

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-181
DA Number	DA-2022/960
LGA	Wollongong City Council
Proposed Development	Demolition of existing structures and construction mixed use 11 storey building, 10 residential levels containing 81 units, communal spaces, ground floor commercial, two level basement parking and rear commercial parking
Street Address	116-122 Corrimal Street and 1 Moore Lane Wollongong
Applicant/Owner	ADM Architects
Date of DA lodgement	12 September 2022
Total number of Submissions	29
Number of Unique Objections	28
Recommendation	Approval
Regional Development Criteria (State Environmental Planning Policy (Planning Systems) 2021 – Schedule 6 Regionally significant development)	<p>Clause 2 General development over \$30 million</p> <p>Under Schedule 6, general development over with a capital investment value (CIV) of more than \$30 million is identified as regionally significant development. The CIV values the proposed development at \$30,617,000 (excluding GST)</p>
List of all relevant s4.15(1)(a) matters	<p>s4.15 (1)(a)(i) Any environmental planning instruments:</p> <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Koala Habitat Protection) 2021 State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 <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 (2021) <p>s4.15(1)(a)(ii) (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority:</p> <ul style="list-style-type: none"> N/A <p>s4.15 (1)(a)(iii) Any development control plan:</p> <ul style="list-style-type: none"> Wollongong Development Control Plan (WDCP) 2009 <p>s4.15 (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</p>

	<ul style="list-style-type: none"> N/A <p>s4.15 (1)(a)(iv) the regulations</p> <ul style="list-style-type: none"> Clause 50 Clause 92(b) Demolition <p>s4.15(1)(a)(v) Any coastal zone management plan</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> <ul style="list-style-type: none"> 1 Aerial photograph 2 WLEP zoning map 3 Plans 4 Design Review Panel Notes dated 19 October 2022 5 Applicant's response to Design Review Panel 6 Clause 4.6 Variation Request – Building Height 7 Clause 4.6 Variation Request – Building Separation 8 Shadow Diagrams 9 ADG Compliance Table 10 WDCP 2009 Compliance table 11 Draft Conditions
Clause 4.6 requests	<ul style="list-style-type: none"> Clause 4.3 Height Clause 8.6 Building Separation
Summary of key submissions	<ul style="list-style-type: none"> Height Building Separation View Loss Overshadowing Parking
Report prepared by	Brad Harris – Development Project Officer
Report date	15 November 2023

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?

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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?

Special Infrastructure Contributions

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

Not
applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

Demolition of existing structures and construction mixed use 12 storey building, 10 residential levels containing 81 units, communal spaces, ground floor commercial, two (2) level basement parking and rear commercial parking.

Permissibility

The site is E2 Commercial Core (formally B3 Commercial Core) pursuant to Wollongong Local Environmental Plan 2009. The proposal is a mixed-use development categorised as shop top housing which is permissible in the zone with development consent.

Consultation

The proposal notified in accordance with Council's Notification Policy received 29 submissions which are discussed at section 0 of the assessment report.

Key assessment issues

- Clause 4.6 LEP development departure to building height and building separation.
- Public submissions.
- Relationship to and impacts on adjoining properties.
- Contamination.
- Flooding constraints.

RECOMMENDATION

It is recommended that the application be conditionally approved

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

State Environmental Planning Policies:

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Koala Habitat Protection) 2021
- State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other Policies:

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

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposed development of 116 – 122 Corrimal Street, Wollongong consists of the demolition of the existing structures and the construction of an eleven (11) storey mixed-use building, with three (3) levels of basement parking. The building will contain two commercial (retail) premises and parking at the ground floor level, with Levels 1-10 containing residential apartments.

A total of 81 residential units are proposed, comprising 9 x one-bedroom apartments, 34 x two-bedroom apartments and 38 x three-bedroom apartments, with a total of 16 adaptable units.

Communal open space will be located at the Ground Level and will comprise outdoor paved and lawn/landscaped areas, a pool and an indoor communal room. Communal space is also to be located at Level 10 and will comprise an indoor communal room, grassed outdoor lounge area, outdoor kitchen/dining area with pergola and a pool with decked surround.

The development will contain a total of 134 carparking spaces, comprising 21 commercial spaces (at Basement 1 Level), 17 visitor spaces (at Basement 1 Level) and 96 residential spaces (at Basement Levels 1, 2 and 3). Vehicular access to the development will be provided from a two way section of Moore Lane at the rear of the site, leading to a secure entry which provides access to the parking at Ground Level and via a ramp leading to the basement levels.

The development will also incorporate a one-way exit laneway/shared zone onto Corrimal Street to be dedicated to Council, which will be available for use by the general public/surrounding developments. This public laneway will be located adjacent to the southern boundary of the site and will link with Moore Lane, allowing for one way movement from Crown Street through to Corrimal Street. Footpath paving and street tree planting is also proposed.

A detailed description of the components of the proposed development is provided below:

Basement Levels 2 and 3 (each):

- Parking for 43 resident vehicles, including 7 accessible spaces and 18 x single/double garages;
- Storage lockers for the residential apartments.
- *Basement Level 1*
- Parking for 10 resident vehicles (including 2 accessible spaces and 4 x single/double garages) and 17 residential visitor vehicles;
- 21 commercial car spaces;
- Residential bicycle storage locker (for 28 bicycles);
- Bicycle storage spaces for 11 residential visitors and 6 commercial spaces;
- Storage lockers for the residential apartments.

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Ground Level:

- 1137m² of commercial space comprising 2 x tenancies (of 480m² and 657m²) with frontage to Corrimal
- Street, Moore Lane and the proposed southern laneway;
- Residential foyer and lift lobby, with letterboxes;
- Waste storage areas for commercial and residential waste;
- Medium rigid vehicle (MRV) loading area accessed off Moore Lane to the west;
- Plant room and pad mount substation

Level 1

- Nine (9) units including 2 x one-bedroom units (two of which are 2 story units, with the bedroom at Level 2), 3 x two-bedroom units and 4 x three-bedroom units;
- Communal open space of 750m² located adjacent to the western and north-western boundaries, comprising a pool, paved/landscaped areas and an indoor communal room.

Level 2

- contains 3 x two-bedroom units and 4 x three-bedroom units;

Levels 3-9

- Each floor contains 1 x one-bedroom unit, 4 x two-bedroom units and 4 x three-bedroom units;

Level 10

- Two (3) x three-bedroom units.

Roof Level

- Communal room, outdoor communal lounge area and pool, with a total area of 300m².



Figure 1: Artist's Impression (looking north west along Corrimal Street)

1.3 BACKGROUND

A pre-lodgement meeting was held for the proposal on 7 September 2021 (DE-2021/117) and a further review of the proposal by the DRP on 19 October 2022 after lodgement of the DA.

Of significance to the current proposal is a previous development consent (DA-2004/564) issued on 1 October 2004. This approval was for construction of a mixed-use building comprising 63 residential apartments with four levels of basement parking. The consent was modified on 2 May 2005 (DA-2004/564/A).

Correspondence from Council dated 27 September 2007 provided advice that works undertaken to date had the effect of constituting physical commencement. Council concurred with the legal opinion that the consent has been enacted and remains valid. The applicant for the current application has argued that the previous approval provides adequate justification for a breach of current height controls based on the fact that the previously approved building was higher and remains a valid consent. The previous approval was issued prior to the current height limits under WLEP 2009.

The applicant has provided a Clause 4.6 Variation in relation to height exceedance which is addressed in this report. The fact that a valid consent for a building which also breaches current height controls has no bearing on the current proposal which has been assessed on its merits in relation to current controls and amenity impacts on the existing surroundings.

Customer service actions

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

1.4 SITE DESCRIPTION

The site is located at 16-122 Corrimal Street & 1 Moore Lane, Wollongong and comprises 6 lots which are as follows:

- Lot 1 DP 152199
- Lot 1 DP 552579
- Lot 2 DP 150697
- Lot 3 DP 150697
- Lot 1 DP 58423
- Lot 1 DP 799074

The site is situated on the western side of Corrimal Street, between Market and Crown Streets, and is bordered by Moore Lane which adjoins the site at the rear (western) boundary and the southern side boundary at the rear. The land is relatively level and has a total site area of 2,884m². The site has a 53.94m frontage to Corrimal Street and a 44.235m frontage to Moore Lane.

