

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-118
DA Number	DA-2021/1168
LGA	Wollongong City Council
Proposed Development	Demolition of two (2) existing structures, construction of a new nine (9) storey office building with four (4) levels of basement parking and adaptive reuse of existing heritage building
Street Address	72-76 Crown Street WOLLONGONG
Applicant/Owner	ADM Architects
Date of DA lodgement	13 October 2021
Total number of Submissions	Eight (8)
Number of Unique Objections	Eight (8)
Recommendation	Deferred commencement approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 2 Schedule 6 State Environmental Planning Policy (Planning Systems) 2021 – general development over \$30 million
List of all relevant s4.15(1)(a) matters	<p><u>s4.15 (1)(a)(i) Any environmental planning instruments:</u></p> <p><i>State Environmental Planning Policies (SEPPs):</i></p> <ul style="list-style-type: none"> SEPP (Resilience & Hazards) 2021 SEPP (Koala Habitat Protection) 2021 SEPP (Transport & Infrastructure) 2021 SEPP (Planning Systems) 2021 <p><i>Local Environmental Planning Policies:</i></p> <ul style="list-style-type: none"> Wollongong Local Environmental Plan (WLEP) 2009 <p><i>Other policies</i></p> <ul style="list-style-type: none"> Wollongong City-Wide Development Contributions Plan (2021) <p><u>s4.15(1)(a)(ii) Any proposed instrument that is or has been the subject of public consultation by the consent authority:</u></p> <ul style="list-style-type: none"> N/A <p><u>s4.15 (1)(a)(iii) Any development control plan:</u></p> <ul style="list-style-type: none"> Wollongong Development Control Plan (WDCP) 2009 <p><u>s4.15 (1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or a consent authority has offered to enter into under section 7.4</u></p> <ul style="list-style-type: none"> N/A <p><u>s4.15 (1)(a)(iv) the regulations: e.g. Regs 92, 93, 94, 7.12, 288</u></p> <ul style="list-style-type: none"> Clause 92 (1) (a) demolition <p><u>s4.15(1)(a)(v) any coastal zone management plan</u></p> <ul style="list-style-type: none"> There is no Coastal Zone Management Plan currently applicable to the land.
List all documents submitted with this report for the Panel's consideration	<p>Attachments</p> <ol style="list-style-type: none"> 1 Aerial photograph 2 WLEP zoning map 3 Plans 4 DRP Notes – 16 May 2022 5 Clause 4.6 Variation – Building Height

	6 Clause 4.6 Variation – Building Separation 7 WDC 2009 Compliance Table 8 Draft conditions of consents
Clause 4.6 requests	<ul style="list-style-type: none"> • Clause 4.3 Height of Buildings • Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use
Summary of key submissions	<ul style="list-style-type: none"> • Variations under Clause 4.6 • Traffic and vehicular access and egress arrangements • Heritage impacts
Report prepared by	Brad Harris – Development Project Officer
Report date	30 August 2022

Summary of s4.15 matters Yes

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

Legislative clauses requiring consent authority satisfaction

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

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

Conditions

Have draft conditions been provided to the applicant for comment? Yes

Assessment Report and Recommendation Cover Sheet

Executive Summary

Reason for consideration by Southern Regional Planning Panel

The proposal has been referred to Southern Regional Planning Panel as it involves general development with a capital investment value of more than \$30 million.

Proposal

The application proposes Demolition of two (2) existing structures, construction of a new nine (9) storey office building with four (4) levels of basement parking and adaptive reuse of existing heritage building.

Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan (LEP) 2009. The proposal has been submitted as Shop Top Housing which is permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council's Community Participation Plan and received eight (8) submissions.

Main Issues

- Variations under Clause 4.6
- Traffic and vehicular access arrangements
- Heritage impacts

RECOMMENDATION

It is recommended that DA-2021/1168 be approved as deferred commencement in **ATTACHMENT 8**.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development as at the time of lodgement:

State Environmental Planning Policies

- SEPP (Resilience & Hazards) 2021
- SEPP (Koala Habitat Protection) 2021
- SEPP (Transport & Infrastructure) 2021
- SEPP (Planning Systems) 2021

Local Environmental Plans

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans

- Wollongong Development Control Plan (WDCP) 2009

Other Policies

- Wollongong Community Participation Plan 2019
- Wollongong City Wide Development Contributions Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposed development consists of the demolition of the two existing structures on the western lot (Lot 1 DP 127333), being the motel building and bar/restaurant and the construction of a new nine (9) storey office building with five (5) levels of basement parking.

A total of 169 car parking spaces (including 5 accessible spaces) are provided in addition to 6 motorcycle spaces and 65 bicycle spaces. Vehicle access to the site is via an ingress from Moore Lane, with egress to Crown Street.



Figure 1 - Artist's Impression of the proposal

The existing heritage building on the eastern lot (Lot B DP 153923) was originally proposed to be demolished and the façade reinstated. Following concerns raised by Council's heritage staff and Heritage NSW the building is now to be retained. The street frontage and Moore Lane elevations will be retained and the northern and southern elevations will be removed and reinstated.

The building has been designed to accommodate potential future vehicular egress via Moore Lane and Corrimal Street which is proposed as part of a separate development application for a mixed-Use development at No.116-122 Corrimal Street Wollongong. That DA will should it be approved would result in Moore Lane becoming one way in a northerly direction at which time the subject development could incorporate vehicular egress to Moore Lane, the egress to Crown Street could then be closed and commercial floorspace be created to further activate the Crown Street frontage.

The ground floor of the proposed building incorporates two retail spaces at ground floor, one fronting Crown Street and One fronting Moore Lane. The remainder of the ground floor space is occupied by a foyer with secure access to the upper level offices. The foyer incorporates a void surrounding the heritage building enabling it to be showcased as a feature of the development.

1.3 BACKGROUND

No pre-lodgement meeting was held for the proposal. However, the application was reviewed by the Design Review Panel on 6 December 2021 and 16 May 2022 and the application was amended to respond to the recommendation of the panel as discussed below.

Customer service actions

There are no outstanding customer service requests of relevance to the development.

1.4 SITE DESCRIPTION

The site is located at 72-76 Crown Street WOLLONGONG and the title reference is Lot 1 in DP127333 and Lot B in DP153923. The site is regular in shape and relatively flat with an overall area of 1987m2 and a slight fall toward the Crown Street frontage.

The existing site contains an enclosed at-grade car park, bounded by an 'L' shaped two storey brick motel building which extends along the western and northern boundary of site (Lot 1 DP 12733). The motel, which is known as the 'Downtown Motel' contains 32 accommodation rooms, oriented towards the central carparking area. A single storey commercial space, with a covered outdoor seating area, is located on the Crown Street frontage in the south western corner of the site. This space is occupied by 'Ron De Vu', which is a public bar.

A driveway leads from Crown Street along the eastern boundary of Lot 1, extending below a first floor section of the hotel, to the hotel carparking area at the rear. An existing local heritage item (Item 6237) is located on Lot B DP 153923 adjacent to the Crown Street and Moore Street intersection. This building is a two storey locally listed heritage item which is to be retained/reinstated. The heritage building currently contains two ground floor commercial tenancies with an associated first floor office suite.

The site is located in a precinct known as the Lower Crown Street Precinct which occupied by a mix of two storey commercial buildings and more recently developed with shop-top housing.

Property constraints

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

- Contamination potential
- Acid sulphate soils: Class 5
- Flooding: Uncategorised flood risk precinct.
- Heritage listing.
- There are no restrictions on the title.



