

Department of Planning, Housing and Infrastructure

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# Mixed-use development with in-fill affordable housing at 849, 853 and 859 Pacific Highway and 2 - 8 Wilson Street, Chatswood

State Significant Development Assessment Report (SSD 74319707)

December 2025





# Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Mixed-use development with in-fill affordable housing at 849, 853 and 859 Pacific Highway and 2 - 8 Wilson Street, Chatswood (SSD 74319707) Assessment Report

Published: December 2025

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# Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of the State significant development (SSD) application for a mixed used development including in-fill affordable housing located at 849, 853 and 859 Pacific Highway and 2 - 8 Wilson Street, Chatswood, lodged by BB Wilson Property Pty Ltd. The report includes:

The report includes:

- an explanation of why the proposal is SSD and who the consent authority is
- an assessment of the proposal against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the proposal during the assessment process
- an assessment of the likely environmental, social and economic impacts of the proposal
- an evaluation which weighs up the likely impacts and benefits of the proposal, having regard to community views and agency advice and provides a view on whether the impacts are on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether development consent for the proposal should be granted and any conditions that should be imposed.

# Executive Summary

This report details the Department of Planning, Housing and Infrastructure's (the Department) assessment of the State Significant Development (SSD) application (SSD 74319707) for a mixed-use development with in-fill affordable housing located at 849, 853 and 859 Pacific Highway and 2 - 8 Wilson Street, Chatswood, lodged by BB Wilson Property Pty Ltd (the Applicant).

This report will be provided to the delegate of the Minister for Planning and Public Spaces (the Minister) for their consideration when deciding whether to grant consent to the SSD.

The site is located within the City of Willoughby local government area (LGA). The proposal has an estimated development cost (EDC) of \$282,227,636 and is expected to generate 734 construction jobs and 76 operational jobs.

This application seeks consent to construct a 36-storey mixed-use development with 327 apartments (268 market and 59 affordable apartments).

The proposal is classified as SSD under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is an in-fill affordable housing development as specified in clause 26A, Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP). The Minister is the consent authority for the proposal under Part 4.5A of the EP&A Act.

The Department exhibited the Environmental Impact Statement (EIS) from 4 April 2025 until 1 May 2025. During the exhibition period, the Department received 11 submissions from the public (comprising eight objections, one comment and two in support), an objection from Willoughby City Council (Council) and advice from seven government agencies/authorities.

The Applicant submitted an Amendment Report and Response to Submissions (RtS) on 4 August 2025 making the following key design changes:

- enclosure of residential corridor breezeways
- increase to the building height by 1.48m
- layout changes to the live/work apartments and the childcare centre
- layout changes to basement waste storage resulting in the removal of 9 car parking spaces

The Department exhibited the Amendment Report from 14 August 2025 and 27 August 2025. During the exhibition period, the Department received a further seven submissions (comprising three objections, one comment and three in support), an objection from Council and advice from five government agencies. The Applicant submitted a further RtS on 7 November 2025.

The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) of the EP&A Act, the issues raised in the submissions, the Applicant's response and additional information.

The Department's assessment concludes the proposal is acceptable as:

- the proposal will support State government priorities to deliver well-located housing as it will deliver 268 market and 59 affordable housing apartments in an accessible location

- it is permissible with consent, and would provide for a mixed-use development including commercial and residential uses, consistent with the objectives of the MU1 Mixed Use zone under the Willoughby Local Environmental Plan 2012 (WLEP)
- it exhibits design excellence, presents a bulk and scale that is compatible with the envisaged character of the area and an appropriate built-form relationship to adjoining development
- it would improve the quality of the public domain through the provision of a through-site link and commercial uses that activate the site
- it does not result in unreasonable overshadowing, privacy or traffic or other amenity impacts on adjoining development or the public domain
- it would provide for 734 construction jobs and 76 operational jobs.

The Department has recommended conditions to appropriately address any residual issues.

Following its detailed assessment, the Department concludes the proposal is in the public interest and recommends that the proposal be approved, subject to conditions.

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# 1 Introduction

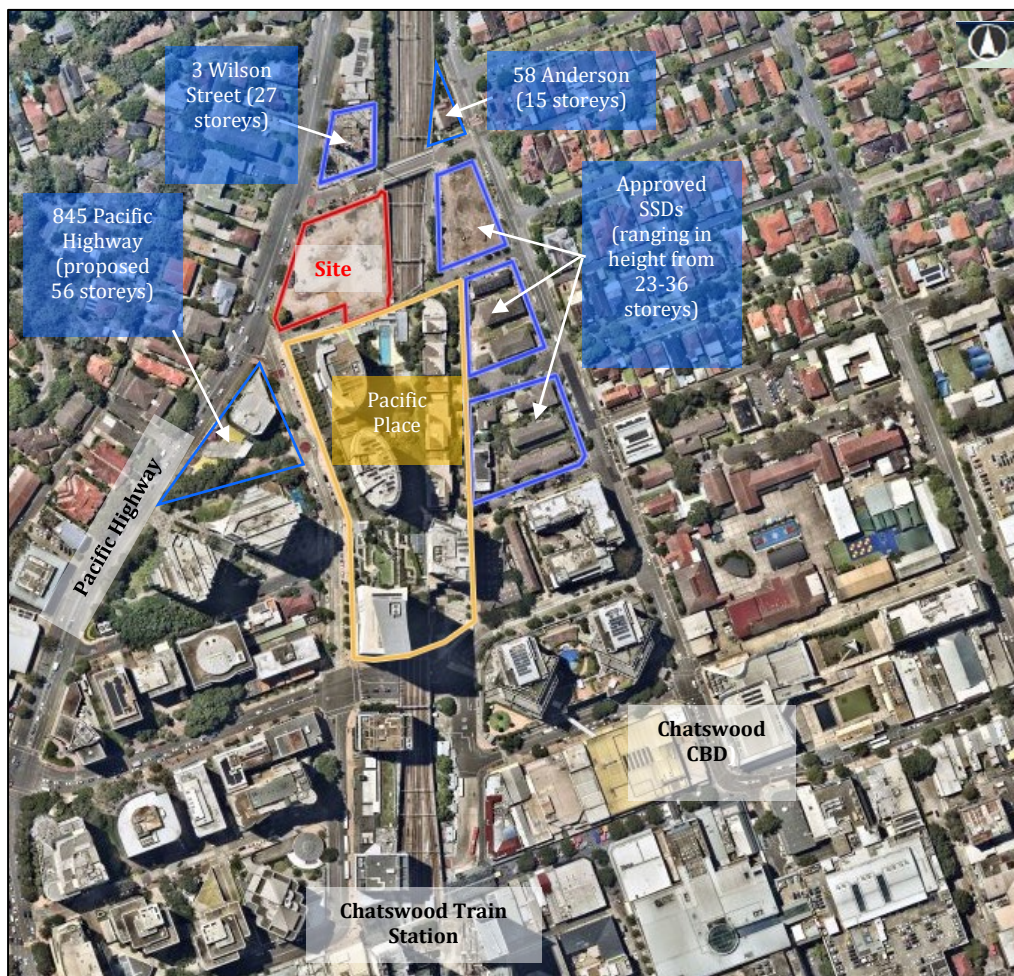
## 1.1 The proposal

BB Wilson Property Pty Ltd (the Applicant) seeks approval for a State Significant development (SSD) involving a mixed-use development with in-fill affordable housing (SSD-74319707) at 849, 853 and 859 Pacific Highway and 2 - 8 Wilson Street, Chatswood.

The proposal description and mitigation measures provided in **Section 3** and **Appendix E** of the environmental impact statement (EIS) (as refined by the Amendment Report and additional information) are the subject of this report and will form part of the development consent if the project is approved. An overview of the proposed development is provided in **Section 2**.

## 1.2 Project location

The subject site is located at 849, 853 and 859 Pacific Highway and 2 - 8 Wilson Street, Chatswood as shown in **Figure 1** and **Figure 2** and described in **Table 1**.



**Figure 1** | Suburban context map (Base Source: NearMap)



**Figure 2 | Local context map (Source: EIS)**

**Table 1 | Key aspects of the proposal site**

Aspect	Description
<b>Local Government Area (LGA)</b>	Willoughby
<b>Legal description</b>	Lots 1 to 5 DP 1310282
<b>Site area</b>	Total site area of 4,752m <sup>2</sup> (4,294m <sup>2</sup> excluding land zoned SP2)
<b>Existing development</b>	The site is vacant following demolition of all structures and removal of some trees under an existing development consent ( <b>Section 1.3</b> ).
<b>Surrounding roads</b>	The site is bounded by Wilson Street (north), O'Brien Street (south) and Pacific Highway (west).
<b>Topography</b>	The site slopes down from north to south by 4m.

Aspect	Description
<b>Public transport</b>	<p>The site is highly accessible via public transport with Chatswood Train and Metro stations being located less than 500m away.</p> <p>Bus stops are located along Pacific Highway.</p>
<b>Heritage</b>	<p>The site is not listed as a local or State heritage item, nor is it located within a heritage conservation area.</p>
<b>Flooding</b>	<p>The site is not affected by mainstream or overland flow.</p>
<b>Easements or covenants</b>	<p>8 Wilson Street contains a range of easements, including stratum easements, along its eastern boundary for ground support and access benefiting the railway corridor. The site also benefits from a ground support easement in the railway corridor.</p> <p>849 Pacific Highway contains an easement for access benefiting 853 and 859 Pacific Highway.</p>
<b>Site context</b>	<p>Directly north of the site is Wilson Street, connecting to Pacific Highway and extending over the railway line. Opposite the site is 3 Wilson Street, which has received development consent for the construction of a new 27-storey mixed use building with a commercial podium and residential tower above (DA-2022/161).</p> <p>The site has an eastern boundary to the Sydney railway and metro network lines. Land further east is primarily medium density housing transitioning to higher density development including three recent SSD and one local development consents for mixed use development ranging from 23-36 storeys in the Anderson Street precinct.</p> <p>Directly south of the site is O'Brien Street and a 24-storey mixed use residential development at 11 Railway Street. This building forms part of the Pacific Place development which includes multiple mixed-use buildings and residential flat building up to 41 storeys. Further south of the site at 845 Pacific Highway, Secretary's Environmental Assessment Requirements have been issued for a 56-storey mixed use development containing 344 apartments.</p> <p>Pacific Highway is directly west of the site, and further west is medium density housing.</p>

## 1.3 Relevant site planning history

### 1.3.1 Voluntary planning agreement (VPA)

On 10 May 2023, the Applicant and Willoughby City Council (Council) entered into a VPA associated with a site-specific planning proposal that rezoned the site to MU1 Mixed Use and amended the height and floor space ratio provisions which apply to the site. The VPA requires the Applicant provide monetary contributions towards community infrastructure. This proposal does not alter the provisions of the VPA.

### 1.3.2 Demolition works

On 9 December 2024, Council approved a development application (DA-2024/19) for removal of trees and demolition of buildings and structures. Works approved by the application have commenced.

### 1.3.3 Mixed-use development (DA-2024/47)

On 29 July 2025, the Land and Environment Court of New South Wales granted deferred commencement approval of a development application (DA-2024/47) (approved DA) for construction of a 28-storey mixed-use development with basement parking comprising commercial premises, a childcare centre and shop-top housing land uses (approved DA). The deferred commencement condition relates to obtaining Sydney Trains endorsement of reports and drawings related to impact on Sydney Trains infrastructure.

## 1.4 Housing Delivery Authority (HDA) applications

### *SSD declaration*

The Applicant submitted an expression of interest (EOI) to the HDA for a 46-storey development with a total of 450 apartments (+10 storeys and 123 apartments more than the proposal) on the site.

The HDA considered the EOI on 23 June 2025 and formed the view that that proposal satisfied the HDA SSD criteria. The HDA noted that a parallel application (this SSD application) was currently under assessment.

On 23 July 2025, the Minister for Planning and Public Spaces declared the proposal as SSD.

### *SSD-93776214*

On 29 September 2025, the Department issued:

- Secretary's Environmental Assessment Requirements (SEARs) for construction of a 47-storey mixed-use development with basement parking comprising commercial premises, a childcare centre and shop-top housing land uses.
- Requirements for a concurrent rezoning proposal to amend the Willoughby Local Environmental Plan 2021 (WLEP) to increase the maximum floor space ratio from 6:1 to 13.2:1, increase maximum building height from 90m to 165m, and reduce the minimum non-residential floor space requirements from 17% to 6.1%.

### *SSD-96564253*

On 27 October 2025, SEARs were issued for earthworks, excavation and construction of an eight-level basement associated with SSD-93776214.

Should the HDA applications be lodged, submitted and approved, any future consents would need to consider the relationship between any existing consent, and include a requirement to amend or surrender any consent/s in accordance with the Environmental Planning and Assessment Regulation.

## 2 Project

### 2.1 Project overview

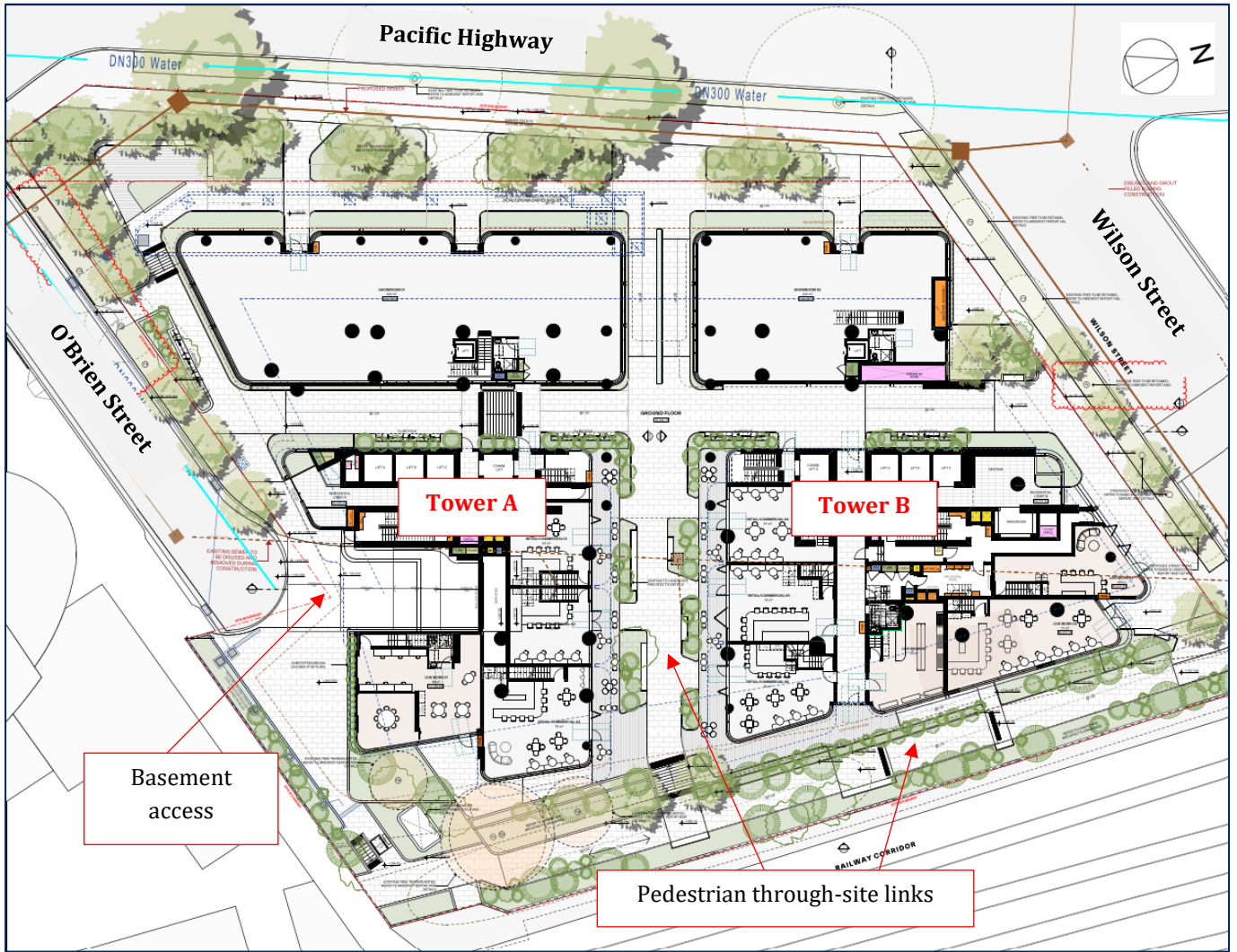
The application seeks approval for construction of a 36-storey mixed use development with 327 apartments (59 affordable, 254 market apartments and 14 live/work apartments), six level basement, 369 car parking spaces and landscaping.

The key aspects of the project are provided in detail in the Description of Amendments chapter of the amendment report and are outlined in **Table 2**.

