site southern boundary has been implemented to facilitate vehicular access to the proposed basement parking levels and the existing surface parking area associated with the “Mission Australia” building. This access arrangement will be a shared facility to minimise crossing points to the road network and improve pedestrian amenity within the locality as required by Wollongong DCP 2009.

It is emphasised that all existing buildings within the immediate site locality have building setbacks to adjoining boundaries for street frontage height components and therefore the proposed development will be consistent with this existing environment. In this regard, it will maintain the localised streetscape appearance and will provide a positive contribution to the urban design of the Wollongong City Centre.

Accordingly, it is considered that strict compliance with Clause 8.6 (2) (a) in this instance is both unreasonable and unnecessary and that sufficient environmental planning grounds to justify contravening this development standard have been provided.

WOLLONGONG DCP 2009

In addition to the above, the proposed development seeks variations to several development standards contained within Chapter D13 of the DCP, being:-

- **2.4 Building depth and bulk; and**
- **2.5 Side and rear building setbacks and building separation.**

2.4 Building Depth & Bulk

The objectives of this development standard are:-

- “(a) To promote the design and development of sustainable buildings.*
- (b) To achieve the development of living and working environments with good internal amenity and minimise the need for artificial heating, cooling and lighting.*
- (c) To provide variable and useable commercial floor space.*
- (d) To achieve usable and pleasant streets and public domain at ground level by controlling the size of upper level floor plates of buildings.*
- (e) To achieve a city skyline sympathetic to the topography and context.*
- (f) To allow for view sharing and view corridors.*
- (g) To reduce the apparent bulk and scale of buildings by breaking up expansions of building wall with modulation of form and articulation of facades.”*

The relevant development control to be considered in this instance is the need to maintain a maximum building depth for the non residential component of the development above street frontage height of 25 metres. The proposed development has depths above street frontage of between 27 metres to 29.5 metres which marginally exceeds the stated development standard.

Variations to development controls can be considered by Council in accordance with Section 9 of Chapter A1 of the DCP and, in this regard, the following is advised:

- the building depths adopted for the proposed development provide for a suitable and reasonable use of available space within the site and reflects the angular urban design outcome sought for the Burelli Street façade. This building depth will achieve a 12.5 metre light penetration for the proposed usable office space areas (exclusive of infrastructure core) as detailed in the Daylight Penetration Diagram (Dwg. DA-22) as required. In doing so, the proposed building depths adopted will not compromise any of the stated objectives for this development standard identified above;
- the proposed development is to be situated within a commercial/cultural based environment that does not contain any residential accommodation immediately adjacent. Therefore this proposal will have no adverse impact upon residential amenity;
- support for the variation proposed will maintain consistency with the objectives of the B3 Commercial Core zone as reproduced within Section 2.3 of the Statement of Environmental Effects;
- the proposed development design, including the angular façade to Burelli Street, will accord with the stated DCP objective to “. . . . *encourage urban design excellence*” The exceedance of the 25 metre depth criteria assists this design excellence without compromising the building aesthetics and internal amenity to which this development standard applies; and
- compliance with the 25 metre depth criteria in this instance will provide no perceivable benefits to the proposed development whilst the minor variation to this control will provide:
 - viable and usable commercial floor space;
 - an appropriate working environment with good internal amenity; and
 - a building having suitable bulk and scale to sit comfortably within the locational streetscape.

It is therefore considered that street compliance with the 25 metre depth criteria is both unreasonable and unnecessary in this instance in accordance with the above justification.

2.5 Side and rear building setbacks and building separation

The objectives of this development standard are:-

- “(a) To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view, sharing, ventilation, wind mitigation, and privacy.*
- “(b) To achieve usable and pleasant streets and public domain areas in terms of wind mitigation and daylight access.”*

The relevant development control in this instance is the need to maintain a side/rear boundary setback for the residential component of the development of 12 metres (ie. between street frontage height and 45 metres). The proposed development has a setback to the proposed southern side boundary of 10 metres to 11.4 metres.

A variation to this control is also sought in accordance with Section 9 of Chapter A1 of the DCP and, in this regard, the following is advised:-

- the existing development to the south of the proposed building is a low level commercial building with no residential accommodation. The building setback for the upper levels only of the proposed building will have minimal impact upon the adjoining development;
- the orientation and internal design of the residential units will provide an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, privacy and the like;
- the proposed building line variation at the upper levels will have no adverse impact upon the existing streetscapes and public domain areas;
- support for the variation proposal will maintain consistency with the objective of the B3 Commercial Core zone aforementioned.

Again, it is therefore considered that strict compliance with the development standard is both unreasonable and unnecessary in this instance in accordance with the above justification.

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