Figure 2: Site photograph

1.5 SUBMISSIONS

The application was notified in accordance with Council's Community Participation Plan 2019 between 26 October 2021 – 9 November 2021. Eight (8) submissions were received and the issues identified are discussed below.

Table 1: Submissions

Concern	Comment
1. Out of Character	<p>Most submissions raise concerns that the proposed building is out of character with the area as it is too high and not in keeping with the heritage building.</p> <p><u>Comment:</u> The proposal involves a minor exceedance of the maximum building height however this is considered acceptable given the minimal impacts (see discussion in relation to Clause 4.3 of WLEP 2009 below). The heritage impacts remain of concern for Council's heritage staff however the applicant has submitted amended plans to address initial concerns and these on balance are considered to have largely addressed heritage issues.</p>
2. Traffic Impacts	<p>Concern is raised that Moore Lane should not be used for access.</p> <p><u>Comment:</u> It is acknowledged that the width of Moore Lane is less than desirable for vehicular access however the proposal seeks to address WDCP requirements that seeks to minimise vehicular access to Crown Street. This is achieved by providing ingress via Moore Lane and egress via Crown Street. The development is designed to facilitate future changes to this arrangement should access to Corrimal Street be made available as part of any separate development application for 116-122 Corrimal Street Wollongong.</p>
3. Loss of Tourism opportunities	<p>Concern is raised that commercial development is limiting the opportunities to encourage tourist development. The existing motel/hotel in the Wollongong CBD.</p> <p><u>Comment:</u> Demolition of the existing motel is a commercial decision for the owner of the site and not a matter for consideration under the Act.</p>
4. Impact on local businesses	<p>Concern is raised that the timing of the proposal exacerbates the impacts on small business in the area. Small businesses are already suffering from loss of trade due to Covid and the footpath/street upgrades being undertaken by Council.</p> <p><u>Comment:</u> Whilst the timing of the development may not be ideal from the perspective of local business owners there are no planning controls that can restrict the timing of sites being redeveloped.</p>

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Satisfactory referrals have been provided by Council's Geotechnical Engineer, Stormwater Engineer, Landscape Architect, Traffic Engineer, Strategic Planning Officer, Internal Architect and Environment Officer. Appropriate conditions of consent have been recommended. It is noted that Council's heritage officer remains concerned with some aspects of the proposal and these are summarised below:

Heritage Items

The proposal fails to adequately respond to the setting of local heritage items and the special character of East Crown Street.

Height Variation

Although the height variation is minor the applicant cannot show that the proposed height exceedance has no heritage or other negative impacts. The variation is not supported from a heritage perspective.

Tower Element

In the revised plans the tower element has been shifted east by 1.5m in response to DRP comments, to improve the western tower setback/building separation. This has shifted the vertical articulation on the tower out of line with the proportions of the heritage item.

The DRP does not appear to have considered the impact on the heritage item in their comments, only the spatial quality of the laneway.

This has increased the impact of the proposal on the heritage item. The eastern elevation appears to overhang the heritage item to the boundary, which makes the proposal appear top heavy. Recessing the tower in from the solid form of the heritage item and simplifying the concrete architectural detail on this elevation to a more lightweight finish would improve this outcome.

The cantilevering of the tower over the heritage building is not supported from a heritage perspective.

Changes to Interface and Materiality

The proposal now includes a break between the heritage building and the new proposed commercial façade to the west. This design response is not considered adequate to address the DRP comments:

The use of a more contemporary material pallet, to contrast with the heritage structure is an acceptable strategy. However, the scale and proportion of the façade must be developed to better relate to the heritage building.

The facade should be lowered to ensure it is recessive to the heritage item and better articulated to show its proportions. Whilst a break may be a positive inclusion, a solid facade clad in colorbond of exactly the same scale with window siting/proportions replicating that of the heritage item is not the appropriate response. The facade should respond to the heritage item but be recessive and interpret the heritage item rather than replicating it in different materials. Additionally, it is not clear what the window frames of the commercial element are proposed to be, window details are required.

Heritage Item

The Heritage consultant's letter notes that the heritage item has been subject to modification and that internal works will be subject to a separate application. However, the intent of the additional information request is to ensure that the heritage item is brought up to a standard to ensure its long-term viability, this would include reversing any unsympathetic external changes. Heritage NSW also recommended the following conservation outcome which has not been addressed in the HIS or plans:

Reinstatement of the original shopfront configuration as well as first floor windows should be considered as part of the proposal to offset the adverse heritage impact.

In this regard a schedule of conservation works should be prepared, which clearly identifies conservation outcomes that are required to ensure the long-term retention of the heritage item.

Whilst a full internal fit out is not envisaged, the applicant should demonstrate how the proposal will integrate the heritage item into the development and mitigate the significant impacts from the tower by undertaking conservation works to stabilise the heritage item and secure its future for the long term. The proposed development effectively uses all future development potential for the heritage site and leaves little opportunity for future development outcomes that will provide capital for the conservation of the heritage site. As such, this must be properly considered in this application and is considered a necessary and appropriate mitigation measure given the scale of negative heritage impacts arising from the proposed development.

The same points were clearly raised by the DRP and have not been addressed. The DRP noted:

Developing an internal layout that provides a strong connection with the foyer of the commercial building will help to solidify the heritage structure as an integral part of the design. The introduction of some strategically located opening/s in the northern and western walls of the heritage structure will assist in developing a cohesive design response.

Council would also then anticipate a costed schedule of ongoing maintenance works to be prepared following completion of the identified conservation works that can be tied to the strata management arrangement to ensure the ongoing maintenance of the heritage item is assured as an outcome of the redevelopment on the site. The proposal as it stands fails to provide a mechanism for, or any certainty around a future conservation mechanism to ensure that the heritage item will be maintained to a positive standard in the long term as an outcome of the proposed development. This is not supported and is not considered a satisfactory response.

Details on how the ongoing maintenance of the heritage item will be funded is required.

A construction management plan and advice from a structural engineer has also been requested by Council and Heritage NSW to ensure the proposal is able to be constructed without significant impacts to the heritage item (particularly if only part of the facade is proposed for retention).

Comment on heritage referral:

The proposal has been amended and a revised Heritage Impact Statement prepared. The plans have also been amended in accordance with guidance from the DRP and whilst it is apparent that Council's heritage staff are not fully supportive of the proposal as amended which include relocation of the tower element to the east to increase building separation on the western side of the site, materiality and articulation, it is considered and appropriate design response. Other concerns of Heritage NSW and heritage staff can be addressed by way of deferred commencement.

The recommended Deferred Commencement conditions are as follows:

a Heritage – Interpretation Plan

An interpretation plan prepared by a suitably qualified and experienced heritage consultant is to be provided to Council. This is to guide appropriate the delivery of onsite heritage interpretation material that is within publicly accessible internal spaces and includes exterior signage and other innovative interpretive devices. It must also to reference the history of the site and its significance in the development of Crown Street, its past ownership, and the existing heritage item. The details of the proposed plan are to be provided to Council's Heritage Officers for written approval prior to release of Construction Certificate.

