

Mixed use development with in-fill affordable housing – 3-5 Help Street, Chatswood

State Significant Development Assessment Report (SSD-76555711)

November 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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Executive Summary

This report details the Department of Planning, Housing and Infrastructure's (the Department) assessment of the State significant development application SSD-76555711 for the mixed-use development with affordable housing. The site is at 3-5 Help Street, Chatswood, within the Willoughby City Council LGA.

Loftex Chatswood (the Applicant) seeks consent to demolish two apartment buildings and redevelop the site to provide 160 apartments, including 32 infill affordable units managed by a community housing provider (CHP), across a single building with 35 storeys and five basement levels. The project has a capital investment value of \$102,055,307 and is expected to generate 274 construction jobs.

The Department exhibited the environmental impact statement (EIS) from Tuesday, 17 June 2024, until Wednesday, 16 July 2024. During the exhibition period, the Department received:

- 13 public submissions all objecting
- an objection from Willoughby City Council (Council)
- advice from 12 government agencies.

Key concerns raised in submissions included traffic car parking impacts, built form and design, overshadowing, visual impact, noise and privacy, construction and cumulative impacts, impact on infrastructure, amenity, overcrowding, wellbeing and neighbourhood safety.

The Applicant submitted a response to submissions report on 18 September 2025, addressing the issues raised in submissions and agency advice. On 20 October 2025, the Applicant provided additional details, including revised Architectural Plans (reflecting updates to waste management areas, visual privacy, and loading zones), an updated Traffic Impact Assessment, Survey Plan, Operational Waste Management plan, Civil Engineering Drawings, Technical Ground Water Impact Memorandum, a letter to registered Aboriginal Parties, and a letter from a lift consultant.

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 and the Applicant's response. The Department considers the proposal is acceptable as it:

- will support the NSW Government's priorities to deliver well-located housing in a highly accessible location
- complies with the Housing SEPP provisions for in-fill affordable housing, enabling additional floor space and increased building height for developments that provide affordable housing for a minimum of 15 years

- provides a bulk and scale that is compatible with the desired future character of the Chatswood CBD
- achieves a good residential amenity for future residents in accordance with the Apartment Design Guide
- achieves design excellence in its architectural expression, use of high-quality materials, good residential amenity and positive contribution to the public domain
- does not result in any unreasonable impacts on adjoining or nearby properties.

For these reasons, the Department considers that the project is in the public interest and recommends that the application be approved, subject to recommended conditions.

Contents

Executive Summary	i
1 Introduction.....	1
1.1 Project location.....	1
1.2 Related projects and works	4
2 Project.....	6
2.1 Project overview.....	6
3 Policy and Strategic context	9
3.1 Housing Policy	9
3.2 Permissibility and assessment pathway	9
3.3 Other approvals and authorisations.....	10
3.4 Planning Secretary’s environmental assessment requirements.....	11
3.5 Mandatory matters for consideration	11
4 Engagement.....	12
4.1 Exhibition of the EIS	12
4.2 Response to submissions.....	15
5 Assessment.....	16
5.1 Built form.....	16
5.2 Residential Amenity.....	17
5.3 Non-residential floor space	22
5.4 Other issues.....	22
6 Evaluation.....	29
7 Recommendation.....	30
8 Determination	31
Appendices.....	32
Appendix A – List of referenced documents	32
Appendix B – Department’s consideration of submissions	33

Appendix C - Statutory considerations.....	37
Appendix D – Consideration variation to development standards.....	63
Appendix E – Recommended instrument of consent.....	66

1 Introduction

1.1 Project location

The subject site is located at 3-5 Help Street, Chatswood, in the Willoughby local government area (LGA) (Figure 1). The site details and surrounding context are described in Table 1 and illustrated in Figures 1 to 3.

