

EXCEPTION TO DEVELOPMENT STANDARD VARIATION STATEMENT

Building Separation - Wollongong City Centre

Address: 357-359 Crown Street, Wollongong
Proposal: Hotel Development
Date: November 2020 (Rev C)

1.0 Introduction

The purpose of this variation statement is to outline the justification for seeking an exception to the minimum building separation within Zone B3 Commercial Core (being a development standard) contained within the *Wollongong Local Environmental Plan 2009 (WLEP 2009)*. This variation statement has been prepared in consideration of Clause 4.6 and *Part 8 - Clause 8.6(2)(c)* (Minimum building separation) in *WLEP 2009* and the NSW Department of Planning, Infrastructure and Environment's (DPIE) "*Varying development standards: a guide*" (August 2011).

The advice herein relates to an application for the proposed demolition of existing structures and construction of a new multi-level hotel development at 357-359 Crown Street, Wollongong (the site). In this regard, the proposed development will incorporate the construction of a new twenty (20) storey hotel building containing – three (3) levels of basement parking below; a two (2) storey valet areas, an expansive two (2) storey lobby with a five (5) storey void design as a core element of the design, commercial premises and hotel facilities up to podium level; with two (2) towers above providing for 120 hotel rooms and roof top pool. The details of this proposal are shown within the Development Drawings prepared by Design Workshop Australia (DWA) (attached to the application), which identifies the proposed building separation in question.

The proposed development application seeks to provide an appropriate and balanced development/environmental outcome for the subject site, and the Wollongong City Centre area as a whole. In doing so, an exception to a development standard contained within *Wollongong Local Environmental Plan (LEP) 2009* has been adopted. In this regard, the proposed development

generally accords with all *LEP* controls, apart from a numerical variation being requested to the building separation development standards contained within *Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use*. Specifically, a distance of at least 28 metres from any other building at 45 metres or higher above ground level is required. The proposed development will not achieve this building separation above the 45 metre height plane for the neighbouring site to the west at 363 Crown Street. Even though 363 Crown Street is yet to be developed at such a height and scale, future allowances require due planning consideration. Hence the purpose of this statement.

The request is in writing to address the relevant provisions within *Clause 4.6*, to demonstrate that strict compliance with the development standard is unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the proposed variation sought.

This statement has been prepared in accordance with the NSW Department of Planning Infrastructure (DPI) guideline “*Varying Development Standards: A Guide*” dated August 2011. Applications to vary development standards should also address the ‘five-part test’ established by the NSW Land and Environment Court (LEC) to determine whether the objection is well founded. An assessment of this applicant against the ‘five-part test’ is included in this statement.

2.0 Overview of Clause 4.6

Clause 4.6 provides a framework for varying the applicable development standards under a Local Environmental Plan (LEP).

The objectives of this clause are as follows:-

- (a) to provide an appropriate degree of flexibility in applying particular development standards to particular development;*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Sub *Clauses (3)(a)* and *(3)(b)* state that development consent must not be granted unless the consent authority has considered a written request from the applicant that seeks to justify the contravention by demonstrating:

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

This Statement provides a written request seeking to demonstrate the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard based on the following rationale (summary):

- The size and constraints of the subject site make a fully compliant development of this nature unreasonable to achieve in order to realise its capabilities.
- The development is consistent with the objectives of the B3 Commercial Core Zone.
- Sufficient separation of buildings is still achieved for reasons of visual appearance, privacy and solar access.
- The proposed contravening the development standard will not limit the potential for the adjoining western site to be developed to its permitted capabilities in future.
- The development standard has been abandoned by Council's own actions in granting consents departing from the standard.

The zone objectives are as follows:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community;*
- *To encourage appropriate employment opportunities in accessible locations;*
- *To maximise public transport patronage and encourage walking and cycling;*
- *To strengthen the role of the Wollongong city centre as the regional business, retail and cultural centre of the Illawarra region;*
- *To provide for high density residential development within a mixed use development if it:*
 - (a) is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and*
 - (b) contributes to the vitality of the Wollongong city centre.*

The relevant zoning objectives outline a need to strengthen the role of the City Centre by providing for a range of land use activities that support employment and public transport patronage (as above). The proposed development is both permissible within the B3 zone as a hotel and commercial premises, meeting the needs of the community by providing employment and tourism opportunities within close proximity to the CBD precinct and, local bus route and Wollongong train station. Such a proposal is in high demand for the immediate area (from a land use perspective) and the site itself is very accessible from a patronage and public transport viewpoint. Thus, the proposed development directly accords with the objectives of this zone.

An aerial view of the subject site is shown in *Figure 1*.



