

SOUTHERN REGIONAL PLANNING PANEL

Panel Reference	PPSSTH-13
DA Number	DA-2019/1231
Local Government Area	Wollongong City Council
Proposed Development	Demolition of existing structures and construction of A-Grade office building above retail and basement parking
Street Address	111-113 Crown Street WOLLONGONG
Applicant/Owner	ADM Architects/Triple One Crown Pty Ltd
Total number of Submissions	Four (4)
Number of Unique Objections	Two (2)
Recommendation	Approval, subject to the conditions contained within Attachment 9
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Proposed development has a Capital Investment Value exceeding \$30 million.
List of All Relevant S4.15(1)(a) Matters	<p>List all of the relevant environmental planning instruments:</p> <p>s4.15(1)(a)(1) –</p> <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • Wollongong Local Environmental Plan 2009 (WLEP 2009) <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> • Wollongong Local Environmental Plan (WLEP) 2009 <p><u>Other policies</u></p> <ul style="list-style-type: none"> • Wollongong Development Control Plan 2009 (WDCP 2009) • Wollongong City-Wide Development Contributions Plan (2019) <p>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii)</p> <ul style="list-style-type: none"> • Nil <p>List any relevant development control plan: s4.15(1)(a)(iii)</p> <ul style="list-style-type: none"> • Wollongong Development Control Plan (WDCP) 2009 <p>List any relevant 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:</p> <ul style="list-style-type: none"> • Nil <p>List any relevant regulations: s4.15(1)(a)(iv) e.g</p> <ul style="list-style-type: none"> • Clause 92 (1) (a) demolition <p>List any coastal zone management plan: s4.15(1)(a)(v)</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	Attachment 1 – Plans – Architectural, Landscape Attachment 2 – Aerial photograph, WLEP 2009 zoning map Attachment 3 – Clause 4.6 Exception Request – FSR Attachment 4 – Clause 4.6 Exception Request – Building Separation Attachment 5 – Design Review Panel Comments of 10 December 2019 Attachment 6 – Response to Design Review Panel Comments of 10 December 2019 Attachment 7 – Wollongong DCP 2009 Assessment Attachment 8 – Shadow Diagrams Attachment 9 – Draft Conditions
Clause 4.6 request	Yes, in relation to FSR and Building Separation
Summary of key submissions	<ul style="list-style-type: none"> Variation under Clause 4.6 in relation to FSR and Building Separation Heritage considerations; Overshadowing impacts
Report prepared by	Brad Harris - Development Project Officer
Report date	11 August 2020

Summary of s4.15(1) matters

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

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 (S94EF)? **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 Joint Regional Planning Panel as it involves general development with a capital investment value of more than \$30 million. The CIV estimate for the project is \$42,659,000.

Proposal

The proposal is for an eleven (11) storey commercial building with ground floor retail over three levels of basement parking.

Permissibility

The site is zoned B3 Commercial Core pursuant to Wollongong Local Environmental Plan (LEP) 2009. The proposal is categorised as commercial premises which is permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council's Community Participation Plan 2019. In response, there were two (2) submissions in objection to the proposal.

Main Issues

The main issues arising from the preliminary assessment pertain to: -

- Variation under Clause 4.6 in relation to FSR and Building Separation
- Heritage considerations;
- Overshadowing impacts

RECOMMENDATION

It is recommended that DA-2019/1231 be approved subject to the conditions outlined in **Attachment 9**.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development

State Environmental Planning Policies

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011

Local Environmental Plans

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans

- Wollongong Development Control Plan (WDCP) 2009

Other Policies/Regulations

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

1.2 DETAILED DESCRIPTION OF PROPOSAL

Demolition of the existing structures on the site and construction of a new 12 storey commercial building with ground floor retail and basement car parking at 111-119 Crown Street, Wollongong.

Built Form

- Max Height: 47.9m (RL59.23AHD)
- Gross Floor Area: 10,089m²
- Landscaped Areas: provided on levels 1, 2 and 11
- Setbacks:
 - Basements: Nil
 - Ground Floor: North: Nil, East: Nil, South: 1.8m, West: 2.665m
 - Level 1: North: Nil, East: Nil, South: 1.8m, West: 2.7m – 3.415m
 - Level 2: North: 6 - 8.12m, East: 4.5 – 5.13m, South: 3.81 – 4.115m, West: 5.24 – 5.6m
 - Level 3 - 10: North: 6 – 6.625m, East: 4.5 -4.6m, South: 2 – 2.325m, West: 4.5 – 4.885m
 - Level 11: North: 6 – 6.625m, East: 4.5 -4.535m, South: 12.5 – 14.8m, West: 4.885 – 5.335m

Building composition by level

- 3 x basement levels: 149 car spaces (incl. 2 accessible spaces), bicycle and motorbike parking, plant, loading and fire services. Includes mezzanine / lower ground floor level. Vehicular access is via adjoining Lang Corner Development site.
- Ground Floor Level: retail tenancies, plant rooms, recessed entry, a foyer, pedestrian awnings, pedestrian linkway through to the Lang's Corner development and lift and stair access to the other levels. 2.665m wide pedestrian laneway ('Lois Lane') to be provided along western boundary and pedestrian pathway on Simpson Place frontage.
- Level 1: office tenancy (1089m²), amenities, landscaped area and lift and stair access to the other levels
- Level 2: office tenancy (714m²), outdoor terrace/s
- Level 3 – 10: office tenancy (791m²)
- Level 11: office tenancy (447m²), roof terrace / garden areas, plant area
- Level 12/roof: plant area

BACKGROUND

Design Review Panel (Pre-lodgement)- DE-2019/71

On 9 July 2019, a formal Design Review Panel (DRP) meeting was held with Council Officers to discuss the proposal. Council Officers recommended increasing the upper level building separation with Nos. 95-109 Crown Street to comply with the DCP provisions as well as further articulating the facade. These changes have been incorporated into the design with the lift core set back 4.5m from what was originally proposed. The front and rear facades now include a recessed section which gives the appearance of two distinct buildings. The total GFA was reduced by 101m².

Pre-lodgement Meeting - PL-2019/126

On 30 August 2019, a pre-lodgement meeting was held with Council Officers to obtain further feedback on the design. Council Officers were generally supportive of the revised design. Further minor refinements have been made to produce the DA drawings.