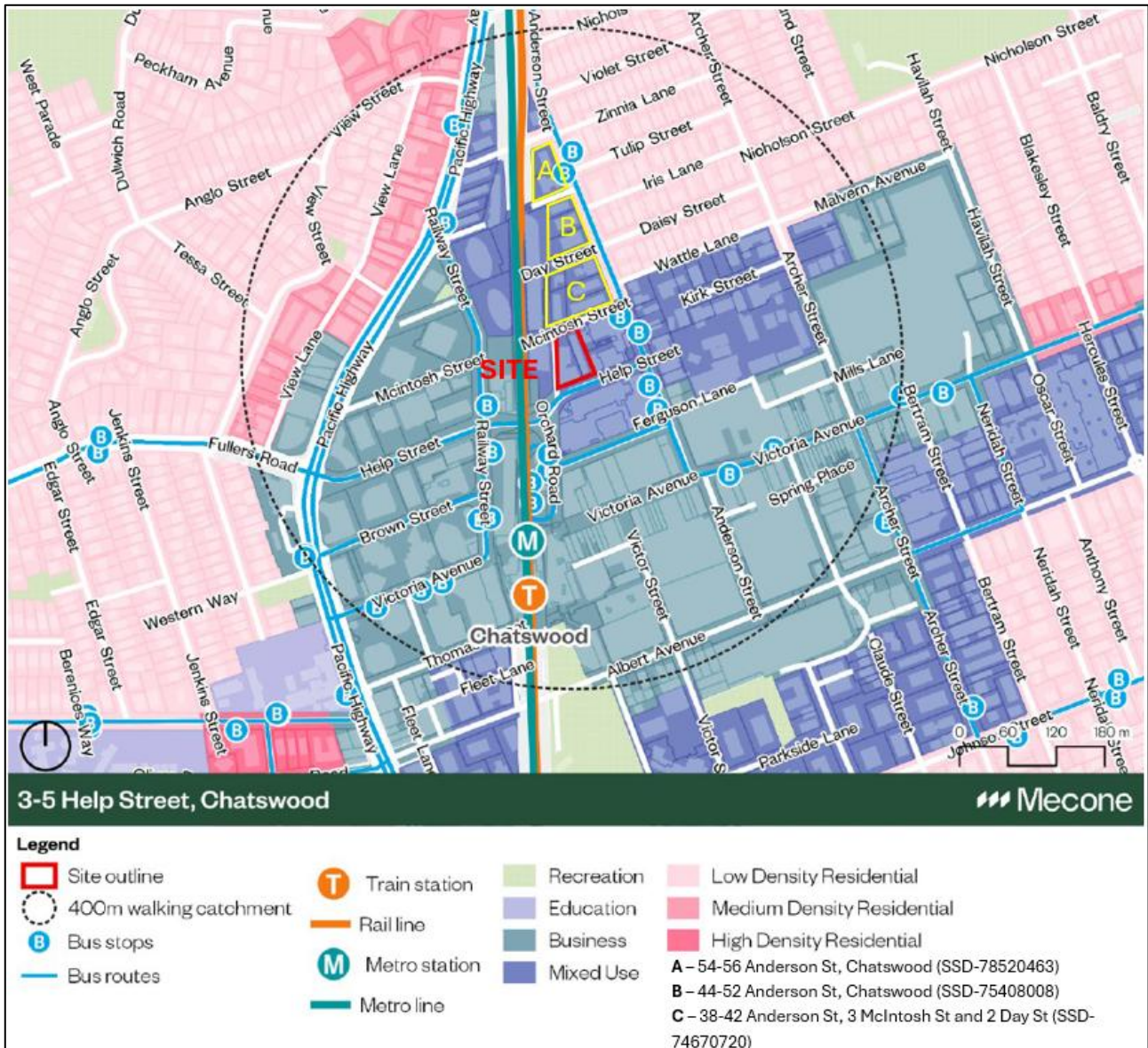


Figure 1 | Local context map (source: Mecone)