The plan must also reference the archaeological investigation undertaken on the site and in the event that relics or archaeology are located during the course of the works these relics and details of the archaeological find are to be considered for inclusion in the interpretative plan and any resulting interpretation material.

b Heritage – Schedule of Conservation Works

The applicant is to provide a Schedule of Conservation Works detailing works to the internal spaces of the heritage item as well as conservation works to be undertaken on the exterior of the existing heritage building, to remove any unsympathetic signage, reinstate original doors and windows, repair, and inspection of elements. The schedule should specify detailed maintenance works and costings which will be required to ensure the ongoing upkeep of the heritage items in their post development condition (after the completion of works specified under this consent). The Schedule is to be prepared and endorsed by a suitably qualified heritage consultant and submitted to Council's Heritage Staff for written approval prior to the release of the Construction Certificate.

c Heritage - Construction Management Plan

A Heritage Management Plan or Construction Management Plan, that includes a structural assessment and suitable control measures that will ensure the protection of the heritage item from inadvertent damage during the demolition and construction phases of the development is to be prepared and submitted to Council for approval By Council's Heritage Staff.

For other recommended heritage related conditions of consent refer to **ATTACHMENT 8**.

1.6.2 EXTERNAL CONSULTATION

Transport for NSW

The application was referred to Transport for NSW (TfNSW) who have advised:

- The key state road is Corrimal Street.
- The development does not have any frontage to Corrimal Street.
- Council is seeking advice from TfNSW to assist in its assessment under Section 2.121 of the State Environmental Planning Policy (Transport and Infrastructure) 2021; (formerly SEPP (Infrastructure) 2007)
- The proposed access arrangements and swept path analysis shown in the Traffic Impact Assessment provides for a new exit to Crown Street. This enables traffic to travel through the site rather than having to enter and exit via Moore Lane, which is not wide enough for simultaneous entry and exit. This alleviates the potential for queuing that could affect the Corrimal Street/Crown Street intersection.
- There are no TfNSW proposals or property that are affected by this matter.

- Crown Street is currently under construction as part of a footpath renewal with changing kerb lanes. There is also a Streets as Shared Spaces project proposed for Crown Street that will enable a 'pop-up outdoor dining trail' and reduce the speed limit to 30km/h; and
- TfNSW acknowledges that the proposed parking provision is in accordance with the minimum parking requirements as stipulated in the Wollongong Development Control Plan (DCP) for the B3 Commercial Core. These requirements are a reduction on the city wide parking rates. TfNSW supports the reduced rates which will minimise congestion and encourage the use of active and public transport.

Having regard for the above, TfNSW raises no objection to the proposal.

Endeavour Energy

Endeavour Energy have provided recommended guidelines for work in respect of potential impact on Endeavour Energy network connections.

Heritage NSW

Heritage NSW have provided the following comments:

- *"The bulk and scale of the proposed new tower is unsympathetic to the heritage building on site and the surrounding heritage context which includes the two SHR items. It is recommended that the proposal complies with the setbacks, height, floor plate and building depth provisions of WDCP 2009 to reduce the bulk and scale to an acceptable level. The front building line should be setback further to avoid cantilevering over the heritage building as this enhances the towering effect and sets an undesirable precedent.*
- *The approximate 1200mm clearance between basement parking and heritage building may be inadequate in avoiding risk of structural impact to the heritage structure. Confirmation from a structural engineer should be sought that there will be no impact during construction and later, including measures to avoid such impacts.*
- *Reinstatement of the original shopfront configuration as well as first floor windows should be considered as part of the proposal to offset the adverse heritage impact.*
- *The HIS is inadequate in providing information about the interiors of the heritage building. Further information including internal photos should be sought and, if applicable, conservation of the interior should be considered to offset overall heritage impacts.*
- *If the application is approved, recommendations of the Historical Archaeology Assessment report prepared by Austral Archaeology and requirement under s.146 of the Heritage Act 1977 should be included as conditions of consent."*

Comment:

It should be noted that the above comments have been made in relation to the original design which has since been amended. The amended plans (which have not been re-referred to Heritage NSW) have addressed a number these concerns. The following comments are made in relation to the above points:

- The bulk and scale of the proposal is subjective, and the design, materiality and colour scheme provide a contrast to the heritage building. The new building tower is set well back from the street frontage and will be read as a separate building notwithstanding that there is a minor overhang of the heritage building. The minor non-compliance in height and setbacks are not considered to contribute significantly to the bulk and scale of the proposal nor to render it unsympathetic to the heritage item noting that the proposal has been amended since Heritage NSW provided these comments.
- Conditions of consent can require specific details to be provided by a structural engineer to address any potential impacts on the integrity of the heritage building.
- The original shopfront configuration has been amended as recommended by the design Review Panel who are satisfied with the street elevation.
- The proposal does not include any use of the heritage building. The Heritage Impact Report indicates that the internal fabric of the building has been significantly modified from its original state. The report states: *"The building originally had two commercial shops at the ground floor level and residential accommodation at the first-floor level. The ground floor level shops had various occupants over the years, including a bookshop, milk bar, café, and real estate agency. Currently these spaces are occupied by a Federal Politician and an Insurance broker. The residential*

accommodation at the First Floor Level has been extensively changed and modified to open office spaces. The amenities and ablutions associated with both levels are located at the rear the building. As a result of the changes to both levels of the building, the fabric has been changed and altered to a point where any original significance has been removed.

- Conditions of consent can address requirements for the appropriate retention/upgrade of the internal fabric of the heritage building.
- Any consent can include conditions in respect of complying with the recommendations of the Historical Archaeology Assessment report prepared by Austral Archaeology and the requirements of the Heritage Act 1977.

Design Review Panel

The application was reviewed by the Design Review Panel on 6 December 2021 and 16 May 2022. The final Panel commentary is provided at **ATTACHMENT 4**

The final comments by the Panel were as follows:

The proposal has responded positively to the Panel's previous comments to provide a building form that better relates the desired future character of Crown Street and provides a more appropriate relationship with the Heritage building. However, further refinements are recommended to better relate to the future context and improve amenity:

- *Reposition the tower, 1.5m to the east to provide a 6m setback from the western boundary. - Refine the expression of the two-storey street wall fronting Crown Street.*
- *Provision of detail sections.*
- *Relocation of WC in foyer, including active edge of shop 2 to lobby.*
- *Refine the design of the Moore Lane frontage*
- *Consult with Council as to whether street trees and planter boxes are appropriate on the Crown Street frontage*

Comment:

In response to the above comments from the Panel the applicant submitted amended plans which were reviewed by Council's internal architect and were considered to have appropriately addressed the issues raised.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

COASTAL MANAGEMENT Amendment Act 2021

The *Coastal Management Amendment Act 2021* commenced on 1 November 2021, to give coastal councils until 31 December 2023 to implement their CZMPs. By effect this enables a continuation of the current certified CZMP (20 December 2017) whilst Council undertakes further studies and community consultation for a transition to a new Coastal Management Plan.

NSW BIODIVERSITY CONSERVATION ACT 2016

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

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

NSW BIODIVERSITY CONSERVATION ACT 2016

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

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents, and approvals under this Act. Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme

would be triggered by clearing of an area greater than 0.25 hectares based upon the area of the subject lot (which is less than 1 hectare).

No native vegetation is proposed to be cleared for the development. Therefore, the proposal does not trigger the requirement for a biodiversity offset scheme and the site is not identified as being of high biodiversity value on the Biodiversity Values Map.

The development is therefore not considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

2.1.1 STATE ENVIRONMENTAL PLANNING POLICIES

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 Coastal management

The land is located within the coastal zone. However, clause 1.9 of WLEP2009 states that the SEPP does not apply.

