

**SOUTHERN REGIONAL PLANNING PANEL**

Panel Reference	PPSSTH-309
DA Number	DA-2023/767
LGA	Wollongong City
Proposed Development	Consolidation of land holdings, construction of registered club and motel; construction of commercial office building; construction of a hotel with retail/hospitality spaces; construction of basement across the site accommodating car parking, vehicular access, loading, storage, plant and the like; public domain works within Globe Lane, and part public road closure of Globe Lane and associated Stratum subdivision above Globe Way
Street Address	Lot 1 DP 621464, 82 Church Street WOLLONGONG Lot 1 DP 505840, 80 Church Street WOLLONGONG Airspace over Globe Lane Lot 402 DP 881597 Lot 1 DP 53465, Lot 1 DP 60149, Lot 1 DP 548304 - 163-171 Crown Street WOLLONGONG  About 510 Sq Ft under Lane
Applicant/Owner	Applicant: ADM Architects Owner: 171crown Pty Ltd, Wollongong Golf Club Ltd, Wollongong City Council
DA accepted date	28 September 2023
Total number of Submissions	5 in the first notification period; 1 in the second notification
Number of Unique Objections	5 in the first notification period; 1 in the second notification
Recommendation	Approval
Regional Development Criteria	This application is required to be reported to the SRPP in accordance with Clauses 2 and 3 of Schedule 6 of SEPP (Planning Systems) 2021 as the proposal has a capital investment value of more than \$30 million (\$229,08,000) and the application includes land in Council ownership.
List of all relevant s4.15(1)(a) matters	<p><b>s4.15 (1)(a)(i) Any environmental planning instruments.</b></p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience &amp; Hazards) 2021</li> <li>• State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>• State Environmental Planning Policy (Transport &amp; Infrastructure) 2021</li> </ul> <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> <li>• Wollongong Local Environmental Plan (WLEP) 2009</li> </ul> <p><u>Other Policies:</u></p> <ul style="list-style-type: none"> <li>• Wollongong City-Wide Development Contributions Plan</li> </ul> <p><b>s4.15(1)(a)(ii) (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:</b></p> <p>N/A</p> <p><b>s4.15 (1)(a)(iii) Any development control plan:</b></p>

	<ul style="list-style-type: none"> <li>Wollongong Development Control Plan 2009</li> </ul> <p><b>s4.15 (1)(a)(iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:</b></p> <ul style="list-style-type: none"> <li>The applicant has commenced planning agreement negotiations with Council however this has not yet progressed to exhibition. Details below in Section 1.1 of this report.</li> </ul> <p><b>s4.15 (1)(a)(iv) the regulations</b></p> <ul style="list-style-type: none"> <li>EPA Regulations 2021 (clause 66A)</li> </ul>
List all documents submitted with this report for the Panel's consideration	<p>Architectural plans by ADM Architects and Jackson Teece Architects</p> <p>BCA/ NCC Compliance – Credwell</p> <p>Contamination Assessments – Reditus Consulting Pty Ltd</p> <p>Connecting with Country report – Fellingham Consultancy and Design</p> <p>Landscaping plans by TaylorBrammer Architects</p> <p>Traffic documentation by Jones Nicholson Pty Ltd</p> <p>Arborist report by DJD Tree Consultancy</p> <p>WSUD / Stormwater Management - Jones Nicholson Pty Ltd</p> <p>Stormwater plans by Jones Nicholson Pty Ltd</p> <p>Flood Report and FERP– J. Wyndham Prince Consulting Engineers</p> <p>Planning documents by MMJ Architects</p> <p>Clause 4.6 variation statement – MMJ Town Planning &amp; Advisory</p> <p>Economic Impact Assessment – Hill PDA Consulting</p> <p>European Heritage Assessment by Robert Lee Architects Pty Ltd</p> <p>Access Report – Accessible Building Solutions</p> <p>Archaeological Assessment - Austral Archaeology Pty Ltd</p> <p>Wind Assessment - SLR Consulting Australia Pty Ltd</p> <p>Acoustic Report – Harwood Acoustics Acoustical Consulting</p>
Clause 4.6 requests	<ul style="list-style-type: none"> <li>Relates to Clause 4.3 of Wollongong Local Environmental Plan (LEP) 2009 – building height. The height limit for the Hotel site is 48m. The proposed maximum overall height of the hotel is 55m.</li> <li>Relates to Clause 8.6 of Wollongong LEP 2009 – Building Separation.</li> </ul>
Summary of key submissions	<ul style="list-style-type: none"> <li>Wind effects</li> <li>Excessive hotel building height</li> <li>Architectural character</li> <li>Vehicular access impacts for nearby businesses and properties reliant upon access via Globe Lane and Globe Way</li> <li>Impact on nearby businesses</li> <li>Parking provision and traffic impacts</li> <li>Overshadowing impacts on streets, glare impacts from proposed glazing and finishes</li> <li>Noise from roof top plant</li> </ul>
Report prepared by	Theresa Whittaker, City Centre & Major Development Team

Report date	13 December 2024
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**Summary of s4.15 matters**

Yes

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

## Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

## Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

## Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not applicable

## Conditions

Have draft conditions been provided to the applicant for comment?

Yes

## Executive Summary

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### Reason for consideration by Southern Regional Planning Panel

This application is required to be reported to the Southern Regional Planning Panel (SRPP) for determination in accordance with Clauses 2 and 3 of Schedule 6 of State Environmental Planning Policy (SEPP) (Planning Systems) 2021 as the proposal comprises general development with a capital investment value of more than \$30 million (CIV \$229,08,000) and involves land which is owned by Wollongong City Council.

### Proposal

The application seeks consent for the consolidation of land holdings, construction of registered club and motel; construction of commercial office building; construction of a hotel with retail/hospitality spaces; construction of basement across the site accommodating car parking, vehicular access, loading, storage, plant and the like; public domain works within Globe Lane, and part road public road closure of Globe Lane and associated stratum subdivision above Globe Way.

### Permissibility

The proposed development comprises *commercial premises, hotel or motel accommodation, registered clubs, and tourist and visitor accommodation* for the purposes of Wollongong Local Environmental Plan 2009. All uses are permissible in the E2 Commercial Centre zone.

### Key assessment issues

- Clause 4.6 variations sought in relation to building height (Clause 4.3 WLEP 2009) and building separation (Clause 8.6 WLEP 2009)
- Relationship with MacCabe Park including preservation of solar access
- Pedestrian accessibility, connectivity and amenity
- Design quality and urban design generally
- Landscaping and public domain works
- Construction impacts
- Traffic generation, pedestrian safety, servicing
- Social and economic impacts in the locality
- Impacts on business fronting or gaining access from Globe Lane and Globe Way
- Associated road closures – Globe Lane and stratum subdivision of Globe Way.

### RECOMMENDATION

It is recommended that DA-2023/767 be granted a deferred commencement consent pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979 subject to the conditions outlined in Attachment 5.

## 1 APPLICATION OVERVIEW

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### 1.1 DETAILED DESCRIPTION OF PROPOSAL

The proposal involves the redevelopment of a large city centre site occupied by a registered club, the former David Jones department store and its associated carpark, along with a section of Globe Lane.

It is proposed to construct the development in three (3) stages [though the application has not been lodged as a staged/ concept DA for the purposes of the Act].

The proposal involves:-

- Consolidation of existing landholdings into one lot, including part road closure/acquisition of Globe Lane and new public access right of carriageway, and part boundary adjustment acquisition with the Globe Way landholding (Council land).
- Construction of a new registered club and motel building for City Diggers (6 x storeys housing 114 motel rooms) adjacent to the corner of Burelli and Church Streets. The Club will occupy the ground floor with motel units above. The primary pedestrian entry is positioned adjacent to the corner of Church & Burelli Streets and features a shared lobby with the motel reception.
- Construction of a new commercial office building (8 x storeys with ground floor retail/hospitality) fronting Church Street and Globe Lane (middle portion of the site). The ground floor will be occupied by secure lifts/ lobby area and two hospitality spaces facing front and back, with outdoor areas to the front and rear of the building. Offices will occupy all other levels, with the upper-level housing plant. Rooftop PV panels are proposed.
- Construction of a hotel building with frontage to Crown Street, Church Street and Globe Lane (northern-most part of the site). Note that the lobby, valet drop off (etc) will be located within the basement (B1). The ground floor uses on the Globe Lane frontage of the site comprise 2 x retail/ hospitality spaces with BOH functions at its rear. The ground floor uses (at Crown Street level) comprise the hotel lobby area, a bar/lounge; café; restaurant and retail/ hospitality spaces. Active frontages are proposed to the Crown Street mall and to the new pedestrian link to be constructed on the western side of the building. All other floors are occupied by hotel rooms and ancillary functions (BOH, gym and the like), suites on Levels 10-12, a 'Sky Bar', amenities, plant and BOH on Level 13, and plant on Level 14. A total of 236 rooms are proposed.
- Construction of a 5/6 level interconnected basement across the entire site accommodating 567 car spaces, 104 bicycle spaces, 23 motorcycle spaces, hotel lobby/drop-off area, hotel valet parking, loading, storage, plant areas and other utilities.
- Service vehicle (heavy rigid vehicle) access will be obtained from Burelli Street into basement level loading zones.
- Access to the basement car parking for domestic vehicles, bicycles and the like will be obtained from the Church Street frontage.
- Complete reconstruction of part Globe Lane (east) affected by the development. Globe Lane will function as a shared zone with pedestrian priority. Vehicles that will utilise Globe Lane will be limited to service vehicles associated with the businesses in Globe Lane and emergency vehicles; no general public traffic access is proposed.
- Proposed new public pedestrian link from Globe Lane to Crown Street Mall (which will involve the creation of a publicly accessible right of carriageway).
- The construction of the development will be staged, as per the staging plan provided below:



**Artist's impression – Globe Lane/ Church Street Corner**



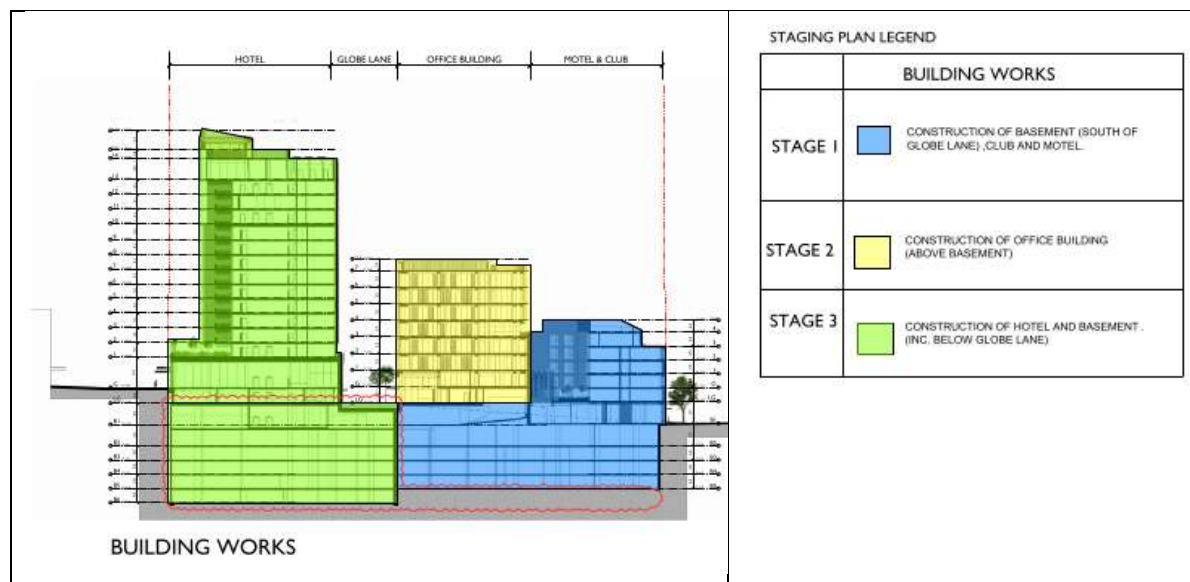
**Artist's impression – Crown Street Mall / Church Street Corner – Hotel building**



**Artist's impression – Burelli/ Church Street Corner – Club/ Motel**

**Figure 1 - Artist impressions**





**Figure 2 – Site staging plan**

It is noted that there have been discussions in relation to a proposed Planning Agreement (PA) for part of the public domain upgrade and refurbishment works proposed within Globe Way to the west of the site. At the time of writing this report, negotiations remain underway with the nominated negotiating officers.

A separate development application (DA-2024/870) has been recently lodged seeking consent for the demolition of existing structures and bulk excavation earthworks at 80-82 Church Street and Globe Lane, Wollongong. The works will entail:-

- The demolition of all existing structures and surfaces at 80-82 Church Street;
- demolition of that part of the existing structure(s) located over Globe Lane;
- provide temporary hoarding/ make good of southern façade of existing structure(s) to remain at 163-171 Crown Street;
- proposed bulk earthworks excavation of land within the boundaries of 80-82 Church Street, to an approximate depth of RL-5.5m AHD;
- erection of temporary hoarding/scaffolding across all frontages (Burelli Street, Church Street, Globe Lane and Globe Way), including associated security and signage provisions; and
- installation of temporary tree protection measures to existing trees along Burelli Street and Globe Way frontages.

DA-2024/870 does not relate to the northern-most allotment. A separate DA will be lodged seeking consent for the demolition of the building within that site and the pedestrian bridge over the mall.

## 1.2 BACKGROUND

### Development History

Various development applications from the mid-1960s onwards relating to the construction, alterations and use of a retail department store and shopping complex. In May 1974, an application was also approved for the construction of a pedestrian bridge across Crown Street.

### Pre-lodgement Meeting

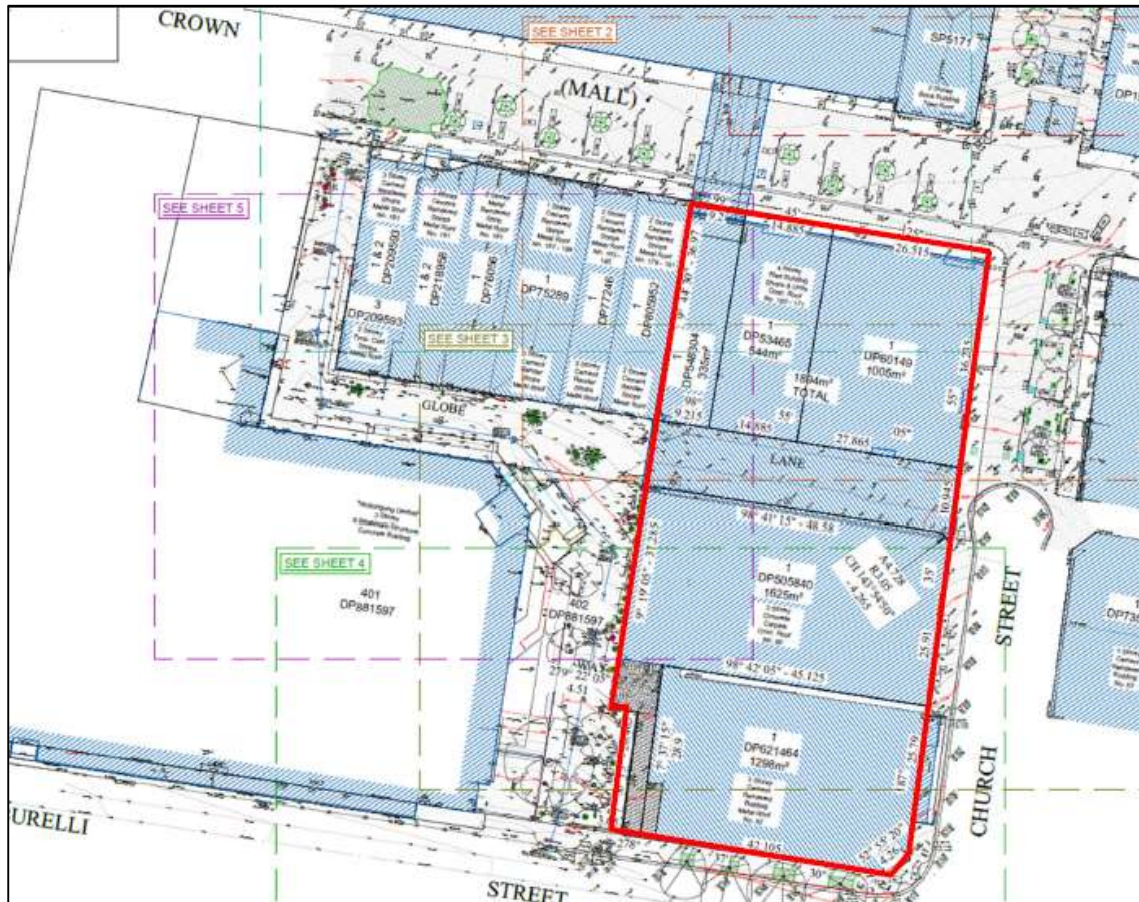
Pre-lodgement meetings with Council staff and the Wollongong Design Review Panel were held in September 2022 (PL-2022/108 and DE-2022/96).

## 1.3 SITE DESCRIPTION

The site is located in the heart of the Wollongong city centre on the southern side of Crown Street.

The subject site has frontage to the Crown Street pedestrian mall to its north, Church Street to its east, Burelli Street to its south and Globe Way to its west. Globe Lane traverses the site from west to east and is proposed to be acquired in part to facilitate the construction of the proposed development.