**Table 2 | Key aspects of the project**

Aspect	Description																																								
<b>Gross floor area (GFA)</b>	Total GFA of 39,014 m <sup>2</sup> , comprising: <ul style="list-style-type: none"> <li>34,801 m<sup>2</sup> residential GFA, including:               <ul style="list-style-type: none"> <li>28,949 m<sup>2</sup> market housing GFA</li> <li>5,852 m<sup>2</sup> affordable housing GFA</li> </ul> </li> <li>4,213 m<sup>2</sup> non-residential GFA, within the tower podium.</li> </ul>																																								
<b>Floor space ratio (FSR)</b>	9.09:1																																								
<b>Building heights</b>	36 storeys / 121.53 m (RL 225.39) to top of plant enclosure, comprising: <ul style="list-style-type: none"> <li>a 4-storey podium with commercial uses, a childcare centre, live/work apartments and communal spaces</li> <li>two x 32 storey residential towers above the 4-storey podium.</li> </ul>																																								
<b>Dwellings</b>	<table border="1"> <thead> <tr> <th>Apartment type</th> <th>Market housing</th> <th>Affordable housing</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>1 (0.4%)</td> <td>-</td> <td>1 (0.3%)</td> </tr> <tr> <td>One bedroom</td> <td>31 (11.6%)</td> <td>16 (27.1%)</td> <td>47 (14.4%)</td> </tr> <tr> <td>Two bedroom</td> <td>99 (36.9%)</td> <td>26 (44.1%)</td> <td>125 (38.2%)</td> </tr> <tr> <td>Three bedroom</td> <td>116 (43.3%)</td> <td>17 (28.8%)</td> <td>133 (40.7%)</td> </tr> <tr> <td>Four bedroom</td> <td>3 (1.1%)</td> <td>-</td> <td>3 (0.9%)</td> </tr> <tr> <td>Studio live/work</td> <td>6 (2.2%)</td> <td>-</td> <td>6 (1.8%)</td> </tr> <tr> <td>One bedroom live/work</td> <td>11 (4.1%)</td> <td>-</td> <td>11 (3.4%)</td> </tr> <tr> <td>Two bedroom live/work</td> <td>1 (0.4%)</td> <td>-</td> <td>1 (0.3%)</td> </tr> <tr> <td><b>Total</b></td> <td><b>268</b></td> <td><b>59</b></td> <td><b>327</b></td> </tr> </tbody> </table>	Apartment type	Market housing	Affordable housing	Total	Studio	1 (0.4%)	-	1 (0.3%)	One bedroom	31 (11.6%)	16 (27.1%)	47 (14.4%)	Two bedroom	99 (36.9%)	26 (44.1%)	125 (38.2%)	Three bedroom	116 (43.3%)	17 (28.8%)	133 (40.7%)	Four bedroom	3 (1.1%)	-	3 (0.9%)	Studio live/work	6 (2.2%)	-	6 (1.8%)	One bedroom live/work	11 (4.1%)	-	11 (3.4%)	Two bedroom live/work	1 (0.4%)	-	1 (0.3%)	<b>Total</b>	<b>268</b>	<b>59</b>	<b>327</b>
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<b>Non-residential use</b>	<ul style="list-style-type: none"> <li>14 commercial/retail tenancies located at the ground and Levels 1-3.</li> <li>A childcare centre located at Level 2.</li> </ul>																																								
<b>Communal Open space</b>	<ul style="list-style-type: none"> <li>1,067 m<sup>2</sup> residential communal open space at Level 2 and Level 4.</li> <li>173 m<sup>2</sup> commercial communal open space at Level 3.</li> </ul>																																								

Aspect	Description
<b>Parking</b>	<ul style="list-style-type: none"> <li>• 381 car parking spaces provided at all basement levels, including:               <ul style="list-style-type: none"> <li>○ 347 residential spaces</li> <li>○ 12 residential visitor spaces</li> <li>○ 14 retail/commercial spaces</li> <li>○ 8 childcare centre spaces</li> </ul> </li> <li>• 20 motorcycle spaces at basement levels 1-5.</li> <li>• 368 bicycle spaces and associated facilities at ground and basement levels, including:               <ul style="list-style-type: none"> <li>○ 332 residential spaces</li> <li>○ 33 residential visitor spaces</li> <li>○ 6 commercial/retail spaces</li> <li>○ end of trip commercial staff facilities for cyclists.</li> </ul> </li> <li>• two loading / unloading bays one basement level 1.</li> </ul>
<b>Access</b>	<ul style="list-style-type: none"> <li>• Vehicular access to the basement levels is provided from O'Brien Street</li> <li>• Pedestrian access to the development is provided from all street frontages at Pacific Highway, O'Brien Street and Wilson Street and via the through-site links.</li> <li>• Residential lobbies are accessed from the ground floor with the Tower A lobby located along O'Brien Street and the Tower B lobby located along Wilson Street.</li> </ul>
<b>Associated works</b>	<p>Associated works include:</p> <ul style="list-style-type: none"> <li>• removal of 16 trees, including 13 on-site and three street trees off-site</li> <li>• landscaping works at ground floor level and on the building</li> <li>• three electrical substations located in a substation chamber in Basement Level 1</li> <li>• public domain works, pedestrian through site links and extension and augmentation of services.</li> </ul>
<b>Community Housing Provider (CHP)</b>	Evolve Housing
<b>EDC</b>	\$282,227,636
<b>Employment</b>	Approximately 734 construction jobs and 76 operational jobs
<b>Staging</b>	The proposal will be constructed in one stage and is predicted to take 35 months.



**Figure 3 |** Ground floor layout including uses, accesses and landscaping (Base source: Applicant's Amendment Report)



**Figure 4** | Perspective images of proposal from site boundaries (Base source: Applicant's Response to Submissions)

## 2.2 Relationship with approved DA

The SSD proposal seeks approval for development in addition to the works approved in DA-2024/47 by using the in-fill affordable housing provisions of Housing SEPP. While the SSD seeks additional height, density and basement levels, it maintains the key design attributes of the approved DA including:

- podium and two residential towers with a similar built form and footprint
- articulation and building materials
- non-residential uses that are generally consistent in respect to gross floor area and orientation
- through-site links that are generally consistent in location and design
- provision of vehicle access from O'Brien Street.

A comparison of the approved development and the proposed development is shown in **Figure 5**.



**Figure 5** | Perspective image of Approved DA (left) and proposal (right) from Pacific Highway (Source: DA-2024/47 and the Applicant's RtS)

# 3 Policy and strategic context

## 3.1 Housing Policy

The NSW Government has set a target of delivering 377,000 well-located homes by June 2029. This policy supports the National Housing Accord, which aims to deliver a national target of 1.2 million new, well-located homes over the five-year period between July 2024 and June 2029.

In December 2023, an SSD pathway was introduced for residential development with an EDC of over \$75 million in Greater Sydney, which includes at least 10% affordable housing. Additionally, the Housing SEPP was amended to introduce new in-fill affordable housing provisions which permit FSR and building height bonuses of 20-30% for projects that include residential development and at least 10-15% of GFA as affordable housing. This SSD application has been submitted pursuant to these initiatives to support the delivery of well-located affordable and market housing.

## 3.2 Chatswood CBD Strategic context

The Chatswood CBD Planning and Urban Design Strategy 2036 was finalised in September 2020 to guide future development with the Chatswood CBD to 2036. It aims to provide capacity for future growth and employment, achieve exceptional design and a distinctive, resilient and vibrant CBD. The Strategy extended the CBD boundary to the north and south along the rail corridor to accommodate future growth, introduced sun access protections to key public spaces and heritage conservation areas, increased height and floor space, and introduced minimum non-residential floor space requirements.

The Strategy has informed the comprehensive review and amendment of the Willoughby Local Environment Plan 2012 in 2023 as well as several site-specific planning proposals and DCP amendments.

On 26 May 2023, a site-specific planning proposal was gazetted to amend the WLEP to rezone the site. The LEP amendment established the following controls/framework for the redevelopment of the site (excluding the SP2 zoned part of the site):

- B4 Mixed Use zone (now MU1 Mixed Use)
- maximum permissible building height of 90m
- maximum permissible floor space ratio (FSR) of 6:1
- at least 17% of the GFA must be non-residential
- requirement for 4% of the residential floor space as affordable housing contributions.

## 3.3 Permissibility, assessment pathway, other approval and matters

### 3.3.1 Permissibility and assessment pathway

Details of the legal pathway under which consent is sought and the permissibility of the proposal are summarised in **Table 3**.

**Table 1** | Permissibility and assessment pathway

Consideration	Description
<b>Assessment pathway</b>	The proposal is declared SSD under section 4.36 of the EP&A Act as it satisfies the criteria under clause 2.6(1) the State and Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) as it is not permissible without consent and is development specified in section 26A of Schedule 1 of the Planning Systems SEPP
<b>Consent authority</b>	The Minister is the consent authority under section 4.5(a) of the EP&A Act and section 2.7(7) of the Planning Systems SEPP.
<b>Decision-maker</b>	Director, Affordable Housing Assessments, as the delegate of the Minister, is the decision-maker as less than 15 submissions were received (from Council and the public) objecting to the proposal during the public exhibition of the EIS.
<b>Permissibility</b>	The site is located within the MU1 Mixed Use zone under the WLEP and development for the purposes of shop top housing, childcare centre and commercial uses are permitted with consent.

### 3.3.2 Other approvals and authorisations

Under section 4.41 of the EP&A Act, a number of other authorisations required under other Acts are not required for SSD and SSI. This is because all relevant issues are considered during the assessment of the SSD application.

Under section 4.42 of the EP&A Act, certain approvals cannot be refused if they are necessary to carry out the SSD. These authorisations must be substantially consistent with any SSD development consent.

The Department has consulted with and considered the advice of the relevant government agencies responsible for these other authorisations in its assessment of the proposal (**Section 4** and **Section 5**). Suitable conditions have been included in the recommended conditions of consent (**Appendix F**).

### 3.3.3 Planning Secretary's environmental assessment requirements

The Department's review determined that the EIS addresses each matter set out in the Planning Secretary's environmental assessment requirements (SEARs) issued on 8 August 2024 and is sufficient to enable an adequate consideration and assessment of the project for determination purposes.

### 3.3.4 Mandatory matters for consideration

Mandatory matters for consideration include:

- matters of consideration required by the EP&A Act
- objects of the EP&A Act and ecologically sustainable development (ESD)
- biodiversity development assessment report
- matters of consideration required by the EP&A Regulation
- matters of consideration required by environmental planning instruments.

The Department's consideration of these matters is summarised in **Appendix C**.

As a result of this consideration, the Department is satisfied that the development meets statutory requirements.

# 4 Engagement

## 4.1 Exhibition of the EIS

### 4.1.1 Public exhibition of the EIS

After accepting the development application and EIS, the Department:

- publicly exhibited the proposal from Friday 4 April 2025 until Thursday 1 May 2025 on the NSW Planning Portal
- notified occupiers and landowners in the vicinity of the site about the public exhibition
- notified and invited comment from relevant government agencies and Willoughby City Council (Council).

During the public exhibition period, the Department received 11 public submissions (eight objections, one comment and two in support), a submission from Council in objection and advice from seven government agencies.

Department officers visited the site and surrounding area on 2 October 2025, to gain a better understanding of the site context and the issues raised in submissions.

Following the EIS exhibition period, the Department requested the Applicant respond to the issues raised in submissions and advice received from government agencies.

The Applicant submitted an amended application, under section 37 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation), on 4 August 2025.

The amended application included an Amendment Report and a Response to Submissions Report (RtS) which made the following key design amendments to the proposal (see **Appendix A**):

- enclosure of residential corridor breezeways
- increase to the building height by 1.48m
- layout changes to the live/work apartments and the childcare centre
- layout changes to basement waste storage resulting in the removal of 9 car parking spaces

### 4.1.2 Public exhibition of the Amendment Report

After accepting the Amendment Report and RtS, the Department:

- publicly exhibited the amended proposal between Thursday 14 August 2025 and Wednesday 27 August 2025 (14 days)
- notified occupiers and landowners in the vicinity of the site and previous submitters
- notified and invited comment from relevant government agencies and Council.

The Department received a further seven public submissions (three objections, one comment and three in support) and advice from five government agencies. Additionally, Council made a further submission maintaining its objection to the development.

Following review of the Amendment Report and associated documents, the Department requested the Applicant to address the issues raised in submissions, agency advice and by the Department.

In response, the Applicant submitted a further RtS on 7 November 2025 and additional information 16 December 2025 which included:

- update of the legal description of the site
- updated reports including the Urban Design Report, Arborist Report and wind advice
- updated BDAR Waiver.

The Department made the additional information available on its website.

## 4.2 Summary of advice received from government agencies

A summary of the agency advice is provided in **Table 4** and copies of the advice is provided in **Appendix A**.

**Table 4 | Summary of agency advice (EIS and Amendment Report)**

Agency	Advice summary
<b>Ausgrid</b>	Ausgrid recommended compliance with guidelines related to existing infrastructure and that the Applicant submit a new connection application to Ausgrid.
<b>Department of Climate Change, Energy, the Environment and Water (DCCEEW) – Heritage NSW (Heritage NSW)</b>	Heritage NSW advised it agrees with the proposed management recommendations of the Aboriginal Cultural Heritage Assessment Report (ACHAR) and recommended conditions to protect Aboriginal heritage.
<b>DCCEEW – Water Group</b>	DCCEEW Water Group recommended a condition that the Applicant obtain a water access licence related to groundwater take during construction and operation of the development unless an exemption is available.
<b>Sydney Metro</b>	Sydney Metro recommended conditions to ensure excavation proposed within the Metro corridor does not have an adverse impact on metro operations.
<b>Sydney Trains</b>	Sydney Trains recommended conditions to protect adjoining rail assets.
<b>Sydney Water</b>	Sydney Water advised that water and wastewater capacity should be available for the proposal, augmentation works may be need to the network and a Section 73 certificate must be obtained.
<b>Transport for New South Wales (TfNSW)</b>	TfNSW advised: <ul style="list-style-type: none"> <li>• vehicle movements from O’Brien Street onto Railway Street should be limited to left-turn movements due to proximity to the Pacific Highway/Railway Street intersection</li> <li>• while part of the site is zoned SP2 Infrastructure, investigations have not yet identified if the site will be needed for future roadworks</li> </ul>

- compliant driver sightlines are required at the south-east corner of the site which may require use of low-level vegetation or other design treatments

TfNSW also provided recommended conditions related to civil works on Pacific Highway, requirement for a road occupancy licence and management of construction impacts.

### 4.3 Summary of council submissions (EIS and Amendment Report)

Council objects to the proposal. The outstanding issues raised by Council are summarised below and a link to all submissions in full is provided in **Appendix A**.

- affordable housing provision should not be at the expense of other public interest matters
- building height should be reduced to be consistent with WLEP as the site is located on the CBD boundary opposite land zoned R3 Medium Density Residential
- additional landscaping and deep soil areas should be provided on the ground level
- excessive car parking has been provided inconsistent with Council's approach to car parking in the Chatswood CBD
- non-residential floor space should be increased to comply with the WLEP
- design excellence can only be achieved if the matters raised in Council's submission are resolved.

Council also provided recommended conditions related to landscaping, stormwater, public art, waste management, local contributions and other matters.

### 4.4 Summary of public submissions

The key issues raised in public submissions are provided below and a link to all submissions is provided in **Appendix A**.

- traffic congestion on roads, excessive car parking and impacts on the availability of on-street parking
- construction impacts
- overdevelopment and impact on character of the area
- building height and floor space ratio variations set precedents for future developments to also vary WLEP controls
- amenity impacts including overshadowing, loss of privacy, noise impacts and view loss.

Submissions supporting the proposal noted the positive impacts of well-located additional housing supply, well designed buildings and benefits of the non-residential land uses proposed.

### 4.5 Summary of issues raised outside of the exhibition process

Feedback was received from a member of the community outside of the exhibition process.

The feedback raised concern about building height, overdevelopment, adverse amenity impacts to neighbours, traffic, infrastructure impacts, construction impacts and cumulative impacts.

# 5 Assessment

The Department has assessed the proposal, considering all documentation submitted by the Applicant, all issues raised in submissions and all advice provided by government agencies.

The Department considers the key assessment issues associated with the proposal are:

- built from
- design excellence.

The key issues are discussed in the following section of this report. The Department’s consideration of other issues is provided in **Section 5.3** and the appendices.

## 5.1 Built form

### 5.1.1 Building height

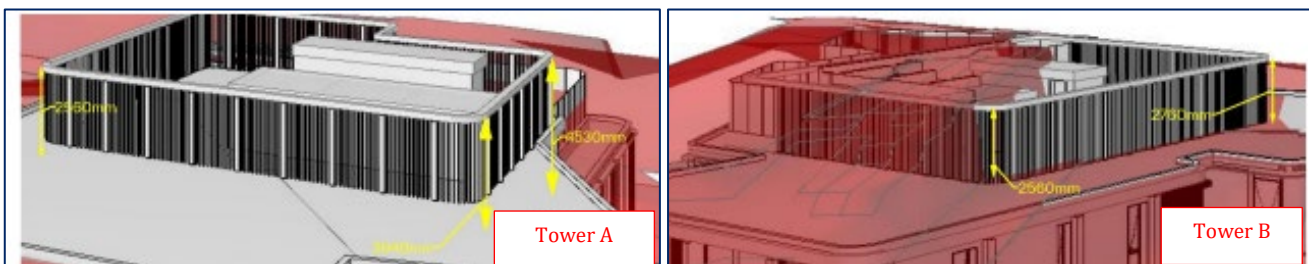
The site has a maximum permissible building height of 117 m, comprising:

- a building height limit 90 m under the WLEP
- an additional 30% increase (+27 m), as 15% of the total GFA of the development is provided as affordable housing.

The proposal has a maximum building height of 121.53m and seeks to vary the maximum permissible building height development standard for the site as summarised in **Table 5** and shown in **Figures 5** and **6**.

**Table 5** | Building height summary

Housing SEPP max. height	Proposed height	Variation	Affected parts
117m	121.53 m	4.53m (3.9%)	Lift overrun, plant, glass balustrades and part of roof



**Figure 5** | 3D Perspective of building variation (Base source: Applicant’s Amendment Report)



**Figure 6** | 3D Perspective of building variation (Base source: Applicant's Amendment Report)

Public submissions raised concerns over the proposed building height and that the variations set a precedent for future developments to vary WLEP controls. Council does not support an increase in built form above the WLEP control as it undermines the recent strategic planning for Chatswood CBD and as the site is located adjacent to lower density residential properties on the edge of the Chatswood CBD.