Chapter 4 Remediation of land

The site is not identified on Council records as potentially contaminated nor does the development history indicate any prior contaminating land uses. The land is not registered under the Contaminated Land Management Act 1997. A preliminary site investigation is not required. Council environment officer has given a satisfactory referral and Council is satisfied that the land is suitable in its current state for the proposal; and remediation of the site is not required. The proposal is considered to be satisfactory with regard to the requirements of clause 4.6. SRPP as determining authority can be satisfied that clause 4.6 matters are thus satisfied. A specific condition of consent is proposed relating to unexpected finds protocols.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2021

The State Environmental Planning Policy (Koala Habitat Protection) 2021 applies to the Wollongong Local Government Area, identified as being in the South Coast koala management area.

11 Development assessment process—no approved koala plan of management for land

There is no approved koala plan of management applying to the land, and the land does not have an area of at least 1 hectare (including adjoining land within the same ownership). As such, Clause 11 does not apply to the land.

12 Development assessment process—other land

Consent can be issued for development on the subject land if Council is satisfied that the land is *not* core koala habitat.

core koala habitat means—

- (a) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or
- (b) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.

The land has not been assessed by a suitably qualified and experience person as being highly suitable koala habitat, and Council has no record of the presence of koalas on the site currently or within the previous 18 years. The proposal does not include the removal of native vegetation. As such, the land is not considered to core koala habitat and consent can be granted for the proposed development in this regard.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

The application was referred to Transport for NSW (TfNSW) in accordance with clause 2.112 (formerly clause 104) traffic generating development. Following various amendments to the proposal, TfNSW has advised it has no objection to the development, no conditions were proposed.

The application was referred to Endeavour Energy in accordance with clause 2.48 (formerly clause 45). Endeavour Energy has advised on connection requirements.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

Part 2.4 (formerly Part 4) Regionally significant development. The proposal is classified under schedule 6 as general development with a capital investment value exceeding \$30 million. The Southern Regional Planning Panel is the determining authority.

2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

commercial premises means any of the following—

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

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B3 Commercial Core.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone 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 proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

Permitted without consent

Advertising structures; Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Helipads; Home businesses; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Self-storage units; Seniors housing; Service stations; Sex services premises; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Wholesale supplies

The proposal is categorised as a **Commercial premises** as defined above and is permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The WLEP 2009 'Height of Buildings' map specifies that a maximum building height of 32 metres applies to the subject land. The maximum proposed height of the development is 34.1m (measured from natural ground level to top of the plant room enclosure). Although the building height has been reduced as part of an amended design to address Council and DRP concerns the building remains above the maximum height. The height breach is ranges from s 2.050m to 2.1m above the permissible 32m height. The height exceedance relates only to the screened enclosure of rooftop services. An assessment of the proposed variation is provided in the table below:

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 Height of buildings

Is the planning control in question a development standard	Yes, a maximum building height of 32 metres applies to the subject land
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes. The applicant's request contains this justification at attachment 5.
that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The written request has adequately addressed the matters required to be addressed under subclause (3) and is based on the following rationale:</p> <ul style="list-style-type: none"> • The proposed development seeks to reposition the building mass from the lower levels to allow for retention of the heritage item. • The transfer of building mass to the upper position of the building is required to accommodate the increased setbacks from Crown Street. • The positioning of floor space will provide for an improved design outcome which places emphasis on the heritage building as the dominant street level element and which positions new building work behind and above this element. • The non-compliant portion (plant level only at the top level) is set back 26m from Crown Street and hence will largely not be visible from the public domain in particular the Crown Street frontage. • The height objective would be defeated or thwarted if compliance with the building height control was required. Namely, compliance would necessitate reinstatement of floor area to the lower levels of the building, • The shadow cast by the proposed building and the shadow cast as a result of the additional building height demonstrates that a lower, compliant building would only marginally reduce the extent of overshadowing on June 21. The vast majority of shadow cast due to the height exceedance is concentrated over commercial properties on the southern side of the street. • The development does not detract from views to a significant extent more than can be reasonably anticipated given its inner-city location. • The development will achieve the objectives of the B3 Commercial Core zone as it will strengthen the role of Wollongong as a regional centre by providing additional 'A' grade office accommodation in a location which has been earmarked for this purpose.
the proposed development will be in the public interest because it is consistent with the	The objectives of clause 4.3 are:

<p>objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<ul style="list-style-type: none"> • <i>to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i> • <i>to permit building heights that encourage high quality urban form,</i> • <i>to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i> <p>The variation has regard to these objectives. The building complies with the maximum floor space ratio. The urban form is considered to exhibit design excellence. The non-compliant portion is not considered to contribute to any significant additional overshadowing or to adversely interrupt views to the sky. It will not affect the redevelopment potential or amenity of any adjoining land or create an adverse visual impact when viewed from any public space.</p> <p>It is considered there is no public benefit in requiring strict compliance with building height in this instance. The site is constrained by a heritage building which the applicant is retaining. The proposed height exceedance is limited to a small section of the roof being a screened area for services. This is located well back from the Crown Street frontage and the height breach would not be noticeable from street level.</p> <p>The proposal is considered to be a high-quality built form and the minor non-compliance with the development standard is considered consistent with the aims of the development standard and would not hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&A Act.</p> <p>The objectives for development within the B3 Commercial Core zone are:</p> <ul style="list-style-type: none"> • <i>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.</i> • <i>To encourage appropriate employment opportunities in accessible locations.</i> • <i>To maximise public transport patronage and encourage walking and cycling.</i> • <i>To strengthen the role of the Wollongong city centre as the regional business, retail, and cultural centre of the Illawarra region.</i> • <i>To provide for high density residential development within a mixed-use development if it—</i> <p><i>(a) is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and</i></p> <p><i>(b) contributes to the vitality of the Wollongong city centre.</i></p> <p>The proposed building provides commercial uses which is consistent with the above objectives.</p> <p>Given the proposal is consistent with the zone objectives and the objectives of Clause 4.3 despite the development departure, the development is considered to be in the public interest in this instance.</p> <p>It is considered that the underlying objective of the standard and the objectives of the zone are satisfied and that strict compliance with the standard is unreasonable and unnecessary in the unique circumstances of this case.</p>
<p>the concurrence of the Secretary has been obtained.</p>	<p>The SRPP can exercise assumed concurrence in this instance as the consent authority.</p>

Clause 4.4A Floor space ratio – Wollongong city centre

Total site area 1,987m²

(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—

(b) —if the building is used only for purposes other than residential purposes, where—

3.5 + (2.5 X):1

Where X = Site area -800/1200)

1,987 - 800/1200 = 0.989

Therefore, the permitted FSR is

(3.5+2.5((1987-800)/1200)):1

(3.5+(2.5x).989)):1

3.5+2.472:1

= Maximum FSR 5.972:1

The proposed FSR is 5.05:1 (as demonstrated in the following table) is compliant.

Level	Existing Building	Commercial GFA
Ground Level	220.0m ²	576.0m ²
Level 1	220.0m ²	1361.0m ²
Level 2		1231.0m ²
Level 3		1213.0m ²
Level 4		1052.0m ²
Level 5		1052.0m ²
Level 6		1052.0m ²
Level 7		1034.0m ²
Level 8		1034.0m ²
Total	440.0m ²	9605m ²
Total GFA		10045.0m ²
Resultant FSR		5.05 : 1

Clause 4.6 Exceptions to development standards

The application includes variations to Clause 4.3 Height of Buildings and Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use. Clause 4.6 variations have been provided in respect of each variation (**ATTACHMENTS 5 & 6**) and tables addressing compliance with the provisions of Clause 4.6 are provided under the respective headings (Clause 4.3 and clause 8.6).