Design Review Panel (Pre-lodgement)- DE-2019

On 10 December 2019, a further Design Review Panel (DRP) meeting was held with Council Officers to discuss the revised design submitted with the DA. In summary, the Panel found the proposal followed a number of positive principles. A few areas were identified as requiring further development include:

- Lighting to Lois Lane.
- Further detail of the curtain wall façade.
- The levels in Lois Lane to ensure suitability for outdoor dining/seating.
- The need for cross easements and title encumbrances related to shared basement carparking with the adjoining Lang's Corner development immediately adjoining to the east.

Lang's Corner development immediately adjoining to the east Property approval - DA-2017/493

On 5 July 2017 the applicant lodged a class 1 appeal against the deemed refusal of the above DA. This DA was to be determined by the SRPP who subsequently delegated defence of the matter to Council. On 17 October 2018 vis S34 agreement, the Land and Environment Court approved the DA. The approval is for a commercial building being twelve storeys in height with 3 levels of basement parking.

The redevelopment of the Lang's Corner site has significant bearing on the subject proposal as will become evident in the assessment, principally being building separation, floor space ratio and heritage impact. The subject development seeks to take advantage of a shared vehicular entrance/exit and shared basement parking. The ground level retail in both buildings will benefit from shared pedestrian linkages.

DA-2017/493/A, an application to modify the consent is currently under assessment which provides for the subject DA through integrated basement and ground floor levels with the subject site. This will significantly improve the efficiency of the site and reduce the number of vehicular crossings. A new rooftop terrace is also proposed.

SRPP briefing

On 4 June 2020 the SRPP was briefed on the proposal via video link. The key issues discussed were:

Variation request under Clause 4.6 in relation to FSR and building separation. The permitted FSR is 5.39:1 and the proposed FSR is 5.93:1. The building separation departure is variable. The central theme of the variation request/s rely on the concept that the building forms part of a joint development with the approved office building under construction immediately to the east approved under DA-2017/493 and that setback/separation requirements were established by this development. Practically this entails joint vehicle/basement access and pedestrian access between the ground floor. The basement car parking and ground floor of the subject building will be linked with the adjacent building to the east and incorporate a publicly accessible laneway along the western boundary, linking Crown Street and Simpson Place. When both sites are taken as one the FSR would be compliant. The development is otherwise generally compliant with applicable planning instruments and local development policies

Customer service actions

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

SITE DESCRIPTION

The site is located at 111 - 119 Crown Street, Wollongong and the title reference are Lot 10 in DP 657049, Lot 1 in DP 71418 and Lot 101 in DP 611878. The consolidated site is a rectangular parcel of land, with a northern frontage to Crown Street of 32m and an eastern side boundary of 52m, providing a total site area of approximately 1,707m².

The proposal will integrate the site with the neighbouring site at Nos. 95-109 Crown Street known as Lang's Corner. The Lang's Corner site is 2,466.70m² in area and is located on the corner of Crown Street, Kembla Street and Simpson Place. The fourth (western) boundary is shared with the subject site. Construction has commenced on a 12-storey commercial building with ground floor retail and three basement levels.

The adjoining development is as follows:

- North: Crown Street pedestrian mall, with low scale commercial buildings on the opposite side of the mall.
- East: Opposite Lang's Corner on the south eastern corner of Kembla and Crown Streets is the Wollongong Town Hall.
- South: To the south on the opposite side of Simpson Place is the heritage listed St Andrews Presbyterian Church
- West: Adjoining the site to the west is Lois Lane and further to the west are a series of 2/3 storey retail/commercial buildings.

Property constraints

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

- Acid sulphate soils (Class 5). Significant excavation is proposed, an Acid Sulphate Soils report, prepared by Douglas Partners has been submitted with the application. Occurrence of Acid Sulfate Soils is unlikely, Council's Environment Officer has reviewed the proposal and found it satisfactory in this respect.
- Flooding: The western half of the site is identified as being located within an Uncategorised flood risk precinct. Council's Stormwater Officer has reviewed the application in this regard and provided a satisfactory referral subject to conditions. The proposal does not represent an increased risk to life or property in regard to flooding.

There are no restrictions on the title that would preclude the proposal.

SUBMISSIONS

The application was notified in accordance with Council's Community Participation Plan 2019 from 14 November to 4 December 2019. This included a notice in The Advertiser. Four (4) submissions were received, two (2) objections and Two (2) supporting the proposal. The issues identified in the objections are discussed below.

Concern	Comment
1. Floor Space Ratio Variation, existing FSR very generous compared to other LGAs	The issue of FSR is addressed in this report.
2. More public space provided at ground level	The application provides adequate public access and provides for the opportunity for Lois Lane to function as an enhanced pedestrian linkage between Simpson Place and Crown Street Mall as well activating the laneway by providing access to future dining facilities.
3. Request for upgrade to Simpson Place footpath	Conditions of consent will require the applicant to upgrade existing public areas in accordance with Council's Public Domain Technical Manual.
4. Increase traffic congestion in Simpson Place	It is acknowledged that the development will increase traffic in Simpson Place however Council's Traffic engineer has advised that the

Concern	Comment
	existing road network is capable of absorbing the additional traffic generated by the development.
5. Overshadowing of Church Property	There will be overshadowing of the church. This issue has also been raised as a concern by Council's Strategic planning section and Heritage officer. Additional shadow diagrams were requested from the applicant to show a comparison of shadow impacts between the proposal and a fully compliant building in terms of height, setbacks and building separation. These are provided as attachment 8. Overshadowing is not considered fatal to the application and is further addressed in this report.
6. Diminish architecture of Church building	The subject proposal along with the Lang's corner development provide a contrast to the lower scale surrounding buildings, some of which are heritage items. It is not considered that the development of taller commercial buildings in accordance with the objectives embodied in Wollongong Local Environmental Plan 2009 will diminish the architectural or heritage value of the Church.

CONSULTATION

INTERNAL CONSULTATION

Council's Geotechnical, building, stormwater, environment and landscape officers reviewed the application and provided satisfactory referrals. Conditions of consent were recommended and are included in the draft consent.

Traffic Engineer

The applicant was requested to clarify the proposed traffic distribution (additional trips on the network) at each of the relevant intersections by providing additional updated SIDRA modelling to include a 10-year future year scenario with the appropriate traffic growth (with and without the Kembla Street Cycleway) applied to the network over this period. Also requested was an amended plan to show proposed employee bicycle parking as secure (Class B facilities) as per the requirements of AS2890.3 with end of trip facilities (including showers, change facilities and personal lockers) as required by Chapter E3 of the Wollongong DCP2009.