Figure 1: Aerial View of the Site and Locality (*Source: SixMaps)

With regard to context and setting, in the immediate context, the property is located in at the western end of Wollongong CBD, which is primarily characterised by a mixed-use business development. This existing area is host to a range of retail, commercial, and residential uses, however, a dominant land use factor within the locality is medical facilities given the proximity to the hospital precinct. It is noted that many of the existing properties within the immediate setting are ageing and will likely be the subject of future redevelopment opportunities in years to come. This is already starting to come to fruition with the development of the Private Hospital, the Crown view development (west), as well as the subject proposed development at hand. The proposed development has demonstrated that a functional hotel building can be provided, including appropriate carparking and access, landscaping and communal areas and facilities, without detrimentally impacting the surrounding properties.

In summary, it is concluded that the development standard is (3)(a) unreasonable or unnecessary in the circumstances of the case.

A (3)(b) assessment of the proposal under the applicable planning controls has determined that besides the proposed variation to building separation requirement and minor *WDCP 2009* variations, the development is largely compliant with the applicable controls. However, as demonstrated in this report, the proposed design mitigates any adverse impacts from the reduced building separation. In addition, solar access is not compromised to adjoining lots and amenity (privacy, visual, acoustic etc.) of the surrounding lots and general area will not be unreasonably impacted by the development.

The proposed building has been designed to respond appropriately to the limitations posed by the site and is considered to be a reasonable development outcome for the site. In summary it is considered that there are sufficient site specific environmental planning grounds to justify contravening the development standard.

Furthermore sub *Clause 4(a)(i)* and *(ii)* provide that development consent must not be granted unless:-

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the secretary has been obtained.*

This written request has adequately addressed the matters required to be demonstrated by subclause (3). It is considered that the departure from the minimum building separation requirement, is in the public interest as outlined above in (3) (a) and (3) (b).

In deciding whether concurrence is to be granted or assumed, the following considerations are relevant:-

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning; and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

It is noted that as of 21 May 2014 Council has assumed concurrence of the Secretary in relation to development applications that contravene development standards.

3.0 Details of the environmental planning instrument, the applicable development standard and proposed variation.

3.1 What is the applicable environmental planning instrument (EPI)?

The *Wollongong Local Environmental Plan 2009 (WLEP 2009)*.

3.2 What is the development standard being varied?

The Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use requirement contained in *Part 8 - Clause 8.6(2)* of the *WLEP 2009* which states:

- “(2) Buildings on land within Zone B3 Commercial Core or B4 Mixed Use must be erected so that—*
- (a) there is no separation between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and*
 - (b) there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and*
 - (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.*
- (3) Despite subclause (2), if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than—*
- (a) 20 metres from any habitable part of a dwelling contained in any other building, and*
 - (b) 16 metres from any other part of any other building.*
- (4) For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.*
- (5) In this clause:*
street frontage height *means the height of that part of a building that is built to the street alignment.”*

Clause 8.6(2)(a) = Compliant

In this regard, the design of the proposed development is sited with the built form covering the majority of the site. Its massing adopts a zero lot line up to the street frontage height at the western boundary and an approximate 3.5m setback to the southern boundary up to street frontage height. As such, this portion of the development is compliant and consistent with Clause 8.6(2)(a), noting this is not applicable for the southern boundary which adjoins a right of way (which cannot contain a building) so therefore there must be separation between neighbouring buildings.

Clause 8.6(2)(b) = Compliant

Above the street frontage height, a slender tower is proposed. A distance of at least 12 metres from any other building above the street frontage height (less than 45 metres above ground level) is required, which means a minimum building line setback of 6 metres should be provided to the southern and western neighbouring boundaries (allowing for half the development standard). The proposed tower is in excess of this 6 metres at both boundaries.

Clause 8.6(2)(c) = Non-Compliant

Above 45 metres above ground level, a distance of at least 28 metres from any other building is required, which means a minimum building line setback of 14 metres should be provided to the southern and western neighbouring boundaries (allowing for half the development standard). The 45 metre height plane is for Level 14 of the proposed development upwards. The proposed tower is in excess of this 14 metres at the southern boundary, but only achieves a setback of between 8.4 metres and 11.8 metres at the western boundary. Therefore, a deviation from this standard is proposed.

These proposed floor plans against existing boundary conditions (existing and future) are shown in the extracted architectural plans by DWA.