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

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

- (a) to conserve the environmental heritage of Wollongong,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings, and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.
- (2) Requirement for consent Development consent is required for any of the following—
 - (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic, or tree within a heritage conservation area,
 - (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
 - (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
 - (d) disturbing or excavating an Aboriginal place of heritage significance,
 - (e) erecting a building on land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
 - (f) subdividing land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

The subject site contains a heritage item being Item No. 6237 (Shops). Also adjacent to the site is Item No. 6236 (Lisborne House) located at 72-76 Crown Street on the eastern side of Moore Lane.

Other nearby Heritage Items are:

6370 – Wollongong East Post Office 91 Crown Street

6285 – Norfolk Island Pine 93 Crown Street

6381 – Wollongong Town Hall and former Council Chambers (now art gallery) 93 Crown Street and 46 Burelli Street

6238 - (Shop) 87 Crown Street

The heritage items are shown in **Figure 2** below:

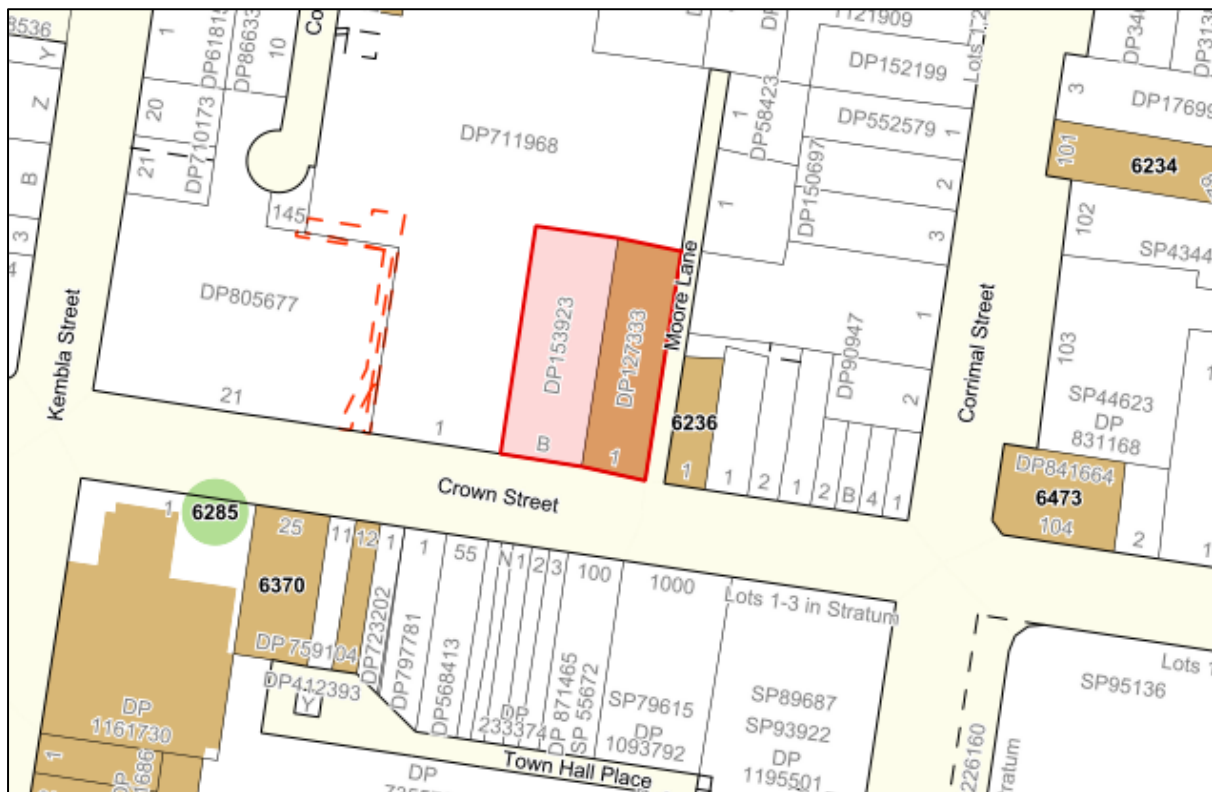


Figure 3 - LEP extract identifying heritage items in vicinity of subject site.

As addressed above in this report, the application as submitted was supported by a Heritage Impact Statement prepared by Russell Lee of Robert Lee Architects Pty Ltd. That report sought to justify the original intention to demolish the heritage building on the site and to rebuild the façade. This proposal was not supported by Council's Heritage staff or Heritage NSW.

The applicant, at Council's request, revised the overall design so as to retain the existing heritage building in its entirety in addition to making design changes which would more appropriately address the relationship of the proposed building to the heritage item as viewed from the Crown Street frontage. The revised design was reviewed by the DRP at its meeting on 16 May 2022. Council's internal architect is supportive of the current design however Council's heritage officer remains concerned that the proposed building's relationship to the heritage item has not satisfactorily addressed the provisions of Clause 5.10 of WLEP2009 in relation to heritage conservation. However, it is considered that the concerns of heritage staff can be addressed by way of deferred commencement conditions.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is already serviced by electricity, water, and sewerage services. A condition is proposed requiring approval from the relevant authorities for the connection of electricity, water, and sewerage to service the site.

Clause 7.5 Acid Sulfate Soils

The site is identified as being affected by class 5 acid sulphate soils. An acid sulphate soils management plan is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the building's five (5) levels of basement car parking. The earthworks have been considered in relation to the matters for consideration outlined in Clause 7.6 and are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of surrounding land. Council's

Geotechnical Engineer has considered the application and has provided a satisfactory referral subject to conditions.

Clause 7.13 Certain land within business zones

The objective of Clause 7.13 is to ensure active uses are provided at the street level to encourage the presence and movement of people. The clause prevents development consent from being granted unless the consent authority is satisfied that the ground floor of the building:

- (a) will not be used for the purpose of residential accommodation, and*
- (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.*

The proposal provides active uses at ground floor level which address both Crown Street and Moore Lane. The requirements of this clause are therefore satisfied.

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

The site is located within the Wollongong city centre and is subject to this clause, the objective of which is to deliver the high standards of architecture and urban design.

Under this clause, the proposed development has been considered by the DRP on two occasions. The DRP initially identified some elements of the design that needed further resolution. The applicant addressed these issues via amended plans which were reviewed by the DRP at a second meeting on 16 May 2022. The Panel concluded:

The proposal has responded positively to the Panel's previous comments to provide a building form that better relates the desired future character of Crown Street and provides a more appropriate relationship with the Heritage building. However, further refinements are recommended to better relate to the future context and improve amenity:

- Reposition the tower, 1.5m to the east to provide a 6m setback from the western boundary. - Refine the expression of the two-storey street wall fronting Crown Street.*
- Provision of detail sections.*
- Relocation of WC in foyer, including active edge of shop 2 to lobby.*
- Refine the design of the Moore Lane frontage*
- Consult with Council as to whether street trees and planter boxes are appropriate on the Crown Street frontage"*

These matters have been addressed by the applicant by way of amended plans and the proposal is considered to be consistent with the provisions for design excellence as follows:

- The site is suitable for the development
- The use is compatible with the existing and likely future uses in the locality
- The heritage is appropriately managed.
- The proposal is not expected to result in any adverse environmental impacts.
- The proposal is satisfactory regarding access, servicing, and parking
- No impacts are expected on the public domain and Council's landscape officer has recommended conditions of consent relating to required treatment of the public domain in accordance with Council's Technical Design Manual.

Clause 7.19 Active street frontages

The proposal provides for an active frontage to Crown Street and to a lesser extent, Moore Lane.