The additional traffic modelling in relation to the operation of the relevant network intersections in the future year following the planned construction of the Kembla Street separated cycleway (Council project) together with amended basement plans were submitted on 3 June 2020. In response, Council's Traffic engineer has advised that the development (plus background traffic) will result in some additional queueing and capacity issues in the 10-year future scenario following the construction of the cycleway. However, he has acknowledged that significant intersection upgrades to address these capacity issues cannot be reasonably requested because of the proposed development. An integrated transport approach is required which focuses on public transport improvements and the priority of walking and cycling underpinned by the Wollongong City Centre Access and Movement Strategy.

The Wollongong City Centre Access and Movement Strategy recommends a range of transport-related improvements to cater for increasing demand resulting from anticipated development across the city centre over a 20-25-year period. Council will progressively upgrade the City Centre road network based on the strategy. The proposed secure bicycle parking enclosures and shower and change facilities (for commuter cyclists) shown on the revised basement plans will help to encourage sustainable travel and reduce reliance on private cars. Conditions of consent were recommended and are included in the draft consent.

Heritage Officer

Council's Heritage Officer has reviewed the application and advised that although not heritage listed under WLEP 2009, the subject site known as "Kembla Chambers" has been identified as a local character building and its local significance is currently being considered as part of the city-wide heritage review. The retention of

Kembla Chambers as a fine grain element of Crown Street Mall is strongly supported from a heritage perspective rather than demolition and reconstruction of the façade. The retention of the laneway known as Lois Lane is also strongly supported. However, the proposal is for the demolition and reconstruction of the Kembla Chambers facade.

In addition, the subject site is also in the vicinity of a number of heritage items including The Uniting Church (6371), Royal Bank (6239), St Andrews Church (6228) and Wollongong Town Hall and Former Council Chambers (Art Gallery Building) (6381). The proposal is supported by a Heritage Impact Statement and a preliminary historic archaeological assessment report which notes that the subject site has low archaeological potential and recommends that the standard unexpected finds conditions are placed on any future consent to address this issue. This conclusion is supported.

There are concerns about FSR, setbacks and the cumulative impacts of the Lang's corner development in terms of overshadowing impact on the heritage listed St Andrews Presbyterian church.

The issues raised by Council's Heritage Officer are separately addressed later in this report. Conditions have been prepared by the assessing officer.

EXTERNAL CONSULTATION

Roads and Maritime Services (*Now Transport for NSW*)

The RMS does not believe the development will have a significant impact on state roads in the area and on this basis, does not object to the development application.

Endeavour Energy

Endeavour Energy have no objection to the Development Application.

Design Review Panel

The application was reviewed by the Design Review Panel (DRP) on 9 July 2019 and 10 December 2019 in accordance with clause 7.18 5 (a) of WLLEP2009. The Panel has advised that they are satisfied the proposal exhibits design excellence noting that a few areas required further development including:

- The proposed lighting to Lois Lane
- Detail of the curtain wall façade to ensure what is shown is delivered
- The levels in Lois Lane to ensure it is suitable for outdoor dining/seating.

These changes have been made and the DRP notes are included as Attachment 5 with the response being provided as Attachments 6.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

SEPP 55 applies to all of NSW. Clause 7 of the SEPP lists the matters the consent authority must consider as part of the assessment of any development application and the matter has been reviewed by Council's Environmental Officer in this regard. A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site.

The subject site has a history of commercial uses. Accordingly, there is no evidence of a potentially contaminating land use having occurred on the sites. Further, there is no change of use of the site proposed, with the site to be used in an ongoing manner for commercial activity.

The land is not identified as being contaminated on Council mapping and no concerns are raised regarding contamination relating to the intended use of the land and the requirements of clause 7. Councils environment office has recommended conditions.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Clause 104 is relevant as the proposal triggers Schedule 3 (commercial premises with GFA over 10,000m²). The proposal was referred to the Roads and Maritime Authority (Now Transport for NSW). The Traffic and Parking Report concludes the proposal is consistent with the matters to be taken into consideration by the RMS who raised no concerns with the proposal.

The proposal was also referred to Endeavour Energy in accordance with Clause 45. Endeavour Energy raised no concerns with the proposal.

STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011

Part 4 Regionally significant development

The Southern Sydney Regional Planning Panel is the determining authority for the development pursuant to Part 4 of the SEPP as the development has a capital investment value of more than \$30 million

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.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted 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 considered to meet the objectives of the zone.

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

*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; 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 office premises and retail premises as defined above and is permissible in the zone with development consent.

Clause 2.7 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent. The development entails the demolition of two buildings.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed building height of 47.9m which does not exceed the maximum of 48m permitted for the site.

Clause 4.4A Floor space ratio – Wollongong city centre

Total site area of approximately 1,706.9m²

(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) $(3.5 + 2.5X):1$ —if the building is used only for purposes other than residential purposes, where—
 X is $(\text{the site in square metres} - 800) / 1200$.*

$$3.5 + (2.5 \times ((1,707 - 800)/1200)): 1 = 5.39:1$$

$$= \text{Maximum FSR } 9,200\text{m}^2$$

PROPOSED

- Basement L3 = Nil
- Basement L2 = Nil
- Basement L1 = Nil
- Lower Ground – Nil
- Ground Floor – 906m²
- Level 1 = 1,149m²
- Level 2 = 770m²
- Levels 3 – 10 = 845m² x 8 = 6,760m²
- Level 11 = 502m²
- TOTAL = 10,087m²

Proposed FSR = 5.93:1, non-compliant

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement—*

- (i) storage, and
- (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

The applicant has provided a written request prepared in accordance with Clause 4.6 *Exceptions to Development Standards* seeking variation to the requirements of Clause 4.4A. (refer Attachment 3).

Although the applicant reduced the GFA 70m² in response to feedback provided by the Design Review Panel (DRP), the GFA remains non-compliant with a variation of 9.8% proposed.

The basis of the applicant's request for a variation to the FSR standard is that the proposal will be integrated with the approved Lang's Corner building and will present as one cohesive development partially due to shared services. Due the Lang's Corner site being above the 2,000m² threshold, Clause 4.4A does not apply to that site which has a general FSR of 6:1. This allows for a total GFA of 14,800m². When the FSR is measured across the two sites, the total GFA is 2,026m² which is below the standard as outlined in the table below.

