



# 26-42 Eden Street, Arncliffe, Mixed Use Redevelopment

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State Significant Development  
SSD-11429726

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Subtitle: State Significant Development (SSD-11429726)

*Cover image: North east view of the proposal from the Princes Highway (Source: Applicant's Design Amendment Report)*

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# Glossary

Abbreviation	Definition
<b>ACHAR</b>	Aboriginal Cultural Heritage Assessment Report
<b>AHD</b>	Australian Height Datum
<b>ARH SEPP</b>	State Environmental Planning Policy (Affordable Rental Housing) 2009
<b>Applicant</b>	Arncliffe Eden Property Pty Ltd on behalf of NSW Land and Housing Corporation
<b>BCA</b>	Building Code of Australia
<b>BLEP</b>	Bayside Local Environmental Plan 2021
<b>CIV</b>	Capital Investment Value
<b>Council</b>	Bayside Council
<b>Department</b>	Department of Planning and Environment
<b>EHG</b>	Environment and Heritage Group, DPE
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>LAHC</b>	NSW Land and Housing Corporation
<b>LEP</b>	Local Environmental Plan
<b>LoS</b>	Level of Service
<b>Minister</b>	Minister for Planning
<b>RTS / RRTS</b>	Response to Submissions / Revised Response to Submissions
<b>SDRP</b>	State Design Review Panel
<b>SEARs</b>	Planning Secretary's Environmental Assessment Requirements
<b>Secretary</b>	Planning Secretary of the Department of Planning and Environment

<b>SEPP</b>	State Environmental Planning Policy
<b>SEPP 65</b>	State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development
<b>SLEP 2012</b>	Bayside Local Environmental Plan 2021
<b>SSD</b>	State Significant Development
<b>SSP SEPP</b>	State Environmental Planning Policy (State Significant Precincts) 2005
<b>TIA</b>	Traffic Impact Assessment
<b>Technical Manual</b>	Arncliffe and Banksia Public Domain Technical Manual
<b>TfNSW</b>	Transport for NSW (incorporating Roads and Martine Services)

# Executive Summary

This report provides an assessment of a State significant development (SSD) application seeking consent for the demolition of 142 existing Land and Housing Corporation (LAHC) dwellings and construction of a new mixed-use development at 26-42 Eden Street and 161-179 Princes Highway, Arncliffe.

The proposed development includes 744 apartments, (comprising 180 social housing units and 564 market units) across four buildings, ranging between 20-23 storeys in height. The proposal also includes retail floorspace at ground and lower ground level, a childcare centre and 4,870 m<sup>2</sup> public open space, landscaping and associated public domain upgrades.

The development has a capital investment value (CIV) of \$253,350,09 and is predicted to generate up to 2,280 construction jobs and 200 operational jobs.

The site is owned by LAHC and the Applicant is Arncliffe Eden Property Pty Ltd. The proposal is SSD as it has a CIV over \$30 million and is being carried out on land owned by the LAHC. The Minister for Planning is the consent authority for the application.

## Engagement

During the 28-day public exhibition, the Department of Planning and Environment (the Department) received 11 public submissions, including 8 objections, and advice from 10 public authorities (including Council). Council objects to the proposal on the grounds of excessive bulk and scale and the associated exceedances of the height and FSR controls of the site. Council also raised concerns in relation to landscaping and public domain, parking, traffic and access, stormwater management, and contributions. Key issues raised in public submissions included the density, bulk and scale of the proposal, tree and view loss, landscape design, traffic and parking, and construction impacts.

The Applicant submitted a Response to Submissions (RtS) and additional information to address the issues raised in submissions. Key amendments made to the proposal included:

- reducing the height of Buildings A and B to comply with the LEP height limit, with the exception of a minor 1.5 m exceedance for the Building B lift overrun
- relocating the childcare centre to the upper ground level fronting Eden Street
- revised site access on Eden Street and introduction of a new site access from Princes Highway in response to Council and TfNSW concerns
- increasing the number of naturally cross ventilated apartments to comply with the ADG
- amending the architectural design in response to comments from the State Design Review Panel
- adjustments to the basement envelope to retain additional trees on-site.

## Assessment

The Department has assessed the merits of the proposal in accordance with section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the issues raised in submissions and the Applicant's response.

The Department considers the proposal is acceptable for the following reasons:

- it is consistent with the Greater Sydney Region Plan and the Eastern City District Plan's which aims to increase housing and jobs close to public transport, services, and amenities
- it would facilitate the renewal and expansion of the Arncliffe Town Centre consistent with the Bayside West Precincts Plan
- it complies with the provisions of the Bayside Local Environmental Plan 2021 and the State Environmental Planning Policy (Housing) 2021 and provides a bulk and scale which is compatible with the desired future character of the area, except for a minor 2.14% exceedance of the height control and 2.69% exceedance of the floor space ratio control, which would result in no perceivable difference to the bulk and scale of the development or impacts to surrounding properties
- it achieves design excellence by providing a well-planned site layout and architectural built form outcome which has been reviewed and endorsed through the State Design Review Panel process
- it achieves a high level of residential amenity for future residents in accordance with the ADG
- traffic, access, and parking impacts are appropriately managed and impacts to surrounding intersections are minimised through the provision of a deceleration lane providing access from Princes Highway, and a prohibition on right turn movements from Forest Road to Eden Street
- the proposal will be liable for a Special Infrastructure Contribution (SIC) to assist in wider traffic improvements in the Arncliffe area
- the Department recommends conditions in relation to design integrity, landscaping, public domain, and traffic control to ensure the development makes a positive contribution to the local area
- it would provide significant public benefits including 180 new social housing apartments, 4,870 m<sup>2</sup> of new publicly accessible open space, new through site links, a new shared path, a new raised pedestrian crossing, improved public domain, and creation of approximately 2,280 construction jobs and 200 operational jobs.

## Conclusion

The Department's assessment therefore concludes the proposal is consistent with the strategic planning framework adopted for the site, is of an appropriate height, density, and scale, and would not result in adverse amenity, landscaping, or traffic impacts, subject to the recommended conditions. The redevelopment of the site would also improve the quality and quantity of social housing on the site, provide substantial public domain improvements including close to half a hectare of open space and would contribute to the revitalisation of Arncliffe town centre as a vibrant mixed-use centre. The Department concludes the proposal is in the public interest and recommends it be approved, subject to the recommended conditions.

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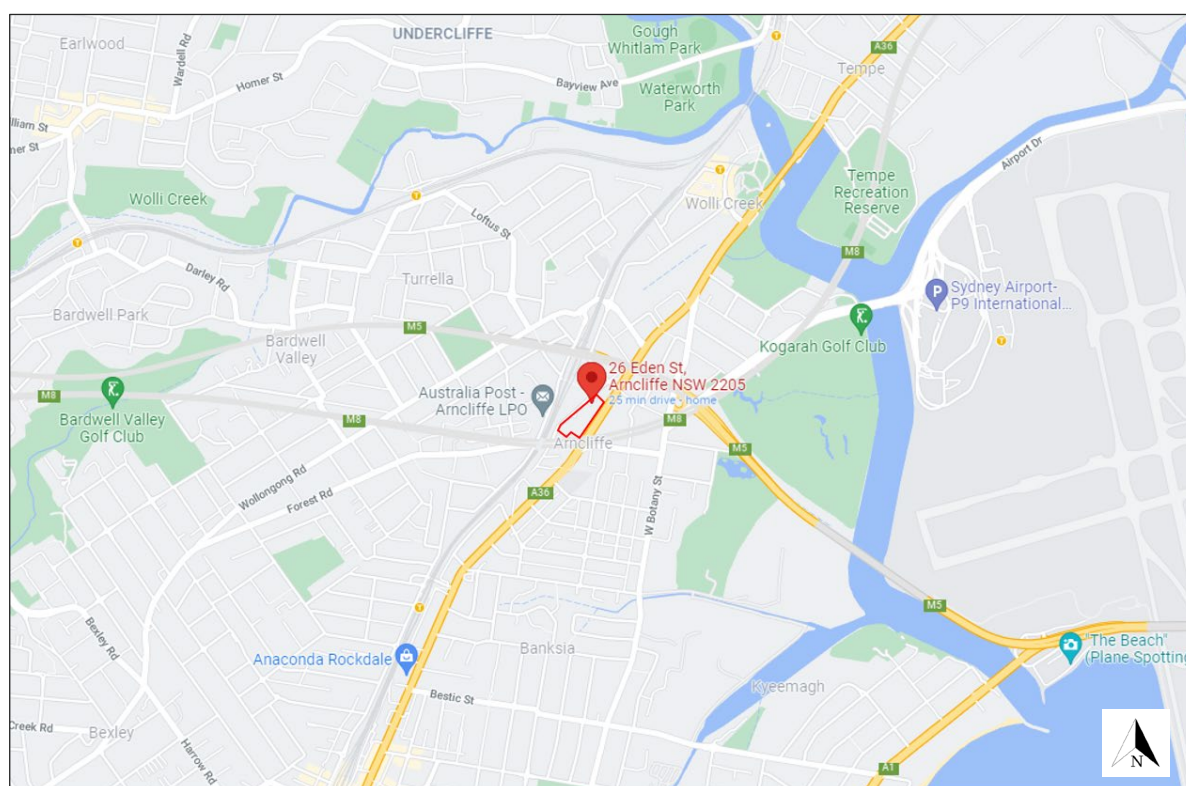


# 1 The site

## 1.1 The site

The site is located at 26 – 42 Eden Street Arncliffe within the Bayside Local Government Area. It is located approximately 9 kilometres (km) south of the Sydney Central Business District (CBD), 1 km west of Sydney Airport and 100 metres (m) to the south-east of the Arncliffe Train Station (**Figure 1**). The site forms part of the Arncliffe town centre, which was recently rezoned through the Bayside West Planned Precinct process to accommodate increased housing and job opportunities due to its proximity to transport, Sydney Airport and the CBD.

Key characteristics of the site and surrounding area are summarised in **Table 1** and **Table 2** below.



**Figure 1 | Site context (Source: Google maps)**

**Table 1 | Key characteristics of the site**

Characteristic	Description
Address	26 – 42 Eden Street, Arncliffe
Legal description	Lots 1-3 and Lots 7-12 DP23701 Lot 1 DP447649; Lot 3 DP1094906 and Lot 25 and 26 DP1228031
Site area	13,440.3 m <sup>2</sup>

Characteristic	Description
<b>Existing development</b>	14 x 3 storeys residential buildings containing 142 unoccupied social housing dwellings, at grade car park for 29 vehicles and existing trees and landscaping ( <b>Figure 2</b> ).
<b>Surrounding roads</b>	The site has frontages of approx. 188 m to Eden Street to the north-west and 168 m to Princes Highway to the south-east. Burrows Street and the M5 Motorway are located approx. 100 and 165 m to the north respectively and Forest Road is located approx. 18 m to the south.
<b>Topography</b>	The site slopes approximately 11 m from south east to north east.
<b>Existing access</b>	Vehicle access to at grade parking via 8 separate driveways from Eden Street.
<b>Public transport</b>	Arncliffe train station (100 m north-west) and bus services along Princes Highway, Firth Street, Wollongong Road and Wickham Street.
<b>Heritage</b>	No heritage items listed within the site and the site is not within a heritage conservation area.
<b>Flooding</b>	The site is not flood affected, however is subject to minor inundation during the 1 in 100 and probable maximum flood



**Figure 2 |** Site location (shown in red) (Base source: Nearmap)

## 1.2 Surrounding area

The surrounding area is characterised by residential buildings to the east and commercial and light industrial uses to the west within the Arncliffe Town Centre, ranging in height from 1 to 10 storeys (see **Table 2** and **Figure 3** to **Figure 7**).

**Table 2** | Key characteristics of the surrounding area

Characteristic	Description
<b>Surrounding land uses and built form</b>	<p>Surrounding land uses are predominantly residential and comprise a variety of densities ranging from detached dwellings to high density apartments as follows:</p> <ul style="list-style-type: none"><li>• North east (Eden Street):<ul style="list-style-type: none"><li>○ two to four storey apartment buildings and single storey detached dwellings</li></ul></li><li>• East (Princes Highway)<ul style="list-style-type: none"><li>○ one and two storey light industrial buildings and the 10-storey “Endeavour Apartments” mixed-use building at 118 Princes Highway</li><li>○ 10-storey “Ventura Apartments” mixed-use building under construction at 96-102 Princes Hwy</li></ul></li><li>• North<ul style="list-style-type: none"><li>○ two, four storey apartment buildings (20-24 Eden street) immediately adjacent to the site</li><li>○ single storey attached dwellings and commercial building and four storey apartment buildings</li></ul></li><li>• South<ul style="list-style-type: none"><li>○ one and two storey detached and attached dwellings</li><li>○ two storey Airport Hotel St Francis Catholic church, primary school, and YMCA to the south of Forest Road</li><li>○ five storey Gateway Apartment building at 158-164 Princes Highway</li></ul></li></ul>
<b>Nearby heritage items</b>	<ul style="list-style-type: none"><li>• State listed:<ul style="list-style-type: none"><li>○ Arncliffe Station Group</li></ul></li><li>• Locally listed:<ul style="list-style-type: none"><li>○ Glenwood (27 Eden Street)</li><li>○ Bard of Avon (39 Eden Street)</li><li>○ Street Plantings Firth Street</li><li>○ St Francis Xavier Church Group (2-4 and 6 Forest Road)</li><li>○ Arncliffe Public School and Teluba (39 Eden Street)</li></ul></li></ul>





**Figure 3** | 10 Storey Endeavor Apartment Building located to the east on Princes Highway (Base source: Applicant's EIS)



**Figure 4** | 10 Storey Ventura Building (left) currently under construction and the 10-storey Endeavor building (completed) located to the north east and east of the site on Princes Highway (Source: Department site visit)



**Figure 5** | The Arcade linking the site across Eden Street to Arncliffe station (Source: DPE site visit)



**Figure 6** | Residential buildings to the western side of Eden Street (Source: EIS)





**Figure 7** | Residential buildings 7 Forest Road and 181 Princes Highway adjoining the site to the south (Source: Google street view)

## 2 The Proposed development

### 2.1 Proposed development

The SSD application seeks approval for a new mixed use residential and retail development as summarised in **Table 3** and shown in **Figure 8** to **Figure 10**.

**Table 3** | Key components of the proposal

Component	Description																																				
Site preparation	<ul style="list-style-type: none"><li>Demolition of all buildings</li><li>Removal of 105 trees</li><li>Excavation, flooding/stormwater infrastructure and remediation</li></ul>																																				
Built form	<ul style="list-style-type: none"><li>Construction of four residential towers above two separate podiums comprising: Northern podium:<ul style="list-style-type: none"><li>Building A - 22 storeys (RL 91.65)</li><li>Building B - 23 storeys (RL 94.90)</li></ul>Southern Podium:<ul style="list-style-type: none"><li>Building C - 20 storeys (RL 92.65)</li><li>Building D - 22 storeys (RL 91.20).</li></ul></li></ul>																																				
Residential mix	<table><tr><th>Apartment Type</th><th>Building A (market)</th><th>Building B (market)</th><th>Building C (social)</th><th>Building D (market)</th><th>Total</th></tr><tr><td>Studio</td><td>0</td><td>0</td><td>9</td><td>0</td><td>9</td></tr><tr><td>1 bed</td><td>46</td><td>73</td><td>100</td><td>104</td><td>323</td></tr><tr><td>2 bed</td><td>68</td><td>98</td><td>63</td><td>33</td><td>262</td></tr><tr><td>3 bed</td><td>72</td><td>31</td><td>8</td><td>39</td><td>150</td></tr><tr><td>Total</td><td>186</td><td>202</td><td>180</td><td>176</td><td>744</td></tr></table>	Apartment Type	Building A (market)	Building B (market)	Building C (social)	Building D (market)	Total	Studio	0	0	9	0	9	1 bed	46	73	100	104	323	2 bed	68	98	63	33	262	3 bed	72	31	8	39	150	Total	186	202	180	176	744
	Apartment Type	Building A (market)	Building B (market)	Building C (social)	Building D (market)	Total																															
	Studio	0	0	9	0	9																															
	1 bed	46	73	100	104	323																															
	2 bed	68	98	63	33	262																															
	3 bed	72	31	8	39	150																															
	Total	186	202	180	176	744																															
GFA and land uses	<ul style="list-style-type: none"><li>Total GFA 66,288 m<sup>2</sup> (floor space ratio of 4.93:1) comprising:<ul style="list-style-type: none"><li>62,935 m<sup>2</sup> residential floorspace across four buildings:<ul style="list-style-type: none"><li>Building A: 17,813 m<sup>2</sup></li><li>Building B: 18,392 m<sup>2</sup></li><li>Building C: 11,999 m<sup>2</sup></li><li>Building D: 14,731 m<sup>2</sup></li></ul></li><li>3,353 m<sup>2</sup> retail floorspace (including a childcare centre within Building C podium)</li></ul></li></ul>																																				
Communal open space	<ul style="list-style-type: none"><li>2,893 m<sup>2</sup> communal open space accessible to residents comprising:<ul style="list-style-type: none"><li>Building A: 373m<sup>2</sup> at level 21 rooftop</li><li>Building C: 602 m<sup>2</sup> at level 18 rooftop</li><li>Building D: 387 m<sup>2</sup> at level 19 rooftop</li><li>Northern podium: 435 m<sup>2</sup> at lower ground and level 7</li><li>Southern podium: 1,096 m<sup>2</sup> on the levels 1 and 2.</li></ul></li></ul>																																				
Landscaping	<ul style="list-style-type: none"><li>Removal of 105 trees, retention of 17 existing trees and planting of 223 new trees</li></ul>																																				

Component	Description
	<p>(a net increase of 123 trees on-site)</p> <ul style="list-style-type: none"> <li>Site wide landscaping including: <ul style="list-style-type: none"> <li>children's play and lawn areas</li> <li>1,009 m<sup>2</sup> of deep soil zones adjacent to the Eden Street frontage</li> <li>1,692m<sup>2</sup> of additional soil zone suitable for deep planting.</li> </ul> </li> </ul>
<b>Public domain</b>	<ul style="list-style-type: none"> <li>4,870 m<sup>2</sup> comprising: <ul style="list-style-type: none"> <li>4,000 m<sup>2</sup> central park including play area, deep soil planting and lawn areas</li> <li>870m<sup>2</sup> "meeting place" at the north east corner of the site incorporating seating and landscaping</li> </ul> </li> <li>northern and central through site links</li> <li>retail arcade.</li> </ul>
<b>Public domain works</b>	<p>Public domain works including:</p> <ul style="list-style-type: none"> <li>new pedestrian crossing across Eden Street</li> <li>dual bicycle lane within Eden Street between Forest Road and Burrows Street</li> <li>shared pedestrian path along the western Princes Highway between Forest Road and Burrow Street.</li> </ul>
<b>Access and servicing</b>	<ul style="list-style-type: none"> <li>Vehicular access to the basement parking and loading dock from Eden Street and left in only from Princes Highway</li> <li>Pedestrian access from Princes Highway and Eden Street</li> <li>Shared residential and retail loading dock providing: <ul style="list-style-type: none"> <li>two articulated vehicle loading spaces</li> <li>one Council waste collection bay</li> <li>three medium rigid vehicle loading bays</li> <li>four van loading spaces for residential towers</li> </ul> </li> <li>On-site waste collection by private contractor</li> <li>Creation of left in/left out arrangement at the intersection of Eden Street and Forest Road.</li> </ul>
<b>Stormwater</b>	<ul style="list-style-type: none"> <li>New stormwater infrastructure including OSD tanks and connections to Sydney Water and Council's existing infrastructure.</li> </ul>
<b>Parking</b>	<ul style="list-style-type: none"> <li>813 car parking spaces, comprising: <ul style="list-style-type: none"> <li>719 residential parking spaces comprising: <ul style="list-style-type: none"> <li>554 parking spaces and 75 visitor spaces for market apartments</li> <li>90 parking spaces for social apartments</li> </ul> </li> <li>78 retail spaces</li> <li>6 childcare spaces</li> <li>6 car share spaces</li> <li>4 service vehicle spaces.</li> </ul> </li> <li>67 motorcycle parking spaces, comprising: <ul style="list-style-type: none"> <li>62 residential spaces</li> <li>5 retail spaces</li> </ul> </li> </ul>
<b>Bicycle parking</b>	<ul style="list-style-type: none"> <li>543 bicycle parking spaces comprising: <ul style="list-style-type: none"> <li>509 residential spaces (305 within basement storage cages and 204 within dedicated communal bike storage areas)</li> <li>26 retail staff spaces</li> </ul> </li> </ul>



Component	Description
	<ul style="list-style-type: none"> <li>○ 4 retail customers spaces</li> <li>○ 4 childcare staff spaces.</li> </ul>
<b>External works/ upgrades</b>	<ul style="list-style-type: none"> <li>• Construction of a 2.5 m shared path on Princes Highway frontage.</li> <li>• Modification to the pedestrian refuge at Forest Road/Eden Street intersection to prevent right turns for Forest Road into Eden Street and enforce left in/left out movements.</li> <li>• Construction of a raised, marked pedestrian crossing across Eden Street directly adjacent to The Arcade.</li> <li>• Undergrounding of powerlines.</li> </ul>
<b>Jobs</b>	<ul style="list-style-type: none"> <li>• 2,280 construction jobs and 200 operational jobs.</li> </ul>
<b>CIV</b>	<ul style="list-style-type: none"> <li>• \$253 million</li> </ul>



**Figure 8 |** Princes Highway elevation (Source: Design Amendment report)



**Figure 9 | Eden Street Elevation (Source: Design Amendment report)**



**Figure 10 | Ground plane landscaping layout (Source: RtS Landscape Plans)**

### 3 Strategic context

The Department has considered the proposal against relevant strategic plans as outlined in **Table 4**.

**Table 4** | Strategic context

Strategic Plan	Consideration	Consistent
<b>Greater Sydney Region Plan and Eastern City District Plan</b>	<p><b>The Region Plan outlines how Greater Sydney will be transformed into a metropolis of three cities. The site is located within the Eastern City District.</b></p> <p>The proposal is consistent with the directions of the Region Plan and Eastern City District Plan as it will:</p> <ul style="list-style-type: none"> <li>• support the renewal of the Arncliffe local centre through additional and diverse housing and retail floorspace</li> <li>• improve opportunities for community events and interaction with generous public space and upgrade the public domain</li> <li>• provide mixed use development on a site with excellent access to public transport</li> <li>• contribute to meeting overall housing need in the district and Greater Sydney.</li> </ul>	Yes
<b>Bayside West Precincts Plan 2036</b>	<p><b>The site is located within the Arncliffe Planned Precinct within the Bayside West Precinct Plan 2036 and is identified as being for high density housing with mixed use opportunities.</b></p> <p>The proposal is consistent with the Plan 2036 as it will:</p> <ul style="list-style-type: none"> <li>• expand the Arncliffe town centre to allow for increased commercial activity and homes around the transport hub</li> <li>• provide a new park adjacent to Arncliffe Station</li> <li>• increase housing supply in a convenient location, close to transport, jobs, and services</li> <li>• provide a greater mix of land uses, including residential, in an accessible location.</li> </ul>	Yes
<b>Future Bayside: Local Strategic Planning Statement</b>	<p><b>Future Bayside is Council's Local Strategic planning statement which sets out the Council's Land use vision to 2036.</b></p> <p>The proposal is consistent with the plan as it will:</p> <ul style="list-style-type: none"> <li>• concentrate high density growth close to centres and public transport corridors (B6)</li> <li>• provide choice in housing and affordable housing (B7 and B8)</li> <li>• achieve design excellence, enhancing the character of the area and the public realm (B9)</li> <li>• value protect and conserve aboriginal heritage through consideration of Country through the design process and protection of aboriginal archaeology (B10)</li> <li>• provide a mixed use residential and commercial development close to transport and services (B12 and B15).</li> </ul>	Yes
<b>Future Transport 2056</b>	<p><b>Outlines a planned and coordinated set of actions to address challenges faced by the NSW transport system to support the State's economic and social performance over the next 40 years.</b></p>	Yes

The proposal is consistent with the six key outcomes of the Plan as:

- the site is located within walking distance to several public transport services
- it will encourage active transport by providing bicycle parking spaces and end of trip facilities
- it improves pedestrian connectivity and site permeability through provision of new through site links, pedestrian path upgrades and a new pedestrian crossing link to the arcade and Arncliffe station.

**Future Directions for Social Housing in NSW**

**Future Directions for Social Housing in NSW (Future Directions) sets out the NSW Government's vision for social housing over the next 10 years.**

Yes

The proposal is consistent with the priorities of Future Directions as it will provide:

- a 27% increase in the number of social housing dwellings on the site
- a better social housing experience through renewed development with new high quality and amenity apartments with access to communal and public open space and other services and amenities provided on the site and within Arncliffe

**Communities Plus Program**

**Communities Plus is a \$22 billion NSW Government program which facilitates non-government and private sector partnerships to redevelop LAHC sites throughout Sydney and regional NSW.**

Yes

On completion of a development, new social housing properties are handed over to LAHC as payment for the land, making the program entirely self-funding.

The proposal will increase both the quantity and quality of social housing on the site, commensurate with the aims of the Communities Plus Program. The proposal increases the number of social housing dwellings at the site by 27% (142 to 180) and is self-funding at no net cost to the State.

## 4 Statutory context

### 4.1 State significance

The development is SSD pursuant to section 4.36 of the EP&A Act as it is development on land identified as a NSW Land and Housing Corporation (LAHC) site, being carried out on behalf of LAHC and with a capital investment value in excess of \$30 million (\$253,350,091), which meets the criteria in Schedule 2 Clause 10 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP).

### 4.2 Consent Authority

The Minister for Planning is the consent authority for the application as the application is made on behalf of a public authority (LACH) and Bayside Council objects to the proposal.

### 4.3 Permissibility

The site is zoned B4 Mixed use under the Bayside Local Environmental Plan 2021 (BLEP) and the proposed residential, retail, and childcare premises are permissible with consent.

The Department has considered the proposal against the BLEP development standards in detail at **Appendix C** and is satisfied the proposal complies with all relevant standards.

### 4.4 Secretary's Environment Assessment Requirements

On 18 December 2020, the Department notified the Applicant of the Planning Secretary's Environmental Assessment Requirements (SEARs) that apply to the proposal. The Department is satisfied that the Environmental Impact Statement (EIS) and RtS adequately address the requirements of the SEARs to enable the assessment and determination of the application.

### 4.5 Biodiversity Development Assessment Report

Under Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act), SSD applications are to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.

On 15 January 2021, the Department's Environment and Heritage Group (EHG)(formerly the Environment, Energy and Science Group) determined that the proposed development would not be likely to have any significant impact on biodiversity values and that a BDAR is not required. The Department supported EHG's decision and on 16 February 2021 determined that the application is not required to be accompanied by a BDAR under Section 7.9(2) BC Act as the existing site has low biodiversity values.

## 4.6 Mandatory Matters for Consideration

The Department has considered all relevant matters in its assessment of the project in **Section 6** and **Appendix 3** of this report. These relevant matters include:

- the objects of the EP&A Act
- relevant matters specified in Section 4.15 of the EP&A Act, including:
  - the provisions of any environmental planning instruments, draft instruments, planning agreements, draft planning agreement and the EP&A Regulation
  - the likely environmental, social, and economic impacts of the development
  - the suitability of the site for the development
  - any submissions
  - the public interest
- principles of ecologically sustainable development (ESD).



## 5 Engagement

### 5.1 Exhibition of the application and EIS

The Department publicly exhibited the application and EIS on the NSW Planning Portal from 3 August 2021 to 30 August 2021 (28 days). The Department wrote to adjoining landholders and relevant public authorities, including Council, notifying them of the exhibition.

### 5.2 Summary of submissions

In response to the exhibition, the Department received 11 unique public submissions (eight objecting, two comments and one supporting the proposal) and advice from 10 public authorities (including Council). Key issues raised in the public authority advice and public submissions are summarised in **Table 5** and **Table 6** respectively.

Submissions can be viewed at <https://www.planningportal.nsw.gov.au/major-projects/project/40681>.

### 5.3 Summary of public authority advice

The Department has summarised the advice from the public authorities in **Table 5**. All submissions may be viewed at <https://www.planningportal.nsw.gov.au/major-projects/project/40681>.

