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EXCEPTION TO DEVELOPMENT STANDARD VARIATION STATEMENT

Building Height - Wollongong City Centre

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

1.0 Introduction

The purpose of this variation statement is to outline the justification for seeking an exception to the maximum building height 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 4 - Clause 4.3(2)* (Height of buildings) 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 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 area, 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 height in question. Specifically, the proposed development exceeds the permitted 60m height shown for the land on the *Height of Buildings Map*.

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 height development standards contained within *Clause 4.3 Height of Buildings* and a separate exception being sought for building separation under *Clause 8.6*. 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):

- Only the rooftop plant, lift overruns and architectural roof features remain above the 60 metre height plane, consistent with the provisions of *WLEP 2009 Clause 5.6 Architectural roof features*.
- The extent of the variation above the 60 metres height limit is minor and only 3.5 metres (63.5 metres above natural ground at its maximum point), being just a 5.8% exceedance of this height plane threshold.
- Proposed urban form results in a slimline tower aimed at achieving design excellence for this corner centrepiece position, and to reduce the height would partially result in a wider tower footprint, believed to be an inferior urban design outcome at this location.
- The development is still consistent with the objectives of the B3 Commercial Core Zone.
- The proposed contravening the development standard will not limit the potential for adjoining sites to be developed to their permitted capabilities in future.
- The proposed building height exceedance will not be out of context with the locality or surrounding permitted building height heights.

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 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.

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 Crownview Development (west) as well as the subject proposed development at hand. The proposed development has demonstrated that a functional building can be provided, including appropriate carparking and access, landscaping and private open space areas, without detrimentally impacting the surrounding properties.

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



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

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 height 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 excess building height. 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. The proposed building will not detrimentally impact solar access or visual and acoustic privacy, and is an appropriate urban form that will contribute positively to the streetscape.

In summary it is considered that there are sufficient site specific environmental planning grounds to justify contravening the development standard.

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 Height of Buildings requirement contained in *Part 4 - Clause 4.3(2)* of the *WLEP 2009* which states:

"(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map".

A maximum building height of 60m applies to the site, as shown in the extract from the Height of Buildings Map in *Figure 2* below.

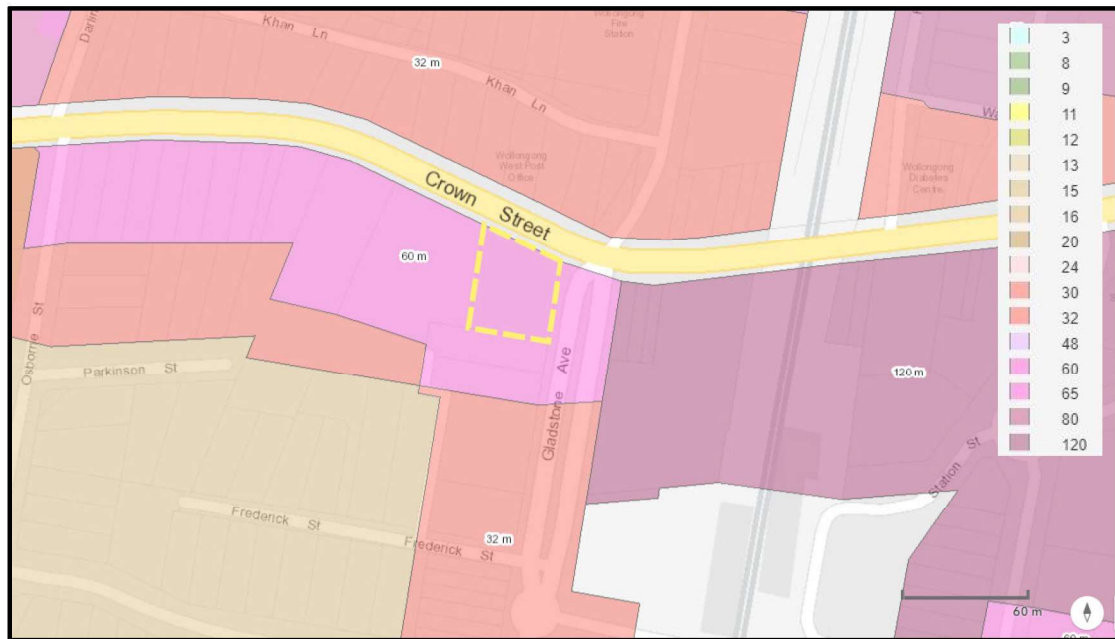


Figure 2: Extract of the WLEP 2009 Height of Buildings Map (*Source: NSW Planning Portal)