The Site comprises numerous allotments and portions of road reserve, outlined in red on the below site survey plan:-



**Figure 3 – Site Survey**

The subject allotments are legally identified as follows:-

- Lot 1 DP 621464, 82 Church Street WOLLONGONG
- Lot 1 DP 505840, 80 Church Street WOLLONGONG
- Airspace over Globe Lane
- Lot 402 DP 881597
- Lot 1 DP 53465, Lot 1 DP 60149, Lot 1 DP 548304 - 163-171 Crown Street WOLLONGONG
- About 510 Sq Ft under Lane

The combined area of the site is currently 4799.9sqm. It proposed to carry out some partial road closure acquisitions which would result in a total site area of 5404.6sqm. It is noted however that for the purposes of assessment, the consolidated site area of 4799.9sqm has been used.

The site is currently occupied by numerous buildings which will be demolished to facilitate the development. Separate consent will be sought for the demolition works, which will include the demolition of the pedestrian bridge over the Crown Street mall.

The site frontage lengths are as follows:

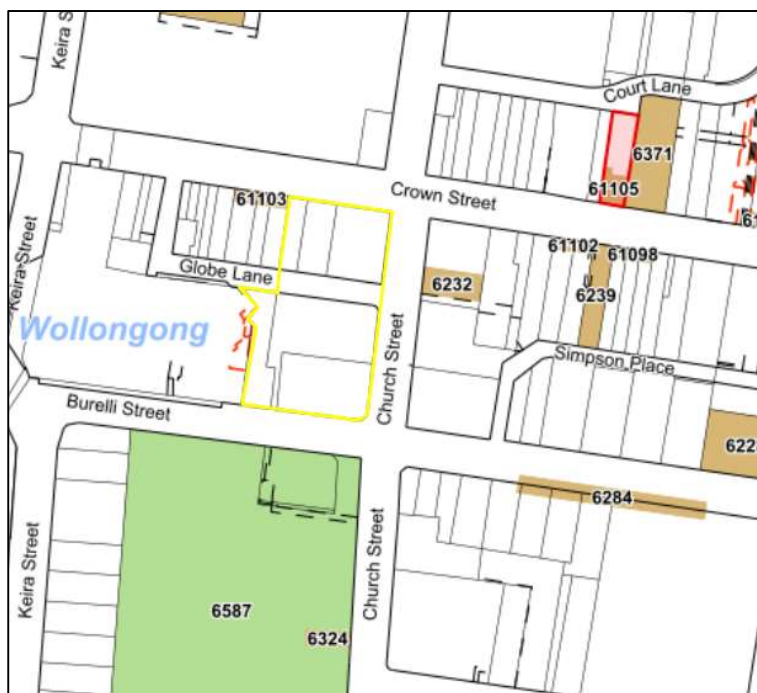
- Crown Street mall – 50.6m
- Church Street (north) – 36.235m
- Church Street (south) – 54.69m
- Burelli Street – 45.15m
- Globe Lane (north) – 51.96m
- Globe Way – 57.75m



Property constraints

Council records identify the land as being impacted by the following constraints:

- Acid sulphate soils class 5 affectation
- Flood affected - uncategorised flood risk precinct
- Site-specific location – Wollongong City Centre in WLEP 2009, subject to Chapter D13 Wollongong City Centre
- While the site is not heritage listed nor is it located within a heritage conservation area, there are numerous heritage items within the vicinity of the site as identified on the below map extract. The listed items include:-
  - Item 61103 – ‘commercial frontage’ - 179–181, 183–185 and 187–189 Crown Street
  - Item 6232 – ‘Shop known as 83 Church Street’ - 149–161 Crown Street (part)
  - Item 6587 – ‘Canary Island Date Palms’ - 84 Church Street/ MacCabe Park
  - Item 6324 – ‘Wollongong War Memorial and Frank Andrews Monument’ – 84 Church Street/ MacCabe Park.



**Figure 4 – Extract of WLEP 2009 heritage map**

Adjoining Development

- North: - Crown Street pedestrian mall fronted by retail premises; large shopping centre (northern part of GPT Shopping Centre)
- East: Church Street (north) – pedestrian mall area with limited vehicular access; Church Street (south); beyond that commercial and retail buildings around 2- 3 storeys in height
- South: land on the opposite side of Burelli Street is occupied by MacCabe Park and a 2 storey commercial building positioned on the corner of Burelli and Church Streets.
- West: various commercial and retail buildings with heights in the order of around 2 – 3 storeys.

The locality is characterised by a mixture of land uses principally commercial in nature, including office buildings, retail premises (comprising primarily smaller retail outlets within larger shopping centres and individual tenancies fronting the retail streets) and food and drink outlets. The pedestrian mall and pedestrianised sections of Church Street form part of the public domain and feature paving, street furniture, landscaping and are used for pedestrian thoroughfare, markets, public gatherings and performances.

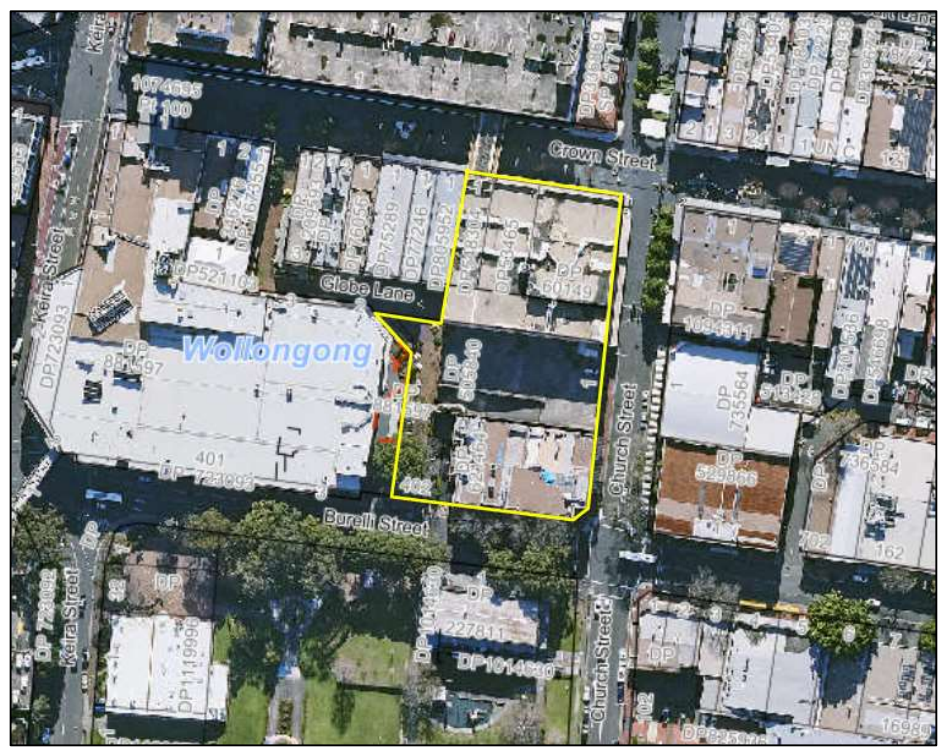


Figure 5 – Aerial Photograph



Figure 6 – WLEP 2009 zoning map


1.4 SUBMISSIONS

The proposal was notified on two (2) occasions in accordance with Council's Community Participation Plan 2023. There were 5 submissions received at the conclusion of the initial notification period (November 2023), one in support and the remaining 4 in in objection to the proposal. One (1) objection was received following the second notification period, which took place following the receipt of revised plans and additional information in October/ November 2024. The following table discusses the concerns raised in the submissions received in both notification periods:-

Concern	Comment
<p><u>Crown Street bridge</u></p> <p>Lack of detail around Crown St mall bridge demolition and make good of building on northern side of mall.</p>	<p>The demolition of the pedestrian bridge over the Crown Street mall was initially proposed however has since been removed from the plans and no longer forms part of the proposal. The applicant has indicated that the demolition of the retail building occupying 163-171 Crown Street and the associated pedestrian bridge over the mall will be the subject of a future, separate development application.</p>
<p><u>Construction impacts</u></p> <p>The construction phase is likely to result in significant impacts on access, along with noise and vibration impacts in the locality.</p>	<p>Detailed consideration has been given to the potential impacts of construction activities, which are likely to be significant and extend across a lengthy period of time. Impacts associated with demolition, excavation and construction are unavoidable and have the potential to impact on the amenity of the neighbourhood and may cause inconvenience to nearby businesses, vehicles and pedestrians.</p> <p>Conditions are proposed to minimise nuisance during construction including those which relate to hours of work; excavation techniques; erosion and sedimentation controls; traffic and pedestrian management; site remediation works; employment of a detailed construction management plan; dust mitigation; works in the road reserves; excavation; protection of neighbouring buildings; dilapidation requirements; waste management; and use of any crane, hoist, plant or scaffolding.</p> <p>A detailed construction management plan will be required to be submitted prior to the commencement of works on the site to ensure that construction activities are managed in a sensitive way in accordance with applicable standards.</p> <p>Substantial excavation is required for the multi-level basement carpark, involving hard bedrock which will result in noise and vibration impacts on nearby commercial and retail receivers. An Acoustical Assessment was submitted with the DA which considers the construction noise impacts and notes that, notwithstanding that the predicted noise levels are within the construction noise design noise goals (NSW EPA Guidelines), recommendations were provided which should form part of the Construction Noise and Vibration Management Plan (CNVMP), along with other engineering and management noise controls.</p> <p>Council's Geotechnical Engineer has considered the geotechnical report supplied with the DA and has advised that its recommendations are appropriate.</p> <p>Vehicular access to properties fronting Globe Lane is likely to be affected for the duration of construction activities. Alternative access arrangements may need to be made.</p>
<p><u>Road Closure</u></p> <p>Globe Lane Road closure and acquisition and Globe Way closure – impacts on local building/ business owners - where permanent acquisition is proposed. Impacts on vehicular access to buildings in Globe Lane for loading, repairs/ maintenance; impact on pedestrian amenity/ foot traffic access; adverse economic impacts on those businesses.</p>	<p>These issues will form a significant part of the considerations for the road closure process. It is proposed to close Globe Lane and consolidate this into the development site area (i.e. road closure, followed by acquisition and consolidation). An easement will be registered on title which will preserve public access over Globe Lane. This will accommodate both pedestrian and vehicular movement in a shared way arrangement, though vehicles will be limited to service and emergency vehicles only.</p> <p>It is agreed that there will be an impact on nearby businesses at least during the construction period, however it is hoped that with the mitigation measures required to be employed, (as per the consent conditions) that construction impacts will not be unreasonably adverse. It is noted that access to the western end of Globe Lane (from Crown Street) will remain available and unaffected by the development, and it is expected that access may be made available via Globe Way. This issue should be dealt with in the construction management plan required by consent conditions.</p>

Concern	Comment
Concerns around adequacy of proposed 'public right of way' or 'easement' (elsewhere) compared to Council ownership to deliver permanent quality public thoroughfares – for section of Globe Lane proposed to be acquired and the Globe Lane - Church St Mall connection.	Council's Property Division has advised that an easement will be registered on title which will preserve public access over Globe Lane. This will accommodate both pedestrian and vehicular movement, though it is intended that the lane will be used by service and emergency vehicles only. This concern will be addressed in greater detail in the road closure process.
Concerns around bin storage / collection given changes to Globe Lane.	There are a number of bins currently stored within Globe Lane, which is unsightly and compromises pedestrian amenity within the space.  Nonetheless, provision for waste collection will remain available, with the lane remaining of sufficient width to accommodate service vehicles. It may be that bins need to be placed further westward within the laneway pending collection.
Public toilets need to be provided in Globe Lane/ Globe Way.	No public toilets are proposed within either Globe Lane or Globe Way. This is a matter for Council and is unrelated to the development application.
<u>Wind Effects</u>  Lack of wind tunnel analysis specific to all pedestrian interfaces.	The DA was accompanied by a Qualitative Wind Assessment which did not include wind tunnel analyses. This was later conducted at Council's request. The additional wind tunnel analysis is specific to the site and adjacent pedestrian areas/ public domain. The wind tunnel testing found that the overall effect of the proposed development on the local wind microclimate, with the wind mitigation treatments recommended, is predicted to be 'not significant'. The report concluded that the proposed development should satisfy the nominated wind acceptability criteria for the project.  The following findings relate to the adjacent public streets/ lanes:-  <u>Crown Street</u> - The proposed building's effect on the wind comfort level on Crown Street is minimal when comparing the baseline scenario to the proposed scenario. At Location 21, the proposed building increases wind channelling, but the required comfort level remains suitable for walking. At location 22, the current condition meets the seating comfort criterion, however, with the proposed building, wind tunnel data shows that the seating comfort criterion is satisfied more than 90% of the year and the standing comfort criterion is satisfied throughout the year.  <u>Church Street</u> - The impact of the proposed building on the wind comfort level is minimal when compared with the baseline scenario. Wind comfort under the existing trees will meet the seating comfort criterion 90% of the year.  <u>Globe Lane</u> - the walking criterion is satisfied along the lane throughout the year. The seating criterion is satisfied ~ 90% of the year. Additional trees are recommended to improve the wind environment along the lane. It is noted that the standing comfort criterion is not met on the south-west side of the development, specifically at location 40. To satisfy seating criterion in these areas, it is recommended to plant additional trees, establishing a sheltered environment for pedestrians, particularly during windy weather – see Figure below:



Concern	Comment
	 <p>Mitigation measures are recommended at various places to reduce wind effects and to ensure the proposed development will satisfy the Wind Acceptability criteria for the site, as per Chapter D13 of Wollongong DCP 2009.</p>
<p><u>Parking/ Traffic</u></p> <p>Excessive parking provision for 567 vehicles. Traffic generation will have significant impacts on the core of the bus network (most routes travel along Burelli St). Traffic volumes will also impact on taxi service to Crown St Mall precinct. Parking provision indicates the proposal is an over-development of the site.</p>	<p>The development provides for car parking consistent with the requirements of Wollongong DCP 2009. Traffic modelling has been undertaken by the applicant which has been accepted by TfNSW. The TIA concludes:-</p> <p>“Comparing the results of the post development modelling against the pre development modelling, the intersections of Burelli Street and Keira Street, and Church Street and Stewart Street maintain a satisfactory level of service. Furthermore, the Level of Service along the Burelli Street bus corridor is maintained as per the existing level of service and as such, the proposed development will not adversely affect bus services along Burelli Street.”</p> <p>It is noted that the existing development previously generated approximately 99 vehicles in the AM peak hour period and 131 vehicles in the PM peak hour period. The proposed development represents a net increase of 83 vehicles in the AM peak and 172 vehicles in the PM peak generated from the site.</p> <p>Upon completion of the proposed development, maintaining the current signalling arrangement with dedicated pedestrian phasing (at the intersection of Church and Burelli Streets), the performance of intersection will remain at a satisfactory level.</p> <p>The TIA indicates that, upon completion of the proposed development, the level of service through the Burelli Street and Church Street intersection will be maintained for bus movements, ensuring the ongoing operational efficiency of the bus network as required by TfNSW.</p> <p>The proposal is satisfactory to TfNSW and Council with regard to car parking provision, traffic generation, traffic safety and nearby intersection performance post-development.</p>
<p><u>Economic Impacts</u></p> <p>Retail uses fronting Globe Lane will undermine retail activity on the mall.</p>	<p>The existing retail building on the site provides around 8,000sqm of retail floor space; this will be demolished and replaced with other uses including 795qm GFA of retail, hospitality and food outlets. This represents a substantial net reduction in retail floor space on the site.</p> <p>The development will however provide for activation of the Globe Lane frontage of the site, which is currently lacking in the current scenario. This</p>



Concern	Comment
	<p>will assist in improving pedestrian amenity within the laneway and the overall vibrancy of the city centre. The hotel and motel uses are expected to generate significant benefits for local businesses, inclusive of existing retail businesses elsewhere within the city centre. The Economic Impact Assessment estimates that, based on an average spend of \$265 per visitor night, total tourism expenditure generated is estimated at \$32 million per annum of which around \$15 million would be on retail goods and services, most of which would be spent in the Wollongong CBD.</p>
<p>Shopfronts should remain large and completely transparent to maintain street visibility and safety. The photomontages provided are deceiving and not clear or accurate as large dense plantings are proposed which needs to be clarified, kept low and sparsely placed for security and to allow pedestrians fluidity and to encourage clear pedestrian sight lines.</p>	<p>Most of the southern façade of the ground floor of the hotel building is occupied by retail/ hospitality spaces with glazed shopfronts to the lane. Similarly, the northern façade of the ground floor of the commercial building is occupied by glazed shopfronts and lobbies facing the laneway. It is expected that there will be good activation of the laneway. The design responds to the principles of Crime Prevention Through Environmental Design and provides for good natural surveillance of the lane. A consent condition is recommended requiring the use of clear glazing to all glazed shopfronts and lobbies at ground level.</p> <p>Some landscape planting is required for wind attenuation in certain locations. This will need to be balanced with the need to retain clear lines of sight for natural surveillance, and avoidance of concealment/ entrapment places.</p>
<p><u>Material reflectivity</u></p> <p>Glare from excessive glazing will impact street level and on nearby businesses.</p>	<p>The DA was accompanied by a Reflectivity Assessment report which provides an assessment of the potential for reflective glare caused by the proposed development. The report outlined recommendations to be implemented or retained to the proposed design including</p> <ul style="list-style-type: none"> <li>• Glazing with a coefficient of reflectivity not greater than 10% is required to highlighted façades.</li> <li>• Façade elements including setbacks, awnings, building orientations, screens, privacy fins and mullion protrusions</li> <li>• The development should retain current proportions and orientation of glazing.</li> </ul> <p>The detailed reflectivity analysis undertaken indicates that, with the inclusion of the recommended mitigation measures, the proposed development will cause neither traffic disability glare nor pedestrian discomfort glare on surrounding public areas. Conditions are recommended in relation to material reflectivity and requiring the implementation of the recommendations of the reflectivity assessment report.</p>
<p><u>Material selection</u></p> <p>Materials should be sympathetic to the historical buildings in the area.</p>	<p>No concerns have been raised in relation to the chosen material palette by either the Wollongong Design Review Panel or Council's heritage or architecture officers.</p>
<p><u>Noise from plant</u></p> <p>Roof top plant will generate noise which will echo in the mall and Globe Lane. Plant location should be reconsidered; mitigation measures outlined.</p>	<p>Plant on the club/ motel, commercial and hotel buildings will be screened but not enclosed. An acoustic report will be required to be provided with the construction certificate providing evidence that, either there is no acoustic attenuation required for mechanical plant within the development site, or it shall prescribe recommendations to ensure noise from plant and equipment is sufficiently attenuated.</p>

