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EXCEPTION TO DEVELOPMENT STANDARD VARIATION STATEMENT

Building Separation - Wollongong City Centre

Address: 4-8 Parkinson Street, Wollongong
Proposal: Shop Top Housing Development
Date: November 2020

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(3)(a) (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 multi-level shop top housing development at 4-8 Parkinson Street, Wollongong. In this regard, the proposed development will incorporate the construction of a new multi storey building facing Parkinson Street, consisting of basement parking, ground floor studio commercial/retail premises, with residential apartments above (i.e. shop top housing) providing a total of 64 residential units.

The details of this amended proposal are shown within the Development Drawings prepared by Urban Link (attached to the application), which identifies the proposed building separation in question. Essentially the separation relates to the minimum stated building separation requirement which has not been achieved to the side and rear property boundaries (varying separation distances over multiple levels).

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 other *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*. 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 is 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 development largely complies with the other numerical standards of the LEP and DCP.
- The building separation development standards under the LEP are inconsistent with the building separation design criteria within the Apartment Design Guide (ADG), which under SEPP 65 is a higher order planning instrument for planning consideration.
- The proposed building line setbacks are predominately consistent with the ADG instead.
- The constraints of the subject site and context of adjoining development (existing and future) making fully compliant development of this nature difficult to achieve.
- The proposed building line setbacks to the side and rear boundaries still allow for adequate building separation to not constrain the redevelopment of adjoining properties.
- The development is still consistent with the objectives of the B3 Commercial Core Zone.

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 permissible within the B3 zone as a top housing development, meeting the needs of the community by providing additional residential accommodation within close proximity to the CBD precinct and, local bus route and further 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.

There are no unreasonable impacts from the proposal, despite this departure and other minor WDCP 2009 variations. 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 are medical facilities and residential, given the proximity to the hospital precinct. It is noted that many of the existing properties within the immediate setting (north, south and west) 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 and Crownview developments, 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.

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 requirements and minor WDCP 2009 variations, the development is largely compliant and/or consistent with the applicable controls and their objectives. Good and reasonable building separation is still provided to adjoining properties from to show that sufficient planning grounds are justified for varying the development standard.

To this end, as demonstrated in Architectural Plans, the proposed design mitigates any adverse impacts from the reduced building separation through appropriate design interface treatment. In addition, solar impacts to adjoining properties would not be significantly greater than if strict compliance was achieved, whilst amenity outcomes (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 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 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use requirement contained in *Part 8 - Clause 8.6(3)(a)* of the *WLEP 2009* which states:

- “(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.”*

Given the emerging context surrounding the site, it is important to consider this building separation criteria or both existing and future context conditions.

In terms of existing context for this development standard, properties to the north are used for commercially oriented purposes, whilst existing small-scale residential buildings are located to the west fronting Osborne Street. Immediately to the east is the Crown view development which is another shop top housing development currently under construction. On this basis, given the existing conditions, the proposed development will be compliant with building separation to the north which will achieve over 18 metres from the nearest commercial building on 383 Crown Street. To the west, the proposed residential tower is well above the height of these existing residential buildings, and therefore does not strictly provide for an exception to building separation criteria. To the east, the existing development is under construction and for this purpose, should be considered in its future

completed finished context. On this basis, it is reasonable to place emphasis on future built form building separation outcomes to the north, west and eastern boundaries, rather than under existing conditions.

In this regard, the design of the proposed development is sited with the built form covering the majority of the site, with a 4 storey street wall proposed at the Parkinson Street frontage and an 8 storey tower setback and proposed above this podium. At the street frontage, the proposal adopts a zero lot boundary interface to the western property up to Level 5, and similarly to the eastern boundary (although a balcony interface has been wrapped around this edge given the setback and no adjoining building to this part of the boundary within the Crownview development). The rear tower generally adopts a 9 metres setback to the western boundary, a 6 metres setback to the northern boundary and an 8.7 metres setback to the eastern boundary. The setbacks are generally consistent up the building form to the east and west sides until you get to Level 12, where the western setback becomes 12 metres and the eastern setback becomes 10.5 metres. For the rear northern elevation, the rear setback becomes 9 metres from Level 8 up to Level 12, where it then becomes 12 metres setback. These proposed floor plans against existing boundary conditions are shown in the extracted architectural plans by Urban Link (referred to as *Figures 1 and 2*).