**Table 5** | Summary of public authority advice

Bayside Council	
<b>EIS</b>	<p>Council objects to the proposed bulk and scale and considers the existing height and FSR controls should not be varied.</p> <p>Council also provided comments in relation to:</p> <p><i>Design issues</i></p> <ul style="list-style-type: none"><li>• The location/design of the childcare centre</li><li>• The exceedance of the maximum street wall heights to Eden Street, Princes Highway, and the park</li><li>• The need for increased retail floor to ceiling heights along Princes Highway</li><li>• The need for a contextual analysis of the precinct to demonstrate how the proposal responds and is compatible with the future surrounding development, particularly in relation to the nil setback to the south-western boundary</li><li>• Amenity, including cross ventilation and corridor design</li><li>• The functionality of the open space, tree retention and planting</li><li>• Visual impact of the substation and fire hydrant.</li></ul>

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*Landscape issues:*

- Opportunities to retain existing trees, particularly along the Princes Highway, maximise tree canopy and offset canopy loss
- Deep soils areas provision should be increased to 15% of the site area and incorporate areas with a minimum width of 6 m wide
- stormwater should not impact on deep soil areas
- public domain upgrades will be required in accordance with the Arncliffe and Banksia Public Domain Plan & Technical Manual

*Traffic and parking issues*

- traffic counts are inaccurate due to Covid conditions, the project will contribute to already poor local intersections service levels, traffic modelling should be peer reviewed
- discussion with TfNSW is required to resolve right turn access from Princes Highway
- concern with the Eden Street driveway width and impacts on the public domain
- further swept path analysis is required which meets applicable standards, resolves issues identified by Council for pedestrian and service vehicle movements, including alternative loading dock arrangements, to inform design solutions
- consider easement for vehicular access through the basement that benefits adjoining properties' future development (to avoid classified road issues)
- recommendations for bicycle parking, car wash bays, childcare parking, retail visitor parking and on-site car share spaces, and loading facilities
- basement security
- construction vehicle access
- pedestrian safety across Forest Road
- 20% of parking spaces should have EV charging infrastructure

Council also provided advice in relation to sustainability on-site detention, public domain, geotechnical issues, control of the park and public plaza, concentration of social housing and recommended a number of conditions.

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**RTS**

Council maintained its objection to any exceedance of current LEP controls. It also advised the RtS responds to key matters including, public domain, landscaping, traffic, car parking, pedestrian movement and cycling network and recommended a number of conditions.

Council also advised that the proposed Eden Street Park would not offset s7.11 contributions and recommended conditions of consent on dilapidation reporting, demolition, stormwater management, detailed basement and car parking design, dewatering, site servicing, CCTV, signage and wayfinding, sustainability, construction management, landscaping, tree protection and parking management.

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**TfNSW (RMS, Sydney Trains & Sydney Metro)**

**EIS**

TfNSW provided the following comments:

- consider signalling Princes Highway and Allen Street intersection
  - supportive of left-in left-out to Eden Street with a redesigned island
  - supportive of proposed footway upgrades
  - clarify car and cycle parking and comply with Council requirements
  - provide a Green Travel Plan.
-



<b>RTS</b>	<p>TfNSW supports the new Princes Highway north bound site entrance and recommends conditions relating to:</p> <ul style="list-style-type: none"> <li>• TfNSW concurrence and works authorisation for any civil works on RMS roads</li> <li>• ensuring structural integrity of the M8 Motorway</li> <li>• continued consultation with Council regarding local road improvements</li> <li>• preparation of a Construction Pedestrian and Traffic Management Plan.</li> </ul>
<b>Sydney Water</b>	
<b>EIS</b>	<p>Sydney Water provided the following comments:</p> <ul style="list-style-type: none"> <li>• undertake a servicing options assessment to identify any required augmentation</li> <li>• provide a design for sewer diversion and adjustment works, or any changes to the existing sewer main, to Sydney Water for its review and approval.</li> </ul>
<b>Environmental Protection Authority</b>	
<b>EIS</b>	<p>The EPA noted the proposal does not appear to require an environment protection licence under the Protection of the Environment Operations Act 1997.</p>
<b>Environment and Heritage Group Biodiversity and Conservation</b>	
<b>EIS</b>	<p>EHG recommended trees 109 and 111 be retained.</p>
<b>RTS/RRFI</b>	<p>EES noted the Applicant's intention to retain trees 109 and 111 and recommended conditions of consent.</p>
<b>Water Group, DPE</b>	
<b>EIS</b>	<p>Water Group provided the following comments:</p> <ul style="list-style-type: none"> <li>• identify secure water supply and provide a consolidated water site balance</li> <li>• provide an assessment of ground water impacts, monitoring, and methodologies</li> <li>• demonstrate compliance with relevant legislation and policies.</li> </ul>
<b>RTS/RRFI</b>	<p>Water Group recommend a Dewatering management Plan is prepared prior to commencement of works.</p>
<b>Heritage NSW (HNSW) - Aboriginal Cultural Heritage (ACH)</b>	
<b>EIS</b>	<p>HNSW (ACH) recommend the applicant prepare an Aboriginal Cultural Heritage Assessment Report (ACHAR).</p>
<b>RTS</b>	<p>HNSW (ACH) confirmed the ACHAR was acceptable and is satisfied with the recommendations included in the Applicants Mitigation Measures.</p>
<b>Heritage NSW (HNSW)</b>	
<b>EIS</b>	<p>HNSW provided the following comments:</p> <ul style="list-style-type: none"> <li>• update the Heritage Impact Statement to include commentary on the findings of the Visual impact Assessment</li> <li>• incorporate a condition requiring an unexpected finds protocol for non-Aboriginal archaeological relics.</li> </ul>

## NSW Land and Housing Corporation (LAHC)

EIS	LAHC supports the proposal and considers it to be in line with the NSW Government's Future Directions for Social Housing policy.
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## Sydney Airport

EIS	Sydney Airport advises the buildings and cranes will infringe prescribed airspace for Sydney Airport and approvals will be required from the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC).
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### 5.4 Key issues – Community

A total of 11 public submissions were received from the public in response to the exhibition. Key concerns raised are summarised in **Table 6**.

**Table 6** | Summary of key issues raised in public submissions

Issue	Proportion of submissions
Overdevelopment/density	64%
Excessive height and bulk	55%
Increased traffic congestion	45%
Overshadowing of neighbouring properties	36%
Visual impacts	27%
Loss of views to Gateway Apartments (158-164 Princes highway)	9%
Insufficient car parking and loss of on street parking	9%
Insufficient deep soil area	9%
Increased crime	9%
Insufficient capacity of Arncliffe railway station	9%
More community uses should be provided	9%
Concentration of social housing	9%

### 5.5 Applicant's response to submissions and amendments

On 9 February 2022, the Applicant provided a Response to Submissions (RtS) which included additional information and proposed amendments in response to the issues raised in public submissions and public authority advice.

The Applicant also provided additional information in response to the Department's Requests for Information (RFI) in between March and May 2022.

The RtS included the following key amendments (**Table 7**):

- amended building heights, to comply with the site's 70 m height limit, excepting a minor 1.5 m exceedance for the Building B lift overrun
- relocation of the childcare centre to the upper ground and level one of Building C, and relocated retail floor area to Building D
- design changes to increase the number of cross ventilated apartments
- amendments to the Eden Street Park, Meeting Place, increase in deep soil planting and additional tree retention
- amended vehicle access, including a new deceleration lane from the Princes Highway and redesign of the Eden Street driveway and increased bicycle parking.

These documents were placed on the NSW Planning Portal and notification was sent to relevant public authorities. While the Department did not receive any further public feedback, further public authority advice was received from Council and relevant agencies (**Table 5**).

These documents are available to view in full at <https://www.planningportal.nsw.gov.au/major-projects/project/40681>.

**Table 7 | Summary and comparison of key amendments to the proposal**

Component	EIS	RtS/RRFI	Difference
<b>Building height (max)</b>			
Building A	74.3m (RL95.05) 22 storeys	70m (RL 91.65) 22 storeys	- 4.3m
Building B	74.85m (RL 98.25) 23 storeys	71.5m (RL 94.9) 23 storeys	- 3.35m
Building C	64.3m (RL89.65) 19 storeys	67.4m (RL 92.65) 20 storeys	+ 3.1m + 1 storey
Building D	60.6 (RL91.2) 22 storeys	60.6 (RL91.2) 22 storeys	No change
<b>Communal Open Space</b>	3,706 m <sup>2</sup> (27.5% of the site area)	2,893 m <sup>2</sup> (21.5% of the site area)	Deletion of rooftop communal open space on Building B
<b>Tree retention</b>	Retention of 12 trees (19, 21-25, 60, 109, 111, 134, 136-137)	Retention of 17 trees (3, 19, 21-25, 44, 45, 60, 90, 109, 111, 128 134, 136-137) <i>* trees 90, 128 and 134 will be relocated within the site</i>	+ 5 trees retained
<b>Deep soil zones</b>	941 m <sup>2</sup>	1,009 m <sup>2</sup>	+ 68 m <sup>2</sup>
<b>Bicycle parking</b>	392 spaces	543 spaces	+ 151 spaces

## 6 Assessment

### 6.1 Key assessment issues

The Department has considered the Applicant's EIS, RtS and additional information as well as the issues raised in submissions in its assessment of the proposal. The Department considers the key assessment issues associated with the proposal are:

- design excellence
- built form
- residential amenity
- open space, public domain, landscaping, and trees
- traffic and transport.

Each of these issues is discussed in the following sections of this report. Other issues were taken into consideration during the assessment of the proposal and are discussed at **Section 6.7**.

### 6.2 Design Excellence

Clause 6.10 of the BLEP 2021 (formerly Clause 6.14 of the Rockdale LEP 2011) requires an architectural design competition for development greater than 12 storeys or 40 m within the Arncliffe Precinct. However, this requirement may be waived by the NSW Government Architect (GANSW) where a development is subject to a design review panel process.

On 18 July 2020, GANSW waived the requirement for a design competition, and substituted it with a design review and design integrity process through the State Design Review Panel (SDRP), on the basis of:

- unprecedented circumstances relating to COVID-19
- Bayside Council support for the waiver
- sound design principles displayed within the concept designs
- a commitment to quality public space and improved public amenity
- GroupGSA remaining as lead architect through to completion of the development.

The application has been reviewed by the SDRP over five DRP sessions between September 2020 and December 2021 resulting in significant amendments to building form, massing, architectural treatment, landscaping, planting, and deep soil provision.

In summary the SDRP advised that it supports the project and noted:

- the well resolved podium architecture in relation to open spaces
- improved tower massing and building separation
- the considered response to through site links and neighbourhood connectivity

- the integrated approach to Connecting with Country and the use and activation of the ground plane.

The SDRP provided final comments on design matters and recommended a condition requiring the glazed balustrading to Tower A podium levels be changed to an alternative, visually obscure material to ensure privacy to the outdoor living spaces for the relevant dwelling.

Under the terms of the competition waiver endorsed for the project, the design excellence process must include a Design Integrity Panel (DIP) process post planning consent.

The Department has considered the advice provided by the SDRP and assessed the proposal against the matters set out in Clause 6.10 of the BLEP in detail at **Appendix C**, and concludes the proposal meets the objectives of Clause 6.10 as it achieves a high standard of architectural, urban and landscape design subject to resolution of the SDRP outstanding matters through the DIP process.

The Department has considered the SDRP's comments and concludes, subject to the recommended amendments to glazed balustrades and the establishment and the ongoing involvement of a Design Integrity Panel, the development will achieve design excellence.

The Department recommends a condition requiring a DIP be established and maintained throughout the design development and construction of the proposal to review and provide independent oversight of the project design at key milestones and to review details of all materials.

### 6.3 Built form

The proposal seeks approval for the construction of four residential towers above two podiums with commercial uses at ground and lower ground floors and a central public open space, as summarised at **Section 2** and shown in **Figure 11**.

The Department considers the key built form issues are:

- building height and density
- layout and street setbacks
- boundary setbacks
- overshadowing
- view impacts.



**Figure 11** | CGI perspective of the proposal from the Princes Highway (Base source: Applicants RtS)

### 6.3.1 Building height and density

The proposal comprises of four 20-23 storey buildings which vary in height between 60.6 m and 71.5 m and a total GFA of 66,288 m<sup>2</sup>.

The proposal complies with the maximum height of 70 m in the BLEP, with the exception of a 1.5 m variation to accommodate the lift overrun for Building B (**Table 8**).

The proposal exceeds the 4.8:1 maximum floor space ratio control (including a 20% bonus provided by the former State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)) by 1,773 m<sup>2</sup> or 2.69% (**Table 9**).

Council objected to the proposed height and scale of the proposal as it exceeds the prescribed height and FSR limits. Concerns were also raised in public submissions regarding the proposed height and scale of the development.

**Table 8** | Building heights

Building	Height in metres	Storeys	Compliance (Yes/No)
A	70 m (RL 91.65)	22	Yes
B	71.5 m (RL 94.9)	23	No (+1.5 m)
C	67.4 m (RL 92.65)	20	Yes (- 2.6 m)
D	60.6 m (RL 91.2)	20	Yes (-9.4 m)

**Table 9 | Floor space ratio**

BLEP max FSR	ARH SEPP bonus	Total FSR	Proposed FSR	Compliance
4:1	20%* (0.8:1)	4.8:1 (64,513 m <sup>2</sup> )	4.93:1 (66,266 m <sup>2</sup> )	No (+1,773 m <sup>2</sup> or 2.69%)

\* Clause 13(b)(1) of the ARH SEPP permits a 20% bonus where the existing maximum FSR is greater than 2.5:1 and the % of the GFA of the development used for affordable housing is 50% or higher. Clause 6(2) of the ARH SEPP defines residential development on land owned by LACH as affordable housing.

The Applicant has submitted Clause 4.6 variation requests for the height and floorspace variations (**Appendix B**). The Applicant contends that the proposed variations are justified because:

- the FSR variation is a direct result of enclosing balconies facing the Princes Highway as wintergardens, which would have no perceivable difference between a scheme that complies with the maximum FSR control by providing unenclosed balconies
- there is no public benefit in maintaining the FSR development standard, as it would limit the usability of the private open space of apartments which face the Princes Highway
- the lift overrun is centrally located and will not be visible from the public domain or surrounding dwellings.

The Application also includes a Visual Impact assessment (VIA) (**Figure 12 to Figure 15**) which provides perspectives of the proposed development when viewed from key public vantage points. The VIA contends the height and scale of the buildings are appropriate within their context and have acceptable visual impacts noting the desired future built form evolution of the precinct.

As outlined in **Section 1.2**, the existing built form character of the area is predominantly low – medium rise in nature. However, Arncliffe is transitioning to a medium to high density town centre, with significant potential for redevelopment including building heights of:

- 31 m along the Princes Highway
- 36 m between Eden Street and the railway line
- 42 m on the neighbouring sites to the north
- 31 m on neighbouring sites to the south
- 70 m for the subject site.





**Figure 12** | Existing (left) and proposed (right) view north across Princes Highway/Wickham Street intersection (Source: Applicant's VIA)



**Figure 13** | Existing (left) and proposed (right) view south west across Princes Highway (Source: Applicant's VIA)



**Figure 14** | Existing (left) and proposed (right) view east across Eden Street (Source: Applicant's VIA)





**Figure 15** | Existing (left) and proposed (right) view north from the corner of Forest Road and Firth Street (Source: Applicant's VIA)

Recent development on the eastern side of the Princes Highway reflects this increase in height and density, including the 10-storey Endeavor apartment building at 118 Princes Highway and the 9-10 storey Ventura apartment building currently under construction at 96-102 Princes Highway.

Notwithstanding, the proposed development will be highly visible from close and mid distant views around the site.

The Department has therefore carefully considered the visual impacts and the bulk and massing of the proposed towers having regard to the Applicant's VIA, the concerns raised by Council and in public submissions and the advice provided by the SDRP.

The Department considers the height, bulk and scale of the development is consistent with the future envisioned character for the site and precinct and is appropriate for the site, as:

- Buildings A, C and D fully comply with the BLEP maximum building height controls, with Buildings C and D are 2.5m and 9.2 m below the maximum building height respectively
- the minor exception of a 1.5m lift overrun above Building B is acceptable as:
  - the exceedance is minor (2%) in the context of the overall height of the development
  - it is centrally located, would not be visible in any views from the public realm and therefore would not increase the perceived height or bulk of the building
  - it would not result in any additional overshadowing impacts given its central location within the building which only shadows the roof of Building B.
- the minor exceedance above the BLEP maximum FSR control is caused by the enclosure of balconies fronting Princes Highway to provide wintergardens. This will enhance the functionality and amenity of these areas for future residents without increasing the perceived building bulk compared to a compliant scheme incorporating open balconies
- the massing is broken up into distinct and separate tower forms with high levels of articulation and varied materials providing an overall high design quality

- the proposal has been subject to extensive review and evolution under the guidance of the SDRP and has been endorsed as capable of achieving design excellence subject to design development and ongoing review by the DIP
- the proposal provides an appropriate relationship to the surrounding sites and in the context of the recently adopted planning controls which permit increased height and density, would maintain an acceptable level of amenity, in terms of overshadowing, privacy, noise and wind, to existing and future development (**Section 6.4**)
- the proposal provides a 4,000 m<sup>2</sup> public park, and 870m<sup>2</sup> public plaza with extensive landscaping works, which will benefit future residents as well as the wider community.

The Department therefore concludes the proposed height, bulk and scale is acceptable as the height and FSR variations are minor, and the proposal will be consistent with the future desired character of the Arncliffe Planned Precinct. Further the development is capable of achieving design excellence and provides for an appropriate built form relationship to neighbouring properties, Eden Street, the Princes Highway, and the internal public domain.

### 6.3.2 Site layout and street setbacks

The Rockdale Development Control Plan 2011 (RDCP) provides objectives and controls for the Eden Street Development Site to deliver a mixed use residential and employment precinct with a centrally located public open space for local residents. It includes an indicative built form study (**Figure 16**) demonstrating how the redevelopment may be configured and provides controls for a new 4,000 m<sup>2</sup> public park, a 9 m wide through site link, building setbacks, solar access, and maximum tower floor plates.

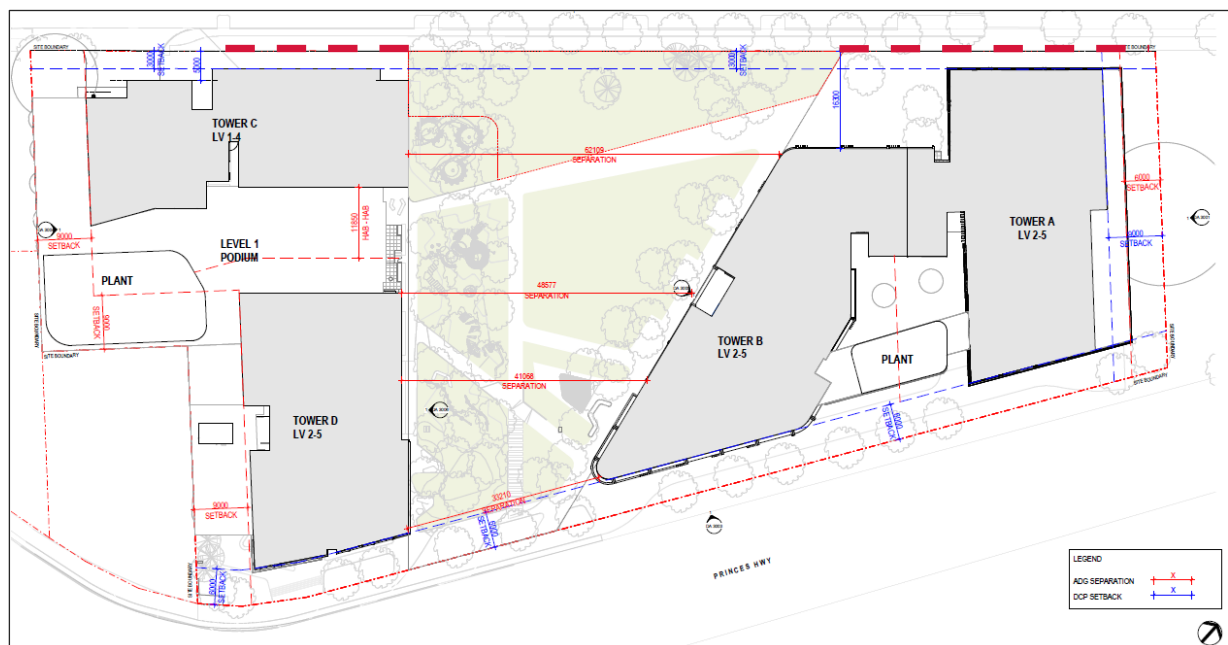
The RDCP also provides a maximum street wall control of six storeys along Eden Street, Princes Highway, and the public park, with an additional three metre setback required above six storeys.

The proposal provides four distinct and separate tower forms grouped above a northern and southern podium framing a splayed public park (**Figure 17**). The proposal provides setbacks to Eden Street, Princes Highway, the park, and neighbouring properties as follows:

- lower and upper levels of Buildings A, B and D are setback 6 m from Princes Highway
- lower levels of Building A are setback 3 m from Eden Street and upper levels are setback 3 to 5 m
- the lower levels of Building A are setback 6 m to the neighbouring properties to the north to create a pedestrian through site link with setbacks of 9-12 m from level 2
- lower levels of Building C are setback 3 to 7 m from Eden Street and upper levels are setback 3 to 5 m
- Buildings B, C and D frame the park with nil setbacks to all levels.



**Figure 16 | RDCP indicative Built Form Study (Source: RDCP)**



**Figure 17 | Building layout and separation showing DCP (blue) and ADG (red) recommended setbacks (Note: the DCP recommends a nil podium setback to the north west Eden Street frontage (red dash) (Base Source: Applicant's RtS)**

Council acknowledged that the proposed site layout provides some benefits over the indicative built form outlined in **Figure 16** above including the splayed shape of the park, the generous meeting place, improved connections to Arncliffe station and protection from the Princes Highway.

However, Council raised concern with the lack of upper-level setbacks (above 6 storeys) and the imposing impacts of the towers on surrounding streets, the public domain and surrounding area.

In response, the Applicant contends that the massing and design of the podium reflects the desired six-storey street wall character and is appropriate as:

- podiums and upper tower levels are differentiated by their design and materiality creating a clear visual and architectural distinction between the base and tower of each building
- façade articulation and breaks in the built form provide visual relief and ensure the proposal will not be vertically imposing in views from the public realm.

The Department acknowledges Council's concerns about the upper-level setbacks and impacts on the public domain. However, the Department is satisfied that the tower massing and design was rigorously tested by the SDRP to ensure the massing and design of the buildings to Eden Street, Princes Highway and the park clearly delineates between podium and tower forms to reduce the perception of the buildings imposing on the public domain.

The Department is satisfied that the site layout, setbacks and proposed podium and tower massing are acceptable and provide an appropriate response to the site and the locality as:

- the proposal provides a 4,000 m<sup>2</sup> public park, north facing public forecourt fronting Eden Street, and pedestrian through site links through the park and along the northern boundary of the site which have been designed to achieve and improve upon the vision for the site in the RDCP
- the proposal includes two separate podiums and four towers which incorporate generous 24 m to 62 m tower separation to reinforce the six-storey podium height and reduce the vertical perception of the towers from the public realm
- the proposed towers have been designed to be slender with floor plates ranging from 650 to 796 m<sup>2</sup>, which is consistent with the RDCP recommended maximum of 800 m<sup>2</sup>
- the 6 m wide pedestrian link, although 3 m narrower than shown on the indicative layout within the DCP, continues to meet the intent of the DCP to provide an additional public connection through to the arcade and Arncliffe railway station. In addition, the Department considers the pedestrian link is appropriate as:
  - the link achieves a good level of access, while also accommodating landscaping and seating to improve the safety and amenity of this space
  - the link is activated by ground floor uses in Building A
  - the upper levels of the building from Level 2 and above are setback a further 3-6 m to ensure the visual impacts of the tower are not overbearing within the through site link.
- the building design and architectural treatment has been refined through the SDRP review process to ensure the podiums are visually distinct from the towers, in form and materiality, and achieve a well-defined six-storey base in accordance with the intent of the RDCP controls (**Figure 18 to Figure 21**).



The Department therefore concludes that through the SDRP review process the proposal has evolved to provide an appropriate response to the site layout, setbacks and building massing while delivering the key public domain outcomes envisaged in the RDCP. The Department is satisfied the proposal achieves the intent of the RDCP controls in relation to street wall heights and setbacks through a well resolved architectural design response.



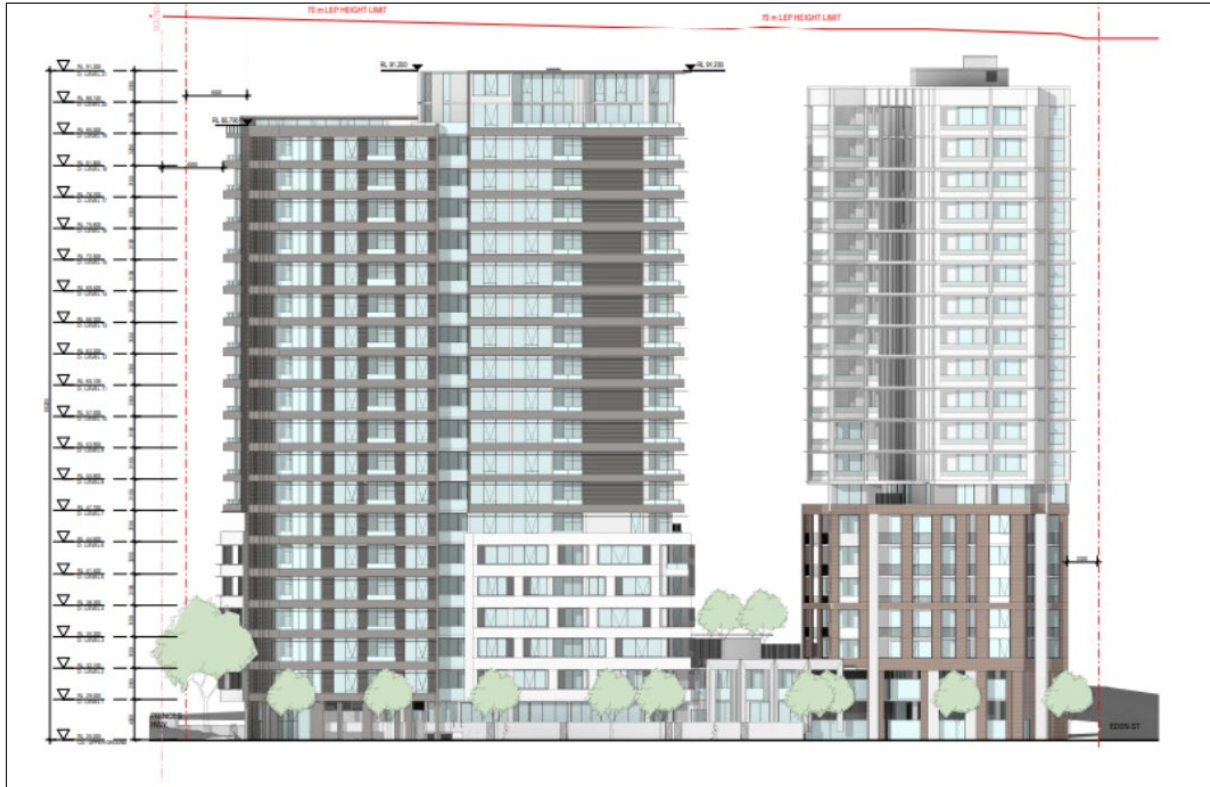
**Figure 18 | Eden Street elevation (Source: Revised Architectural Plans)**



**Figure 19 | Princes Highway elevation (Source: Revised Architectural Plans)**



**Figure 20** | Southern Elevation of Tower A (foreground) and Tower B (background) as viewed from the Eden Street Park (Source: Revised Architectural Plans)



**Figure 21** | Northern elevation of Tower D (left) and Tower C (right) as viewed from the Eden Street Park (Source: Revised Architectural Plans)

### 6.3.3 Side boundary setbacks

The proposal adjoins residential development to the north-east and south-west. The proposal provides boundary setbacks as follows:

- Building A is setback between 6 and 12 m from the boundary adjacent to the four-storey residential buildings at 20-24 Eden Street to the north-east
- Buildings C and D have a nil setback to the boundary adjacent to single storey dwellings at 52 Eden Street and 181 Forest Road to the south-west for the lower 1-2 storeys and a 9-12 m setback to the upper levels.