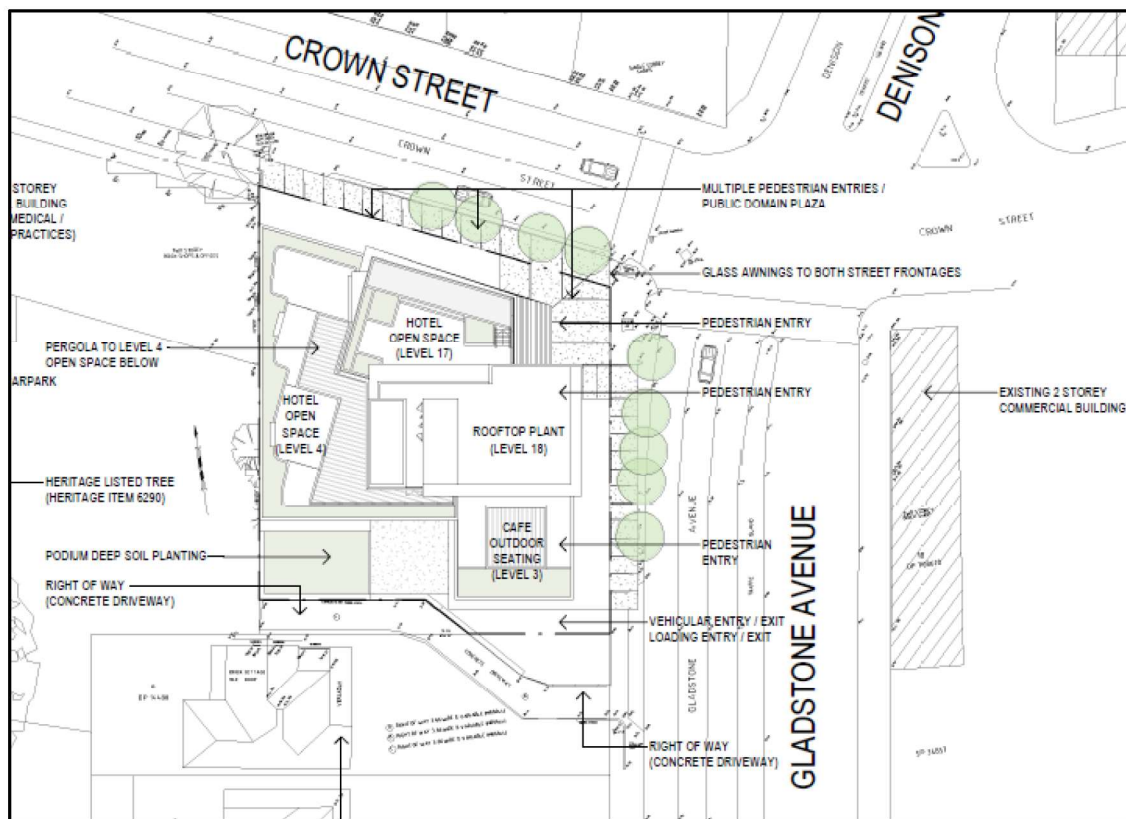


Figure 2: Proposed Site and Lower Ground 1 Floor Plan (*Source: DWA)

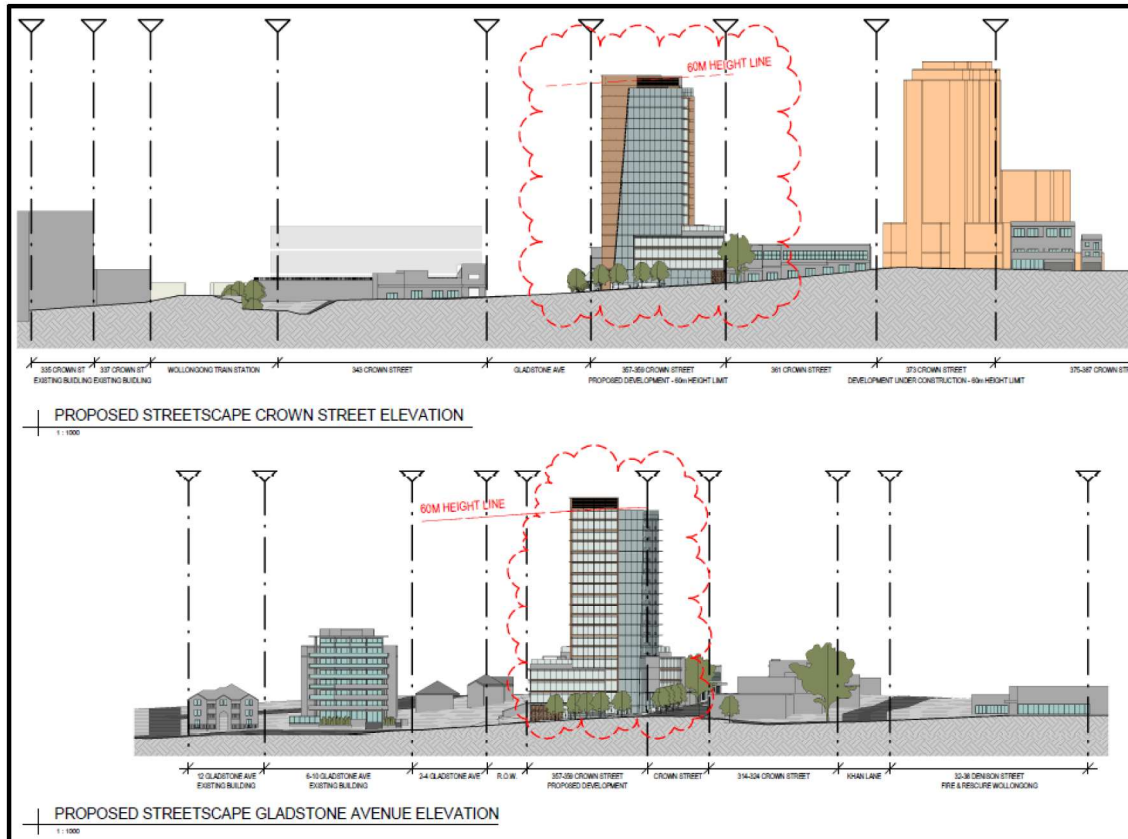


Figure 4: Proposed Streetscape Elevation (Proposed) (*Source: DWA)