The Applicant submitted a clause 4.6 variation request (**Appendix A**) which argues that the building height variations are justified as:

- the variation is in part due to the topography of the site resulting in parts of the lift overrun and wind mitigation balustrades marginally protruding above the maximum building height
- the variation is also in part due increased floor-to-floor heights required for compliance with updated insulation and water proofing standards of the Design and Building Practitioners Act 2020
- the areas of exceedance are primarily located within the centre of each tower, are unlikely to result in view impacts, are not perceivable from the public domain and do not significantly impact overshadowing
- the areas of exceedance do not contain any gross floor area.

The Department acknowledges the community concerns about the scale of the proposal and variation of the development standard. The Department also notes that the building height is taller than provided by the WLEP. The Department supports the increase in height as the proposal is eligible for height and floor space bonuses which were introduced into the Housing SEPP in 2023 as it provides affordable housing and is located in an accessible area.

Further, the Department has considered the proposed building height variation request against the requirements of clause 4.6 of the WLEP in **Appendix D**. On balance, the Department considers that the proposed height variation is acceptable in the circumstance as:

- the proposed height variation, in part, arises due to the site topography and changes associated with the Design and Building Practitioners Act 2020 which is necessary to ensure the proposal can comply with insulation and water proofing requirements
- the proposed rooftop elements including plant and balustrades, which exceed the height limit, are required to meet the functional needs of the development of this scale and are designed to minimise their visual impact from the public domain
- the proposal would not result in unacceptable visual, privacy, overshadowing or view loss impacts to neighbouring properties or the North Chatswood Heritage Conservation Area (NCCA)
- the proposed built form was subject to an architectural design competition. The proposal has also been reviewed and endorsed by a Design Integrity Panel and achieves design excellence as discussed in **Section 5.2**
- strict numerical compliance with the maximum building height would have no meaningful benefit or reduction in impacts.

The Department also notes that the proposed 36-storey building height would be compatible with the neighbouring developments which range from 23 to 36 storeys, and the proposed 56 storey proposal to the south of the site at 845 Pacific Highway. The Department therefore concludes the proposed building height are acceptable and would not result in adverse amenity impacts.

### 5.1.2 Floor space ratio

The maximum permissible floor space ratio (FSR) for the site is 7.8:1, which consists of:

- a FSR of 6:1 under the WLEP
- an additional 30% increase (+1.8:1), as 15% of the total GFA of the development is provided as affordable housing.

The proposal has a total FSR of 9.09:1 and GFA of 39,014 m<sup>2</sup>, with 5,852 m<sup>2</sup> (15%) utilised as affordable housing, and seeks to vary the maximum permissible FSR development standard for the site as summarised in **Table 6**.

**Table 6 | FSR and GFA summary**

Site area	Housing SEPP max. FSR (GFA)	Proposed FSR (GFA)	Variation
4,294 m <sup>2</sup> (excluding land zoned SP2)	7.8:1 (33,493.2 m <sup>2</sup> )	9.09:1 (39,014 m <sup>2</sup> )	16.5% (1.29:1 / 5,520.8 m <sup>2</sup> )

Public submissions raised concerns over the proposed bulk and that the variations set a precedent for future developments to vary WLEP controls.

The Applicant submitted a clause 4.6 variation request for the proposed FSR and building height variations (**Appendix A**). The Applicant has described and justified the variation as:

- 2,847.4m<sup>2</sup> of the GFA is attributed to enclosed balconies (wintergardens) which are necessary to comply with TfNSW guidelines for development within 20m of a railway corridor
- 2,487 m<sup>2</sup> of the GFA is attributed to enclosure of building corridors to be consistent with the approved DA and ensure amenity for residents and commercial users
- the remainder of the additional GFA (186.4 m<sup>2</sup> or 0.6% of the maximum GFA) is a minor exceedance of the allowable GFA
- the variation would not result in unreasonable environmental impacts to the public domain, private views, traffic generation, landscaping and surrounding area
- the proposal is generally consistent with the desired future character for the Chatswood CBD.

The Department acknowledges the community concerns about the scale of the proposal and variation of the development standard. The Department has carefully considered the proposed FSR variation against the requirements of clause 4.6 of the WLEP in detail at **Appendix D**. The Department considers the proposed FSR variation for the site is acceptable in the circumstances as:

- the proposal responds appropriately to the objective of the FSR control in clause 4.4 of the WLEP as:
  - the bulk and scale of the proposal (with the exception of the 30% bonus for affordable housing) generally aligns with the building form and setbacks envisaged for the site by the site-specific planning proposal and the approved DA
  - the GFA associated with the wintergardens and enclosed corridors do not give rise to adverse impacts such as additional traffic generation, or impacts to views or privacy for surrounding properties
  - the proposal provides for a high-density development close to the transport nodal point of Chatswood
  - the proposal conserves the compactness of the CBD by providing additional density in a suitable location

- the proposed built form was subject to an architectural design competition. The proposal has also been reviewed and endorsed by a Design Integrity Panel and achieves design excellence as discussed in **Section 5.2**
- the additional GFA enables the delivery of a well-designed development containing employment floorspace and high-quality housing, including 59 affordable housing apartments in a well-located site
- the exceedances associated with the wintergardens and enclosed corridors is proportional and consistent with the approved DA, and meets TfNSW safety requirements for developments near railway corridors and improves amenity to users ensuring the spaces reduce potential for adverse weather impacts
- strict numerical compliance with the maximum FSR would not have meaningful benefit or reduction in impacts.

The Department therefore concludes the proposed FSR exceedance is acceptable and justified in the circumstances and would have minimal adverse impacts on the surrounding land.

### 5.1.3 Non-residential floorspace

Clause 6.25 of the WLEP requires 17% of the total GFA of the proposed development to be utilised as non-residential floorspace.

The proposal includes 4,213.5 m<sup>2</sup> non-residential floorspace which constitutes 10.8% of the proposed GFA (6.2% variation). The approved DA provided 4,233 m<sup>2</sup> of non-residential floor space, therefore this proposal results in a minor (19.5 m<sup>2</sup> decrease).

This minor difference relates to minor design changes between the approved DA and the current proposal in relation to configuration of the live/work apartments as well as the design/location of services.

The Applicant submitted a request to vary this requirement under clause 4.6 of the WLEP which contends that:

- the proposal seeks to maximise the residential GFA on the site utilising the incentives available under section 16 Housing SEPP and therefore:
  - seeks to allocate the full 30% additional GFA for residential (not commercial) purposes only, including affordable housing apartments to meet the aims of the Housing SEPP
  - this has resulted in a numerical non-compliance in the percentage of the non-residential floorspace offered on the site
- the proposal provides a quantum of non-residential floorspace generally consistent with what was anticipated for this site within Chatswood CBD
- notwithstanding the numerical non-compliance, the development is consistent with the objectives of the development standard and the zone.

Council does not support the variation and considers the required 17% non-residential GFA component should be provided on the site.

The Department has considered the variation to the WLEP requirement in detail in **Appendix D** and has carefully considered Council's concerns and request for the proposal to comply with the 17% requirement.

In this circumstance, however, the Department concludes that compliance with the development standard is unnecessary and there are sufficient environmental planning grounds to support the variation as:

- the proposed non-residential floor space provision is consistent with intent of the WLEP standard as the commercial podium provides active frontages to streets and through site links that will attract pedestrian traffic, and encourage commercial and retail uses
- the proposal is not expected to adversely impact employment generation in the locality or undermine the commercial core of Chatswood, noting most of the site was formerly used for residential floor space
- the amount of non-residential floor space is generally consistent with the amount provided in the approved DA.

The Department also notes that strict compliance with the development standard would require 2,419 m<sup>2</sup> of residential floor space to be used for commercial uses, reducing the delivery of housing by approximately 34 apartments. This is considered unnecessary for the reasons outlined above.

On balance, the Department considers the variation to the amount of the non-residential floorspace to be acceptable, noting the benefits associated with the additional housing provided.

#### 5.1.4 Development scale and visual impact

Concern was raised in public submissions about the development's scale, view impacts and that the building is out of character with the existing area.

The Applicant provided a Visual Impact Assessment (VIA) which assesses the visual impacts of the development from key viewpoints from the public realm (**Figure 7**). The Applicant's VIA concludes:

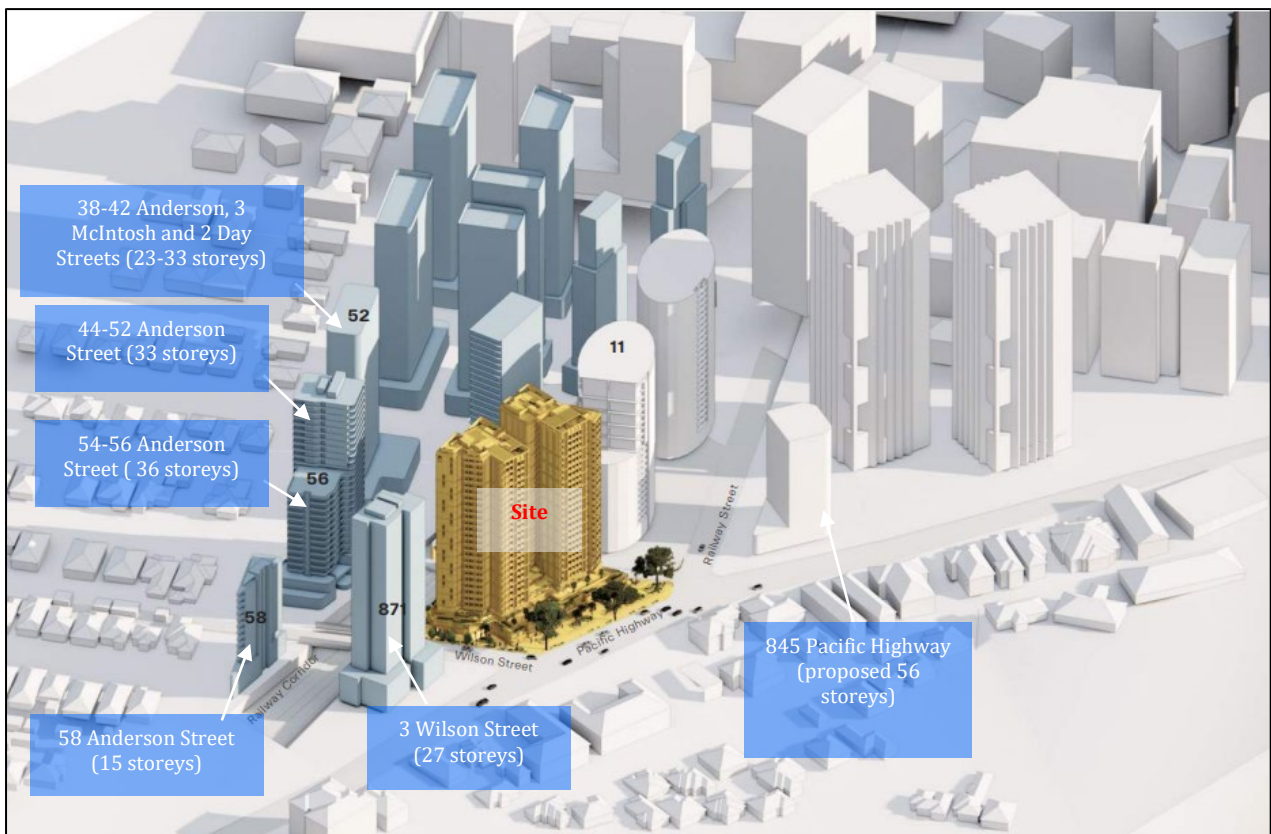
- the proposal would result in a visual change in close range views and would also be visible in medium to long range views towards the site
- the proposal would not impact views to any heritage items or areas of unique scenic quality
- the overall visual impact of the proposal is low and is justifiable in the context of Council's overall masterplan for Chatswood CBD
- the proposal has a high level of visual compatibility with the surrounding visual context.



**Figure 7** | Before and after view from Pacific Highway (left) and Beauhamp Park (right) towards the site (Source: Applicant's EIS)

The Department has considered the Applicant's assessment of the visual impacts of the proposal and the concerns raised by the community. The Department is satisfied that the proposal is compatible with the desired future character of the site and precinct and would not result in adverse visual impacts to surrounding properties or the NCCA as:

- the site is located within the Chatswood CBD and identified by the Chatswood CBD Planning and Urban Design Strategy 2036, and subsequent planning proposal, as being a site suitable for high-density development
- the site is located immediately adjacent to similar sized high-density developments including the Pacific Place buildings directly south of the site (up to 41 storeys), recently approved mixed use developments with affordable housing in the Anderson Street precincts to the south east (ranging from 23-36 storeys) and a proposed development of 56 storeys immediately south of the site at 845 Pacific Highway (**Figure 8**)
- the building is setback from street frontages and includes a podium to provide for an appropriate street wall height and built form transition to the adjoining development
- the proposed built form is articulated and incorporates a mixture of façade compositions and materiality which break up the design of the façade and reduce the visual bulk and scale
- proposed landscaping within the building setbacks would further ameliorate the bulk and scale of the development.



**Figure 8 |** The proposal in the context of surrounding approved and potential future development (Base source: Applicant’s Design Report)

## 5.2 Design Excellence

Clause 6.23 of the WLEP requires the development achieve design excellence through the undertaking and implementation of a competitive design process.

The Applicant held a design competition, for a WLEP-compliant development proposal (that contained no Housing SEPP uplift), in 2023, which included:

- a competition brief endorsed by Council
- a competition jury
- three design teams prepared schemes that responded to the brief.

The competition jury considered competing schemes and concluded that PBD Architects was the winner, to be engaged as the project architect for the application through to its completion.

In order to rely on the outcome of the competition process for this proposal which includes the Housing SEPP uplift, the Applicant prepared a Bridging Design Excellence Strategy (BDES) in consultation with Council, which was endorsed by Government Architect NSW (GANSW) on 1 October 2024.

The BDES outlines the process for ensuring that the proposal maintains the potential to achieve design excellence in accordance with the competition winning design by:

- retaining the winning design team (PBD Architects)

- retaining the original competition jury as the Design Integrity Panel (DIP) for the development
- requiring the DIP be reconvened to review the development at key stages
- requiring the Applicant obtain DIP confirmation that the proposal has maintained the potential to achieve design excellence.

In accordance with the BDES, the proposal was presented to the DIP. The DIP provided advice on 23 October 2024 that further information was required for review. On 7 November 2024, the additional information was submitted to the DIP who subsequently provided advice on 13 November 2024 that the proposal has potential to achieve Design Excellence subject to:

- better illustration of the enclosed balconies up to Level 9
- integration of thermal comfortable recommendations to the eastern façade
- further consideration of amenity impacts of the residential corridors
- further development of Connecting with Country strategies.

Based on the endorsement from the DIP, GANSW waived the requirement for a further design competition for the current proposal on 16 December 2024.

The DIP also reviewed the proposal again on 25 July 2025 and confirmed that the refinements made in the Amendment Report were acceptable, that the matters previously raised in the 13 November 2024 advice have been addressed and confirmed the proposal retains the potential to achieve design excellence.

Council stated that for design excellence to be realised the proposal should be amended to address the issues identified in Council's submission in full.

The Department has had regard to full range of concerns raised by Council in its submission in this assessment report. It has also specifically considered the matters set out in clause 6.23 of the WLEP in considering whether the proposal exhibits design excellence as set out in **Appendix C**. The Department concludes that the proposed development exhibits design excellence in accordance with clause 6.23 because:

- the design, bulk, massing modulation, form, external finishes and materials are consistent with the competition winning scheme and the proposed design has been endorsed by the DIP
- it exhibits a high standard of architectural design, material and detailing appropriate for the Chatswood CBD, consistent with the winning scheme
- it promotes sustainable design, provides appropriate building setbacks and appropriately integrates landscaping with the design of the development<sup>268</sup>
- the proposal provides a good level of amenity for future residents consistent with the objectives of the ADG and does not result in unacceptable overshadowing, wind impacts, reflectivity, or other adverse amenity impacts on surrounding properties

The Department recommends conditions to ensure that:

- the Applicant retains PBD Architects as the project architect to prepare the design documentation
- the DIP reviews and endorses any future amendments to the design
- the final materials and finishes are submitted to the Department.

### 5.3 Other issues

The Department’s consideration of other issues is summarised in **Table 8** below.