Combined FSR Calculations				
Provision	Approved Lang's Corner (DA-2017/493)	Modification A – Langs Corner (DA-2017/493/A)	Proposed development at 111-119 Crown St	Total taken over both sites
Permitted FSR	6:1	6:1	5.39:1	6:1
Site area	2,139.7m ² (Excludes 326.9m ² airspace over Simpson Place known as Lot 21)	No change	1,707m ²	3,846.7m ²
Proposed FSR	5.95:1	6:1	5.93:1	5.96:1
Maximum GFA	12,838.2m ²	12,838.2m ²	9,200m ²	23,080.2m ²
Proposed GFA	12,733.4m ²	12,837.8m ²	10,087m ²	22,924.8m ²
GFA Difference	-104.8m ²	-0.4m ²	+887m ²	-155.4m²

The development departure in relation to Clause 4.4A is dealt with in the table below: -

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.4A Floor Space Ratio
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes. The applicant's request contains this justification.</p> <p>In summary the justification relies on compliance with the floor space ratio standard in this instance being 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.</p> <p>The applicant argues that non-compliant FSR for the subject site 'balances out' with the FSR provided on the adjacent Lang's Corner development and when the two developments are considered as one development site (based on the efficiencies gained by shared basement access and parking and the creation of a shared network of retail spaces at ground floor level) the combined floor space being 22,924.8m² less than the allowable GFA of 23,080.2m². The subject site, if taken to include the</p>

	adjacent Lang's Corner site, allows a maximum FSR of 6:1 and the resultant FSR of the two developments equates to an FSR of 5.96:1.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification.
4.6 (4) (a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's request has adequately addressed the matters required to be addressed by subclause (3).</p> <p>The applicant's request is based on the rationale that the variation to Clause 4.4A 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.</p>
(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	<p>The objectives of clause 4.4 are addressed below.</p> <p><u>Objective (a) - to provide an appropriate correlation between the size of a site and the extent of any development on that site,</u></p> <p>The proposed FSR is suitable for the size of the site as there are efficiencies gained from the integration of the proposed development with the approved Lang's Corner development.</p> <p><u>Objective (b)- to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,</u></p> <p>The proposal will be in the public interest as it is ideally located for high density commercial development, given its CBD location near multiple public transport options. The proposal will provide sufficient car parking and services to meet the likely demand. Future occupants are likely to increase pedestrian traffic along the eastern end of the Crown Street Mall, which will assist in revitalising the area in accordance with Council's strategic policies. The integration of infrastructure between the two buildings including servicing, substations and carparking provides economies of scale and efficiencies which would not be realised if the sites were developed separately.</p> <p>Accordingly, the proposed FSR is suitable given the availability of infrastructure that services the site.</p> <p><u>Objective(c) - to ensure buildings are compatible with the bulk and scale of the locality.</u></p> <p>The proposal is a similar bulk and scale to the approved Lang's Corner development. The majority of the GFA will be stepped back from the street which lessens the appearance of bulk from the Crown Street Mall. Figure 1 below shows the proposal in the context of compliant building envelopes along Crown Street. This shows the proposal is consistent with the desired future character. The comments of the DRP confirm the building will be consistent in the locality, stating, inter alia:</p> <p><i>The proposal takes advantage of the desired vision for this part of the town centre by proposing a similar scale development to the one already approved at 95-109 Crown Street (henceforth Lang's Corner). It is the Panel's opinion that the proposal will have a good</i></p>

	<p><i>'contextual fit' (pending some adjustments to the built form) with the desired future character of the precinct and with the adjacent approved development, which has been facilitated due to the ownership of both sites by a single entity.</i></p> <p>Importantly, the proposal will present as a coherent development with the approved Lang's Corner building. Taken together, the buildings provide less GFA than what could be achieved by the combined FSR control. Accordingly, the proposal will be consistent with the bulk and scale envisaged for the sites.</p> <p>Accordingly, the proposal is consistent with the objectives of the FSR development standard and is a suitable scale in the locality.</p> <p>The departure will not have any adverse impacts on the amenity of nearby developments, the streetscape or public domain. There will be no 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.</p>
(b) the concurrence of the Secretary has been obtained.	The SRPP can exercise assumed concurrence in this instance.



Figure 1: compliant building envelopes along Crown Street

Clause 4.6 Exceptions to development standards

Clause 4.6 of the Wollongong LEP “Exceptions to development standards” provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

In this instance, a departure is sought in respect of Clause 4.4A Floor Space Ratio – Wollongong City Centre (addressed above) and Clause 8.6 Building Separation (addressed below).

The applicant’s Clause 4.6 variation requests addressing non-compliance with FSR and Building Separation form Attachments 3 and 4 respectively.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The site is not heritage listed nor is it located within a heritage conservation area. There are a number of listed items of environmental heritage within the vicinity of the site identified in Figure 3 below. These are: -

- No. 6228 ‘St Andrew’s Presbyterian Church and Hall’, located to the south of the subject site, on Simpson Place;
- No. 6381 ‘Wollongong Town Hall and former council chambers (now art gallery)’ located opposite the site to the east on Kembla Street;
- No. 6371 ‘Wollongong East Post Office’, located to the east of the site on the Crown Street
- No. 6232 ‘Shop’ to the west of the site at 151-161 Crown Street
- No. 6238 ‘Shops’ to the east of the site at 87 Crown Street
- No. 6237 ‘Shops’ to the east of the site at 72-76 Crown Street
- No. 6236 ‘Lisborne House’ to the east of the site at 68-70 Crown Street
- No. 6239 ‘Royal Bank’ (former) to the west of site at 133 Crown Street
- No. 6371 ‘Wesley Uniting Church’ to the west of the site at 116 Crown Street
- No. 6285 Norfolk Island Pine – Landscape item located to the east of the site in front of 93 Crown Street