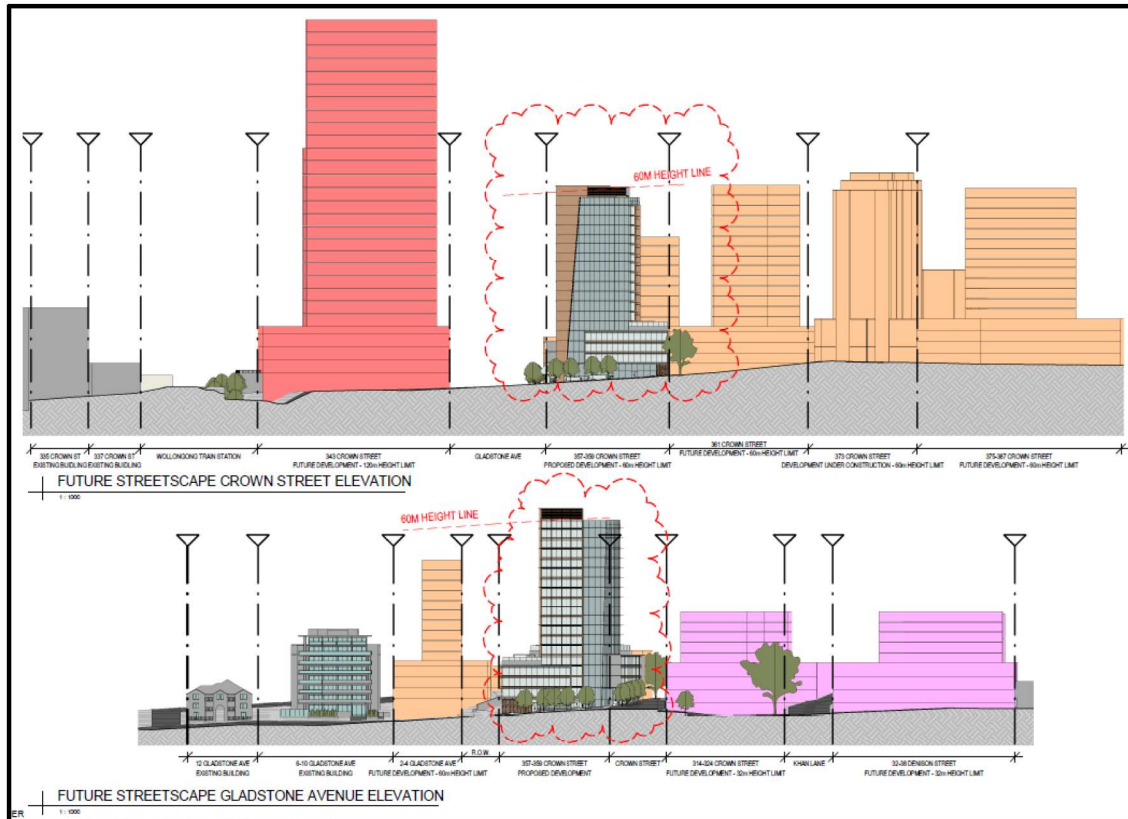


Figure 5: Proposed Streetscape Elevation (Future) (*Source: DWA)