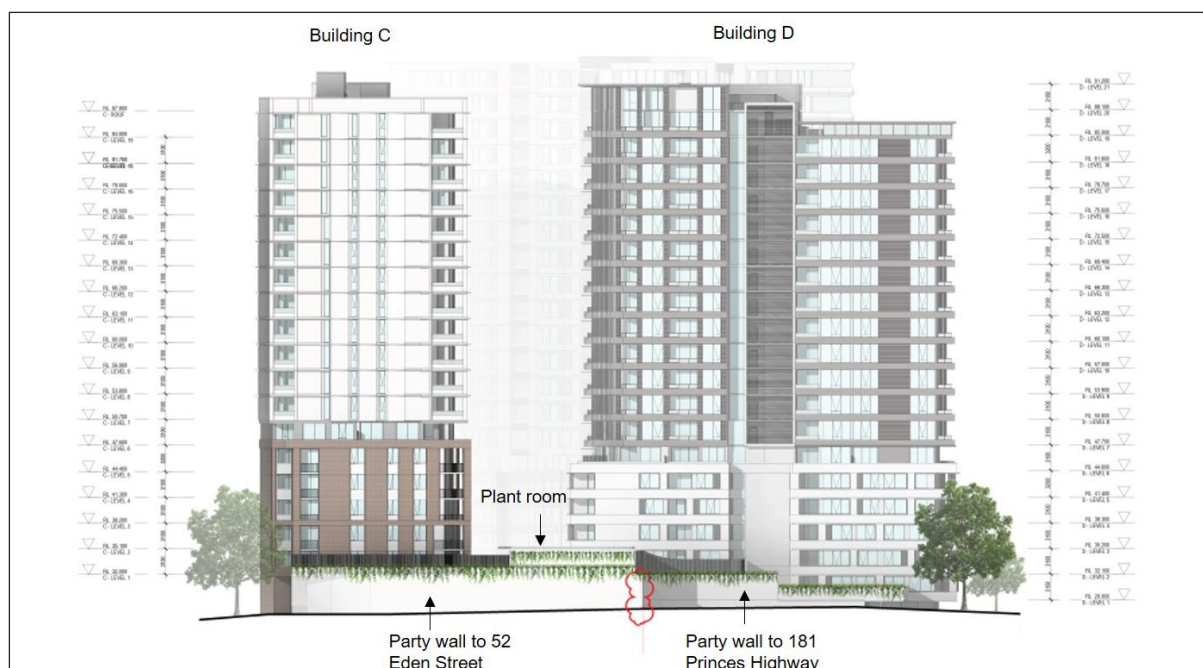
The Apartment Design Guide (ADG) recommends 6 to 12 m setbacks to side and rear boundaries to maintain visual privacy of neighbouring properties. The ADG also notes that no building separation is necessary where buildings incorporate blank party walls at the podium level within a centre.

RDCP also references the building separation guidelines within the ADG and permits zero building separation for residential flat buildings in mixed use areas where the development is a street wall building type with party walls.

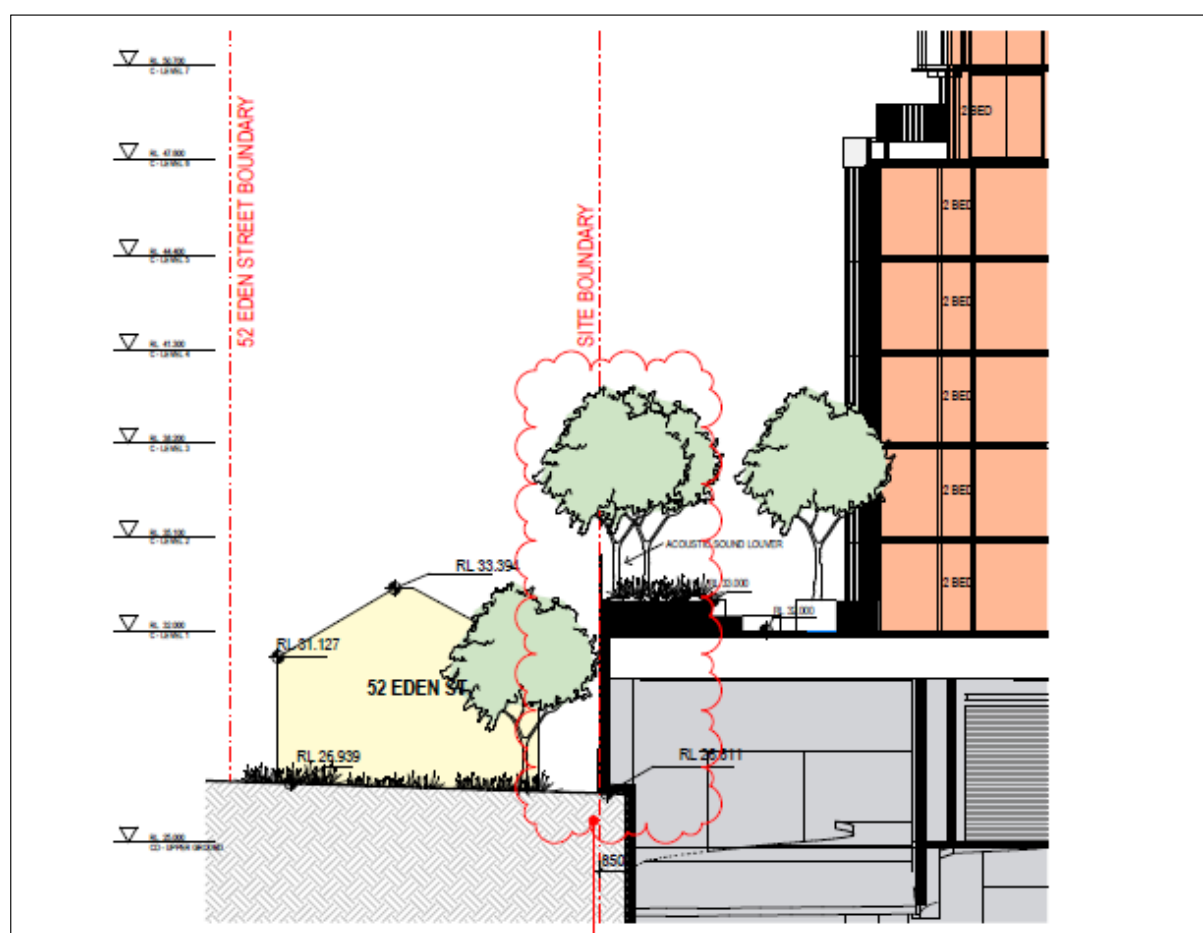
Council noted that further analysis of the development potential of the neighbouring sites to the south-west is required to determine if a nil setback is an appropriate built form outcome. Council also raised concern about the proposed loading area and plant room adjacent to the southwestern boundary and recommended that it be setback behind a landscape buffer.

In response to concerns raised by the Council the Applicant contends that a nil setback is consistent with the RDCP and is limited to 1-2 storeys (**Figure 22** and **Figure 23**). Further the proposal provides a party wall which would enable future redevelopment of the sites to the south to also provide a similar treatment to achieve a uniform street wall podium to Eden Street and Princes Highway. A landscape buffer is also proposed at Level 2 to screen the proposed plant room and communal open space.





**Figure 22** | South-western elevation showing the 1-2 storey party wall to the boundary (Base Source: Applicant's RRFI 5 May 2022)



**Figure 23** | Proposed party wall in relation to the existing dwelling at 52 Eden Street (Base Source: Applicant's RRFI 5 May 2022)



The Department is satisfied that the proposal achieves the minimum setbacks recommended by the ADG and RDCP and provides adequate separation at the lower and upper levels to maintain an appropriate level of privacy between neighbouring properties and protect the future development potential of the sites to the north-east and south-west of the site.

The Department considers that a nil setback of the podium to the south-western boundary is appropriate as:

- the site and neighbouring sites are zoned Mixed Use and located within Arncliffe town centre which is transitioning into a medium to high density precinct
- it would allow the neighbouring sites to maximise use of their land and build a podium to the boundary
- it is limited in height to 1-2 storeys to prevent significant adverse or overbearing visual or amenity impacts on the existing dwellings, with all levels above setback 9 to 12 m in line with the ADG
- acoustic screening will be provided to proposed level 2 plant room and the edge of the passive communal open space adjacent to the south western boundary to mitigate noise impacts
- the landscape plans demonstrate sufficient soil depth of up to 1.2 m to accommodate trees and mass planting along this boundary to further improve privacy and enhance the appearance of the development as viewed from the adjoining properties
- the Applicant's overshadowing analysis demonstrates that 52 Eden Street will continue to receive at least 2 hours solar access in midwinter and while 181 Princes Highway and 7 Forest Road do not achieve two hours this is acceptable in the context of the desired medium to high density future character of the area and:
  - 181 Princes Highway is in shadow all day in midwinter due to its location immediately south of the proposal however the existing dwelling is abandoned and derelict
  - 7 Forest Road receives sunlight from 2pm-3pm, in addition to some sunlight between 11am and 11.30am in mid-winter and also receives 2 hours solar access in the equinox.

The Department recommends conditions to ensure:

- the treatment of the party wall and acoustic screen along the southwestern boundary of the site be developed in consultation with adjoining property owners and reviewed by the SDRP prior to construction commencing to ensure it achieves an acceptable visual quality
- the landscape plans include trees and mass planting on the top of the southern boundary wall boundaries to assist in screening the upper levels of the development
- the use of the communal open space be restricted to 10pm, 7 days to protect the amenity of neighbouring properties.

Subject to the recommended conditions, the Department is satisfied the proposed setbacks provide an appropriate response to the existing development and the future desired built form and character of the precinct.

### 6.3.4 Overshadowing

Public submissions raised concerns about overshadowing impacts, particularly impact on units at 118 Princes Highway and 158-164 Princes Highway.

Council also noted that the overshadowing impacts to neighbouring properties to the south-west need to be considered.

The ADG recommends that overshadowing of neighbouring properties is minimised during mid-winter. For apartment buildings, the ADG recommends a minimum of two hours of solar access be maintained to living areas, balconies, and private open space between 9 am and 3 pm in mid-winter for at least 70% of apartments and 50% of the principal usable part of the communal open space.

The Applicant provided overshadowing diagrams to demonstrate the impact of the development on surrounding properties including heritage items between 9 am and 3 pm in the mid-winter, equinox, and mid-summer scenarios.

The Department has analysed the overshadowing diagrams and considered the concerns raised in public submissions and Council's advice. The Department notes the surrounding area contains a mix of both apartment buildings and single dwellings and considers it appropriate to apply the two-hour recommended minimum to all dwellings as well as the surrounding apartment buildings.

In relation to the impact to existing surrounding properties, the Department notes the following mid-winter impacts:

- the proposal would only result in overshadowing of a small number of apartments within the Endeavour Apartment building at 118 Princes Highway from 3 pm, and these apartments continue to achieve at least five hours of solar access in mid-winter
- the proposal would only result in overshadowing of a small number of north and west facing apartments at 158-164 Princes Highway between 12 pm and 2 pm and these apartments continue to achieve at least three hours of solar access in mid-winter
- two neighbouring properties (7 Forest Road and 181 Princes Highway) immediately to the south will receive less than 2 hours solar access in mid-winter
- at least 50% of the proposed Eden Street Park will receive more than 2 hours solar access during mid-winter in line with the ADG
- the proposal would not overshadow the heritage items including St Francis Xavier's Church and Primary School from 12 pm to 3 pm in mid-winter and the additional overshadowing to the school's playgrounds is limited to no more than 8.4% before 10 am.

The Department considers the above impacts are generally acceptable as surrounding properties, except for 7 Forest Road and 181 Princes Highway, will continue to receive at least two hours of solar access in mid-winter as recommended by the ADG.

The Department acknowledges that it is very difficult to protect solar access to 7 Forest Road and 181 Princes Highway given their location immediately south of the site. In addition, the requirement to provide 4,000 m<sup>2</sup> of open space and building separation requirements limit options for tower placement within the southern portion of the site.

The Department has considered the analysis provided by the Applicant, including the comparison overshadowing analysis of the indicative layout within the RDCP, and considers the impacts to 7 Forest Road and 181 Princes Highway are on balance acceptable as:

- the land to the south, between the site and Forest Road (including 7 Forest Road and 181 Princes Highway) are zoned Mixed Use with a maximum permissible building height of 31 m and FSR of 2.5:1, and therefore likely to be redeveloped in line with these controls in the short to medium future
- the existing single storey dwelling at 7 Forest Road would receive 1-2 hours of solar access in mid-winter, however it receives over two hours in equinox
- the existing single storey dwelling at 181 Princes Highway is significantly overshadowed throughout the year due to its location immediately south of the proposal however it is currently vacant, and unlikely to be brought back into use as a single dwelling
- the minor variations to the BLEP height limit of 70 m do not result in any additional overshadowing impacts to any surrounding properties compared to a compliant scheme, nor the RDCP indicative layout scheme.

The Department therefore considers it would be unreasonable in the context to protect solar access to these properties noting this would require material changes to Buildings C and D which would compromise the ability of the development to deliver on both the RDCP and LAHC vision for the site to deliver a high-density mixed-use precinct with a new public park, through site link and 180 social housing units.

The Department has also carefully considered the overshadowing impacts of the proposal on the likely future redevelopment of the sites to the south of the site.

The Applicant's overshadowing analysis contends that the potential future development (Buildings E1 and E2 as shown in **Figure 24**) can achieve solar access to apartments in line with the ADG.



**Figure 24** | Indicative future development of the precinct (the subject site is outlined in red) (Base Source: Applicant's RRFI 5 May 2022)

The Department has reviewed this analysis, however, notes that this is an indicative layout only and the actual impacts to potential future development cannot be quantified, particularly in the context that any building directly at the south of the proposal would be unavoidably overshadowed in mid-winter due to the location constraints and provisions of LEP and RDCP.

Notwithstanding, the Department is satisfied that the proposal fully complies with the recommended minimum building separation within the ADG. The Department does not consider it necessary to require increased separation, given the actual impacts to the potential future development are not known and the future development has opportunities to maximise their solar access through building siting, orientation, and apartment design to achieve a high level of amenity in line with the ADG.

The Department therefore concludes that the overshadowing impacts are reasonable in the context of the planning controls and orientation of the site, as most surrounding properties and public spaces continue to achieve good levels of solar access. The Department also concludes the sites immediately to the south of the site have the opportunity to achieve a good amenity, especially if they are redeveloped together.

### 6.3.5 View impacts

An objection was received from the owners of an apartment within 158-164 Princes highway regarding the impact on views to the north across the site (**Figure 25**).

In response, the Applicant considers that view impacts to 158-164 Princes Highway are acceptable as the proposal will not obscure any significant views and the building height and scale is generally in accordance with the BLEP and the desired future intent for the area.



**Figure 25** | View towards the site from 158-164 Princes Highway (Source: Public Submission)

The Department has carefully considered the concerns raised and acknowledges that the proposal will be highly visible from surrounding properties, including 158-164 Prices Highway. The Department has also considered the proposal against the planning principle established by Tenacity Consulting v Waringah [2004] NSWLEC 140, and considers the visual impacts are acceptable as:

- the visual impact of the development would be consistent with the desired future character of the area established by the BLEP
- the proposal has been through a review process by the SDRP is of a high architectural standard contributing positively to the desired future character of the area
- views across the site currently available are the result of the current low-rise character of the site which has been rezoned to accommodate greatly increased height and density
- while views of the sky and district views are available from higher level units no significant views to elements of scenic value are affected by the proposal
- Buildings C and D, which are most prominent when viewed from 158-164 Princes Highway are 2.6m and 9.2m below the BLEP 70 m height control, and all other buildings comply with the exception of the lift overrun to Building B which would not be visible in views from this location.

The Department therefore concludes the proposal would not unreasonably affect views from apartments within 158-164 Princes Highway or other surrounding properties.



## 6.4 Residential amenity

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) seeks to improve the design quality of residential developments and encourage innovative design. The ADG is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments.

The Department has considered the quality of future residential amenity as part of its assessment and is satisfied the proposal, as amended in the RtS, is generally consistent with the key ADG amenity standards as summarised in **Table 10**. A full assessment of the proposal against the ADG amenity criteria is provided at **Appendix C**.

**Table 10 | Compliance with Key ADG amenity standards**

Building	Cross-ventilated Apartments (60% up to 9 Storeys)	Solar access (At least 2 hours 21 June)	No. of apartments with no solar access 21 June (15%)	No. of apartment per lift core (12)	Building Separation (privacy)	Communal open space (25% of the site)
<b>Building A</b>	63% (50/79)	71% (132/186)	18% (34/186)	9	✓	
<b>Building B</b>	73% (62/85)	72% (146/202)	6% (12/202)	11	✓	
<b>Building C</b>	73% (58/80)	70% (126/180)	14% (26/180)	10	✓	
<b>Building D</b>	78% (62/80)	70% (123/176)	20% (30/176)	9	✓	
<b>Total across the development</b>	72%	71%	15%	9-11	✓	21%

The Department has considered the two minor departures from the ADG in relation to solar access and communal open space.

### 6.4.1 Solar access

As recommended by the ADG, all buildings achieve a minimum of 70% of apartments' living areas and private open spaces receiving a minimum of two hours direct sunlight between 9am and 3pm in mid-winter.

The ADG recommends a maximum of 15% of apartments receive no solar access in midwinter. As a whole development, 15% of apartments receive no solar access in mid-winter, which aligns with the ADG. However, 18% of apartments in Building A and 20% of apartments in Building D would receive no solar access between 9 am and 3 pm, mid-winter.

The Applicant contends the building orientation and design was prioritised to maximise the number of apartments receiving a minimum of two hours of sunlight in midwinter. Furthermore, midwinter represents the worst-case scenario with the solar performance of the building improving significantly for the remainder of the year.

The Department notes the ADG recognises achieving the design criteria may not be possible on some sites and is satisfied the design of Buildings A and D has achieved an appropriate balance with regard to solar access through appropriate siting, orientation, and scale.

The Department further acknowledges that overall no more than 15% of apartments across all four buildings achieve no solar access and the non-compliance is limited to six apartments within Building A and four apartments within Building D, which otherwise achieve good levels of amenity through satisfying or exceeding minimum apartment size, private open space, cross ventilation, and storage requirements of the ADG.

The Department therefore concludes the minor departure from the ADG is acceptable in this instance given the development overall complies with the recommendation and that the affected apartments achieve an overall good level of amenity despite receiving no solar access in midwinter.

#### **6.4.2 Communal open space**

The ADG recommends communal open space should be provided at an area equal to 25% of the site area.

The proposal initially provided 3,706 m<sup>2</sup> (27.5% of the site) of communal open space on the podium and rooftops of Buildings A, B, C and D.

However, in response to Council's concern about the height of Building B, the Applicant deleted the communal rooftop open space to reduce the overall height of the building by 3.35 m. The revised proposal therefore includes 2,893 m<sup>2</sup> of communal open space equating to 21% of the site.

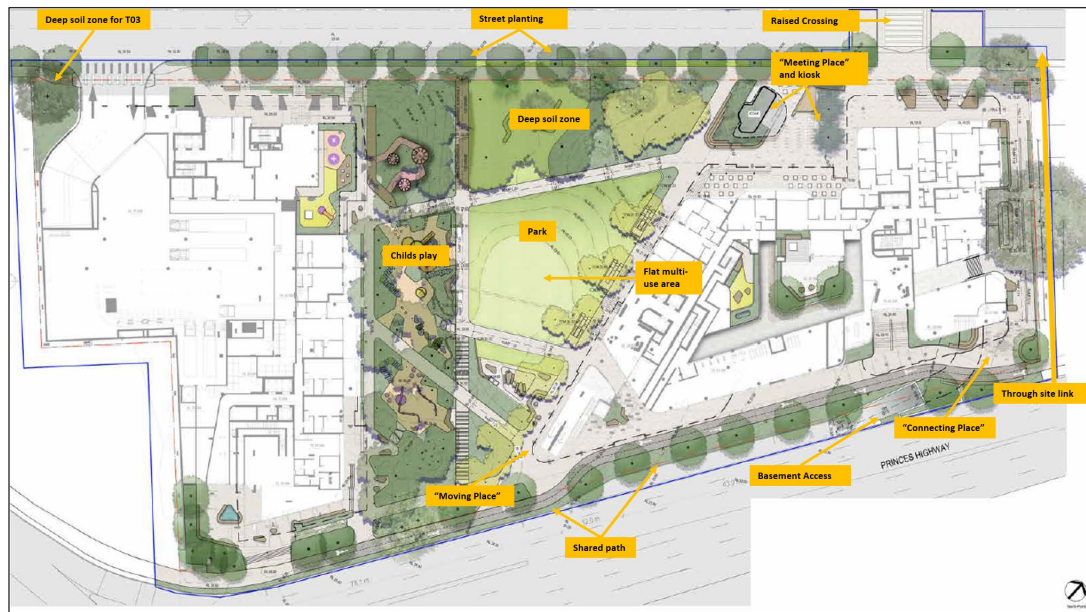
Notwithstanding the minor departure from the ADG, the proposal includes 4,870 m<sup>2</sup> of public accessible open space in the form of the Eden Street park and Meeting Place, which has been designed to provide opportunities for both active and passive recreation. These spaces are immediately adjacent to the buildings and accessible to all residents and the broader community.

The Department is therefore satisfied that the proposal will deliver a total area of communal and public open space of 7,763 m<sup>2</sup> (58% of the site area) which will overall provide excellent outdoor recreation opportunities for future residents in line with the ADG.

#### **6.5 Open space, public domain, landscaping, and trees**

The proposal seeks to create a new central public park and new pedestrian links through the site, a new shared path on the Princes Highway frontage, and a new raised pedestrian crossing linking the site to The Arcade and Arncliffe Station.

Overall, the proposal includes approximately 4,870 m<sup>2</sup> of publicly accessible open space including a central 4,000m<sup>2</sup> park, an 870 m<sup>2</sup> public plaza and through site links connecting Eden Street and the Princes Highway equating to 36% of the site area (**Figure 26**).



**Figure 26 | Landscaping and Public Domain Plan (Base Source: Amended Landscape Plans)**

The key elements of the public domain include:

- 4,000 m<sup>2</sup> central park comprising a central 270 m<sup>2</sup> multi use flat area to accommodate active recreation uses, a children's play space, informal seating areas, pathways, landscaping, and deep soil areas fronting Eden Street
- a "Moving Place" adjacent to Princes Highway comprising a waterplay feature, seating, and paving
- a "Connecting Place" at the north-east corner of the site marking the entrance to the northern through site link comprising amphitheatre seating steps, decking areas and public bicycle parking
- a "Meeting Place" fronting Eden Street incorporating flexible outdoor seating space and a kiosk space with integrated tiered landscaping and utility access
- northern through site link including active retail edge with seating and wall artwork
- shared path along Princes Highway and footpath on Eden Street
- a raised pedestrian crossing across Eden Street lining the site to The Arcade through to Arncliffe station.

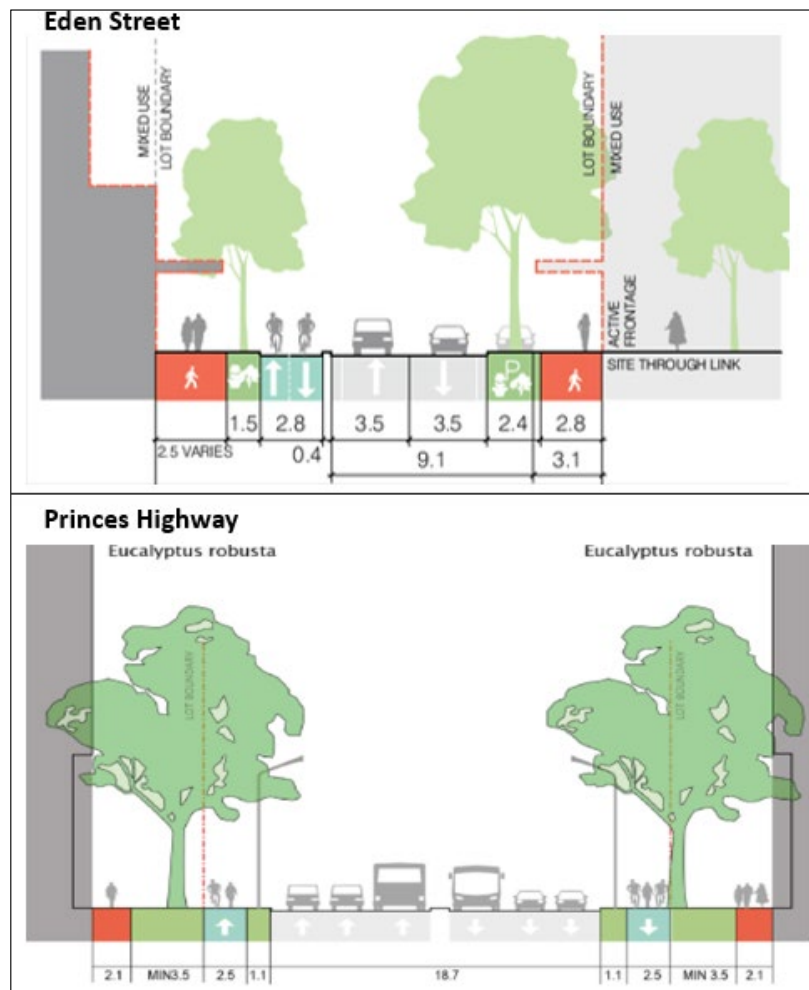
The Department consider the key assessment issues to be

- open space design and function
- landscaping and trees
- designing with Country.

### 6.5.1 Open space design and function

Council generally supports the open space provision on site including the central park, shared path and through site links. However, Council raised concerns regarding the basement setback to Princes Highway as it relates to the provision of deep soil and tree retention and the usability and layout of the central public park.

Council also requested the proposal should comply with the relevant requirements of the Arncliffe and Banksia Public Domain Technical Manual (the Technical Manual) and RDCP including shared and pedestrian path widths along Princess Highway and Eden Street (**Figure 27**).



**Figure 27** | Council recommended Eden Street (above) and Princess Highway (below) footway and shared path widths (Source: Arncliffe and Banksia Public Domain Plan)

In response to Council's concerns the Applicant:

- setback the Basement Level 1 an additional 3 m from the Princes Highway frontage to increase deep soil volume to allow additional tree retention and mature planting along the frontage
- introduced a 270 m<sup>2</sup> flat area within the central park space suitable for active recreation
- amended the design of the meeting place to provide multiple opportunities for public gathering, seating, and dining

- confirmed the underground services, street furniture, lighting, planting, and rain gardens would be provided in accordance with the recommendations of the Technical Manual.

The Department has considered the advice provided by Council, the requirements of the RDCP and Technical Manual and the Applicant's response.

The Department is satisfied that the design changes made to the proposal improve the function and usability of the public domain and are generally consistent with the RDCP and Technical Manual except for:

- the minimum footpath along Eden Street being only 2.1 m, instead of 2.5 m as required by the Technical Manual. Notwithstanding, the Applicant has confirmed it would provide a minimum 2.5m width footpath along Eden Street and the Department recommends a condition accordingly
- the design of the shared and pedestrian pathway along Princes Highway which varies from the Technical Manual because of the need to accommodate the deceleration lane from the Princes Highway. The minor variation is considered acceptable as the proposal accommodates safe vehicle access from Princes Highway while also delivering a high-quality public domain outcome with a continuous 2.1 m footpath and 2.5 m shared path as required by the Technical Manual
- the 6 m width of the through site link complies with the requirements of the technical manual and guidance contained within the DCP, however is less than the 9 m shown on the DCP indicative massing study for the site. Notwithstanding, the Department is satisfied the link provides sufficient circulation space and amenity for pedestrians, will be highly activated by the adjacent retail tenancy on the lower ground level of Building A and will retain a sense of openness due to the upper-level building setbacks of between 9 and 12 m.

The Department is satisfied the proposed public domain works are acceptable as:

- the Eden Street park has been amended to include a flat area to provide opportunities for a variety of active recreation, accommodates play spaces for various ages and 941 m<sup>2</sup> of deep soil for mature planting for shade and amenity
- the meeting and connecting places are well integrated into the built form and site edges and will provide spaces for passive recreation and outdoor dining opportunities and help to activate the site during the daytime and evenings
- the new shared and pedestrian pathways, through site link and pedestrian crossing will integrate the site into its surroundings and improve pedestrian amenity and permeability in accordance the Technical Manual and RDCP requirements
- the design of the shared and pedestrian pathway along Princes Highway achieves the key requirements of the Technical Manual by providing a 2.1 m footpath and 2.5 m shared path while also accommodating safe vehicular access from Princes Highway
- 100% of the park achieves at least three hours of solar access in mid-winter.