Concern	Comment
<p><u>Building height</u></p> <p>A substantial height exceedance of 13.85m (28.8%); is proposed for the hotel which is unjustified and inappropriate.</p>	<p>A variable height limit applies to the site.</p> <p>The northern part of the site fronting Crown Street is subject to a 48m height limit. The height of the hotel building is 55m which exceeds the permitted height limit by 7m. it is noted that the height of the hotel has been reduced on that initially proposed, as recommended by Council.</p> <p>The applicant has provided justification for the variation sought, in the manner prescribed by Clause 4.6 of WLEP 2009. This is discussed below in Section 2.1.6 of this report. On balance, having regard to the justification provided within the Clause 4.6 exception request, and considering the broader merits of the proposal, the variation sought is supported in this instance, and is considered unlikely to give rise to unreasonable impacts on the amenity of neighbouring properties or the locality.</p> <p>Specifically, while the building itself will result in some morning overshadowing of properties to the south (noting the orientation of the site), the extent of overshadowing will not alter significantly because of the exceedance. It is specifically noted that the height exceedance will have no impact on solar access to MacCabe Park.</p> <p>The height exceedance is not considered to be visually imposing in the context, noting that the maximum variation sought is in the order of 14.6% which is likely to be imperceptible from nearby public street frontages, nominated public vantage points and elsewhere within the public domain.</p>
<p>Excessive height is contrary to the character of buildings in the immediately locality – primarily 2-4 storeys in height.</p>	<p>As noted above, there is a variable height limit across the site ranging from 16m to 48m. The motel/ club and commercial buildings comply with the permitted height limit however the hotel exceeds the height at the north-eastern corner of the site. The merits of this development departure are discussed at length regarding Clause 4.6 of WLEP 2009 in section 2.1.6 of this report.</p>
<p>Overshadowing impacts on neighbouring streets and lanes – reduced pedestrian amenity will further compromise these spaces.</p>	<p>There will be overshadowing of adjacent public spaces (laneways and nearby public footpaths) at various times across the day at all times of the year. The applicant has submitted mid-winter and mid-summer shadow diagrams.</p> <p>The submitted Winter shadow diagrams indicate that the three buildings will cast shadows across most of Globe Lane, Globe Way and the Burelli Street footpath throughout the day. Globe Way will receive sun from around 10.30/11am - ~1.30pm. The eastern part of Globe Lane will receive sun in the morning (9-11am). Most of the western section of Globe Lane is in shadow cast by the buildings west of the site, on the southern side of Crown Street.</p> <p>In Summer, all public domain areas will receive more sunlight. The eastern end of Globe Lane will receive some sun in the morning, as will the Church Street frontage of the site. The Burelli St footpath / frontage will be in shade for most of the day. Overshadowing from the building will leave Globe Way around 11am.</p> <p>It is noted that the proposal will involve the removal of the existing structures over the extent of Globe Lane, which will offer significantly improved amenity on that currently available.</p> <p>It is also intended to demolish the pedestrian bridge over the Crown Street mall. Whilst this will be dealt with in a separate DA, it is expected that this will improve the amenity of the mall in a number of ways, inclusive of via improved solar access.</p>

Concern	Comment
<p><u>Globe Lane Closure</u></p> <p>Will Globe Lane be closed to delivery, trade and emergency vehicles required to access the loading bar at the rear of the business fronting Globe Lane? If not, how will access work?</p>	<p>The separate road closure process will deal with this matter. It is intended that access to Globe Lane will be maintained for service and emergency vehicles.</p>
<p>Will the 2 buildings proposed on either side of Globe Lane extrude beyond the existing buildings footprint and setback? If so, by how much?</p>	<p>The proposed buildings are contained within boundaries of the properties either side of the Globe Lane road reserve, however there are awnings proposed which will extend into the road reserve. There will be sufficient distance available between the awnings to enable two-way passing of vehicles within the lane.</p>
<p>Will the footprint of the rear of the building previously occupied by the RSL club facing Globe Way be extended beyond its existing building line and setback? If so, by how much?</p>	<p>The club/ motel is largely contained within the confines of the current site though there are extrusions over the western boundary from Level 1 to the roof of the motel building, which will add to the visual interest of the western elevation of that building. A stratum air space subdivision above Globe Way is proposed (via a separate process with Council's property division) to facilitate this encroachment.</p>
<p>Will a tall and wide service truck with a cherry picker attached and/or fire truck be able to fit through Globe Lane and potentially Globe Way as an alternative, including turning to reach the top of Globe Lane?</p>	<p>Recommended consent conditions require the submission and Council approval of a detailed construction traffic management plan to ensure that vehicular access for emergency and service vehicles will be maintained during the construction phase. A component of the assessment of the traffic management plan will be ensuring that emergency vehicle access will be maintained to affected properties.</p>
<p>Will Globe Way be stepped or otherwise be designed in a way which will prevent vehicle access?</p>	<p>There are no works proposed within Globe Way as part of the development application. The earlier proposed public domain works within Globe Way no longer form part of the application and will be dealt with in a separate planning agreement process.</p>
<p>What public domain works are proposed in Globe Lane? Will these be permanent or mobile and will they allow business vehicle access?</p>	<p>The public domain works within Globe Lane will be limited to paving and some limited landscaping, as detailed on the site and landscape plans. The works will ensure vehicular access remains available along the laneway.</p>
<p>Will the removal of the 2 linked bridges across Crown Street Mall and Globe Lane be expected to create a wind tunnel or increased discomfort to pedestrians based on the erection of the 3 buildings, especially the taller tower?</p>	<p>The removal of the pedestrian bridge over the mall and building over Globe Lane will be the subject of separate DAs however the wind effects reports examine the overall impact of the proposed development.</p> <p>As discussed above, the wind testing found that the overall effect of the proposed development, with the wind mitigation treatments recommended, is predicted to be 'not significant'. Mitigation measures are recommended at various places to reduce wind effects and to ensure the proposed development will satisfy the wind acceptability criteria for the site, as per Chapter D13 of Wollongong DCP 2009.</p>

Concern	Comment
How will bins from my building be collected because at present I believe they are wheeled out and sourced via Globe Lane?	There are a number of bins currently stored within Globe Lane, which is unsightly and compromises pedestrian amenity within the space.  Nonetheless, provision for waste collection will remain available, with the lane remaining of sufficient width to accommodate service vehicles. It may be that bins need to be placed further westward within the laneway pending collection.
How will trade, delivery and emergency vehicles reach my building during construction?	A construction management plan will be required to be implemented dealing with these and other construction related impacts.
How will noise and dust during construction be managed and minimised so as not to impact surrounding retail trade?	A construction management plan will be required to be implemented dealing with these and other construction related impacts.

## 1.5 CONSULTATION

### 1.5.1 INTERNAL CONSULTATION

#### Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application and has provided a satisfactory referral including recommended consent conditions.

#### Stormwater Engineer

Council's Stormwater Officer initially raised a number of concerns with regard to flooding and stormwater management. These have been partially resolved through the submission of revised plans and further information. However a deferred commencement condition is proposed in relation to the final design and approval of the stormwater system.

The proposal is considered satisfactory subject to recommended conditions, which are included in the list at **Attachment 5**.

#### Landscape Architect

Council's Landscape Officer has reviewed the application and is satisfied with the proposal and has recommended consent conditions.

#### Traffic Engineer

Council's Traffic Officer reviewed the application and initially raised concerns necessitating the provision of revised plans and additional information. These have been resolved and the proposal is now satisfactory from a traffic planning perspective. Conditions of consent were recommended and are included in the consent.

#### Strategic Planning Officer

Council's Strategic Planning Officer reviewed the application and initially raised concerns which have been largely resolved through the submission of additional information. The following outstanding issues have been identified:-

- Still appears that the proposed motel encroaches into Globe Way – refer to proposed floor plan set – A-108 to A-113, issue D.

*Planner's comment:* a stratum subdivision of part of Globe Way is proposed in this location.

- Setback to Church Street – 4m setback above street wall not provided. Additional justification has been provided by applicant. Justification 8 is relevant and accepted. Human scale hasn't been addressed. Notwithstanding this, given views to Cathedral are not affected and the modulation of the facades along Church Street provide a break in scale and provide shelter and interest for pedestrians, the variation is considered acceptable.

*Planner's comment:* the variation to the setback control in Chapter D13 of the DCP is discussed in Section 2.2 of this report and is considered to have merit.

- There are a number of inactive sections of the façade along Church Street between Burelli St and Globe Lane. The servicing, access and topographic challenges are acknowledged. Final design should ensure a high quality and well considered façade treatment for the levels that will overlook Church Street to minimise the impact of utilitarian functions as experienced by a person on the street. DA has been to DRP since previous comments provided. Defer to design experts for any further comments.

*Planner's comment:* design experts have not raised any concerns in this regard. Consent conditions are recommended to ensure quality of finishes.

- The DA appears reliant on the acquisition of the eastern portion of Globe Lane and proposes a 'right of way' to maintain public access. Any right of way should allow for 24/7 access.

*Planner's comment:* the road closure process is being dealt with by Council's Statutory Property Division. With any road closure, it will be necessary to ensure that vehicular access for service and emergency vehicles will be available, in a shared arrangement that prioritises pedestrian movement.

- Without knowing the details of any agreement to close the road and offer it for sale, the following matters should be considered:

- How will the function of Globe Lane be maintained in perpetuity for the benefit of the community?

*Planner's comment:* a 'right of way' will be registered across Globe Lane to maintain public access.

- How will eastern portion of Globe Lane integrate with western portion and Globe Way in the long term.

*Planner's comment:* the Planning Agreement process will need to ensure works proposed via that process mesh with the works proposed via the development application, inclusive of resolution of levels and the like.

- How will the proposed works in the public domain ensure use of the space for community events are maintained or enhanced?

*Planner's comment:* the extent of public domain improvements proposed have been reduced, as noted elsewhere within this report, with the planning agreement for such works remaining under negotiation at this time.

## Heritage Officer

Council's Heritage Officer maintains some concerns in relation to the following issues:

- The separation of the demolition works from this DA will create creates some difficulties in conditioning the monitoring of demolition and storage of the 1965 time capsule and the foundation stones from within the RS&SI League club. Conditions will need to be imposed on the demolition DA/s to ensure these matters are addressed via conditions.

*Planner's comment:* the preservation and storage of the 1965 time capsule and the foundation stones will be dealt with as part of the demolition and bulk earthworks DA-2024/870.

- The applicant has outlined a range of Connecting to Country frameworks and methodology, however it remains unclear how the development proposes to implement these outcomes or has taken the recommendations into account noting the paving artwork has now been removed and a separate Planning Agreement process is running for the domain public spaces.

*Planner's comment:* the outcomes and recommendations will need to be implemented through a Heritage Interpretation Plan, as recommended by the heritage officers.

- Variation to LEP Height Limit remains at 7m. Unclear how Connecting with Country and design has considered the context of the Illawarra Escarpment and key views to and from the site.

*Planner's comment:* the height exceedance is not expected to result in significant changes to available views of the escarpment from either near or far vantage points. This is in part reflected in some of the contextual analyses supplied with the application. It is noted that views to the escarpment are not available currently from within the site or from large sections of the adjacent pedestrian mall due to



existing built form around it. The provision of a publicly accessible bar in the upper levels of the hotel building will offer some opportunities to experience views of the broader city, coast and escarpment from the hotel.

- Unclear what works will be required/proposed under the parallel Planning Agreement process

*Planner's comment:* the landscape masterplans submitted in the earlier iteration of the development indicated that the Planning Agreement would include public domain works within Globe Way and Globe Lane to the west of the site. Whilst Planning Agreement negotiations have ceased for the time being, the applicant has indicated that these will recommence in the near year. In the meantime, a condition is recommended requiring payment of a full s7.12 development contribution, along with public domain works to the street frontages including footpath paving and planting where necessary.

- No information provided on how the identified engagement mechanisms and outcomes in the Connecting with Country framework will or have been implemented in the proposal such as yarning circles, input into design (noting this design will be set by an approval) prioritising Indigenous businesses, culturally safe spaces, respecting Country during construction, employment and training, holding community forums.

Still unclear what Community groups were consulted with during project development and how their ongoing input will be provided.

Due to the difficulties and lack of any legislative framework to assess Connecting with Country Reports against and noting this site does not require an ACHAR to be prepared which provides a legislative engagement framework, the outcomes and recommendations will need to be implemented through a Heritage Interpretation Plan and a condition to this effect has been provided.

*Planner's comment:* noted; recommended condition included in the list at Attachment 5.

- From a heritage perspective, variation to the LEP Height limit (although improved) and strategic merit of the privatisation of part of Globe Lane are outstanding issues and not supported as previously detailed.

*Planner's comment:* noted. Detailed commentary on the height exceedance is provided in Section 2.1.6 of this report. The road closure process is the subject of a statutory process being undertaken by Council's Property Division.

Consent conditions were recommended, including those relating to the development of a Heritage Interpretation Plan which would include the progression of some of the recommended outcomes of the "Connecting with Country" process; information around the significant past development history of the site; and guidance around the final location, proposed presentation and design of the future RSL Memorial wall.

### **Property Officer**

Statutory Property has confirmed that the applicant has contacted Council to progress a proposed road closure of a portion of Globe Lane.

Statutory notification of the proposed road closure has been conducted by Council, and objections have been received. Jemena and Endeavour Energy have raised objections that can be overcome through the grant of easements or through the relocation of gas main assets. Objections have also been received in relation to the property owners, businesses and general community that currently utilise Globe Lane.

The applicant has been asked to address the concerns received which include the impact on deliveries and parking for businesses, bin collection, bin storage and emergency vehicle access. Statutory Property is currently awaiting a response from the applicant.

It is also noted that should the road closure progress, it will be a requirement that the applicant registers a right of way allowing for pedestrian and vehicular movement across the portion of Globe Lane that will be closed.

### **Environment Officer**

Council's Environmental Assessment Officers considered a wide range of matters including potential site contamination; demolition and hazardous materials management; tree removal/ ecological considerations; management of acid sulfate soils; earthworks/ excavation impacts including noise and vibration impacts; groundwater management; soil and water resources; waste management;

operational noise generation; and Ecologically Sustainable Development. A number of conditions were recommended for inclusion on any consent.

### **Community Safety Officer**

Council's Community Safety Officer has reviewed the application and has identified concerns in relation to some aspects of the development where it is considered that safety should be improved:-

- Paint basement ceilings to improve visibility in the basement carpark;
- Security card arrangements for access to the car park and lifts;
- Clear doors to lifts to improve visibility;
- Provision of signage and line marking within the carpark to identify clear paths of travel for cars and pedestrians;
- Bicycle storage should be in the form of a cage or open space with a locking mechanism;
- Provision of signage and line marking in the loading zone area to delineate paths of travel and ensure safety of users including staff;
- General waste room should be made more visually permeable for safety – needs to be in the form of a cage / other treatment to ensure clear vision into this area;
- Carpark Entrance: The main carpark entrance is located off Church Street. This area is a shared area between cars and pedestrians, there will need to very clear management of this space. Clear accurate signage, bollards or barriers to delineate the user types and movement. The entry/exit of the car park will need to have clear lines of site when cars are entering or exiting the car park;
- Provide lighting and CCTV to new pedestrian link to the mall;
- Provide CCTV, lighting and appropriate security throughout the development; and
- Stairs and railings to be designed to discourage skateboarding.

Conditions of consent were recommended in relation to the above matters.

## **1.5.2 EXTERNAL CONSULTATION**

### **Transport for NSW**

Transport for NSW (TfNSW) was referred the application under section 1.5.2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 as it constitutes *traffic generating development* for the purposes of the SEPP. TfNSW initially advised it was not supportive of any adverse impact on the level of service of the intersection of Church and Burelli Streets (i.e. the movement of vehicles along Burelli Street in both directions) as this will impact the operation of bus services along Burelli Street in both directions. Burelli Street is a key bus corridor and a key interchange location between routes.

The applicant has provided additional modelling and mitigation measures, and the proposal is now satisfactory to TfNSW with conditions.

### **Endeavour Energy**

The application was referred to Endeavour Energy as required by Clause 2.48 of State Environmental Planning Policy (Transport & Infrastructure) 2021. Endeavour Energy has an advisory role and provided comment as to future servicing requirements and has confirmed that it has no objection to the proposed development (road closure objection to be dealt with separately).

### **Design Review Panel**

The development application was considered by the Design Review Panel (DRP) on 24 November 2023, as required by Clause 7.18(5) of Wollongong Local Environmental Plan (LEP) 2009. It is noted that the proposal was previously reviewed by the Panel prior to lodgement under DE-2022/96 on 16 September and 12 December 2022.

The Panel advised that the basic concept outlined by the applicant is supported, however, if the development's potential is to be realised, further consideration several issues was recommended. Revised plans have been submitted which respond to the concerns raised by the DRP. The October 2024 plans have been reviewed by the Chair of the DRP who has provided commentary on how the earlier issues raised by the DRP have been addressed and whether the concerns raised have been resolved. Where unresolved issues remain, consent conditions are recommended to address these.