Adjoining development is as follows:

- North: Adina Apartments
- East: Corrimal Street
- South: Moore Lane/Harp Hotel
- West: Moore Lane

The subject site is located within the commercial core of Wollongong City Centre. Development to the immediate south and opposite the site comprises a range of older style two and three storey buildings including the Harp Hotel located immediately to the south which is a two storey late night licenced premises with rear carpark to Moore Lane. Development further north and south of the subject site is characterised by more recently constructed multi storey shop top housing and residential flat buildings.

Property constraints

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

- Acid sulphate soils
- Road widening
- Flooding

There are no restrictions on the title.



Figure 2: Subject site looking north showing residential apartments (Adina) located in Market Street.



Figure 3: Part of the subject site as viewed from Corrimal Street



Figure 4: Subject site looking south from Adina Apartments on corner of Corrimal and Market Streets (Photo supplied by resident of Adina Apartments)

1.5 SUBMISSIONS

The application was notified three times in accordance with Council's Community Participation Plan 2019. The second notification was to correct an administrative error which resulted in some adjoining property owners not being included in the notification. The Third Notification was in relation to amended plans. In respect of the notification process the submissions received were as follows:

1st Notification (21/9/22 – 5/10/22) 13 submissions

2nd Notification (11/10/22 – 26/10/22) 11 submissions

3rd Notification (4/4/23 – 18/4/23) 5 submissions

A summary of the issues identified in the submissions are discussed below.

Table 1: Submissions

Concern	Comment
1. Error in description of adjoining development	<p>The application refers to the property to north (Adina Apartments 19A Market Street) as an Apartment Hotel containing "short term residential accommodation rather than permanent residential accommodation for which a higher amenity would be accommodated". This is incorrect. Hotel rooms on Levels 2, 3, 4 and 5 are privately owned and currently leased.</p> <p><u>Comment:</u></p> <p>The error is noted. The applicant has subsequently amended the SEE to correct the error. The assessment is not affected as no concessions have been made in relation to privacy impacts based on the type of residential accommodation in the adjoining building.</p>
2. Parking/Traffic	<p>It is stated that insufficient Parking is proposed for the development and additional traffic will cause problems.</p>

Concern	Comment
	<p>Concern that the proposal would introduce a significant increase in daily vehicle movements onto Moore Lane.</p> <p>There is also concern regarding unauthorised parking within Moore Lane, which could impact on 84 Crown Street which enjoys frontage to Moore Lane.</p> <p><u>Comment:</u></p> <p>Parking complies with Council requirements. In addition, the application has been assessed by Council's traffic engineer and is found to comply with relevant standards in respect of parking provision, traffic impacts and garbage collection arrangements. The connection from Crown Street to Corrimal Street via Moore Lane is seen as integral to the functioning of the proposal.</p>
3. LEP Non – compliances	<p>The proposed development should fully comply with LEP in relation to building height, building separation and street frontage height.</p> <p><u>Comment:</u></p> <p>This is discussed elsewhere in this report in relation to LEP non-compliances (building separation, building height).</p>
4. View Loss	<p>Residents of the Eclipse Apartments to the north of the subject site have raised concerns regarding loss of existing views</p> <p><u>Comment:</u></p> <p>View loss is considered an expected outcome given the height controls and the city centre contest. A fully compliant building height would also result in loss of views for residents of the apartments to the north.</p>
5. Overshadowing	<p>Overshadowing diagrams are considered misleading.</p> <p><u>Comment:</u></p> <p>The proposed shadow diagrams are considered to accurately demonstrate the overshadowing impacts which are not considered to be significant. (refer to Attachment 8 for shadow diagrams, sun eye diagrams). Councils Design Expert has reviewed the shadow diagrams as well as sun eye diagrams and confirmed they are fit for purpose.</p>
6. Wind impacts	<p>There is concern that the proposal will result in a wind tunnel effect.</p> <p><u>Comment:</u></p> <p>A Qualitative Wind Study has been submitted which was reviewed by Councils Environment Officer. The study concentrates mainly on providing comments on wind impacts on the proposed building with some recommendations provided. The proposal is not anticipated to have any significant impacts on adjacent buildings or the adjacent public areas at ground level. The recommendations of the report have been included in proposed conditions.</p>
7. Property values	<p>Property values will decrease substantially and significantly due to the reductions in amenity due to reductions in views, light, privacy and overlooking.</p> <p><u>Comment:</u></p> <p>There is no evidence that the proposed development will significantly impact property values and notwithstanding this is not a head of consideration under the EP& A Act.</p>
8. Communal open space	<p>The location of communal open space areas to the northern and western side of the building at Level 1 could impact the</p>

Concern	Comment
	<p>future redevelopment of 84 Crown Street to the west. The location of these amenities may potentially experience overshadowing in the afternoon on the winter solstice. This may curtail the development potential of the eastern portion of the objector's site.</p> <p><u>Comment:</u></p> <p>Level 1 communal open space has been amended in response to initial assessment by Council's Design Expert. The relocation of the pool and deck to the southwest corner of the podium increases solar access. The location of the communal open space is not anticipated to impact on future development of adjacent sites.</p>
9. Noise impacts	<p>The development presents risks for the adjacent hotel development to the south (Harp Hotel) as it will likely cause the Hotel business to significantly curtail its operations if not have to close down all together - at a significant loss/cost to the owners.</p> <p>There is the potential impact of siting a large residential building within close proximity of an adjoining late night trading licensed premise and in particular, as the proposal doesn't comply with the required building setbacks articulated in both the WLEP and WDCP</p> <p><u>Comment:</u></p> <p>An acoustic report has been provided by the applicant and the measures to ameliorate potential noise impacts on residents of the subject building through appropriate glazing are considered satisfactory to Council's environment officer.</p> <p>Any future redevelopment and ongoing of operation of the adjacent hotel would be required to comply with relevant noise standards.</p> <p>The proposed development is not considered to have any unreasonable impacts on the future redevelopment potential of the adjacent hotel development.</p>

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Council's Property Officer, Geotechnical Engineer, Stormwater Engineer, Traffic Engineer, Landscape Architect, Environment Officer, and Design Expert have reviewed the application providing generally satisfactory referrals. In some instances, additional information was requested and subsequently provided by the applicant. Conditions of consent which have been recommended by Council's specialist officers have been included in the draft set of conditions which forms **Attachment 11**.

Some concerns have been raised by Council's Heritage Officer. These are addressed below under the section of the report addressing WLEP 2009 compliance – Clause 5.10 Heritage conservation.

1.6.2 EXTERNAL CONSULTATION

Design Review Panel

The proposal was informally discussed with Council staff then subject to a pre-lodgement consideration by the Design Review Panel (DRP) on 7 September 2021. Changes were incorporated in the design to address these matters as part of the submitted development application.

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A further post-lodgement DRP meeting was held on 19 October 2022. A summary of the key changes which have been incorporated in the revised submitted plans to address the DRP comments is provided below:

- The number of apartments reduced from 83 to 81. An additional basement parking level added and the commercial floor area increased by 349.1m².
- The overall height of the building reduced by one storey and parts of the upper floor plan have been reduced. The building has been reduced by 2400mm on the south side and 1650mm on the northern side.
- Three dimensional streetscape view analyses provided to demonstrate that the parts of the building which remain in exceedance of the height plane are not in view from pedestrian sight view angles.
- A planning and built form study for the Harp hotel site developed to test against the possible impacts of the revised proposal and to demonstrate that the proposed building contributes to a positive pattern of development for the city block.
- Changes to the building base and Corrimal Street entry have resulted in reduced front setbacks to Levels 1 and 2 (principally balcony edges) which provide a stronger base of the building. This results in a continuous two storey street wall to Corrimal street that better relates to the neighbouring building.
- Additional interface sections between the proposal and Adina building are provided to provide a more detailed contextual analysis.
- The northern wall of the proposed building is now setback 6m from the boundary as required by Apartment design Guide (ADG).
- Further screen and balcony edge details are provided for balconies adjacent to the northern boundary to demonstrate that visual privacy is maintained, while providing solar access.
- A proposed stratum plan has since been prepared for the southern laneway to allow for dedication of the laneway.
- The colonnade has been extended around the lane to provide continuous pedestrian cover.
- The residential entry foyer has been relocated further south to align it with the split in the street wall façade. Other ground floor amendments include the relocation of the fire exits and booster cupboard as well as an increase in commercial floor area.
- The number of cross ventilating units has been increased so that 60% is achieved across the first 9 storeys.
- Sun's eye view solar diagrams have been prepared which confirm compliance with solar access to 70% of apartments. The analysis has also assisted in the relocation of the pool and deck to the southwest corner of the podium where increased solar access is possible.
- Communal open space has been relocated away from the plant room and down one storey to the same level as the penthouse apartments.
- Design amended to allow for a temporary waste bin collection area on site, accessed from Moore Lane.