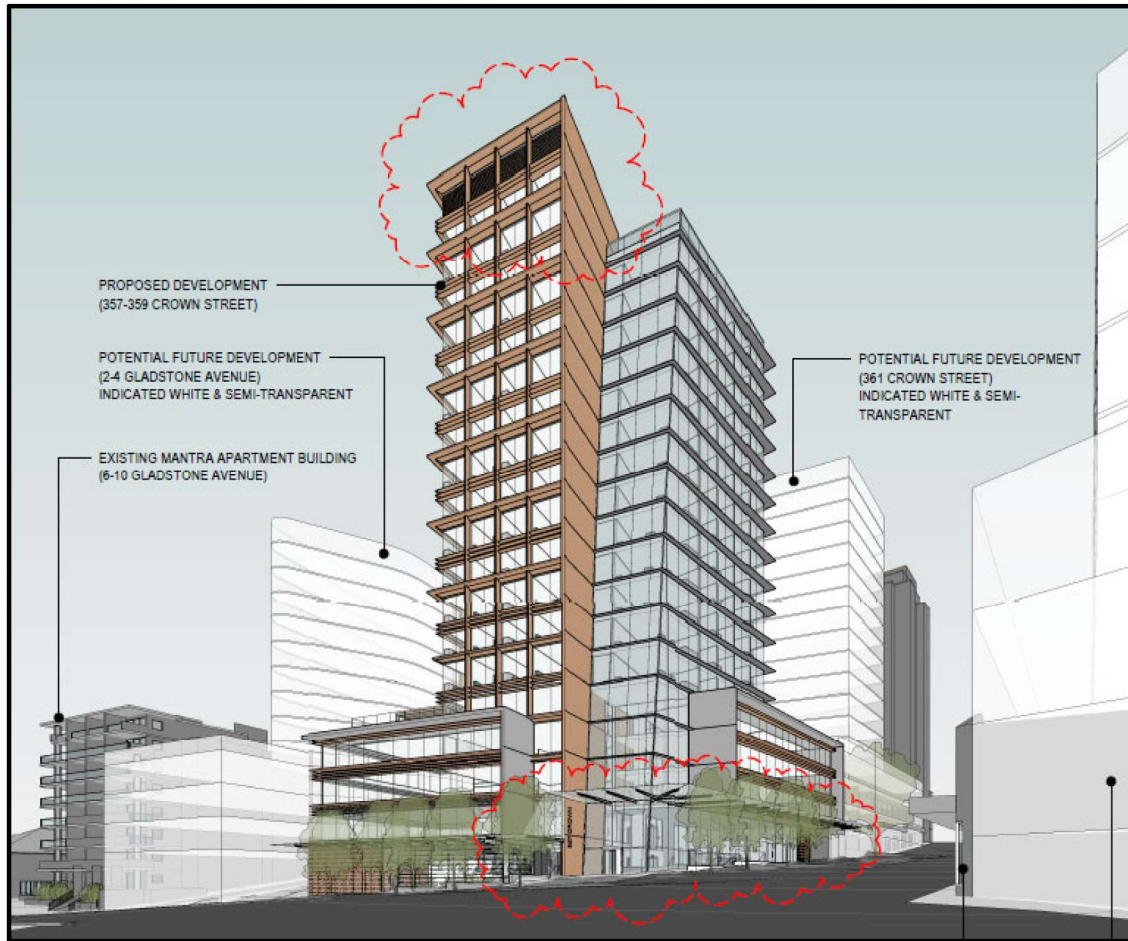


Figure 6: Proposed 3D Views (*Source: DWA)

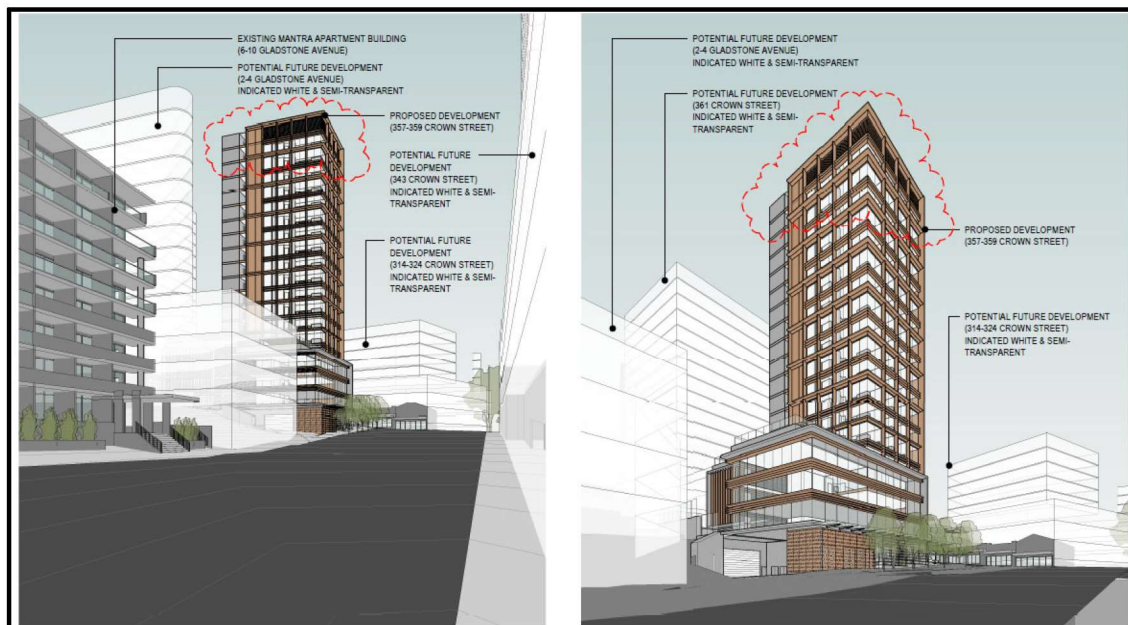


Figure 7: Proposed 3D Views (*Source: DWA)

3.3 What are the objectives of the standard?

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

Further consideration of this objective in relation to the proposed development is provided within the following sections below.