**Table 8 | Assessment of other issues**

Findings and conclusions	Recommended conditions
<p><b>Traffic</b></p> <p>A Transport Impact Assessment (TIA) was submitted with the application which concludes that the proposal will not have a significant impact on the surrounding road network as it will result in:</p> <ul style="list-style-type: none"> <li>• an estimated 104 vehicle trips per hour (vph) during the weekday AM peak and 86 vph during the weekday PM peak</li> <li>• minor and insignificant impact on surrounding intersections or road network performance</li> </ul> <p>The Applicant also provided a preliminary Green Travel Plan (GTP) which outlines a range of mechanisms to support achieving the target mode share and improve sustainable transport usage in the future</p> <p>Public submissions and feedback raised concerns that the proposed development would worsen existing traffic issues in the area. Concern was also raised about the potential cumulative traffic impacts of other developments in the Chatswood CBD.</p> <p>TfNSW recommended that vehicle movements at the O’Brien Street/Railway Street intersection be restricted to left-turn movements only.</p> <p>The Department has carefully considered the findings of the TIA, the advice provided by TfNSW and the concerns raised in submissions and is satisfied that:</p> <ul style="list-style-type: none"> <li>• the proposal represents a relatively minor increase in peak hour vehicle movements from the approved DA being an additional 24 vph and 17 vph during the AM and PM peaks</li> <li>• the proposed traffic during peak times would not have unacceptable impacts on the local road network with nearby intersections maintaining their Level of Service (LOS) ‘A’ and ‘B’ operation levels during peak periods post development</li> <li>• the cumulative impacts of the proposal, along with other development in the CBD, has been considered holistically as part of the traffic modelling for the Chatswood CBD Planning and Urban Design Strategy which concluded that CBD links operate are acceptable LOS in 2036 with most links operating at LOS C or better</li> <li>• the GTP includes measures towards achieving the target car mode share and reducing traffic generation from the site.</li> </ul>	<p>The Department has recommended a condition requiring:</p> <ul style="list-style-type: none"> <li>• the preparation and implementation of a final GTP</li> <li>• the O’Brien Street/Railway Street intersection be left-in/left-out only</li> </ul>
<p><b>Parking</b></p> <p>The Housing SEPP includes non-discretionary development standards (NDDS), which provide minimum car parking rates for market and affordable housing. The WDCP provides</p>	<p>The Department recommends conditions requiring</p> <ul style="list-style-type: none"> <li>• provision of car, motorcycle and</li> </ul>

maximum parking rates for residential apartments in Chatswood CBD, as well as maximum parking rates for residential visitors, and childcare, retail and commercial uses.

The proposal has applied the Housing SEPP NDDS for the market and affordable housing the WDCP for all other aspects of the proposal to provide a total of 381 car parking spaces as summarised at **Table 7**. The proposal also includes 20 motorcycle parking spaces.

Control	Required car spaces	Proposed car spaces	Compliance
<b>Housing SEPP car parking rates (minimum)</b>			
<b>Residential</b>	336*	347	Yes (+11 spaces)
* While the proposal includes 7 studio apartments, as the Housing SEPP does not provide parking rates for this apartment typology car parking for studios apartments has not been included in the minimum required calculation.			
<b>WDCP car parking rates (maximum)</b>			
<b>Residential Visitor</b>	46	12	Yes
<b>Retail</b>	18	11	Yes
<b>Office</b>	4	3	Yes
<b>Childcare</b>	21	8	Yes

#### *Car parking*

Council and public submissions raised concerns regarding excessive car parking noting the site's CBD location. Council raised concern that the proposal exceeded the WDCP residential parking rate by approximately 160 spaces.

The Department notes that under section 19 of the Housing SEPP, a minimum of 336 residential car parking spaces (comprising 36.4 affordable and 299.5 market housing spaces) is required. This is a non-discretionary development standard that, if complied with, prevents a consent authority from requiring more onerous standards. Further, DCPs do not strictly apply to SSD.

The Department accepts that the proposal exceeds the minimum Council car parking rate and therefore complies with the Housing SEPP standards.

Accordingly, the number of residential car parking spaces proposed as part of the development is considered acceptable in the circumstances.

#### *Bicycle parking*

The proposal seeks to provide 368 bicycle parking spaces comprising 332 residential spaces, 33 residential visitor spaces and 6 non-residential spaces. The number of spaces provided is more than the rate required by Council (68 spaces). Residential bicycle spaces are proposed to be located in the basement storage cages for each apartment.

The Department notes that this bicycle parking needs to be provided in addition to the minimum storage volumes required for each apartment by the ADG and that some apartments would not have sufficient storage volume. The Department has therefore recommended a condition that basement storage cages for relevant apartments be increased in size to accommodate a bicycle space in addition to the minimum storage recommended in the ADG. This may result in a minor reduction of parking spaces, which would be acceptable.

bicycle parking and end-of-trip facilities

- compliance with the applicable Australian Standards
- limit car parking use to residents, visitors and staff of the development
- provision of EV infrastructure in accordance with the NCC
- increase of storage cages to accommodate bicycle parking in the cages.

## Findings and conclusions

## Recommended conditions

### SP2 zoned land

The site includes 458m<sup>2</sup> of land zoned SP2 Infrastructure for the purposes of a classified road (Pacific Highway).

TfNSW advised that while the SP2 zoned land on the site is under investigation for future roadworks, these investigations have not advanced to a stage to identify whether the land will be needed, and no funding has been allocated for the roadworks.

The Department is satisfied that the proposal would not adversely impact on the SP2 zoned portion of the site as:

- the SP2 land has not been used for the purposes of FSR calculation
- the basement footprint does not extend into the SP2 land
- use of the SP2 for landscaping is generally consistent with the approved DA.

No changes or conditions required.

### Rail corridor impacts

The site adjoins a Sydney Metro and Sydney Trains railway corridor and 8 Wilson Street is affected a range of easements, including stratum easements, which adjoin the rail corridor for ground support and access. The site also benefits from a ground support easement on the railway corridor.

Both Sydney Metro and Sydney Trains recommended conditions be applied to ensure the proposal would not have an adverse impact on the rail corridor. These conditions included requirements for endorsement from the relevant agency of further testing prior to commencing of any construction works.

The Department has included Sydney Metro and Sydney Trains' conditions on the recommended consent, to protect and minimise risks to Sydney Trains and Sydney Metro assets.

The Department has recommended the suite of conditions requested by Sydney Trains and Sydney Metro.

### Tree removal and site landscaping

The Applicant provided a Landscaping Plan and Arborist Report which included:

- removal of 16 trees, including 13 on-site and three street trees off-site
- retention 10 trees including the transplanting of 4 trees and planting of 100 trees along all site boundaries, internal site links and communal open spaces
- 10.6% of the site area as deep soil areas and 32.5% of the site area as a landscaped area
- landscaping works including within the SP2 zoned area along with Pacific Highway

Council raised concern that insufficient landscaping is provided at the ground level. Council requested that the landscape design be amended to increase soil depths, landscaping and canopy planting along with Pacific Highway frontage, as well as the south-east corner of the site consistent with the conditions imposed on the approved DA.

The Department has recommended conditions requiring amended landscaping plans, maintaining sightlines and easements for public access.

## Findings and conclusions

## Recommended conditions

TfNSW noted that landscaping must maintain sufficient sightlines at the south-east corner of the site.

The Department has considered the proposed landscaping and the concerns raised by Council and advice provided by TfNSW. The Department is satisfied that:

- the proposed landscaping is generally consistent with the approved DA
- the removal of 16 trees would be compensated by the planting of 100 new trees providing a canopy coverage of 25.2% of the site
- the proposed hard and soft landscaping elements including trees and other planting, will increase the biodiversity and improve the public domain.

The Department notes that the conditions of the approved DA required improved landscaping outcomes in the southwest corner of the site, more deep soil along the Pacific Highway frontage and removal of a platform lift and replacement with additional landscaping at the southeast corner of the site.

The Department recommends that the Applicant redesign of the ground floor landscaping to be consistent with the approved DA. The Department has also recommended that public access easements be provided for setbacks and through site links and sightlines be maintained.

### Public domain and road infrastructure works

Council recommended conditions that that the Applicant upgrade the road frontages immediately adjoining the site as well as undertake public domain works in accordance with its Pacific Highway public domain concept plans.

The Department considers that these works would ensure that the surrounding public domain supports amenity and accessibility in manner consistent with the area's increased density and that appropriate infrastructure is delivered as development progresses.

The Department notes that the proposal is generally consistent with the draft public domain plans, providing landscaping including tree planting along frontages and space for construction of a shared footpath along Pacific Highway.

However, the Department notes that the public domain concept plans are not finalised and may require further consultation with TfNSW. To ensure the proposal remains consistent with Council public domain requirements, the Department has recommended a condition that the Applicant prepare and implement public domain plans, in consultation with Council and if required, TfNSW.

The Department has recommended conditions requiring public domain and road upgrade works consistent with Councils requirements.

### Construction impacts

The Applicant provided an assessment of likely construction impacts including:

- consideration of construction noise and vibration impacts in the Noise and Vibration Impact Assessment (NVIA) which notes the potential for exceedance of the noise management levels at the nearest sensitive receivers and provides recommendations

The Department has recommended conditions requiring preparation and implementation of CEMP, CTMP, Construction Noise and Vibration Management Plan, Air Quality

## Findings and conclusions

## Recommended conditions

to minimise impacts to the sensitive receivers including through installation of physical buffers, appropriate plant selection and monitoring

Management Plan and CWMP.

- a Construction Traffic Management Plan (CTMP) which considered construction traffic, parking and access
- a Construction Waste Management Plan (CWMP) which considered construction waste removal and minimisation

The Applicant seeks approval for construction works between 7am-6pm Monday to Friday and 8am-1pm on Saturday. This is consistent with the existing approved DA except for an additional hour of work on Saturdays between 12pm-1pm.

Public submissions raised concern about noise, dust and traffic impacts associated with construction and requested that a detailed Construction Environmental Management Plan (CEMP) be provided for review.

Council requested further information on the proposed waste facilities for construction waste and location of onsite waste facilities. The Applicant subsequently updated the CWMP to note there are multiple waste facilities in vicinity of the site which can accept waste and recycling materials and identify bin storages on the site.

The Department has considered the Applicant's draft management plans and the concerns raised in submissions. The Department is satisfied that potential construction impacts would be managed within acceptable limits subject to conditions requiring:

- construction hours consistent with the standard hours of construction identified in the Interim Construction Noise Guidelines
- respite periods and breaks between continuous construction works for noisiest works including rock breaking and works which exceed the 75db(A) at the nearest sensitive receivers
- the preparation and implementation of a CEMP, CTMP, Construction Noise and Vibration Management Plan, Air Quality Management Plan and CWMP.

### Demolition

The proposal as amended in the Amendment Report, seeks consent for demolition of existing structures. However, the Department notes that all structures on the site and some trees have been removed as part of the approved demolition DA on the site. As such, the Department has imposed a condition advising that the consent does not include demolition.

The Department has recommended a condition noting that the consent does not include demolition.

### Impacts on neighbouring amenity

Public submissions and feedback raised concerns about privacy, overshadowing, noise and view loss impacts associated with the proposal.

#### *Privacy*

Concern was raised in public submissions that the development would overlook adjoining residential properties and gardens and result in a loss of privacy.

The Department has recommended conditions requiring implementation of the NVIA and Childcare NVIA.

The ADG recommends minimum habitable room and balcony setbacks to side and rear boundaries to ensure adequate visual privacy to existing adjoining properties is maintained. The proposal provides 6.8m - 15.44m setbacks to the eastern boundary which meet the ADG recommended minimum setbacks. Street setbacks provided are consistent with Council's DCP recommendations for the site and would provide sufficient separation between the proposal and neighbouring sites.

The Department is satisfied that the proposal meets or exceeds the ADG and Council's DCP recommended boundary separation distances and therefore would maintain an appropriate level of visual privacy.

### *Overshadowing*

Clause 6.15 of the WLEP provides that consent cannot be granted to a development which results in additional overshadowing on Victoria Avenue and Concourse Open Space between 12pm and 2pm in mid-winter.

The ADG also provides design guidance around minimising overshadowing to neighbouring development at mid-winter (21 June), particularly in dense urban areas. The ADG recommends that living areas and private open space of neighbouring properties should receive at least 2 hours of solar access between 9am-3pm at mid-winter.

Public submissions raised concern that the proposal would overshadow the nearby residential properties.

The Department has reviewed the Applicant's overshadowing analysis and notes that:

- overshadowing impacts to the closest residential developments (the 'Pacific Place' buildings and common open space to the south and east) generally remain similar to the approved DA. In particular:
  - additional shadowing to 11 Railway Street would primarily fall onto the roof of the building contains rooftop terraces but is a majority non-traffic area. The rooftop terraces receive sunlight from 9-10am and from 1pm. Additional shadowing is also cast to the eastern facade of 11 Railway Street however this façade receives sunlight until 11am.
  - 1 Day Street and 1 Cambridge Street continue to receive sunlight until 1pm
  - no additional overshadowing of the Pacific Place common open space, including pool area.
- the proposal would not overshadow Victoria Avenue and Concourse Open Space between midday and 2pm, mid-winter, consistent with the WLEP
- the proposal would not overshadow the NCCA between 9am and 3pm mid-winter

The Department notes that the site is located in a high-density urban context which is undergoing further densification in accordance with Councils strategic vision for the

## Findings and conclusions

## Recommended conditions

Chatswood CBD, and some additional overshadowing to neighbouring properties is inevitable and reasonable.

On balance, the Department concludes that the overshadowing impacts are reasonable in the context of the site's location within the Chatswood CBD and the expected high-density development envisaged for the site.

### *Noise*

Public submissions raised concern about operational noise impacts from retail tenancies.

The proposal included a NVIA which:

- provided recommendations for acoustic treatment of facades, windows and screening for the childcare centre to ensure noise intrusion and emissions comply with relevant requirements of the Transport SEPP and ensure amenity of surrounding uses
- noted that use of the commercial/retail tenancies is subject to separate applications for use which would consider noise impacts of the use proposed
- provided mitigation measures to ensure mechanical plant and equipment noise does not cause adverse impacts
- advised that as the loading docks are located in the basement of the building, they will not create significant noise impacts to sensitive receivers subject to operation being limited to 7am to 10pm.

Based on the above, the Department is satisfied that the proposal would not result in unreasonable acoustic impacts subject to recommended conditions.

### **View loss**

One public submission from 1 Day Street raised concerns about view loss.

The Department notes that 1 Day Street consists of low rise (3-4 storey) apartments which are unlikely to have significant views. The Department acknowledges that due to the undeveloped nature of the site, the proposal will have a noticeable visual change for properties in proximity to the site. However, the Department considers that the proposal is compatible with the future character for the site and the proposed building form is appropriate for the site as discussed in **Sections 5.1** and **5.2**.

### **Childcare centre**

The proposal includes the construction of a childcare centre to accommodate up to 73 children on Level 2. Fit out and operation of the centre will be subject to a separate development application. The application includes a compliance checklist against the 'Child Care Planning Guideline – Delivering quality childcare for NSW' (the Guideline) to demonstrate that design quality principles and the tests to fit the spatial area requirements are compliant with the Guideline.

The Department has reviewed the information provided and notes that:

- the indicative plans demonstrate adequate internal and external space for a maximum capacity of 70 children

The Department has recommended conditions requiring compliance with the Childcare NVIA and further air quality testing.

## Findings and conclusions

## Recommended conditions

- the Preliminary Ambient Air Quality Assessment (PAAQA) confirmed that short sample testing of pollutants is within target ranges during peak traffic hours and as such, it is probable that longer length testing would also be within target ranges. The PAAQA recommended that longer range testing be undertaken to confirm air quality.
- the Childcare NVIA confirmed that subject to acoustic design of the façade, noise impacts will be appropriately managed.
- Eight parking spaces are provided for the childcare centre adjacent to a dedicated lobby and lift for the childcare centre complying with WDCP requirements. Traffic generated from the childcare centre has been considered as part of the overall traffic generation for the development (discussed in **Section 5.3**)

Council did not raise concern with the childcare centre, however public submissions raised concerns about potential noise impacts.

The Department has reviewed the information provided by the Applicant and is satisfied that the siting and spatial elements of the childcare centre would be capable of demonstrating compliance with the Guideline. Further the likely noise, air quality and traffic impacts would be within acceptable limits, subject to a further detailed assessment,

The Department notes that a separate application will be required for the fit-out and operation of the centre, which will require a full assessment of the proposal's compliance with the Guideline, as well as an assessment of the likely noise and other impacts associated with the childcare centre operation.

The Department recommends a limit on the consent that no approval is granted for the fit out and operation of the childcare centre.

### Stormwater management

Council recommended that the stormwater management system for the site be in accordance with the plans developed as part of the Approved DA.

The Department has recommended a condition that the Applicant update the stormwater management plans to comply with Council requirements and obtain Council endorsement of the revised plans.

The Department has recommended a condition that stormwater management plans be updated to comply with Council requirements.

### Operational Waste Management

Council recommended that waste management for the site be in accordance with the plans developed as part of the Approved DA including that the number of recycling and organic waste bins and the size of the bulky waste storage room be increased to comply with Council requirements.

In response the Applicant, updated the Operation Waste Management Plan and architectural plans to increase the number of recycling waste bins from 35 to 37, organic waste bins from 35 to 49 and increase the residential bulky waste room from 52m<sup>2</sup> to 68m<sup>2</sup>.

The Department has considered the updated Operational WMP and updated plans and notes the additional bins and area requested by Council have been reflected in the updated

The Department has recommended conditions relating to operational waste management.

## Findings and conclusions

## Recommended conditions

documents. The Department has recommended conditions that other matters raised related to waste collection.

### Wind Impacts

The Applicant submitted an environmental wind tunnel study and follow up wind advice which concludes the proposal would not result in adverse safety or comfort impacts subject to provided wind mitigation measures included in the development:

- maintenance of proposed landscaping elements at the ground floor and communal open spaces at Levels 2 - 4
- solid balustrades to communal open spaces, balconies and the perimeter of the development on Level 2
- double glazed automatically hinged door for access to plant rooms from residential corridors and glazed louvers above the doors for ventilation of the residential corridor
- screening of plant areas accessed from the residential corridors.

In relation to access to the plant areas from the residential corridors, the wind advice noted that as these external areas are not publicly accessible wind comfortable requirements do not apply. However, the advice recommended that an operational management plan can also be implemented to restrict access to the plant areas during high wind conditions.

The Department is satisfied that wind impacts would be within acceptable limits, subject to recommended conditions of consent to ensure that the mitigation measures are implemented prior to occupation of the building.

The Department has recommended conditions to require installation of the mitigation measures.

### Public art

The EIS included a preliminary public art plan which identified potential opportunities for artwork within the site noting that the exact artwork locations and design will be determined later.