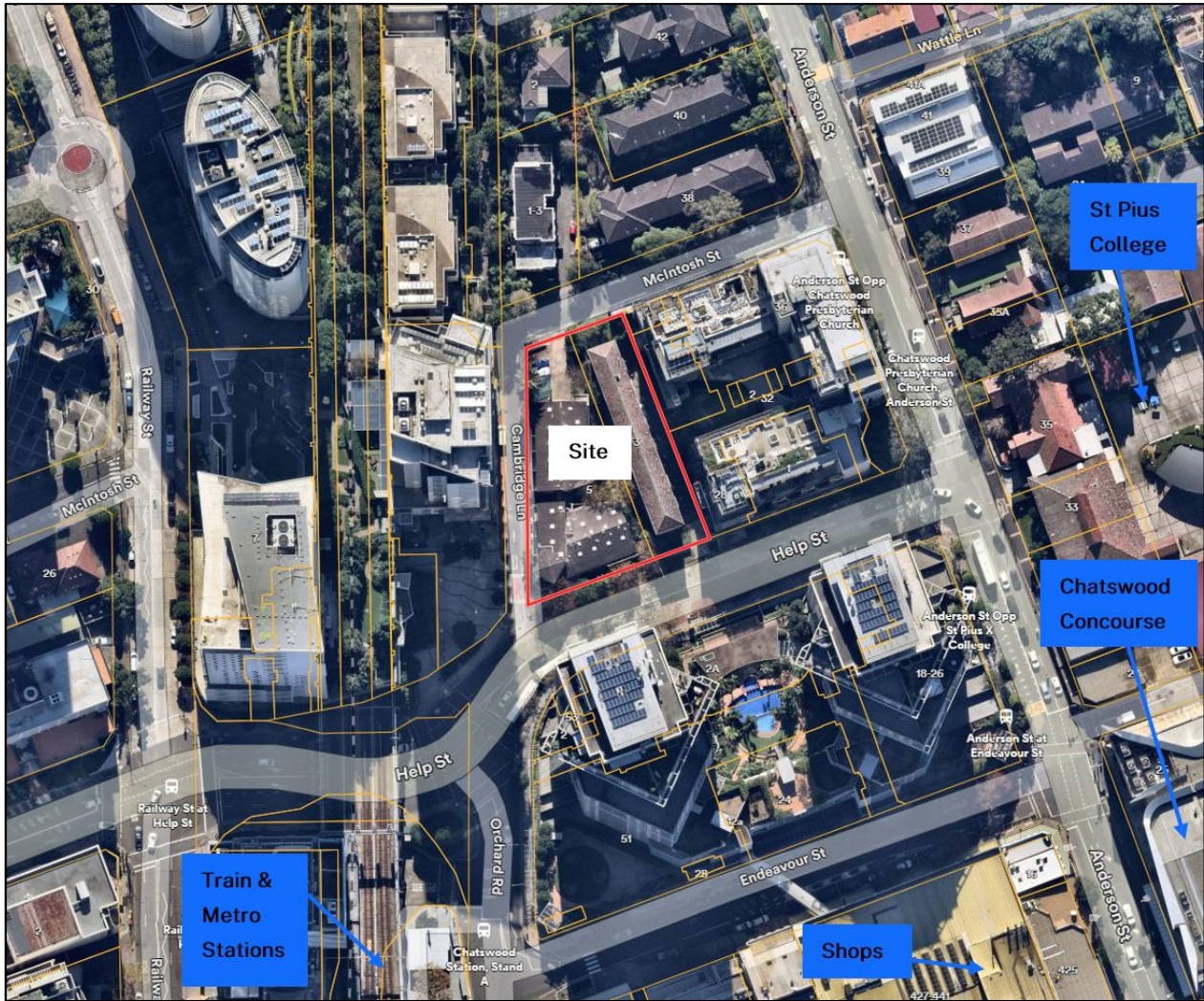


Figure 2 | Site context (source: Nearmap)



Figure 3 | Southern view of the site from McIntosh Street (source: Assessment Planner).