The proposed development has a maximum building height of 63.5m to the south eastern corner (closer to Gladstone Avenue) being twenty (20) storeys in height. The northern tower that is located on Crown Street is under the height 60m height limit, however the southern tower exceeds the maximum building height by up to 3.5m.

The extent of this encroachment above the 60 metre height plane is shown the 3D perspectives prepared by DWA and extracted below in *Figure 3*.

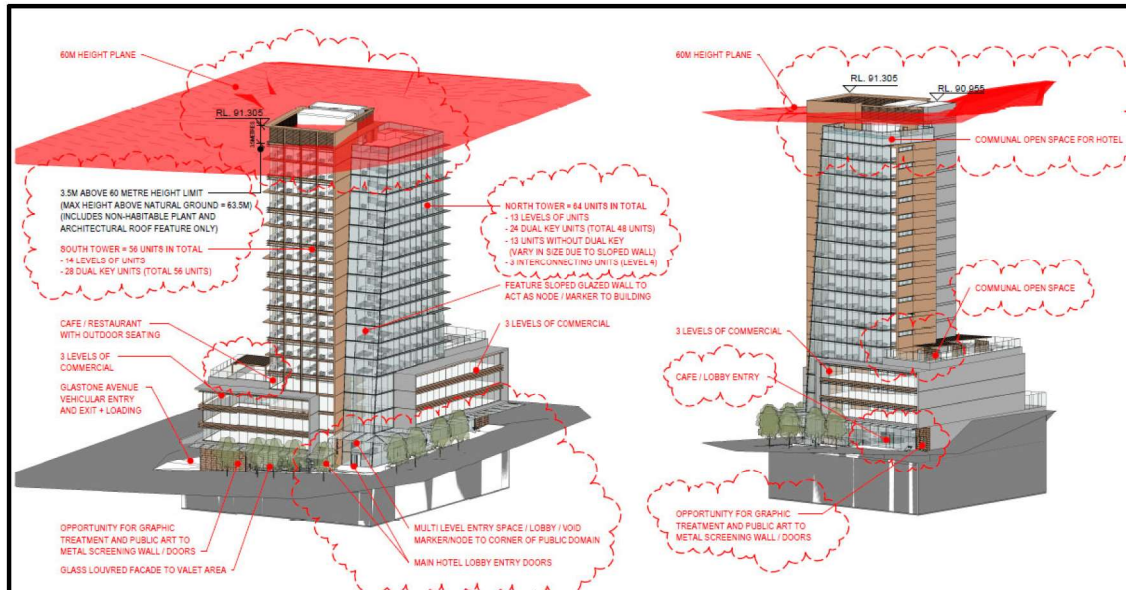


Figure 3: Proposed 3D Views showing 60m height building plane (*Source: DWA)

The proposed site plan and 3Ds are shown in the extracted architectural plans by DWA (referred to as *Figures 4, 5 and 6*).