### **Built Form**

Height of hotel tower should be minimised. If any height exceedance is to be considered it must be demonstrated that:

- the form and aesthetic of the tower meet Council's design excellence criteria.
- excessive floor to ceiling heights is not contributing to the height non-compliance. Detailed information will be required on revised sectional drawings.
- the tower contributes to a rational pattern of development for the precinct.
- The proposed height exceedance does not impact the amenity of the neighbours or the public domain (in particular MacCabe Park).
- The extent of shadow impact resultant from the height noncompliance must be clearly identified.

*Planner's Comment:* revised plans have been submitted which have reduced the height of the hotel building to 55m; this represents a height exceedance of 7m. The reduced height of the hotel has been supported by a revised Clause 4.6 submission which addresses several matters including those raised above by the Panel.

#### Setback to Church Street

The DCP requires a nil setback street wall that can vary in height (12 - 24m) to Church Street and for building forms to be setback 4m from the street wall. The proposed office building and Hotel do not comply with this control. The rationale for the alternative built form response must be clearly articulated by the applicant.

*Planner's Comment:* the applicant has provided additional justification for the variation sought; this is discussed below with regard to Chapter D13 of WDCP 2009.

The DRP Chair advised that, "it is acknowledged that the Church Street facades are well articulated, adequate building separation has been provided from future developments on the eastern side of the street and the proposal does not significantly impact upon view corridors along Church Street". Similar commentary was provided by Council's Strategic Planning Officer who noted that, "given views to Cathedral are not affected and the modulation of the facades along Church Street provide a break in scale and provide shelter and interest for pedestrians, the variation is considered acceptable."

#### Wind tunnelling

A report should be provided by a suitably qualified expert to ensure that the proposal does not result in any negative wind tunnelling outcomes.

*Planner's Comment:* Submitted material includes a Qualitative Wind Assessment and an Environmental Wind Tunnel Study which is specific to the site and adjacent pedestrian areas/ public domain. The wind tunnel testing found that:-

*Crown Street* - The proposed building's effect on the wind comfort level on Crown Street is minimal when comparing the baseline scenario to the proposed scenario. At Location 21, the proposed building increases wind channelling, but the required comfort level remains suitable for walking. At location 22, the current condition meets the seating comfort criterion, however, with the proposed building, wind tunnel data shows that the seating comfort criterion is satisfied more than 90% of the year and the standing comfort criterion is satisfied throughout the year.

*Church Street* - The impact of the proposed building on the wind comfort level is minimal when compared with the baseline scenario. Wind comfort under the existing trees will meet the seating comfort criterion 90% of the year.

*Globe Lane* - the walking criterion is satisfied along the lane throughout the year. The seating criterion is satisfied ~ 90% of the year. Additional trees are recommended to improve the wind environment along the lane. It is noted that the standing comfort criterion is not met on the southwest side of the development, specifically at location 40. To satisfy seating criterion in these areas, it is recommended to plant additional trees, establishing a sheltered environment for pedestrians, particularly during windy weather – see Figure 21.



Mitigation measures are recommended at various places to reduce wind effects and to ensure the proposed development will satisfy the Wind Acceptability criteria for the site, as per Chapter D13 of Wollongong DCP 2009.

#### Arcade connecting Crown Street to Globe Lane

The DRP advised that the active edge proposed to the alley is commended, the applicant is encouraged to ensure that points of entry and a high level of activation is maintained. Strong consideration should be given to incorporating a lift into the western façade of the tower to accommodate an accessible path of travel between Crown Street and Globe Lane.

*Planner's Comment:-* the plans provide for retail/ hospitality spaces and a restaurant opening onto the new pedestrian link. This will facilitate natural surveillance and assist in activating the laneway.

In relation to the second point, the applicant advises, "Lift access which connects Crown Street to Globe Lane is available through the hotel lobby. The hotel lobby is designed as a public through space."

DRP Chair has noted that the active edge to the lane has been maintained.

No lift has been provided within the lane as suggested. However, the constraints of the steep topography of the site are acknowledged as is the provision of an accessible path of travel within the Hotel.

#### Globe Way

The Panel considers that the lift access should be moved to the eastern side of Globe Way and integrated into the form of the RSL building.

*Planner's Comment:-* the lift and associated public domain works previously shown on the plans have been removed and will be the subject of future planning agreement negotiations.

#### Globe Lane

The applicant is encouraged to ensure that points of entry and a high level of activation is maintained, as more detailed fit outs of the hospitality uses fronting the way are developed.

*Planner's Comment:-* noted.

#### Hotel vehicle drop off

To ensure the new vehicular drop off point (located at basement level 1) provides a positive experience for hotel patrons, the applicant is encouraged to liaise with Council to ensure the basement can accommodate servicing requirements; adequate space must be provided for manoeuvring of service vehicles and the potential for conflicts between hotel patrons and service vehicles must be minimized.

*Planner's Comment:-* the proposal has been considered by Council's Traffic Engineers and the proposal is satisfactory with regard to these issues.

#### Western courtyard

This area should be secured / made non-accessible to the public, to secure the motel and limit potential for anti-social behaviour.

*Planner's Comment:-* the courtyard has been secured and gated as recommended.

The DRP Chair acknowledged that while the Globe Way public domain works no longer form part of this application, consideration must be given as to how circulation within Globe Way will impact the current proposal. To accommodate an accessible path of travel through Globe Way it is likely that a lift will be required. The lift should be positioned to minimize its intrusion upon view corridors through to the lane towards the park. To address this criterion, it is likely that the lift will be best integrated into the north-western corner of the Motel and the landscape response developed to accommodate an accessible path of travel along the western boundary of the subject site.

It is accepted that this issue may not be resolvable at this stage, given that the Globe Way public domain works do not form part of this application. The applicant is encouraged to maintain the flexibility to further develop the western edge of the current proposal, to ensure an optimum public domain design response can ultimately be achieved.

#### Games room enclosure

It is noted that since the DRP review, the plans have been revised to accommodate natural ventilation to the club gaming area – this is resolved through the provision of a two-storey high louvered enclosure located within the western courtyard. The DRP Chair and Council planners consider that the enclosure detracts from the spatial quality of the courtyard and raises potential privacy concerns (visual and acoustic) between the games room and adjacent hotel rooms. This element of the development is not supported, and the applicant should consider alternative arrangements to ensure that the Club will satisfy the requirements of the relevant legislation.

#### Street interfaces - Church Street frontage

The applicant is encouraged to examine the building interface with the street in all locations, to ensure that lines of sight between retail / hospitality uses and the street are provided. This may require some refinements to the height and scale of planters.

*Planner's Comment:-* the elevations indicate that the height of the planters will not unreasonably obstruct lines of sight to the street. The DRP chair advises that detailed sections have been provided demonstrating that an acceptable interface with Church Street can be achieved.

#### **Sustainability**

Further development of the proposal should seek to incorporate sustainability features:-

- net zero carbon / carbon neutral development best practice plan;

*Planner's Comment:-* the office building is proposed as timber mass construction with the intention of storing carbon and aiming for net zero.

- rainwater harvesting and reuse;

*Planner's Comment:-* additional water tanks have been added to facilitate rainwater harvesting and reuse.

- use of solar power and solar water heating, as well as general electrification;

*Planner's Comment:-* solar PVs are indicated on the plans.

- low embodied energy materials and finishes selections;

*Planner's Comment:-* noted.

- provision of electric vehicle charging stations;

*Planner's Comment:-* there are 140 EV car charge stations proposed throughout the car park.

- provision of openable windows/ natural ventilation to hotel / motel rooms;

*Planner's Comment:-* detail provided addressing this issue.

- reduce dependence on artificial lighting;

*Planner's Comment:-* adjustments have been made to L10 and L11 of the hotel to facilitate natural light access.



- long term maintenance efficiencies to be considered in material selection.

*Planner's Comment:-* noted.

**Landscape** – the Panel commended the revised public domain works scheme proposed for Globe Way however queried some aspects. It is noted that the public domain works proposed for Globe Way are proposed to form the subject of a planning agreement, and this remains under negotiation. This being the case, the applicant has removed the public domain works from the plans.

- Develop a signage strategy to ensure wayfinding, shared road usage, interpretation and locality identification (including street signs);

*Planner's Comment:-* this can be dealt with via a consent condition.

- develop a Circulation Plan;

*Planner's Comment:-* this can be dealt with via a consent condition.

- Query the retention of Burelli Street existing street trees – should they be replaced?

*Planner's Comment:-* the applicant's arborist has recommended the retention of the existing street trees. It is Council's preference to retain the street trees as they are well established and contribute to the streetscape character of Burelli Street. Given the services located within the footpath, if the trees were to be removed, the potential for significant replacement trees to be planted in the same location would be limited due to the presence of services.

- incorporate locally indigenous species plantings throughout the development;

*Planner's Comment:-* this can be dealt with via a consent condition.

- address privacy, shelter / shade, amenity plantings and outlook /views for the sky pool.

*Planner's Comment:-* the sky pool has been removed from the plans.

#### **Amenity –**

- *Sky bar and pool* - the Panel queried enclosure of roof top pool.

*Planner's Comment:-* the pool has been removed from the plans. The terrace now provided to service the sky bar provides a desirable space with an outlook across the city toward the coast. Doors from the toilets servicing the bar open directly on to the terrace. A more discrete access strategy that does not require patrons to access toilet via the terrace is recommended; a consent condition is recommended to this effect. The Sky bar terrace is fully enclosable to allow the space to function in all weather.

- Panel queried artificial lighting to Levels 10 and 11 internalised corridors and recommended the provision of openable vents to allow natural ventilation to hotel rooms;

*Planner's Comment:-* Levels 10 to 11 have been developed to provide windows adjacent to lifts. Detail sections of hotel windows do not indicate that hotel windows can be opened.

- The hotel tower is setback 6m from the western side boundary and windows of hotel rooms are orientated back towards the western neighbour. Consideration must be given to how a likely future development on the neighbouring site will impact the amenity of these rooms.

*Planner's Comment:-* The DRP chair has advised Detail treatment of west and south facing windows to limit potential privacy issues is now documented in drawing A-218.

- improve south facing windows to maximise outlook to Park;

*Planner's Comment:-* The plans remain unchanged. The applicant has advised that the windows are of appropriate and compliant size. No ongoing concerns are maintained around this issue.

- further information required on the motel operation – noting no kitchen for meal preparation.

*Planner's Comment:-* The applicant has advised that the motel's food offering will be provided by the club kitchen.

**Safety** – CPTED principles to be applied; secure western courtyard; consider safety of the single access circa 500 + carspace parking and circulation serving multiple uses; outline ownership, management, and staging and construction management plans

*Planner's Comment:-* these issues have been satisfactorily addressed where possible. A number of consent conditions are recommended relating to CPTED matters, signage and wayfinding, and

construction management plans.

#### **Aesthetics –**

- The DRP considered the expression of the hotel tower to be the least resolved. Further detail resolution of the glazed façade required.

*Planner's Comment:-* the DRP Chair has advised detail sections have been provided, documenting the detail treatment of the hotel tower façade. No information has been provided to demonstrate how openings / vents described by the applicant have been incorporated into the building façade. Conditions are recommended in this regard.

- The DRP advised that each tower façade must respond to its context and orientation in terms of amenity and environmental performance.

*Planner's Comment:-* the DRP Chair has advised that the tower consists of a consistent curtain walling with backing trays in select locations to restrict the extent of tinted glazing / frame views. The curtain walling is articulated with aluminium fins. This strategy has all the components to provide a contextually responsive design that responds to each façade to frame views, limit heat overload and mitigate potential privacy issues. However, it was considered that the information provided it is not clear where backing trays and fins are located. Without this information it is not possible to clearly understand how the proposal is responding to its immediate context. The colour / tone of the tinted glazing is also unclear. Consent conditions are recommended requiring the submission of this detail.

- Address roof treatment noting the roofs of the commercial building and motel will be highly visible from surrounding buildings including the hotel – conceal plant/ incorporate green roofs; use natural / local materials on building facades;

*Planner's Comment:-* the DRP Chair has recommended consent conditions permitting only servicing equipment shown on DA documents from being located on roofs.

- some incongruity between function, structure, amenity, environmental performance, and sustainability is apparent in the façade and street-wall choices in the three buildings (Panel is wary of the long-term sustainability of applied 'decorative/fashionable' façade elements);

*Planner's Comment:-* the DRP Chair has advised that the aesthetic treatment of each building form is satisfactory, pending detail resolution / clarification being provided. As above, conditions are recommended requiring additional detail. .

- unnecessary extra height to the bar and plant room, plus the added low-pitch skillion roof to the roof plant room cannot be supported when it involves exceeding the height limit excessively.

*Planner's Comment:-* The building height has been reduced.

Notes of the November 2023 meeting are provided at **Attachment 2**. Council's Design Expert and the Chair of the DRP have reviewed the amended plans and supporting documentation submitted following the DRP meeting, in light of the DRP commentary and recommendations, as discussed above. Where outstanding issues remain unresolved, conditions of consent provide recommended remedies.

## **2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

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### **Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Order 2023**

This contribution does not apply as the application was lodged before 1 October 2023.

### **2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT**

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994. This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

#### NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. The proposal does not trigger the requirement for a biodiversity offset scheme.

The site is not identified as being of high biodiversity value on the [Biodiversity Values Map](#).

## 2.1.1 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

### *Chapter 2 State and regional development*

The proposal has a Capital Investment Value (CIV) of more than \$30 million and is declared regional development for the purposes of the Act, necessitating determination by the SRPP (Clause 2, Schedule 6 of the SEPP).

The proposal also involves land in Council ownership (being part of Globe Lane which will be closed and consolidated into the site, and part of the airspace above Globe Way) and has a value exceeding \$5 million. The development is declared regional development also pursuant to Clause 3 of Schedule 6 of the SEPP.

## 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The SEPP applies to the Wollongong Local Government Area, identified as being in the South Coast koala management area.

### *4.10 Development assessment process—other land*

Consent can be issued for development on the subject land if Council is satisfied that the land does not have an approved koala plan of management applying to the land or is not core koala habitat. The land has not been assessed by a suitably qualified and experienced person as being highly suitable koala habitat, and Council has no record of the presence of koalas on the site currently or within the previous 18 years. The proposal does not include the removal of extensive native vegetation and the land is not considered to comprise core koala habitat.

## 2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

### *Chapter 4 Remediation of land*

#### Section 4.6 Contamination and remediation to be considered in determining development application

The proposed development has been assessed with regard to the requirements of Chapter 4 of the SEPP with regard to potential land contamination. The proposal has been reviewed by Council's Environmental Scientist with regard to the SEPP and the relevant provisions of Wollongong DCP 2009.

The application was accompanied by a combined Preliminary Site Investigation (PSI) and Detailed Site Investigation (DSI). The report includes a site history and the results of soil and groundwater sampling. The report's findings include there is potential for hazardous materials contained within building materials currently on-site due to the structures being constructed pre-1955, fill material was present, no asbestos was identified within the fill layer, concentrations of contaminants of potential concern in soil were reported below adopted site assessment criteria and concentrations of contaminants of potential concern in groundwater were reported below adopted site assessment criteria, with the two exceptions of marginal exceedances.

The DSI concluded that the site is suitable for the proposed development and that no further contaminated land site assessment or remediation is considered necessary.

Reasons are provided why Council may be satisfied the required considerations of clause 4.6 of Chapter 4 Remediation have been met and these are concurred with.

No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of Clause 4.6. It is noted that conditions will be imposed in relation to the implementation of the recommendations of the DSI; in relation to the safe removal, handling and disposal of hazardous materials; and classification of excavated material before off-site disposal. The requirements and the provisions of clause 4.6 are satisfied.

## 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

Note: this SEPP commenced on 1 October 2023, after lodgement of the DA, and does not apply to the proposed development.

## 2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

### **Division 5 Electricity transmission or distribution**

#### Subdivision 2 - Development likely to affect an electricity transmission or distribution network

The development application was referred to Endeavour Energy for comment in accordance with Clause 2.48 as it may involve works within proximity of electricity infrastructure. Endeavour Energy has advised on connection requirements and has confirmed that it has no objection to the proposed development.

### **Division 17 Roads and traffic**

#### Subdivision 2 – Development in or adjacent to road corridors and road reservations

##### 2.122 Traffic-generating development

s2.122 pertains to traffic generating development, and provides that development with specified in Column 1 of the Table to Schedule 3 that involves new premises of the relevant size or capacity is traffic generating development. The proposal, which provides 200 or more car parking spaces ancillary to the development, is 'traffic generating development' as per Column 1 of the Table to Schedule 3.

Section 2.122(3) prescribes that, *before determining a development application for development to which this clause applies, the consent authority must—*

- (a) *give written notice of the application to TfNSW within 7 days after the application is made, and*
- (b) *take into consideration—*
  - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*
  - (ii) *the accessibility of the site concerned, including—*
    - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
    - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
  - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

In response to (a), the proposal was referred to TfNSW as required. Refer to discussion in Section 1.5.2 of this report, which includes discussion on how consideration was given to the matters raised by TfNSW.

In relation to (b), Council has considered:-

- (ii) *the accessibility of the site concerned, including—*
  - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
  - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) *any potential traffic safety, road congestion or parking implications of the development.*

*Comments:* the site is located within the city centre and has excellent accessibility to the city centre and main nearby public transport nodes. There are frequent bus services available at the Burelli Street frontage of the site, the site fronts the main pedestrianised retail mall, and is within easy walking distance of Wollongong Train station and nearby recreation areas including MacCabe Park and foreshore reserves. These factors will assist in reducing reliance on private vehicles. In terms of

vehicular accessibility, cars will enter the site via Church Street while service vehicles will access loading/ servicing areas via Burelli Street. The arrangements proposed are acceptable to Council's Traffic Engineers.

TfNSW and Council have considered the impact of the development on nearby intersections and initially raised concerns, particularly in regard to the potential impact on the major bus route along Burelli Street. Additional information has been provided by the applicant. The applicant's TIA found that the relevant affected intersections will continue to operate with an acceptable level of service (LoS). The Church/Burelli Street intersection will operate at or near capacity in the AM and PM peak periods based upon the results of the 10 year growth projection. The proposal is satisfactory to TfNSW.