3.4 What is the percentage variation (between the proposal and the EPI)?

The proposed development seeks a 40% variation.

The minimum separation distance permitted is 28 metres from any other building at 45 metres or higher above ground level and, as such, a 14 metre building line setback is required to neighbouring boundaries. The application proposes parts of the development situated within the 28m from the western existing/potential development envelope of the adjoining site (within the required 14 metre boundary setback), being only 8.4 metres at its minimum setback to this edge. Therefore, the proposed development seeks a deviation from this development standard by 40% ($8.4/14 = 0.6$).

4.0 Assessment of Proposed Variation

4.1 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Yes, compliance with the development standard is unreasonable in the circumstances.

In *Wehbe v Pittwater Council* [2007] NSWLEC827 (*Wehbe*), Preston CJ identified five (5) ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. While *Wehbe* related to objections pursuant to State Environmental Planning Policy No. 1 – Development Standards (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 because subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

The five (5) ways outlined in *Wehbe* include:

1. The objectives of the standard are achieved notwithstanding noncompliance with the standard (First Way)

2. The underlying objective of purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way)
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way)
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way)
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).

Additionally, of note, in the judgment in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 the Chief Judge upheld the Commissioner's approval of large variations to height and FSR controls on appeal. He noted that under Clause 4.6, the consent authority (in that case, the Court) did not have to be directly satisfied that compliance with the standard was unreasonable or unnecessary, rather that the applicant's written request adequately addresses the matters in Clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.

In this regard, this written request establishes and adequately addresses the matters in Clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary because the objectives of the standard are achieved irrespective of the non-compliance with the building separation controls, and accordingly justifies the variation to the building separation control pursuant to the First Way and Forth Way outlined in *Wehbe*, as follows.

Objective of the Development Standard:

Under WLEP 2009, Clause 8.6(2) has the following objectives in relation to the Building separation development standard: *to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.*

Visual Appearance

In terms of visual qualities, a Design Excellence Report has been prepared by City Plan which sets

outs the site's context and design rationale/response in detail. The proposal incorporates attractive and well-considered architectural design, materials and details which reflect the proposed high-quality hotel development inclusive of commercial uses. The proposal involves well-articulated façades with the incorporation of a 2 tower building envelope featuring a slopped glazed wall to define and separate the towers and minimise bulk. A two-storey high valet space provides an impressive hotel entry with a physical and visual connection to the two (2) level lobby which spans the ground floor and mezzanine. The proposal will deliver high quality internal amenity for prospective guests and commercial occupants.

Materials and finishes will be used for public interest and compatibility with the surrounding development. These include expansive glazing, steel structures and window framing, space for potential public art, stone look walls and continuous stone flooring to match the external paving. The proposed building form is appropriate for the future streetscape of Crown Street and Gladstone Avenue which shows future development of comparable or greater bulk and scale.

The overall envelope is an appropriate design and scale which reflects the site's constraints and GFA anticipated by the WLEP. The side-by-side tower building form provides a seamless and visually interesting built form with the lower tower defining the primary street frontage along Crown Street. The larger tower is appropriately situated at the middle/rear portion of the site. The larger tower fronts Gladstone Avenue and set back 4 metres (as required by the WDCP) from the boundary above the 4 level podium.

The proposal includes an expansive 2 storey lobby with 5 storey void design as a core element which will create a character element that contributes to the public domain. This proposal increases the amount of public domain area at the north and north-eastern part of the site and improves pedestrian movement. The proposed hotel development takes advantage of the corner site by incorporating an expansive 2 storey lobby design as a core character element that contributes to the public domain.

The design supports a fine grain network and activation of the primary street frontages by enhancing permeability, activation and surveillance. The proposal integrates continuous pedestrian pathways, high quality materials and features into shared spaces, including glazing, 5 level void, water feature, continuous awnings, landscaping and a cafe with outdoor seating fronting Crown Street.

The slender tower's visual appearance is not compromised by the deviation to the development standard. In fact, its presentation as a continual building line tower to the western edge provides for a far more symmetrical and aesthetically pleasing architectural form.

Privacy

Privacy has been considered specifically noted in the design response shown in the architectural interface treatment to this western boundary. The internal layout of the hotel rooms attempt to minimise overlooking with the careful location of window and door openings.

Acoustic privacy for future visitors and neighbouring land uses has also been taken into account, with the proposed development being designed to limit noise intrusion into adjoining properties through the use of appropriate building materials and associated noise control treatments. The proposed development has been supported by a Noise Assessment prepared by Harwood Acoustics which provides a range of acoustic recommendations to ensure the proposed development will comply with the relative sections of the EPA and Council requirements/conditions, and will not create any offensive noise to the surrounding residents.