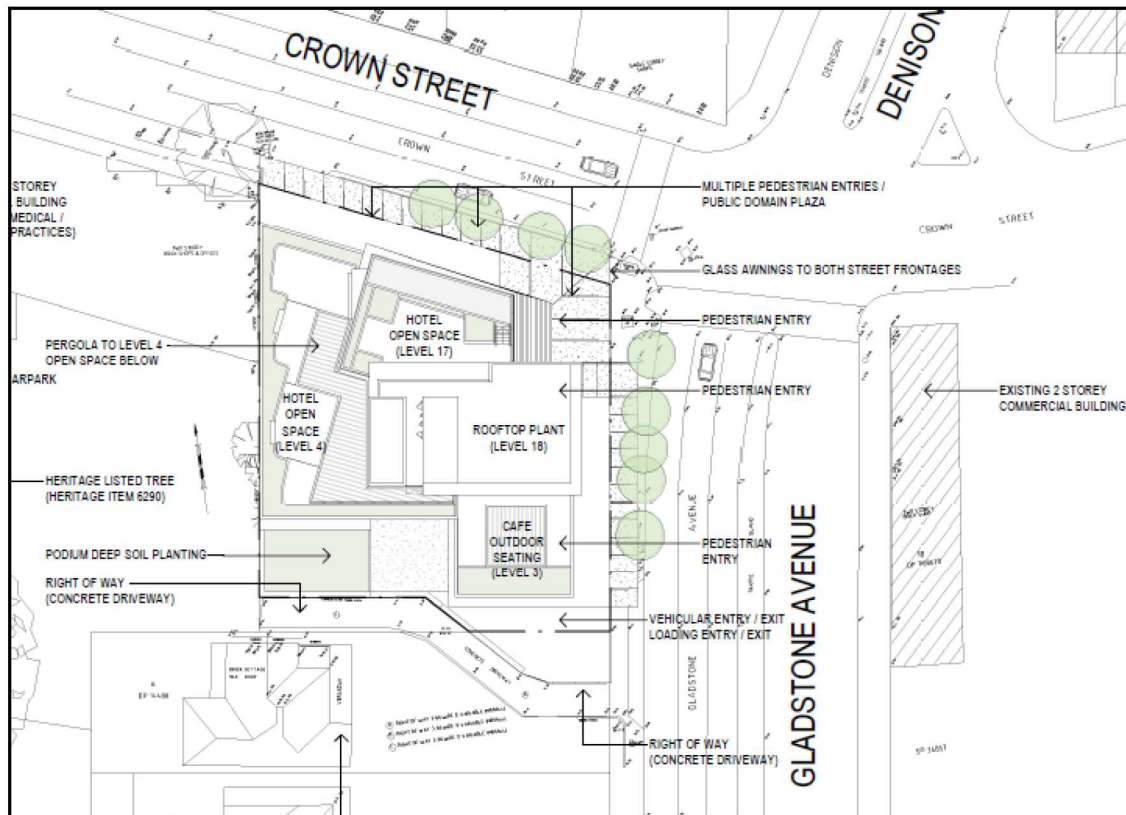


Figure 4: Proposed Site and Lower Ground 1 Floor Plan (*Source: DWA)