The Department has considered the preliminary plans and is satisfied that the proposal would contribute to public art in the Chatswood CBD.

The Department recommends a condition for the Applicant to prepare and implement a public art strategy incorporating designing with country and Councils requirements.

The Department has recommended a condition requiring the preparation and implementation of a final public art strategy.

### Development contributions

The development is subject to the following contribution requirements:

- section 7.11 contributions under Council's Contributions Plan for provision of local amenities
- housing and productivity contribution (HPC) for the provision of regional amenities
- contributions payable under the Planning Agreement between the Applicant and Council for provision of community infrastructure

The Department has recommended conditions requiring the payment of contributions for the development.

## Findings and conclusions

## Recommended conditions

The proposal seeks consent for 327 (268 market apartments and 59 affordable housing apartments). The proposal also seeks to provide 4,213.5 m<sup>2</sup> non-residential floor space.

The Department notes that affordable housing is exempt from the HPC. The Department therefore considers it appropriate to level the HPC on the 268 market apartments and non-residential floorspace.

Clause 6.8 of the WLEP sets out requirements for local affordable housing provisions. The Applicant proposes to provide an affordable housing contribution equivalent of 4% of total residential GFA via monetary contributions.

The Department also recommends conditions requiring the payment of Section 7.11 contributions, a local affordable housing contribution and development contributions under the Planning Agreement.

## 6 Evaluation

The Department's assessment has considered the relevant matters and objects of the EP&A Act, including the principles of ESD, advice from government agencies, local councils and public submissions, and government policies and plans.

The Department's assessment concludes that the proposal is acceptable as it:

- the development will support State government priorities to deliver well-located housing, as it provides for 268 market and 59 affordable housing apartments in an accessible location
- it is permissible with consent, and would provide for a mixed-use development including commercial and residential uses, consistent with the objectives of the MU1 Mixed Use zone under the Willoughby Local Environmental Plan 2012 (WLEP)
- it exhibits design excellence, presents a bulk and scale that is compatible with the envisaged character of the area and an appropriate built-form relationship to adjoining development
- it includes improved public domain through the provision of public open space, through-site links and commercial uses that activate the site
- it does not result in unreasonable traffic, view loss, overshadowing, privacy or other amenity impacts on adjoining development or the public domain
- it would provide for 734 construction and 76 operational jobs.

The Department has recommended a range of conditions to manage any residual environmental impacts to ensure excavation does not result in adverse impacts to the adjoining railway corridor (**Appendix E**).

Overall, the Department considers the impacts of the development are acceptable and can be appropriately managed or mitigated through the implementation of recommended conditions of consent. Consequently, the Department considers the proposal is in the public interest and is approvable, subject to conditions.

# 7 Recommendation

It is recommended that the Director, Affordable Housing Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** 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 approval listed in the notice of decision
- **grants consent** for the application in respect of the mixed-use development with in-fill affordable housing, at 849, 853 and 859 Pacific Highway and 2 - 8 Wilson Street, Chatswood (SSD-74319707), subject to the conditions in the attached development consent
- **signs** the attached development consent (**Appendix E**).

Recommended by:



**Michelle Niles**  
Principal Planning Officer  
Affordable Housing Assessments

## 8 Determination

The recommendation is **adopted** by:

*AWatson*

17/12/2025

**Amy Watson**

Director

Affordable Housing Assessments

## Appendix A – List of referenced documents

The following documents can be accessed at <https://www.planningportal.nsw.gov.au/major-projects/projects/mixed-use-development-including-infill-affordable-housing-chatswood-grand-residences>

Environmental Impact Statement

Amendment Report

Response to Submissions report

Submissions (public and Council)

Government agency advice.

## Appendix B – Department’s consideration of submissions

Issue	Consideration
<b>Transport, traffic and parking</b> <ul style="list-style-type: none"><li>• Traffic congestion</li><li>• Excess on-site parking</li></ul>	<p>The Transport Impact Assessment (TIA) submitted with the application confirms the development would 104 and 86 vehicle trips per hour during the AM and PM peaks and would have minor and insignificant impact on surrounding intersections and road network performances. The application includes a Green Travel Plan (GTP) to support mode share targets and improve sustainable transport usage in the future.</p> <p>The proposal complies with the non-discretionary development standards for residential car parking contained in SEPP (Housing) 2021 and the Willoughby Development Control Plan 2023 (WDCP) rates for non-residential parking requirements.</p> <p><i>Recommended conditions</i></p> <ul style="list-style-type: none"><li>• provision of on-site car parking and bicycle parking spaces in accordance with the Australian Standards</li><li>• provision of a car parking, loading and servicing management plan.</li></ul>
<b>Construction impacts and cumulative impacts</b>	<p>The proposal included consideration of construction impacts in the:</p> <ul style="list-style-type: none"><li>• Noise and Vibration Assessment (NVIA) which considered noise and vibration impacts which noted the potential for exceedance of the noise management levels and included recommendations to minimise impacts to sensitive received</li><li>• Construction Traffic Management Plan which considered traffic, parking and access arrangements</li><li>• Construction Waste Management Plan which considered waste removal and minimisation.</li></ul> <p>The Department has recommended conditions to prevent unreasonable impact on the amenity of nearby residents during construction and notes that contributions to State and local infrastructure is required.</p> <p><i>Recommended conditions</i></p> <ul style="list-style-type: none"><li>• preparation of CEMP and associated sub-plans in relation to noise, vibration, air quality, traffic and waste</li><li>• standard construction hours in line with the Interim Construction Noise Guidelines, provision of respite periods and breaks between continuous construction works</li></ul>
<b>Overdevelopment and impacts to character of the site</b>	<p>The proposal would be compatible with the high density desired future character for the site and precinct including existing buildings in the Pacific Place precinct which including buildings up to 41 storeys and approved development in the Anderson Street Precinct ranging from 23 to 36 storeys.</p>

Issue	Consideration
	<p>The proposal includes setbacks; articulation and a mix of materials appropriate in its CBD context.</p>
<p><b>Clause 4.6 variations for building height, FSR and non-residential floor space</b></p>	<p>The proposal includes the following development standards variations:</p> <ul style="list-style-type: none"> <li>• floor space ratio (FSR) – 9.09:1 proposed which is above the 7.8:1 maximum in the Housing SEPP</li> <li>• building height – 121.53m which is above the 117m maximum in the Housing SEPP</li> <li>• non-residential floor space – 10.8% provided which is less than the 17% required by WLEP.</li> </ul> <p>The Applicant submitted variations requests to vary these development standards under clause 4.6 of the WLEP.</p> <p>The Department has considered the Applicant’s clause 4.6 variation requests and is satisfied that compliance with the development standards is unnecessary and there are sufficient environmental planning grounds to support the variations. The Department is satisfied that the proposed variations would not result in unacceptable visual, privacy, overshadowing or view loss impacts to neighbouring properties or the North Chatswood Heritage Conservation Area, nor adverse impacts on the provision of commercial floor space and job creation in the Chatswood CBD.</p>
<p><b>Neighbouring amenity impacts</b></p> <ul style="list-style-type: none"> <li>• Overshadowing</li> <li>• Privacy loss</li> <li>• Noise</li> <li>• View loss</li> </ul>	<p>The overshadowing impacts of the proposal are generally consistent with the approved DA and impacted properties continue to maintain adequate sunlight access</p> <p>The proposal maintains an appropriate level of visual privacy to surrounding properties by meeting or exceeding the recommended building separation and setbacks as set out in the Apartment Design Guideline and the WDCP.</p> <p>The proposal would not result in adverse noise impacts, subject to conditions regarding façade treatment and plant design. The future operation of the commercial tenancies and childcare centre would be subject to separate applications for use which would consider noise impacts.</p> <p>The proposal would not impact significant views and is compatible with the expected building form envisaged for the site.</p> <p><i>Recommended conditions</i></p> <ul style="list-style-type: none"> <li>• implementation of the NVIA and Childcare NVIA.</li> </ul>
<p><b>Landscaping and deep soil</b></p>	<p>The proposal includes landscaping to all site boundaries and on-building landscaping communal open space areas. Landscaping works include tree removal, new plantings (including the planting of 100 new trees), pocket parks and publicly accessible through-site links. Deep soil zones have been provided</p>

Issue	Consideration
	<p>at site boundaries and include tree planting to soften the development consistent with the approved DA.</p> <p><i>Recommended conditions</i></p> <ul style="list-style-type: none"> <li>• updated landscape plans to be consistent with the approved DA</li> </ul>

**Demand on local infrastructure**

The Applicant is required to provide local contributions under the Willoughby Local Contributions Plan 2019 (WLCP) and Housing Productivity Contributions (HPC), which will contribute to the provision of local schools, public transport services and parks.

*Recommended conditions:*

- payment of section 7.11 development contributions in accordance with the WLEP
- payment of the HPC.

## Appendix C – Statutory considerations

Matters of consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department’s consideration of these matters is shown in **Table C1** below.

**Table C1** | Matters for consideration

Matter for consideration	Department’s assessment
<b>Environmental planning instruments, proposed instruments, development control plans &amp; planning agreements</b>	<b>Appendix C</b>
<b>EP&amp;A Regulation</b>	<b>Appendix C</b>
<b>Likely impacts</b>	See <b>Section 5</b> (Assessment) of this report
<b>Suitability of the site</b>	See <b>Section 1.2</b> (Project background), <b>Section 3</b> (Policy and statutory context) and <b>Section 5</b> (Assessment)
<b>Public submissions</b>	See <b>Section 4</b> (Engagement) and <b>Section 5</b> (Assessment)
<b>Public interest</b>	See <b>Section 4</b> (Engagement), <b>Section 5</b> (Assessment) & <b>Section 6</b> (Evaluation)

### Objects of the EP&A Act

In determining the application, the consent authority should consider whether the proposal is consistent with the relevant objectives of the EP&A Act (section 1.3) including the principles of ESD. Consideration of those factors is described in **Table C2** below.

As a result of its analysis, the Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ESD.

**Table C2** | Objects of the EP&A Act and how they have been considered

Object	Consideration
<b>(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,</b>	<p>The proposal promotes the social and economic welfare of the community by providing additional housing, affordable housing and jobs on an accessible site, contributing to the achievement of State, regional and local planning objectives.</p> <p>The proposed development does not have any impacts on the State’s natural or other resources.</p>

Object	Consideration
<p><b>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</b></p>	<p>The proposal includes ESD initiatives and sustainability measures, such as passive solar design and thermal massing, which will achieve Building Sustainability Index (BASIX) requirements and achieve an average 7.3 Star NatHERS rating across the development.</p>
<p><b>(c) to promote the orderly and economic use and development of land,</b></p>	<p>The proposal represents the orderly and economic use of the land primarily as it will increasing housing and employment opportunities near services and public transport.</p> <p>The proposed land uses are permissible, and the form of development has regard to the planning controls that apply to the site, the character of the locality and the context of surrounding sites.</p>
<p><b>(d) to promote the delivery and maintenance of affordable housing,</b></p>	<p>The proposal would provide 22 affordable housing apartments to be managed by a CHP for a minimum of 15 years from occupation.</p>
<p><b>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</b></p>	<p>The proposal will not adversely affect the protection of the environment. The application is accompanied by a BDAR waiver that further confirms that the proposal will not have any significant impact on biodiversity values.</p>
<p><b>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</b></p>	<p>The proposal is accompanied by an Aboriginal Cultural Heritage Assessment Report, Heritage Impact Statement and Preliminary Historical Archaeological Assessment which confirm the proposal will not have any unreasonable heritage impacts.</p>
<p><b>(g) to promote good design and amenity of the built environment,</b></p>	<p>The proposal demonstrates a good design approach to the relevant planning controls and local character and has been reviewed by the Design Integrity Panel (DIP). The proposal has been designed to minimise amenity impacts to neighbours and the surrounding environment and to provide good levels of internal amenity.</p> <p>Other amenity impacts would be managed by either the form of the development or by the recommended conditions of consent for mitigation measures during the construction and operational phase of the development.</p>

Object	Consideration
<p><b>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</b></p>	<p>The proposal demonstrates that construction work will be undertaken in accordance with national construction standards, relevant regulation and the site-specific construction management plan. Any impacts during this phase will be monitored and managed in keeping with the conditions of consent set out to mitigate any impacts.</p> <p>Ongoing management and maintenance of the development shall be managed by the building management.</p>
<p><b>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</b></p>	<p>The Department publicly exhibited the proposal as outlined in <b>Section 4</b>. This included consultation with Council and other government agencies, and consideration of their responses.</p>
<p><b>(j) to provide increased opportunity for community participation in environmental planning and assessment.</b></p>	<p>The Department publicly exhibited the EIS and Amendment Report, which included notifying adjoining landowners and displaying the application on the Department's website.</p> <p>The Department placed the Applicant's RtS on its website.</p> <p>The engagement activities carried out by the Department are detailed in <b>Section 4</b>.</p>

### Ecologically Sustainable Development

The EP&A Act adopts the definition of ecologically sustainable development (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 Applicant has committed to achieving the following minimum sustainability targets:

- achieve an average of 7.3-star NatHERS rating
- meet or exceed BASIX minimum energy, water and thermal performance requirements.

The proposal also provides for good sustainable design through the provision of adequate cross-ventilation and solar access.

The Department has considered the proposal in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making process via a thorough and rigorous

assessment of the environmental impacts of the proposal. The conservation principle has been applied through the provision of new landscaping around, on and within the proposal and the valuation principle has been applied through the efficient use of the site, application of sustainability measures and creation of new employment opportunities.

The Department has recommended conditions requiring the implementation of ESD measures and minimum sustainability targets.

Subject to the above conditions, the proposal would be consistent with ESD principles, and the Department is satisfied the future detailed development is capable of encouraging ESD, in accordance with the objects of the EP&A Act.

#### Biodiversity development assessment report

Section 7.9(2) of the Biodiversity Conservation Act 2016 (BC Act) requires all SSD applications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposal is not likely to have any significant impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017).

An updated BDAR waiver request was submitted to the Department on 23 September 2025. The Environment Agency Head and the Team Leader, Affordable Housing Assessments as delegate of the Planning Secretary, determined that the development is not likely to have any significant impact on biodiversity values. A BDAR waiver was granted on 28 November 2024.

#### EP&A Regulation

The EP&A Regulation requires the Applicant to have regard to the State Significant Development Guidelines when preparing their application. In addition, the SEARs require the Applicant to have regard to the following:

- Social Impact Assessment Guideline for State Significant Projects
- Undertaking Engagement Guidelines for State Significant Projects

The Department considers the requirements of the EP&A Regulations have been complied with.

#### Environmental Planning Instruments (EPIs)

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

The proposal is SSD under section 2.6(1) and section 26A of Schedule 1 of the Planning Systems SEPP, being an in-fill affordable housing development pursuant to Chapter 2, Part 2, Division 1 of the Housing SEPP as it is located on land within the Eastern Harbour City in the Six Cities Region with an EDC of more than \$75 million.

##### **State Environmental Planning Policy (Housing) 2021 (Housing SEPP)**

A summary of the Department's consideration of the relevant standards contained in the State Environmental Planning Policy (Housing) 2021 are provided in **Table C3**.