Table 1 | Key aspects of the project site

Aspect	Description
Address	3 Help Street – SP134 and 5 Help Street – SP52320
LGA	Willoughby City Council
Site area	2,290 m ²
Zone	MU1 – Mixed Use
Existing development	The site is currently occupied by two three-storey residential flat buildings comprising 53 residential units and ground floor parking.
Surrounding development	The site is situated on the north-eastern edge of the Chatswood CBD, a major mixed-use retail and commercial centre with a transport interchange. To the north, south, and west of the site are a variety of shop-top housing developments and low-rise residential flat buildings. A church and school are located to the east. To the north-east lies a low-density residential neighbourhood within the North Chatswood HCA.
Topography	The site has a moderate fall of 3.51 m from its northern boundary to the southern boundary (95.37 m AHD to 91.86 m AHD).
Existing access	The site has a 48.4m frontage to Help Street, 64.7m frontage to Cambridge Lane and a 26.7m frontage to McIntosh Street. Existing development on the site has access to McIntosh Street (north) and Help Street (south).
Public transport	Chatswood Train and Metro Stations are 250m south of the site, including the T1, T9, and Central Coast/Newcastle rail services, as well as M1 Sydney Metro services. The existing bus interchange on Orchard Road, within 200m of the site, offers services to the Northern Beaches
Heritage	The site does not contain any local or state heritage items and is not in a conservation area. The site is located within 100m of the North Chatswood Heritage Conservation Area (HCA), and a Local Heritage Item (I 129) is located within 150 m of the site.
Flooding	The site is subject to overland flow.
Soil and water	The site has Class 5 acid sulfate soils. The submitted Detailed Site Investigation Report identified that soil and groundwater samples complied with health-based and ecological criteria, and the site can be made suitable for the proposed residential use. Site ground conditions are fill materials up to 1.4m in depth, then natural clay and silty soils, then bedrock.

Aspect	Description
	Groundwater will be encountered with basement excavation and would require temporary dewatering of the site.

1.2 Related projects and works

1.2.1 Local development application for shop top housing (Local DA)

On 17 September 2024, the Sydney District/Regional Planning Panel approved DA-2023/160 for the demolition of existing structures and the construction of a 27-storey shop-top housing development with 127 units and three basement levels (Figure 4). On 14 November 2022, an architectural design competition was held, and EMBECE's scheme was awarded the winner.

The current SSD seeks to add eight storeys and two additional basement levels, resulting in 160 dwellings. On 18 February 2025, the Design Integrity Panel confirmed that the amended design for the SSD (Figure 5) required no further reviews. The Applicant intends to surrender the old consent of DA-2023/160 before the construction certificate is issued.



Figure 4 | DA approved scheme by EMBECE.



Figure 5 | Proposed SSD design by EMBECE.

1.2.2 Nearby development applications

Following these amendments and at the time of writing, multiple State significant development (SSD) applications are under assessment or have been determined in proximity to the site and within the Chatswood CBD more broadly. Nearby projects are identified to the north in the site Map (Figure 1) above and are described in further detail in Table 2 below.

Table 2 | Nearby projects (see Map Figure 1 of the northern sites)

Ref	Address	SSD number	Proposal
A	54-56 Anderson St, Chatswood	SSD- 78520463	Construction of a 34-storey shop-top housing development. The proposal is for 117 apartments (87 market apartments and 30 affordable apartments). It proposes a five-level basement with 126 car parking spaces.
B	44-52 Anderson St, Chatswood	SSD- 75408008	Construction of a 33-storey shop-top housing development. The proposal is for 123 apartments (87 market apartments and 36 affordable apartments). It proposes an eight-level basement with 296 car parking spaces.
C	38-42 Anderson St, 3 McIntosh St and 2 Day St	SSD- 74670720	Construction of a mixed use development comprising 250 residential apartments (including 49 in-fill affordable apartments), retail and office uses, excavation works and associated works.

2 Project

2.1 Project overview

The proposal seeks approval for an infill, affordable, shop-top housing development. The key aspects of the project are detailed in the Project Description chapter of the EIS report and outlined in Table 3.