Overall, the Department considers the proposed quantum, location, and types of open space, including the central park, meeting, connecting spaces and through site links would cater for the various open space demands of future residents, receive acceptable levels of solar access and result in a desirable outcome for future residents, workers, and visitors.



The Department also recommends conditions to secure Council's requirements for compliance with the Technical Manual regarding footpath dimensions and require the Applicant to submit final details of all public domain works, finishes and street furniture endorsed by Council and the DIP for approval by the Secretary.

### 6.5.2 Landscaping and trees

There are currently 122 trees located on the site and 18 surrounding the site. The proposal seeks to retain 14 trees and relocate a further three trees, however, 105 trees are unsuitable for retention (**Figure 28** and **Table 11**).

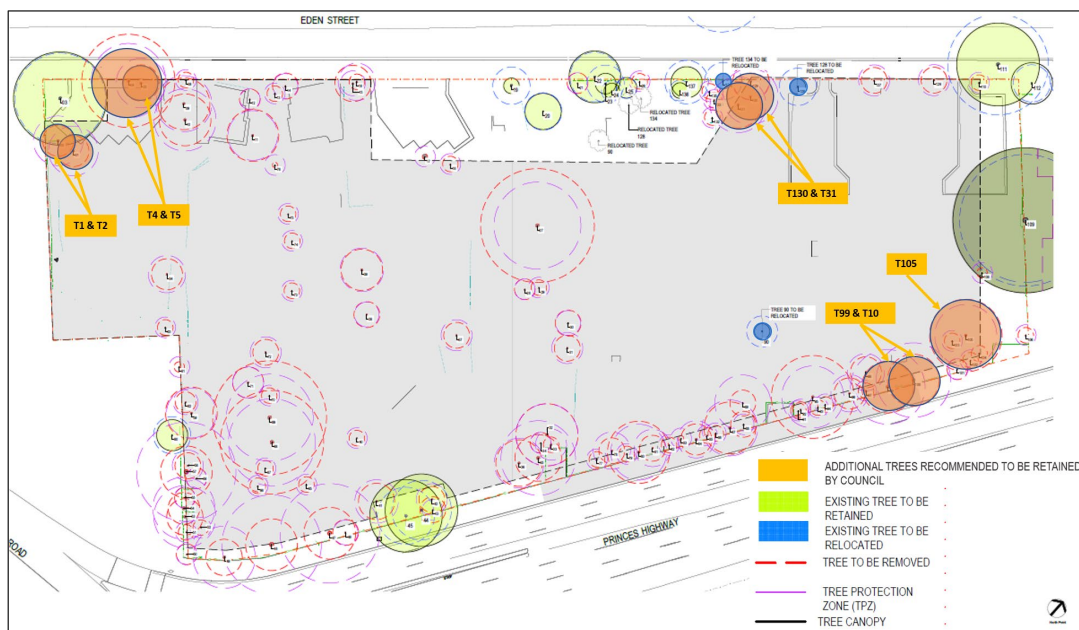
The proposed landscaping includes extensive planting of 228 trees that will result in a net increase of 123 trees on site.

Council raised concerns about the removal of existing mature trees from the site, replacement tree species selection and the adequacy of the deep soil setback zones to the Princes Highway to accommodate mature trees, in accordance with the Technical Manual and RDCP. Council also recommended the proposal provide 15% of the site area as deep soil in accordance with the design guidance of the ADG for sites greater than 1,500 m<sup>2</sup>.

EHG recommended conditions to ensure protection of tree 109 adjacent to Building A and the through site link.

In response to concerns raised by Council, EHG and the Department, the Applicant:

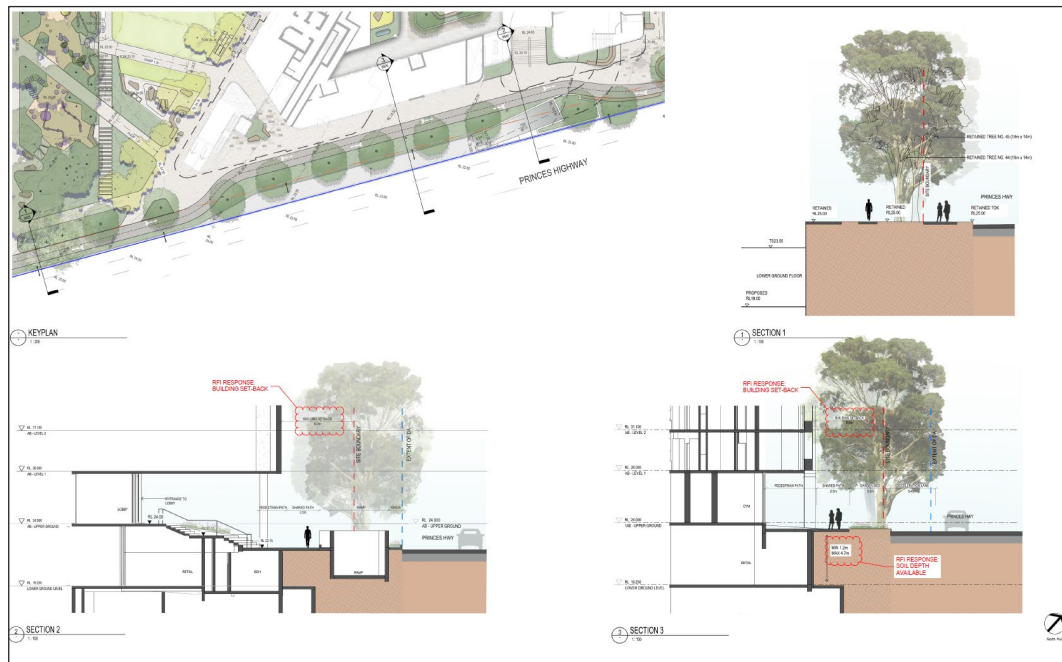
- revised the proposal to setback the basement footprint adjacent to Eden Street and along Princess Highway to:
  - provide additional soil volume to accommodate large canopy trees and mature tree planting along the Princess Highway frontage as a combination of 3 m of natural soil and 3 m of soil on slab (with a variable vertical depth between 1.2 m to 4.7 m) (**Figure 29**)
  - retain Trees 44 and 45 on the Princess Highway frontage and Tree 3 in the south east corner of the site fronting Eden Street (**Figure 30**)
- reduced the basement footprint adjacent to the through site link to retain and protect tree 109
- revised the planting schedule to reflect Council's recommended native species selection of Eucalyptus Robusta along the Princes highway frontage.



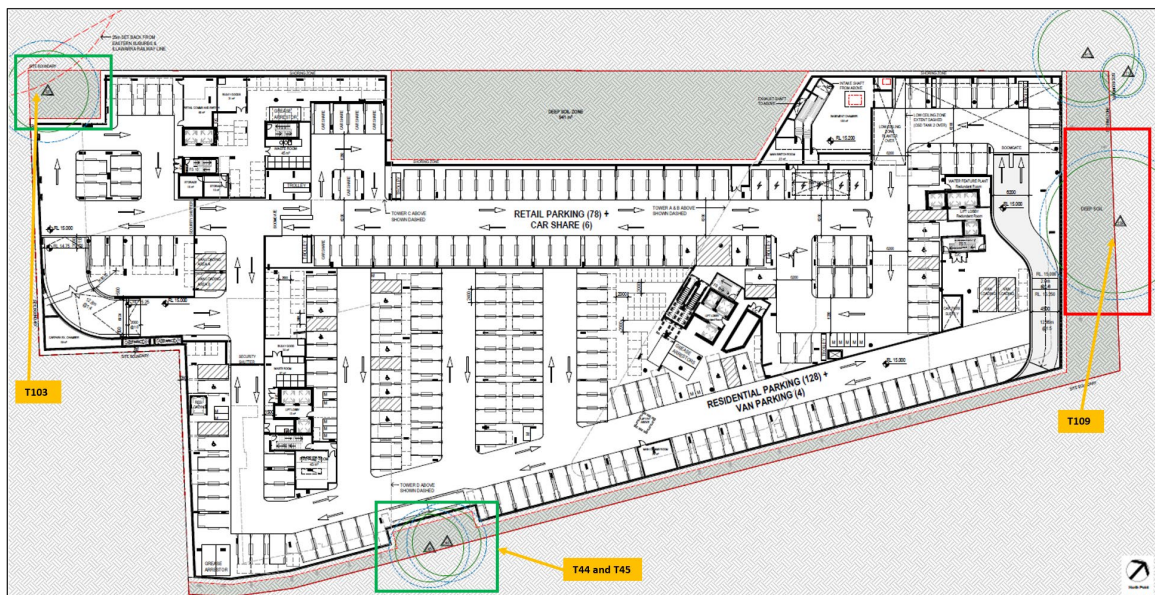
**Figure 28** | Proposed tree retention and additional trees recommend be retained by Council (Base Source: Revised Landscape Plans)

**Table 11** | Trees to be retained or relocated

Tree to be retained	Species	Height	Canopy	Significance
3	Lemon Scented Gum	18m	18m	High
19	Mexican Fan Palm	7m	3m	Medium
20	Red Cedar	9m	7m	Medium
22	Chinaberry	14m	10m	Medium
23	Cabbage Palm	7m	4m	Medium
24	Kentia Palm	9m	3m	Medium
25	China berry	5m	4m	Low
44	Lemon Scented Gum	18m	14m	High
45	Lemon Scented Gum	18m	14m	High
60	Silky Oak	14m	6m	Medium
90 (relocated)	Hoop Pine	8m	3m	Low
109	Blackbutt	28m	28m	High
111	Brush box	16m	16m	High
128 (relocated)	Cabbage Palm	6m	3m	Medium
134 (relocated)	Cabbage Palm	9m	3m	Medium
136	Crepe-myrtle	5m	3m	Low
137	Grevillea	12	6m	Medium



**Figure 29 | Amended Princess Highway Landscape Sections (Source: RFI)**



**Figure 30 | Revision to basement footprint to retain additional trees 3, 44 and 45 and increase the TPZ for tree 109 (Source: Amended Landscape Plans)**

- advised that the retention of additional Trees 1, 2, 4 and 5 is not possible as the trees conflict with the revised Eden Street driveway, which was supported by Council
- advised the retention of tree 105 would prevent the delivery of an active street frontage and continuous and accessible footpaths along the public domain due to it being located approximately 1.5 m below the future finished site level interface with Princess Highway

- advised that in addition to the 7.5% of deep soil area, an additional 5% of the site would remain as natural ground and in total 33% of the site area is of soil depth adequate to support tree planting
- where planting is located above structure soil depths in excess of 1m are provided to allow establishment of large shade trees.

In response to the RtS, Council acknowledged the amendments made by the Applicant and that they assist in responding to some of Council's concerns. The Department also met with Council staff who advised that the landscape response and amendments made to retain and protect additional trees and increase deep soil were positive.

Council however recommended conditions requiring offset replanting at a ratio of 3:1 either onsite or offsite, the removal of planters and introduction of a 1.6 m deep soil plating zone along the length of the northern through site links and retention of trees 99, 100, 105, 130 and 131 (**Figure 28**).

The Department has carefully considered the Applicant's response and the recommendations of Council.

The Department notes the proposal will increase trees planting on site by 123 trees (2.17 :1 replacement ratio) and achieve a total canopy cover by 3,070m<sup>2</sup>, equivalent to 33% of the sites area. The Department appreciates Council's request for offset planting at a ratio of 3:1, however, notes there is no specific policy or arrangement in place to provide for onsite or offsite replanting. Further the Department is satisfied that the proposed landscaping provides trees at a 2:1 ratio which maximises tree canopy coverage while delivering on the vision for Eden Street park to provide passive and active recreation areas for future residents and the community.

The Department agrees with Council that the northern through site link provides an additional opportunity for mature planting to increase amenity and privacy along this boundary and is preferable to the inclusion of planters above slab level and recommends a condition that the slab be setback to provide mature planting in this location.

The Department has also carefully considered the potential to retain additional trees as recommended by Council however considers it is not feasible or desirable retain trees 99, 100, 105, 130 or 131 as:

- Trees 99,100, 105 are located below the future finished site levels, would prevent an appropriate transition between the buildings and public domain and would be in direct conflict with the Princes Highway deceleration lane and basement access
- Trees 130 and 131 would conflict with the provision of the retail kiosk and integrated landscaping adjacent to the Eden Street Meeting Place and Basement Level 1, including access stairs and the main switch room.

The Department and considers the proposed tree retention and replacement planting is acceptable as:

- the amended proposal will retain 14 mature trees, including five of high landscape significance, and relocate a further three trees which will safeguard the established character of the site and existing streetscape amenity
- the revised level 1 basement setback to Princess Highway allows for deep soil volume to support mature replacement planting that will contribute positively to the streetscape

- the site provides 7.5% of its area as deep soil, which complies with the 7% minimum deep soil recommendation under the ADG and 33% of the site achieves of soil depths adequate to support tree planting
- replacement planting is of an appropriate species mix, comprising 70% native species
- the Department has carefully considered opportunities to retain additional trees, as recommended by Council, however, has found in this instance that it is not feasible or desirable to retain the additional trees as they conflict with fundamental aspects of the development, these being the Princes Highway access and the kiosk which will assist in activating the Meeting Place
- appropriate replacement planting and deep soil provision would ensure the proposal results in a superior landscape outcome, and increased canopy cover, shading and amenity despite the loss of these existing trees.

The Department recommends a condition requiring preparation of a detailed Tree Management Plan to ensure all retained trees are protected in accordance with relevant Australian Standards and for all trees to be retained and relocated and supervised by a suitably qualified arborist. Conditions are also recommended to implement a tree transplantation methodology, consistent with Council's recommendations.

In conclusion, the Department supports the proposed landscaping as it retains significant existing mature trees where practicable, significantly increases tree planting and canopy cover across the site and utilises native species.

The Department recommends conditions requiring the detailed landscape design, including plant size and selection, tree protection, management, and maintenance, to be prepared in consultation with Council, to be endorsed by the DIP and submitted to the Secretary for approval.

### 6.5.3 Designing with Country

The Applicant has considered the GANSW Designing with Country framework in the design of the ground plane, open spaces and landscaping through consultation and engagement with representatives of the local Aboriginal community.

The proposal includes the following landscape and design elements of the landscape and open space design which connect to and celebrate country:

- use of Eastern Suburbs Banksia Scrubland species
- co-design of the playground including the concept of representing the whale, weaving practices and the six seasons of the Bidjigal calendar
- cross contour site navigation and level restoration through the central park
- creating opportunities in the public realm for meeting, yarnning, ceremony, storytelling, and education within the meeting, connecting, and moving spaces.

In addition, the Applicant's urban design report suggests further specific measures could be incorporated into the detailed design of the project including:

- contemporary aboriginal design to the through site link



- aboriginal themed soffit art and hardscape landscaping
- pavement design and etching to acknowledge important thresholds and acknowledge Country.

The Applicant has committed to incorporate the recommendations of the ACHAR including:

- continue and broaden the local indigenous engagement to inform the detailed design
- incorporate entry statements, wayfinding strategies, principal shared paths and/or cultural markers reflecting the indigenous heritage of the site and area
- seek opportunities to engage with local Bidjigal or other contemporary Aboriginal artists
- consideration of Indigenous naming and interpretation
- engage IndigiGrow, an Aboriginal bush food social enterprise group, to assist with planting selection procurement and maintenance and a future bush tucker garden.

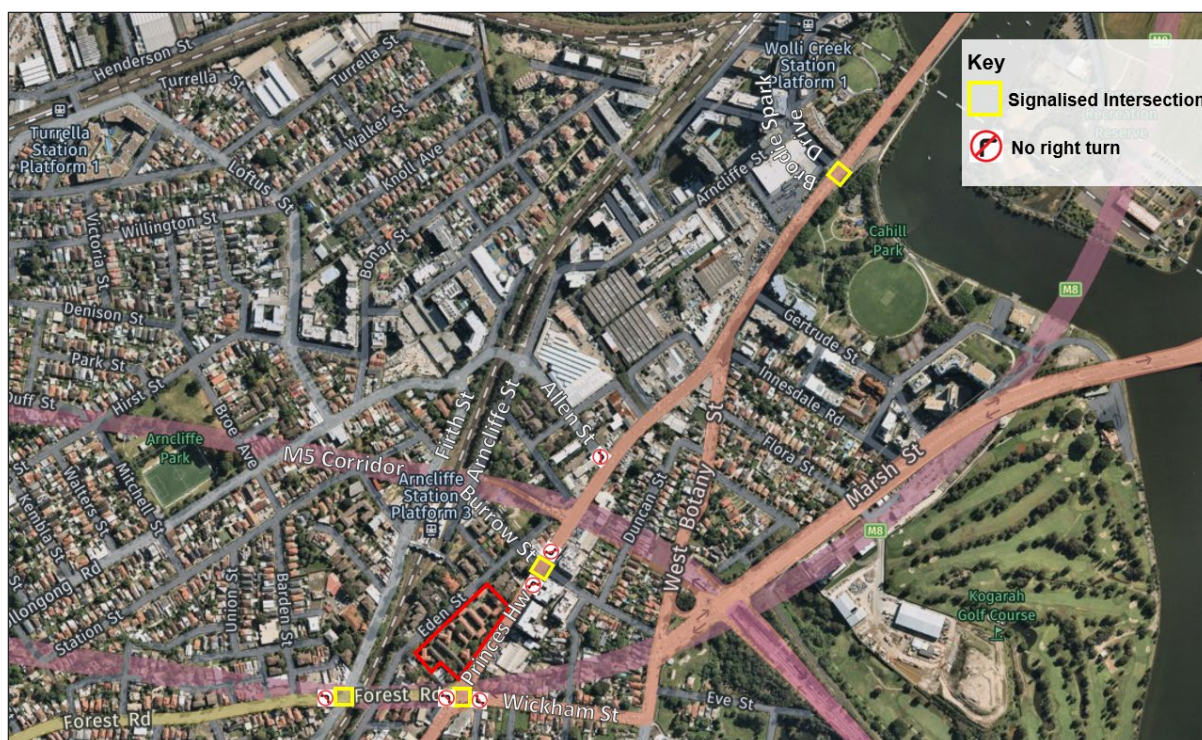
The SDRP was supportive of the Applicant's Designing with Country response and supports the Applicant's commitment to seek out additional opportunities for further connections to Country in the detailed landscape design.

The Department supports the Applicant's design response to Country which has been developed in consultation with local Aboriginal people. The Department supports further consultation with local Aboriginal people in the detailed design of the public domain and open space areas on site to ensure tangible connections to Country are delivered.

The Department recommends that the final detailed landscaping design is subject to further consultation and engagement with Indigenous groups, incorporates the recommendations of ACHA, and receives endorsement by the DIP before being submitted to the Secretary for approval.

## 6.6 Traffic and transport

The surrounding road network consists of a combination of classified roads, being the Princes Highway and Forest Road, and local roads, being Eden Street, Burrows Street, Arncliffe Street, Brodie Spark Drive and Firth Street. The Princess Highway is a major transport route, which connects with the regions and supports metropolitan Sydney.



**Figure 31 | Site and surrounding road network (Nearmap)**

Council and public submissions raised concerns about proposed access arrangements and congestion within the surrounding road network, bicycle parking, loading, and servicing. Council was specifically concerned about the lack of southbound right turn movements from Princes Highway into Arncliffe and impacts of additional traffic on the intersection of Brodie Spark Drive and the Princes Highway.

The Department considers the key issues relate to:

- Southbound access from Princes Highway
- Traffic impacts to surrounding intersections
- State infrastructure improvements
- Access and servicing
- Potential for consolidated site access
- Car and bicycle parking
- Electric vehicle charging facilities
- Pedestrian safety.

### **6.6.1 Southbound access from Princes Highway**

Council raised concerns about the lack of southbound right turn movements from Princes Highway into Arncliffe. Council also considers the proposed restriction of right turn movements into Eden Street would result in significant impacts to the intersections of Princes Highway/ Brodie Spark Drive and Forest Road/ Firth Street.

Council recommended that the Applicant investigate upgrading the intersection of Princes Highway with either Allen or Burrows streets in order to accommodate southbound right-turn movements to the development (**Figure 31**).

TfNSW also initially recommended that the Applicant investigate the signalisation of the intersection of Princes Highway and Allen Street to improve accessibility to the site.

In response to the concerns raised, the Applicant worked with TfNSW and modelled various scenarios to improve southbound access, including:

- either signalising the intersection of Princes Highway/ Allen Street or upgrading the intersection of Princes Highway/ Burrows Street and to provide a right turn lane. These were both discounted due to the close proximity to the M5 Motorway off ramp (**Figure 31**), and conflicts with signalised intersection phasing which would result in queuing across intersections and significant impacts to the operation of the M5
- providing an additional right turn lane from the southbound Princes Highway approach at the intersection of Princes Highway/ Wickham Road / Forest Road. This was discounted as there was insufficient land available to maintain three through lanes and provide two right turn lanes
- providing a right turn lane from the westbound Wickham Road approach at the intersection of Princes Highway/ Wickham Road / Forest Road. This was discounted as the introduction of a new right turn phase from Wickham Road would have adverse impacts on the overall performance of the intersection of Princes Highway/ Forest Road/ Wickham Road.

Given the limited access arrangements and the heavily constrained surrounding road network, TfNSW agreed, through this process, that it was not possible to provide southbound right turn movements at either Allen or Burrows Street, nor propose any changes to the intersection of Wickham Road and the Princes Highway.

TfNSW, however, confirmed it supports the provision of a northbound deceleration lane to allow access to the site directly from the Princes Highway. TfNSW advised this would assist in distributing the traffic generated by the development evenly, reducing traffic on the local road network and result in a slight improvement to the operation of the junction of Princes Highway and Burrows Street. TfNSW considered the deceleration lane provides the best option to address traffic issues associated with the development.

The Department has carefully considered the matters raised by Council and the advice provided by TfNSW. The Department attended several meetings with the Applicant, TfNSW and Council and acknowledges the road network surrounding the site is heavily constrained and that there are limited options to distribute traffic generated by the proposed development.

The Department is satisfied that all feasible options to improve southbound right turn movements have been explored thoroughly by the Applicant and TfNSW. However, all options would have significant and unacceptable impacts on the operation of the surrounding network, in particular the operation of the M5.

Although the Applicant has been unable to provide a solution which improves southbound access to Arncliffe, the Department is satisfied that it has demonstrated the overall impacts to the State and local road network have been mitigated as far as practicable as:

- the proposed left in access via a deceleration lane from the Princes Highway will improve access to the development for vehicles coming from the south and will reduce the volume of traffic on the local roads and improve the amenity of Eden Street
- the prohibition of right turns from Forest Road to Eden Street will significantly improve the performance of the Forest Road and Eden Street Intersection (from Level of Service (LoS) F to LoS A)
- the likely increase in southbound traffic accessing the site using Brodie Spark Drive or Firth Street will not have any material impacts on the operation of the existing intersections, in the context of the already constrained network
- the Applicant will be liable for a Special Infrastructure Contribution (SIC) payment to go towards transport and traffic improvements which could be undertaken by TfNSW and/or Council to ease congestion in the wider Arncliffe area.

## 6.6.2 Impacts on surrounding intersections

The Application is supported by a Traffic Impact Assessment (TIA), which assesses the impact of the proposal, including the deceleration lane, on the performance of key intersections in the surrounding road network.

The TIA demonstrates that all key intersections will continue to operate at an acceptable level of service with the exception of the Forest Road and Firth street intersection which reduces from existing LoS E to LoS F. Notwithstanding, the TIA concludes that the proposal will have an acceptable impact on the local road network.

A summary of the predicted impacts to the level of service provision at intersections impacted by the development is provided in **Table 12** below.

**Table 12 | Level of service at key surrounding intersections**

Level of Service Comparison – Intersection Performance						
	Existing Conditions			Projected Conditions		
	AM	PM	SAT	AM	PM	SAT
<b>Signalised Intersections and Roundabouts</b>						
Princes Hwy & Brodie Spark Dr	B	B	B	B	B	B
Brodie Spark Dr & Arncliffe St	A	A	A	A	A	A
Allen St & Arncliffe St	A	A	A	A	A	A
Firth St & Wollongong Rd	A	A	A	B	A	A
Princes Hwy & Burrows St	A	F	C	A	F	B
Princes Hwy & Forest Rd	F	F	C	F	F	C
Forest Rd & Firth St	E	B	B	F	C	B

### Priority Controlled Intersections

Princes Hwy & Allen St	C	A	A	C	A	A
Burrows St & Eden St	A	A	A	A	A	A
Forest Rd & Eden St	F	F	E	A	A	A
Eden St & Site Access	-	-	-	A	A	A

Council raised concerns regarding the performance of the Princes Highway and Brodie Spark Drive intersection noting that it currently operates at LoS F for right turns from Princes Highway to Brodie Spark Drive. Council considered the proposal would worsen the effect on the intersection and that the road network of Wollie Creek cannot accommodate the additional traffic. Council queried the modelling which reports the overall level of service, being LoS B, rather than the worst movement level (LoS F) and recommended it be independently reviewed.

Council also raised concern about the impacts to the Firth Street/ Forest Road intersection as a result of the proposed prevention of right turns into Eden Street.

In response the Applicant provided an updated traffic assessment and further modelling which demonstrates:

- intersection modelling has been undertaken and presented in accordance with TfNSW protocol and guidelines, under which the total intersection level of service is adopted for intersections under traffic signal control, rather than the worst movement level of service
- the modelling files have been submitted to and peer reviewed by TfNSW on numerous occasions throughout the assessment process and no concerns have been raised by TfNSW with respect to the existing or future operational performance of the junction of Princes Highway and Brodie Spark Drive
- the intersection of Princes Highway and Brodie Spark Drive showed increased average delay movements incorporating the development, however the Level of Service remained at 'B' for all modelled scenarios. With respect to individual movements at this intersection:
  - the worst performing movement (LoS F) being the right turn from Brodie Spark Drive to Princes Highway will not be subject to any additional demand as more efficient precinct egress is available via the signalised junction of the Princes Highway and Burrows Street.
  - the south bound right turn movement from Princes Highway to Brodie Spark Drive will continue to operate at LoS E (AM peak and Saturday) and LoS D (PM peak) and additional sensitivity modelling demonstrates that the intersection would continue to operate with comparable average delays and degree of saturation and the same level of service with up three times the proportion of predicted vehicles utilising the turn.
- the slight reduction in the level of service at the intersection of Forest Road and Firth Street is most notably a result of the deletion of right turn movements at the junction of Forest Road and Eden Street, which improves the performance intersection from LoS F to LoS A and is supported by both Bayside Council and TfNSW on safety grounds.



The Department has carefully considered the matters raised by Council and the advice provided by TfNSW. On balance the Department considers the impact to the surrounding road network is acceptable as:

- the Applicant has undertaken traffic modelling in accordance with TfNSW protocol and requirements, which has been reviewed by TfNSW through the assessment process
- the Brodie Spark Drive / Princes Highway intersection will continue to operate at an overall LoS B and delays for the right turn movement from Princes Highway to Brodie Spark Drive will not materially worsen as a result of the development
- the proposed restriction of right turn movements from Forest Road to Eden Street will reduce the performance of the Firth Street / Forest Road intersection during the AM peak (from LoS E to LoS F), however this is considered acceptable in this instance as:
  - the performance of the intersection of Forest Road and Eden Street is expected to be significantly improve (from LoS F to LoS A) through the proposed prohibition of right turn movements to and from Eden Street
  - while the proposal would increase delays by approx. 14 seconds and queuing by approx. 75 m at this intersection, TfNSW have advised that it is considering changes to the signal phase timing which would improve the intersection operation back to its existing performance (LoS E)
  - SIC funding is allocated for improvements to the Firth Street /Forest Road intersection which will also improve the existing LoS.

The Department has considered the impacts to intersections as a result of the development and concludes that all impacts have been mitigated to the greatest extent possible. All intersections, with the exception of Firth Street / Forest Road, will continue to operate at an overall satisfactory level of service, despite the constrained road network. The minor reduction in LoS at Firth Street / Forest Road is offset by a significant improvement in LoS at Eden Street / Forest Road. Further TfNSW has advised that changes to phasing at Firth Street / Forest Road are being considered to improve the LoS and SIC funding will be available for this intersection as well as other improvements to ease congestion in the wider Arncliffe area.