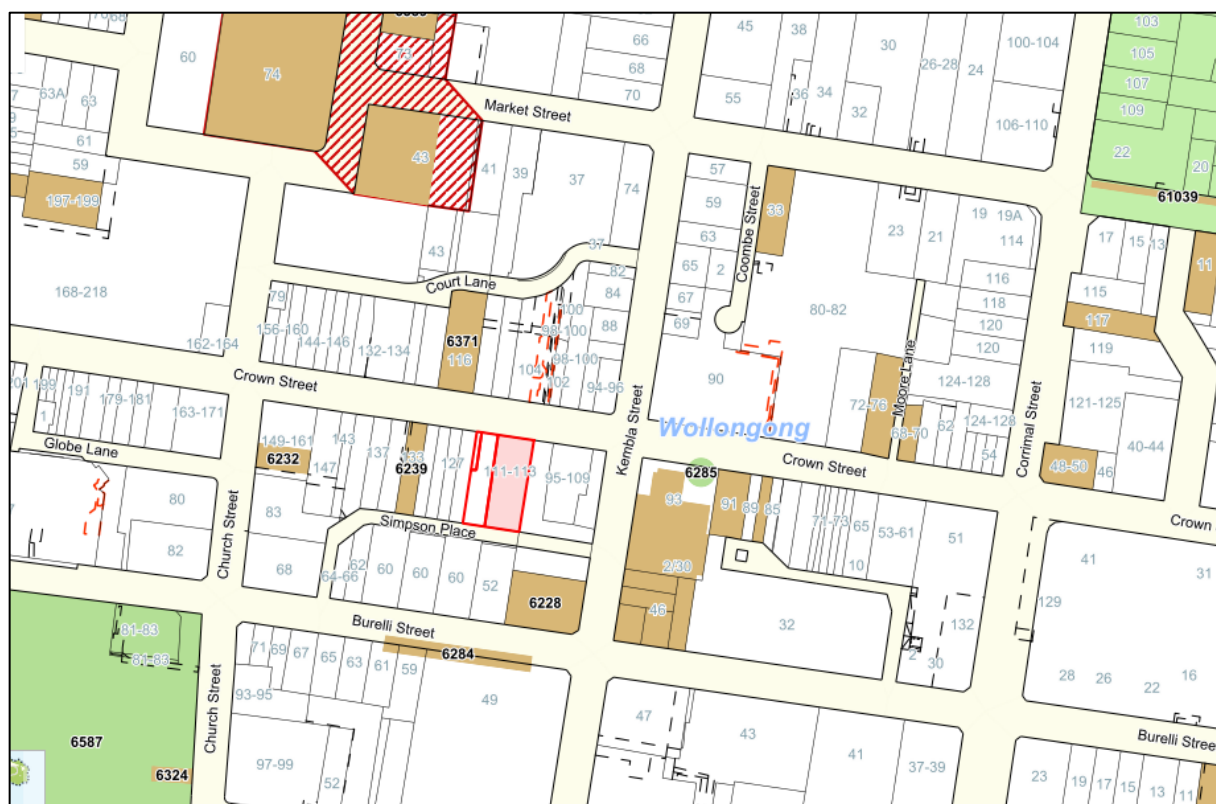


Figure 2 - LEP extract identifying heritage items in vicinity of subject site.



Figure 3: Artist's Impression of proposed development in context with the approved Lang's Corner development

Under Clause 5.10(5)(c) of WLEP 2009, the consent authority can require heritage documents that assess the extent to which a proposed development would affect the heritage significance of a heritage item or conservation area. Given the nearby heritage items, the applicant provided a Heritage Impact Statement (HIS) with prepared by Paul Davies Pty Ltd.

The HIS concluded as follows:

"The proposal is considered to comply with all relevant heritage objectives and controls and to have no adverse heritage impacts on the heritage items in the vicinity of the site. The proposal is similar in bulk, height and scale to the approved development on the adjacent Lang's corner site to the east at 95-109 Crown Street.

The proposal is recommended for approval by Wollongong City Council as it is considered sympathetic to the Crown Street streetscape and the heritage items in the vicinity due to the design incorporating:

- *the reconstruction of the façade of Kembla Chambers,*
- *2-3 storey podium levels to Crown Street and Simpson Place. The podium levels in the design and the retention of the Kembla Chambers façade ensure that the 2-storey streetscape presentation of the new development to Crown Street and 3-storey presentation to Simpson Place are compatible with the existing streetscapes.*
- *a setback 11-storey tower element.*

As outlined above, Council's Heritage Officer has largely agreed with the above conclusions of the heritage consultant's report however some concerns were raised. These are addressed below:

Kembla Chambers

Council's Heritage officer has supported the retention of Kembla Chambers recognising that it is a fine grain element of Crown Street Mall that contributes to the character of the area. However, he believes that this building should not be demolished and reconstructed as proposed as could be much better preserved if it were conserved in-situ rather than being reconstructed.

Whilst these concerns are recognised it is noted that the dismantling and reconstruction of the adjacent Lang's Corner façade under the guidance of a heritage consultant was accepted as an appropriate option by the Land and Environment Court in its determination in regard to the adjacent development (DA-2017/493). Further, it is noted that the Design Review Panel supported this approach saying that "the continuous podium expression and harmonious and complimentary façade expressions" were one of the positive outcomes of the proposal.

In this context it is considered a reasonable approach to demolish and reconstruct the Kembla Chambers building as the end result will be the retention of the existing building element which, although not in itself a

heritage item, will continue to contribute to the fine-grained nature of development fronting Crown Street Mall in this locality.

Overshadowing

Council's Heritage officer has raised concerns that the proposal will, together with the overshadowing of the Lang's Corner development, result in unacceptable overshadowing impacts on adjacent heritage items being the St Andrews Presbyterian Church and the Wollongong Art Gallery (old Town Hall).

A review of the shadow diagrams submitted by the applicant indicate there is a considerable overlap of shadows i.e. the proposed building will cast shadows in areas that will already be overshadowed by the approved Lang's Corner building. The applicant was requested to provide a set of additional shadow diagrams comparing the shadow impacts from a building with a compliant separation and the proposed building (see Attachment 8). These demonstrate that the reduced building separation does not contribute to any additional overshadowing impacts.

Further, it is not necessarily considered to be detrimental to a heritage item for it to be overshadowed in mid-winter as amenity issues associated with the overshadowing of non-residential properties is not as significant. The church is used relatively infrequently and although the overshadowing will have some impact on stained glass windows, though this will affect morning church service times for only a short period in mid-winter and therefore the extent of overshadowing is considered acceptable in the context of its location within the city centre.

FSR

Council's Heritage officer has expressed the view that FSR should not be varied as this will necessarily add to the bulk of the building form and increase overshadowing impacts on the surrounding heritage items and areas.

The issue of FSR non-compliance is discussed above in the context of the applicant's Clause 4.6 variation request.

Setbacks

Council's Heritage officer has also considered that reduced setbacks (i.e. building separation) will result in increased overshadowing impacts.

As discussed above, the shadows that will be cast by the proposed building will not significantly add to the overshadowing impacts of the Lang's Corner development approved by the Land and Environment Court.

Crown Street Podium Infill

Council's Heritage officer is of the opinion that proposed podium treatment along the Crown Street frontage is not a positive response. He believes the approved Lang's Corner development provided an interpretative response relevant to the historic architectural presence on that particular site. He does not believe that replicating the façade on the subject site is an optimal response. In addition, he is of the opinion that there should not be a break in the podium to announce the foyer entry to the proposed tower as this results in the tower being read as a single bulky element.