Pedestrian accessibility and connectivity is acceptable.

(iii) *any potential traffic safety, road congestion or parking implications of the development.*

**Comments:** the proposal has been considered by Council's Traffic Engineers and TfNSW and no concerns have been raised in relation to traffic safety matters. The traffic modelling has examined the impact of traffic generation from the proposed development on nearby intersections and indicates that nearby affected intersections will continue to operate at an acceptable level of service.

The development provides sufficient car parking to support the proposed uses and as such should not result in impacts on on-street or public car parking in the locality.

## 2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

### Clause 1.4 Definitions

The following land use definitions are relevant to the proposed development:-

**Commercial premises** means any of the following—

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

**Hotel or motel accommodation** means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that—

- (a) *comprises rooms or self-contained suites, and*
- (b) *may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*

**Note—**

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

**Registered clubs** means a club that holds a club licence under the [Liquor Act 2007](#).

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

- (a) *backpackers' accommodation,*
  - (b) *bed and breakfast accommodation,*
  - (c) *farm stay accommodation,*
  - (d) *hotel or motel accommodation,*
  - (e) *serviced apartments,*
- but does not include—*
- (f) *camping grounds, or*
  - (g) *caravan parks, or*
  - (h) *eco-tourist facilities.*



Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned E2 Commercial Centre.

Clause 2.3 – Zone objectives and land use table

The development is consistent with the objectives of the zone:

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To encourage development that is consistent with the centre's position in the centres hierarchy.*
- *To strengthen the role of the Wollongong city centre as the business, retail and cultural centre of the Illawarra region.*

The proposed development is entirely consistent with the objectives of the E2 zone. The development will strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity; involves investment in commercial development that will generate a significant number of employment opportunities and economic growth within the CBD and more broadly across the region.

The development provides for a high level of accessibility and amenity, particularly for pedestrians, provides diverse and active frontages to all adjacent streets and laneways to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.

The development is consistent with the centre's position in the centres hierarchy and will strengthen the role of the Wollongong city centre as the business, retail and cultural centre of the Illawarra region.

The land use table permits the following uses in the zone:-

**2 Permitted without consent**

*Building identification signs; Business identification signs; Home occupations*

**3 Permitted with consent**

*Advertising structures; Amusement centres; Artisan food and drink industries; Backpackers' accommodation; Boarding houses; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Entertainment facilities; Exhibition homes; Function centres; Helipads; Home businesses; Home industries; Hostels; **Hotel or motel accommodation**; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; 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; Service stations; Sex services premises; Shop top housing; Tank-based aquaculture; **Tourist and visitor accommodation**; Vehicle repair stations; Veterinary hospitals; Wholesale supplies.*

The proposed land uses comprise *commercial premises, hotel or motel accommodation/ tourist and visitor accommodation*, and a *registered club*, as per the definitions provided above. Each of the proposed land uses is permissible in the E2 zone with development consent.

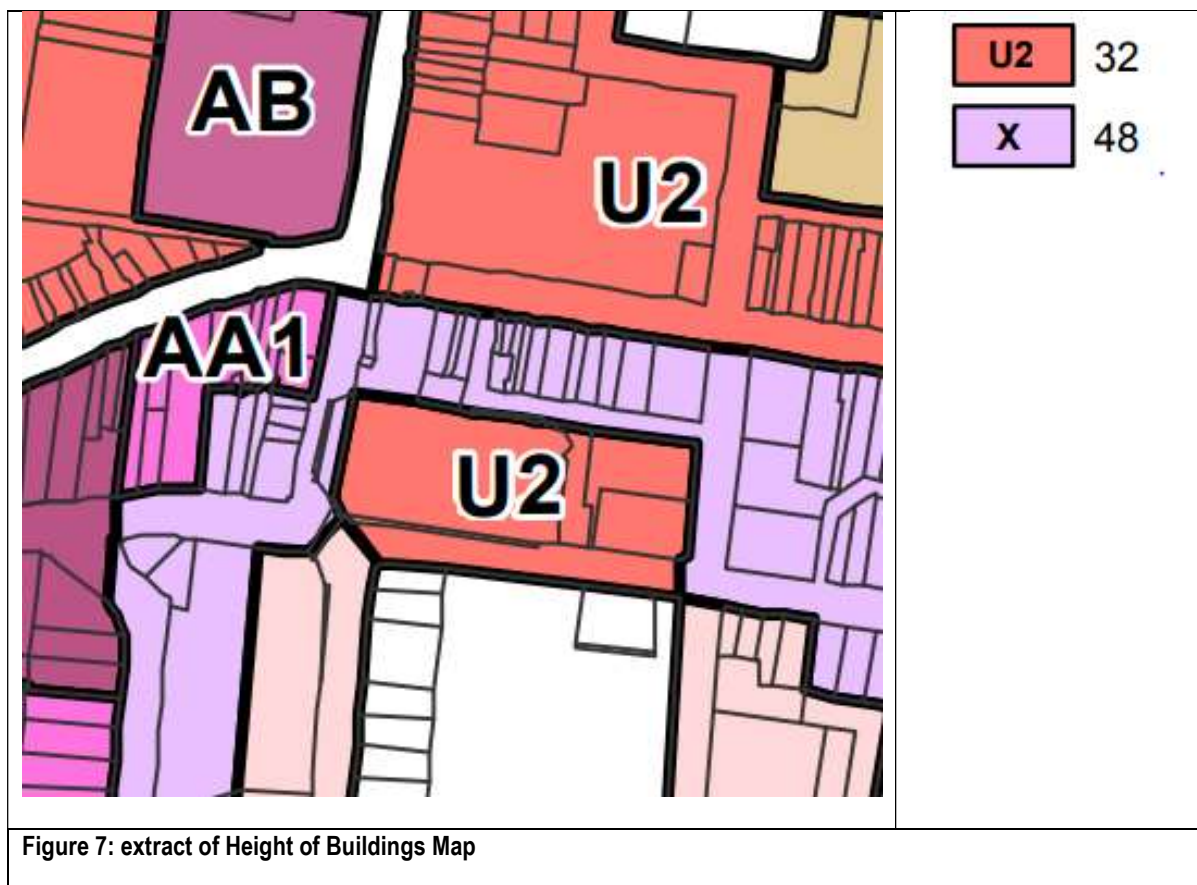
Clause 2.7 Demolition requires development consent

Demolition of existing structures will be the subject of a separate development application.

**Part 4 Principal development standards**

Clause 4.3 Height of buildings

There is a variable height limit across the site as per the below extract of the WLEP 2009 *Height of Buildings Map*:-



A 48m height limit applies to the northern part of the site (i.e. to that part north of Globe Lane, being 163-171 Crown Street) and 32m to the remainder. In addition, there are sun plane protection controls to limit overshadowing of MacCabe Park to the south (see Clause 8.3 below).

The Club/Motel and commercial buildings have compliant heights; however the hotel building exceeds the height limit. The height of this building is 55m to the highest element of the building, being at the north-eastern corner of the site. This represents an exceedance of 7m. A Clause 4.6 variation statement has been lodged supporting this departure. This is discussed below.

The applicant advises that,

*“A thoughtful initiative was made by the project architects to accentuate this corner of the tower at the highest point of the site to achieve a better urban design outcome. The design response accommodates an architectural roof feature which results in a better planning outcome for the site and the locality in terms of the existing streetscape and urban setting. Effectively this height breach also in part is a result of the redistribution of bulk from the lower levels of the development to the upper floors, in order to respond to the site’s context and create a new site link through adjacent to the western side boundary (in order to improve the public domain). Removing such bulk at the lower floors for this new pedestrian link is considered to provide a public benefit.”*

WLEP 2009 Clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 building height
<ul style="list-style-type: none"> <li>Is the provision being varied a development standard?</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Has a written request been provided by the applicant in accordance with 35B of the EPA Regulation 2021?</li> </ul>	Yes. The application is accompanied by a clause 4.6 variation request – see <b>Attachment 3</b> .
<ul style="list-style-type: none"> <li>Is the written request accurate?</li> </ul>	Yes, the written request reflects the correct references to the LEP and relevant objectives and correctly identifies the location of and extent of the height exceedance sought.

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—	
<p>(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and</p>	<p>The applicant's Clause 4.6 submission seeks to demonstrate that compliance with the height standard is unreasonable or unnecessary in the circumstances as the objectives of the development standard are achieved despite the non-compliance.</p> <p>The objectives of Clause 4.3 are as follows:</p> <ul style="list-style-type: none"> <li>(a) <i>To establish the maximum height limit in which buildings can be designed and floor space can be achieved</i></li> <li>(b) <i>To permit building heights that encourage high quality urban form,</i></li> <li>(c) <i>To ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></li> </ul> <p>The applicant contends that the objectives are achieved despite the non-compliance, and has addressed the objectives individually, as follows:-</p> <p><u>"Correlation between the height and the floor space</u></p> <p>Firstly, the applicant argues that the proposal is well within the maximum FSR for the site. The proposed FSR of 5.99:1 has been calculated on the basis of the existing lot areas, not including the proposed acquisitions of parts of Globe Lane and Globe Way. When measured against the whole site area, the proposed development represents a true FSR of 5.32:1 overall. Hence, the proposal is well below the permitted FSR development standard in this instance."</p> <p>Whilst the proposed development at its maximum breaches the 48m height limit development standard by 7m, the GFA above the height plane only relates to one floor solely dedicated to publicly accessible areas within the hotel (being the sky bar and rooftop amenities). The remainder of the structure over is made up of plant screening elements and an architectural roof feature. Even with part of the building GFA above the permitted 48m height standard, the development is still well short of achieving its maximum permitted GFA. The breach of the standard therefore does not result in an inconsistency with this objective.</p> <p><u>High Quality Urban Form</u></p> <p>The applicant states that the site's location necessitates a design that responds to its high-profile context. The proposed height variation is justified as it enhances the site's role as a focal point within the City Centre, contributing to the urban skyline in a manner that reflects the site's significance.</p> <p>The architectural design, materials and detailing are of a high standard that is appropriate to the building type and location. The form and external appearance of the development will improve the quality and amenity of the public domain in the immediate vicinity of the site, particularly as the site is situated in a visually prominent location along the various street frontages and internal</p>

	<p>walkways. Importantly, the proposal is consistent with the anticipated built form of the Wollongong City Centre.</p> <p>One of the site opportunities which results in a better design outcome for the site is its location on a prominent corner which permits the redistribution of bulk across site, as well as the existing streetscape connectivity and applicable controls. In sculpting a design response, connections and sight lines were used to establish a new pedestrian link at the ground level along the western side of the hotel to connect Crown Street Mall down to Globe Lane (thereby improving connection through to MacCabe Park). This also involved setting back the Globe Lane corner to open up view lines from Crown Street Mall down into Globe Lane.</p> <p>This sculpting of connections and sight lines at the lower levels essentially resulted in additional public domain around the base of the hotel, which in turn identified an opportunity to redistribute some of this building bulk that would otherwise be established at the base - to the upper levels of the development. Particularly in this instance with the development fronting the prominent corner of Crown Street Mall and Church Street, an iconic architectural roof feature and accentuation of this corner façade flowed as an urban design response.</p> <p>High quality façade materials that complement and, where appropriate, enhance the architectural character and quality of the rooftop corner are chosen. The use of brick work and the base/podium of the buildings acknowledges and responds to the materials of the surrounding streetscape and the hierarchies of streets and spaces.</p> <p>The upper levels of the buildings forms use glass curtain walls and screening elements in polished metal materials that will provide a deliberate contrast with the masonry base. It is expected that the architectural detailing will ensure that the design intent and quality is maintained in the buildings execution, enhancing the visual amenity of the built environment.</p> <p>The NSW Government's amendments to SEPP (Housing) 2021 introduce height bonuses that allow for up to 30% more than the permitted LEP building height, should affordable housing be implemented on the site. This would result in a permissible height of 62.4m for the subject site (if the land use type was altered), which is higher than the currently proposed 55m. This demonstrates that the proposed height variation is within the range of potential future developments under current planning reforms, thus aligning with the anticipated future character of Crown Street.</p> <p>Furthermore, the draft Tourism Accommodation Review Strategy recently endorsed by Council (on public exhibition at the time of writing) includes provisions to permit additional floor space ratio and building height for 100% hotel or motel accommodation developments in the E2 zone, provided there is no overshadowing of key public spaces. As the proposed development is a hotel within the E2 zone and does not additionally overshadow McCabe Park, it is consistent with the intent of this emerging policy direction.</p>
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	<p>Overall, the proposed height is compatible within its context and will not result in any adverse impacts to surrounding properties. The breach of the standard allows for a building that achieves an improved built form. The breach of the standard allows a built form that is consistent with the urban design principles established in the E2 zone. This includes providing an adequate tower, with an architectural rooftop feature and top of building that will have a rhythm and proportion of high architectural quality. If the breach did not occur, would result in a poorer public domain presentation and a tower of less architectural function.</p> <p>The breach of the standard does not result in an inconsistency with this objective.</p> <p><u>Views and Solar Access</u></p> <p>The built form and massing of the proposed development does not create adverse impacts on view corridors and there are no significant view corridors to be impacted. Wollongong City Centre provides for special views between the coast and escarpment, and these will not be negatively impacted because of the proposal. The proposed development does not block views to any existing tops of major buildings or structures as seen against the sky or backdrop of the escarpment or foreshore.</p> <p>The most critical or special view within the City Centre is that documented within Wollongong DCP 2009 Chapter D13 (Section 3.70 Views and view corridors). And identifies the view from Flagstaff Hill back towards Mount Kembla, over the top of the CBD.</p> <p>The subject site is located in this view line corridor over the CBD, and the tallest and most visible tower form proposed on the site is the hotel building at the northern end (being 15 x storeys). Even with a breach of the building height development standard, the proposed building does not penetrate the ridgeline or negatively impact on the Escarpment backdrop, and in comparison, to existing buildings such as 'Avante' and 'Signature' and approved WIN Grand buildings, the proposed development is of little visual impact from this primary view corridor. Thus, it can be justified that the proposed development does not detrimentally impact view corridors.</p> <p>In terms of solar access, the proposed development has been stepped to comply with the sun access controls away from the Burelli Street.</p> <p>Provided shadow diagrams investigated if the increased height of the hotel tower impacts on adjoining sites and the public domain. The analysis confirms that the height non-compliance has no additional and/or detrimental impact on Maccabe Park between the hours of noon and 2.00pm mid-winter.</p> <p>MacCabe Park will not be detrimentally impacted by overshadowing because of the proposed development, and the solar access protection of this public open space can be maintained - even with a proposed height breach at the northern end of the site for the hotel.</p>
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	<p>Additionally, solar access to key pedestrian streets will be notably improved because of the proposed development, by the eventual removal of the pedestrian bridge over Crown Street Mall, and removing the built form currently over the eastern half of Globe Lane.</p> <p>The breach of the standard does not affect consistency with this objective.</p>
<p>(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.</p>	<p>The applicant contends that there are sufficient environmental planning grounds in the circumstances of the case to justify contravening the development standard. These include:-</p> <ul style="list-style-type: none"> <li>• The variation results in a better design outcome for the site in terms of the redistribution of bulk across the land, having regard to the site's location on prominent corners within the city centre, existing streetscape and applicable controls.</li> <li>• The redistribution of bulk will allow for improved public domain outcomes at the streetscape level, creating a new site link west of the hotel and opening up view lines into Globe Lane from Crown Street mall. Thus providing greater public benefits.</li> <li>• The proposed design has been massaged to respond to the different height controls applicable to the site, so that it can be redeveloped as a whole which provides for an improved urban design outcome – promoting the orderly and economic use of the land;</li> <li>• The architectural roof feature accentuation of the hotel tower at the highest point of the site will achieve a better urban design outcome for and from development;</li> <li>• The site is of sufficient width, depth and size to accommodate the proposed additional height, without resulting in any significant adverse impacts on the public domain or any adjoining properties;</li> <li>• The scale of the development is considered appropriate within the strategic planning context of the E2 Commercial Centre zone and is consistent with the relevant zone objectives;</li> <li>• The evolving policy framework anticipates greater building heights in the city centre than that provided within Wollongong LEP 2009. The recent policy reforms and Council's draft strategies further support the proposed height, making it a suitable and contextually appropriate response to the site's unique characteristics and strategic importance;</li> <li>• The proposal satisfies the objectives and development controls in relation to the maximum permitted height contained within Clause 4.3 of the WLEP 2009;</li> <li>• Non-compliance with the standard will not result in any adverse environmental impacts. In particular, impacts of the development have been mitigated in relation to the overshadowing from the built form, having regard to the sun access plane control and MacCabe Park; and</li> <li>• The development promotes significant direct and indirect economic benefits for the immediate locality, and economic viability of the city centre."</li> </ul>



<ul style="list-style-type: none"> <li>Would supporting the variation contribute to cumulative impacts?</li> </ul>	No, each application is considered on its individual merits.
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The applicant's submission addresses the relevant matters in Clause 4.6 of the LEP and demonstrates that the objectives of the standard will be satisfied despite the departure, and secondly, that there are sufficient environmental planning grounds supporting the departure.

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

The maximum permissible FSR for the site, based on the proposed land uses (non-residential) and consolidated site area being more than 2000 square metres with a street frontage of at least 20m, is 6:1.

The proposed FSR is 5.99:1 which is compliant.

#### Clause 4.6 Exceptions to development standards

The proposal involves two development departures, the first of which relates to the height of the hotel building (Clause 4.3); the second pertaining to the required building separation distances stipulated by Clause 8.6 of WLEP 2009. The applicant has sought departures to both standards in accordance with Clause 4.6. These are dealt with above in relation to Clause 4.3, and below with regard to Clause 8.6.