**Table C3 | Consideration of Chapter 2, Division 1 of the Housing SEPP**

Control	Department's consideration										
<p><b>15C Development to which division applies</b></p> <p>(1) This division applies to development that includes residential development if –</p> <p>(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and</p> <p>(b) the affordable housing component is at least 10%, and</p> <p>(c) all or part of the development is carried out –</p> <p>(i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area – in an accessible area, or</p> <p>for development on other land – within 800 m walking distance of land in a relevant zone or an equivalent land use zone.</p>	<ul style="list-style-type: none"> <li>The development is permitted with consent on land zone MU1 Mixed Use under the WLEP.</li> <li>The affordable housing component is 15%.</li> <li>The development is located on land in the Six Cities Region in an accessible area (i.e. within 500m walking distance of Chatswood train station).</li> </ul>										
<p><b>16 Floor space ratio</b></p> <p>(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).</p> <p>(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows-</p> <p>Affordable housing component additional floor space (as a percentage) divided by 2</p> <p>(3) If the development includes residential flat buildings or shop top housing, the maximum building height used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same</p>	<ul style="list-style-type: none"> <li>The maximum permissible FSR is as follows:</li> </ul> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="background-color: #e0e0e0;">Site area</th> <th style="background-color: #e0e0e0;">WLEP max. FSR (GFA)</th> <th style="background-color: #e0e0e0;">Housing SEPP max. FSR (GFA)</th> <th style="background-color: #e0e0e0;">Proposed FSR (GFA)</th> <th style="background-color: #e0e0e0;">Variation</th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">4,294 m<sup>2</sup> (excluding land zoned SP2)</td> <td>6:1 (25,764 m<sup>2</sup>)</td> <td>7.8:1 (33,493.2 m<sup>2</sup>)</td> <td>9.09:1 (39,014 m<sup>2</sup>)</td> <td>16.5%</td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li>The proposal provides 15% of the total GFA (5,852 m<sup>2</sup>) as in-fill affordable housing.</li> <li>The site is subject to a maximum permissible building height of 90m under the WLEP. The 30% bonus increases the maximum permissible building height to 117m.</li> <li>The proposal has a maximum building height of 121.53m and seeks a variation of 4.53m (3.9%) to maximum permitted building height.</li> </ul>	Site area	WLEP max. FSR (GFA)	Housing SEPP max. FSR (GFA)	Proposed FSR (GFA)	Variation	4,294 m <sup>2</sup> (excluding land zoned SP2)	6:1 (25,764 m <sup>2</sup> )	7.8:1 (33,493.2 m <sup>2</sup> )	9.09:1 (39,014 m <sup>2</sup> )	16.5%
Site area	WLEP max. FSR (GFA)	Housing SEPP max. FSR (GFA)	Proposed FSR (GFA)	Variation							
4,294 m <sup>2</sup> (excluding land zoned SP2)	6:1 (25,764 m <sup>2</sup> )	7.8:1 (33,493.2 m <sup>2</sup> )	9.09:1 (39,014 m <sup>2</sup> )	16.5%							

Control	Department's consideration
<p>percentage as the additional floor space ratio permitted under subsection (1).</p>	<ul style="list-style-type: none"> <li>• A request to vary the FSR and building height has been provided (see <b>Section 5.1</b> and <b>Appendix D</b>)</li> </ul>
<p><b>19 Non-discretionary development standards</b></p> <p>(2) The following are non-discretionary development standards in relation to the residential development to which this division applies-</p> <p>(a) a minimum site area of 450 m<sup>2</sup></p> <p>(b) a minimum landscaped area that is the lesser of-</p> <p>(i) 35 m<sup>2</sup> per dwelling, or</p> <p>(ii) 30% of the site area</p> <p>(c) a deep soil zone of at least 15% of the site area</p> <p>(d) living rooms and private open spaces in at least 70% of dwellings receive at least 3 hours of direct solar access between 9am and 3pm at midwinter</p> <p>(e) the following number of parking spaces for dwellings used for affordable housing-</p> <p>(i) for each dwelling containing 1 bedroom – at least 0.4 parking spaces</p> <p>(ii) for each dwelling containing 2 bedrooms – at least 0.5 parking spaces</p> <p>(iii) for each dwelling containing at least 3 bedrooms – at least 1 parking space</p> <p>(f) the following number of parking spaces for dwellings not used for affordable housing-</p> <p>(i) for each dwelling containing 1 bedroom – at least 0.5 parking spaces</p> <p>(ii) for each dwelling containing 2 bedrooms – at least 1 parking space</p> <p>(iii) for each dwelling containing at least 3 bedrooms – at least 1.5 parking spaces</p> <p>(g) the minimum internal area, if any, specified by the ADG for the type of residential development.</p>	<p>(a) Complies - site area of 4,294 m<sup>2</sup> (excluding land zoned SP2)</p> <p>(b) Complies – landscaped area of 32.6% (1,399m<sup>2</sup>).</p> <p>(c) N/A under section 19(3)</p> <p>(d) N/A under section 19(3)</p> <p>(e) Complies (see <b>Section 5.3</b>)</p> <p>(f) Complies (see <b>Section 5.3</b>)</p> <p>(g) Complies (see <b>Table C5</b> below)</p>
<p><b>20 Design requirements</b></p> <p>(3) Development consent must not be granted to development under this division unless the consent</p>	<p>The site is located within northern part of the Chatswood CBD, with the surrounding area characterised by a mix of medium to high density residential and commercial developments (<b>Section 1.2</b>). Land zoned MU1 (generally east of the Pacific</p>

Control	Department's consideration
<p>authority has considered whether the design of the residential development is compatible with-</p> <p>(a) the desirable elements of the character of the local area, or</p> <p>(b) for precincts undergoing transition – the desired future character of the precinct</p>	<p>Highway) is undergoing a transition to high-density mixed-use development consistent with the planning controls that apply to the site.</p> <p>The Department considers the proposal will result in an appropriately scaled building that is compatible with the desired future character of the surrounding area as envisioned in the statutory and strategic planning documents, including the WLEP and Housing SEPP (<b>Section 5.1</b>).</p>

**21 Must be used for affordable housing for at least 15 years**

(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development-

(a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and

(b) the affordable housing component will be managed by a registered community housing provider.

The Applicant has confirmed that Evolve Housing Ltd (a registered CHP) will manage the in-fill affordable housing component of the development.

The EIS included a letter confirming that the 59 affordable housing apartments required under the Housing SEPP will be managed as affordable housing for at least 15 years commencing from the date an occupation certificate is issued.

A condition is also recommended to this effect.

Section 147(1)(a) of Chapter 4 of the Housing SEPP requires the consent authority to consider the design principles for residential apartment development set out in Schedule 9 while Section 147(1)(b) requires the consent authority to consider the ADG. Importantly, Section 147(3) of the Housing SEPP does not require a consent authority to require compliance with the design criteria specified in the ADG.

Section 148 of Chapter 4 of the Housing SEPP also contains non-discretionary standards in relation to minimum car parking rates, internal areas for apartments, and minimum ceiling heights. The proposal generally satisfies these non-discretionary standards.

The Department's assessment of the proposal against the design principles is provided in **Table C4** and the ADG is provided in **Table 11**.

**Table C4 | Consideration of Housing SEPP design principles for residential apartment development**

Principle	Department's consideration
<b>Context and neighbourhood character</b>	The Department has considered the height, scale and design of the proposal in <b>Section 5.1</b> and concludes the development responds to the existing and future context of the site and surrounding area, provides for an appropriate built form and maintains adequate levels of amenity for surrounding properties.

Principle	Department's consideration
<b>Built form and scale</b>	<p>The proposal is compatible with the future desired character of the Chatswood CBD and has been designed to provide for an appropriate built form relationship with adjoining properties and the surrounding area.</p> <p>The built form adequately defines the public domain, contributes to the character of the streetscape and provides satisfactory internal amenity and outlook.</p> <p>The proposal is of a high standard of architectural design and appearance as discussed at <b>Section 5.1</b> and <b>5.2</b>.</p>
<b>Density</b>	<p>The density of the overall development is consistent with the provisions of the Housing SEPP, and the proposal has demonstrated that will not have adverse built form, traffic or amenity impacts.</p>
<b>Sustainability</b>	<p>A BASIX and ESD Report was submitted with the EIS. The proposal has been designed having regard to ESD principles and best practice sustainability measures and satisfies BASIX requirements in relation to energy efficiency, water conservation and thermal comfort.</p>
<b>Landscape</b>	<p>The proposal includes landscaping consisting of trees, shrubs and ground cover at the ground level, Levels 2 – 4 and Level 35. The landscaped design will provide a high level of amenity for future residents, improve the landscape outcomes of the site and the surrounding streetscape in the longer term.</p>
<b>Amenity</b>	<p>The proposal complies with the Housing SEPP design principles and satisfies the intent of the ADG in terms of achieving a high level of residential amenity for future residents (see ADG assessment in <b>Table 11</b> below).</p>
<b>Safety</b>	<p>The application includes a Crime Prevention Through Environmental Design (CPTED) Report and applies CPTED principles by providing:</p> <ul style="list-style-type: none"> <li>• secure entry into the buildings and car parks</li> <li>• activated street frontages and communal open spaces</li> <li>• easily identifiable entry points and unobstructed sightlines</li> </ul> <p>The CPTED Report also recommends a range of measure to strengthen safety and security measures, including</p> <ul style="list-style-type: none"> <li>• use of closed-circuit television to monitor parking areas, building entries and through site links</li> <li>• lockable basement storage facilities</li> <li>• regular cleaning and maintenance of publicly accessible areas and landscaped areas</li> </ul> <p>A recommended condition requires the proposal to incorporate the recommendations of the CPTED Report.</p>

Principle	Department's consideration
<b>Housing diversity and social interaction</b>	<p>The proposed development provides a range of one, two and three-bedroom apartments with a variety of size and types. Of the 327 apartments, 59 will be affordable.</p> <p>COS is provided on the podium level and is accessible to both the market and affordable apartments to provide opportunities for social interaction.</p>
<b>Aesthetics</b>	<p>The proposal demonstrates a high standard of architectural design, with materials and finishes that effectively articulate the building form and respond to the site's context and constraints. The design of the development is consistent with the competition winning scheme (<b>Section 5.2</b>).</p>

**Table C5 | Department's consideration of ADG best practice design criteria**

ADG – Relevant Criteria	Proposal
<p><b>3A Site Analysis</b></p> <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 a design report which includes an analysis of the site constraints and surrounding context. The Department has assessed the site analysis to be satisfactory, identifying the opportunities and constraints of the site.</li> </ul>
<p><b>3B Orientation</b></p> <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 proposal is appropriately oriented having regard to the shape of the site. The proposal appropriately responds to the streetscape of Pacific Highway, O'Brien Street and Wilson Street, optimises solar access and minimises overshadowing of neighbouring properties. The building layouts are consistent with the form development in the approved DA.</li> </ul>
<p><b>3C Public Domain Interface</b></p> <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>The proposed buildings include appropriate building setbacks to achieve an acceptable transition between public/private domain, consistent with the approved DA.</li> <li>Passive surveillance of the public domain will be available from the commercial tenancies and residential balconies, windows and communal open space.</li> </ul>
<p><b>3D Communal and Public Open Space</b></p> <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</li> </ul>	<ul style="list-style-type: none"> <li>The total site area is 4,752m<sup>2</sup> (including land zoned SP2) requiring a minimum of 1,188 (25%) to be provided as COS.</li> <li>Approximately 1,067m<sup>2</sup> (22.5% of the site area) is provided as residential COS on Level 2 and Level 4, with a further 204m<sup>2</sup> (4.3% of the site site) provided as commercial COS.</li> </ul>

## ADG – Relevant Criteria

## Proposal

open space for a minimum of two hours in mid-winter.

- Communal open space is designed to allow for a range of activities and to maximise safety.
- Public open space should be well connected with nearby parks and other landscape elements.

- The Level 2 COS includes shared outdoor spaces, a swimming pool, outdoor gym and outdoor yoga deck. Additionally, the Level 2 COS also contains an indoor steam/sauna room and bathroom which has not been counted toward the COS figure.
- The Level 4 COS includes outdoor seating and tables.
- The Department considers that the residential COS provided is well designed, offers a variety of areas for residents to gather and interact and includes substantial landscaping. On this basis, the Department considers the COS to be acceptable.
- 50% of the principal useable part of the COS area receives a minimum of two hours direct solar access between 9am and 3pm on 21 June.

### 3E Deep Soil Zones

- For sites 1,500 m<sup>2</sup> or smaller, a minimum of 7% of the site with a minimum dimension of 3 m should be provided for deep soil zone(s).
- For sites greater than 1,500 m<sup>2</sup>, a minimum of 7% of the site with a minimum dimension of 6 m.

- For a total site area of 4,752m<sup>2</sup> (including land zoned SP2), a minimum of 332.6m<sup>2</sup> (7%) is to be provided as deep soil zones (DSZ). For a site area of 4,294m<sup>2</sup> (excluding land zoned SP2), a minimum of 300.66m<sup>2</sup> (7%) is to be provided as DSZ.
- The proposal does not include DSZs which comply with minimum dimensions identified in the ADG design criteria. However, 504.5m<sup>2</sup> of deep soil is provided with dimensions of less than 6m including 303.5 m<sup>2</sup> located outside of land zoned SP2.
- The Department considers the provision of deep soil to be acceptable given the mixed-used nature of the proposal and location in a high-density urban environment. Further, the Department notes that the ground floor arrangement is generally similar to the approved DA and provides for landscaping at site boundaries including tree planting.

### 3F Visual Privacy

- Minimum separation distance from building to side and rear boundaries:

Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 m (4 storeys)	6 m	3 m
Up to 25 m (5-8 storeys)	9 m	4.5 m
Over 25 m (9+ storeys)	12 m	6 m

- Street frontage and rail corridor setbacks comply with WDCP requirements.
- Building separation distances between Towers A and B on the site are consistent with the approved DA however are not consistent with the ADG design criteria at Levels 4 -7 (12m provided, 18m required) and Levels 9+ (12m-18m provided, 24m required).
- The Department is satisfied that the reduced internal separation is acceptable as the proposal incorporates a combination of blank walls and window screening to prevent overlooking between apartments.

### 3G Pedestrian Access to Entries

- The proposal includes separate pedestrian entries to the residential and commercial uses.

ADG – Relevant Criteria	Proposal
<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> </ul>	<ul style="list-style-type: none"> <li>• Access via the adjoining streets / footpaths and the through-site links are clear and easy to identify.</li> </ul>
<p><b>3H Vehicle Access</b></p> <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 vehicular access will be via O’Brien Street.</li> <li>• The vehicular access point is designed to minimise potential conflicts between pedestrians and vehicles.</li> </ul>
<p><b>3J Bicycle and Car Parking</b></p>	<ul style="list-style-type: none"> <li>• The proposal includes car parking consistent with the minimum rates provided in the Housing SEPP for residential and WDCP for non-residential uses (see Section 5.2).</li> <li>• All car parking is located off-street within the basement car park.</li> <li>• The Department is satisfied the visual and environmental impacts of the proposed basement car park have been minimised.</li> <li>• The proposal provides 335 bicycle parking including 332 residential, 3 commercial and 33 residential visitor which complies with the WDCP requirements.</li> </ul>
<p><b>4A Solar and Daylight Access</b></p> <ul style="list-style-type: none"> <li>• To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</li> <li>• Minimum of 70% of apartments’ living rooms and private open spaces receive two hrs direct sunlight between 9 am - 3 pm in mid-winter in the Sydney Metropolitan Area.</li> <li>• Maximum of 15% of apartments have no direct sunlight between 9 am - 3 pm in mid-winter.</li> <li>• Daylight access is maximised where sunlight is limited.</li> <li>• Design incorporates shading and glare control, particularly for warmer months.</li> </ul>	<ul style="list-style-type: none"> <li>• 321 of 327 apartments (98.2%) receive a minimum of two hours direct sunlight during mid-winter.</li> <li>• 3 apartments (0.9%) would receive no direct sunlight during mid-winter.</li> </ul>
<p><b>4B Natural Ventilation</b></p> <ul style="list-style-type: none"> <li>• At least 60% of apartments are cross ventilated in the first nine storeys</li> </ul>	<ul style="list-style-type: none"> <li>• 251/327 apartments (76.6%) in the proposed development are designed to be cross ventilated.</li> </ul>

## ADG – Relevant Criteria

## Proposal

(apartments 10 storeys or greater are deemed to be cross ventilated).

- Overall depth of a cross-over or cross-through apartment does not exceed 18 m.

- Access to natural ventilation is optimised on the site with most apartment being dual aspect.
- The Noise and Vibration Impact Assessment (NVIA) notes that most apartments may need alternative ventilation sources due to external noise intrusion from surrounding roads and the railway corridor. The Department has reviewed the proposal and considers that:
  - the design of the proposal generally follows the principles of the *Development near Busy Roads and Rail Corridors Interim Guidelines* in that buildings are setback from road frontages, tower elements are generally further setback from building edges, enclosed balconies are provided for apartments which face the rail corridor and where possible, balconies face away from the busy roads
  - despite these initiatives, apartments will not be able to achieve acoustic amenity criteria when windows/doors are open due to the site’s location near busy roads and the railway corridor.
  - while 76.6% of apartment have been designed to achieve cross ventilation in line with the ADG, in order to achieve acceptable internal noise amenity, windows/door may need to be closed and reliance on mechanical ventilation required.
  - glazing and use of acoustic grade sealants will mitigate noise intrusion to the apartments.

In this context, the Department considers it is acceptable that alternative ventilation measures are needed to ensure internal noise levels are acceptable. The Department has recommended a condition that details of the alternative ventilation are provided.

### 4C Ceiling Heights

- Measured from finished floor level to finished ceiling level, minimum ceiling heights are:
  - Habitable rooms 2.7 m
  - Non-habitable rooms 2.4 m.

- Ceiling heights meet or exceed the guideline. A ceiling height of 2.7 m is proposed across all apartments.

### 4D Apartment Size and Layout

- Minimum apartment sizes
  - Studio 35 m<sup>2</sup>
  - 1 bedroom 50 m<sup>2</sup>
  - 2 bedroom 70 m<sup>2</sup>
  - 3 bedroom 90 m<sup>2</sup>
- All apartments meet or exceed the recommended minimum size guidance, including:
  - Studio – 35-40m<sup>2</sup>
  - 1 bedroom – 50 – 55m<sup>2</sup>
  - 2 bedroom – 76 – 86m<sup>2</sup>
  - 3+ bedroom – 95 - 436m<sup>2</sup>.

## ADG – Relevant Criteria

## Proposal

- 4 bedroom 102 m<sup>2</sup>.
- 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.
- Habitable room depths are limited to 2.5 x the ceiling height.
- In open plan layouts the maximum habitable room depth is 8 m from a window.
- Master bedroom have a minimum area of 10 m<sup>2</sup> and other bedrooms have 9 m<sup>2</sup>.
- Bedrooms have a minimum dimension of 3m (excluding wardrobes).
- Living rooms have a minimum width of:
  - 3.6 m for studio and one bed
  - 4 m for 2 and 3 bed.

The width of cross-over or cross-through apartments are at least 4m internally.

### 4E Private Open Space and Balconies

- Primary balconies are provided to all apartments providing for:
  - Studios apartments min area 4m<sup>2</sup>
  - 1-bedroom min area 8m<sup>2</sup> min depth 2m
  - 2-bedroom min area 10m<sup>2</sup> min depth 2m
  - 3-bedroom min area 12m<sup>2</sup> min depth 2.5m.
- 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.
- Private open space and primary balconies are integrated into and contribute to the architectural form and detail of the building.

- All apartments provide windows in habitable rooms on external walls.
- All apartments satisfy the habitable room depth and width recommendations.