Any future building design for the redevelopment of 363 Crown Street will not be compromised by the proposed building separation in terms of privacy.

Solar access

Preliminary shadow diagrams prepared by DWA architects illustrate only minor shadow impacts on the adjoining developments. The adjacent developments south of the site including the existing Mantra apartments show overshadowing during the 11am - 12pm period at June. Overall the shadow impacts are minimised due to the proposed slender built form of the tower.

The slender tower limits the shadow cast, compared to that if compliance was proposed between street frontage height and 45 metres high. That is, by adopting a linear tower form that up to 45 metres well exceeds the building separation criteria for this part (compared to a wider base) improves opportunities for adjoining properties to receive access to daylight.

Given the proposed variation is at the western edge, it won't affect 363 Crown Street from 11am onwards. Again, this will not limit opportunities for this property to be developed to its permitted potential.

On this basis, the proposed development has been assessed against each objective contained in clause 8.6(3) of WLEP 2009. Thus, deeming strict compliance in accordance with the First Way is unwarranted in the circumstances of this particular case.

Development Standard Abandoned:

In relation to the Fourth Way "The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way)" it is noted that the following approvals have proposed the same variation and have been approved thereby abandoning the development standard:

DA-2016/969: 48 Bank Street WOLLONGONG

Demolition of existing structures and construction of shop top housing comprising ground floor commercial and six residential levels with basement parking

DA-2017/1462: 47 Burelli Street WOLLONGONG

Demolition of all structures, and the construction of a seven (7) storey office building for IMB bank with two basement car parking levels for 89 car parking spaces

DA-2017/493: Langs Building 95-109 Crown Street WOLLONGONG

Commercial - demolition of existing building and construction of new commercial premises comprising of offices and retail tenancies

DA-2017/730: 131-135 Keira Street WOLLONGONG

Demolition of existing buildings and ancillary structures and the construction of a mixed use development above basement parking

DA-2018/973: 28 Young Street WOLLONGONG

Residential - demolition of existing structures and construction of a 15 storey mixed use development comprising seven (7) commercial tenancies, 64 residential apartments and car parking for 90 vehicles

DA-2019/779: 80 Market Street WOLLONGONG

Commercial - demolition of existing structures and construction of a six (6) storey development

DA-2019/1122: 20-26 Young Street WOLLONGONG

Demolition of existing structures and construction of a 15 storey mixed use development comprising 60 residential units, six (6) commercial tenancies and parking for 89 vehicles

Thus, deeming strict compliance with the minimum building separation is unwarranted (Forth Way)

in the circumstances of this particular case.

4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

“Environmental planning grounds” take their colour from the subject matter, scope and purpose of the Environmental Planning and Assessment Act 1979 (EPA Act), including its objects. The below provide a breakdown of the key environmental planning grounds which support the proposed variation request, including:

The unique circumstances at the site which warrant the provision of reduced setback:

Adopting building separation requirements to the west on the site would mean a large part of the building at the upper levels would be excluded from any built form. From a design perspective, this would create a ‘wedding cake’ appearance, which would result in an inferior architectural presentation. Logically, restricting a built form envelope by this amount is completely impractical for a City Centre B3 zoned site at this location and, therefore, totally unreasonable to consider in this instance.

The adjoining sites are still able to achieve their maximum permitted FSR building forms and at the same time still achieve reasonable building separation.

The proposed building form does not result in any significant adverse impacts and achieves a good urban development outcome for the site:

The building intrusions into the side setback are a direct design response with the intent to allow the site to respond to the demand for hotel/commercial floor space in the area, whilst supporting Wollongong Councils objectives for built form within the B3 zoned City Centre.

The proposed bulk and scale of this building is considered appropriate for this City Centre location, and will not detrimentally affect the visual appearance of the area (in fact it will substantially improve an aged part of the City, which is undergoing change with other similar scale redevelopments occurring nearby). The overall height and form of the development is consistent with expected future desired character strategies for the area.

The proposal incorporates attractive and well-considered architectural design, materials and details which reflect the proposed high-quality hotel development inclusive of commercial uses. The proposal involves well-articulated façades with the incorporation of a 2 tower building envelope featuring a slopped glazed wall to define and separate the towers and minimise bulk. The proposal will deliver good internal amenity for prospective guests and commercial occupants.

The Design Review Panel considered the proposed building separation at its Meeting held 30 June 2020 noted support for the proposed height exceedance:

The tower is setback between 7.5m and 11.8m from its western boundary, which is less than the 14m set back required by council's controls but is in excess of the minimum requirement of the ADG (6m) for none habitable rooms. Given that:

- the largely defensive nature of the western façade limits potential privacy issues,*
- there is minimal over shadowing of the western neighbour,*
- and development potential of the western neighbour is not compromised, the proposed western set back to the tower is considered acceptable."*

Again, the adjoining site is still able to achieve their maximum permitted FSR building forms and at the same time still achieve reasonable building separation.