These issues were addressed by the applicant and amended plans were subsequently submitted on 24 August 2023. On review by Council's assessment officer and in-house design expert, it was considered that the amended plans satisfactorily addressed the matters raised by the Panel and that a further consideration by the Panel was not required. The DRP notes are included as **Attachment 4** with the applicant's responses are provided as **Attachment 5**.

The development as amended is considered to exhibit design excellence as required by Clause 7.18 of Wollongong Local Environmental Plan (LEP) 2009 and responds appropriately to the design quality principles of SEPP 65.

Endeavour Energy

Endeavour Energy has provided comments on the proposal and raised no concerns subject to conditions.

Transport for NSW

Initially concerns were raised in respect to waste collection, use of Moore Lane to access Corrimal Street and the extent of excavation adjacent to Corrimal Street. After provision of additional information and amended plans Transport for NSW advised on 13 April 2023 that they had no concerns with the proposal. Conditions of consent were provided, and these are appended to the Draft Conditions of Consent which form **Attachment 11**.

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.

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 native 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 minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size).

No vegetation is proposed to be cleared for the development and the development would therefore not be 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

Coastal Management Chapter 2

Clause 2.8 - Development on land in proximity to coastal wetlands or littoral rainforest

The site is not located in close proximity to coastal wetlands or littoral rainforest. No impacts are anticipated.

Clause 2.9 Development on land within the coastal vulnerability area

The site is not located on land within the coastal vulnerability area.

Clause 2.10 Development on land within the Coastal Environment Area

The site is identified as being located within the coastal environment area. The proposal has been assessed against the requirements of this Clause, and the proposal is not considered likely to have an adverse impact on the biophysical, hydrological or ecological environments, natural coastal processes, water quality, public open space, Aboriginal cultural heritage, or the use of the surf zone.

Clause 2.11 Development on land within the Coastal Use Area

The site is identified as being located within the coastal use area.

Clause 2.12 Development in coastal zone generally – development not to increase risk of coastal hazards

The proposed development is appropriate for the site, and unlikely to increase the risk of coastal hazards on the site or surrounding area.

Clause 2.13 Development in coastal zone generally – coastal management programs to be considered Wollongong Coastal Zone Management Plan

A review of Council's associated CZMP mapping identifies that the site is not impacted by coastal geotechnical risk, ocean inundation or reduced foundation capacity. Minimal adverse impact on the coastal environment is anticipated because of the proposed development. Minimal impacts on the development are expected because of coastal processes.

The proposal is therefore considered satisfactory regarding the aims, objectives and matters outlined for consideration in the SEPP, including the Wollongong CZMP

Chapter 4 Remediation of Land

A PSI (JK Environments, 19 July 2022) has been submitted along with an Interim Audit Advice letter (Louise Walkden, EPA Accredited Site Auditor 1903, 4 August 2022).

The PSI identified the potential for contamination to be present associated with potential former site use as a mechanics/engineering workshop and hazardous building materials, as well as off-site sources of contamination from neighbouring dry cleaners and service station use. The PSI recommended a DSI be completed to assess soil, groundwater and soil vapour conditions to determine if remediation of the site was required. Specifically, the PSI identified the following potential contamination sources/AEC:

- Fill material across the site;
- Mechanics/engineering workshop, most likely in the west section of the site;
- Use of pesticides beneath the buildings and/or around the site;
- Hazardous building materials may be present in fill and in the existing buildings/structures on site;
- Off-site service stations and dry cleaners that have been historically located up and cross gradient of the site; and
- A firefighting equipment manufacturer was located south of the site and, although down gradient and a low risk to the site, should be considered.

The Interim Advice confirms that additional investigation in the form of a DSI will be required once the hardstand is removed and that a RAP may be required.

Conditions have been recommended by Council's Environmental Officer based on the above, including requiring a DSI to be submitted to Council as recommended by Accredited Site Auditor.

Additionally, and a Site Validation Report will be required to be submitted to Council prior to issue of the Occupation Certificate. An unexpected finds protocol (UFP) to be implemented. Subject to the recommended conditions, no concerns are raised in regard to contamination as it relates to the intended use of the land and the requirements and the provisions of clause 4.6 are satisfied.

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 NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

The development meets the definition of a 'RFB' as it is more than 3 storeys and comprises more than 4 dwellings and accordingly the provisions of SEPP 65 apply. The application is accompanied by a statement by a qualified designer in accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000.

The proposal has been considered by Council's Design Review Panel in accordance with Clause 28 and Schedule 1 of the SEPP.

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development. These must be considered in the assessment of the proposal pursuant to clause 30(2)(a) of the Policy and are discussed below.

Principle 1: Context and neighbourhood character

The proposal is considered to be consistent with the desired future character of the area as identified through the development standards and controls applicable to the land.

Principle 2: Built form and scale

Whilst the development proposes a height breach this has been demonstrated to have minimal impacts in terms of overshadowing. The site is affected by two separate height limits and the existing non-compliance of the building to the north (corner of Corrimal and Market Streets) makes requiring full compliance with the height controls unreasonable in this instance.

The bulk and scale of the development is consistent with the applicable planning controls for the area. The development is not considered to be out of context with regard to the desired future character of the area and the likely impacts of the development on the locality and adjoining development.

The design of the development is considered to positively contribute to the public domain and provide high level of amenity for the occupants by way of landscaped areas, private open space and the like.

Principle 3: Density

The density of the development complies with the maximum FSR permitted for the land. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. Contributions applicable to the development will go towards local infrastructure and facilities. The site is well situated with regard to existing public open space and services.

Principle 4: Sustainability

The proposal is considered acceptable with regard to sustainable design as follows:

BASIX Certificates provided indicating minimum requirements are met.

A Site Waste Management and Minimisation Plan has been provided indicating recycling of materials from the demolished dwellings.

The proposal does not adversely impact on any heritage items or environmentally sensitive areas.

The proposal is an efficient use of land in a location that is close to services and public open space.

Principle 5: Landscape

The proposal provides suitable landscaped areas and communal open space that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain.

Principle 6: Amenity

The proposal meets the minimum requirements for solar access, private and communal open space, storage, visual and acoustic privacy, access and the like.

Principle 7: Safety

The proposal is satisfactory with regard to safety and security.

Principle 8: Housing diversity and social interaction

The proposal provides a mix of unit sizes and layouts appropriate to the locality.

Principle 9: Aesthetics

The proposal is considered to be of a high quality with regard to its appearance. A mixture of materials and finishes is provided and the bulk of the development is suitably articulated.

Councils assessment officer and in-house Design Expert, consider that the amended plans satisfactorily addressed the matters raised by the DRP.

Apartment Design Guide

An assessment of the application against the Apartment Design Guide (ADG) is provided at **Attachment 9**. The proposal is generally supported and where necessary conditions of consent have been proposed.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged.

2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

Chapter 2 State and regional development

Schedule 6 of the SEPP specifies what types of development are classified as regionally significant development. The application is accompanied by a DA Cost Report which clarifies that the total development cost is \$35,695,000 (inc GST). The proposed development therefore requires determination by the Southern Regional Planning Panel pursuant to Item 2 of Schedule 6, as the overall cost of the total development exceeds the \$30m threshold for 'general development'.

2.1.7 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Subdivision 2 Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications—other development

Endeavour Energy has provided comments on the proposal and raised no concerns subject to conditions.

Division 17 Roads and Traffic

Clause 2.122 Traffic-generating development

The proposal was referred to TfNSW under the traffic generating development provisions under Schedule 3 of the SEPP. Initially TfNSW raised issues including support for excavation adjacent to Corrimal Street, vehicular access to Corrimal Street, servicing arrangements, construction access, and road widening. Additional information and amended plans were provided and the application was re-referred to the TfNSW who raised no objections subject to conditions.

2.1.8 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

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 E2 Commercial Core (formally B3 Commercial Core)

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To encourage development that is consistent with the centre's position in the centres hierarchy.*
- *To strengthen the role of the Wollongong city centre as the business, retail and cultural centre of the Illawarra region.*

The proposal is satisfactory with regard to the above objectives.