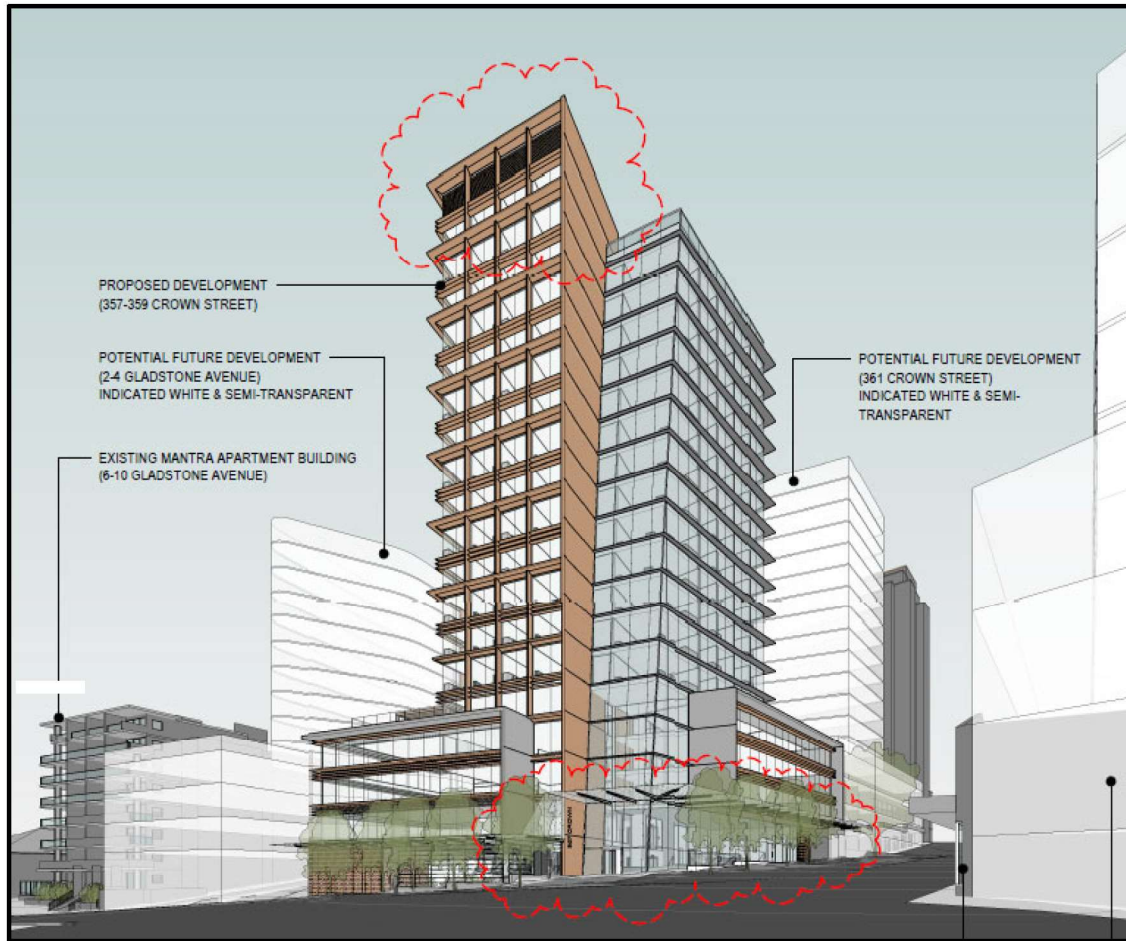


Figure 5: Proposed 3D Views (*Source: DWA)

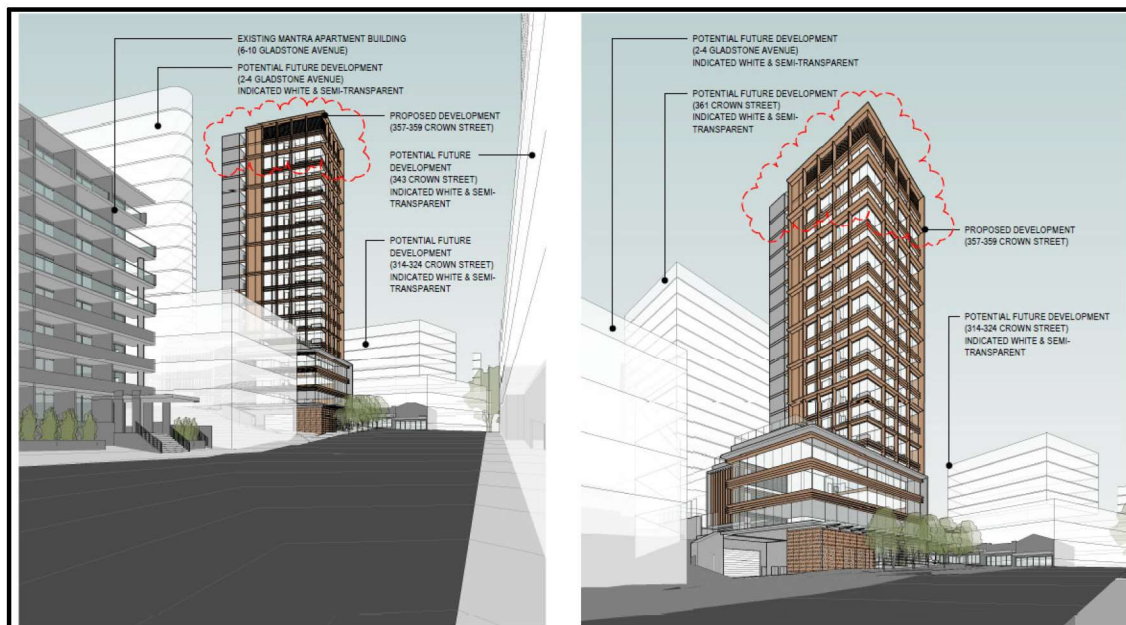


Figure 6: 3D views of the proposed hotel in its current context from Gladstone Avenue viewing North/West (*Source: Involve)