Part 8 Local provisions—Wollongong city centre

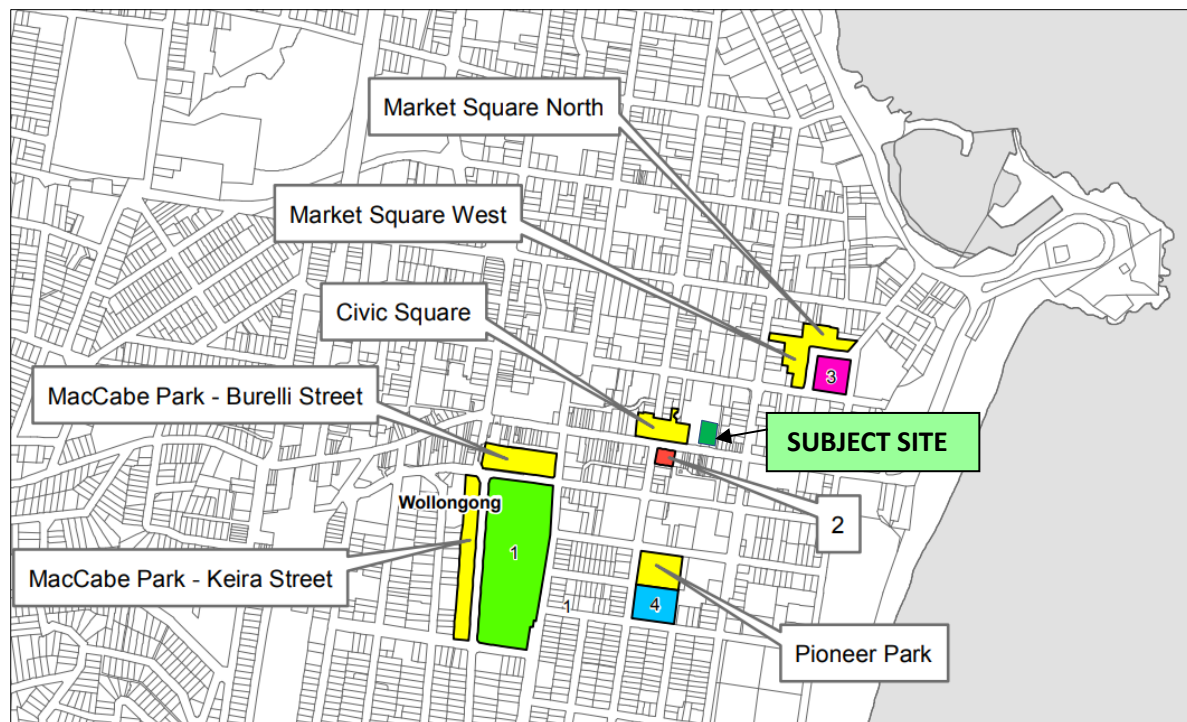
The site is located within the area defined as the Wollongong city centre by WLEP2009 and accordingly the provisions within this part of the LEP are of relevance to the proposal.

Clause 8.1 Objectives for development in Wollongong city centre

Clause 8.3 Sun Plane Protection

The objective of this clause is to protect specified public open space from excessive overshadowing by restricting the height of buildings. This clause applies to four 'protected areas' within the Wollongong CBD including 'Civic Square', which includes the Wollongong Town Hall, and which is located to the southwest of the development site. The clause provides building envelope and overshadowing controls, with specified hours for sunlight protection shown on the map for the 'protected areas', which in the case of Civic Square are 11am to 3pm on June 21. The subject site is not shown on the Sun Plane Protection Map as being a site affected by sun plane controls (i.e., coloured yellow) and therefore this

clause does not apply Refer **Figure 4**). Notwithstanding, and given the height breach an analysis is appropriate. It is noted that the proposed building will not overshadow Civic Square between the hours of 11am and 3pm on June 21. The only overshadowing of this area is early in the morning with negligible additional impacts arising from the height non-compliance. (Refer **Figure 5**).



Protected Areas

- 1 MacCabe Park 12-2pm, 21 June
- 2 Civic Square 11-3pm, 21 June
- 3 Market Square 12-2pm, 21 June
- 4 Pioneer Park 12-2pm, 21 June
- Yellow Sites affected by sun plane controls

Figure 4 - WLEP 2009 Sun Plane Map (sites affected are in yellow)

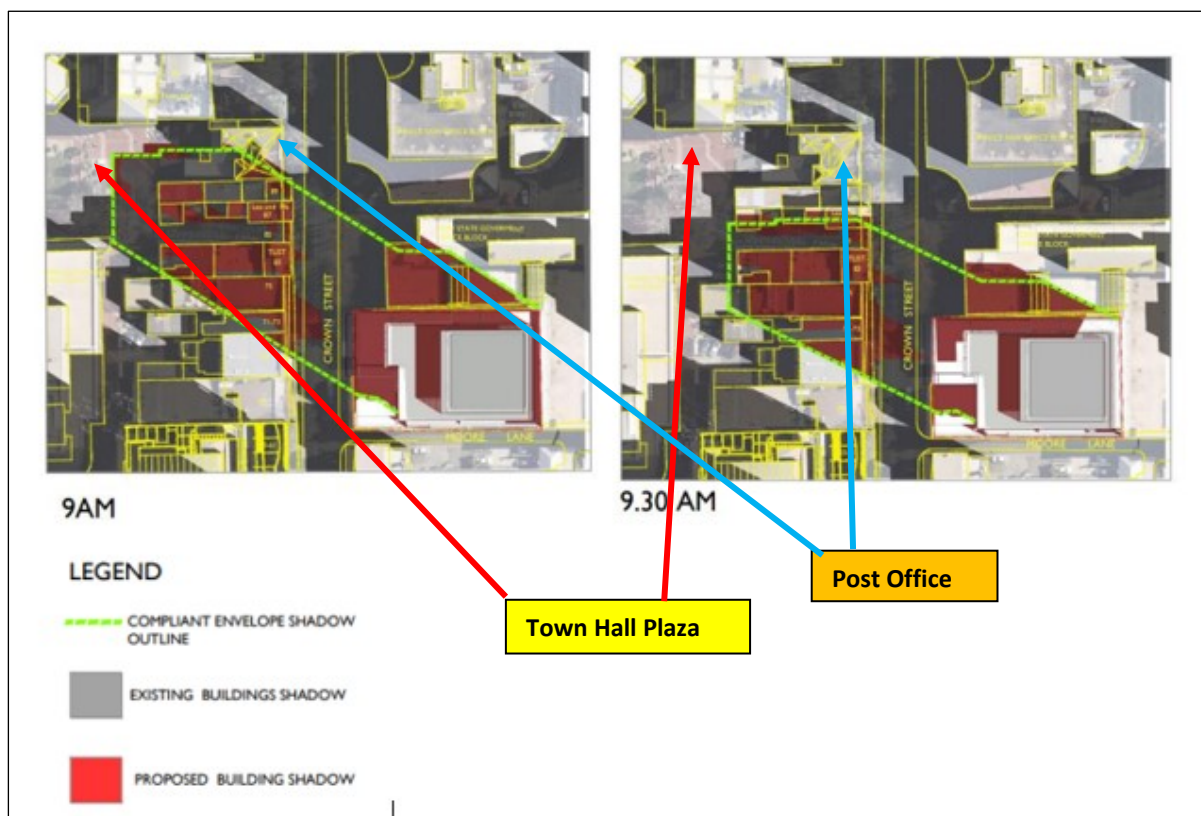


Figure 5 - Shadow Diagram (green line shows shadow cast by fully compliant building)

Clause 8.4 Minimum building street frontage

This clause seeks to ensure that buildings have a minimum width to “provide for the efficient development of land and design of buildings” and requires that sites have at least one street frontage of 20 metres or more on land within Zone B3 Commercial Core, B4 Mixed Use or B6 Enterprise Corridor.