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

Advertising structures; Amusement centres; Artisan food and drink industries; Backpackers' accommodation; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Exhibition homes; Function centres; Helipads; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; 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; Service stations; Sex services premises; **Shop top housing**; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Wholesale supplies

The proposal is categorised as **Shop top housing** as defined above and is permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

Not applicable

Clause 4.3 Height of buildings

The subject site is affected by a 24m building height limit to the northern extent (No. 116 Corrimal Street) with the majority of the site (No. 114-128 Corrimal Street and Moore Lane) being subject to a 32m height

limit (see map extract below).

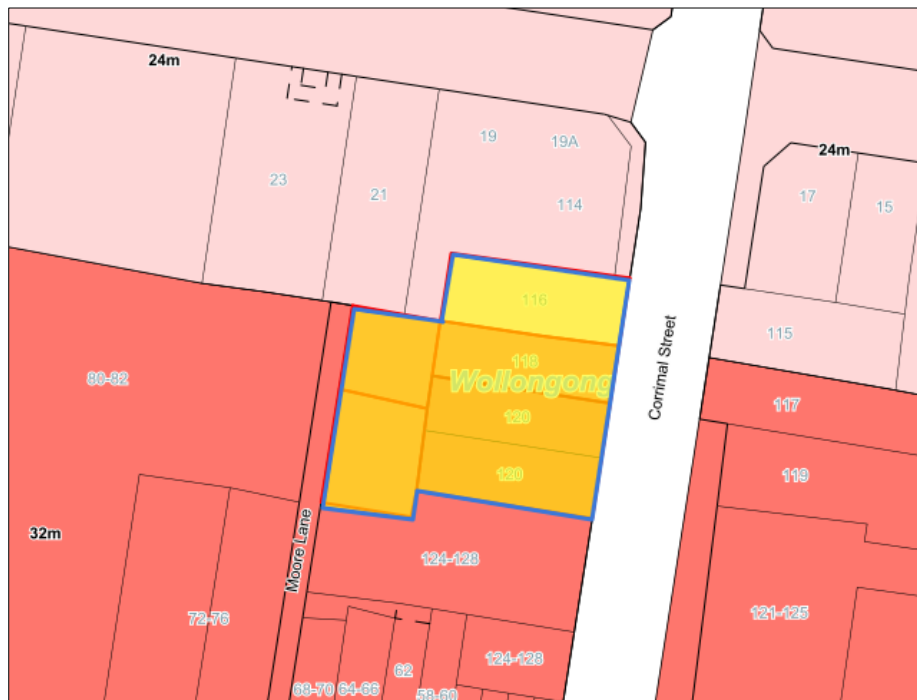


Figure 5: Height Map extract showing split height limit applying to the site

The proposed building height is 37.35m at the southern portion of the site where the maximum permitted height is 32m. The maximum height is exceeded by 5.35m at this part of the site.

The proposed building height is 35.4m at the northern portion of the site where the maximum permitted height is 24m. The maximum height is exceeded by a variable amount (up to 11.4m) at this part of the site.

A Clause 4.6 variation has been submitted (see **Attachment 6**) and is addressed below.

Clause 4.4 and Clause 4.4A Floor Space Ratio in City Centre

Floor space ratio (FSR) is defined as the ratio of the gross floor area of all buildings within the site to the site area. The maximum permissible FSR is for this site according to the WLEP 2009 Floor Space Ratio map is 1.5:1, as referenced in clause 4.4 of WLEP 2009. However, clause 4.4A, which applies to the Wollongong City Centre, allows floor space ratios of between 3.5:1 and 6:1 on a site of any size with the street frontage of greater than 20m. In this regard, clause 4.4A (4) specifies the following:

(4) The maximum floor space ratio for a building on land within a business zone under this Plan, that is to be used for a mixture of residential purposes and other purposes, is—

(NRFSR x NR/100) + (RFSR x R/100):1

where—

NR is the percentage of the floor space of the building used for purposes other than residential purposes.

NRFSR is the maximum floor space ratio determined in accordance with this clause if the building was to be used only for purposes other than residential purposes.

R is the percentage of the floor space of the building used for residential purposes.

RFSR is the maximum floor space ratio determined in accordance with this clause if the building was to be used only for residential purposes.

The subject site has a total site area of 2,884m² and the total proposed gross floor area is 10,798.3m².

The commercial component comprises 1249.3 m² which equates to 11.56% of the GFA.

The residential component comprises 9549m² which equates to 88.4% of the GFA.

Therefore, the permitted FSR is:

$$(6 \times 11.56/100) + (3.5 \times 88.4/100):1$$

$$(0.6936) + (3.094):1$$

$$\text{Maximum permitted FSR} = 3.78:1$$

The proposed floor space ratio of 3.78:1, which is compliant.

Clause 4.6 Exceptions to development standards

Building Height

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 Building Height
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	A satisfactory clause 4.6 variation has been submitted
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes The applicant's Clause 4.6 Statement identifies the environmental planning grounds that are considered sufficient to support the development departure regarding the specifics of the proposed development and unique site circumstances
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	The applicant's Clause 4.6 Statement forms Attachment 6 The applicant's request is based on the rationale that the site is affected by two different height standards and it is impractical to design the building to comply with both standards. Further it is argued that the proposed building height is consistent with the height of the building to the north which was constructed prior to the current standards coming into effect under WLEP 2009 and which exceeds those standards. The applicant argues that the building height proposed is appropriate to the site and does not adversely affect the streetscape or adjacent properties in terms of overshadowing or view loss (which would be equally impacted by a compliant building height). The written request has adequately addressed the matters required to be addressed under subclause (3).
(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	The proposed development will be in the public interest because it is consistent with the objectives of the building height standard and the objectives for development within the zone will be achieved. It is considered that strict compliance with the height standard in the context of the proposal and the subject site would not result in any significant public benefit in this specific instance. The objective of clause 4.3 are: <i>(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i>

	<p><i>(b) to permit building heights that encourage high quality urban form,</i></p> <p><i>(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></p> <p>With regard to objective 'a', the site has been designed in accordance with the prescribed floor space restrictions and complies with the permitted FSR. The site is affected by two separate height limits, No.114-128 Corrimal Street and Moore Lane being subject to a 32m height limit and No.116 Corrimal Street being subject to a 24m height limit. The existing building to the north (corner of Corrimal and Market Streets) is approximately 30m in height with an addition roof structure containing services approximately 6m above this for a total of 36m where the height limit is 24m being a departure of 33%. This building is also much closer to the southern boundary than the ADG would currently permit being approximately 3.6m at its closest with habitable rooms. The building separation is approximately 8.66m to 10.77m at Levels 1-9, with no interface at level 10. The ADG setback up to 12m (4 storeys) is 6m (Defensive facade provided) and complies. The ADG setback up to 25m (5-8 storeys) is 6m (Defensive facade provided) and does not comply.</p> <p>Requiring full compliance with the height controls in this scenario is unreasonable and, in this instance provides a better relationship between the buildings.</p> <p>The departure at 116 represents an increase of 5.35m or 14% and the departure at 114-128 represents an increase of 11.4m or 32%.</p> <p>With regard to objective 'b', the proposed departure from the height control will not substantially impact on the ability for the development to achieve a high-quality urban form.</p> <p>With regard to objective 'c', the additional height will not detract from views of the sky or exposure to sunlight. There continues to be a high degree of amenity and quality of urban form without significantly reducing the solar access of adjoining and adjacent development or public spaces. Three-dimensional streetscape view analyses demonstrate that the parts of the building which remain in exceedance of the height plane are not in view from pedestrian sight view angles.</p> <p>The proposed development will be in the public interest because it is consistent with the objectives of the building height standard and the objectives for development within the R1 zone. The applicant has provided contextual built form envelopes demonstrating the potential redevelopment of adjoining sites to the south and west of the site and in this regard the building is not expected to compromise the development potential of neighbouring sites. The visual appearance is consistent with the desired urban form of the surrounding area and the percentage of the overall building form which exceeds the height standard will not be perceptible from the streetscape. The departure will not have any adverse impacts on the amenity of nearby developments or the streetscape or public domain.</p> <p>The objectives for development within the R1 General Residential Zone are:</p>
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	<ul style="list-style-type: none"> • <i>To provide for the housing needs of the community.</i> • <i>To provide for a variety of housing types and densities.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>The proposal is consistent with the above objectives as it provides a residential development in close proximity to public transport and services that is compatible with surrounding development. The proposal has responded to the matters raised by the Design Review Panel.</p> <p>The Clause 4.6 submission has provided reasonable justification that the development achieves the objectives of the standard and the objectives of the zone and has sufficient planning grounds to justify the variation. Requiring compliance with the maximum height limit is not necessary in this instance due to unique site constraints and existing surrounding urban forms.</p> <p>Given that the development is consistent with the objectives of the standard and objectives of the zone, the proposed variation to the building height is considered to be in the public interest</p>
(b) the concurrence of the Secretary has been obtained.	<p>The concurrence of the Secretary can be assumed in accordance with the Department of Planning Circular PS 18–003 ‘Variations to development standards’, dated 21 February 2018.</p> <p>The Secretary can be assumed to have given concurrence if the matter is determined by a Sydney district or regional planning panel in accordance with the Planning Circular.</p>