3.3 What are the objectives of the standard?

The objectives of this clause are as follows—

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.*

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 height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum height shown for the land on the Height of Buildings Map is 60m. The application proposes parts of the development in excess of 60m with a maximum height of 63.5m above ground level (RL 91.305). This equates to a 5.8% variation to the development standard.

The height plane is illustrated on the south eastern corner as shown on the 3D perspective supplied by DWA (see *Figure 3*). As shown, the extent of the variation relates to half of the top floor only (in part) and all of the open air roof plan and represents a small footprint at this height.

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 4.3(1) has the following objectives in relation to the Height of Building development standard:

- (a) *to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
- (b) *to permit building heights that encourage high quality urban form,*
- (c) *to ensure buildings and public areas continue to have views of the sky and receive exposure to*

sunlight.

Floor space

This clause applies to land in the Wollongong City Centre and sets aside the provisions contained within *Clause 4.4* (i.e. the maximum Floor Space Ratio (FSR) of 1.5:1 shown on the Floor Space Ratio Map).

Clause 4.4A(3) provides:

“(3) For land within Zone B3 Commercial Core with a site area equal to or greater than 800 square metres and less than 2,000 square metres and a street frontage equal to or greater than 20 metres, the maximum floor space ratio for any building on that site is—

- (a) $(2 + 1.5X):1$ —if the building is used only for residential purposes, or*
- (b) $(3.5 + 2.5X):1$ —if the building is used only for purposes other than residential purposes,*

where—

X is $(\text{the site in square metres} - 800) / 1200$.

The site has an area of 1,631m² and a total GFA of 8532.17m² is permitted. Of this GFA, 100% is proposed as commercially oriented and 0% as residential. As such, the maximum FSR applicable to the proposed development is 5.23:1 (or 8532.17m²). The development proposes an FSR of 5:23 (or 8531.85m²). Hence, the proposal complies with the applicable development standard in this regard.

The breach of the standard does not result in an inconsistency with this objective.

High Quality Urban Form

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 area, 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 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.

Materials and finishes will be used to for public interest and compatibility with the surrounding development. These include expansive glazing, black steel structures and window framing, space for potential public art, marble look cladding 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 2 adjoining 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. A 2 storey valet area provides an impressive vehicle and pedestrian entry which provides a visual and physical connection to the lobby.

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 portion of the building that exceeds the height does not add to the bulk and scale of the development and is concentrated to only a portion of the overall building footprint.

The breach of the standard does not result in an inconsistency with this objective.

Views and Solar access

As demonstrated in the extracts of Architectural Plans and Photomontages by DWA, the proposed 2 towers break up the skyline with both podiums addressing each street frontage for visual interest. The lower tower and street alignment of the podium helps define the Crown Street corridor.

The proposal includes an expansive 2 storey lobby and 2 storey valet space with 5 storey void design as a core element which will create a character element that contributes to the street without adversely impacting view corridors.

Notwithstanding the above, 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 towers.

The proposed development sits within the context of the site and surrounding permitted building heights. This is especially relevant when considering the permitted 120 metre height limit on the opposite side of Gladstone Avenue to the east (refer to *figure 9* below). Additionally, the site is at the lower point of Crown Street within the permitted 60 metre height limit zone, compared to that of the topographic profile as you move west. This means that the minor exceedance in height will not be noticeable or out of context with the higher permitted building forms (in terms of possible RLs AHD) west of the site. Refer to below extracted architectural images from DWA which show the sit in its existing and future context.