### **6.6.3 State infrastructure improvements**

The site is located in the Bayside West Special Contributions Area (SCA) and is subject to the Bayside West Special Infrastructure Contribution (SIC). The scheme is proposed to help fund the costs of new and upgraded state and regional infrastructure required to support growth in Arncliffe, Banksia, and Cooks Cove.

The Ministerial Determination made on 13 October 2020 outlines that the SIC will collect up to \$88.3 million, which will include \$16.4 million towards road improvements and intersection upgrades within the Bayside West precinct. The Ministerial Direction made on the same date directs consent authorities to impose a condition for the payment of a SIC.

The information brochure exhibited with the then proposed SIC in October 2018 itemises and indicatively costs a number of road upgrades including:

- a \$970,000 upgrade of the existing signalised Princes Highway/ Burrows Street intersection
- a \$1.17 million for an upgrade of the Princes Highway/ Allen Street intersection
- a \$1.1 million upgrade to the intersection/s of Firth and Eden Streets with Forest Road.

The Department notes, following modelling undertaken as part of the TIA and subsequent advice from TfNSW, it is unlikely the intersections of Burrows Street or Allen Street will be upgraded to allow southbound right turn movements.

Notwithstanding, the Department is satisfied:

- the Ministerial Determination does not itemise specific road infrastructure upgrades
- there is scope to explore a range of alternative infrastructure upgrades to provide wider transport and traffic improvements to ease congestion in with Arncliffe area, funded in part or whole by the SIC. Any alternative would be investigated in consultation with TfNSW and Council
- traffic generated by the development can be accommodated within the surrounding road network as discussed above
- the Applicant will be liable for a SIC payment to contribute to wider transport and traffic improvements.

The Department recommends a condition be imposed in accordance with the Ministerial Direction of 13 October 2020 that a SIC contribution must be paid to help fund the provision of infrastructure required to support growth within this area.

#### **6.6.4 Access and servicing**

The proposal seeks to provide vehicle access to the site via:

- a new entry and exit driveway for cars and service vehicles from Eden Street, located in the south-western corner of the site, facilitating unrestricted turning movements
- a new deceleration lane providing entry to the basement from the Princes Highway.

The proposal includes a dedicated loading area on the Upper Ground Floor, incorporating both retail and residential loading docks, to be accessed from Eden Street. The area will accommodate the following service vehicles:

- two bays capable of accommodating vehicles up to and including 14.5 m long Articulated Vehicles (AVs)
- one bay capable of accommodating vehicles up to and including 12.5 m long Heavy Rigid Vehicles (HRVs)
- three bays capable of accommodating vehicles up to and including 8.8 m long Medium Rigid Vehicles (MRVs).

Four designated van loading bays are provided within the northern and southern portions of Level 1 of the basement to facilitate deliveries to Buildings A and B.

Council initially raised a number of concerns about access and servicing, including the originally proposed 29 m length of the driveway crossover on Eden Street and its proximity to the bend on Eden

Street, compliance with the Australian Standards and the ability for service vehicles to access the site and service vehicle access to Buildings A and B.

In response to concerns raised by Council, the Applicant:

- reduced the width of the Eden Street driveway crossing from 29 m to 12.3 m, thereby also increasing the distance of the access driveway to the bend on Eden Street
- provided revised swept path diagrams, which demonstrate that site access and egress movements can be facilitated in a safe and efficient manner, subject to a prohibition on left turn movements exiting the site for vehicles over 9 m in length
- provided four designated van loading bays within the northern and southern portions of the Basement Level 1 to facilitate deliveries to Buildings A and B.

The Department has considered the initial concerns raised by Council and the Applicant's response. While Council did not provide further comments on the RtS, the Department met with Council who indicated that the proposed changes to access from Eden Street represented a significant improvement.

The Department has carefully assessed the proposed access and servicing arrangements and concludes:

- the deceleration lane on the Princes Highway, as agreed with TfNSW, significantly improves vehicular and pedestrian safety and access in Eden Street by both reducing traffic on the local road network and enabling the vehicle crossover width to be reduced from 29 m to 12.3 m
- rationalisation of the access driveways on Eden Street provides additional sight distance to the bend in Eden Street and in conjunction the proposed 40 km/hr speed limit will provide for safe and efficient access
- adequate service access and loading areas are provided to the development
- the swept path diagrams demonstrate that vehicles can enter and leave the site in a safe manner, subject to a prohibition on left turn movements exiting the site for vehicles over 9 m in length.

Following consultation with Council and TfNSW and subsequent amendments to the development, the Department is satisfied that the development can be satisfactorily accessed and serviced.

The Department recommends conditions requiring that all access be designed and constructed in accordance with relevant Australian standards, that a loading dock management plan be prepared and submitted, and that signage be erected that prohibits left turns from the Eden Street access for vehicles over 9m.

### **6.6.5 Potential for consolidated site access**

As outlined in **Section 6.3**, the neighbouring properties to the south of the site are expected to be redeveloped over time. The properties fronting Forest Road and Princes Highway have limited future access options, given their frontage to classified roads.

To avoid future development on these properties having to obtain access points via classified roads Council recommended that the Applicant consider providing an easement to consolidate access through the site to future adjoining development sites to the south.

In response, the Applicant investigated various options to allow for access to the neighbouring sites through the basement of the development, via an easement. The Applicant, however, contends it would not be viable to provide access to neighbouring properties via the basement as:

- the current basement layout, specifically the location of the access ramp and loading dock areas limits opportunities for safe and practicable access to the neighbouring properties to the south
- the most appropriate point for access is located on Basement Level 1 and would involve the loss of residential car parking spaces, the introduction of additional vehicle conflicts and be located approximately 12 m below natural ground level requiring significant ramping on the neighbouring sites
- providing an access creates a number of significant structural challenges that would be difficult and costly to incorporate into the basement design. It is also anticipated that to accommodate the access parts of the basement structure may need to encroach into the adjoining properties
- requiring such an access through the development would unfairly financially burden the development as additional vehicles, unrelated to the development, will create a security issue for the buildings, may negatively impact sales, and would be an unreasonable cost impost on the development.

The Department has considered Council's recommendation, the Applicant's response and in this instance concludes that it is unreasonable to require a consolidated access through the development to service properties to the south as:

- to design the basement wall so it is structurally capable of being opened up to allow access to the neighbouring properties would be a significant unexpected cost for the developer and likely require encroachment onto adjoining properties
- the difficulty and cost impost for both the Applicant and future developer/s to the south to provide and maintain access would likely render the prospect of shared access unviable, even if it was structurally capable of being provided
- it is anticipated that any future redevelopment of the neighbouring sites to the south would require consolidation of sites and would be able to obtain access via Eden Street.

#### **6.6.6 Car and cycle parking**

The proposal includes a total of 813 car parking spaces and 67 motorcycle parking spaces within the lower ground and three basement levels. Fourteen (14) car wash bays are also proposed within the third basement level, shared with residential visitor parking spaces.

Security gates and a roller shutter separates the residential carparking access and area from the retail carparking area.

The development is generally consistent with the relevant requirements of TfNSW's Guide to Traffic Generating Developments, the former ARH SEPP and the RDCP, which specify a minimum of 764 car parking spaces and 42 motorcycle parking spaces (**Table 13**).

**Table 13** | Proposed and minimum required car parking

Development component	Residents/Commercial spaces		Visitor spaces		Motorcycle		Bicycle	
	Proposed	Required	Proposed	Required	Proposed	Required	Proposed	Required
<b>Market units</b>	554	513	75	81	50	38	509	57
<b>Social units</b>	90	80	0	0	12	0		
<b>Retail</b>	78	78	0	0	5	4	26	17
<b>Childcare</b>	4	4	2	2	0	0	4	4
<b>Car share bays</b>	6	6	N/A	N/A	N/A	N/A	N/A	N/A
<b>Service vehicle parking</b>	4	0	N/A	N/A	N/A	N/A	N/A	N/A

Council noted that the development provides car parking that is consistent with the relevant requirements of TfNSW's Guide to Traffic Generating Developments and the former ARH SEPP. However, it provided advice about the requirements for car wash bays, the identification of parking spaces associated with the childcare, access for customers/visitors to the retail spaces, the location of car share parking spaces and bicycle parking.

Public submissions raised concerns that the proposal provides insufficient parking.

In response, the Applicant confirmed:

- all retail spaces will be available for use by retail staff and customers/visitors and subject to paid restrictions to prevent all day parking (3 hours free)
- a dedicated childcare parking area is provided within the Lower Ground Level of the basement, with direct connection to passenger lifts to facilitate safe and efficient access to the childcare centre
- six car share parking spaces are provided within the Lower Ground Level of the basement
- security gates and a roller shutter will separate the residential carparking access and area from the retail carparking area.

The Department has considered the matters raised in the public submissions and by Council and is satisfied that the proposed parking arrangements are satisfactory as:

- the proposed residential car parking is consistent with the relevant requirements of TfNSW's Guide to Traffic Generating Developments and the former ARH SEPP, equating to an average of



0.98 space per market apartment and 0.5 spaces per social apartment which balances the car parking demands of the development with encouraging sustainable travel choices

- the proposed 75 visitor parking spaces is generally consistent with the requirements of TfNSW's Guide to Traffic Generating Developments and appropriate given the site's close to public transport
- the proposed retail car parking is consistent with the requirements of the RDCP, equating to 1 space per 40m<sup>2</sup> of the retail GFA, with all spaces being accessible to staff and customers
- the proposed childcare parking is consistent with the requirements of the RDCP, equating to 1 space per 20 children and 1 space per two members of staff and is provided in a dedicated area of the basement, in close proximity to a passenger lift to facilitate safe and efficient access
- the development provides for car share spaces in a publicly accessible location within the lower ground level of the basement, which will provide and promote sustainable transport options
- the proposal provides an appropriate amount of secure bicycle parking for the residential, retail, and childcare components of the development and will encourage the use of active transport
- it has been demonstrated that access to parking areas can be appropriately secured and controlled to ensure the safe and efficient use of the areas
- the Applicant has demonstrated that the car parking has been designed and will be provided in accordance with relevant Australian standards, ensuring safe and efficient internal manoeuvring.

The Department recommends conditions requiring that all car parking be provided in accordance with the relevant Australian standards, that specifies the allocation of spaces for residential, retail, childcare, visitors, car share and wash bays and that requires that the wash bays be designed in accordance with the Rockdale Technical Specification Stormwater Management section.

### **6.6.7 Electric vehicle charging facilities**

Council recommended that a minimum of 20% of parking spaces be equipped with electric vehicle (EV) charging facilities.

In response, the Applicant proposed to provide six retail customer spaces and 10 residential visitor spaces fitted with EV charging points, and allowance for future residents to have the ability to install EV charging points within 144 of the 564 residential spaces.

The Applicant contends that Council's recommendation to provide 20% of total car parking spaces with EV charging facilities is unreasonable, given that EV sales currently make up a small proportion of overall vehicle sales in Australia.

The Department notes:

- the NSW Electric Vehicle Strategy (2021) predicts EV sales to exceed 50% of all vehicle sales by 2030 and notes the importance of new buildings to be EV ready, while also catering for current EV charging needs
- the requirement for all new apartment parking spaces to be EV ready is now being considered for inclusion in the National Construction Code (NCC 2022) update in September 2022, which would apply to the development.

The Department considers that allowance for EV readiness and charging infrastructure would be consistent with the current and future policy direction for EVs, the principles of ESD and the NSW's Government's target to reach net zero by 2050. The Department also notes that allowance for EV charging infrastructure can be incorporated into construction without a significant cost impact, which in any case would be outweighed by the benefits of ensuring the development is future proofed so EV charging facilities can be easily installed by future residents.

The Department supports the Applicant's current commitment to provide EV charging infrastructure for six retail parking's spaces and ten residential visitor spaces, however in line with the upcoming amendments to the NCC recommends a minimum of 10% of retail spaces (additional two spaces) be provided with the capability of accommodating charging facilities in future.

The Department also recommends a condition requiring all residential car parking spaces be capable of accommodating charging facilities (EV ready), including space for cable trays to within 5 metres of each car park and electrical distribution boards dedicated to serving electric vehicle charging.

### **6.6.8 Pedestrian safety**

Pedestrian access to the site will be provided from Eden Street and the Princes Highway.

The development proposes a series of through-site links to improve site permeability, connecting the Princes Highway to Arncliffe railway station via the new Eden Street park and the existing arcade north of Eden Street. The proposal also provides:

- a raised marked pedestrian crossing over Eden Street directly adjacent to the arcade to facilitate safe and efficient connectivity to Arncliffe Railway Station
- a shared pedestrian / cycle path and separate pedestrian footpath along the western side of the Princes Highway, between Forest Road and Burrows Street.

Council initially raised concern about pedestrian safety along Eden Street associated with the previously proposed access design.

Council also considers the proposal would increase pedestrian movements across Forest Road to Wardell Street and the school and Arncliffe Youth Centre located to the south and recommended that fencing be provided along Forest Road (between Firth Street and the Princes Highway) to ensure pedestrians cross Forest Road at the designated pedestrian crossings at either Firth Street or the Princes Highway.

In response, the Applicant:

- reduced the width of the Eden Street driveway crossing from 29 m to 12.3 m and proposed the introduction of a 40km/h high pedestrian activity area speed limit within Eden Street
- contends that the proposal will improve pedestrian access by providing a pedestrian refuge at the junction of Forest Road and Eden Street, and that Council could use funds from the Arncliffe and Banksia Contributions Plan to provide fencing.

TfNSW advised:

- any changes to speed limits and installation of signage can only be undertaken by TfNSW and noted the Applicant would need to undertake a Traffic and Pedestrian Study to determine whether this speed limit change can be approved
- any treatments to Forest Road would require separate concurrence of TfNSW under the Roads Act 1993 and recommended the Applicant undertake a Road Safety Assessment (RSA) to determine whether pedestrian protection measures, such as fencing, is required.

The Department has considered the concerns raised by Council and the advice provided by TfNSW.

The Department supports the proposed speed limit reduction in Eden Street in principle, however, noting that TfNSW is the appropriate authority to determine speed limits, recommends an appropriate condition requiring the Applicant submit a detailed Traffic and Pedestrian Study addressing the proposed speed limit reduction for the consideration of TfNSW.

The Department also notes the proposed works to ban right turn movements from Forest Road to Eden Street would provide a pedestrian refuge, however given the significant increase in residential population on the site, it agrees with Council that further measures to improve safety in this location should be investigated and implemented by the Applicant, if required.

The Department therefore recommends conditions requiring the Applicant undertake an RSA to inform whether any pedestrian protection measures are necessary, and if so, require these to be implemented by the Applicant as part of the development.

The Department concludes that the development will improve pedestrian accessibility and safety between the site and Arncliffe railway station and that any speed reduction, if approved by TfNSW would further improve safety. Further, subject to implementation of any measures identified in the RSA, the proposal will ensure safety crossing Forest Road.

## 6.7 Other issues

The Department's assessment of other issues is provided in **Table 14**.

**Table 14 | Other issues**

Issue	Consideration	Recommendation
<b>Aboriginal and non-aboriginal archaeology</b>	<ul style="list-style-type: none"> <li>• The Applicant provided an ACHAR and Non-Aboriginal Archaeological assessment which concluded that: <ul style="list-style-type: none"> <li>○ the site has no potential for significant non-Aboriginal archaeological remains</li> <li>○ the site has nil-low potential for Aboriginal objects</li> <li>○ there are no sites of significance within the site area</li> <li>○ consultation supports the view of the Metropolitan Local Aboriginal Land Council (LALC) which not identify any particular cultural significance associated with the study area.</li> </ul> </li> <li>• Heritage NSW reviewed the Applicant's heritage assessments and did not raise any concerns in relation to Aboriginal or non-</li> </ul>	The Department recommends a condition requiring an unexpected finds protocol to manage unexpected archaeological disturbance.

Issue	Consideration	Recommendation
	<p>aboriginal archaeology. Heritage NSW recommended conditions to require an unexpected finds protocol.</p> <ul style="list-style-type: none"> <li>• The Department has reviewed and accepts the findings of the Applicant's heritage reports and the advice provided by Heritage NSW.</li> <li>• The Department is satisfied the proposal has a very low likelihood of impacting Aboriginal or non-Aboriginal archaeology and recommends a condition be imposed requiring an unexpected finds protocol to manage any unexpected archaeological disturbance during construction.</li> </ul>	
<b>Contamination and geotechnical</b>	<ul style="list-style-type: none"> <li>• The Applicant provided a Stage 2 Detailed Site Investigation (DSI) which found all primary soil samples returned concentrations of contaminants below the relevant human health and ecological site assessment criteria.</li> <li>• The DSI also confirmed that the site has an extremely low probability for Acid Sulfate Soils (ASS), and accordingly no ASS is present at the site.</li> <li>• The DSI therefore concludes the site is suitable for the proposed development without requiring the preparation of a Stage 3 Remediation Action Plan (RAP).</li> <li>• The DSI recommended an intrusive hazardous materials survey be undertaken of all structures subject to demolition and further site sampling undertaken following demolition.</li> <li>• The Department notes the site is currently occupied by residential development and has reviewed and accepts the findings of the DSI that the site remains suitable for the proposed residential, retail, and childcare uses.</li> <li>• On this basis, the Department is satisfied that site remediation is not required, however recommends a condition that the recommendations of the DSI be implemented, including the requirement for an intrusive hazardous materials survey of all structures to be demolished and further site sampling undertaken following demolition.</li> <li>• The Department also recommends conditions in relation to remediation of the site should contaminated material be encountered on site during site works.</li> </ul>	<p>The Department recommends a condition requiring compliance with the recommendations of the DSI, including the requirements for an intrusive hazardous materials survey of structures to be demolished and further site sampling following demolition. The Department also recommends conditions in relation to remediation required in the event unexpected finds are discovered.</p>
<b>Flooding</b>	<ul style="list-style-type: none"> <li>• The site is subject to minor inundation by shallow surface flows of between 5-10mm in the northern areas of the site during in the 1% AEP event and PMF flood events</li> <li>• The Applicant provided a Flood Impact Assessment, which demonstrates that the proposal will not exacerbate, or be adversely affected by, significant flooding impacts.</li> <li>• The Applicant has indicated that all habitable floorspace will be located at least 300mm above existing ground level to avoid shallow surface water entering the building in accordance with</li> </ul>	<p>The Department has recommended Council's flooding conditions</p>

Issue	Consideration	Recommendation
	<p>Council advice. Flood refuge would also be available on higher levels via internal areas as well as proposed open areas on site.</p> <ul style="list-style-type: none"> <li>• The finished floor level for the proposed childcare centre is to be at 25.0m AHD which is 800mm above the PMF level of 24.2m AHD in that part of the site</li> <li>• In response to concerns raised by Council regarding inbound flows to the basement from the road reserve, the Applicant agreed that driveway crests will be 100mm over the 1% AEP flood level</li> <li>• The Department is satisfied the proposal responds to the minor flooding conditions on the site as all proposed habitable floors are above the 1%AEP and PMF flood events.</li> <li>• In addition, the proposal would not be adversely impacted by flooding and would not result in adverse flood outcomes within the surrounding area.</li> <li>• The Department recommends conditions to ensure the basement driveways are designed to prevent inflow of stormwater from the road reserve in accordance with Council's recommendations.</li> </ul>	
<b>Stormwater</b>	<ul style="list-style-type: none"> <li>• The Applicant provided a Stormwater Management Plan which was amended in response to Council's concerns to include: <ul style="list-style-type: none"> <li>◦ OSD tanks change to a nested design</li> <li>◦ incorporation of WSUD devices including gross pollutant traps, rainwater tanks, bioswale, detention basin and stormwater filter units</li> <li>◦ MUSIC modelling to demonstrate compliance with Council's water quality improvement targets</li> </ul> </li> <li>• Council recommended several stormwater conditions requiring: <ul style="list-style-type: none"> <li>◦ detailed design to be in accordance with RDCP specifications</li> <li>◦ connection to council infrastructure</li> <li>◦ minimum volume 150m<sup>3</sup> rainwater tanks</li> <li>◦ MUSIC modelling demonstrating pollution reduction targets in line with RDCP</li> <li>◦ tanked and non-tanked basement requirements</li> <li>◦ driveway design to prevent stormwater inflow</li> </ul> </li> <li>• Subject to the implementation of Council's recommended conditions, the Department is satisfied the proposal would not generate adverse stormwater impacts within or outside the site.</li> </ul>	The Department has recommended Council's stormwater conditions
<b>Wind</b>	<ul style="list-style-type: none"> <li>• The Applicant provided a Wind Assessment which assessed the wind impacts of the proposal.</li> <li>• The Wind Assessment concluded that the proposed tree retention and landscaping of the park, site perimeter and communal roof spaces will effectively ameliorate wind</li> </ul>	The Department has recommended a condition requiring implementation of the recommendations of the Wind Impact



Issue	Consideration	Recommendation
	<p>conditions and recommended several additional mitigation measures including:</p> <ul style="list-style-type: none"> <li>○ retain or replace existing trees along the Eden Street, Princes Highway and Duncan Street footpaths</li> <li>○ awnings, pergolas, and vertical louvres along the northern perimeter to the childcare play area</li> <li>○ horizontal wind breaks to main building entrances</li> <li>○ balustrades around communal open spaces and roof gardens</li> </ul> <ul style="list-style-type: none"> <li>• The Department is satisfied the proposal would not result in any unacceptable wind impacts for pedestrians, residents, and visitors, subject to installation of the recommended mitigation measures.</li> <li>• The Department recommends a condition requiring the implementation of all required wind mitigation measures. In addition, the detailed design of all wind mitigation measures be reviewed by the DIP to ensure they are well designed and integrated into the buildings to maintain and/or enhance the design excellence qualities of the development.</li> </ul>	<p>Assessment, the design of which must be reviewed by the DIP</p>
<b>Retail fitout</b>	<ul style="list-style-type: none"> <li>• The proposal includes 3,113 m<sup>2</sup> of retail floor space divided into 21 tenancies of varying sizes over lower ground and ground floor level.</li> <li>• Council suggested the retail tenancies should incorporate 7 m high floor to ceiling heights along the Princes Highway frontage to accommodate showroom retail uses in line with the RDCP.</li> <li>• The Applicant considers the provision of showroom uses would be inconsistent with the desired future character of the site as a residential mixed-use precinct. The Applicant also noted that retail tenancies along Princes Highway are in accordance with the Bayside LEP.</li> <li>• The Department has carefully considered Council's concerns and the Applicant's response and consider the proposed retail within the site is appropriate and acceptable as: <ul style="list-style-type: none"> <li>○ the retail uses are spread across the site through a network of alleys and fine grain tenancies which will activate internal areas and the site perimeter</li> <li>○ the smaller scale and finer grain retail proposed is more suited to the future desired character of a walkable mixed-use precinct and will enhance the amenity and usability of the site for residents and visitors and provide afterhours activation of the precinct</li> <li>○ the fit out and use of all future retail uses, including hours of operation, would be subject to future development applications and/or complying development provisions to safeguard the amenity of adjacent residential uses.</li> </ul> </li> </ul>	<p>The Department recommends a condition that the fit out and operation of retail premises is not approved by this consent.</p>

Issue	Consideration	Recommendation
<b>Childcare centre</b>	<ul style="list-style-type: none"> <li>The application proposes 240 m<sup>2</sup> floorspace for a future childcare centre at the site.</li> <li>In response to concerns raised by Council and the Department about the location of the childcare centre next to the busy Princes Highway, the childcare centre was relocated to the upper ground and level one of Building C on Eden Street.</li> <li>The Department notes that a separate development application for the fit out and operation of the centre would need to be submitted to and assessed by Council.</li> <li>Notwithstanding, the Department has considered the proposed childcare centre floor space against the relevant Transport and Infrastructure SEPP provisions in <b>Appendix C</b>. In summary, the Department considers the proposed childcare centre to be appropriately located within the site, away from the noise and pollution impacts of Princes Highway and capable of complying with the provisions of the SEPP.</li> <li>The Department also considers that acceptable car and cycle parking for the centre is provided within the basement (<b>Section 6.6</b>) and noise impacts and air quality are acceptable as discussed below.</li> <li>The Department recommends a condition requiring the childcare centre fit out and operation to be subject to a future development application.</li> </ul>	The Department recommends a condition requiring the childcare centre fit out and operation to be subject to future development application(s).
<b>Noise</b>	<ul style="list-style-type: none"> <li>The proposal is supported by a Noise and Vibration Impact Assessment (NVIA) which concludes that the largest noise impacts associated with the proposal are from noise generated by mechanical plant and equipment and traffic.</li> <li>The NVIA recognises that there would be a minor exceedance of the road noise criteria for development generated traffic. However, this exceedance would be largely confined to the morning and evening peak traffic hours when most residents would be less sensitive to noise and therefore would be largely imperceptible compared to current traffic conditions.</li> <li>Noise impacts to the amenity of residential and commercial spaces, particularly those fronting Princes Highway, would be mitigated through: <ul style="list-style-type: none"> <li>acoustic glazing and solid façade elements</li> <li>mechanical ventilation in some habitable spaces (bedrooms and/or living areas) within apartments</li> <li>replacing balconies with wintergardens for certain apartments that face the Princes Highway</li> </ul> </li> <li>The Department is satisfied that the site layout of the proposed buildings and open space has been carefully planned to protect</li> </ul>	The Department recommends conditions requiring the development comply with the recommendations of the NVIA, submission of a Car Parking, Loading and Servicing Management Plan and restricted hours to manage operational and noise impacts from the loading dock. Further that all plant/equipment and operation of the development complies with relevant noise criteria and does

Issue	Consideration	Recommendation
	<p>future residents and other users of the site from noise impacts from Princes Highway. In particular:</p> <ul style="list-style-type: none"> <li>the splayed shape of the Eden Street park shields the park from noise from Princes Highway traffic</li> <li>the relocation of the childcare centre away from the Princes Highway frontage to the Eden Street frontage interfacing with Eden Street Park protects children and staff from noise impacts</li> <li>the building design including orientation, internal layouts, façade design, ventilation methods and provision of wintergardens ensures that apartments which face the Princes Highway achieve a high level of amenity</li> </ul> <ul style="list-style-type: none"> <li>The Department is also satisfied that noise from the internal loading dock and mechanical plant and equipment is predicted to comply with relevant noise requirements.</li> <li>The Department recommends conditions to ensure that the loading occurs within the confines of the loading dock, between 7am and 10pm only and in accordance with a Car parking, Loading and Servicing Management Plan to manage the operation and noise impacts from the use of the loading dock.</li> <li>In addition, conditions are recommended to ensure that all plant, equipment, and the operation of the development complies is designed and verified as complying with relevant noise criteria and do not cause offensive or nuisance noise under the Protection of the Environment Operations Act and Regulations.</li> </ul>	not cause offensive noise.
<b>CPTED</b>	<ul style="list-style-type: none"> <li>The application is supported by a CPTED assessment report that concludes that the development would provide high levels of natural surveillance over communal spaces and the public domain, territorial reinforcement through the building layout and tenancy arrangements, and access control measures that separate residential and commercial building entries</li> <li>The Applicant's CPTED assessment includes several recommendations relating to surveillance, lighting, territorial reinforcement, environmental maintenance, space management and access. With the implementation of these mitigation measures, the site's crime risk is expected to be low.</li> <li>Council recommended a condition to secure lighting and CCTV along the northern through site link and throughout the park.</li> <li>The Department is satisfied the proposal would suitably incorporate necessary CPTED measures subject to conditions requiring compliance with the CPTED assessment report and the installation of CCTV in accordance with Council's requirements.</li> </ul>	The Department recommends a condition requiring implementation of the recommendations of the CPTED report and the installation of CCTV in accordance with Council's requirements.
<b>Waste Management</b>	<ul style="list-style-type: none"> <li>The Applicant provided a preliminary Construction Waste Management Plan and Operational Waste Management Plan for</li> </ul>	The Department recommends conditions in relation to construction waste