- All apartments include balconies that meet the minimum size recommendations:
  - studios – 4-18m<sup>2</sup>
  - 1 bedroom – 9-22m<sup>2</sup>
  - 2 bedroom – 11-15m<sup>2</sup>
  - 3+ bedroom – 14-257m<sup>2</sup>.
- The angular form of the buildings results in some balconies falling below the minimum depth recommended by the ADG. The Department notes that majority of the balcony areas comply with the depth recommendations. The Department considers the balconies to be of a practical and usable size, providing suitable outdoor space for residents.
- No ground level apartments are proposed.
- Balcony design avoids opportunities for climbing and falls.
- The proposed balconies are suitably integrated into, and contribute to, the architectural form and detail of the building.

## ADG – Relevant Criteria

## Proposal

Primary open space and balconies maximise safety.

### 4F Common Circulation and Spaces

- 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.
  - For buildings 10 storeys and over, the maximum number of apartments sharing a single lift is 40.
  - Natural ventilation is provided to all common circulation spaces where possible.
  - Common circulation spaces provide for interaction between residents.
  - Longer corridors are articulated.
- A maximum of eight apartments is proposed off a circulation core.
  - A maximum number of 54 apartments will share a single lift, which is 14 more than the ADG guideline. The Applicant has provided a Vertical Transportation Study demonstrating that the lifts provided can service the apartments adequately.
  - The Department is satisfied that the number of lifts is appropriate and waiting times would be acceptable.
  - The residential lobbies and circulation spaces provide opportunities for interaction. Windows for daylight and natural ventilation are provided to the corridors.

### 4G Storage

- The following storage is required (with at least 50% located within the apartment):
    - Studio apartments 4 m<sup>3</sup>
    - 1-bedroom apartments 6 m<sup>3</sup>
    - 2-bedroom apartments 8 m<sup>3</sup>
    - 3-bedroom apartments 10 m<sup>3</sup>
- Residential storage within the development is located within the apartments and secure storage cages within the basement.
  - 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.
  - In addition to this, the proposal seeks to accommodate bicycle parking for each apartment within basement storage cages. However, this results in some apartments lacking the additional 2m<sup>3</sup> typically needed to store a bicycle in these cages. To address this, the Department has recommended a condition requiring the basement storage layout to be revised, where necessary, to ensure adequate space is available for bicycle parking in addition to minimum ADG residential storage.

### 4H Acoustic Privacy

- Noise transfer is minimised through the siting of buildings and building layout and minimises external noise and pollution.
  - Noise impacts within apartments are mitigated through layout and acoustic treatments.
- Noise transfer will be minimised as each floor has the same uses generally stacked on top of each other.
  - However, some apartments have living rooms next to bedrooms (for example, apartments A1202 and A1203, and B1204 and B1205) and bedrooms next to plant rooms (for example, A1203 and B1204).
  - The Department has recommended a condition requiring an internal acoustic privacy assessment be undertaken to confirm that sound transmission of the final internal architectural elements chosen comply with the requirements of the BCA.

## ADG – Relevant Criteria

## Proposal

### 4J Noise and Pollution

- In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.
- Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.

- The Department considers the proposal can achieve good residential acoustic amenity subject to the recommended condition.

- In accordance with the recommendations of the NVIA, apartments will be appropriately designed and insulated to ensure compliance from external sources including railway and traffic noise.
- The Department has recommended conditions to ensure acoustic treatments and recommendations are implemented.

### 4K Apartment Mix

- Provision of a range of apartment types and sizes.
- Apartment mix is distributed to suitable locations within the building.

- The proposal offers a variety of apartment types and sizes, including:
  - 7 studio apartments (2.1%)
  - 58x1 bedroom apartments (17.7%)
  - 126x2 bedroom apartments (38.5%)
  - 133x3 bedroom apartments (40.7%)
  - 3x4 bedroom apartments (0.9%).

### 4M Facades

- Building facades provide visual interest along the street while respecting the character of the local area.
- Building functions are expressed by the façade.

- The proposed development is of a high standard of design and appearance (Section 5.2).
- The proposed facades have been designed to break down the scale of the proposed building.
- The design for the development provides acceptable visual interest at street level.

### 4N Roof Design

- Roof treatments are integrated into the building design and positively respond to the street.
- Opportunities to use roof space for accommodation and open space is maximised.
- Roof design includes sustainability features.

- Roof levels contain plant which is screen by an enclosure, penthouse private open space and solar panels.

ADG – Relevant Criteria	Proposal
<p><b>4Q 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>• The proposal includes extensive landscaping, which would be viable and sustainable and contribute to the streetscape and overall amenity.</li> <li>• Plant selection includes native and non-native species appropriate for the proposed development.</li> <li>• Adequate soil depth, consistent with ADG recommendations, is proposed.</li> <li>• The landscaping strategy includes planting on the building above ground floor level.</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>• 67 apartments (20.5% of total) achieve a silver level performance rating (Liveable Housing Guidelines).</li> <li>• 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>4S Mixed Use</b></p> <ul style="list-style-type: none"> <li>• Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.</li> <li>• Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed mixed-use development is located in an appropriate area, with ground floor retail facing the adjoining streets and the public domain.</li> <li>• Residential levels are located above the retail / commercial uses and safety has been maximised.</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>• Entrance lobbies are covered by the building structure above. The building structure creates an awning over ground floor retail unit facades.</li> <li>• No signage is proposed.</li> </ul>

ADG – Relevant Criteria	Proposal
<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 development has been designed in accordance with ESD principles, and the Department has recommended conditions requiring the development achieve appropriate sustainability targets (<b>Appendix C</b>).</li> </ul>
<p><b>4V Water Management and Conservation</b></p> <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 will be installed.</li> <li>• All stormwater management systems are integrated into the site design along with water treatment measures, in accordance with Council's requirements.</li> </ul>
<p><b>4W Waste Management</b></p> <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 Applicant proposes separate management measures for residential and commercial waste on the site.</li> <li>• Each residential level contains garbage chutes for general waste and recycling.</li> <li>• Bin rooms for residents are located at basement level including a temporary storage of bulky waste.</li> <li>• The Applicant proposes Council waste collection as per the current practices. This is discussed in <b>Section 5.3</b>.</li> </ul>
<p><b>4X Building Maintenance</b></p> <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 buildings have been appropriately designed to allow ease of maintenance.</li> <li>• Plant rooms would be easily accessible.</li> <li>• The proposed materials are robust for ease of maintenance.</li> </ul>

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

The Transport SEPP 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.

Section 2.48 requires the consent authority to notify the relevant utility authority about the proposal. The Department consulted Ausgrid and its response is summarised at **Section 4**. The Department has recommended conditions requiring the Applicant to obtain approval from utility providers for any necessary service connections and infrastructure augmentations.

Sections 2.98 and 2.99 of the Transport SEPP relates to development near railway corridors. The Department referred the proposal to Sydney Trains and Sydney Metro who recommended a suite of

conditions related to further modellings and compliance with railway guidelines to ensure that there be no adverse impacts to railway infrastructure.

Section 2.100 and 2.120 of the Transport SEPP relates to maintenance of acceptable noise and vibration impacts on land in and/or adjacent to a rail corridor and road corridor to ensure the amenity of residential development. The Department has carefully considered operation noise impacts at **Section 5.3** and considers that subject to implementation of the recommendations of the Noise and Vibration Impact Assessment (NVIA), the proposal can comply with noise and vibrations requirements of the Transport SEPP. The Department also referred the application to Sydney Trains and TfNSW and included recommended conditions from the agencies to manage the noise and vibration impacts.

Section 2.119 requires vehicle access be provided from a non-classified road if possible and the development not impact the operation of the classified road. The primary site access will be from O'Brien and ongoing operation of the classified road will not be impacted.

Section 2.122 identifies that some proposals with access to or in vicinity of classified roads are traffic generating development. The proposal was referred to TfNSW as it is identified as a traffic generating development under section 2.122 and Schedule 3. The proposal was referred to TfNSW, and its response is summarised at **Section 4**. The Department has assessed the impacts on the surrounding classified road network in **Section 5.3** and included all recommended conditions by TfNSW.

Clause 3.23 requires that the provisions of the Child Care Planning Guideline be taken into consideration. An assessment of the proposed childcare centre against the design quality principles and spatial controls is provided in **Table C6**.

**Table C6| Consideration of the Child Care Planning Guideline**

Section	Response
<b>2. Design Quality principles</b>	
<b>Principle 1 - Context</b>	The proposed childcare centre is located in the podium of the proposed mixed-use development and is surrounding by similar scaled mixed-use development and a railway corridor.
<b>Principle 2 – Built form</b>	The proposal is location in a mixed-use development consistent in scale with the surrounding area. The proposal includes appropriate articulation to ensure it both break up the building scale and sit comfortability in the broader Chatswood CBD.
<b>Principle 3 – Adaptive learning spaces</b>	An outdoor play area is provided to accommodate 70 children. The fit out and operation of the proposal will be undertaken through a separate application.
<b>Principle 4 – Sustainability</b>	The proposed building envelope includes measures to minimise consumption of resources including high performance glazing systems and sun shading devices on the façade.
<b>Principle 5 – Landscaping</b>	The proposal includes landscaping to the building façade exterior consistent with the design of the development. Landscaping of the outdoor play area will be provided as part of a separate application for the fit out and operation of the childcare centre.
<b>Principle 6 – Amenity</b>	The proposed building envelope provides for windows to three sides of the building to promote natural ventilation and solar access. The internal layout of the childcare centre will be subject to a separate application for the fit out and operation of the centre. The proposal will not lead to adverse privacy, acoustic or visual impacts to the surrounding area.

Section	Response
<b>Principle 7 – Safety</b>	Operation of the proposed childcare centre will be detailed in a separate application for the fit out and operation of the centre. Fencing is proposed around the outdoor play area to provide for acoustic and privacy protection.

### 3. Matters for Consideration

<b>3.1 Site selection and location</b>	The proposed childcare centre is located in the Chatswood CBD in a mixed-use residential building to provide facilities and services to meet their day-to-day needs of residents. The proposal is not located on flood prone, or bushfire prone land however adjoins a railway corridor. A NVIA and Childcare NVIA has been submitted detailing measures to ensure adequate noise and vibrations levels can be achieved at the site as discussed in <b>Section 5</b> .
<b>3.2 Local character, streetscape and public domain interface</b>	The proposed childcare centre is located in a contemporary mixed-use development which is consistent with the high-density nature of existing and emerging development in the Chatswood CBD. The proposal includes measures delineate between the childcare centre and other areas of the development including secure access.
<b>3.3 Building orientation, envelope and design</b>	The proposal is located in the podium level of the development and is setback from the eastern boundary in line with WDCP requirements. The proposed childcare centre has a primarily eastern aspect to optimise solar access. Levels above the podium provide for shading of some of the outdoor play areas. The future application for fit-out and operation of the centre will identify further shading measure, such as landscaping or shading device, should additional shading be required.
<b>3.4 Landscaping</b>	Building landscaping has been provided around part of the perimeter of the childcare centre façade line consistent with other parts of the building to provide an attractive building design. Landscaping of the outdoor play area will be provided for as part of a separate development application for the operation and fit out of the childcare centre.
<b>3.5 Visual and acoustic privacy</b>	The proposed childcare is located in the podium of the development addressing the eastern side boundary of the site adjacent to the railway corridor. The location of the centre provides for minimal opportunities for overlooking from within the development. To ensure acceptable noise intrusion and emission from the centre, the proposal includes acoustic screening ranging from 1.8m to full height to the soffit level above to the outdoor play areas. This screening will also limit opportunities for overlooking from surrounding buildings.
<b>3.6 Noise and air pollution</b>	<p>The Childcare NVIA confirms that subject to acoustic design of the façade noise impacts will be appropriately managed. The Department has recommended conditions requiring evidence be provided to the Certifier than noise and vibration recommendations of the acoustic report be incorporated into the detailed design.</p> <p>The Preliminary Ambient Air Quality Assessment undertaken confirms that as initial short sample length assessment of pollutants indicate they are below required concentration targets during peak traffic hours, it is probable that longer length assessments would also be within target ranges. The Assessment recommends that longer average samples testing be undertaken to confirm air quality. The Department has recommended a condition that this testing be undertaken and if required, any recommendations be incorporated into the detailed design.</p>
<b>3.7 Hours of operation</b>	Operational requirements will be considered as part of a separate application for the fit-out and operation of the childcare centre.
<b>3.8 Traffic, parking and pedestrian circulation</b>	Off-street car parking in the basement of the development is proposed in accordance with the WDCP rates.

### 4. Applying the National Regulations to development proposals

Section	Response
<b>4.1 Indoor space requirements</b>	<p>A minimum of 3.25m<sup>2</sup> of unencumbered indoor space is required per child. The proposal has the capacity to provide for 234m<sup>2</sup> of unencumbered play area to accommodate up to 72 children.</p> <p>The Department notes that the Application indicates that 73 children are proposed however considers that the future application for fit out and operation of the centre will set the maximum capacity for the centre with consideration of the final internal layout of the centre.</p>
<b>4.9 Outdoor space requirements</b>	<p>A minimum of 7m<sup>2</sup> of unencumbered outdoor space is required per child. The proposal has 490m<sup>2</sup> of outdoor space to accommodate up to 70 children.</p> <p>The Department notes that the Application indicates that 73 children are proposed however considers that the future application for fit out and operation of the centre will set the maximum capacity for the centre with consideration of the final internal layout of the centre.</p>
<b>4.13 Soil assessment</b>	<p>The proposed childcare centre is located on Level 2 of the development. The proposal includes a Detailed Site Investigations (DSI) for 849, 853 and 859 Pacific Highway and 2 Wilson Street and Remediation Action Plan for 8 Wilson Street which included recommendations to ensure the site is suitable for the proposed development. The Department has recommended conditions to implement and verify completion of the DSI and RAP and considers the site can be made suitable for the proposed development in accordance with the requirements of Hazards SEPP.</p>

**4.2 Laundry and hygiene facilities, 4.3 Toilet and hygiene facilities, 4.4 Ventilation and natural light, 4.5 Administrative space, 4.6 Nappy change facilities, 4.7 Premises designed to facilitate supervision, 4.8 Emergency and evacuation procedures, 4.10 Natural environment, 4.11 Shade, 4.12 Fencing**

These requirements will be considered in a separate application for the fit-out and operation of the childcare centre.

Section 3.26 provides non-discretionary development standards relating to location, indoor or outdoor spaces, site area, site dimensions and building materials. The Department is satisfied that the proposal complies with the non-discretionary standards.

The Department considers the proposal to be consistent with the relevant provisions of the Transport SEPP given the consultation and consideration of road and rail noise and vibration, transport, traffic and parking issues in **Section 5** and recommended conditions in **Appendix E**.

**State Environmental Planning Policy (Resilience and Hazards) 2021 (Hazards SEPP)**

Chapter 4 of the Hazards SEPP aims to ensure potential contamination issues are considered in the determination of a development application and requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose of the proposed development or if remediation is required to make it suitable.

The EIS included two Detailed Site Investigations (DSI), one for 849, 853 and 859 Pacific Highway and 2 Wilson Street and one for 8 Wilson Street.

**849, 853 and 859 Pacific Highway and 2 Wilson Street**

The DSI for 849, 853 and 859 Pacific Highway and 2 Wilson Street identified that some levels of groundwater contamination above recommended criteria however noted that the exceedances are typical concentrations of metals within groundwater in an urban environment. The DSI also identified some levels of soil contamination above recommended criteria. The DSI made the following recommendations to make the site suitable for the proposed development:

- removal of the contamination soil as part of the bulk excavation works
- preparation of a pre-demolition hazardous building materials survey.

The proposal included a Hazardous Building Materials Survey identifying asbestos in some building and recommended removal by a licensed firm during demolition. The Department notes that buildings and structures on the site have been demolished through separate approval.

### 8 Wilson Street

The DSI for 8 Wilson Street identified that some levels of groundwater contamination above recommended criteria however noted that the exceedances are typical concentrations of metals within groundwater in an urban environment. The DSI also identified some levels of soil contamination above recommended criteria and asbestos impacted fill. The DSI made the following recommendations to make the site suitable for the proposed development:

- a Remediation Action Plan (RAP) be prepared to make the site suitable for the proposed development
- a validation report be prepared documenting that all necessary remediation works have been successfully undertaken
- development of an unexpected finds protocol for implementation during earthworks.
- A RAP has been submitted with the EIS, which recommended:
  - removal of contaminated soils
  - waste classification and off-site waste disposal of contaminated soil
  - preparation of a validation assessment report in accordance with the NSW EPA Guidelines

The Department considers the site can be made suitable for the proposed development in accordance with the requirements of Hazards SEPP, subject to the DSI recommendations for 849, 853 and 859 Pacific Highway and 2 Wilson Street and implementation of the RAP for 8 Wilson Street.

### **State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Building SEPP)**

This SEPP encourages sustainable residential development by setting targets that measure efficiency of buildings in relation to water and energy use and thermal comfort.

A BASIX certificate was submitted demonstrating the proposal achieves compliance with the BASIX water, energy and thermal comfort requirements under this SEPP. The Department recommends a condition of consent requiring compliance with the BASIX certificate.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity SEPP)**

Relevant chapters of this SEPP aim to protect the biodiversity values of vegetation in non-rural areas and to protect the water quality and quantity of water catchments.

The proposal includes a BDAR waiver, as it will not have any significant impacts on the local biodiversity.

The Department considers the proposed removal and planting of replacement trees is acceptable (see **Section 5.3**) and that the water quality will be appropriately addressed through the implementation of proposed water sensitive urban design measures.

### **Willoughby Local Environmental Plan 2012 (WLEP)**

A summary of the Department’s consideration of the relevant standards contained in the WLEP are provided in **Table C7** below and concludes that the proposal is consistent with the WLEP.