Table 3 | Key aspects of the project

Aspect	Description																				
Built form	- Construction of one 35-storey mixed-use shop top housing building with: - five levels of basement car parking - part three-four storey podium with commercial and retail on the ground floor.																				
Gross floor area (GFA)	15,238 m² of residential floor space 2,345 m² non-residential floor space - Total GFA = 17,583.7 m²																				
Floor space ratio (FSR)	7.68:1																				
Building heights	115.2m (35 Storeys)																				
Dwelling mix	160 dwellings with 32 affordable dwellings (28%). Unit mix: <table><tr><th>Apartment size</th><th>Market</th><th>Affordable</th><th>Totals</th></tr><tr><td>1 bedroom</td><td>37</td><td>18</td><td>55 (34%)</td></tr><tr><td>2 bedroom</td><td>75</td><td>14</td><td>89 (55.6%)</td></tr><tr><td>3 bedroom</td><td>16</td><td>-</td><td>16 (10%)</td></tr><tr><td>Total (%)</td><td>110 (80%)</td><td>32 (20%)</td><td>160</td></tr></table>	Apartment size	Market	Affordable	Totals	1 bedroom	37	18	55 (34%)	2 bedroom	75	14	89 (55.6%)	3 bedroom	16	-	16 (10%)	Total (%)	110 (80%)	32 (20%)	160
Apartment size	Market	Affordable	Totals																		
1 bedroom	37	18	55 (34%)																		
2 bedroom	75	14	89 (55.6%)																		
3 bedroom	16	-	16 (10%)																		
Total (%)	110 (80%)	32 (20%)	160																		
Car parking	The five levels of basement parking provide a total of 165 spaces, including: - Market residential: 141 - Affordable housing: 15 - Commercial/retail: 9																				
Bicycle Parking and Motorcycle Parking	- Bicycle: 34 - Motorcycle: 10																				
Access	Vehicle access from Help Street travelling east																				

Aspect	Description
	Access lobbies to residential and commercial components on Cambridge Lane.
Communal open space	- Outdoor space: 431m² - Indoor space: 186m² - Total: 617 m² (27%)
Landscaping / deep soil	- Deep soil area: 172.7m² (7.5%) - Soft landscaping: 549.6m² (24%) - Removal of 23 trees, planting of 26 new trees
EDC	\$102,055,307
Employment	274 jobs during construction.
Associated works	- Demolition of existing dwellings. - Bulk earthworks with 34,500 m³ of excavation. - Site remediation. - Extension/augmentation of utilities and service infrastructure. - Removal of redundant driveways and crossovers.



Figure 6 | Montage of western elevation on Cambridge Lane (Source: Design Report)



Figure 7 | Montage of northern elevation on Help Street (Source: EMBECE)

3 Policy and Strategic Context

3.1 Housing Policy

The NSW Government has an aspirational target of 377,000 well-located homes over the next 5 years. This policy supports the National Housing Accord, which sets an aspirational national target to deliver 1.2 million new, well-located homes over 5 years.

In December 2023, an SSD pathway was introduced for residential development with an EDC of over \$75 million in Greater Sydney and \$30 million outside Greater Sydney, which includes at least 10% affordable housing. Additionally, State Environmental Planning Policy (Housing) 2021 (Housing SEPP) was amended to introduce new infill affordable housing provisions, which permit FSR and building height bonuses of 20- 30% for proposals that include residential development and at least 10-15% of GFA as affordable housing. This SSD application has been submitted pursuant to these initiatives that aim 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. It aims to provide capacity for residential growth and employment, and to 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 and increased height and floor space.

The Anderson Street precinct is one of the key areas of transition under the Strategy to create a renewed mixed-use precinct with slender residential towers along the east side of the rail corridor. The Strategy informed a comprehensive review of the Willoughby Local Environmental Plan in 2023, as well as several site-specific planning proposals and DCP amendments.

On 13 May 2022, a planning proposal was gazetted and the subject site was rezoned. The LEP amendment established the following controls and framework for the redevelopment of the site:

- B4 Mixed Use zone (now MU1 Mixed Use zone)
- maximum building height standards of 90m for 3-5 Help Street
- maximum floor space ratio (FSR) standard of 6:1.
- at least 17% of GFA to be used for non-residential purposes
- 4% of the residential floor space as affordable housing contributions.

The planning proposal was also supported by a planning agreement to secure \$1,401,480 million in monetary contributions towards the Council's Community Infrastructure Contributions scheme, which was paid in full in October 2021.

3.3 Permissibility and assessment pathway

Details of the permissibility of the project and the assessment pathway are provided in Table 3 below.