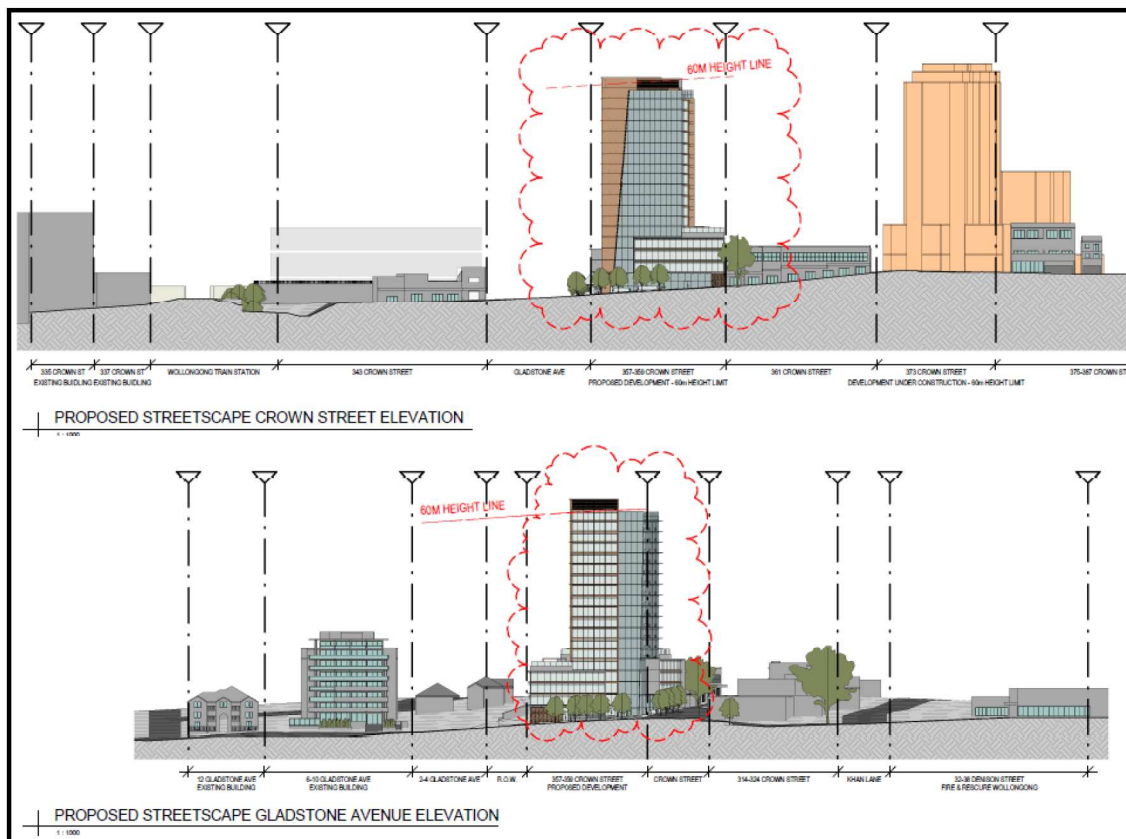


Figure 7: Proposed Streetscape Elevation (Proposed) (*Source: DWA)