### **Part 5 Miscellaneous provisions**

#### Clause 5.6 Architectural roof features

(1) *The objectives of this clause are as follows—*

- (a) *to provide a built skyline that does not adversely impact on the natural landscape, view corridors or surrounding land, and*
- (b) *to specify what part of a building may exceed the height limits.*
- (2) *Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*
- (3) *Development consent must not be granted to any such development unless the consent authority is satisfied that—*
  - (a) *the architectural roof feature—*
    - (i) *comprises a decorative element on the uppermost portion of a building, and*
    - (ii) *is not an advertising structure, and*
    - (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
    - (iv) *will cause minimal overshadowing, and*
  - (b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

Part of the hotel roof could be considered an architectural roof feature for the purpose of this clause, as it:-

- (i) *comprises a decorative element on the uppermost portion of a building, and*
- (ii) *is not an advertising structure, and*
- (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
- (iv) *will cause minimal overshadowing.*

#### Clause 5.10 Heritage conservation

The site is not within a heritage conservation area nor does it contain any heritage items. It is, however, positioned in a prominent location in the CBD area, adjacent to the following heritage listed item:-

- #61103 Commercial frontage, located in 179–181, 183–185 and 187–189 Crown Street

The site is also in the vicinity of the following listed items:-

- #6232 Shop known as 83 Church Street located in 149–161 Crown Street (part)
- #6587 'Canary Island Date Palms' (trees) located to the western edge of MacCabe Park, noting these are some 150m from the subject site.
- #6324 Wollongong War Memorial and Frank Andrews Monument, located to the eastern edge of MacCabe Park.
- #6284 -The 'Row of Hills Figs' (trees) located within the southern Burelli Street road reserve between Kembla Street and Church Street.

Plus being located in the proximity of other various heritage items and the Market Street Heritage Conservation Area. The proximity of the listed items to the subject site is depicted in the below extract of the LEP heritage map:-

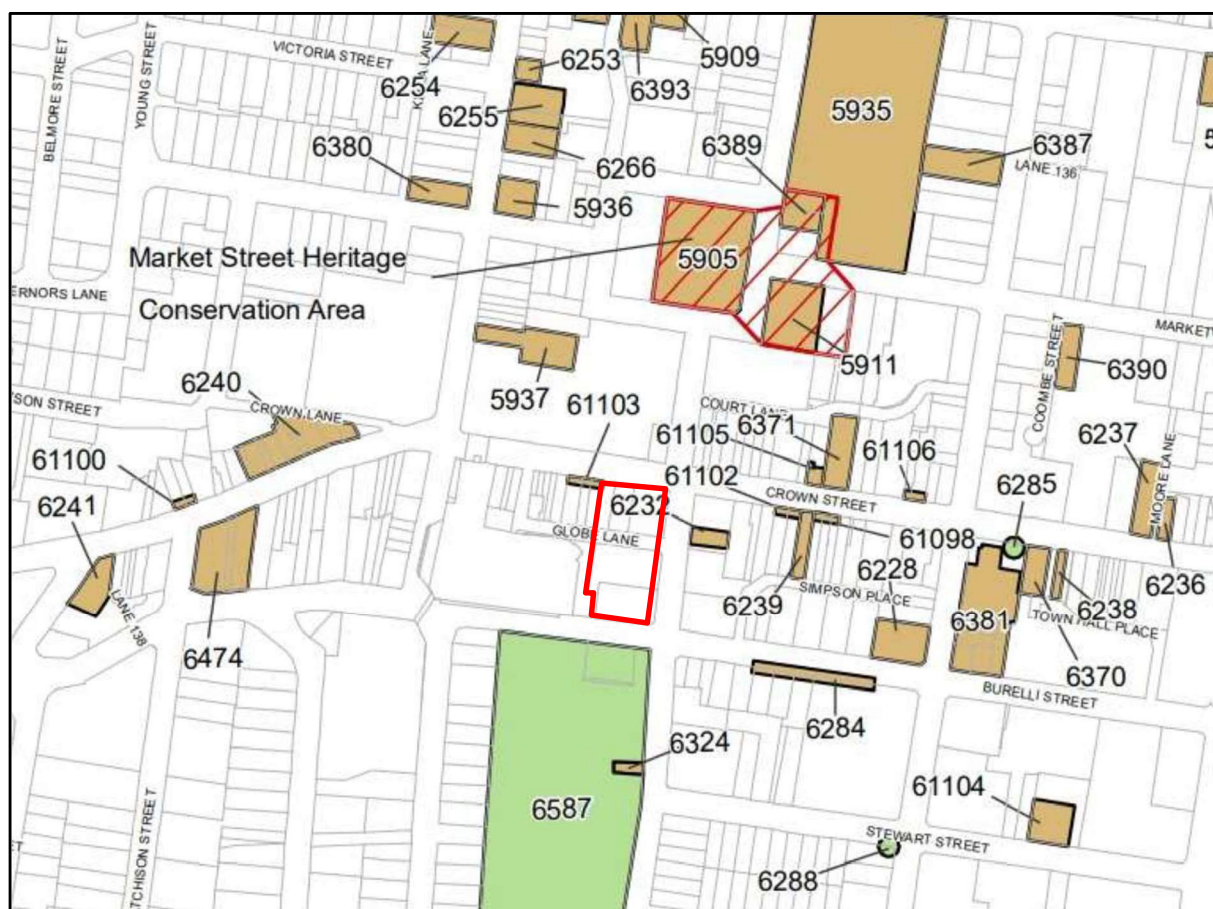


Figure 8 - WLEP 2009 Heritage Map

Clause 5.10(5) *Heritage assessment* states that the consent authority may, before granting consent to any development—

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b).

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

The application was accompanied by a Historic Archaeological Report and a Statement of Heritage Impact.

The proposal has been considered by Council's Heritage Officers with regard to the provisions of Clause 5.10 of the LEP and the following commentary has been provided:-

Site History and Potential Archaeology

The application was accompanied by a Historic Archaeological Report and a Statement of Heritage Impact. It is noted that the area has been identified to have a significant history of past development, though its low archaeological potential is noted due to more recent development disturbance. Whilst it is indicated in the Historic Archaeological Assessment that *"the study area possesses a low degree of archaeological potential"*, it also noted that a 1965-time capsule into one of the David Jones Building pillars, and foundation stones from the original Returned Sailors & Services League building are expected to be found beneath the David Jones and the existing RSL building.

Considering the potential find of those items, plus the previous developments on the site, the development of a Heritage Interpretation Plan that incorporates the history of the site derived from both heritage documents is considered appropriate to be produced to inform the management of these issues and to ensure that the history of the site is interpreted for the benefit of future generations. This should be considered to incorporate that information in the proposal in a contemporary and appealing manner. This can be conditioned.

War Memorial

The merits of the proposed relocation of the War Memorial have been questioned by Council's heritage officers and the DRP and both encourage further liaison with the RSL about the future of the Memorial. The Heritage Officers have recommended that the final location, proposed presentation and design should be incorporated into the Heritage Interpretation Plan process to provide for a suitable proposed re-interpretation or re-instatement of the existing Memorial wall.

Built form: structural

To secure the protection of the heritage listed item #61103 Commercial frontage, and as per advice included in the Heritage Impact Statement, a Structural Engineering design and the Construction Management Planning for this site will be required. A condition is recommended in this regard.

Built Form – Materials and Colours

The proposed materials and colours are supported. An updated schedule should be presented for approval in case of any variations in the documentation.

Built form: setbacks and streetscape

For maintaining the cohesiveness of the pedestrian mall and the continuity of the existing and potential future development following the heritage restrictions for the above mentioned item, as it was raised by the Strategic Planning referral, it is supported that "the proposed development should maintain a consistent built form alignment with these buildings, rather than setting back 2m as per the DCP" and "the 4m further setback above street wall should be maintained from the position of the DCP ground floor setback, totalling 6m."

Also raised by the mentioned referral, the fine-grained streetscape is highly valued from a heritage perspective as it highlights and supports the commercial historical use of the street, allowing a more attractive and vibrant solution for the Crown façade.

Connecting with Country Process

It is noted and acknowledged that a Connecting with Country Report has been prepared to provide principles intended to be incorporated as part of the project, specifically as seen on the Landscape plans. Additional information was provided by the applicant in response to some earlier questions."

The Heritage Officers advised that the Heritage Interpretation Plan may provide an appropriate vehicle for the progression of some of the recommended outcomes of the "Connecting with Country" process. Conditions are recommended in this regard.

Conditions

Conditions are recommended in relation to development of a Heritage Interpretation Plan; implementation of an unexpected finds protocol relating to Aboriginal Cultural Heritage and unexpected historic Archaeological finds; and protection of the adjacent heritage listed item (#61103).

Clause 5.21 Flood planning

The site is mapped as being flood affected and is located within an uncategorised flood risk precinct. It is noted that the flooding at and adjacent to the site is considered overland flow (and not mainstream flooding). Council's Stormwater Engineer has reviewed the proposal and has no objection to the development, subject to recommended conditions. Matters for the consent authority detailed in subclause 2 are satisfactory.

**Part 7 Local provisions – general**

Clause 7.1 Public utility infrastructure

This clause seeks to ensure that sufficient infrastructure is available to service development and requires that consent not be granted for development unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The land is located in an established urban area, and it is expected that the existing utility services can be augmented to support the proposed development. It is noted that there is an existing substation positioned within the site. This will be reinstated with a new upgraded substation chamber located adjacent to the Church Street frontage (club/ motel building) which will service the whole development.

Alterations to existing services within the public domain will be required to facilitate the new development; conditions are recommended with regard to this matter. Easements for services access will be required within Globe Lane (this latter issue will be dealt with as part of the road closure process).

**Attachment 5** contains consent conditions requiring approval from the relevant authorities for the connection of electricity, water and sewerage to service the site.

Clause 7.5 Acid Sulfate Soils

Clause 7.5 specifies where consent is required for certain works involving acid sulfate soils and circumstances where an Acid Sulfate Soils Management Plan is required.

Parts of the site are identified as being affected by class 5 acid sulphate soils. Excavation for the basement carpark is proposed within about 470 metres of adjacent Class 3 land that is below 5 metres Australian Height Datum, but the water table would not be likely to be lowered below 1 metre Australian Height Datum on the adjacent Class 3 land. On this basis, an acid sulfate soils management plan is not required.

Clause 7.6 Earthworks

Substantial excavation is proposed to facilitate the construction of the development inclusive of the basement levels. Council's Geotechnical Engineer has reviewed the proposal and raised no concerns subject to recommended consent conditions requiring structural support and geotechnical supervision during construction.

As discussed with regard to submissions received, excavation of hard bedrock will result in noise and vibration impacts on nearby commercial and retail receivers. This will require careful management during works to ensure impacts are not unreasonably adverse.

Groundwater is likely to be encountered, requiring a tanked basement design.

Excess excavated material will need to be classified according to the NSW EPA (2014) *Waste Classification Guidelines* before disposal.

The earthworks have been considered in relation to the matters for consideration outlined in Clause 7.6 and are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of surrounding land, subject to mitigation measures being employed as required by the consent conditions and relevant policies and standards.

Clause 7.13 Certain land within employment or mixed use zones

The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.

The proposal does not include any residential uses and provides for active uses at ground floor level on each of the street frontages of the site in accordance with this control. In addition, there is at least one entrance and at least one other door or window on the front of the building facing the street, as required.

Clause 7.18 Design excellence in Wollongong city centre and at key sites

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

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

In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters—

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

*Planner's comment:-* The proposed materials and finishes are of a suitably high quality and are considered to be appropriate for the location and with regard to the character of nearby buildings in the locality including the nearby heritage items. The materials are robust.

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

*Planner's comment:-*

The form and external appearance of the proposed development is appropriate and will improve the quality and amenity of the public domain. The proposal has numerous interfaces with streets and laneways, most of which propose active and well considered interfaces with the public domain.

The DRP has noted that the proposal includes the following positive key initiatives that will contribute to the vitality of the city centre and improve pedestrian amenity within the following public spaces:-

- The removal of built form above the eastern end of Globe Lane will open this part of the lane to the sky, vastly improving the amenity of this space.
- The introduction of a north-south pedestrian link connecting the Crown Street Mall to Globe Lane and Globe Way, adjacent to the west of the hotel. This will provide a clear mid-block link connecting from the mall and clear lines of sight from the mall to MacCabe Park.
- While not part of the current application, the developer will demolish the redundant pedestrian bridge over the mall – this will open the mall to the sky and require pedestrian circulation between the carpark and mall to occur at street level, improving/increasing activation of the street.

The proposed bulk, massing and modulation of the building is acceptable when assessed regarding the applicable planning controls. The setbacks, whilst not completely compliant in all areas, are acceptable. The setback to the western boundary of the hotel site facilitates the creation of a pedestrian link which is a positive public benefit. Setbacks to streets are acceptable and awnings are almost continuous, providing weather protection for pedestrians. The plaza area at the rear/ west of the commercial building will link this building to Globe Way/ Globe Lane, activating and enhancing the vitality of this public space.

Setbacks between the 3 proposed buildings are acceptable. Wind tunnel modelling has been undertaken which indicates resulting wind effects will not be unacceptable. Shadow diagrams indicate that most adjoining public domain areas will continue to receive sun at various times throughout the day, which is acceptable in the context of the high density city centre location. The proposal will not result in overshadowing of MacCabe Park which is protected by the sun protection height plane.

Pedestrian amenity within the public domain areas adjacent to the site will be improved – the buildings provide for active street frontages on each street front and proposed floor levels provide for suitable transitions with adjacent footpaths. Public domain works inclusive of paving in accordance with Council's Public Domain Technical Manual will be required to each street frontage. The applicant is in negotiating a planning agreement to undertake public works within Globe Way – this remains in progress. The buildings are well designed with regard to Crime Prevention Through Environmental Design principles and accessibility will be improved.

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

*Planner's comment:-*

Figure 3.12 of Chapter D13 of WDCP identifies a distant panoramic view arc / corridor from Flagstaff Hill (main lighthouse) to the escarpment. The site sits outside of this corridor. Irrespective of this, the applicant has provided documentation which demonstrates that views to the escarpment from Flagstaff Hill will not be negatively impacted by the proposal. The tallest and most visible tower form proposed,

being the hotel building at the northern end of the site, will not penetrate the ridgeline of the Escarpment backdrop when viewed from Flagstaff Hill.

It is also noted that the applicant has demonstrated, through a view analysis, that views north along Church Street to St Michaels Cathedral / Market Street Heritage Conservation Area will be maintained.

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

*Planner's comment:-*

The *Sun Plane Protection Map* controls apply to and to the south of Globe Lane, in order to preserve solar access to MacCabe Park. The shadow diagrams submitted with the application indicate that the proposal will not overshadow an area shown on the Sun Plane Protection Map.

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

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

*Planner's comment:-*

The site is suitable for the proposed development. The development has been satisfactorily designed with regard to the only known site constraint, being flooding (overland flow).

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

*Planner's comment:-*

The DRP considered the site well located for the proposed mix of uses. The proposed mix of uses will provide a positive contribution to the city centre. There are no unresolved amenity concerns between the uses proposed within the site.

*(iii) heritage issues and streetscape constraints,*

*Planner's comment:-* as noted above with regard to Clause 5.10 of WLEP 2009, the proposal is considered to be acceptable with regard to the numerous heritage items and conservation area within proximity of the site. Council's Design Expert is of the view that the proposal has been satisfactorily designed with regard to the adjacent streetscape.

*(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,*

*Planner's comment:-* Despite the proposed departure from the building separation controls in Clause 8.6, the tower locations are appropriate in terms of separation, setbacks, amenity and urban form.

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

*Planner's comment:-* the bulk, massing and modulation of the proposed buildings is considered to be acceptable.

*(vi) street frontage heights,*

*Planner's comment:-* the DRP considered the street frontage heights proposed to be appropriate.

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

*Planner's comment:-*

The development incorporates sustainable design measures as discussed with regard to Chapter D13 of the DCP – see Attachment 4.

Overshadowing impacts have been discussed at length elsewhere within this report, see Section 2.1.6.

Wind effects have been discussed at length elsewhere within this report, see Section 2.1.6

In relation to reflectivity, a reflectivity report has been submitted which examines the impact on areas surrounding the development. The analysis shows that the proposed development will cause neither traffic disability glare nor pedestrian discomfort glare on surrounding public areas. Conditions are recommended in relation to material reflectivity.

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



*Planner's comment:-* The proposal is considered satisfactory with regard to objectives of ESD. The site is well placed with regard to access to key transport nodes, within ready walking distance of bus stops and Wollongong train station, the main retail/ commercial core. The development has been designed to provide for good internal amenity with appropriate provision for energy and water efficiency and thermal comfort. As noted elsewhere in this report, the commercial building has been designed to achieve a 5 star NABERS Base Building Energy Rating and incorporates some sustainable building design initiatives including the use of solar power and water sensitive urban design.

The DRP's recommendations for improvements have been incorporated in the amended plans.

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

*Planner's comment:-* The proposal provides the necessary car parking, motorcycle and bicycle parking and suitable manoeuvring areas. The proposed vehicular access arrangements are considered to be satisfactory by Council's Traffic Engineers and TfNSW.

Satisfactory waste servicing arrangements have been provided, with all waste to be managed from within the site. Provision has also been made for appropriate delivery/ loading facilities within the development along with adequate vehicular manoeuvring areas.

Appropriate arrangements have been made for safe, direct, practical and equitable pedestrian access to the buildings. Pedestrian movement is accommodated in a safe manner and pedestrian amenity will be acceptable within the site and within the adjacent street frontages.