Whilst these concerns are noted, they are in contradiction to the views expressed by the heritage consultant's HIS and that of the Design Review Panel. It is acknowledged that many issues pertaining to heritage impacts are subjective and differing views are often expressed in the context of retaining heritage values. The proposal is generally considered to provide a good outcome in relation to retention of the ground and podium levels and the impact on the heritage values of the immediate locality.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

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

The site is already serviced by electricity, water and sewerage services. It is expected that the existing utility services can be augmented to support the proposed development. Conditions recommended 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. This matter has been considered by Council's Environmental Officer and conditions appropriate for the management of ASS during the excavation and construction have been included on the draft consent.

Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the building's three 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 Simpson Place in addition to Lois 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 Design Review Panel (DRP) on two occasions. Prior to lodgement of the development application on 9 July 2019, the DRP initially identified some elements of the design that needed further resolution. The applicant addressed these issues in the plans submitted with the development application on 31 October 2019. These plans were reviewed by the DRP at a second meeting on 10 December 2019. The Panel concluded:

In summary, the Panel found the proposal to follow a number of positive principles as discussed above. The few areas that require further development include:

- 1. The proposed lighting to Lois Lane.*
- 2. Further detail of the curtain wall façade to ensure what is shown is delivered.*
- 3. The levels in Lois Lane to ensure it's suitable for outdoor dining/seating.*

The panel is mindful that this development is inter-dependent with the adjacent Lang's Corner development under construction. It is not a 'united' development hence the necessary cross easements and title encumbrances must consider every future ownership, development and demolition eventuality.

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
- There are no heritage restrictions or impacts
- 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.

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 8.6 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 12m building separation from the street frontage height to 45m, and a 28m

building separation distance above 45m in height. The proposed building setbacks in relation to the requirements of Clause 8.6 are:

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

East: Nil

West: 2.7 - 5m (Lois Lane)

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

East: 9m from approved but not yet built building known as Lang's Corner.

West: NA – no adjacent built form above street frontage height. A 4.5m setback is proposed which could potentially impact future development.

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

East: 9m from approved but not yet built building known as Lang's Corner.

West: NA – 4.5m setback proposed – impact future development.

(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.

Not applicable as no residential is proposed.

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

(5) In this clause street frontage height means the height of that part of a building that is built to the street alignment.

To the east of the site is an approved 47.23m high commercial building on the site known as Lang's Corner. The approval was granted by the Land and Environment Court on 17 October 2018 and the site is currently vacant after demolition of the existing building. The proposed development provides for a 9m separation as demonstrated in **Figure 5** below.

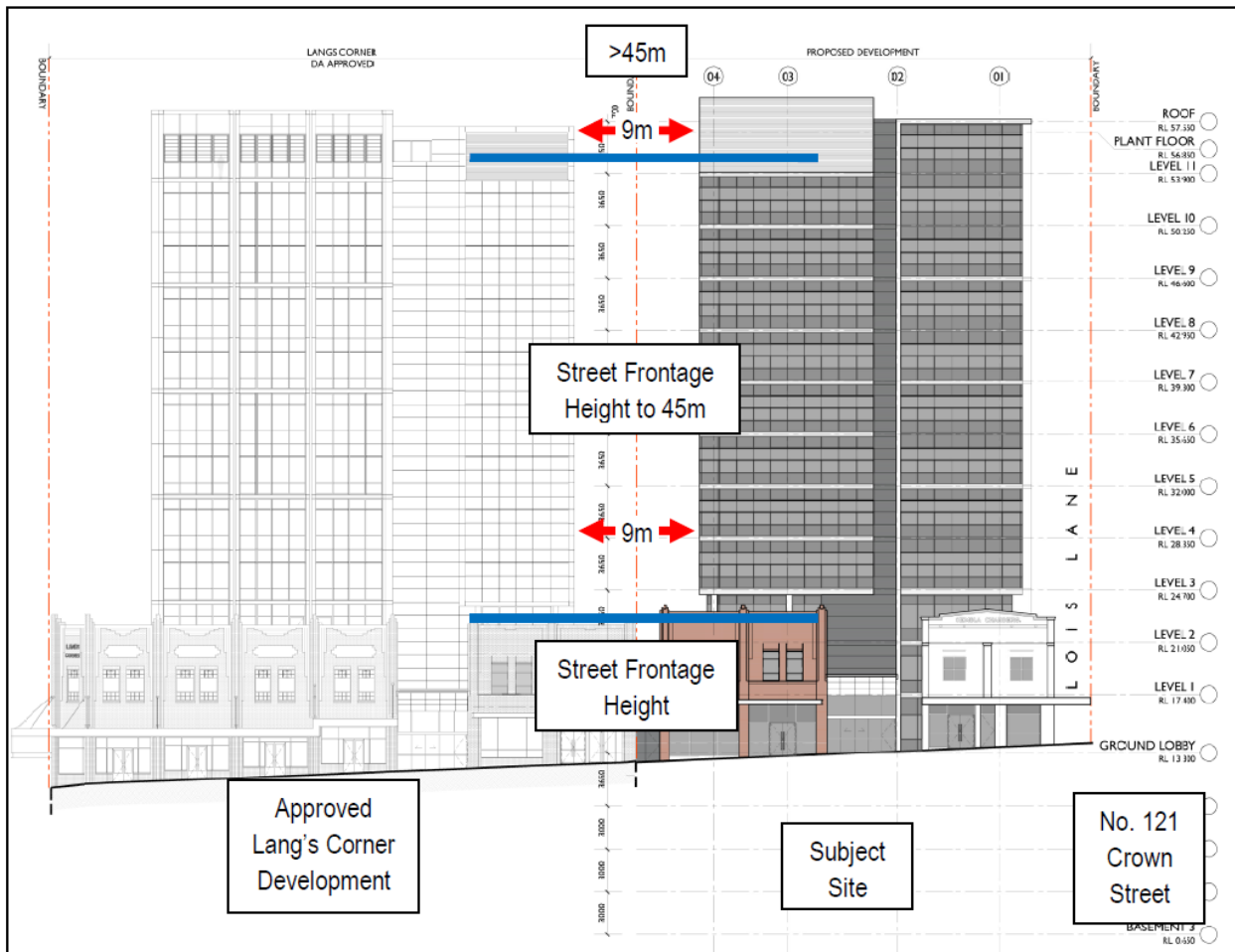


Figure 4 - Proposed Building Separation (Source: GSA Planning)