**Table C7** | Compliance with LEP development standards

Control	Department’s consideration
<p><b>2.3 Zone objectives and land use table</b></p>	<p>The site is zoned MU1 Mixed Use, which permits shop top housing, centre-based childcare facilities and commercial premises. The proposed development is permitted with consent.</p> <p>The proposal is consistent with the objectives of the zone as it:</p> <ul style="list-style-type: none"> <li>• contributes to the diversity of businesses within the Chatswood CBD, whilst generating employment</li> <li>• provides a high level of residential amenity</li> <li>• will contribute to addressing supply to meet the demand within a high-density environment</li> <li>• provides for housing, including affordable housing.</li> </ul>
<p><b>4.3 Height of buildings</b></p>	<p>The maximum building height is governed by Section 16 of the Housing SEPP which permits an additional 30%, as the proposal includes 15% of its GFA as affordable housing. The proposal exceeds the maximum permissible building height under the Housing SEPP as discussed in <b>Section 5.1</b> and <b>Appendix D</b>.</p>
<p><b>4.4 Floor space ratio</b></p>	<p>The maximum floor space ratio (FSR) is governed by Section 16 of the Housing SEPP which permits an additional 30%, as the proposal includes 15% of its GFA as affordable housing. The proposal exceeds the maximum permissible FSR under the Housing SEPP (see <b>Section 5.1</b> and <b>Appendix D</b>).</p>
<p><b>4.6 Exceptions to development standards</b></p>	<p>The Applicant has submitted a clause 4.6 variation request to vary clause 6.25 of the WLEP relating to the provision of a minimum commercial GFA, maximum permitted building height and maximum permitted FSR as discussed at <b>Section 5.1</b> and <b>Appendix D</b>.</p>
<p><b>5.10 Heritage conservation</b></p>	<p>The site does not contain a heritage item and is not located in a heritage conservation area. However, the site is located approximately 80m west of the North Chatswood heritage conservation area (HCA) and local heritage item in the HCA.</p> <p>The EIS included a Statement of Heritage Impact that concluded that the proposal will not have an unacceptable impact on the HCA or any heritage items within the vicinity of the site.</p>
<p><b>5.21 Flood planning</b></p>	<p>The site is not impacted by flooding.</p>
<p><b>6.1 Acid sulphate soils</b></p>	<p>The site is identified as containing Class 5 Acid Sulphate Soils however the application confirmed that Acid Sulphate Soils are not considered to be a risk at the site.</p>

Control	Department's consideration
6.2 Earthworks	The proposal includes earthworks relating to the excavation of basement levels. The Department considers the proposed earthworks would not have detrimental impact on environmental functions, processes, neighbouring uses, cultural or heritage items or features subject to conditions.
6.3 Urban heat	The proposal includes features to mitigate urban heat, including tree planting, appropriate solar orientation and building materials.
6.7 Active street frontages	The proposed development provides for active street frontages with ground floor commercial uses addressing the street and through-site links.
6.8 Affordable housing	The Department has recommended a condition of consent requiring a contribution in accordance with clause 6.8, as discussed at <b>Section 5.6</b> .
6.15 Sun access	The proposal has been designed to minimise solar impacts. The proposal would not result in any overshadowing of the Victoria Avenue and Concourse Open Space.
6.16 Minimum lot sizes	The site has an area of 4,752m <sup>2</sup> and exceeds the minimum lot size requirement for a mixed-use development in the MU1 zone (1,200 m <sup>2</sup> ).
6.23 Design excellence	<p>The WLEP requires a competitive design process be undertaken for the development as the site is identified with a Design Excellence Area on the WLEP Special Provisions Map and the proposal involves a building with a height greater than 35 m.</p> <p>An architectural design competition was undertaken for the site in 2023 for an LEP compliant scheme. The SSD proposal seeks to largely retain the competition-winning design while adding the additional building height and FSR to the proposal which is permitted under the Housing SEPP (Section 5.1.1).</p> <p>On 16 December 2024, the GANSW waived the requirement for a further design competition on the site in accordance with clause 6.23(8) as the proposal is generally consistent with the competition winning design and was reviewed by a DIP (equivalent to a design review panel) who advised the proposal is capable of achieving design excellence.</p> <p>The Department has considered the findings of the DIP and concludes the proposal exhibits design excellence having regard to the matters specified in clause 6.23(4) and (5), as discussed in <b>Table C8</b>.</p>
6.25 Shop top housing in zone MU1	<p>Clause 6.25 requires development for shop-top housing in the MU1 zone include 17% of the GFA as non-residential floorspace.</p> <p>The proposed non-residential floorspace is equivalent to 10.8% of the total GFA and is therefore 6.2% (2,419.4 m<sup>2</sup>) less than the WLEP requirement.</p> <p>The application includes a clause 4.6 variation request to vary the clause 6.25 minimum non-residential floorspace requirement for the site. The Department has</p>

**Control****Department's consideration**

considered the variation request at **Section 5.2** and **Appendix D** and concludes the variation is acceptable.

**Consideration of design excellence**

Clause 6.23(3) states that development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

In considering design excellence, the Department had regard to the jury report for the previous design competition held in 2023 and the DIP reports. The Department considers that the proposal satisfies clause 6.23(4) and (5) of the WLEP as outlined in Table C8.

**Table C8** | Department's consideration of the WLEP clause 6.23 (4) and (5) design excellence provisions

<b>Control</b>	<b>Department's consideration</b>
<b>6.23(4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</b>	
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	<p>The design of the proposal exhibits a high standard of architectural design, materials and detailing, appropriate for the Chatswood CBD precinct.</p> <p>The design has been accepted and endorsed by the DIP that comprised members of the jury for the original design competition, and the DIP agreed the proposal maintains the key elements of the winning scheme.</p>
(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,	<p>The proposal improves the quality and amenity of the public domain through provision of a publicly accessible pocket park, through-site links, footpaths and landscaping. Sufficient solar access is provided to the park and pedestrian wind comfort, and safety is provided subject to recommended conditions.</p>
(c) whether the development detrimentally impacts on view corridors,	<p>The proposal would not have any detrimental impacts on identified view corridors.</p>
<b>6.23(5) The consent authority must also have regard to how the development addresses the following matters—</b>	
(a) the suitability of the land for development,	<p>The proposal is permissible on the site and would offer a land use mix suitable for the existing and future character of the area. The application includes a DSI and RAP, which demonstrates that the site is suitable for the development in terms of contaminated land subject to the implementation of recommendations of the DSI and RAP.</p>
(b) existing and proposed uses and use mix,	<p>The proposal would result in a mixed-use development with affordable housing aligning with uses permitted in the MU1 zone and the Housing SEPP.</p> <p>The proposed quantum of non-residential floorspace is consider acceptable as discussed at <b>Appendix D</b>.</p>

Control	Department's consideration
(c) heritage issues and streetscape constraints,	The proposal would not result in any adverse impacts on nearby heritage conservation area ( <b>Appendix C</b> ) and responds appropriately to existing streetscape constraints.
(d) 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,	<p>The proposal includes appropriate boundary setbacks consistent with the ADG recommended guidelines and would not result in adverse overshadowing or overlooking of adjoining properties (<b>Section 5.1</b>).</p> <p>The proposal has an appropriate built form relationship to adjoining properties, noting its Chatswood CBD location and the desire future character of the area. The design and built form of the proposal has been endorsed by the DIP.</p>
(e) bulk, massing and modulation of buildings,	The bulk, massing and modulation of the buildings responds to the planning controls for the site and is considered appropriate in the CBD context. The bulk, massing and modulation was endorsed and supported by the design competition jury and later supported by the DIP.
(f) street frontage heights,	The three-storey street frontage height is consistent with the desired future character of the area. The street frontage heights were endorsed by the design competition jury and later supported by the DIP.
(g) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,	The proposal promotes sustainable design, minimises overshadowing, wind impacts and reflectivity.
(h) the achievement of the principles of ecologically sustainable development,	The proposal has been designed in accordance with ESD principles, as discussed in <b>Appendix C</b> .
(i) pedestrian, cycle, vehicular and service access, circulation and requirements,	The proposal provides for residential lobby, commercial entrances and vehicle entrance. The vehicular access and circulation are considered satisfactory.
(j) the impact on, and any proposed improvements to, the public domain,	The proposal would enhance and improve the public domain through the provision of hard and soft landscaping, including tree planting.
(k) the impact on special character areas,	The proposal would not have an adverse impact on special character areas.
(l) achieving appropriate interfaces at ground level between the building and the public domain,	The proposal achieves appropriate interfaces at the ground level through provision of appropriate setbacks, awnings, ramps and stairs landscaping and provision of active frontages.
(m) excellence and integration of landscape design.	The landscape design has been well integrated within the site as discussed at <b>Section 5</b> .

## Appendix D – Consideration of Clause 4.6 Variation Request

The proposal seeks variation of the following development standards:

- Section 16 Affordable housing requirements for additional floor space ratio (FSR) of the Housing SEPP in relation to subsection (2) FSR
- Section 16 Affordable housing requirements for additional floor space ratio of the Housing SEPP in relation to subsection (3) building height
- Clause 6.25 provision of non-residential floor space within shop top housing of the WLEP.

Clause 4.6 of the WLEP permits the consent authority to consider a variation to a development standard imposed by an EPI. The objectives of clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. In consideration of the proposed variation, clause 4.6(3) requires the following:

*(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the Applicant has demonstrated that—*

*(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

*(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

In accordance with section 35B of the *Environmental Planning and Assessment Regulation 2021*, the Applicant has prepared a written request to vary the development standard under clause 4.6 of the WLEP (**Appendix A**).

### Floor space ratio

The maximum FSR for the site is 7.8:1 (GFA 33,493.2m<sup>2</sup>), comprising a base FSR of 6:1 (GFA 25,764 m<sup>2</sup>) under the WLEP plus an additional bonus of 30% under section 16(1) of the Housing SEPP as 15% of the total GFA of the development is provided as affordable.

The proposal exceeds the maximum permissible FSR, as detailed in **Table 5** in **Section 5.1**.

The Applicant has advised the additional GFA is caused by:

- enclosure of balconies to satisfy TfNSW guidelines for protection of rail corridors (2,847.4 m<sup>2</sup>)
- enclosure of residential corridors to be consistent with the approved DA (2,487 m<sup>2</sup>)

The following provides an assessment of the proposed exception to the section 16(1) of the Housing SEPP under clause 4.6 of CBLEP, applying the tests summarised by Chief Justice Preston of the NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* and *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* (Wehbe case) as reaffirmed in *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 [34]*.

1. Has the consent authority considered a written request demonstrating compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The Applicant has submitted a written request (**Appendix A**), seeking a variation to the floor space ratio development standard under clause 16(1) of the Housing SEPP, that applies to the site.

The Applicant's clause 4.6 request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstance of the case because:

- the proposal is consistent with the objectives of Division 1 of the Housing SEPP and the objectives of the FSR under the WLEP
- 2,847.4 m<sup>2</sup> of the additional GFA comprise wintergardens, which are necessary to attenuate noise from the adjoining railway line and would be integrated within the northern and western facades of the buildings
- 2,487 m<sup>2</sup> of the GFA is attributed to enclosure of building corridors to be consistent with the approved DA and ensure amenity for residents and commercial users
- the development facilitates affordable housing apartments in a well-located site, close to public transport and delivers public benefits beyond that anticipated by the planning controls
- the proposal is in keeping with the first and third test of the five-part tests in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

For the reasons provided above, the Department accepts that compliance with the FSR standard is unreasonable or unnecessary given the circumstances of the case.

2. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard?

The Department considers there are sufficient environmental planning grounds to justify the proposals contravention of the development standard in the circumstances as provided in the Applicants written request and as summarised below:

- the exceedance partly relates to constraints of the site noting it adjoins a rail corridor and is required to comply with noise amenity requirements of the Transport SEPP and TfNSW guidelines for minimising throw risks for apartments within 20m of a rail corridor.
- the exceedance partly relates to ensuring adequate amenity for residents using corridors to ensure they are weather and wind protected
- the development would not result in any unreasonable impacts on surrounding development in terms of view impacts, overshadowing or privacy
- the proposal has been subject to an architectural design competition for the previously approved DA, Bridging Design Excellence Strategy and has been 'endorsed' following DIP review sessions
- the additional GFA enables the delivery of a well-designed development containing employment floorspace and desirable high-quality housing, including 59 affordable housing apartments in a well-located site.

### Building height

The maximum building height for the site is 117m comprising a base building height of 90m under the WLEP plus an additional bonus 30% under section 16(3) of the Housing SEPP as 15% of the total GFA of the development is provided as affordable.

The proposal has a maximum building height of 121.53m and seeks a variation of 4.53m (3.9%) to maximum permitted building height as illustrated in **Figures 5 and 6 in Section 5.1**.

The Applicant has advised the additional building height is caused by:

- rooftop plant and balustrades for wind mitigation (3m in height)
- additional floor to floor heights required to comply with insulation and waterproofs required by *Design and Building Practitioners Act 2020* (1.53m)

The following provides an assessment of the proposed exception to the section 16(1) of the Housing SEPP under clause 4.6 of CBLEP, applying the tests summarised by Chief Justice Preston of the NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* and *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* (Wehbe case) as reaffirmed in *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 [34]*.

1. Has the consent authority considered a written request demonstrating compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The Applicant has submitted a written request (**Appendix A**), seeking a variation to the building height development standard under clause 16(3) of the Housing SEPP, that applies to the site.

The Applicant's clause 4.6 request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstance of the case because the proposal:

- is consistent with the objectives of Division 1 of the Housing SEPP and the objectives of the building height clause under the WLEP
- would not result in any unreasonable impacts on surrounding development in terms of view impacts, overshadowing or privacy
- facilitates affordable housing apartments in a well-located site, close to public transport and delivers public benefits beyond that anticipated by the planning controls

is in keeping with the first test of the five-part tests in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

For the reasons provided above, the Department accepts that compliance with the FSR standard is unreasonable or unnecessary given the circumstances of the case.

2. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard?

The Department considers there are sufficient environmental planning grounds to justify the proposals contravention of the development standard in the circumstances as provided in the Applicants written request and as summarised below:

- the exceedance relates to plant rooms and roof features and does not include habitable floor area.
- the development would not result in any unreasonable impacts on surrounding development in terms of view impacts, overshadowing or privacy
- the lift overruns and glass balustrades are integrated into the design of the building and contribute to the identity of the building
- the exceedance is also partially caused by increased floor to floor heights required to comply with updated construction standards in the *Design and Building Practitioners Act 2020*

- while larger building floorplates may result in a compliant building height, it would increase the building bulk and scale, and overshadowing to surrounding development
- the exceedance does not result in a breach of the Sydney Airport Obstacle Surface Limitation level.

### Shop top housing in Zone MU1

Clause 6.25 requires development for shop-top housing in the MU1 zone include a minimum of 17% of the total GFA as non-residential floorspace. The proposal includes a total of 39,014 m<sup>2</sup> GFA and seeks to vary the clause 6.25 minimum non-residential floorspace development control as summarised in **Table D1**.

**Table D1** | Variation of clause 6.25 of the WLEP

Non-residential component	WLEP minimum control	Proposed non-residential component	Variation
Percentage	17%	10.8%	6.2%
GFA	6,632.4 m <sup>2</sup>	4,213.5 m <sup>2</sup>	- 2,419.4 m <sup>2</sup>

The following provides an assessment of the proposed exception to the non-residential floor space development standard under clause 4.6 applying the tests summarised by Chief Justice Preston of the NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* and *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* as reaffirmed in *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 [34]*.

1. Has the consent authority considered a written request demonstrating compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

The Applicant has submitted a written request (**Appendix A**) seeking variation to clause 6.25 shop top housing in MU1 zone development standard that applies to the site.

In summary, the Applicant's clause 4.6 request demonstrates that compliance with the standard is unreasonable and unnecessary in the circumstance of the case as:

- the application seeks to increase residential GFA on the site utilising the incentives available under the section 16 Housing SEPP and therefore:
  - the additional GFA is for residential purposes only, including affordable housing apartments
  - this has partly resulted in a numerical non-compliance in the percentage of the non-residential floorspace offered on the site
- while Clause 6.25 does not include stated objectives the development is consistent with the intent of the WLEP to provide non-residential floor space within the Chatswood CBD as:
  - the proposed non-residential uses would activate the street frontages and through site links
  - the proposed childcare centre will provide for an essential need in an accessible location close to housing
  - the proposed live/work apartments provide for a contemporary solution to changing working patterns

- the proposed residential uses will increase demand and support non-residential uses in the Chatswood CBD
- the proposal meets the objectives of the MU1 zone by providing for a mixed-use development, a range of residential uses, active street frontages and easy access to public transport

The Department has reviewed the Applicant's request and accepts that compliance with the non-residential floorspace requirement is unreasonable or unnecessary given the circumstances of the case.

2. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard?

The Department considers there are sufficient environmental planning grounds to justify the proposals contravention of the development standard in the circumstances as provided in the Applicants written request and as summarised below:

- the non-compliance is insignificant and would be imperceptible within the CBD context and to a large extent has resulted due to an increase in the residential floorspace allowed for by the bonus provisions of the Housing SEPP
- the increase non-residential floor space would reduce the capacity to provide additional housing and utilise incentive provisions of the Housing SEPP
- the proposal includes active ground level uses that enhance the streetscape and maximise visual surveillance, provision of additional floorspace would not further activate the street levels
- despite the non-compliance the proposed provision of non-residential floorspace still represents a significant contribution to employment floorspace within the zone, generally consistent with what was anticipated for this site within the Chatswood CBD.

## Appendix E – Recommended instrument of consent

<https://www.planningportal.nsw.gov.au/major-projects/projects/mixed-use-development-including-infill-affordable-housing-chatswood-grand-residences>