Issue	Consideration	Recommendation
	<p>the management of construction, demolition and operational waste generated by the proposal</p> <ul style="list-style-type: none"> <li>Each building would contain garbage chutes, spaces for separating and storing waste within a main waste area and a room for the temporary storage of bulky waste. All residential waste would be serviced by Council contractors within the basement waste collection area. Retail and other non-residential waste will be collected by a private waste contractor.</li> <li>Council raised concerns regarding the operation of the loading dock and its impacts on waste collection. Council recommended a loading dock management plan be provided to ensure all waste is adequately transported to the loading dock for collection within the loading dock.</li> <li>The Department is satisfied that sufficient waste storage areas as provided and appropriate access is available within the basement for collection by Council. The Department recommends the preparation of a Car Parking, Loading and Servicing Management Plan to ensure all servicing of the development, including waste collection, is managed appropriately.</li> <li>The Department is satisfied that construction and operational waste would be appropriately managed subject to conditions.</li> </ul>	<p>and operational management.</p> <p>including submission of a Demolition and Construction Waste Management Plan, an Operational Waste Management Plan, and a Car Parking, Loading and Servicing Management Plan.</p>
<b>Demolition and construction noise impacts</b>	<ul style="list-style-type: none"> <li>The proposal seeks approval for construction from 7 am to 6pm, Monday to Friday and 7 am to 3.30pm on Saturdays, which generally align with the recommended construction hours within the Interim Construction Noise Guideline 2009 (ICNG) or Council's recommended construction hours.</li> <li>Concerns were raised in public submissions about construction noise impacts associated with the development.</li> <li>The application was accompanied by a Noise and Vibration Impact Assessment (NVIA), which confirms the background noise at the nearest residential receivers is 48dBA, the Noise Management Level (NML) is 58dBA (+10dBA) and the proposed works have the potential to exceed the NML by up to 8dBA during demolition, 6dBA during excavation and 4 dBA during construction.</li> <li>The Department has considered the findings of the NVIA and concerns raised in public submissions. On balance, the Department considers, given the dense urban nature of the immediate surrounding area, some noise exceedances during construction would be unavoidable. Notwithstanding this, even including the NVIA mitigation measures, the development is predicted to exceed the maximum NML by up to 6-8dB during demolition and excavation and 4dBA during construction.</li> <li>The Department therefore considers the following additional measures are necessary to mitigate impacts to the nearest residential properties: <ul style="list-style-type: none"> <li>preparation and implementation of a Construction Noise and Vibration Management Plan (CNVMP)</li> </ul> </li> </ul>	<p>The Department recommends conditions securing hours of work, respite periods and submission of a Construction Noise and Vibration Management Sub-Plan to manage noise impacts and notification and complaints handling processes.</p>

Issue	Consideration	Recommendation
	<p>incorporating additional mitigation measures to reduce noise impacts including community liaison, complaints handling, equipment selection and maintenance, non-tonal alarms, materials handling and work site training</p> <ul style="list-style-type: none"> <li>○ all construction vehicles only to arrive to the work site within the permitted hours of construction</li> <li>○ noisy work to only be undertaken in three continuous hour blocks</li> </ul> <ul style="list-style-type: none"> <li>• On this basis, and subject to the Applicant's compliance and commitment to implement the above and all reasonable and feasible mitigation measures to mitigate and manage construction noise, the Department is satisfied construction works can be appropriately managed within the proposed construction hours to minimise disruption to nearby amenity.</li> </ul>	
<b>Concentration of social housing</b>	<ul style="list-style-type: none"> <li>• Council raised concerns about the concentration of the 180 social housing units within Building C which does not align with LAHC's policy to deconcentrate social housing.</li> <li>• The Applicant has advised that it is LAHC's preference to consolidate the location of social housing within mixed use developments as it meets the ownership, management, and operational requirements of the future community housing provider (Evolve Housing).</li> <li>• The tenure configuration is also considered to be consistent with other developments delivered under the Communities Plus program.</li> <li>• The Department notes that the development is designed to be tenure blind and the buildings will not differ externally in terms of architectural quality or amenity.</li> <li>• As a result, the Department considers the proposed social housing is appropriately integrated into the proposal and would form a tenure blind development, achieving the overarching goal of the LAHC policy.</li> </ul>	No conditions required
<b>Section 7.11 Contributions</b>	<ul style="list-style-type: none"> <li>• The proposal is subject to section 7.11 contributions under the <i>Arncliffe and Banksia Local Infrastructure Contributions Plan 2020</i>.</li> <li>• The Applicant's RtS requested for the open space portion of its section 7.11 contribution to be offset through the provision of Eden Street Park. Council has advised that as the Eden Street Park is a requirement of the RDCP, and not in a Contributions Plan, it cannot be offset, and the specified contributions would need to be paid in full to Council.</li> <li>• The Department agrees with Council that it is not appropriate to offset the cost of the Eden Street Park against the section 7.11 contributions as it is not funded for within the Contributions Plan.</li> <li>• The Department therefore recommends a condition requiring section 7.11 contributions be paid prior to issue of a construction certificate in accordance with the Contributions Plan.</li> </ul>	The Department has recommended conditions specifying the section 7.11 contributions to be paid to Council.



Issue	Consideration	Recommendation
<b>Bayside West SIC</b>	<ul style="list-style-type: none"> <li>The proposal is also subject to a contribution levy under the Bayside West SIC.</li> <li>The Applicant has proposed that the following public domain upgrades could be delivered through a works in kind (WIK) agreement to be offset against the contributions levy for the Bayside West SIC: <ul style="list-style-type: none"> <li>Princes Highway – new 2.5-metre-wide shared pedestrian and bicycle path, including new paved footpath</li> <li>Forest Road/Eden Street intersection – modification of existing pedestrian refuge to prevent right turns from Forest Road into Eden Street (and enforce left-in/left-out movements)</li> </ul> </li> <li>Whilst the Department considers the above works to be required as part of the development, it notes that any works in kind would be subject to a separate consideration process by the Department when the Special Infrastructure Contributions are to be paid. The Department therefore recommends a condition requiring payment of a SIC prior to issue of a construction certificate.</li> </ul>	The Department has recommended conditions requirement payment of a SIC.

## 7 Evaluation

The Department has reviewed the EIS, RtS and additional information and assessed the merits of the proposal, taking into consideration advice from public authorities, Council and issues raised in public submissions.

Following its detailed assessment, the Department concludes the proposal would result in a significant increase in the quality and quantity of social housing on the site, substantial public domain improvements including pedestrian connectivity and site permeability and contribute to the revitalisation of Arncliffe town centre as a vibrant mixed-use centre.

The Department considers the proposal is acceptable as:

- it is consistent with the Greater Sydney Region Plan and the Eastern City District Plan's which aims to increase housing and jobs close to public transport, services, and amenities
- it would facilitate the renewal and expansion of the Arncliffe Town Centre consistent with the Bayside West Precincts Plan
- it complies with the provisions of the BLEP and the Housing SEPP and provides a bulk and scale which is compatible with the desired future character of the area, except for a minor 2.14% exceedance of the height control and 2.69% exceedance of the floor space ratio control, which would result in no perceivable difference to the bulk and scale of the development or impacts to surrounding properties
- it achieves design excellence by providing a well-planned site layout and architectural built form outcome which has been reviewed and endorsed through the State Design Review Panel process
- it achieves a high level of residential amenity for future residents in accordance with the ADG
- traffic, access, and parking impacts are appropriately managed and impacts to surrounding intersections are minimised through the provision of a deceleration lane providing access from Princes Highway, and a prohibition on right turn movements from Forest Road to Eden Street
- the proposal will be liable for a Special Infrastructure Contribution (SIC) to assist in wider traffic improvements in the Arncliffe area
- the Department recommends conditions in relation to design integrity, landscaping, public domain, and traffic control to ensure the development makes a positive contribution to the local area
- it would provide significant public benefits including 180 new social housing apartments, 4,870 m<sup>2</sup> of new publicly accessible open space, new through site links, a new shared path, a new raised pedestrian crossing, improved public domain, and creation of approximately 2,280 construction jobs and 200 operational jobs.

The Department's assessment therefore concludes the proposal is in the public interest and recommends the application is approved, subject to conditions (**Appendix E**).

## 8 Recommendation

It is recommended that the Minister for Planning:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approved listed in the notice of decision
- **grants** consent to the application SSD 11429726
- **signs** the attached development consent and recommended conditions of consent (Appendix E)



**Anthony Witherdin**  
Director  
Key Sites Assessments



**Anthea Sargeant**  
Executive Director  
Key Sites and Regional Assessments

## 9 Determination

The recommendation is: **Adopted** by:

A handwritten signature in blue ink, appearing to read 'A Roberts', enclosed within a thin black rectangular border.

**The Hon Anthony Roberts MP**

Minister for Planning

# Appendices

## Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department's website as follows.

1. Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/40681>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/40681>

3. Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/40681>

4. Supplementary Response to Submissions

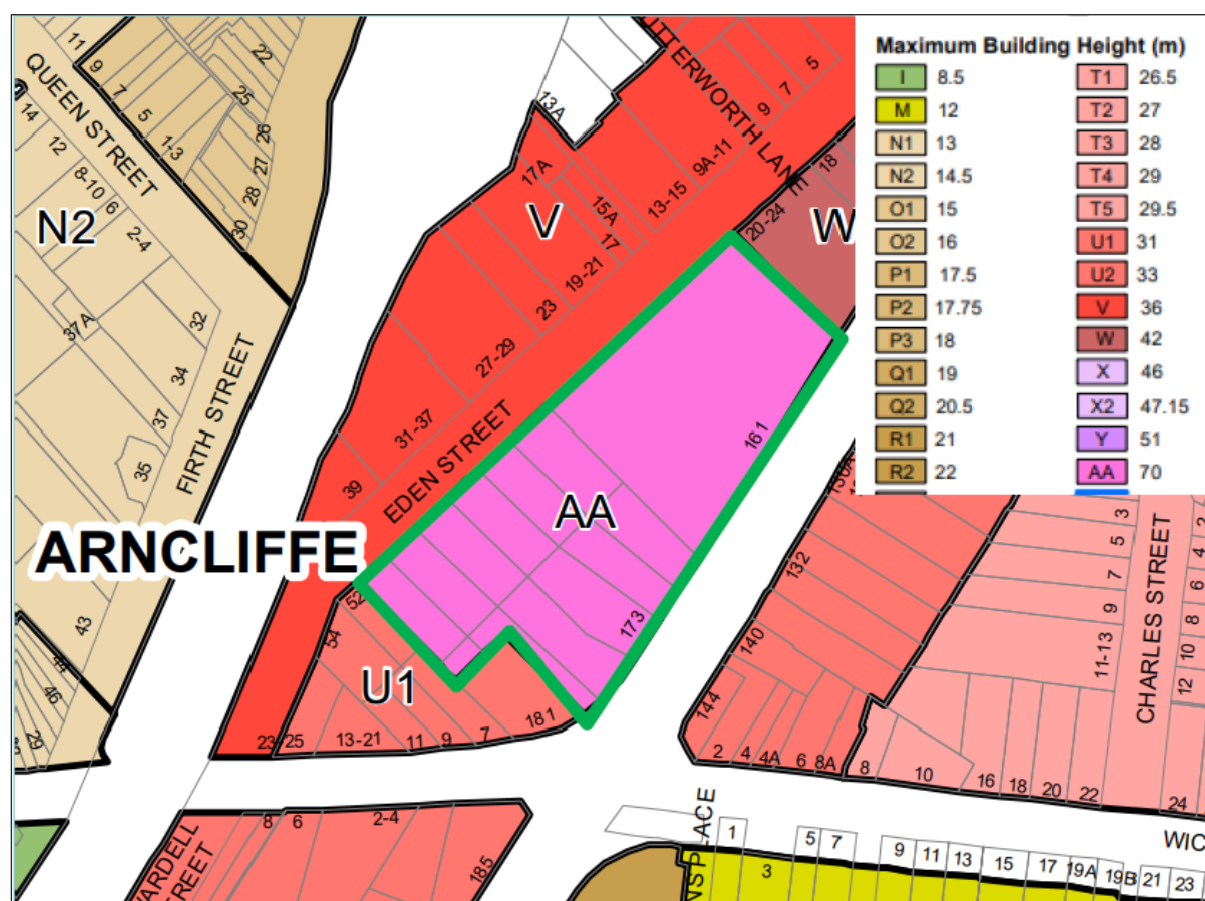
<https://www.planningportal.nsw.gov.au/major-projects/project/40681>



## Appendix B – Clause 4.6 variation

### B1 Clause 4.6 variation - Building height

The proposal seeks a variation to the maximum building height as prescribed by clause 4.3 of the BLEP 2021. Clause 4.3 of the BLEP 2021 requires the height of a building on any land to not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum prescribed height for the site is 70 m (**Figure 32**).



**Figure 32** | Height of Building map extracted from BLEP 2021. Site shown outlined in green. (Source: Applicant's RtS)

The proposed development seeks a variation to the maximum building height relating to proposed Building B of 1.5 metres equating to 2.14% (**Figure 32**).

Clause 4.6(4) of the BLEP 2021 permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The aim of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to achieve better development outcomes. In consideration of the proposed variation, clause 4.6 requires the following:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

In accordance with clause 4.6(3), the Applicant has prepared a written request to vary the height of buildings (**Appendix I of the RtS**).

Clause 4.6(4) states that requires development consent must not be granted for development that contravenes a development standard unless:

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) *the concurrence of the Planning Secretary has been obtained.*

The Department has considered the proposed exception to the height of buildings development standard under clause 4.6, applying the tests arising from *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 (as summarised by *Gabriel Stefanidis v Randwick City Council* [2017] NSWLEC 1307) and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

1. *Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?*

The objectives of the B4 Mixed Use zone are as follows:

- to provide a mixture of compatible land uses
- to integrate suitable business, office, residential, retail, and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

The Department is satisfied that the proposed development is consistent with the relevant objectives of the B4 Mixed Use zone in BLEP 2021, as:

- the proposed development includes a mixture of compatible land uses comprising social and market housing and retail
- the site is well located near existing pedestrian and cycle links, bus stops and Arncliffe Railway Station.

2. *Is the consent authority satisfied the proposed development will be consistent with the objectives of the standard?*

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

- (a) to ensure that building height is consistent with the desired future character of an area,
- (b) to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,
- (c) to nominate heights that will provide an appropriate transition in built form and land use

intensity.

The Department is satisfied that the proposed development is consistent with the objectives of the height of buildings standard of the BLEP 2021, as the variation:

- relates to a small lift overrun centrally located and set back from all building edges and will be imperceptible from the public domain and will not result in any adverse visual or amenity impacts.
- the additional height will not result in any additional disruption of views, loss of privacy or solar access to existing or future development
- is not significant in the context of the approved building height and is consistent with the built form outcome envisaged for the site and the desired future character of the area

3. *Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed.*

The Applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard to the five tests outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. It establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances, as the proposed development achieves the objectives of the standard and accordingly justifies the variation to the height control, meeting the first test outlined in *Wehbe*.

The Department supports the Applicant's conclusions that the proposed development achieves the objectives of the standard. Compliance with the development standard is unnecessary in this case as the objectives of the height standard are still achieved and unreasonable as no purpose is served by requiring strict compliance.

Having considered the Applicant's written request, the Department is satisfied that the Applicant has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

4. *Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and with the Court the matters required to be demonstrated have adequately been addressed.*

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- due to its location within the Building B floorplate, the lift overrun will generally be imperceptible when viewed from the public domain and streetscape, and therefore will not generate additional visual impacts
- within the context of the development being a large, multi-building mixed use precinct, the proposed variation is minimal both in area (being highly localised with regards to the site's overall size) and extent (1.5m of a site with a 70m building height limit, or 2.14%)

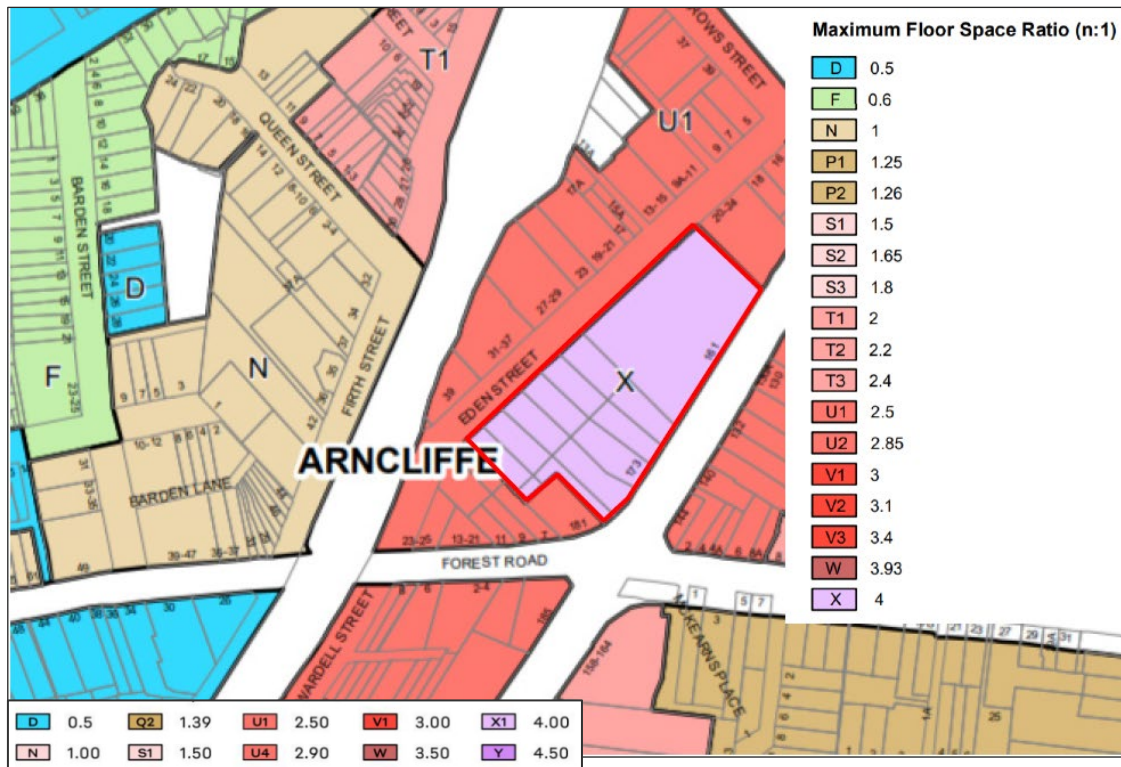
- there is no usable floorspace or GFA area located above the height limit. The lift overrun being 1.5 metres over the height limit facilitates mechanical servicing equipment for the operation of the elevators
- the proposed development has been designed to sensitively respond to the surrounding context with regards to view loss, privacy, solar access, and overshadowing
- Building B complies with the maximum 70m height limit at all its parapets and will present as a 70m building when considered in the context of the future development on the neighbouring sites
- the proposed variation will not be readily visible from the public domain surrounding the site and will not impact on views or daylight access to the surrounding dwellings or public and private open space.

Having considered the Applicant's written request and further to the Department's assessment of height in **Section 6.3**, the Department is satisfied that there are sufficient environmental planning grounds to justify the contravention of the development standard and the matters required to be demonstrated have adequately been addressed. The Department therefore concludes that the Applicant's written request adequately addresses the matters required to be demonstrated under clause 4.6 of the BLEP 2021 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.

The Department also notes that planning circular PS 18-003 issued on 21 February 2018 provides that consent authorities for SSD may assume the Secretary's concurrence where development standards are contravened and addressed in the Department's assessment report. The Minister may therefore consider the Applicant's clause 4.6 request.

### ***B2 Clause 4.6 variation - Floor Space Ratio (FSR)***

The proposal seeks a variation to the maximum floor space ratio (FSR) as prescribed by clause 4.4 of the BLEP 2021. Clause 4.4 of the BLEP 2021 requires the FSR for a building on any land is not to exceed the maximum FSR shown on the Floor Space Ratio Map (**Figure 33**).



**Figure 33** | Floor space ratio extracted from the BEP 2021. Site shown outlined in red (Source: Applicant's RtS)

Under clause 4.4(2) of the BLEP 2021, an FSR of 4:1 applies to the B4 zone (**Figure 33**). This equates to a maximum GFA of 53,761 m<sup>2</sup>

The proposal benefits from an 20% FSR bonus under the former Affordable Rental Housing SEPP (ARH SEPP) and the Housing SEPP, allowing a total FSR for the site of 4.8:1 (GFA of 64,513 m<sup>2</sup>).

The Applicant is seeking approval of a total GFA of 66,288m<sup>2</sup> which equates to an FSR of 4.93:1. This represents a variation of 1,773m<sup>2</sup> (0.13:1) or 2.69%.

Clause 4.6 of the BLEP 2021 permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The aim of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to achieve better development outcomes. In consideration of the proposed variation, clause 4.6 requires the following:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

In accordance with clause 4.6(3), the Applicant has prepared a written request to vary the FSR development standard (**RRFI dated 5 May 2022**).



Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Planning Secretary has been obtained.*

The Department has considered the proposed exception to the FSR development standard under clause 4.6, applying the tests arising from *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 (as summarised by *Gabriel Stefanidis v Randwick City Council* [2017] NSWLEC 1307) and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

1. *Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone.*

The objectives of the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail, and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling

The Department is satisfied that the proposed development is consistent with the relevant objectives of the B4 Mixed Use zone in BLEP 2021, as:

- the proposed development includes a mixture of compatible land uses comprising residential, education and retail
- the site is well located in close proximity to existing pedestrian and cycle links, bus stops and Arncliffe Railway Station.

2. *Is the consent authority satisfied the proposed development will be consistent with the objectives of the standard,*

The objectives of the FSR standard are:

- (a) to establish standards for the maximum development density and intensity of land use
- (b) to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation
- (e) to ensure buildings do not adversely affect the streetscape, skyline, or landscape when

viewed from adjoining roads and other public places such as parks and community facilities.

The Department is satisfied that the proposed development is consistent with the objectives of the FSR standard of BLEP 2021, as:

- the variation is proposed to accommodate the enclosure of balconies to form wintergardens on Building A, B and D to improve acoustic amenity for future residents
- the proposed variation is in part due to the definition of Gross Floor Area (GFA) under the BLEP 2021 and Standard Instrument LEP, where wintergardens are considered to contribute towards GFA.
- the proposed wintergardens do not generate additional bulk or increase the building scale compared to balconies and the proposal will still reflect the desired and future built form character envisaged as part of the Arncliffe Precinct
- the proposed FSR variation will not prevent the achievement of appropriate levels of solar access to future dwellings, will not result in greater overshadowing of nearby residential properties compared to a compliant development and would have acceptable visual impacts
- the proposal is consistent with the desired outcomes derived from the strategic planning framework for the Arncliffe Precinct
- the proposal is appropriately located, close to key public transport infrastructure and employment and education opportunities.

The Department further considers the appropriateness of the proposed FSR/GFA to be closely linked with how the proposal addresses a range of issues, including future built form, setbacks, open space, deep soil planting, biodiversity/tree removal, visual impact, overshadowing/solar access, and traffic generation. All of these matters are considered in **Sections 6.2 to 6.7**.

*3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed*

The Applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard to the five tests outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. It establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances, as the proposed development achieves the objectives of the standard and accordingly justifies the variation to the FSR control, meeting the first test outlined in *Wehbe*.

The Department supports the Applicant's conclusions that the proposed development achieves the objectives of the standard. Compliance with the development standard is unnecessary in this case as the objectives of the FSR standard are still achieved and unreasonable as no purpose is served by requiring strict compliance.

Having considered the Applicant's written request, the Department is satisfied that the Applicant has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

4. *Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and with the Court the matters required to be demonstrated have adequately been addressed.*

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- in order to achieve the noise criteria, set out on the Department of Planning and Environment's *Development near Rail Corridors and Busy Roads – Interim Guideline* acoustic treatments in the form of wintergardens and glazing are required for apartments with a primary aspect facing the Princes Highway
- the wintergardens are designed and treated as if they were a balcony space but will be able to be fully enclosed if desired by the occupants of the building
- the proposed variation exceeds the FSR limit by only 1,773m<sup>2</sup> (0.13:1) which equates to a 2.69% variation
- due to a technicality in the definition of GFA under the BLEP 2021 and Standard Instrument LEP (where wintergardens are considered GFA, but regular balconies are not), there would be no perceivable difference between a scheme that complies with the maximum FSR control and the proposed scheme

Having considered the Applicant's written request and further to the Department's assessment of FSR in **Section 6.3**, the Department is satisfied the Applicant has adequately addressed there are sufficient environmental planning grounds to justify the contravention of the development standard and the matters required to be demonstrated have adequately been addressed. The Department therefore concludes that the Applicant's written request adequately addresses the matters required to be demonstrated under clause 4.6 of the BLEP 2021, and the proposed development will be in the public interest because it is consistent with the objectives of the FSR standard and the objectives for development within the zone.

The Department also notes that planning circular PS 18-003 issued on 21 February 2018 provides that consent authorities for SSD may assume the Secretary's concurrence where development standards are contravened and addressed in the Department's assessment report. The Minister may therefore consider the Applicant's clause 4.6 request.

## Appendix C – Statutory considerations

### C1 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects as set out in section 1.3 the Act. The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent / approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment, the objects should be considered to the extent they are relevant.

The Department has considered the proposal to be satisfactory with regard to the objects of the EP&A Act as detailed in **Table 15**.

**Table 15 |** Consideration of the proposal against the objects of section 1.3 the EP&A Act

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development, and conservation of the State's natural and other resources	The proposal would promote the social and economic welfare of the community through the delivery of increased social and private housing, improved site access and permeability, enhanced landscaping, and public domain improvements. Environmental impacts would be balanced by environmentally sustainable design, replacement tree planting and landscaping works. The proposal is predicted to generate a total of 2,280 construction jobs and 200 operational jobs.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment,	The proposal has integrated ESD principles as discussed in <b>Appendix C, Section C3</b> .
(c) to promote the orderly and economic use and development of land,	The proposal involves the orderly and economic use of land through the efficient development of an existing urban site that is near existing services and public transport. The proposed land uses are permissible, and the form of the development has regard to the planning controls that apply and the character of the locality. The merits of the proposal are considered in <b>Section 6</b> .
(d) to promote the delivery and maintenance of affordable housing,	The proposal would provide a minimum of 180 social housing dwellings (an increase of 38 dwellings).
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities, and their habitats,	The proposed mixed-use development is on an existing urban site, will have negligible impacts on the conservation of threatened and other species of native animals and plants, ecological communities, and their habitats.

On 15 January 2021, the Department determined that the application is not required to be accompanied by a BDAR (**Section 4.4**).

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The Department concludes the development's heritage impact is acceptable subject to conditions ( <b>Section 6.8</b> ). The site has low-nil potential to contain Aboriginal and non-Aboriginal archaeological remains. The Department has recommended conditions relating to the management of unexpected archaeology during the construction phase of the development ( <b>Section 6.8</b> )
(g) to promote good design and amenity of the built environment,	The proposal achieves a high standard of design and amenity as discussed at <b>Section 6.4</b> . The Department concludes the proposal exhibits design excellence as discussed at <b>Section 6.2</b> .
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The application was accompanied by a BCA and Access Report that concludes the development has been designed to be accessible and inclusive and is capable to complying with the requirements of the relevant sections of the Act.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposed development as outlined in <b>Section 5</b> , which included consultation with Council and other public authorities and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the proposal as outlined in <b>Section 5</b> , which included notifying adjoining landowners and displaying the proposal on the Department's website. The Department has considered all issues raised in submissions as part of its assessment.

## **C2 Section 4.15(1) matters for consideration**

The matters for consideration under section 4.15(1) that apply to SSD in accordance with section 4.40 of the EP&A Act have been addressed in **Table 16**.

**Table 16 | Section 4.15(1) Matters for Consideration**

<b>Section 4.15(1) Evaluation</b>	<b>Consideration</b>
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPIs is provided below, at <b>Section 6</b> and <b>Appendix B</b> of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the Planning System SEPP, development control plans (DCPs) do not apply to SSD.



(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations Refer Division 8 of the EP&A Regulation	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 relating to EIS.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The impacts of the proposal have been appropriately mitigated or conditioned as discussed in <b>Section 6</b> of this report.
(c) the suitability of the site for the development	The site is suitable for the development as discussed in <b>Section 6</b> of this report.
(d) any submissions	Consideration has been given to the submissions received during the exhibition of the proposal as summarised at <b>Section 5</b> and considered at <b>Section 6</b> of this report.
(e) the public interest	The proposal is in the public interest as discussed at <b>Section 6</b> of this report.

### **C3 Ecologically sustainable development**

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing, and incentive mechanisms.