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

*Planner's comment:-* The proposed development is not expected to result in adverse impacts on the public domain. As noted by the DRP, the public domain will be improved by the following key aspects of the proposed development:-

- The removal of built form above the eastern end of Globe Lane creates the potential to complete an active, open-air lane that connects to Church Street.
- The introduction of an arcade that connects Crown Street Mall to Globe Lane and Globe Way. Providing lines of sight and a clear pedestrian path between Crown Street and MacCabe Park.
- The eventual removal of the redundant pedestrian bridge above Crown Street visually opens the mall to the sky and requires pedestrian circulation between the carpark and mall at street level, improving/increasing activation of the street.
- The massing of building forms to minimize overshadowing of MacCabe Park by limiting building height fronting Burelli Street.

Additionally, street trees and footpath upgrades are to be provided to the street frontages of the site in compliance with the requirements of the Public Domain Technical Manual. The development provides for a good resolution of site levels between the public footpaths and building entries.

Impacts of the development on the public domain in terms of wind effects and overshadowing have been discussed at length in this report and will not be unreasonable.

Clause 7.18(5) states that consent must not be granted unless a design review panel has reviewed the design of the proposed development.

*Planner's comment:-* the Wollongong Design Review Panel has reviewed the proposal, both before and after lodgement of the application. The final DRP notes form Attachment 2 to this report, along with the recent review of the current plans by the Chair of the DRP.

Clause 7.22 Development in local centres

This clause applies to land in the E2 zone and states that development consent must not be granted to development unless the consent authority has considered—

(a) *the impact of the development on—*

*(i) the amenity of surrounding residential areas, and*

*(ii) the desired future character of the local centre, and*

*(b) whether the development is consistent with the hierarchy of centres.*

Consideration has been given to the above matters and no concerns are raised.

**Part 8 Local provisions—Wollongong city centre**

The site is located within the area defined as the Wollongong city centre by the LEP and accordingly the provisions within this part of the LEP are of relevance to the proposal.

Clause 8.3 Sun plane protection

The objective of this clause is to protect specified public open space from excessive overshadowing by restricting the height of buildings. The subject site is located in proximity to MacCabe Park and the Sun Plane Protection Map controls apply to that part of the site located to the south of Globe Lane.

*Development on land to which this clause applies is prohibited if the development results in any part of a building projecting above a sun access control set out in this clause.*

(4) **MacCabe Park** The sun access control for any point on land shown coloured yellow on the [Sun Plane Protection Map](#) and marked “MacCabe Park—Burelli Street” is—

(a) 32 metres above the point, or

(b) *if the point is within 26.4 metres of the boundary of Burelli Street— $(2 + 1.5X):1$  metres above the point, where  $D$  is the shortest distance in metres between the point and the boundary of Burelli Street.*

The proposed development complies with the sun plane controls.

Clause 8.4 Minimum building street frontage

This clause requires that consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres or more on land within Zone B3 Commercial Core. This site satisfies this standard, with a street frontage width exceeding 20m on both frontages.

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

The proposed development does not comply in full with Clause 8.6 and a submission substantiating the development departure has been provided by the applicant addressing Clause 4.6 of the LEP. The submission forms part of **Attachment 3**.

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

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

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

(b) *there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and*

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

(3) *Despite subclause (2), if a building contains a dwelling.....*

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

(5) *In this clause:*

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

In this instance, a departure is sought in respect of Clause 8.6(2)(a) and 8.6(2)(b). The applicant has sought departures in relation to the building separation controls in numerous places across the site, identified on the site plan extract below:-

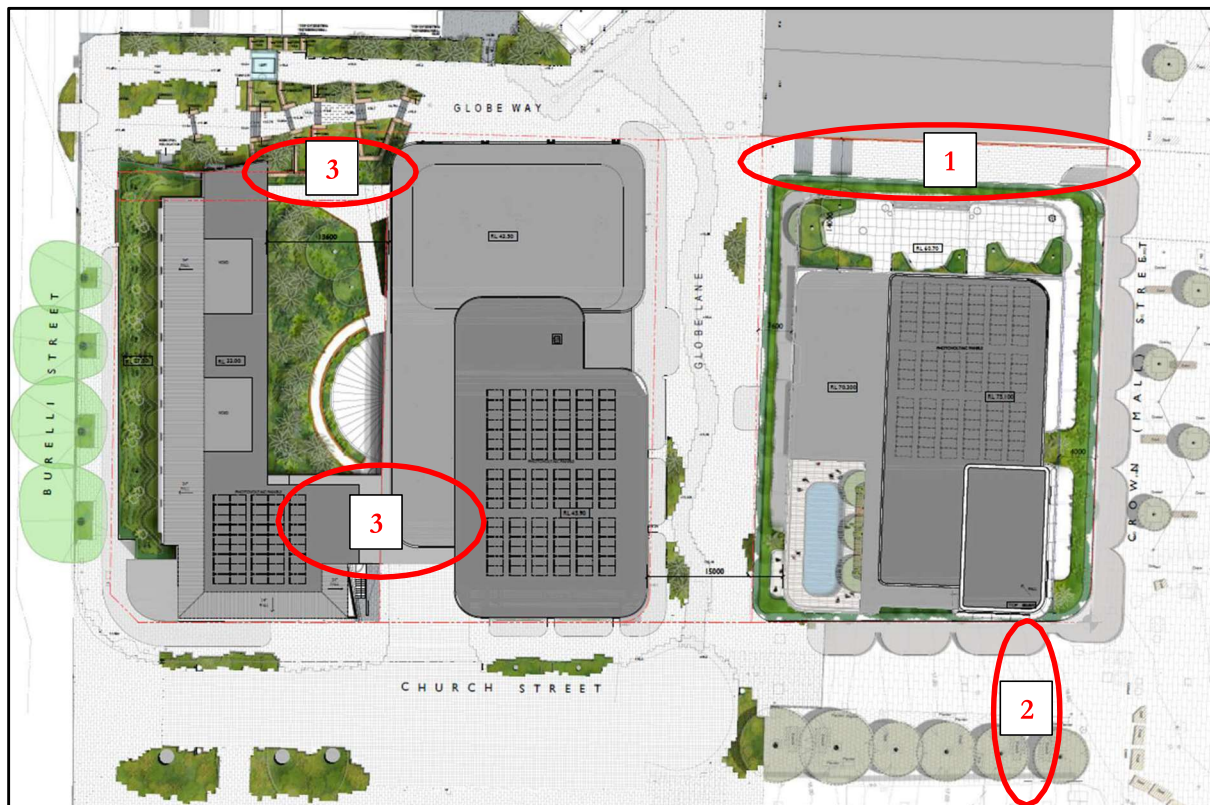


Figure 9 - applicant's identification of building separation departures

The numbers on the site plan above correspond with the numbers used below:

- 1) *Hotel Building (west) up to street frontage height.* The proposed development adopts a 4m-6m metre setback to the western boundary (common boundary with 179-181 Crown Street), instead of a zero lot line boundary requirement. The variation is sought as the proposal seeks to establish a new through-link, thus necessitating a setback to this boundary.
- 2) *Hotel Building (east) above 45 metres.* The applicant indicates that a departure exists in relation to the building to the east of the site (fronting Crown/Church Street). Church Street is approximately 19.5 metres wide, providing a physical building separation of this distance to 149-161 Crown Street. The applicant indicates that the proposal involves a variation for that part of the building above 45m in height (where an additional separation of 8.5m would normally be required) however the building on the site to the east does not reach 45m in height and thus it is Council's view that a technical departure does not exist in this location. It is noted that the subject property to the east is heritage listed, and it is considered unlikely that any redevelopment of that site could achieve a height of ~45m.
- 3) *Between the office building (south) and Club/Motel building (north).* Proposed 13.6m separation between the proposed site buildings at the western end fronting Globe Way up to the street frontage height, whereas the clause requires no separation (0m setback). Also, above the street frontage height, a small part of the eastern portion of these buildings are connected (i.e. no separation), where a 12m building separation is required by Clause 8.6.

The applicant provides the following summarised critical reasoning for the variations proposed:-

Variation 1: The creation of a new site link/lane along the western boundary at the ground level of the hotel building will improve sight lines and pedestrian connectivity down to Globe Way and onto MacCabe Park. Increased pedestrian connection is likely to result in increased street activation, and will provide for a far better public domain outcome than otherwise created with a street wall at this location.

Variation 2: From an architectural design quality perspective, a thoughtful initiative was made by the Project Architects to accentuate this tower at the highest point of the site to achieve a better urban design outcome for and from development. The design response accommodates a tower form that has been pulled to the corner position on Church Street, which results in a better planning outcome for the site and locality in terms the existing streetscape and urban setting. Additionally, this tower position will unlikely restrict the site to the direct east of Church Street from being substantially redevelopment, given the physical separation provided from built form by the public road corridor.

Variation 3 (east side): The architectural design response was to create a continual street wall along Church Street and show the development as an integration of building materiality between the club/motel building and office tower. The collective design of these buildings together in the one proposal has enabled the rhythm of the streetscape to flow, whilst at the same time creating separate towers/uses that will not conflict with each other. This is deemed to provide a superior urban design outcome along the Church Street frontage.

Variation 3 (west): There is a commercial need to separate the buildings at the Globe Lane frontage, due to the function of the club facilities (natural ventilation for outdoor gaming areas) as well as balancing a transition in grades throughout Globe Way. It was deemed a more superior public domain outcome would be to separate the buildings at this west elevation and allow for enhanced landscape zone between, whereby the public domain of Globe Way would be connected to the private landscape domain as a feature of the development. If these were separated developments (i.e. buildings not integrated in the one development), the building separation required would be 12 metres and this is exceeded in this instance.

The applicant's Clause 4.6 submission in relation to this development departure is discussed in the table below:-

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 8.6 building separation
<ul style="list-style-type: none"> <li>Is the provision being varied a development standard?</li> </ul>	Yes
<ul style="list-style-type: none"> <li>Has a written request been provided by the applicant in accordance with 35B of the EPA Regulation 2021?</li> </ul>	Yes. The application is accompanied by a clause 4.6 variation request – see Attachment 3.
<ul style="list-style-type: none"> <li>Is the written request accurate?</li> </ul>	Yes, the statement is accurate, however it is noted that Council does not agree that there is a departure in relation to the distance between the hotel building (east) above 45m, as per commentary above.
(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—	
(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and	<p>The applicant's Clause 4.6 submission seeks to demonstrate that compliance with the building separation standard is unreasonable or unnecessary in the circumstances as the objectives of the development standard are achieved despite the non-compliance.</p> <p>The objectives of Clause 8.6 is as follows:</p> <p>(1) <i>The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.</i></p> <p>The applicant contends that the objective is achieved despite the non-compliance, and has addressed the relevant components of the objective individually, as follows:-</p> <p><u>Visual Appearance</u></p> <p>The architectural design, materials and detailing are of a high standard that is appropriate to the building type and</p>

	<p>location. The form and external appearance of the development will improve the quality and amenity of the public domain in the immediate vicinity of the site, particularly as the site is situated in a visually prominent location along the various street frontages and internal walkways.</p> <p>The development has been carefully designed to consider the urban interfaces, building mass and scale, solar access, view corridors, pedestrian and vehicle connectivity to the public domain, and aims to improve the quality and amenity of the public domain.</p> <p>Importantly, the proposal is consistent with the anticipated built form of the Wollongong City Centre.</p> <p>The design of the proposed development places a strong emphasis on building orientation and articulation, which supports enhanced natural lighting, solar access, and thermal efficiency.</p> <p>One of the site opportunities which results in a better design outcome for the site was the redistribution of bulk across site having regard to the site's location on prominent corners within the City Centre, existing streetscape connectivity and applicable controls. In sculpting a design response, connections and sight lines were used to establish a new pedestrian link at the ground level along the western side of the hotel to connect Crown Street Mall down to Globe Lane (thereby improving connection through to MacCabe Park). This also involved setting back of Globe Lane corner to open up view lines from Crown Street Mall down into Globe Lane.</p> <p>This sculpting of connections and sight lines at the lower levels essentially resulted in additional public domain around the base of the hotel, which in turn identified an opportunity to redistribute some of this building bulk that would otherwise be established at the base - to the tower of the development. Particularly in this instance with the development fronting the prominent corner of Crown Street Mall and Church Street, an iconic architectural tower and accentuation of this corner façade inevitably flowed as an urban design response to pull the built form closer to the Church Street frontage.</p> <p>This has resulted in a better rhythm for the tower and overall improved visual appearance that would otherwise be created with a tower setback further from Church Street.</p> <p>At ground level, the creation of a new site link/lane along the western boundary at the ground level of the hotel building will improve sight lines and pedestrian connectivity down to Globe Way and onto MacCabe Park. Increased pedestrian connection is likely to result in increased street activation, and will provide for a far better public domain outcome than otherwise created with a street wall at this location. Visually, this lane will be enhance with potential wall art and cultural connections, improving the public domain experience.</p> <p>High quality façade materials that complement and, where appropriate, enhance the architectural character and quality of the street articulation for the club/motel building.</p>
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	<p>The integration of materiality at this elevation is cohesive and provides for a pleasant visual appearance.</p> <p>Additionally, the visual appearance of the Globe Way public domain will be enhanced by this variation, to allow for building separation and a landscaped zone between the club/motel and office building at this western elevation.</p> <p>The built form and massing of the proposed development has been mindful of not creating adverse impacts on view corridors and there are no significant view corridors to be impacted. The proposed development does not block views to any existing tops of major buildings or structures as seen against the sky or backdrop of the escarpment or foreshore.</p> <p>It can be justified that the proposed development will not detrimentally impact on view corridors.</p> <p><u>Privacy</u></p> <p>No additional privacy concerns will be created because of these variations to the building separation development standard. The creation of the new lane along the west of the hotel will interface with an existing building adjacent to the west (with no openings). Bringing the hotel tower closer to the edge of Church Street (for above 45 metres) will not contribute to any privacy concerns to properties further east (given these are unlikely to achieve a similar height at that level).</p> <p>Additionally, the privacy considerations for interfaces between the club/motel building and the office building have been managed through smart integrated design, internally within the development.</p> <p>The proposed variation can be justified relative to privacy impacts.</p> <p><u>Solar Access</u></p> <p>The proposed development has been stepped to comply with the sun access controls away from Burelli Street.</p> <p>Submitted shadow diagrams confirm that the height and building separation non-compliances have no additional and/or detrimental impact on Maccabe Park between the hours of noon and 2.00pm mid-winter. MacCabe Park will not be detrimentally impacted by overshadowing as a result of the proposed development. Additionally, solar access to key pedestrian streets will be notably improved as a result of the proposed development, by eventually removing the pedestrian bridge over Crown Street Mall, and removing the built form currently over the eastern half of Globe Lane.</p> <p>The proposed variations are justified relative to solar access impacts.</p> <p>On this basis, the proposed development has been assessed against the objective contained in Clause 8.6 of WLEP 2009. Thus, deeming strict compliance with these building separation values is unwarranted in the circumstances of this particular case.</p> <p>The applicant notes that the building separation development standard has been varied in numerous cases across the city centre. The applicant has cited a number of</p>
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	DAs where a development departure was supported. Whilst it is not contended that the standard has been totally abandoned, it is reasonable to acknowledge that it has been varied numerous times which suggests it is less critical from a planning perspective.
(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.	<p>The applicant contends that there are sufficient environmental planning grounds in the circumstances of the case to justify contravening the development standard. These include:-</p> <ul style="list-style-type: none"> <li>• The variation results in a better urban design outcome for the site in terms of the redistribution of bulk across the land, having regard to the site's location on prominent corners within the City Centre, existing streetscape and applicable controls;</li> <li>• The redistribution of bulk will allow for improved public domain outcomes at the streetscape level, creating a new site link west of the hotel and opening up view lines into Globe Lane from Crown Street Mall.</li> <li>• The proposed design has been massaged to integrate various buildings on the site, so that it can be redeveloped as a whole which provides for an improved urban design outcome - promoting the orderly and economic use of the land;</li> <li>• The architectural accentuation and positioning of this hotel tower to the edge of the highest point of the site will achieve a better urban design outcome for and from development;</li> <li>• The site is of a sufficient width, depth and size to accommodate the proposed variations, without resulting in any significant adverse impacts on the public domain or any adjoining properties;</li> <li>• The scale of the development is considered appropriate within the strategic planning context of the E2 Commercial Centre zone and is consistent with the relevant zone objectives;</li> <li>• The proposal satisfies the objective in relation to the building separation intent contained within Clause 8.6 of the WLEP 2009;</li> <li>• Non-compliance with the standard will not result in any adverse environmental impacts. In particular, impacts of the development have been mitigated in relation to the overshadowing from the built form, having regard to the sun access plane control and MacCabe Park; and</li> <li>• The development promotes significant direct and indirect economic benefits for immediate locality, and economic viability of City Centre.</li> </ul>
<ul style="list-style-type: none"> <li>• Would supporting the variation contribute to cumulative impacts?</li> </ul>	No, each application is considered on its individual merits.

In conclusion, it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, there are sufficient environmental planning grounds to justify contravention of the standard, the objectives of the standard and the E2 zone will be maintained despite the non-compliance, and the public interest will be served despite the non-compliance with Clause 8.6.

This being the case, the development departure is supported.

## 2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

Nil applicable.

## 2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

### WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

#### CHAPTER A1 – INTRODUCTION

The development has been assessed against the relevant chapters of WDCP 2009 and found to be satisfactory. The full table of compliance can be found at **Attachment 4** to this report. It is noted that the development departs from some of the design controls in Chapter D13. These are dealt with in the compliance tables and in detail below and are supported.