Figure 1: Proposed Level 4 Floor Plan (*Source: Urban Link)



Figure 2: Proposed Level 5 Floor Plan (*Source: Urban Link)



Figure 3: Proposed Level 8 Floor Plan (*Source: Urban Link)



Figure 4: Proposed Level 12 Floor Plan (*Source: Urban Link)

Additionally, and importantly, in order to gain an understanding of how the proposed development may sit within its future context in consideration of those adjoining sites/boundary conditions being redeveloped, Urban Link have prepared a series of conceptual analysis for the northern and western interfaces (refer Figures 5 below). These show how the northern and western sites can be redeveloped to their maximum FSR and still achieve reasonable building separation.

This demonstrates that a 25 metre building separation between residential towers is possible if the western sites were developed (i.e. 9 metres within the subject site and 15 metres for the adjoining western site), without restricting these western properties to be developed to their maximum potential. Given the context of Osborne Street and Parkinson Street corner it is likely any redevelopment would consider residential as a dominant land use. To the north, this analysis demonstrates a varying building separation of between 15 metres and 21 metres being achieved if these northern properties were developed (i.e. setbacks of 6 metres, 9 metres and 12 metres proposed within the subject site versus consistent 9 metre setback shown to the northern built forms). This northern edge is most likely to be commercial at the podium and part tower levels, given its context to Crown Street and its natural topography well above the subject site.