The proposed development is committed to achieving the following minimum ESD targets:

- exceed 7-star (average) NatHERS rating for social housing
- 7-star (average) NatHERS rating for Market housing
- Basix Energy score of 35 for social housing and 38 for market housing
- Basix Water score of 42 for social housing and 45 for market housing
- the deemed to satisfy provision of the National Construction Code Section J - energy efficiency for retail premises

The development includes the following key ESD initiatives and sustainability measures:

- on-site photovoltaic panels
- integrating water efficiency and water reuse measures on site
- minimising waste through operational waste management promoting separation of waste and diverting at least 85% of construction waste from landfill
- use of sustainably sourced timber, low emission paint and reusable formwork in construction

- rainwater harvesting and reuse

In response to concerns raised by Council the Applicant has also committed to incorporate:

- zoned and sensor-controlled lighting and air conditioning
- LEDs and other low energy flicker free lighting resources
- water saving appliances above and beyond BASIX requirements
- recycling storage rooms
- use of admixtures in concrete to minimise cement and reduce embodied carbon
- planters on interior and exterior to the buildings including provision of additional green walls and green roofs
- separate circuiting for temporary power to stair and corridor lighting.

The Department has considered the project in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the development. The conservation principle has been applied through the retention of 17 existing trees and provision of new landscaping around, on and within the development and the valuation principle has been applied through the efficient use of the site, application of sustainability measures and creation of new housing and employment opportunities within the precinct.

The proposed development is consistent with ESD principles as described in the Applicant's EIS, RtS and response to requests for further information, which have been prepared in accordance with the requirements of Schedule 2 of the EP&A Regulation

The Department supports the Applicant's target to meet and exceed 7- star average NatHERS energy ratings, however, also recommends a minimum 5 - Star rating for individual apartments to ensure all apartments provide an acceptable level of thermal comfort.

Subject to conditions requiring the ESD measures and minimum sustainability targets are met, the proposed development is consistent with ESD principles in accordance with the objects of the EP&A Act.

#### ***C4 Environmental Planning and Assessment Regulation 2000***

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with.

#### ***C5 Environmental Planning Instruments (EPIs)***

To satisfy the requirements of Section 4.15(a)(i) of the Act, this report includes references to the provisions of the EPIs that govern the carrying out of the proposal and have been taken into consideration in the Department's environmental assessment.

The EPIs that have been considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing) 2021 and State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, including the ADG
- State Environmental Planning Policy (Resilience and Hazards)
- Bayside Local Environmental Plan 2021 (BLEP)

### **State Environmental Planning Policy (Planning Systems) 2021**

The Planning Systems SEPP identifies SSD, State significant infrastructure (SSI), critical State significant infrastructure (CSSI) and to confer functions on regional planning panels to determine development applications.

The proposal is SSD under clause 10 of Schedule 2 of the Planning Systems SEPP as it comprises development of an identified LAHC site (Eden Street), carried on behalf of LAHC, and has a CIV of more than \$30 million.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

The Transport and Infrastructure SEPP (TISEPP) aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

The proposed development has a frontage to a classified road (Princes Highway) and is subject to assessment under Clause 2.117 and 2.118 of the TISEPP. The proposed vehicle access, upgrade works, and the safety, efficiency and ongoing operation of the classified road is considered appropriate within the context of the site. The Department also considers the proposed development has appropriately considered potential traffic noise and vehicle emission impacts.

Under Clause 2.121 and Schedule 3 of the TISEPP, the proposed development constitutes a traffic generating development and requires referral to TfNSW for comment. The proposals were referred to Transport for NSW and their comments are summarised in **Section 5** of this report. The Department considers the proposed development is consistent with the TISEPP and consideration of the issues raised by TfNSW is documented in the Department's assessment in **Section 6** of this report and recommended conditions of consent (**Appendix E**).

Future development applications for the childcare centre will be required to be consistent with the provisions of the TISEPP.

The childcare centre is proposed as a shell only. A separate detailed development application will be submitted to Council for the fit-out and operation of the centre once an operator has been engaged. The detailed application will need to demonstrate compliance with the TISEPP provisions.

The RtS includes a preliminary assessment against the relevant parts of the TISEPP, including the design quality principles and matters for consideration. The assessment confirms the centre is capable of complying with all applicable regulations, including unencumbered indoor and outdoor space, ventilation and natural light, shade, visual and acoustic privacy, air quality, and administration space.

## State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)

The BASIX SEPP encourages sustainable residential development by setting targets that measure efficiency of buildings in relation to water and energy use and thermal comfort. It requires all new dwellings meet sustainability targets of a 20% reduction in energy use (building size dependent) and a 40% reduction in potable water.

The application includes a BASIX Certificate. The Department recommends conditions recommending requiring compliance with the BASIX Certificate.

## State Environmental Planning Policy (Housing) 2021 and State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

The State Environmental Planning Policy (Housing) 2021 (Housing SEPP) superseded the former State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). Schedule 7A Clause 2(1)(a) of the Housing SEPP includes a general savings provision which outlines that the ARH SEPP continues to apply to the development as the development application was made, but not yet determined, before the commencement date of the provisions of the Housing SEPP.

The proposal includes the provision of 180 affordable housing dwellings. The ARH SEPP aims to provide a consistent planning regime for the provision of affordable rental housing and boarding houses.

The Department has considered the proposal against the ARH SEPP development standards within **Table 17** below.

**Table 17 | Department's consideration of the ARH SEPP**

Section	Control	Department's Consideration
<b>Clause 13 Floor Space Ratios</b>	The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus: (b) if the existing maximum floor space ratio is greater than 2.5:1: (i) 20 per cent of the existing maximum floor space ratio—if the percentage of dwellings in the residential flat building that are used is 50 per cent or Higher.	Under clause 6(2) residential development is taken to be for the purposes of affordable housing if the development is on land owned by the Land and Housing Corporation. Therefore, the 50% affordable housing threshold is met and the 20% FSR bonus of 0.8:1 (an additional GFA of 10,752 m <sup>2</sup> ) applies to the site. The applicable FSR for the site is therefore 4.8:1 (GFA of 64,513.4 m <sup>2</sup> ).
<b>Clause 14 Standards that cannot be used to refuse consent</b>	(1) (b) Site area The site must be at least 450 m <sup>2</sup> . (c) Landscaped area 30% of the site area is to be landscaped. (d) Deep soil zones	b) The site is 13,440.3 m <sup>2</sup> in size. c) The proposal includes significant landscaped and public domain areas, including a <ul style="list-style-type: none"> <li>4,000m<sup>2</sup> public park (Eden Street Park)</li> </ul>

- In relation to the area of the site not built on, paved, or otherwise sealed:
- (i) there is soil of sufficient depth to support the growth of trees and shrubs on not less than 15% of the site area (the deep soil zone)
  - (ii) each area forming part of the deep soil zone has a minimum dimension of 3 m
  - (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area
- (e) Solar access
- If living rooms and private open space for a minimum of 70% of the dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter.
- (2)
- (a) Parking
- At least 0.4 parking spaces for each one-bedroom dwelling, 0.5 spaces for each two-bedroom dwelling, and 1 parking space for each three-bedroom dwelling.
- (b) Dwelling size
- Each dwelling to have a GFA of at least:
- (iv) 35 m<sup>2</sup> for studios
  - (v) 50 m<sup>2</sup> for one-bedroom dwelling
  - (vi) 70 m<sup>2</sup> for two-bedroom dwelling
  - (vii) 95 m<sup>2</sup> for three-bedroom dwelling
- 870 m<sup>2</sup> public plaza
  - 2,893 m<sup>2</sup> of communal open space
- The 4000 m<sup>2</sup> park alone equates to 30% of the site area.
- d) Deep soil is defined under Clause 1 as “soil of a sufficient depth to support the growth of trees and shrubs”
- 33% of the site is proposed to be soil of depth 600mm or deeper, which is sufficient to accommodate tree and shrubs comprising:
- Deep Soil (9%) – 1228 m<sup>2</sup>
  - Soil on Slab greater than 1200mm depth (13%) - 1793m<sup>2</sup>
  - Soil on Slab between 800-1200mm depth (5%) – 725 m<sup>2</sup>
  - Natural Ground (6%) – 775 m<sup>2</sup>
- e) The Applicant’s solar access analysis demonstrates the proposal would achieve a minimum of 70% solar access for two hours in midwinter, as follows:
- Building A: 132 out of 186 apartments (71%)
  - Building B: 146 out of 202 apartments (72.3%)
  - Building C: 126 out of 180 apartments (70%)
  - Building D: 123 out of 176 apartments (70%)
- 2a) The proposed car parking rate complies with the minimum rate for affordable dwellings (**Section 6.6**).
- b) All apartments meet or exceed the prescribed minimum sizes.

<b>Clause 16</b>	Continued application of SEPP 65.	Consideration of the proposal against SEPP 65 is provided in in <b>Table 18</b> below
<b>Clause 16A</b> <b>Character of Local Area a</b>	The consent authority must take into consideration whether the design of the development is compatible with the character of the local area.	The existing site is currently used as social housing. The proposed use includes social and market housing and the height and floorspace are generally in accordance with the height and floor space controls in the BLEP 2021. The proposal is therefore compatible with the desired future character of the local area.

## **State Environmental Planning Policy No. 65 – Residential Apartment Development (including the Apartment Design Guide)**

State Environmental Planning Policy 65 – Residential Apartment Development (SEPP 65) seeks to improve the design quality of residential developments and encourage innovative design. The ADG is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments.

The Department has assessed the residential component of the proposal against the SEPP 65 principles in **Table 18** and **Table 19**.

**Table 18** | Department's consideration of SEPP 65 principles

<b>SEPP 65 Principle</b>	<b>Department's Consideration</b>
<b>1. Context</b>	The Department considers that the proposal responds appropriately to the desirable elements of Arncliffe's existing and future planned context as discussed in <b>Section 6</b> and is therefore consistent with Principle 1.
<b>2. Built Form &amp; scale</b>	The Department considers the scale, bulk and height of the proposed towers and podiums is appropriate to the existing and desired future character of Arncliffe as discussed in <b>Section 6</b> . The proposal is subject to further review by the Design Integrity panel (DIP) and the Department considers the development is capable of achieving design excellence as discussed in <b>Section 6</b> .
<b>3. Density</b>	The Department has assessed the density having regard to the built form and potential impacts of the floorspace on traffic generation, amenity, and demand on existing/future infrastructure in <b>Section 6</b> . The Department is satisfied the proposal has strategic merit and would not have adverse built form, traffic, amenity, or heritage impacts ( <b>Section 6</b> ). The Department concludes the proposal is consistent with Principle 3.
<b>4. Sustainability</b>	The Department has recommended conditions requiring compliance with the submitted ESD strategy including NatHERS ratings and BASIX energy and water targets.
<b>5. Landscape</b>	The proposed redevelopment would provide significant landscaped areas onsite and within the public domain, including a 4000m <sup>2</sup> public park (approximately 30% of the site area) deep soil planting and landscaped communal open spaces ( <b>Section 6</b> ).
<b>6. Amenity</b>	The proposal complies with the requirements of SEPP 65 and has demonstrated that future residential units would be capable of achieving satisfactory residential amenity, including satisfactory levels of solar access, natural ventilation, and privacy ( <b>Section 6</b> ).
<b>7. Safety</b>	The proposal has incorporated the Crime Prevention Through Environmental Design (CPTED) principles and the Department recommends a condition requiring implementation of the recommendations of CPTED report ( <b>Section 6</b> ).
<b>8. Housing diversity and social interaction</b>	The proposal includes 180 social housing dwellings and 564 market dwellings, commercial uses, and shared public open space, providing a diverse and integrated range of dwelling types and sizes and promoting social interaction between different socio-economic groups.



The unit mix for the social housing component has been specified by LAHC and housing providers to meet the identified future need.

## 9. Aesthetics

The proposal has been through the State Design Review process, to ensure the podium, towers and public domain can deliver design excellence.

The Department considers that, subject to continued review and refinement by the Design Integrity Panel as recommended by the conditions of approval, the proposal will deliver a high standard of architectural design and achieve design excellence.

The Department therefore considers the proposal is capable of satisfying Principle 9.

**Table 19 |** Department's consideration of ADG best practice design principles

ADG – Relevant Criteria	Proposal
<b>3A Site Analysis</b> <ul style="list-style-type: none"> <li>Site analysis illustrates design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</li> </ul>	<ul style="list-style-type: none"> <li>The application is informed by an urban design report which includes an analysis of the proposal within the surrounding context and considers all matters in the site analysis checklist within Appendix 1 of the ADG.</li> </ul>
<b>3B Orientation</b> <ul style="list-style-type: none"> <li>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</li> <li>Overshadowing of neighbouring properties is minimised during mid-winter.</li> </ul>	<ul style="list-style-type: none"> <li>The Buildings are appropriately orientated to respond to the streetscape, optimise solar access and minimise overshadowing of neighbouring properties (<b>Section 6</b>)</li> </ul>
<b>3C Public Domain Interface</b> <ul style="list-style-type: none"> <li>Transition between public/private domain is achieved without compromising safety and security.</li> <li>Amenity of the public domain is retained and enhanced.</li> </ul>	<ul style="list-style-type: none"> <li>Each of the proposed buildings include an acceptable transition between the public and private domains.</li> <li>The treatment of the site edges including the increased setback to Princes Highway, mature street tree planting, shared path and the integration with the central public open space will greatly enhance the public domain</li> <li>Passive surveillance of the public domain would be available from balconies, windows, and communal open spaces.</li> </ul>
<b>3D Communal and Public Open Space</b> <ul style="list-style-type: none"> <li>Communal open space has a minimum area equal to 25% of the site.</li> <li>Minimum 50% direct sunlight to principal usable part of the communal open space for a minimum of two hours in mid-winter.</li> <li>Communal open space is designed to allow for a range of activities and to maximise safety.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal includes 2,893m<sup>2</sup> of communal open space accessible by occupants of residents to the exclusion of the public, equating to 21% of the site total site area of 13,440 m<sup>2</sup>, a 467m<sup>2</sup> variation to the ADG minimum requirement.</li> <li>Notwithstanding however, the proposal also includes 4,870m<sup>2</sup> of public accessible open space in the form of the central park, which has been designed to provide opportunities for both active and passive recreation. These spaces are immediately adjacent to the buildings and accessible to all residents. Including these spaces, the amount of communal open space equates to 7,763 m<sup>2</sup> or 58% of the site area.</li> </ul>

ADG – Relevant Criteria	Proposal												
<ul style="list-style-type: none"><li>Public open space should be well connected with nearby parks and other landscape elements.</li></ul>	<ul style="list-style-type: none"><li>The Applicant has proposed shadow diagrams which indicate that the 1,655 m<sup>2</sup> (57%) of the communal open space will achieve direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).</li></ul>												
<b>3E Deep Soil Zones</b> <ul style="list-style-type: none"><li>For sites greater than 1,500 m<sup>2</sup>, a minimum of 7% of the site with a minimum dimension of 6 m should provide for deep soil zone(s).</li></ul>	<ul style="list-style-type: none"><li>7.5% of the site provides for deep soil under the central public park and adjacent to the Eden Street South west boundary.</li><li>Additional areas suitable for planting are provided as follows:<ul style="list-style-type: none"><li>Soil on Slab greater than 1200mm depth (13%) – 1692 m<sup>2</sup></li><li>Soil on Slab between 800-1200mm depth (5%) – 700 m<sup>2</sup></li><li>Natural Ground (6%) – 775 m<sup>2</sup></li></ul></li></ul>												
<b>3F Visual Privacy</b> <ul style="list-style-type: none"><li>Minimum separation distance from building to side and rear boundaries:</li></ul> <table><tr><th>Height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<ul style="list-style-type: none"><li>All buildings comply with the minimum setback requirements to ensure acceptable levels of visual privacy for future residents</li></ul>
Height	Habitable rooms and balconies	Non-habitable rooms											
Up to 12m (4 storeys)	6m	3m											
Up to 25m (5-8 storeys)	9m	4.5m											
Over 25m (9+ storeys)	12m	6m											
<b>3G Pedestrian Access to Entries</b> <ul style="list-style-type: none"><li>Building entries and pedestrian access connects to and addresses the public domain.</li><li>Access, entries, and pathways are accessible and easy to identify.</li><li>Large sites provide pedestrian links for access to streets and connection to destinations.</li></ul>	<ul style="list-style-type: none"><li>The proposal is well integrated into the public domain, provides enhanced legibility and permeability through the central public park and northern through site link.</li></ul>												
<b>3H Vehicle Access</b> <ul style="list-style-type: none"><li>Vehicle access points are to be designed to achieve safety, minimise conflicts between pedestrians and vehicles and create high-quality streetscapes.</li></ul>	<ul style="list-style-type: none"><li>The Eden Street driveway has been reconfigured to provide a single entrance and exit point shared between the basement and loading dock reducing the width of the driveway (from 29 m to 12.3 m) to improve safety and amenity for pedestrians</li><li>The Princes Highway deceleration lane would be appropriately separated from the pedestrian shared path along Princes Highway and would be subject to detailed</li></ul>												

ADG – Relevant Criteria	Proposal
	<p>design in consultation with TfNSW to ensure vehicular and pedestrian safety</p> <ul style="list-style-type: none"> <li>These access points would minimise conflicts between pedestrians and vehicles and would allow for the creation of a high-quality streetscape.</li> </ul>
<p><b>3J Bicycle and Car Parking</b></p> <ul style="list-style-type: none"> <li>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas. <ul style="list-style-type: none"> <li>For development in the following locations: <ul style="list-style-type: none"> <li>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area or</li> <li>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> </li> <li>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</li> <li>the car parking needs for a development must be provided off street.</li> </ul> </li> <li>Parking and facilities are provided for other modes of transport.</li> <li>Car park design and access is safe and secure.</li> <li>Visual and environmental impacts of underground car parking are minimised.</li> <li>Visual and environmental impacts of above ground enclosed car parking are minimised.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal includes 813 car parking spaces 67 motorcycle parking spaces and 543 cycle parking spaces comprising: <ul style="list-style-type: none"> <li><u>Market</u> <ul style="list-style-type: none"> <li>554 resident car spaces</li> <li>75 visitor spaces</li> <li>305 cycle spaces</li> <li>50 motorcycle spaces</li> </ul> </li> <li><u>Social</u> <ul style="list-style-type: none"> <li>90 resident car spaces</li> <li>12 motorcycle spaces</li> </ul> </li> <li><u>Retail</u> <ul style="list-style-type: none"> <li>78 car spaces</li> <li>30 cycle spaces (26 retail staff, 4 retail customers)</li> <li>5 motorcycle spaces</li> </ul> </li> <li><u>Childcare</u> <ul style="list-style-type: none"> <li>Six car spaces</li> <li>Four bicycle spaces</li> </ul> </li> <li><u>Communal</u> <ul style="list-style-type: none"> <li>204 cycle spaces</li> </ul> </li> </ul> </li> <li>The proposed car parking for is consistent with the relevant requirements of TfNSW's Guide to Traffic generating Developments, the former ARH SEPP and the RDCP</li> <li>All car parking is proposed off-street within basement car parks.</li> <li>Access to parking areas can be appropriately secured and controlled to ensure the safe and efficient use of the areas</li> <li>The car park has been designed and will be provided in accordance with relevant Australian standards, ensuring safe and efficient manoeuvring</li> <li>The Department is satisfied the visual and environmental impacts of the proposed basement car parking have been minimised.</li> </ul>

**ADG – Relevant Criteria****Proposal****4A Solar and Daylight Access**

- To optimise the number of apartments receiving sunlight to habitable rooms, primary windows, and private open space.
- Minimum of 70% of apartments' living rooms and private open spaces receive 2hrs direct sunlight between 9 am -3 pm in mid-winter in the Sydney Metropolitan Area.
- Maximum of 15% of apartments have no direct sunlight between 9 am - 3 pm in mid-winter.
- Daylight access is maximised where sunlight is limited.
- Design incorporates shading and glare control, particularly for warmer months.

Compliance with the solar access requirements of clause 4A is summarised in the Table below

Building	2hrs direct sunlight between 9 am -3 pm in mid-winter	
	No direct sunlight between 9 am - 3 pm in mid-winter	
<b>A</b>	71% (132/186)	18% (34/186)
<b>B</b>	72% (146/202)	6% (12/202)
<b>C</b>	70% (126/180)	14% (26/180)
<b>D</b>	70% (123/176)	20% (36/176)
<b>Total</b>	70% (518/744)	15% 108/744

- Buildings A and D do not meet the 15% maximum requirement for apartments receiving no solar access in mid-winter. However, The Department notes the ADG recognises achieving the design criteria may not be possible on some sites and is satisfied the design of the proposal overall including Buildings A and D has achieved an appropriate balance with regard to solar access through appropriate siting, orientation, and scale. The Department further acknowledges that all apartments within these buildings would otherwise achieve good levels of amenity through meeting or exceeding minimum apartment size, private open space, cross ventilation, and storage recommendations.

**4B Natural Ventilation**

- At least 60% of apartments are cross ventilated in the first nine storeys (apartments 10 storeys or greater are deemed to be cross ventilated).
- Overall depth of a cross-over or cross-through apartment does not exceed 18m.

- All buildings achieve 60% cross ventilation for apartments in the first nine storeys.
- Up to 495 of the 744 apartments will require mechanical ventilation of bedrooms and living rooms due to the noise impacts from Princes highway
- The Applicant provided an acoustic statement with the RtS which recommended potential mitigation measures to offset the impact on ventilation including:
  - offsetting the openings between winter gardens and the interior openings
  - maximising the distance between openings and including a change in direction to maximise the noise attenuation
  - soffit absorption to wintergardens
  - acoustic plenums to further attenuate the apartments with the highest noise sensitivity
- The Department notes that due to the location of the site directly adjacent to the Princes Highway the use of

ADG – Relevant Criteria	Proposal
	<p>mechanical ventilation is necessary to ensure acoustic amenity for future occupiers.</p> <ul style="list-style-type: none"> <li>The Department notes also that all apartments requiring alternative ventilation will still be provided with operable windows, enabling future residents the choice to ventilate their apartments naturally during quieter times of the day/evening.</li> <li>Subject to a condition requiring compliance with the recommendations included in the Acoustic statement, the Department considers the proposal provides appropriate levels of natural ventilation.</li> <li>The maximum depth of through apartments is 13m</li> </ul>
<p><b>4C Ceiling Heights</b></p> <ul style="list-style-type: none"> <li>Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> <li>Habitable rooms 2.7 m</li> <li>Non-habitable rooms 2.4 m.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Ceiling heights meet or exceed the recommended minimums within all buildings.</li> </ul>
<p><b>4D Apartment Size and Layout</b></p> <ul style="list-style-type: none"> <li>Minimum apartment sizes <ul style="list-style-type: none"> <li>Studio 35 m<sup>2</sup></li> <li>1 bedroom 50 m<sup>2</sup></li> <li>2 bedroom 70 m<sup>2</sup></li> <li>3 bedroom 90 m<sup>2</sup></li> <li>4 bedroom 102 m<sup>2</sup>.</li> </ul> </li> <li>Every habitable room must have a window in an external wall with a total glass area of not less than 10% of the floor area. Daylight and air may not be borrowed from other rooms.</li> <li>Habitable room depths are limited to 2.5 x the ceiling height.</li> <li>In open plan layouts the maximum habitable room depth is 8m from a window.</li> <li>Master bedroom must have a minimum area of 10 m<sup>2</sup> and other bedrooms have 9 m<sup>2</sup>.</li> <li>Bedrooms have a minimum dimension of 3m (excluding wardrobes).</li> <li>Living rooms have a minimum width of: <ul style="list-style-type: none"> <li>3.6 m for studio and one bed</li> <li>4 m for 2 and 3 bed.</li> </ul> </li> <li>The width of cross-over or cross-through apartments are at least 4m internally.</li> </ul>	<ul style="list-style-type: none"> <li>All apartments within both buildings meet the minimum size recommendations</li> <li>All habitable rooms within all buildings are provided with a window in an external wall greater than the minimum 10%.</li> <li>All habitable room depth/width recommendations are satisfied within all buildings.</li> </ul>

ADG – Relevant Criteria	Proposal
<p><b>4E Private Open Space and Balconies</b></p> <ul style="list-style-type: none"> <li>Primary balconies are provided to all apartments providing for: <ul style="list-style-type: none"> <li>Studio apartments min area 4 m<sup>2</sup></li> <li>1-bedroom min area 8 m<sup>2</sup> min depth 2m</li> <li>2-bedroom min area 10 m<sup>2</sup> min depth 2m</li> <li>3-bedroom min area 12 m<sup>2</sup> min depth 2.5m.</li> </ul> </li> <li>For apartments at ground floor level or similar, private open space must have a minimum area of 15 m<sup>2</sup> and depth of 3 m.</li> <li>Private open space and primary balconies are integrated into and contribute to the architectural form and detail of the building.</li> <li>Primary open space and balconies maximises safety.</li> </ul>	<ul style="list-style-type: none"> <li>All apartments include a balcony that meets the minimum size and depth recommendations.</li> <li>The proposed balconies are integrated into, and contribute to, the architectural form and detail of the building.</li> <li>All ground and podium level apartments have been designed to comply with the minimum depth of 3m and area of 15m<sup>2</sup>.</li> </ul>
<p><b>4F Common Circulation and Spaces</b></p> <ul style="list-style-type: none"> <li>Maximum number of apartments off a circulation core is eight – where this cannot be achieved, no more than 12 apartments should be provided off a single circulation core.</li> <li>For buildings 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</li> <li>Natural ventilation is provided to all common circulation spaces where possible.</li> <li>Common circulation spaces provide for interaction between residents.</li> <li>Longer corridors are articulated.</li> </ul>	<ul style="list-style-type: none"> <li>No more than 11 apartments are provided off a single circulation core and cores have access to natural daylight from the lift lobby, and daylight and ventilation have been provided to all common area corridors</li> <li>Building C has two lifts and Buildings A B and D have three lifts resulting in a ratio of apartments to lifts as follows: <ul style="list-style-type: none"> <li>Building A: 1 lift per 62 apartments</li> <li>Building B: 1 lift per 67 apartments</li> <li>Building C: 1 lift per 90 apartments</li> <li>Building D: 1 lift per 59 apartments</li> </ul> </li> <li>While the ADG nominates the threshold from one to two passenger lifts (40 apartments), it does not specify a lift ratio where the apartments exceed 40 or when lifts are provided in banks of two or more.</li> <li>The Applicant has submitted Vertical Transportation Advice in relation to the proposed lift provision for each building, which concludes that the proposed lift arrangements would satisfy international performance criteria.</li> <li>The Department is satisfied that each building contains at least two lifts and the Applicant's analysis demonstrates acceptable lift wait and travel times for each building.</li> <li>The residential lobby and circulation spaces provide opportunities for interaction in each building. Windows at the end of each lift corridor in Building A1 and at one end of the corridors in Building C1 would provide natural daylight to the corridors.</li> </ul>



ADG – Relevant Criteria	Proposal
<b>4G Storage</b> <ul style="list-style-type: none"> <li>The following storage is required (with at least 50% located within the apartment): <ul style="list-style-type: none"> <li>Studio apartments 4 m<sup>3</sup></li> <li>1-bedroom apartments 6 m<sup>3</sup></li> <li>2-bedroom apartments 8 m<sup>3</sup></li> <li>3-bedroom apartments 10 m<sup>3</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Residential storage within both buildings is located within the apartments and within individual storage cages within the basement.</li> <li>The proposed volume of storage for each apartment is provided in accordance with the minimum rates recommended in the ADG, including the provision of at least 50% of the required storage within the apartments.</li> </ul>
<b>4H Acoustic Privacy</b> <ul style="list-style-type: none"> <li>Noise transfer is minimised through the siting of buildings and building layout and minimises external noise and pollution.</li> <li>Noise impacts within apartments are mitigated through layout and acoustic treatments.</li> </ul>	<ul style="list-style-type: none"> <li>Noise transfer would be minimised through the appropriate layout of the buildings.</li> <li>Apartments are appropriately stacked and laid out to prevent noise transfer between apartments.</li> </ul>
<b>4J Noise and Pollution</b> <ul style="list-style-type: none"> <li>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</li> <li>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</li> </ul>	<ul style="list-style-type: none"> <li>Noise impacts to residential and commercial spaces, particularly those fronting Princes Highway, would be mitigated through acoustic glazing, solid façade elements, mechanical ventilation, and the provision of wintergardens instead of balconies for some apartments</li> <li>In accordance with the recommendations of the acoustic report, apartments would be appropriately insulated to ensure compliance from external noise sources (<b>Section 6</b>).</li> </ul>
<b>4K Apartment Mix</b> <ul style="list-style-type: none"> <li>Provision of a range of apartment types and sizes</li> <li>Apartment mix is distributed to suitable locations within the building.</li> </ul>	<ul style="list-style-type: none"> <li>A variety of apartment types and sizes would be provided and appropriately located within each building.</li> </ul>
<b>4M Facades</b> <ul style="list-style-type: none"> <li>Building facades provide visual interest along the street while respecting the character of the local area</li> <li>Building functions are expressed by the facade</li> </ul>	<ul style="list-style-type: none"> <li>The proposed facades have been designed to break down the scale of the proposed buildings and would offer a positive contribution to the character of the streetscape and wider area (<b>Section 6.3</b>).</li> <li>The design for each building provides visual interest at street level including retail and active uses.</li> </ul>
<b>4N Roof Design</b> <ul style="list-style-type: none"> <li>Roof treatments are integrated into the building design and positively respond to the street.</li> <li>Opportunities to use roof space for accommodation and open space is maximised</li> </ul>	<ul style="list-style-type: none"> <li>All buildings incorporate flat roofs with areas utilised for solar panels and communal open space is provided above buildings A, C and D</li> </ul>