Building Height Assessment

Figure 5 shows the relationship of the proposal to the maximum building heights for the site in plan view, **Figure 6** shows the actual departure in 3d. The applicant's request to vary the development standard is supported proposed variation under Clause 4.6 of WLEP 2009 (refer **Attachment 6**). As discussed in the table above the applicant has adequately demonstrated that the proposed variation to the maximum building height is not inconsistent with the objectives of the standard. The non-compliance with maximum height has been demonstrated to have minimal impacts on overshadowing (refer **Attachment 8**) and significantly there is no additional shadow impact on outdoor dining spaces on the southern side of Crown Street or heritage buildings beyond the existing overshadowing or the anticipated overshadowing from approved or future development in the immediate vicinity of the site.

The height non-compliance will not contribute to significantly to view loss.

The proposed building height provides for a consistency in built form along this section of Corrimal Street which is established by the building on the corner of Corrimal and Market Street which was constructed prior to the making of WLEP 2009 and which exceeds the existing height controls under the LEP (see **Figure 6**). The photomontages provided by the applicant demonstrate that the area of height exceedance is not readily evident at Pedestrian level from either Corrimal Street or Market Street.

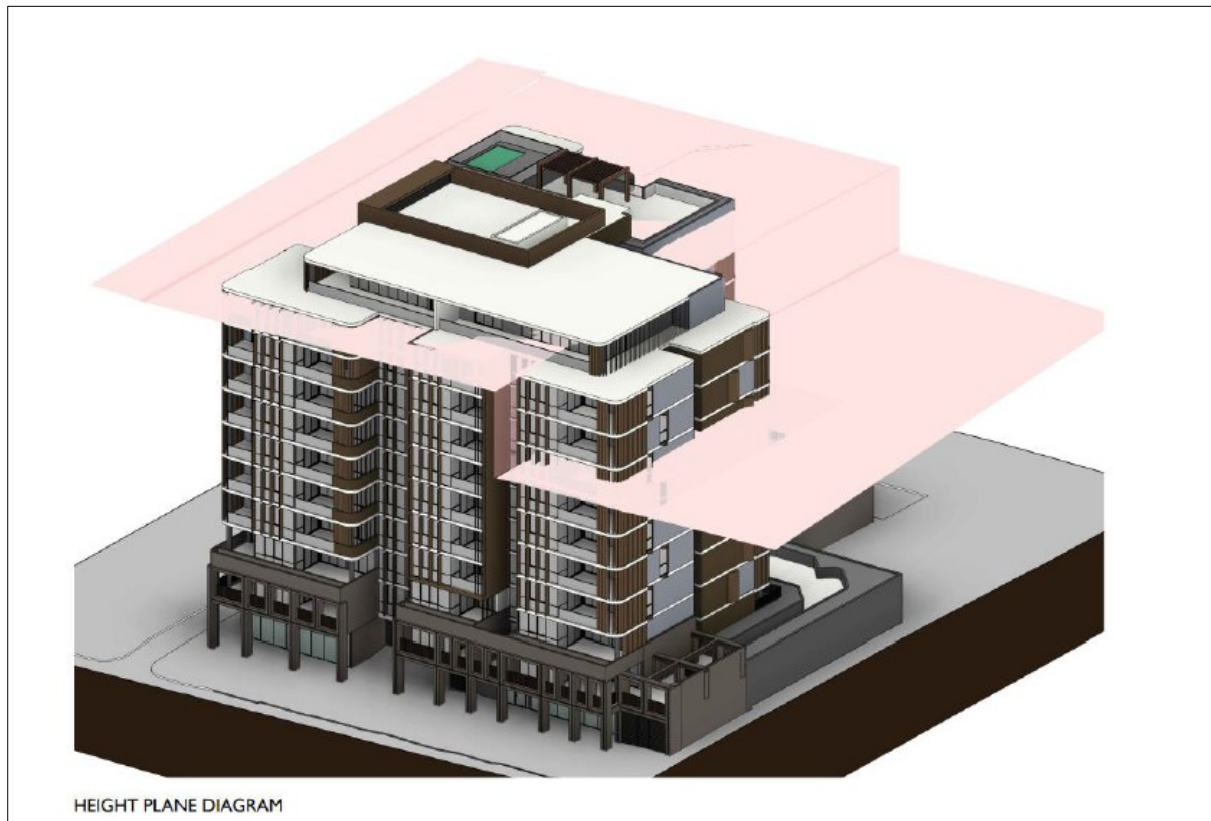


Figure 6: Building Height Plane



Figure 7: Photomontage showing building height relative to Adina Apartments

Building Separation

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	A satisfactory clause 4.6 variation has been submitted
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes The applicant's Clause 4.6 Statement identifies the environmental planning grounds that are considered sufficient to support the development departure to building separation with regard to the specifics of the proposed development and unique site circumstances.
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 Clause 4.6 Variation Statement is provided as Attachment 7.</p> <p>The proposed variation is:</p> <ul style="list-style-type: none"> • Ground Level and Level 1 separation to the west and south which does not provide the required nil separation to the Harp Hotel, Downtown Motel and State Government office building [Clause 8.6 (2)(a)]. • The required 20m separation distance for Levels 2-9 [Clause 8.6 (3)(a)] to the 9-storey building (Adina Apartments) at 19 Market Street to the north. This concerns the interface between the residential units on the northern side of the proposal with the building adjacent. The separation is approximately 8.66m to 10.77m at Levels 1-9, with no interface at level 10. <p>The applicant's request is based on the following rationale:</p> <p><u>South and West (Ground Level and Level 1)</u></p> <p>In accordance with DRP comments, the following elements have been incorporated to improve the built form and scale of the building:</p> <ul style="list-style-type: none"> • An "L" shape tower design (improving use of communal space for residents and reducing potential solar and shadowing impacts) on surrounding buildings. • Development of a new lane to be incorporated into the existing access/egress of the site in conjunction with Moore Lane will improve connectivity between the proposal and the surrounding road/pedestrian network while also reducing volume of traffic to and from Corrimal Street. The construction of this new lane as well as the improvements to the design have necessitated separation along the southern boundary, thereby resulting in the non compliance with the 'nil separation' requirement at Ground Level. • The provision of an 'open air' lane has resulted in non compliance at Level 1, however this 'open air' configuration

	<p>will provide significant traffic, community and urban design benefits.</p> <p><u>North (Levels 1-9)</u></p> <ul style="list-style-type: none"> • The design of apartments along the northern façade incorporates privacy treatment including louvered windows and balcony screens, as per the recommendations of the DRP. These apartments face the east and west respectively and maintain consistency with the ADG. • The design places the building further to the south of the block than the approved development. The revised plans (Issue B) have further increased separation distances along the northern façade. This has allowed for the incorporation of the following improved design outputs: <ul style="list-style-type: none"> – Provision of a new laneway (extension of Moore Lane) along the southern boundary (providing greater access/egress options to the surrounding area rather than one access/egress via Crown Street). – Increased solar access to the surrounding buildings including 19 Market Street along the northern façade. • The Development Application has also incorporated Lot 1 DP 152199 (currently 116 Corrimal Street). The use of this portion of land in the updated design of the building (not used in DA No.2004-564) has allowed for the redesign of the building, incorporating a site which would otherwise become an isolated lot. • The use of Lot 1 DP 152199 as part of this proposal allows for a development that is consistent with the streetscape of the existing and proposed development along the western side of Corrimal Street.
<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>	<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 E2 zone will be achieved. The ADG setback up to 12m (4 storeys) is 6m (Defensive facade provided) and complies. The ADG setback up to 25m (5-8 storeys) is 6m (Defensive facade provided) and does not comply. These matters are discussed below:</p> <p><u>Clause 8.6 Building separation within Zone E2 Commercial Core or Zone MU1 Mixed Use</u></p> <p><i>(1) The objectives of the standard are to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.</i></p> <p>These objectives have been discussed above. The development is considered to respond to the objectives of this clause despite the variations.</p> <p><u>Objectives of E2 Commercial Core Zone</u></p> <p>The objectives for development within the E2 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>