#### Chapter A1, Clause 8 Variations to development controls in the DCP

The applicant has sought variations in respect of the following matters:-

- Building to street alignment and street setbacks (Clause 2.2 of Chapter D13 *Wollongong City Centre*)
- Street frontage heights in the commercial core (Clause 2.3 of Chapter D13)
- Side and rear building setbacks and building separation (Clause 2.5 of Chapter D13)

The applicant has provided 'justification statements' as required by Chapter A1 of the DCP. The variations are discussed below:-

1. Building to street alignment and street setbacks (Clause 2.2 of Chapter D13 *Wollongong City Centre*)

The development proposes close to 0m setbacks to all street frontage apart from the setbacks of the commercial building to Church Street and Globe Way where a 'reverse podium' arrangement is proposed accommodates setbacks at ground level. Above the street frontage height, reduced setbacks are proposed to all street frontages, apart from Crown Street which complies with the 4m setback. The applicant's justification for the variation to the setback controls is provided below:-

#### "Variation to Building to street alignment and street setbacks

##### Objectives:

- a) To provide a hierarchy of street edges from commercial core with no street setbacks to residential locations with landscaped setbacks.
- b) To establish the desired spatial proportions of the street and define the street edge.
- c) To increase a clear transition between public and private space.
- d) To locate active uses, such as shopfronts, closer to pedestrian activity areas.
- e) To assist in achieving visual privacy to apartments from the street.
- f) To create good quality entry spaces to lobbies, foyers or individual dwelling entrances.
- g) To allow an outlook to, and surveillance of, the street.
- h) To allow for street landscape character, where appropriate.
- i) To maintain shared views to the ocean.
- j) To maintain sun access to the public domain.

##### Particular Circumstance/ Reason for Variation:

Better urban design response.

##### Justification:

The proposed development design has undergone a rigorous concept and master planning phase, involving both Council and the DRP, as well as relevant Project Team consultants and community stakeholders. The resulting urban design outcomes and for the positioning of podiums and towers within the site has been an integrated approach, accounting for street edge effects within the and in light of the prominent corner positioning this site offers to multiple street frontages. Throughout the ground level of the development, the majority of setbacks are built to boundary as the DCP requires, however, a 2 m setback is required to Crown Street Mall. Providing a 2 m setback to this frontage would appear inferior in terms of urban design outcome and the fine grain of shopfronts that currently present to the street. Opportunities for reverse podium setbacks are provided within Globe Lane and Globe Way for

the office building, which provides a better example of how setbacks can help transition between public and private space.

Above the street frontage heights to the corresponding street frontages, various setbacks are provided to the buildings, with all towers having reduced setbacks to Church Street as a deliberate and integrated design response to this edge. The prominent corner is available for Church Street at this location generates a conceptual desire to pull the proposed tower forms closer to the street frontage to achieve a better urban design outcome. The position of the towers throughout the site do not compromise adjoining sites' abilities to be redeveloped, nor compromise or impact on solar access to nearby public domain assets like MacCabe Park.

It is considered that the proposed variation is of high architectural quality and merit, and can be justified in accordance with the objectives of this development control."

*Planner's comment:-*

#### Hotel building

As outlined in Attachment 4, in relation to the Crown Street frontage of the site, DCP D13 Figure 2.2 recommends a 2m ground floor setback to the south side of Crown Street. This control has been put aside in various recent developments including the 'Langs Corner Building' and 'Triple 1' building. This decision was based on the objective to maintain a consistent built form alignment. The existence of the pedestrianised mall also negated the need for additional footpath width which may be required in a standard road reserve. The hotel building has been revised to provide for a consistent built form alignment with the adjacent buildings, rather than setting back 2m as per the DCP. The setback above the street wall is 6m as recommended by Council officers, to help maintain human scale at the street and views to the sky from the Mall.

#### Commercial building

The setbacks to the ground floor of the commercial building from Church Street enable a terrace / loggia to be provided inside the front setback with the levels above cantilevered over. L1 – L6 are setback ~1m from the street edge. There is no increased setback, therefore no defined podium as such. The configuration proposed has been supported by relevant Council staff and is considered to have merit. The street frontage of the building is activated by the terrace/ loggia despite the setback. The Church Street facades are well articulated, adequate building separation has been provided from future developments on the eastern side of the street and the proposal does not significantly impact upon view corridors along Church Street.

The objectives of the development control is considered to be met despite the variation.

#### 2. Street frontage heights in the commercial core (Clause 2.3 of Chapter D13)

The street frontage heights of the buildings vary around the street edges of the site. The Club/ Motel building provides for a compliant street frontage height of 16m to Burelli Street, which wraps around the Church Street frontage. The commercial building does not have a street wall, being setback from Church Street with a 'reverse podium' effect achieved with the ground floor loggia/ terrace built to the street edge and the levels above extending over to form an undercroft. In the case of the hotel building, the tower extends to the street edge on Church Street, with no increased setback above a podium as such. The hotel does however feature a terrace on the first floor with a podium upstand feature coming to ground, which visually has the appearance of a building base. To the Crown Street frontage, a 6m setback to the tower is proposed above the podium, which varies between approximately 7 -10m in height to marry in with the height of the buildings to the west.

The applicant's justification for the variation to the street frontage heights of the commercial and hotel buildings is provided below:-

"Variable street heights are proposed as a result of the contextual analysis, however, the majority of street frontage heights are less than 12m in order to respect the desired character of the precinct better.

#### **Variation to Street frontage heights in commercial core**

Objectives:

- a) To achieve comfortable street environments for pedestrians in terms of daylight, scale, sense of enclosure and wind mitigation as well as a healthy environment for street trees.
- b) To reinforce the intrinsic character of Wollongong City Centre while enabling flexibility in building design.

- c) To enhance the distinctive character of Special Areas with compatible development.
- d) To protect solar access to key streets and public spaces.

Particular Circumstance/ Reason for Variation:

Better urban design response to existing and desired streetscape character.

Justification:

The current precinct is made up of variable street frontage heights two and three storeys generally. Many of these existing street frontage heights surrounding the site are already less than 12 m, and the desired future character of the precinct is not such that warrants 4 to 6 storey street walls. Such street wall heights at this location detract from the quality of Crown Street Mall and Globe Lane in particular, and would result in a poorer outcome for the streetscape. The proposed podium heights (albeit in some circumstances created by materiality only relative to their towers) have far better synergies with the nearby heritage items and buildings within this CBD location.

It is considered that the proposed variation is of high architectural quality and merit, and can be justified in accordance with the objectives of this development control.”

Additional justification was provided by the applicant in relation to the setbacks to the Church Street frontage of the site, pertinent to both the commercial and hotel buildings. This justification makes reference to the existing structures occupying the site, ranging from 2 to 4 storeys, built to the boundary at Church Street.

The applicant advises that the proposal envisions a hotel tower, office building and mixed use club/motel building that maintains a zero setback at the Church Street frontage, “emphasising the corner prominence and enhancing the urban fabric of the city. While the development does not meet the numerical controls specified in the Wollongong DCP 2009 regarding the 4m setback above street frontage height, the projects design and urban context offer compelling reasons for the proposed variation.

1. Hierarchy of Street Edges:

o The proposed development seeks to strengthen the commercial core of Wollongong City Centre by maintaining the streetwall with no setbacks at the Church Street frontage. This approach reinforces the commercial vibrancy of the area, aligning with the DCP’s intent to provide a hierarchy of street edges, transitioning from the zero setbacks of commercial cores to landscaped setbacks in residential areas. The zero setback in this context is appropriate given the site’s high-profile location within the commercial heart of the city.

2. Spatial Proportions and Street Edge Definition:

o The proposed design establishes strong spatial proportions along Church Street, creating a defined street edge that enhances the urban streetscape. By pushing the tower and buildings to the Church Street front, the development emphasises the corner positions, which is critical in urban design to reinforce key intersections and create visual landmarks. The existing buildings on the site already contribute to the street’s spatial definition, and the proposed development will further enhance this without adversely impacting the pedestrian experience.

It is simply a vertical continuation of existing urban form, into a skyline that is capable of verticality and scale. However, this verticality is broken up by façade awnings and podium articulation elements that still give the appearance of a setback transition above the street wall.

3. Transition Between Public and Private Space:

o The design ensures a clear transition between public and private spaces through the integration of active uses at ground level, such as shopfront glazing and visibility, that engages with the public domain. The zero setback does not detract from this transition but rather supports a more vibrant streetscape by bringing active uses closer to pedestrian activity areas.

4. Proximity of Active Uses to Pedestrian Areas:

o The zero setback allows active uses to be exposed at the ground level, including office, club, retail and lobby spaces, to be situated directly adjacent to pedestrian areas, thereby enhancing street-level activation and interaction. This proximity encourages a lively street atmosphere, crucial for the success of commercial and tourism-oriented developments in city centres. The continuation of this street wall does not adversely affect this pedestrian led interface.

5. Quality Entry Spaces:

o The design incorporates well-designed entry spaces that are visually prominent and easily accessible from the street frontages. Enhancing the overall quality of the pedestrian environment. The zero setback above the street wall does not compromise the quality of these lobby spaces. nor does it make them more accessible and integrated with the public domain.

6. Outlook and Surveillance of the Street:

o The proposed design enhances surveillance of the street by positioning windows and active uses along the Church Street frontage, above the streetwall. This creates a safer and more inviting public domain, as passive surveillance is increased, contributing to the safety and vitality of the area.

7. Street Landscape Character:

o The urban context of Church Street within the Wollongong City Centre supports a strong built form with limited setbacks. The proposal aligns with this character, contributing to the urban intensity appropriate for this location. The absence of a 4m setback does not preclude the opportunity for high-quality streetscape enhancements, such as public art or landscape features at ground level. In addition, part of the development evokes landscape character and features within the podium facades.

8. Shared Views to the Ocean and Cathedral:

o A detailed view analysis conducted by ADM Architects (refer below) of the Church Street corridor confirms that the proposed tower and buildings will not obstruct views towards the Cathedral or significantly impact shared views to the ocean. The development has been designed with careful consideration of its impact on key view corridors, ensuring that any changes are negligible and do not detract from the public's visual connection to these important landmarks.

9. Sun Access to the Public Domain:

o The design has been developed with attention to maintaining adequate sun access to the public domain. While the building height exceeds the standard controls, the impact on sun access has been minimised through strategic massing and articulation of the building form. By shifting the tower to the street edge at Church Street, there is less overshadowing impacts on McCabe Park throughout the day, particularly from the middle of the day onwards (i.e.. the shadow line of the building gets past the park alignment sooner in the day). Shifting the tower 4m west (as the floor plate itself is unable to be reduced further for commercial reasons), would have greater solar access impacts to this public open space. Additionally, the proposal ensures that sun access to the public domain, particularly along Church Street, is maintained to a satisfactory extent.

The proposed variation to the Wollongong DCP 2009 (Chapter D13 Section 2.2) setback controls is justified based on the project's alignment with the broader urban design objectives; the negligible impact on key view corridors as confirmed by the view analysis conducted by ADM Architects; and the enhancement of the public domain through active street frontage and corner emphasis. The development represents a unique opportunity for urban renewal in Wollongong City Centre, delivering a high-quality, design-excellent outcome that will benefit the community for generations. The variation is therefore warranted on environmental grounds, contributing to the city's growth and vitality while respecting its urban context."

*Planner's comment:-*

The applicant's justification is relevant and accepted. The podium upstand feature assists in offering human scale to the base of the hotel building, as do the awnings extending into the Church Street road reserve.

The applicant's view analysis demonstrates that views to the Cathedral are not affected by the setbacks to Church Street, and the modulation of the facades along Church Street provide a break in scale and provide shelter and interest for pedestrians. The façade awnings and podium articulation elements of the hotel building still give the appearance of a setback transition above the street wall, at a height that is appropriate in the context of nearby buildings which have a height of 2-3 storeys. On this basis, the variation is considered acceptable.

## WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2023

### Wollongong City-Wide Development Contributions Plan - City Centre

The Wollongong City-Wide Development Contributions Plan applies to the subject property. This Plan levies a contribution based on the estimated cost of development. As the proposed cost of development\* is over \$250,001, a levy rate of 2% applies.

**2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4**

The applicant has offered to enter into a planning agreement, however, remains under negotiation and as such is considered to not affect the development at this time.

**2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)**

**Environmental Planning and Assessment Regulation 2021**

**66A Council-related development applications—the Act, s 4.16(11)**

(1) *A council-related development application must not be determined by the consent authority unless—*

- (a) the council has adopted a conflict of interest policy, and*
- (b) the council considers the policy in determining the application.*

(2) *In this section—*

*conflict of interest policy means a policy that—*

- (a) specifies how a council will manage conflicts of interest that may arise in connection with council-related development applications because the council is the consent authority, and*
- (b) complies with the Council-related Development Application Conflict of Interest Guidelines published by the Department and available on the NSW planning portal, as in force from time to time.*

*council-related development application has the same meaning as in the Act, Schedule 1, clause 9B as follows:*

*council-related development application means a development application, for which a council is the consent authority, that is—*

- (a) made by or on behalf of the council, or*
- (b) for development on land, other than a public road within the meaning of the Local Government Act 1993—*
  - (i) of which the council is an owner, a lessee or a licensee, or*
  - (ii) otherwise vested in or under the control of the council.*

The proposal falls under subclause (b)(i) and is required to be considered by the Council adopted a conflict of interest policy. Clause 2 of the Policy requires development applications lodged with the Council that are Council-related development to be referred to the General Manager (or delegate) for a conflict-of-interest risk assessment. A statement documenting the proposed management approach for the proposal must published on the NSW Planning Portal.

The proposal is Council related development as it falls under 2(b)(i) in that the proposal involves Council land (Globe Lane).

Council adopted a conflict of interest policy (CoIP) in accordance with (1)(a) on 31 July 2023.

This report considers the CoIP and guidelines in accordance with (1)(b).

The management control in the CoIP requires that: *Council-related applications and approvals to modify development consents will be referred to the Wollongong Local Planning Panel for determination, as required by Schedule 2 of the Local Planning Panel Directions – Council is not the consent authority.*

In this case, the application is required to be determined by the State Regional Planning Panel.

The guidelines set out the requirements for the council conflict of interest policy required under section 66A, assists councils in meeting these requirements by providing a sample policy and management



strategy statement that can be used as a template when developing their policies and provides general information and guidance about the policy.

Councils CoIP complies with the guidelines.

## **2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT**

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality. This is demonstrated through the following:

- The proposal is satisfactory regarding the applicable planning controls as detailed in the body of this report.
- Submissions raised following notification would not preclude the development.
- Internal and external referrals are satisfactory subject to appropriate conditions of consent.
- The physical impacts of the proposal (i.e., public domain, overshadowing, privacy, setbacks, bulk, and scale) on surrounding development are considered acceptable.
- The development is expected to create a large number of employment opportunities during the construction period and post occupation.

The proposal has been assessed regarding the amenity impacts from the development, the zoning, permissible height and FSR for the land, and existing and future character of the area including heritage impacts and is considered to be compatible with the locality

## **2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

Does the proposal fit in the locality?

The proposal is considered appropriate regarding the zoning of the site and the desired future character for the locality sought to be achieved via the planning controls. The development is not expected to result in adverse impacts on the amenity of the locality or adjoining developments. No adverse social or economic impacts are expected.

Are the site attributes conducive to development?

There are no environmental site constraints that would preclude redevelopment of the site.

The site constraints have been considered in the assessment of this DA. The development has been designed to ensure that flooding is appropriately managed, and conditions are recommended for imposition in relation to site remediation. Detailed construction management plans will be required to be developed and implemented to minimise and mitigate impacts on environmental values and amenity.

## **2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS**

Refer to discussion in Section 1.4 of this report.

## **2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST**

The proposal is permissible, is consistent with the E2 zone objectives and responds to the character of the area having regard to the applicable planning controls.

The application is not expected to result in unreasonably adverse impacts on the environment or the amenity of the locality, nor will it give rise to adverse social or economic impacts. The development will create significant positive economic impacts in the city and broader region.

On balance, approval of the proposal is consistent with the public interest.

## **3 CONCLUSION**

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This application has been assessed having regard to the matters for consideration in Section 4.15(1) of the Environmental Planning & Assessment Act 1979.

The proposal is permissible, is consistent with the E2 zone objectives and responds to the character of the area having regard to the applicable planning controls. The proposed development departures relating to the height of the hotel building and building separation have been assessed with regard to Clause 4.6 of the WLEP 2009 and are considered to have merit in the circumstances of the case. The

provisions of applicable environmental planning instruments have been considered in this report and the proposal is satisfactory.

Variation requests regarding setbacks and street frontage heights have been made under WDCP 2009 and these variations have been assessed in this report as satisfactory.

The recommendations of the Design Review Panel have been largely adopted in the revised plans and matters raised by the Panel and DRP Chair are satisfactorily resolved, either through the revised plans or, in the case of residual matters, by recommended conditions.

Internal and external referrals are satisfactory subject to appropriate conditions of consent. The concerns raised in submissions have been considered and have resulted in some refinement of the design and/ or imposition of consent conditions where appropriate.

The application is not expected to result in unreasonably adverse impacts on the environment or the amenity of the locality, nor will it give rise to adverse social or economic impacts. The development will create significant positive economic impacts in the city and broader region.

On balance, approval of the proposal is consistent with the public interest.

There being no outstanding issues, it is appropriate that the application now be determined. Given that the Globe Lane Road closure is yet to be finalised, it is recommended that the application be granted a deferred commencement consent requiring the completion of the road closure process, acquisition of the closed road portion by the developer, and consolidation with the subject allotments.

#### **4 RECOMMENDATION**

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It is recommended that DA-2023/767 be granted deferred commencement consent subject to appropriate conditions of consent detailed in Attachment 5.

#### **ATTACHMENTS**

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| 1 | Plans  |
| 2 | Design Review Panel meeting notes 23 November 2023 and DRP Chair final review November 2024      |
| 3 | Applicant's Clause 4.6 exception requests in relation to building height and building separation |
| 4 | Wollongong DCP 2009 compliance table   |
| 5 | Draft conditions of consent  |