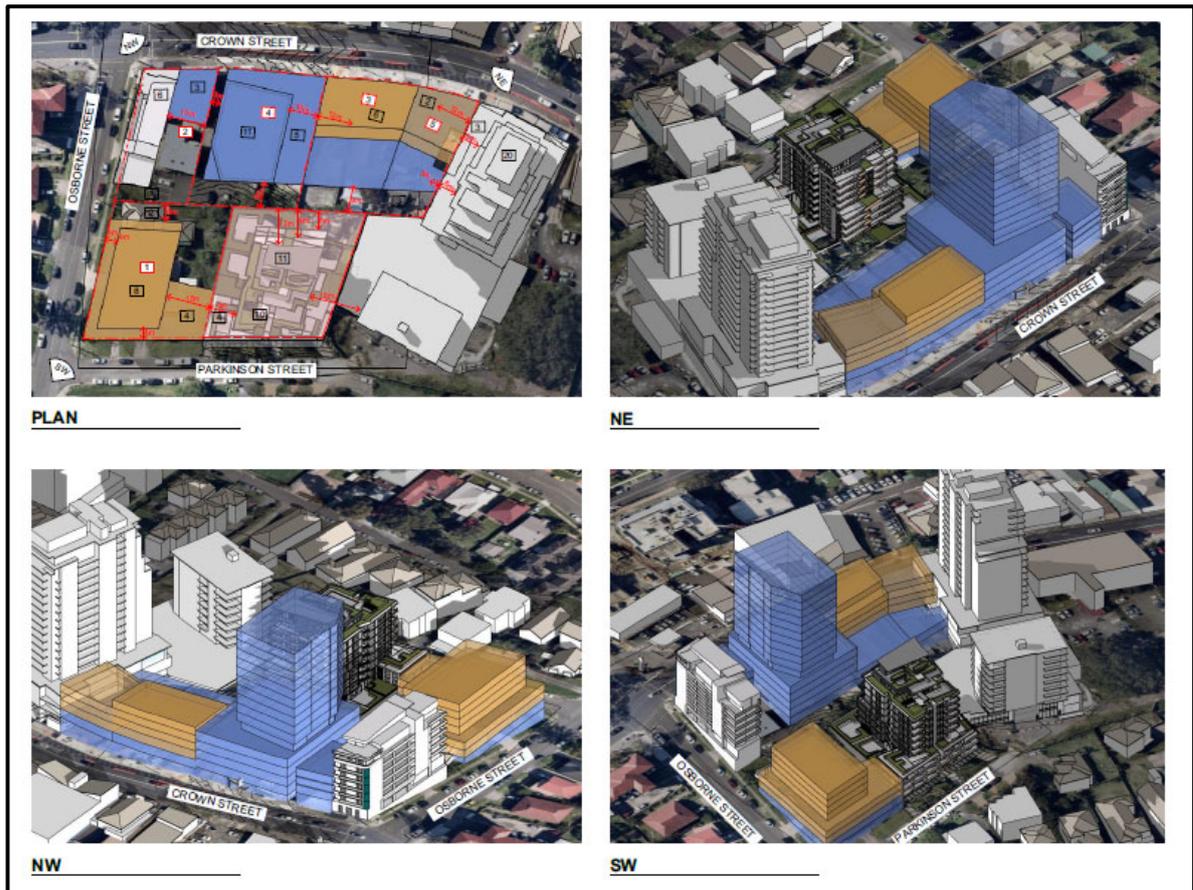


Figure 5: Possible Future Development Context (*Source: Urban Link)

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 minimum separation distance permitted is 20 metres from any habitable part of a dwelling contained in any other building, and 16 metres from any other building (non-residential). The application proposes habitable parts of the development situated within the 20m from the northern, eastern and western buildings in their future context. Again, a greater emphasis has been placed on future context rather than existing.

In terms of measuring building separation criteria allowances and percentage variations, it is taken that half the building separation allowance should be provided for within any subject proposed development. That is, for a 20 metre habitable building separation criteria, a 10 metre boundary setback should be proposed, whilst for a 16 metre non-habitable building separation allowance, and 8 metre boundary setback proposed.

In terms of percentage variations for future conditions, the following is noted:

- North: 6m setback proposed = 15m building separation possible/likely = 40% variation
(note: compliant at upper levels given likely commercial interface)
- West: 9m setback proposed = 24m building separation possible/likely = 10% variation
(note: compliant building separation likely with greater allowance for setbacks possible on adjoining properties)
- East: 8.7m setback proposed = 18m building separation is proposed = 13% variation

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.

Under WLEP 2009, Clause 8.6(3)(b) 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

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape. The proposal has made use of quality materials and colours appropriate to the context and surrounding area.

The building facade emphasises and accentuate parts of the building façade through the use of a similar language to achieve a cohesive building outcome and understand the theory and principles behind the design. Changes in colour and façade materials help to articulate the podium and addresses street frontage with appropriate proportions.

The theory and principles to the aesthetics of the building design have arrived from a multiple of stimulants and ideas culminating in a focused and narrowed theory gathered from the development of the building and the surrounding context. The breakdown of a base, middle and top helps to create

an aesthetic which will sit comfortably in its surrounding scale and context as well responds to the expected future character of the precinct.

Developing the constraints and opportunities of the site has allowed the building to move and transform from the active to a sense of the building's simplicity and nature. The language of the building's facades has been carried through responding to the site forces orientation and constraints posed by the site. The use of materials and colours has also been carried through to help express this language.

Consideration has been made to the western façade where walls are articulated with texture and pattern to mitigate any blank walls.

Selected quality, modern, durable and environmentally sustainable external finishes ensures the proposed development enhances the amenity of the local area. Carefully selected colours sympathetic to the visual composition of neighbouring developments maintains and responds appropriately to the current and desired future character of the precinct. The materials selected such as façade panels in various shades, masonry render and paint in various shades, several of types of glazing, textured feature walls have provided the building with a high quality, low maintenance external façade that contributes positively to the visual presentation of the development.