	<ul style="list-style-type: none"> • <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> <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 non-compliance with the building separation standard is not considered to be inconsistent with the objectives of the zone and the development standard. The proposed development achieves FSR controls, and the massing and modulation of the building will not result in unreasonable loss of amenity to adjoining properties. The building is not expected to compromise the development potential of neighbouring sites. The visual appearance is consistent with the desired urban form.</p> <p>The proposal provides a mixture of residential and commercial development in close proximity to public transport and services that is compatible with surrounding development.</p> <p>The Design Review Panel supports the proposed setbacks.</p> <p>There are sufficient environmental planning grounds that are specific to the redevelopment of the site to justify contravening the development standard, namely that the development departures arise from the existing non-compliant setback of the adjoining building to the north and the extension of Moore Lane to the south.</p> <p>There is not considered to be a public benefit served in this instance by insisting on strict compliance with the standard.</p>
(b) the concurrence of the Secretary has been obtained.	<p>The concurrence of the Secretary can be assumed in accordance with the Department of Planning Circular PS 18–003 ‘Variations to development standards’, dated 21 February 2018.</p> <p>The Secretary can be assumed to have given concurrence if the matter is determined by a Sydney district or regional planning panel in accordance with the Planning Circular</p>

Building Separation Assessment

The required separation from adjacent buildings under the provisions of Clause 8.6 of WLEP 2009 is as follows:

- Nil setback at the Ground and Level 1
- 16m separation from the State Office Block/Downtown Motel to the west at Levels 2 to 10
- 16m separation from the Harp Hotel to the south at Levels 2 to 10
- 20m separation from the Adina Apartments (serviced apartments and residences) to the north at Levels 2 to 10

The building separation proposed is as follows:

Below Street Frontage Height

DA-2022/960 / PPSSTH-181 – 116-122 Corrimal Street and 1 Moore Lane
Wollongong

- North: Nil separation to the northern boundary – complies
- South: 6m+ to the adjacent building to the south to provide for the proposed laneway – variation sought

West: Approx. 7.47m to rear (increasing to 18.13m to level 1 units) to allow for extension of the laneway and rear vehicular access – variation sought

Levels 2-9:

Northeast: 8.66m to 10.77m separation at Levels 2-9 to balconies in the adjacent building containing serviced and residential apartments to the north - *Variation Sought.*

Northwest: 6.0m separation from the Level 2-10 apartments to the adjacent building to the north – *Variation Sought*

South: Min 6.0m separation to the adjacent commercial building (Harp Hotel) to the south – *No building interface at this level.*

West: Min 17.0m separation to the adjacent commercial buildings to the west – *Complies*

Level 10:

Northeast: 14.35m separation from the trafficable balcony to the adjacent building containing serviced and residential apartments to the north – *no building interface at this level.*

Northwest: 5.8m separation from communal open space terrace to the adjacent building to the north *no building interface at this level.*

South: 6.0m to 13.26m separation to the adjacent commercial building (Harp Hotel) to the south – *no building interface at this level.*

West: 17m separation to the adjacent commercial buildings to the west – *Complies.*

Comments in relation to proposed building separation.

Northern boundary:

The building immediately north of the site is 19/19A Market Street (Adina Apartments) which includes a mixed use 9 storey building comprising commercial tenancies on the Ground Floor, residential apartments at Levels 5-9 and short term serviced apartment accommodation at other levels. This site shares the boundary with the proposed building for a length of approximately 23m and has an interface up to Level 9 of the proposed building.

Separation between the proposal and this building is typically in the order of 8.66 to 8.8m at Levels 1-4, measured from the outer edge of the balconies in the Adina building. Separation increases at Level 5-9 to typically 9.66m to 10.77m, with no interface at Level 10. These separation distances do not comply with Clause 8.6(3)(a) and require a variation to be sought in accordance with Clause 4.6 of the WLEP.

The applicant has provided justification for the proposed variation which is summarised as follows:

- *The design of apartments along the northern façade incorporates privacy treatment including louvered windows and balcony screens, as per the recommendations of the DRP. These apartments face the east and west respectively and maintain consistency with the ADG.*
- *The design (amended from the current valid consent) places the building further to the south of the block. The revised plans (Issue B) have further increased separation distances along the northern façade. This has allowed for the incorporation of the following improved design outputs:*
 - *Provision of a new laneway (extension of Moore Lane) along the southern boundary (providing greater access/egress options to the surrounding area rather than one access/egress via Crown Street).*
 - *Increased solar access to the surrounding buildings including 19 Market Street along the northern façade.*

- *The Development Application has also incorporated Lot 1 DP 152199 (currently 116 Corrimal Street). The use of this portion of land in the updated design of the building (not used in DA No-2004/564) has allowed for the redesign of the building, incorporating a site which would otherwise become an isolated lot.*
- *The use of Lot 1 DP 152199 as part of this proposal allows for the incorporation of this land parcel into a development that is consistent with the streetscape of the existing and proposed development along the western side of Corrimal Street.*

Whilst the applicant's arguments relating to a comparison to the approved building under DA-2004/564 are not considered relevant as that building is unlikely to be developed in its approved form it is acknowledged that the inclusion of No.116 Corrimal Street is desirable to avoid an isolated site within the streetscape. The non-complying (to current LEP standards) of the Adina Apartments to the north places an unreasonable burden on the applicant to provide greater setbacks on the subject site to achieve the current building separation requirements. Further, it is acknowledged that the applicant is providing a significant public benefit in dedicating part of the site as public laneway to facilitate efficient traffic movements from Crown Street along Moore Lane to enable one way traffic flow to exit to Corrimal Street.

Given the above, and the defensive design of units on the northern elevation to minimise privacy impacts, it is considered that the building separation as proposed on the northern elevation is acceptable.

Western Boundary:

To the west of the subject site is No. 86 Crown Street and No. 12 Moore Lane, which contain a two-storey motel (Downtown Motel) and a three-storey commercial building (NSW Government Services).

Both buildings are separated from the proposal by Moore Lane at the Ground Floor and Level 1 (Street Frontage Height). Due to the presence of the existing laneway between the proposal and buildings to the west, subclause (2)(a), which requires zero separation, is not met in this instance.

Level 2 which has a floor level of 16.750RL, meets the neighbouring building, with the Downtown Motel and NSW Government buildings adjacent at Level 2 floor level. Separation between the proposal and these buildings is 17.00m which is achieved for both buildings and complies with Clause 8.6(3)(b).

Level 3 which has a floor level of 19.850RL, meets the neighbouring building at 86 Crown Street only due to the Downtown Motel being a 2-storey building. Separation between the proposal and this building is approximately 16.84m and complies with Clause 8.6(3)(b).

All levels above Level 3 have no adjacent building interface to the west.

Sothern boundary

To the south of the subject site is No. 124 Corrimal Street, which contain a two-storey hotel (The Harp Hotel). This building will be separated from the proposal by Moore Lane at the Ground Floor and Level 1 (street frontage height). Due to the presence of the existing laneway between the proposal and buildings to the west, subclause (2)(a), which requires zero separation, is not met in this instance.

All levels above Level 1 have no adjacent building interface to the south.