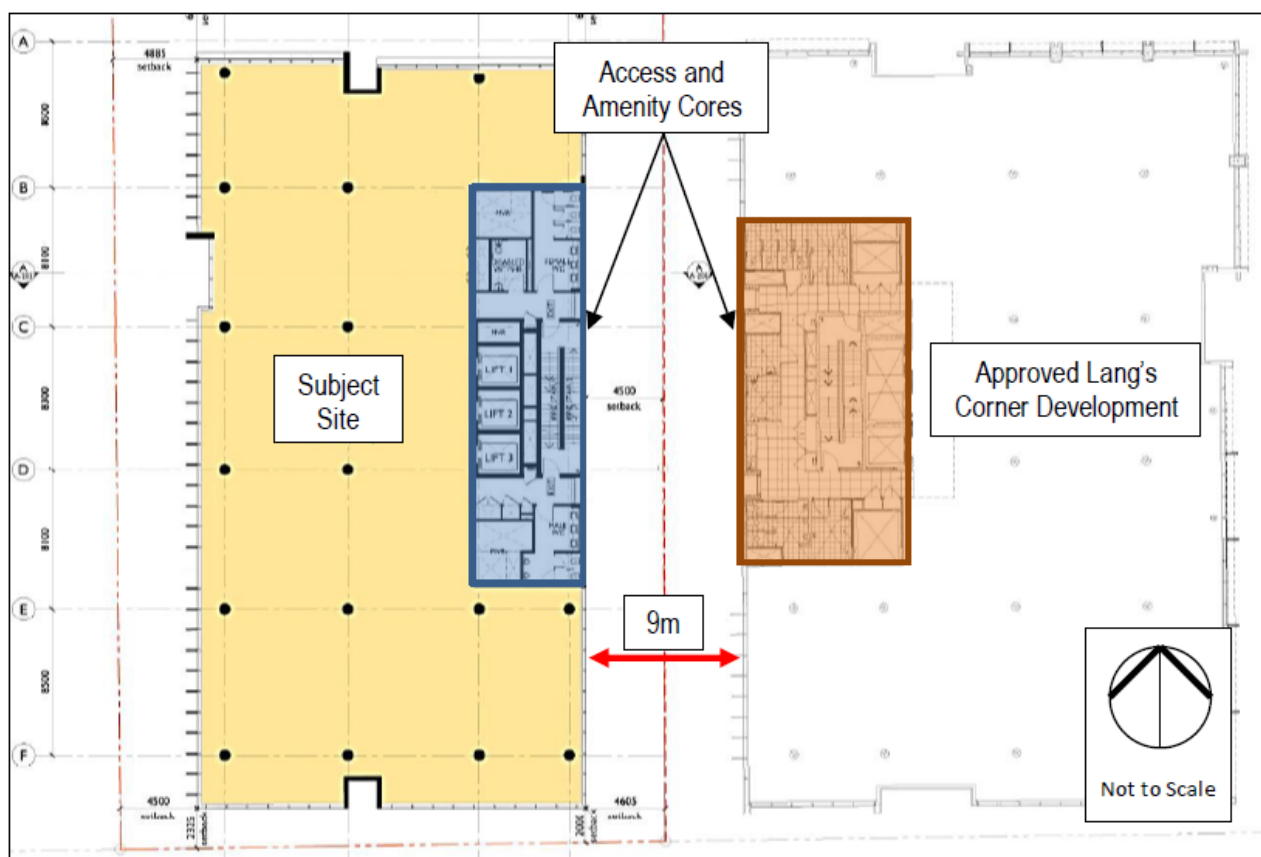


Figure 5 - Proposed building separation showing location of Amenity Cores (levels 3-10) Source: ADM Architects

The proposed building is located a minimum of 4.5m (setback varies from 4.5m to 4.605m) from the eastern boundary and 4.5m (setback varies from 4.5m to 4.885m) from the western boundary on Levels 3-10. The setback increases slightly at Level 11 although it is still not compliant.

The development departure in relation to Clause 8.6 is dealt with 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:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes. The applicant's request contains this justification.</p> <p>In summary the justification relies on compliance with the building separation standard in this instance being 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.</p> <p>The applicant notes that the setbacks provided to the boundaries reflect the desired built form outcome by maintaining the two-storey height of the existing building's façade.</p> <p>The departure to the required building separation arises from the redevelopment of the site incorporating a two-storey height at the Crown Street frontage which thus requires floor space to be incorporated in the tower component of the development. Retaining the two storey façade results in a lower podium level, reduced bulk</p>

	and a reduced sense of enclosure from the public domain. It is argued that achieving the requirement under Clause 8.6(2)(b) for a 12m separation from the adjoining building does not provide the desired streetscape outcome in the circumstances.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes, the applicant's request contains this justification.</p> <p>The justification relies on the urban design and heritage outcomes from the proposed setbacks, which provide for the retention (dismantling and reconstruction) of the Kembla Chambers building and the maintenance of a two storey street height at the Crown Street frontage and providing a narrower tower element above. The proposed reduced western setbacks and increased setbacks of the tower to the Crown and Kembla Street frontages are a design response to the particular circumstances of the case given the surrounding heritage buildings.</p>
4.6 (4) (a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's request has adequately addressed the matters required to be addressed by subclause (3).</p> <p>The applicant's request is based on the following rationale:</p> <p>That the variation to Clause 8.6 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. The proposal will be rationalised with the approved development at Nos. 95-109 Crown Street (Lang's Corner) which provides the opportunity to reduce building separation without resulting in significant amenity or privacy impacts. This has been achieved through specifically siting the proposed access and amenity cores opposite one another in the two buildings. A non-compliance with the building separation control is considered a preferable design solution than additional height, which would significantly increase overshadowing</p> <p>The proposal will make a positive contribution to the streetscape by providing a contemporary infill development which is consistent with Council's desired future character. The proposal has incorporated several design features suggested by Council at the DRP and pre-DA meetings. This includes articulating the façade to give the appearance of separate built forms. The tower element will be stepped back from the street frontage height and a clear separation with the approved Lang's Corner development will be maintained.</p> <p>To the west, the existing Lois Lane will be formalised and provides natural building separation. The neighbouring building at No. 121 Crown Street is only three storeys and contains only limited fenestration along its side boundary. No. 121 contains a commercial use which is less sensitive than residential uses. If No. 121 were to be redeveloped, the minimum 4.5m setback would provide reasonable privacy in a constrained CBD environment.</p>
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives	<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>for development within the zone in which the development is proposed to be carried out, and</p>	<p>The proposed development will be in the public interest because it is consistent with the objectives of the building separation standard, the objectives for development within the B3 zone will be achieved and the development is not expected to compromise the development potential of neighbouring sites. On balance it will provide for an improved relationship with significant nearby buildings, particularly the nearby heritage listed buildings including St Andrews church to the south.</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 privacy impacts as the adjoining western 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 mixed use 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 no 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</p> <p>The Design Review Panel supports the proposed setback to the eastern boundary acknowledging that it has been increased in amended plans submitted with the development application and that a significant portion of the non-complying building separation relates to the amenities core of each building and will have minimal impacts.</p>
<p>(b) the concurrence of the Secretary has been obtained.</p>	<p>The SRPP can exercise assumed concurrence in this instance.</p>

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

Not applicable.