The maintenance of design excellence through the proposed alternate strategy, which has been designed to be a core element of the delivery of the integrated station development outcome:

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

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) whether the proposed development detrimentally impacts on view corridors,*
- (d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,*
- (e) how the proposed development addresses the following matters:*
 - (i) the suitability of the land for development,*
 - (ii) existing and proposed uses and use mix,*
 - (iii) heritage issues and streetscape constraints,*
 - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site*

or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(v) bulk, massing and modulation of buildings,

(vi) street frontage heights,

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

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

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

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

With regards to the overall urban design intent and site response, City Plan have prepared a Design Excellence Report, which is attached to the application for consideration. In summary, City Plan include the following with regards to the development's urban design:

This report has reviewed the relevant design excellence provisions of the Wollongong Local Environmental Plan 2009 (WLEP), as well as other strategic and statutory considerations relevant to the proposed hotel development.

‘Design Excellence’ has been the cornerstone of the design process for the design team, and has been achieved through a rigorous design development process in collaboration with a team of specialist consultants.

The development has been carefully designed to consider the urban interfaces, building mass and scale, pedestrian and vehicle connectivity, and aims to improve the quality and amenity of the public domain.

Importantly, the proposal is consistent with the anticipated built form of the Wollongong City Centre as demonstrated by its largely compliant building height, podium heights, FSR, building separation and setbacks. It also integrates effectively with the existing and likely streetscape.

The proposed hotel development will not only provide Wollongong City with a high-quality hotel to support local tourism, the proposal will also provide short-term accommodation and expansive commercial uses to support the proximate public and private hospitals within Wollongong's health district. Further, the proposal will create street activation and improve the public domain by providing increased public space, improving permeability and enhancing the character of the locality.

Overall, this report has reviewed the evolution of design development in conjunction with the site's constraints and suitability, and relevant strategic and statutory considerations. We find the current proposal to be capable of achieving design excellence and worthy of Wollongong City Council's support.

In general, the architectural design, materials and detailing are of a high standard that is appropriate to the building type and location. The external appearance and form of the development will improve the quality and amenity of the public domain in the immediate vicinity of the site.

The delivery of a development outcome which does not result in any adverse environmental impacts

The proposed development has been designed will incorporate best practice initiatives with regards to ecologically sustainable development (ESD) principles, in order to achieve the sustainability requirements of Section J of the NCC (as well as Council guidelines under Wollongong DCP 2009). In this regard, sustainability specialists Integreco have been engaged to review opportunities for ESD initiatives to be put into the design, construction and ongoing operation of the proposed hotel.

As above, we acknowledge the proposed development will bring some overshadowing impact upon the neighbouring properties to the south. Practically, due to site orientation it would be almost impossible to redevelop the subject site for anything greater than a few storeys without having any impact whatsoever. However, this overshadowing will not be adverse. The reduced building separation is deemed reasonable and acceptable due to the reduced impacts to privacy and overlooking, created specifically by responsive architectural interface treatment to these boundaries.

The development has been specifically designed to provide a suitable environment for all future inhabitants of the hotel, whilst respecting the considerations of adjoining land uses. The internal layout of the rooms attempt to minimise overlooking with the careful location of window and door openings.

Acoustic privacy for future visitors and neighbouring land uses has also been taken into account, with the proposed development being designed to limit noise intrusion into adjoining properties through the use of appropriate building materials and associated noise control treatments. The proposed development has been

supported by a Harwood Acoustics, which provides a range of acoustic recommendations to ensure the proposed development will comply with the relative sections of the EPA and Council requirements/conditions, and will not create any offensive noise to the surrounding residents.

Overall, it is evident from the above commentary provided that there are sufficient planning grounds to justify contravening the building separation development standards identified. To this end, strict compliance with the numerical development standards are both unwarranted and unnecessary in this instance.

4.3 Does contravening the development standard raise any matters of significance for the State or regional environmental planning?

No, contravening the development standard in this case does not raise any matters of State or Regional planning significance.

4.4 Is the objection well founded?

Yes, for the reasons outlined in the previous sections above, the objection is considered to be well founded in this particular instance. Granting an exception to the development standard can therefore be supported in the circumstances of the case.

The proposed development will be consistent with the outcomes envisaged in the zoning and policy framework. The development is also compatible with the relevant objectives specified in *Section 1.3* of the *EPAA 1979*.

5.0 Conclusion

The proposed variation is based on the reasons contained within this request for an exception to the stated *Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use* requirement, being a development standard contained within the *WLEP 2009*. The proposal will not result in any adverse impacts with regards to the amenity of the adjoining properties and there is sufficient environmental planning grounds to justify an exception to the development standard.

In conclusion, the objection is considered to be well founded on planning grounds and compliance with the standard is unreasonable in the circumstances of the case.

Yours faithfully,

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