Conclusion:

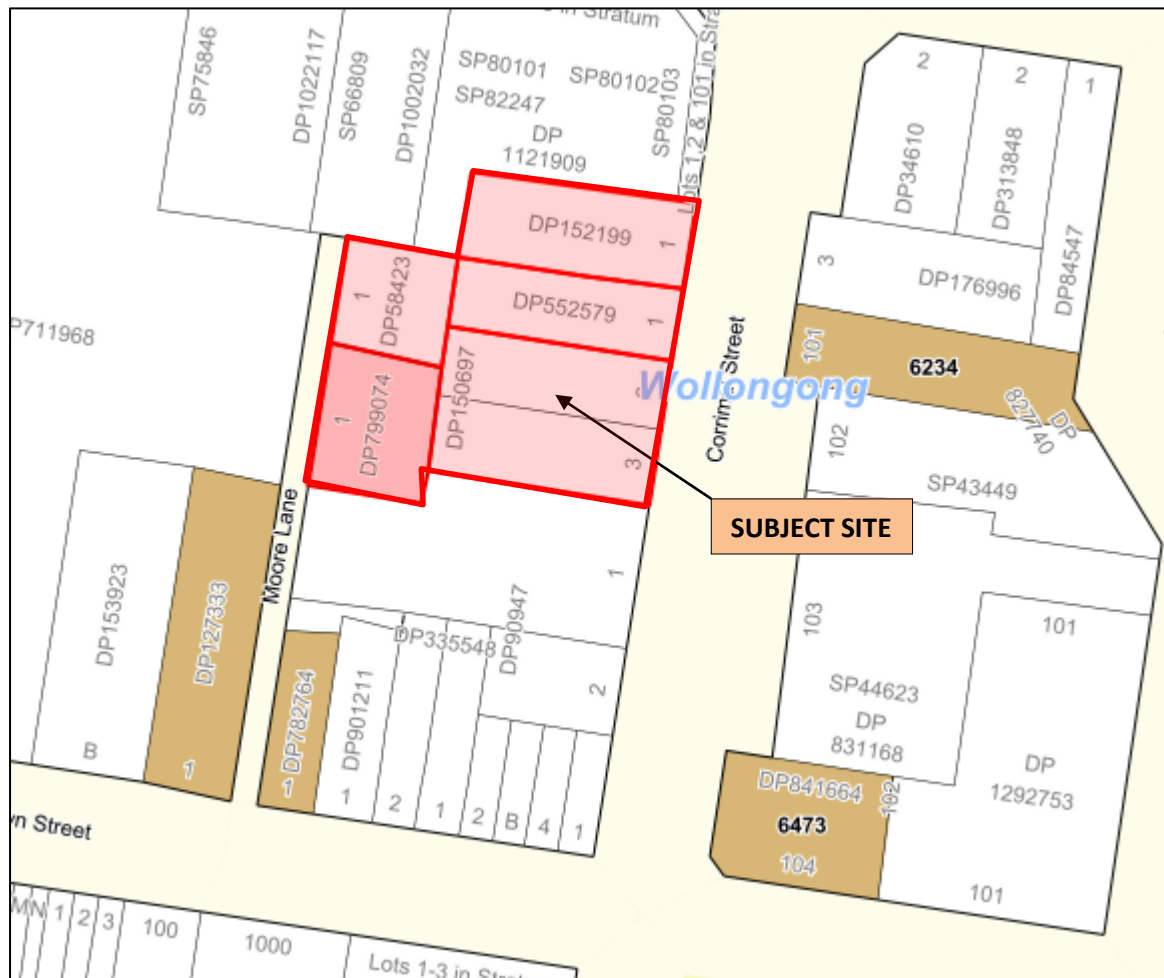
The building separation provided to existing development surrounding the site is considered reasonable and will not result in significant impacts. Whilst Clause 8.6 does not refer to the need to allow for compliant setbacks to future development the applicant has provided modelling of potential future development of adjoining sites.

The proposed variation to the building separation requirements of Clause 8.6 is considered satisfactory in this instance as the applicant has demonstrated that there would be minimal impacts on adjacent properties in terms of visual impact, overshadowing or privacy and the proposal is considered to be adequately designed in relation to its site context.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The subject site is adjacent to a number of heritage listed sites as follows and as shown in **Figure 8**.



Their initial assessment required the design to be amended such that proposed internal finished surface/floor levels to the driveway, plantroom, and other building entrances along the western side of

the development were above existing surface levels in the laneway, with a suitable freeboard above the expected maximum 1 % AEP water levels in the laneway, to prevent potential for ingress of public road water into the development.

Other amendments were required in relation to the catchment plan, stormwater calculations (DRAINS modelling), and on-site stormwater detention (OSD) design.

Amended plans and stormwater information were subsequently provided and it was determined that the floor levels adjoining Corrimal Street did not satisfy the requirements of Chapter E13 of the Wollongong DCP2009 (minimum floor levels for overland flow). Council's adopted Wollongong City Flood Study dated 2019 also indicates overland flooding in Corrimal Street along the frontage of the property. The applicant was advised that in view of this changes to the design would be required to meet the 1 % AEP flood levels and corresponding required Flood Planning Levels (FPL's).

It is Council's policy that, where the specified FPL's cannot be achieved, Council may consider a reduced floor level subject to the following requirements being addressed:

- a. The design must provide an opportunity for improved pedestrian connectivity and improved street activation, as a result of a slightly lower floor level. This must be detailed by the applicant.*
- b. The applicant must demonstrate that strict compliance with the FPL would have a detrimental impact on pedestrian / street activation.*
- c. The variation must be within the freeboard allowance, and not below the 1% AEP flood level.*
- d. All proposed floor areas fronting Corrimal Street that are below the FPL must be flood-proofed up to the FPL. Conceptual details of such flood proofing must be provided by the applicant. The term 'flood-proofed' means a combination of permanent measures integrated into the design and construction of the development to ensure that floodwater physically cannot enter the floor areas (either via walls, windows, doors, ventilation points, or any other means). Flood proofing that requires manual activation (e.g. removable flood gates that require manual installation by site personnel prior to or during a flood) will not be supported.*

A meeting was held with the applicant and his drainage engineer in an attempt to resolve this issue and it was determined that an acceptable alternative would be the use of flood gates however details would be required to ensure that this solution did not adversely impact on the urban design consideration of the Corrimal Street frontage.

The final set of amended plans have been considered by Council's stormwater engineer and found to be satisfactory, flood gates have been incorporated and ground floor levels adjusted as well as reconfiguration of the northern entry. Appropriate conditions of consent have been provided. The urban design considerations have also been assessed as satisfactory by Council's design expert.

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 mapped as Class 5 Acid Sulfate Soil. The Preliminary Site Investigation (PSI) provided by the applicant included the results of sampling and made the following conclusions:

“Based on the subsurface conditions encountered, including within BH101 drilled on 116 Corrimal Street, the risk of occurrence of ASS at the site is considered to be low. The proposed development works are not likely to lower the water table below 1m Australian Height Datum (AHD) on adjacent land. On this basis, the conclusions of the previous ASS assessment are considered to remain valid and no ASSMP is considered to be necessary for the proposed development”.

Council's Environment Officer has concurred with the above recommendation.

Clause 7.6 Earthworks

The proposal included 2 levels of basement parking. The associated earthworks will be subject to appropriate conditions of consent are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.

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 Corrimal Street and Moore Lane. The requirements of this clause are therefore satisfied.

Clause 7.14 Minimum site width

(2) Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.

The subject site has a width of 53.04m and complies with this requirement.

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

The proposal is considered to be consistent with the provisions for design excellence as follows:

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

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved

The DRP and Council's Design expert have reviewed the proposal and found the design, materials and detailing acceptable. The proposal is satisfactory with regard to the ADG and Council's development controls.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

The proposed building form is compatible with the likely future streetscape.

(c) whether the proposed development detrimentally impacts on view corridors,

The site is outside the distant panoramic view corridor from Flagstaff Hill looking towards the escarpment. No adverse impacts on the identified views are anticipated noting the setbacks to Kenny Street are compliant.

(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,

The development does not overshadow any sun plane protection areas.

(e) how the proposed development addresses the following matters:

(i) the suitability of the land for development,

The site is considered suitable for the development. The DRP has noted that the site is suitably proportioned and well located within Wollongong's commercial core.

(ii) existing and proposed uses and use mix,

The proposal is consistent with the desired future character of the area reflected in the applicable planning controls.

(iii) heritage issues and streetscape constraints,

The proposal will not have significant impacts on surrounding heritage buildings and notwithstanding the comments of Council's heritage officer the proposal is supported in its current form.

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

The proposed tower has an acceptable relationship with existing towers to the north. The proposal has been designed with future development in mind with regard to setbacks and building separation to the north, south and west of the site. The DRP and Council required modelling of potential future development of adjoining sites and noted that the relationship with existing or proposed towers as acceptable.

(v) bulk, massing and modulation of buildings,

The bulk and mass of the building is considered acceptable.

(vi) street frontage heights,

The proposal has a suitable street frontage height, consistent with the emerging character of the area.

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

The proposal meets BASIX targets.

Overshadowing impacts are considered acceptable in the context of the applicable planning controls that anticipate a building of this height and scale.