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

WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009 and found to be satisfactory. The full table of compliance can be found at **Attachment 7** to this report. Variations to controls are discussed at Chapter A1 below and are supported from a planning perspective.

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

The application seeks variations in respect of the following matters: -

- Building to street alignment and street setbacks (Clause 2.2 of Chapter D13 *Wollongong City Centre*)
- Building depth and bulk (Clause 2.4 of Chapter D13)
- Side and rear building setbacks and building separation (Clause 2.5 of Chapter D13)

1. Clause 2.2 of Chapter D13 Wollongong City Centre - Building to street alignment and street setbacks commercial core

Clause 2.2.3 states:

"The street frontage height of buildings in the Commercial Core are not to be less than 12m or greater than 24m above mean ground level on the street front as shown in Figure 2.3." For buildings in the commercial core the Figure 2.3 requires that buildings be built to the street alignment or specified setback with 4m minimum further setback above street frontage height.

The required setbacks are:

Crown Street: 2m specified setback (up to 12- 24m building height), with a further 4m setback above street frontage height.

Proposed: 6m above street frontage height

Simpson Place: 0m at street frontage, with a further 4m setback above street frontage height (24m).

Proposed: 2m – 2.3m above street frontage height

Applicant's justification for variation:

The applicant acknowledges that whilst the proposal complies with the street frontage setback to Crown Street, it does not comply with the required 4m setback for the tower element fronting Simpson Place. It is argued that the non-compliance is appropriate as the building line in Simpson Place matches the approved neighbouring Lang's Corner development. The non-compliance is unlikely to result in significant amenity impacts as the leading edge is not readily impacted for solar access and acceptable building separation is maintained to the south.

Response:

The proposed setbacks to Simpson Place are considered satisfactory in the context of the adjacent approved Lang's Corner development and the reduced setbacks are unlikely to present any unacceptable impacts. The variation is supported.

2. Clause 2.4 of Chapter D13 Wollongong City Centre - Building depth and bulk

a) The maximum floorplate sizes and depth of buildings are specified in the following table:

Building use	Maximum floor plate size (gross floor area)	Maximum building depth (excludes balconies)
Non-residential	1,200m ²	
Commercial Core	above 24m height	25m

b) At street frontage height levels, and where development is built from street edge to street edge, articulate buildings using atria, light wells and courtyards to improve internal building amenity and achieve substantial daylighting at every level, and cross ventilation and/or stack effect ventilation.

c) All points on an office floor should be no more than 10m from a source of daylight (e.g. window, lightwell or skylight) in buildings less than 24m in height, and no more than 12.5m from a window in buildings over 24m in height.

Applicant's justification for variation:

The applicant has stated that the majority of each floor complies with the distance to window requirements in the DCP, however a small portion in the middle of each floor exceeds the control. This section occurs near the access block and facilities and is unlikely to have any impact on the amenity of the floor space. Each level will be appropriately lit and be suitable for commercial use. The proposed floor plate is required to attract Government tenancies.

Response

The floor plates provided are considered acceptable and the variation is supported.

3. Clause 2.5 Side and Rear Building Setbacks and Building Separation

The requirements in this clause reflect the separation distances outlined in Clause 8.6 of Wollongong LEP 2009.

Zone	Building condition	Minimum	Minimum
		side setback	rear setback
Commercial Core	Up to street frontage heights	0m	0m
	Residential uses (habitable rooms) between street frontage height and 45m	12m	12m
	All uses (including non-habitable residential) between street frontage height and 45m	6m	6m
	All uses above 45m	14m	14m

Applicant's justification for variation:

The building fails to comply with upper level side setbacks. The side boundary setbacks proposed will not result in unreasonable amenity impacts and will contribute to a high-quality development that is consistent with Council's Strategic vision for the area. In response to Council's feedback (Design Review Panel), the minimum eastern side setback has been increased from 0m to 4.5m and the access core now matches the rest of the building line.

Response:

The proposed side setback controls of the DCP essentially coincide with the building separation standards contained in WLEP 2009. As outlined at the discussion under clause 8.6 above, the setback variation is supported, and it is considered that the development provides an acceptable outcome in this setting to a building that strictly complies with the prescribed separation distances.

WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2018

The estimated cost of works is \$42,659,000.00 and a levy of 2% is applicable under this plan as the threshold value is \$250,000 and the site is located within the city centre.

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.

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

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

Conditions of consent are recommended regarding demolition.

93 Fire safety and other considerations

Not applicable.

94 Consent authority may require buildings to be upgraded

Not applicable.

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

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

- The proposal is satisfactory regarding the applicable planning controls as detailed in the body of this report.

- Submissions raised following notification would not preclude the development.
- Internal and external referrals are satisfactory subject to appropriate conditions of consent

Context and Setting:

The physical impacts of the proposal (i.e. overshadowing, privacy, setbacks, bulk and scale) on surrounding development are considered acceptable. The proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible height and FSR for the land, and existing and future character of the area, and is considered to be compatible with the locality.

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

Does the proposal fit in the locality?

The proposal is considered appropriate regarding the zoning of the site and 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.

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

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

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.

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 exceeds the FSR 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, depth and bulk, side and rear setbacks and building separation 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, and submissions have been considered in the assessment.

It is considered that the proposed development has otherwise 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.

RECOMMENDATION

It is recommended that the development application be approved subject to the conditions of consent forming **Attachment 9**.

ATTACHMENTS

- Attachment 1. Plans - Architectural, Landscape
- Attachment 2. Aerial photograph, WLEP 2009 zoning map
- Attachment 3. Clause 4.6 Exception Request – FSR
- Attachment 4. Clause 4.6 Exception Request – Building Separation
- Attachment 5. Design Review Panel Comments of 10 December 2019
- Attachment 6. Response to Design Review Panel Comments of 10 December 2019
- Attachment 7. Wollongong Development Control Plan 2009 Assessment
- Attachment 8. Shadow Diagrams
- Attachment 9. Draft Conditions of Consent