The subject site has a combined two-lot frontage to Crown Street of 35.22m and therefore complies with this clause.

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

The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy, and solar access. The clause allows the building to be built to the boundary up to the street frontage height, and above that requires a 6m side setback to allow for 12m building separation from the street frontage height to 45m. The proposed building setbacks in relation to the requirements of Clause 8.6 are shown in the following Table:

	Level	Required Setback to Provide 12m Separation	Proposed	Compliance
West	Ground to Level 2 (Below Street Frontage Height)	0m	0m (with exception of lightwell at L2)	Yes
	Level 3 (Above Street Frontage Height)	6m	Level 3: part 0m (northern/rear portion only) (nil setback for part of L3 terrace)	Part Variation of 6m <i>Partly abuts existing adjacent building to west terrace</i>
	Level 4 - 8 (Above Street Frontage Height)	6m	Level 4-8: 6m (nil setback for part of L4 terrace)	Yes
	Rooftop	6m	6 – 6.035m	Yes
East (Moore Lane)	Ground to Level 2	0m	0m	Yes
	Level 3 - 8	3.65m (taking into account 4.7m width of Moore Lane)	900mm	Variation of 2.75m
	Rooftop	3.65m	3m	Variation of 1.5m
North (Rear)	Ground to Level 2	0m	0m (with exception of sewer diversion area at Ground)	Yes (with exception of sewer diversion)
	Level 3	6m	0m	Variation of 6m
	Level 4 - 8	6m	3.0 to 3.455m (with exception of L4 terrace)	Variation of 3m
	Rooftop	6m	5.0 to 5.435m	Variation of 0.565m to 1.0m

The non-compliant building separation is limited to Levels 3-8 of the proposed commercial tower and ranges from a shortfall of 1.25m (east to Moore Lane), 1.5m to west and 3m at north. The 6m variation at Level 3 to north and part of the western boundary reflects the boundary wall positioning of the adjacent building. There is also a minor non-compliance to the Level 9 building plant (representing a 0.5-1m non-compliance which will largely not be visible).

The proposed separation distances of at least 9m to future buildings (and likely greater than this as demonstrated the ADM Built Form Study) will provide satisfactory spatial separation and will have an insignificant impact on views, visual privacy, and overshadowing. Whilst the proposed setbacks may result in less than the 12m separation which would ordinarily be provided, the reduced setbacks will allow for repositioning of building floor area from the lower levels of the building to allow for the full retention of the heritage item. Such design response provides positive community and streetscape benefits.

Furthermore, these variations bear no unreasonable impact upon the proposal's ability to satisfy the objective of that clause, namely "to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access". The non-compliant building separation to the existing buildings does not create any unreasonable impacts on adjoining sites in terms of visual impact, disruption of views nor loss of privacy having regard to design outcomes in an inner-city context. An assessment of the proposed variation is provided in the table below:

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 8.6 Building separation
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in	Yes. The applicant's request contains this justification at attachment 6

the circumstances of the case, and	
that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The written request has adequately addressed the matters required to be addressed under subclause (3) and is based on the following rationale:</p> <ul style="list-style-type: none"> • That the variation is consistent with the objectives of the clause and, that in the specific circumstances of the site, a better and more appropriate development outcome is achieved by allowing flexibility to the development standard. • Compliance with the building separation standard in this instance is unnecessary as there are no unreasonable impacts arising from the non-compliance and the development is consistent with the objectives of the standard despite the non-compliance. • The proposed setbacks enhance the urban design and heritage outcomes, provide for the retention of the historic building, maintenance of a two-storey street height at the Crown Street frontage and providing a tower element above which is setback 10m from the Crown Street frontage. • The proposed reduced western and northern setbacks are a design response to the particular circumstances of the case given the constraints of the heritage building and the adjoining Moore Lane. • The objective of the standard is not impacted by the variation of the proposal in this context, therefore, the numerical standard itself comprises an overly onerous requirement which limits the good design of the building. • The tower element of the building does not have an interface with other high-level buildings to the east (an existing heritage item), or to the west and north due to the positioning and 3 storey height of the State Government Office block. This unique positioning warrants individual consideration of appropriate building separation. • Adequate separation to future buildings can be achieved due to the unusual configuration of allotments and the positioning of existing and possible future pedestrian spaces (Built Form Study (Drawing A-004a) prepared by ADM Architects).
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	<p>The objectives of clause 8.6 are addressed below.</p> <p><i>to ensure sufficient separation of buildings for reasons of visual appearance, privacy, and solar access</i></p> <p>The development, despite the non-compliance with the building separation standard, will be consistent with the objectives of that standard. The visual appearance is consistent with the desired urban form and heritage constraints of the surrounding area; there will be no adverse privacy impacts as the adjoining western</p>

	<p>commercial building has a blank wall facing the development site, and a compliant western separation distance would not significantly improve solar access for any future development.</p> <p>The departure will not have any adverse impacts on the amenity of nearby developments, the streetscape or public domain. There will be negligible additional overshadowing impacts arising from the development departure, no view impacts, no privacy impacts, no adverse impacts on the streetscape or any heritage items.</p> <p>There is not considered to be a public benefit served in this instance by insisting on strict compliance with the standard.</p> <p>The proposed development has regard to the objectives for development within the zone outlined under clause 2.3 despite the non-compliance with Clause 8.6 – Building Separation.</p> <p>The Design Review Panel supports the proposed setbacks and has encouraged the applicant to provide a further reduced setback to Moore Lane than was originally proposed.</p> <p>The objectives for development within the B3 Commercial Core zone are:</p> <ul style="list-style-type: none"> • <i>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.</i> • <i>To encourage appropriate employment opportunities in accessible locations.</i> • <i>To maximise public transport patronage and encourage walking and cycling.</i> • <i>To strengthen the role of the Wollongong city centre as the regional business, retail, and cultural centre of the Illawarra region.</i> • <i>To provide for high density residential development within a mixed-use development if it—</i> <ul style="list-style-type: none"> <i>(a) is in a location that is accessible to public transport, employment, retail, commercial and service facilities, and</i> <i>(b) contributes to the vitality of the Wollongong city centre.</i> <p>The proposed building provides commercial uses which is consistent with the above objectives. It is considered that the underlying objective of the standard and the objectives of the zone are satisfied and that strict compliance with the standard is unreasonable and unnecessary in the unique circumstances of this case and the development is not expected to compromise the development potential of neighbouring sites.</p>
the concurrence of the Secretary has been obtained.	The SRPP can exercise assumed concurrence in this instance as the consent authority

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

State environmental planning policies (SEPPs) were consolidated from 45 existing SEPPs into 11 new SEPPs commencing on 1 March 2022 with transitional provisions making them applicable to the application. The application was lodged prior to this date, however the provisions within the repealed SEPPs were transferred into the new SEPPs and the intent and provisions remain largely unchanged. The Department has advised that these changes do not affect applications that have already been lodged.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

DCP controls relevant to the proposal are addressed in the Table provide as **ATTACHMENT 7** to this report. In particular variations are sought in relation to:

- side/rear setbacks,
- building separation and
- building depth, and
- vehicle access

The proposed variation to building separation / building setbacks is discussed above in relation to the applicants Clause 4.6 Variation to the WLEP standard for building separation. The other variations are discussed below:

Building Depth

Clause 2.4 2.4 Building depth and bulk

a) The maximum floor plate sizes and depth of buildings are as follows, but do not apply to the building frontages up to the street front height in the commercial core:

Non- residential use within the Commercial Core:

- *max. floor plate size (GFA): 1200m² above 24m height.*
- *max. building depth (excludes balconies): 25m*

The proposed development provides a floor plate of 995m² to 1245m² at Level 6 and above, exclusive of the central lift and amenities core. This is a minor exceedance of up to 45m² however no part of the office is more than 14.5m from a source of light.