An Environmental Wind Assessment indicates the proposal will satisfy the wind acceptability criteria for safety and comfort at pedestrian and public access locations within and around the development. The recommendations of the Wind report are reflected in the plans.

The proposal is not expected to result in adverse reflectivity.

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

The proposal is broadly acceptable with the principles of ecologically sustainable development. The proposal is an efficient use of land in an accessible location. The proposal will not directly impact on environmentally sensitive areas. The proposal satisfies the minimum energy and water efficiency requirements.

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

The proposal is satisfactory regarding access, servicing and parking as discussed under Chapter E3.

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

The proposal will upgrade the footpath along the street frontage, retain the existing street trees and provide additional street tree planting to account for the proposed future road widening.

Clause 7.19 Active street frontages

The proposal activates the street frontages (Corrimal Street and Moore Lane) by providing commercial/retail spaces fronting the public domain.

Part 8 Local provisions—Wollongong city centre

Clause 8.1 Objectives for development in Wollongong city centre

The proposal is considered satisfactory with regard to the objectives for development within the City Centre

Clause 8.4 Minimum building street frontage

(2) Development consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres or more on land within Zone E2 Commercial Centre, Zone E3 Productivity Support or Zone MU1 Mixed Use.

The subject site has a frontage in excess of 20m and therefore satisfies this clause.

Clause 8.6 Building separation within Zone E2 Commercial Centre or Zone MU1 Mixed Use

The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access. The proposed building setbacks in relation to the requirements of Clause 8.6 are:

- (2) Buildings on land within Zone E2 Commercial Centre or MU1 Mixed Use must be erected so that—
 - (a) there is no separation between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and
 - (b) there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and
 - (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.
- (3) Despite subclause (2), if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than—
 - (a) 20 metres from any habitable part of a dwelling contained in any other building, and
 - (b) 16 metres from any other part of any other building.

The non-compliance with the building separation requirements of this clause have been addressed by the applicant by submission of a Clause 4.6 Variation Statement as required by WLEP 2009. The applicant's submission includes detailed sections to demonstrate the relationship between the proposal and the adjacent Adina Apartments to the north of the site (refer to **Figure 9**). The submission satisfies the requirements of Clause 4.6 as outlined section 2.1.7 of this report.

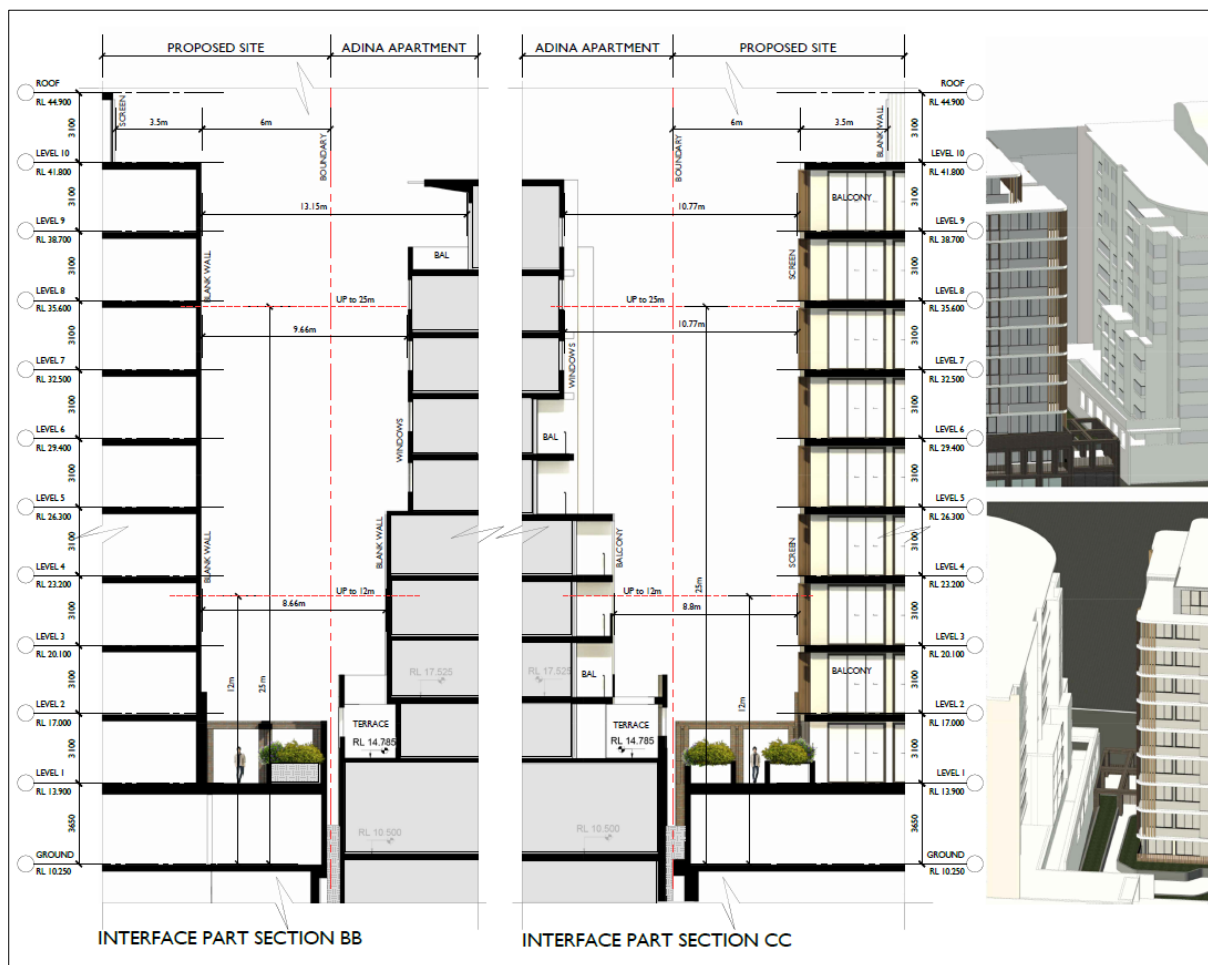


Figure 9: Detailed Sections - Building Separation

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

Not applicable

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

A full assessment of the proposal against the provisions of the relevant Chapters of Wollongong Development Control plan 2009 is provided at **Attachment 10**. This includes variations.

2.1.11 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

City-Wide Contributions Plan – City Centre

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:

$$\text{Contribution Amount} = \text{Cost of Works } \$35,695,000 \times 2\% \text{ levy rate} = \$713,900$$

The Housing and Productivity Contribution levy came into effect on 1 October 2023, the application was lodged before this date and the levy does not apply.

2.2 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.

2.3 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 2000

The 2021 Regulations came into force on 1 March 2022. The 2000 Regulations continue to apply to development applications submitted but not finally determined before 1 March 2022.

50(1A) and (1AB) Design verification statement

A design verification statement accompanied the application in accordance with this clause.

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.

2.4 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.

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 including heritage impacts and is considered to be compatible with the locality.

2.5 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.

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

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

2.7 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 proposal does not fully comply with the building height and building separation development standards 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 under WDCP2009. This variation request has likewise been assessed as reasonable. The character and form of the development is consistent with the zoning and reasonably responds to the surrounding context and the applicable controls.

The recommendations of the Design Review Panel have been adopted in the revised plans and matters raised by the Panel are satisfactorily resolved.

Submissions raised during public exhibition have been considered at section 1.5. The development is of a scale that will have some impacts from surrounding properties. However, these impacts arise from a built form outcome that is largely anticipated by the current controls and consistent with existing surrounding development particularly to the north, refusal, or redesign of the development is not warranted on this basis.

Internal and external referrals are generally satisfactory subject to conditions of consent. The application is considered acceptable with regard to the likely impacts as discussed above. 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 the development application be approved subject to appropriate conditions of consent which form **Attachment 11**.

ATTACHMENTS

- 1 Aerial photograph
- 2 WLEP zoning map

DA-2022/960 / PPSSTH-181 – 116-122 Corrimal Street and 1 Moore Lane
Wollongong

- 3 Plans
- 4 Design Review Panel Notes
- 5 Applicant's response to Design Review Panel
- 6 Clause 4.6 Variation Request – Building Height
- 7 Clause 4.6 Variation Request – Building Separation
- 8 Shadow Diagrams, sun eye diagrams
- 9 ADG Compliance Table
- 10 WDCP 2009 Compliance table
- 11 Draft Conditions