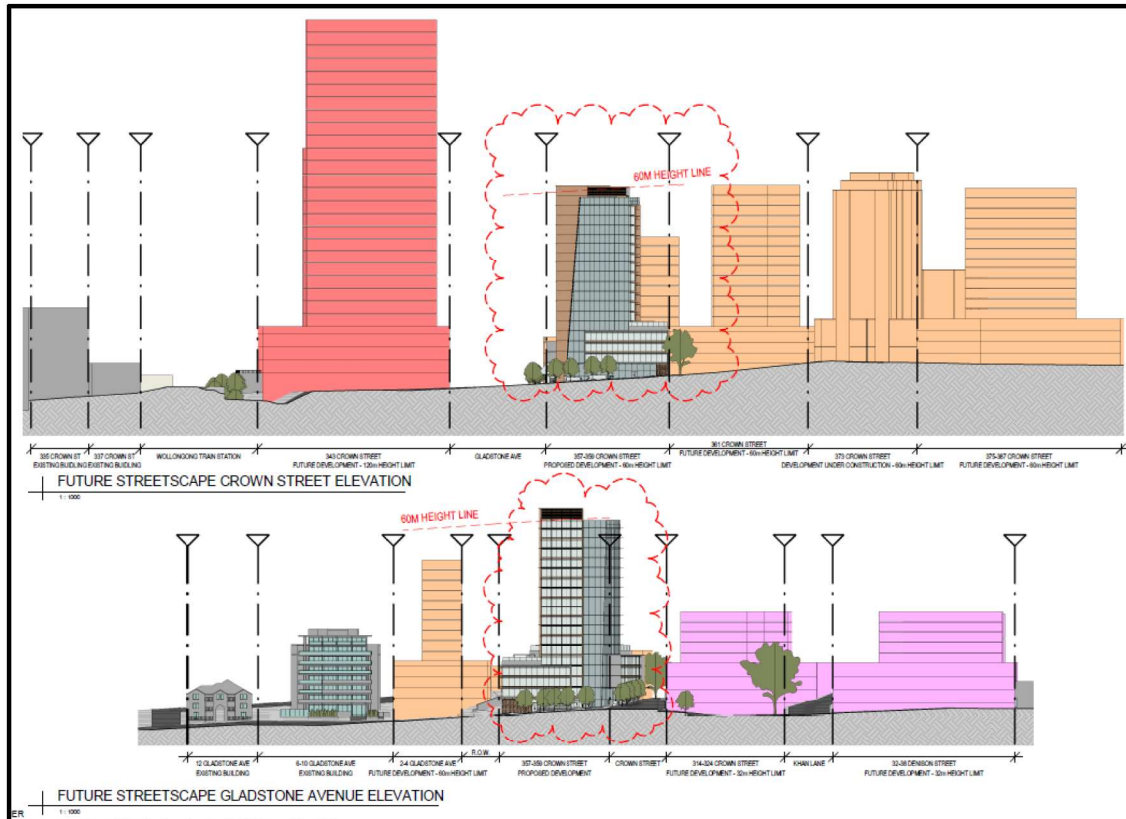


Figure 8: Proposed Streetscape Elevation (Future) (*Source: DWA)

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 Wollongong LEP 2009 (Wollongong City Centre Area). This includes providing an adequate setback to the street, side, and rear boundaries; as well as the provision of a protected rooftop landscaping and communal open space (from the winds to the south). If the breach did not occur; the built-form outcome would be compromised as it would otherwise result in a poorer streetscape presentation of the deliberate slender building form.

The proposed development will not be out of context with its setting, and the breach in height limit will not create inconsistency with the nearby Crownview Development under construction to the west, which is of a similar scale. Refer *Figure 11* below to for illustrations of how this building will sit in its context from distance to the north, which gives a direct comparison of height plane similarities.

For further visual analysis and contextual images of distant views, refer to the Visual Analysis drawings prepared by DWA and attached to the application.



Figure 9: Context when viewed from distance (Future) (*Source: DWA)

The breach of the standard does not affect consistency with this objective.

On this basis, the proposed development has been assessed against each objective contained in Clause 4.3(1) 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-2018/1481: 22 Robert Street CORRIMAL

Mixed Use Residential - residential flat building comprising 21 apartments above basement car parking, 13 townhouses with double garages and tree removals and Subdivision - Strata title - 34 lots

DA-2018/1517: 145-149 Princes Highway CORRIMAL

Mixed use development comprising 1 retail tenancy, 13 affordable units, 15 self-contained boarding house studios and associated car parking and landscaping works

DA-2018/313: 2 Frederick Street WOLLONGONG

Residential - demolition of existing structures and construction of a boarding house development

DA-2018/557: 4 Lindsay Evans Place DAPTO

Demolition of existing 45 bed residential aged care facility and construction of new 111 bed residential aged care facility and conversion of existing 44 hostel bed facility to 22 serviced self-care dwellings with community/ancillary spaces, reconfiguration of and additional car parking and associated landscaping and infrastructure works plus tree removals