The proposed building depth is approximately 29m measured at any point in an east/west direction, which does not comply. However, the building is located on a corner and will not be attached to other buildings. This will allow for windows to be positioned on all side elevations of the building.

The applicant has advised that the proposed tenant has a requirement for the minimum floor plates as proposed. The proposed variation is considered minor and likely to result in any significant impacts in terms of building bulk. The DRP has supported this configuration and the variation is therefore supported.

Vehicle access

Clause 3.6.2.a Location of Vehicle Access (Chapter D13)

No additional vehicle entry points will be permitted into the parking or service areas of development along those streets identified as significant pedestrian circulation routes in Figure 3.7"

Figure 3.7 identifies the subject site as a site for which no additional vehicular access is allowed. Whilst it is noted there is an existing access from Crown Street to the existing motel on the site, and technically one access point will remain, the proposed building will generate significantly more traffic and vehicular egress to Crown Street from the proposed development which is not desirable. The applicant has proposed an alternative configuration of the access arrangements which provides for future deletion of the Crown Street egress and providing a combined ingress/egress driveway off Moore Lane (**see Figure 6 below**). This will only become a viable option once Moore Lane is connected to Corrimal Street and provides one way traffic flow in a northern direction from its intersection with Crown Street. The width of Moore Lane currently would not facilitate high volumes of traffic in both directions and would result in an unsafe environment for pedestrians using the northern side of Crown Street.

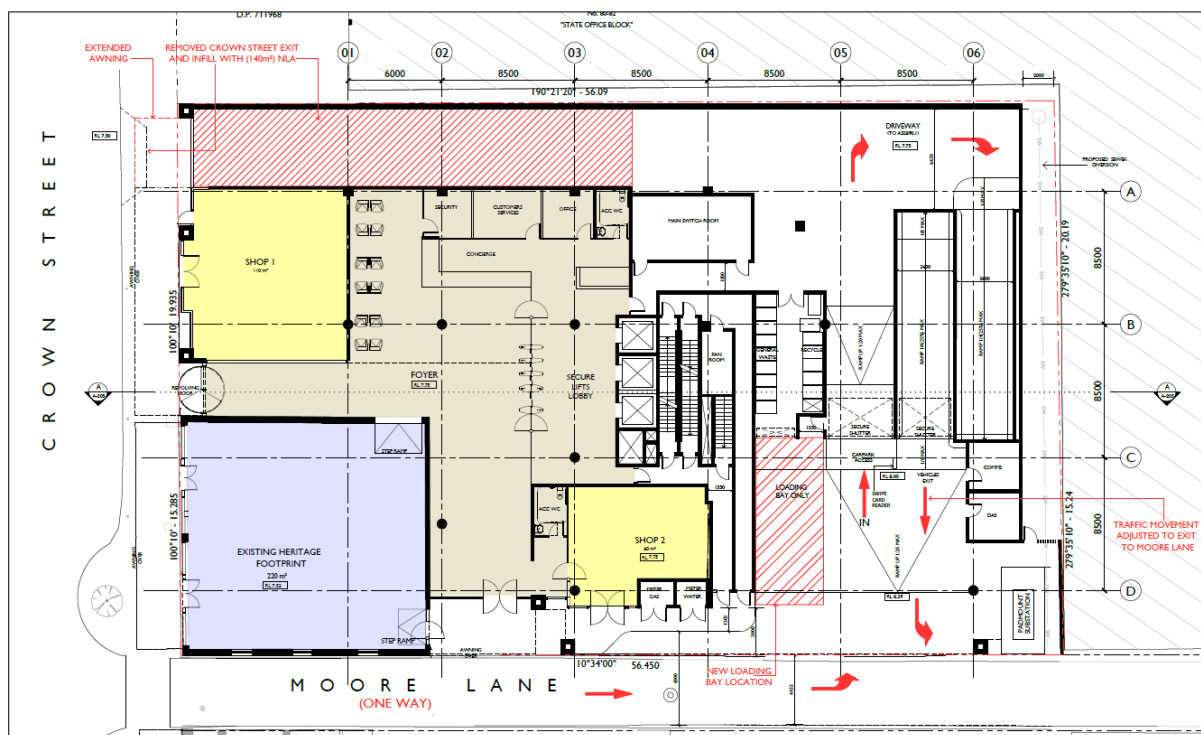


Figure 6: Proposed alternative vehicular access arrangements

DEVELOPMENT CONTRIBUTIONS

Wollongong City-Wide Development Contributions Plan - City Centre

The Wollongong City-Wide Development Contributions Plan applies to the subject property. This Plan levies a contribution based on the estimated cost of development.

- The proposed cost of development* is over \$250,001 – a levy rate of 2% applies:

$$\text{Contribution Amount} = \text{Cost of Works } \$57,352,957.00 \times 2\% \text{ levy rate} = \$1,147,059.14$$

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

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

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

Environmental Planning and Assessment Regulation 2021

The 2000 Regulation continues to have effect as the application was lodged prior to 1 March 2022.

92 What additional matters must a consent authority take into consideration in determining a development application?

Conditions of consent are recommended with regard to demolition.

93 Fire safety and other considerations

Not applicable

94 Consent authority may require buildings to be upgraded

Not applicable

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

The proposal is considered acceptable with regard to the likely impacts.

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

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

The submissions made have been addressed in section 1.5 of this report and it is not considered that the issues raised are sufficient to warrant refusal of the application.

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

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3 CONCLUSION

This application has been assessed having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979. The proposed development is permissible with consent and has regard to the objectives of the zone and is consistent with the applicable provisions of the relevant planning instruments including Wollongong LEP 2009, relevant state policies, Council DCPs, Codes and Policies.

The design of the development is appropriate regarding the controls outlined in these instruments. The proposal does not fully comply with the building height and building separation controls under WLEP 2009. The applicant has followed the process set out in clause 4.6 of WLEP 2009 and adequately justified the development standard departures. The proposal also involves variations to building setbacks, separation, depth and bulk, and vehicular access under WDCP2009. Variation request statements have been submitted and assessed as reasonable. The recommendations of the Design Review Panel have been adopted in the revised plans and matters raised by the Panel are satisfactorily resolved. Internal referrals are satisfactory other than comments from heritage staff and those matters are addressed by way of deferred conditions. External referrals are satisfactory and public submissions have been considered in the assessment.

It is considered that the proposed development has been designed appropriately given the nature and characteristics of the site and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

4 RECOMMENDATION

It is recommended that DA-2021/1168 be approved by way of a Deferred Commencement subject to appropriate conditions of consent which form **ATTACHMENT 8**.

ATTACHMENTS

- 1 Aerial photograph
- 2 WLEP zoning map
- 3 Plans
- 4 DRP Notes – 16 May 2022
- 5 Clause 4.6 Variation – Building Height
- 6 Clause 4.6 Variation – Building Separation
- 7 WDC 2009 Compliance Table
- 8 Draft conditions of consent