ADG – Relevant Criteria	Proposal
<ul style="list-style-type: none"> <li>Roof design includes sustainability features.</li> </ul>	
<p><b>4O Landscape Design and 4P Planting on Structures</b></p> <ul style="list-style-type: none"> <li>Landscape design is viable and sustainable.</li> <li>Landscape design contributes to streetscape and amenity.</li> <li>Appropriate soil profiles are provided, and plant growth is maximised (selection/maintenance).</li> <li>Plant growth is optimised with appropriate selection and maintenance.</li> <li>Building design includes opportunity for planting on structure.</li> </ul>	<ul style="list-style-type: none"> <li>A detailed landscape plan has been provided for the public domain and communal open spaces buildings.</li> <li>Adequate soil depth, consistent with ADG recommendations, is proposed.</li> </ul>
<p><b>4Q Universal Design</b></p> <ul style="list-style-type: none"> <li>Universal design features are included in apartment design to promote flexible housing for all community members. Developments should achieve a benchmark of 20% of the apartments incorporating the Liveable Housing Guideline's silver level universal design features.</li> <li>A variety of apartments with adaptable designs are provided.</li> <li>Apartment layouts are flexible and accommodate a range of lifestyle needs.</li> </ul>	<ul style="list-style-type: none"> <li>162 of 744 (21%) of all apartments are proposed to be provided as SEPP 65 Silver Level Liveable Housing.</li> <li>The application is supported by an Access Review which confirms that the proposal is capable of complying with SEPP 65 Silver Liveable Unit provision requirements.</li> <li>In addition to this, apartments in Building C have also been designed to achieve Liveable Housing Australia Design Guidelines, with 80% of apartments within achieving Silver, and 20% achieving Gold standards.</li> <li>All apartments are of a size and layout that allows for flexible use and design and therefore can accommodate a range of lifestyle needs.</li> </ul>
<p><b>4T Awning and Signage</b></p> <ul style="list-style-type: none"> <li>Awnings are well located and complement and integrate with the building.</li> <li>Signage responds to the context and design streetscape character.</li> </ul>	<ul style="list-style-type: none"> <li>Awning design and signage areas have been integrated into the building design</li> <li>Signage would be subject to separate future DAs</li> </ul>
<p><b>4U Energy Efficiency</b></p> <ul style="list-style-type: none"> <li>Development incorporates passive environmental and solar design.</li> <li>Adequate natural ventilation minimises the need for mechanical ventilation.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed development would: <ul style="list-style-type: none"> <li>exceed BASIX targets</li> <li>achieve a 7 Star NatHERS rating</li> <li>meet the deemed to satisfy (DTS) provisions of the NCC Section J Energy efficiency for all retail premises.</li> <li>Include onsite renewable energy (Solar PV) and water efficiency and reuse measures</li> </ul> </li> <li>The buildings have been designed to maximize solar access and natural ventilation (<b>Section 6</b>).</li> </ul>

ADG – Relevant Criteria	Proposal
<b>4V Water Management and Conservation</b> <ul style="list-style-type: none"> <li>• Potable water use is minimised.</li> <li>• Urban stormwater is treated on site before being discharged to receiving waters.</li> <li>• Flood management systems are integrated into the site design.</li> </ul>	<ul style="list-style-type: none"> <li>• Water efficient fittings and appliances would be installed.</li> <li>• Urban stormwater would be treated on site (<b>Section 6</b>).</li> <li>• Flooding is considered in <b>Section 6</b> and flood management measures have been included in the recommended conditions of consent.</li> </ul>
<b>4W Waste Management</b> <ul style="list-style-type: none"> <li>• Waste storage facilities are designed to minimise impacts on streetscape, building entry and residential amenity.</li> <li>• Domestic waste is minimised by providing safe and convenient source separation and recycling.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposal incorporates buildings include dedicated residential and commercial/retail waste holding areas within the basement. Waste would be transported to the holding areas chutes with access at each residential level.</li> <li>• The building manager/waste contractor would transfer the bins to the collection area within the basement of each building.</li> <li>• Separate waste and recycling containers would be provided.</li> <li>• The Application is supported by an Operational Waste Management Plan which includes details of residential waste creation, collection, and recycling procedures.</li> <li>• The Department recommends a condition requiring compliance with the OWMP.</li> </ul>
<b>4X Building Maintenance</b> <ul style="list-style-type: none"> <li>• Building design detail provides protection from weathering.</li> <li>• Systems and access enable ease of maintenance.</li> <li>• Material selection reduced ongoing maintenance cost.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposal been appropriately designed to allow ease of maintenance.</li> <li>• The proposed materials are high quality and robust.</li> </ul>

#### Planning Circular ‘Using the Apartment Design Guide’

On 29 June 2017, the Planning Circular ‘*Using the Apartment Design Guide*’ was issued by the Department. The Circular emphasized the ADG is not intended to be applied as a set of strict development standards and where it is not possible to satisfy the design criteria, the consent authority is to consider how, through good design, the objective can be achieved.

The Circular supports the Department’s approach to assessing the residential amenity of the proposed buildings in that all proposed apartments cannot reasonably achieve every amenity design criteria in the ADG and that this is not the intention of the ADG. As demonstrated in the analysis above and in **Section 6**, the Department considers the proposed development achieves an acceptable level of amenity overall with many receiving a high level of amenity. As such, the Department concludes the proposal satisfies the intent of the ADG and is acceptable in relation to residential amenity.

### State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP aims to ensure that potential contamination issues are considered in the determination of a development application.

The application is supported by a Stage 2 Detailed Site Investigation (DSI) which found all primary soil samples returned concentrations of contaminants below the relevant human health and ecological site assessment criteria and has an extremely low probability for Acid Sulfate Soils (ASS). The DSI also undertook an assessment of groundwater and found levels of environmental constituents to be consistent with anticipated levels within an historically urbanised area.

The DSI concludes that the site can be made suitable for the proposed development, without requiring the preparation of a Stage 3 Remediation Action Plan (RAP) and recommends an intrusive hazards survey be undertaken of all structure subject to demolition and further site sampling undertaken following demolition.

The Department recommends a condition requiring compliance with the recommendations of the DSI.

### **Bayside Local Environmental Plan 2021**

The BLEP aims to encourage the development of housing, employment, infrastructure, and community services to meet the needs of the existing and future residents of the Bayside LGA. The BLEP also aims to conserve and protect natural resources and foster economic, environmental, and social well-being.

The Department consulted with Council throughout the assessment process and considered the matters raised in submissions by Council and the public (**Sections 5 and 6**).

The Department has considered the relevant provisions of the BLEP at **Table 20** and concludes the development is consistent with the BLEP.

**Table 20 | Consideration of the relevant clauses of the BLEP**

<b>Clause</b>	<b>Objective/Control</b>	<b>Department's consideration</b>	<b>Complies</b>
Clause 2.1 Land use zones	The proposed development is on land zoned B4 Mixed use.	The proposal is permissible with consent and meets the objectives of the zone.	Yes
Clause 4.3 Height of buildings	A maximum height of buildings development standard (70 m) applies to the site.	The amended proposal complies with the maximum building height apart from a minimal 1.5m variation to accommodate the Building B lift overrun. A Clause 4.6 request to vary the development standard was included in the assessment.	Yes
Clause 4.4 FSR	A maximum FSR development standard (4.8.1) applies to the site.	The proposed FSR is 4.93.1, representing a 2.69% variation sought to provide 1,737 m <sup>2</sup> wintergardens in lieu of open balconies for noise affected apartments facing the Princes Highway. The Department considers that there would be no perceivable difference between a scheme that complies with the maximum FSR control and the proposed scheme due to the similarity in appearance of the wintergardens and balconies.	Yes

Clause	Objective/Control	Department's consideration	Complies
		A Clause 4.6 request to vary the development standard was included in the assessment.	
Clause 5.10 Heritage conservation		The Department is satisfied the proposal will have limited impact on the SHR Arncliffe Station or heritage items in the vicinity of the site.	Yes
Clause 5.21 Flood planning	Minimise flood risk to life and property associated with the use of land and significant adverse impacts on flood behaviour and the environment.	The application is supported by a Flood Impact Assessment, which demonstrates that the proposal will not generate, or be adversely affected by, significant flooding impacts	Yes
Clause 6.1 Acid sulfate soils	3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The Applicant's DSI confirms that the site has an extremely low probability for Acid Sulfate Soils (ASS), and accordingly no ASS is present at the site	Yes
Clause 6.3 Stormwater and water sensitive urban design	Avoid or minimise the adverse impacts of urban stormwater on the land on which development is to be carried out, adjoining properties, native bushland, waterways, receiving waters and groundwater systems	The application is supported by a Stormwater Management Plan which includes several measures to manage stormwater impacts and integrate water sensitive urban design principles into the proposal. The Department is satisfied the proposal would not generate adverse stormwater impacts within or outside the site subject to the implementation of Council's recommended conditions.	Yes
Clause 6.7 Airspace operations	Protect airspace around airports.	CASA and Sydney Airport have not objected to the proposal subject to separate approval by the Federal DIRDC.	Yes
6.9 Active street frontages	To promote uses that attract pedestrian traffic along certain ground floor street frontages	The proposal includes active retail frontages on the Princes Highway and Eden Street at ground level	
Clause 6.10 Design Excellence			
6.10(3)	Development consent must not be granted for development to which this clause applies	The Proposal is located within the Arncliffe Planned Precinct Department has considered the design of the proposal	Yes

Clause	Objective/Control	Department's consideration	Complies
	unless the consent authority considers that the development exhibits design excellence.	and concludes the proposal exhibits design excellence as discussed at <b>Section 6.2</b> .	
Clause 6.10 – In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters —			
6.10(4)(a)	whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	The proposal achieves a high standard of architectural design, materials and detailing as discussed at <b>Section 6.3</b>	Yes
6.21(4)(b)	whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,	The proposal includes extensive new areas of public domain, including through site links and significantly increases pedestrian permeability and landscaping.	Yes
6.10(4)(c)	whether the development detrimentally impacts on view corridors	The proposal does not obstruct any view corridors identified in the Bayside LEP. The Department has considered visual impacts at <b>Section 6.3</b> and concludes the proposal is appropriate.	Yes
6.10(4)(d)	the requirements of any development control plan made by the Council and as in force at the commencement of this clause	The Department has considered the project against the relevant sections of the RDCP, refer <b>Appendix C</b> .	
6.10(4)(e) how the development addresses the following matters—	(i) the suitability of the land for development,	The Department considers the development is suitable for the site as discussed at <b>Section 6</b> .	Yes
	(ii) the existing and proposed uses and use mix	The proposal includes a mix of uses including residential, social housing, retail, and a childcare centre. The proposed uses represent greater diversity than the existing social housing use of the site whilst also increasing the number of social housing dwellings on the site to contribute to a mixed-use precinct.	Yes
	(iii) heritage issues and streetscape constraints	The Department has considered heritage impacts at <b>Section 6</b> and concludes the proposal would have limited impacts on heritage items in the vicinity and is acceptable subject to the implementation of Heritage NSW's recommended conditions.	Yes



Clause	Objective/Control	Department's consideration	Complies
	(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity, and urban form,	The Development has considered the potential developments on neighbouring sites in <b>Section 6</b> and considers the proposal is appropriate in its context and would not result in significant amenity impacts to existing or future neighbouring developments. Through the SDRP review process, the proposal has evolved to appropriately respond to site orientation, topography and surrounding built context.	Yes
	(v) the bulk, massing, and modulation of buildings,	The proposal complies with the BLEP height and FSR requirements except for minor variations considered in <b>Appendix B</b> and <b>Section 6</b> which are considered acceptable. The Department has considered the height, bulk, and scale of the development at <b>Section 6.3</b> and concludes the proposal is consistent with the future desired character of development within the Arncliffe Planned Precinct.	Yes
	(vi) street frontage heights,	The Department has considered street wall/podium heights at <b>Section 6.3</b> and concludes that the proposed street frontages appropriately respond to the surrounding built form context, public domain, and internal public and communal open spaces.	Yes
	(vii) environmental impacts, such as sustainable design, overshadowing, wind, and reflectivity,	The development has been designed in accordance with ESD principles. The proposal employs a slender tower design to result in fast moving shadows, reducing overshadowing impacts to surrounding properties. Wind impacts can be managed and/or mitigated. The Department has recommended a condition limiting the reflectivity of materials.	Yes
	(viii) the achievement of the principles of ecologically sustainable development,	The proposal has been designed in accordance with ESD principles as discussed at <b>Appendix C</b> . The Department has also recommended conditions ensuring the ESD measures and minimum sustainability targets are met.	Yes

Clause	Objective/Control	Department's consideration	Complies
	(ix) pedestrian, cycle, vehicular and service access, circulation, and requirements,	The Department has considered traffic and parking impacts at <b>Section 6.6</b> and concludes the proposal is appropriately designed and would not have adverse impacts in this regard. The proposal improves pedestrian access through the provision of through site links and provides bicycle parking. The Department is satisfied that site access and egress movements can be facilitated in a safe and efficient manner and the development can be satisfactorily accessed by service vehicles.	Yes
	(x) the impact on, and any proposed improvements to, the public domain,	The proposal includes the provision of a new central park, public plazas and a through site link connecting Eden Street and the Princes Highway.	Yes
	(xi) achieving appropriate interfaces at ground level between the building and the public domain, (xiii) excellence and integration of landscape design.	The proposal is integrated into the surrounding public domain incorporating active uses at ground floor level and appropriate transitions between private and public spaces. The Department considers the landscape plan for the site is acceptable as discussed at <b>Section 6.5</b> .	Yes
6.10 (6)	Subclause (5)(b) (Design Competition) does not apply if— (a) the NSW Government Architect certifies in writing that an architectural design competition need not be held but that a design review panel should instead review the development, and (b) a design review panel reviews the development, and (c) the consent authority takes into account the findings of the design review panel.	The Government Architect NSW (GANSW) issued a waiver for the design competition requirement under clause 6.14 (6) of the former Rockdale LEP 2011 on 18 July 2020. The State Design Review Panel has undertaken an iterative review process over five sessions and confirmed that it considers the proposal exhibits design excellence. The Department has considered the design of the proposal and concludes the proposal exhibits design excellence as discussed at <b>Section 6.2</b> .	Yes
Clause 6.11 Essential services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development	The Applicant's Infrastructure Management Plan concluded that there was adequate capacity for existing infrastructure to support the utility and servicing needs of the proposal. The Department is satisfied the development	Yes

Clause	Objective/Control	Department's consideration	Complies
	are available or that adequate arrangements have been made to make them available when required – (a) the supply of water (b) the supply of electricity (c) the disposal and management of sewage (d) stormwater drainage or on-site conservation (e) suitable vehicular access	can be adequately serviced and has recommended relevant conditions.	

### **Rockdale Development Control Plan**

In accordance with Clause 11 of the Planning System SEPP, development control plans do not apply to SSD. Notwithstanding this, Clause 6.10(4) (d) of the BLEP 2021 require the consent authority to consider the RDCP in determining whether a proposal exhibits design excellence. The Department has considered areas where the proposal varies from the recommendations of the RDCP in **Table 21**.

**Table 21 | Rockdale DCP Compliance consideration**

Provision	Department's Consideration
<b>7. Special Precincts - 7.7 Arncliffe and Banksia</b>	
<b>7.7.2 Vision and Principles</b>	
2.2 Special Character Area, 1 - Arncliffe Town Centre Development adjoining Princes Highway and parts of Eden Street should provide showroom and other commercial uses at lower levels. Building height controls should allow for generous 7 metre floor to ceiling heights for ground level showroom uses along the Princes Highway. This additional height would allow for small mezzanine levels to be incorporated.	The proposal provides retail uses at ground level fronting the Princes Highway. Single height retail tenancies, rather than showrooms, are proposed along the Princes Highway frontage to encourage pedestrian traffic in accordance with clause 6.9 of the BLEP 2021.  The floor to ceiling heights of 4.3m are not sufficient to allow large format showroom uses. However, the Department considers the proposed floor to ceiling heights are appropriate as they will allow for smaller format retail adjoining the new shared pedestrian and cycle path, integrated into the residential towers, and would be more suited to a walkable mixed-use precinct such as that proposed.  The Department considers this non-compliance to be acceptable as it meets the objectives of the BLEP 2021, would integrate better with the broader site's retail and residential uses, and provides a positive urban and pedestrian amenity outcome.

### 7.7.3 Public Domain

#### 3.3 Landscape Setbacks

1. New development in areas identified in “Figure 7.7.26 Princes Highway Landscape Setback” on page 7|97, are to:

- a. Provide a landscape corridor along the Princes Highway Corridor from Arncliffe to Banksia. A continuous 6 metre deep soil landscape setback is proposed and are required to:
  - i. Retain existing trees, where possible. These trees provide a gateway to the precinct and improve the amenity of the street environment for pedestrians, motorists, and residents.
  - ii. Where new trees are required landscape plans are to be developed in consultation with Council. New tree planting will be a minimum 600L pot size planted 8 metre apart, in accordance with Council guidelines;
  - iii. Where awnings are located, they must provide adequate weather protection as well as ensuring tree planting has space to grow

The amended proposal includes a 6m natural soil setback to the Princes Highway allotment boundary. The proposed amendments to the basement footprint have increased the deep soil volume to allow additional tree retention and increased tree protection zones.

The Department considers that some trees are unable to be retained due to level constraints regarding basement layout, site access and integrated landscaping. However, the Department recognises that the amended proposal will retain 14 trees, including five trees of high landscape significance, and relocate a further three trees which contribute to streetscape amenity

The Department has recommended conditions to ensure tree protection works are implemented in accordance with the relevant Australian Standards for all trees to be retained and relocated. The Department also recommends the preparation of a Tree Management Plan.

The proposal would result in a net increase of 123 trees on site and the soil volume allocated to each proposed tree is well above the required RDCP minimum.

Awnings are provided for the upper ground floor retail tenancies facing the streetscape and shelter is provided for the lower ground retail precinct by floors above for weather protection.

### 7.7.4 Built Form

#### 4.1 Building Setbacks

1. New development within the Arncliffe and Banksia Precincts is to provide ground floor building setbacks in accordance with “Figure 7.7.42 Built Form and Character” on page 7|109;
2. New buildings should be built to the street alignment within the locations shown in “Figure 7.7.42 Built Form and Character” on page 7|109;

The proposal is not built to the street alignment for the majority of the street frontage as it includes the meeting place and the Eden Street park.

Council acknowledged that the proposed site layout provides some benefits over the indicative built form including the splayed shape of the park, the generous meeting place, improved connections to the railway station and protection from the Princes Highway.

The Department is satisfied the proposed setbacks are acceptable and will provide an appropriate opportunity for the adjacent sites to be redeveloped in accordance with relevant Council controls and the future desired character of the streetscape.

#### 4.2 Street wall heights

1. New development within the Arncliffe and Banksia Precincts is to provide street wall heights in accordance with “Figure 7.7.42 Built Form and Character” on page 7|109; (6 storeys)
2. The building envelope shall be set back a minimum of 3m above the Street Wall Heights as identified in “Figure

The proposal does not maintain the 6 m street wall identified in the RDCP. However, the proposed development has been subject to a comprehensive design review process with the State Design Review Panel which noted that the podiums were well resolved in relation to the ground plane and that the proposal exhibits design excellence. The Department has considered street wall/podium heights at **Section 6.3** and concludes that the proposed street frontages appropriately respond to the surrounding built form context, public domain, and internal public and communal open spaces.

7.7.43 Street Wall Heights” on page 7|111.

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4.3 Active Frontages	As above
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2. New mixed-use development north of Forest Road and fronting the Princes Highway is to provide a floor to ceiling height of 7 metres to accommodate a wide range of retail showroom or commercial uses
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#### **4 – General Principles for Development**

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##### **4.6 Car parking, access, and movement**

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(26) Where bicycle parking is to be provided for residents in basement car parks, it is to be in the form of individual bicycle lockers or within a caged or gated secure area	The Applicant has proposed a mix of to use individual storage cages and secure communal cycle parking. The Department is satisfied that the development will provide for an appropriate amount of bicycle parking for residents, visitors, and commercial uses within the development.
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## Appendix D – Summary of the Department’s consideration of public submissions

A summary of the Department’s consideration of the issues raised in submissions is provided at **Table 22**.

**Table 22 | Department’s consideration of key issues raised in submissions**

Issue	Consideration
<ul style="list-style-type: none"> <li>Excessive height and bulk</li> <li>Overdevelopment/density</li> </ul>	<ul style="list-style-type: none"> <li>The proposal has been reduced in height to comply with the maximum building height controls for the site except for a 1.5m lift overrun above Building B. Buildings C and D are 2.5m and 9.2m below the maximum building height respectively.</li> <li>The proposal also generally aligns with the maximum floor space allowed for on the site, except for minor variations caused by enclosing balconies to improve acoustic amenity along Princes Highway. These balconies would not add to the perception of building bulk.</li> <li>The proposal has been subject to extensive review and evolution under the guidance of the State Design Review Panel (SDRP) and includes distinct and well separated and articulated tower forms which break up the bulk of the buildings.</li> <li>The proposal has acceptable amenity impacts and traffic generation would have limited impact on the surrounding road network.</li> <li>The Department concludes that the height, scale, and density of the development is consistent with the future envisioned character for the site and precinct and the proposal would not unreasonably impact on the surrounding area.</li> </ul>
<ul style="list-style-type: none"> <li>Visual impacts</li> <li>Loss of views to Gateway Apartments (158-164 Princes Highway)</li> </ul>	<ul style="list-style-type: none"> <li>The Department acknowledges that the proposal will be highly visible from surrounding properties including 158-164 Princes Highway.</li> <li>However, all buildings comply with the Bayside Local Environmental Plan (BLEP) height control, except for the lift overrun to Building B, which would not be visible from the public realm.</li> <li>The Department considers the visual impacts are acceptable as they are consistent with the desired future character of the area established by the BLEP and no significant views to elements of scenic value are affected by the proposal.</li> </ul>
<ul style="list-style-type: none"> <li>Overshadowing of neighbouring properties</li> </ul>	<ul style="list-style-type: none"> <li>The proposal has been designed to reduce overshadowing impacts to surrounding properties as the slender tower forms confine overshadowing impacts to short time periods.</li> <li>The proposal will not reduce solar access to less than the required 2 hours for any surrounding property and communal open space, except for the single residential dwellings at 7 Forest Road and 181 Princes Highway.</li> <li>The minor variations to the BLEP height limit of 70 m do not result in any additional overshadowing impacts to any surrounding properties compared to a compliant scheme, nor the Rockdale Development Control Plan indicative layout scheme</li> <li>The Department considers the overshadowing impacts to 7 Forest Road and 181 Princes Highway are acceptable as the sites have been rezoned for</li> </ul>



Issue	Consideration
	<p>significantly increased height and density and are unlikely to remain in use as single dwellings for the foreseeable future.</p> <ul style="list-style-type: none"> <li>The applicant's contextual analysis has also demonstrated that future redevelopment of the land can comply with the Apartment Design Guide (ADG) solar access requirements.</li> </ul>
<ul style="list-style-type: none"> <li>Increased traffic congestion</li> </ul>	<ul style="list-style-type: none"> <li>The Applicant's Traffic Impact Assessment demonstrates that all key intersections will continue to operate at an acceptable level of service except for the Forest Road and Firth Street intersection which reduces from existing LoS E to LoS F.</li> <li>While the proposal would increase delays and queuing at this intersection, this is acceptable as: <ul style="list-style-type: none"> <li>TfNSW have advised that it is considering changes to the signal phase timing which would improve the intersection operation back to its existing performance (LoS E)</li> <li>funding for improvements to this intersection is also allocated within the Bayside West Special Infrastructure Contribution</li> <li>the performance of the nearby intersection of Forest Road and Eden Street is expected to be significantly improve (from LoS F to LoS A).</li> </ul> </li> <li>The Department is satisfied that the development is unlikely to result in unacceptable impacts to the surrounding road network</li> </ul>
<ul style="list-style-type: none"> <li>Insufficient car parking and loss of on-street parking</li> </ul>	<ul style="list-style-type: none"> <li>The Department considers the proposed car parking arrangements to be satisfactory as they are consistent with the relevant requirements of the TfNSW Guide to Traffic Generating Developments, the Affordable Housing SEPP (ARH SEPP) and the RDCP and would be designed and provided in accordance with the relevant Australian standards to ensure safe and efficient internal manoeuvring</li> <li>The Department also notes that the proposal does not seek to remove any street parking from Eden Street.</li> </ul>
<ul style="list-style-type: none"> <li>Insufficient deep soil area</li> </ul>	<ul style="list-style-type: none"> <li>33% of the site is proposed to be soil of depth 600mm or deeper, which is sufficient to accommodate tree and shrubs comprising: <ul style="list-style-type: none"> <li>Deep Soil (9%) – 1228 m<sup>2</sup></li> <li>Soil on Slab greater than 1200mm depth (13%) – 1793 m<sup>2</sup></li> <li>Soil on Slab between 800-1200mm depth (5%) – 725 m<sup>2</sup></li> <li>Natural Ground (6%) – 775 m<sup>2</sup></li> </ul> </li> <li>The Department considers that the site complies with the minimum deep soil requirement under the ADG, and the site also provides extensive soil areas that can support shrubs and trees</li> </ul>
<ul style="list-style-type: none"> <li>Increased crime</li> </ul>	<ul style="list-style-type: none"> <li>The Applicant's CPTED assessment report concluded that with the implementation of mitigation measures, the site's crime risk rating would be in a 'low' category and the development would provide high levels of natural surveillance over communal spaces and the public domain, as well as access control measures.</li> <li>The Department has recommended a condition requiring the implementation of the recommendations of the CPTED report and the installation of CCTV in accordance with Council's recommendations.</li> </ul>

Issue	Consideration
	<ul style="list-style-type: none"> <li>The Department is satisfied that these measures would appropriately manage crime risks associated with the development.</li> </ul>
<ul style="list-style-type: none"> <li>Insufficient capacity of Arncliffe railway station</li> </ul>	<ul style="list-style-type: none"> <li>The proposed increase in housing in close proximity to existing transport infrastructure supports the development of the 30-minute city model as outlined in the Greater Sydney Region Plan.</li> <li>The proposal is also consistent with the strategic direction for the site and area as it would increase housing supply in a convenient location, close to transport, jobs, and services and provide a greater mix of land uses, including residential, in an accessible location</li> <li>The TIA also confirmed that Arncliffe Station has sufficient capacity to accommodate the expected uplift in trips from the development.</li> </ul>
<ul style="list-style-type: none"> <li>More community uses should be provided</li> </ul>	<ul style="list-style-type: none"> <li>The proposal provides for retail/commercial and residential uses which are all permitted uses within the B4 Mixed use Zone. There is no policy requirement to provide community uses on site.</li> <li>The Department has considered the proposal on its merits including the proposed land use mix and concludes that it is acceptable and will provide significant public benefit through the provision of 180 social housing units, 4000 m<sup>2</sup> of new public open space, new pedestrian through site links, shared path and pedestrian paths and a new raised pedestrian crossing linking the site to the Arcade and Arncliffe Station.</li> <li>A condition of consent is also recommended requiring payment of Section 7.11 contributions to Bayside Council which includes a contribution to community facilities.</li> </ul>

## Appendix E – Recommended Instrument of Consent