DA-2019/756: 65 Walker Street HELENSBURGH

Mixed use - demolition of existing dwellings and excavation works, construction of mixed use development and basement carparking

DA-2020/35: 22/100-104 Corrimal Street WOLLONGONG

Residential - construction of roof level cabana for Unit 22

Reviewing these examples, it is reasonable to say that some flexibility has been shown by Council in the past in applying the maximum height control where there are particular circumstances that would warrant it. Many of these examples and Council's acceptance relates to the fact that exceedence has not been relative to GFA, and primarily included lift overrun, plant equipment, roof form features or pergolas et cetera. Additionally, many of these examples relate to sloping sites. All of which is akin to the subject proposal.

Whether the standard has been abandoned or not is a matter for interpretation. For example, is one variation to this development standard enough to interpret as abandonment, or 100 variations. Notwithstanding, it is clear that examples for circumstances such as this particular case have warranted Council abandoning the height control on such occasions. Thus, deeming strict compliance with the Height of building development standard 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 proposal to exceed the permissible height for this site:

The development at this height limit, whilst maintaining other development standards, has an appropriate FSR for this site. Logically, restricting a built form envelope by this amount is completely impractical for a City Centre B3 zoned site at this location and, therefore, unreasonable to consider in this instance. The proposal is a unique location being a prominent corner of Wollongong CBD. The is within the vicinity of Wollongong Train Station where increased building heights up to 120m are located along the Railway Corridor. Given the extent of variation between the building heights in the immediate vicinity, the variation is not considered significant in the scheme of the development and the context.

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

“The proposal exceeds maximum permissible height for this site. However, given that the proposal complies with the maximum FSR for this site and the prominent corner location, the increased height is considered acceptable subject to Council assessment. assessment. It is also noted that a reduction in height would likely result in a redistribution of mass within the tower form creating a less slender form...given that the proposal complies with the maximum FSR for this site and the prominent corner location, the increased height is considered acceptable subject to Council assessment. It is also noted that a reduction in height would likely result in a redistribution of mass within the tower form creating a less slender form”.

In order to achieve height & FSR compliance for a proposed development on this site will require a bulkier tower, which is not likely to achieve design excellence. As detailed above the, the DRP supports this proposed height exceedance to achieve design excellence.

The adjoining sites are still able to achieve adequate solar access and privacy.

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

The building height is a direct design response with the intent to allow the site to respond to the demand for 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 also considered the proposed building form and amenity at its Meeting held 30 June 2020 noted support for the proposed height exceedance:

“A tower with relatively slender proportions has been located close to the street corner, providing a strong vertical expression appropriate to its corner location. The tower casts a relatively narrow shadow that passes quickly over surrounding buildings, limiting its impact upon the amenity of neighbouring buildings.”

Again, the adjoining sites are still able to achieve their maximum permitted, height, FSR and building forms with good access to views and solar amenity.

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:

Pursuant to Clause 7.18(2)(a) of WLEP, as the site is identified to be located within the Wollongong city centre boundary the proposed development must exhibit design excellence, and consider and comply with the objective and controls of Clause 7.18.

“ 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.

If the overall height of the building were to be reduced to be compliant with the maximum building height this would result in the loss of two levels from the overall development proposal. The remaining GFA available for the site would be distributed through the remainder of the tower and would result in a wider footprint. A wider building footprint would reduce the slenderness of the current towers, increase the bulk of the building podium and lower levels which would in turn result in an undesirable building form and have negative impacts on surrounding context, shadows, streetscape etc.

As detailed above, several design experts including Design Review Panel, DWA and City Plan have consider the design to display high design excellence which will contribute positively to this area of Wollongong and the great Wollongong CBD.

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 height 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 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 height of building development standard 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 *Height of Building* 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.

The proposed non-compliance is unlikely to result in any future precedents given the surrounding pattern of development and the combination of zoning and other associated controls currently in place. In this instance, there are sufficient environmental planning grounds to justify contravening 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,
MARTIN MORRIS & JONES PTY LTD



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