Privacy

Privacy has been considered specifically noted in the design response shown in the architectural interface treatment to these boundaries. The internal layout of the rooms attempt to minimise overlooking with the careful location of window and door openings, whilst the size of external balconies also help maintain such visual separation. Balconies and their shape are improved from the previous iterations, as a result of feedback from DRP.

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 Acoustic, Vibration & Noise Pty Ltd, 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.

Solar access

The layout and planning are a direct response to the site orientation. The apartments aspects being used for primary living spaces are generally orientated north to maximise the main solar collector and main outlook for the development.

This design response has resulted in 46 apartments representing 72% of total proposed apartments receiving 2 or more hour's sunlight to their living spaces.

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

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 NSW 2500
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 NSW 2500
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 NSW 2500 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 NSW 2500
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 NSW 2500
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-2019/1123: 35 Atchison Street WOLLONGONG

Demolition of existing structures and construction of a 14 storey mixed use development comprising 50 residential units, one (1) ground floor commercial tenancy and two levels of basement parking

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 (potential) commercial buildings to the north, and residential dwellings to the east and west on the site would mean and unnecessary portion of the subject site would be excluded from any built form. 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.

As shown in the potential future development options by Urban Link, 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 setbacks are a direct design response with the intent to allow the site to respond to the demand for housing 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.

Again, as shown in the potential future development options by Urban Link, 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 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.”

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 proposal will not unreasonably impact on view corridors given it is below the maximum height limit of 32m allowed for this portion of the site under the *WLEP 2009*.

The land is suitable for the proposed mixed use development and the allocated mix of business/residential floor space, given the location of the site on the edge of the City Centre.

The proposal will be compatible with future developments in the immediate vicinity of the site and therefore will enhance the streetscape (which currently contains several older style buildings that are in need of refurbishment or repair, including those situated on the subject site that will be demolished as part of the DA).

The location of the tower and the proposed bulk, massing and modulation of the building is acceptable and does not result in any unreasonable loss of amenity to any of the adjoining properties. The proposed street frontage heights are considered appropriate having regard to the surrounding context and scale of development.

The proposal will have no significant adverse environmental impacts in terms of sustainability, overshadowing, wind and/or reflectivity. Relevant details have been provided in this regard to enable a full assessment (i.e. shadow diagrams, wind report, BASIX certificates etc).

Access to the site has been carefully considered in a variety of forms (i.e. for pedestrians, motorists and cyclists alike), with suitable provisions to allow for service access and circulation. The proposed development will have a positive impact on the public domain and Parkinson Street interface.

This will significantly improve the amenity and character of the blocks/precinct surrounding the location. It will also allow for natural surveillance of the area with regards to the principles of Crime Prevention Through Environmental Design (CPTED).

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

Environmentally sustainable measures incorporated in the development include:

- Building orientates north or northerly aspect to maximise solar gain. 72% of apartments total proposed apartments receive 2 or more hour's sunlight to their living spaces.

- Design solution provides effective benefits to cross flow ventilation to most apartments by generating natural cross ventilation through dual aspects and corner orientation of apartments. 39 apartments represent 61% of total proposed apartments are naturally ventilated.
- Maximised planting on terraces with wind tolerant species;
- Ethically source long lifecycle products and materials;
- Dual flush toilets;
- Rainwater to be used for garden irrigation;
- Taps fitted with water efficient fittings;
- Insulation and insulation under roof;
- Proposed visitor and residential bicycle parking in compliance with Wollongong Council's Development Control Plan

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. 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 dwellings, 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, whilst the size of external balconies also help maintain such visual separation.

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 Acoustic, Vibration & Noise Pty Ltd, which provides a range of acoustic recommendations to ensure the proposed development will comply with the relevant 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.

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

Yours faithfully,
MARTIN MORRIS & JONES PTY LTD



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