Table 4 | Permissibility and assessment pathway

Consideration	Description
Assessment pathway	The proposal is declared SSD under section 4.36 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) as it satisfies the criteria under section 2.6(1) of State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) as it is: • not permissible without development consent • specified in clause 26A of Schedule 1 of the Planning Systems SEPP.
Consent authority	The Minister for Planning and Public Spaces (Minister) is the consent authority under section 4.5(a) of the EP&A Act and section 2.7(7) of SEPP (Planning Systems).
Decision-maker	Under the Minister's delegation, the Director, Key Sites and TOD Assessments may determine the application as: • no reportable political donation has been made by the Applicant • there have been fewer than 15 submissions by way of objection; and • submissions made by Council and the public have been considered in the assessment of the application (see Sections 4 and 5 and Appendix B).
Permissibility	The site is zoned MU1 – Mixed Use under the Willoughby LEP 2012 and development for the purposes of 'shop top housing' is permitted with consent.

3.4 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 (e.g. approval for any works under the *Roads Act 1993*). These authorisations must be substantially consistent with any SSD development consent for the project.

The Department has consulted with and considered the advice of the relevant government agencies responsible for these other authorisations in its assessment of the project (see **Section 5** and **Section 6**). Suitable conditions have been included in the recommended conditions of consent (see **Appendix E**).

3.5 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 October 2024 and is sufficient to enable an adequate consideration and assessment of the project for determination purposes.

3.6 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).
- matters of consideration required by the Environmental Planning and Assessment Regulation 2021.
- 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 the statutory requirements.

4 Engagement

4.1 Exhibition of the EIS

After accepting the development application and EIS, the Department:

- publicly exhibited the project from 17 June 2025 until 16 July 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 Council.

During the public exhibition period, the Department undertook a site visit on the 27 May 2025.

4.1.1 Summary of advice received from government agencies

The Department received advice from 12 government agencies on the EIS.

A summary of the agency advice is provided in Table 5. A link to the full copy of the advice is provided in Appendix C.

Table 5 | Summary of agency advice

Agency	Advice summary
Conservation Programs, Heritage and Regulation (CPHR)	CPHR is concerned that flood planning levels provided by the consultant may not be adequate to protect the building in the design flood event, particularly in the building's basement.
NSW State Emergency Service (SES)	SES noted that the proposed basement entry ramp reaches flood depths exceeding 1.5 metres above the proposed floor level during the Probable Maximum Flood (PMF). This level of flooding is unsafe for people and vehicles and poses a risk of water ingress into the basement. SES recommended further investigation and mitigation measures.
Transport for NSW (TfNSW)	TfNSW reviewed the submitted information and has no requirements as the proposed development is unlikely to have a significant impact on the state's classified road network.
Sydney Trains	Recommends conditions of consent for the management of construction near the rail corridor.
Sydney Metro	Recommends conditions of consent for the management of construction near the rail corridor.
Aboriginal Cultural Heritage NSW	No objection, but noted that the consultation with the Registered Aboriginal Parties (RAPs) should be kept consistent and without a six-month break. Conditions recommended.

Agency	Advice summary
Heritage NSW	The site is not a listed State Heritage item, nor is the site in the vicinity of any State Heritage Item. The site does not contain any known historical relics. HNSW recommended conditions regarding unexpected finds.
Water Group	No objection and recommended condition regarding Water Access Licence (WAL).
Sydney Water	Water and wastewater servicing should be available for the proposed development, but amplifications, adjustments, deviations and/or minor extensions may be required. Detailed requirements will be provided at the Section 73 application stage as conditioned.
Ausgrid	No objection and recommended standard conditions of consent relating to underground cables, proximity to existing poles, new or modified connection.
Environmental Protection Agency	EPA advised that the site is not being regulated by the EPA under the Contaminated Land Management Act 1997, and Willoughby City Council should be consulted as the appropriate regulatory authority for the Protection of the Environment Operations Act 1997 in relation to the proposal.
Civil Aviation Safety Authority (CASA)	The proposal is outside the Obstacle Limitation Surfaces for Sydney Airport. The proposal, however, is over 100 m in height and must meet CASA notification requirements, including for future construction cranes when known.

4.1.2 Summary of Council's submissions

Willoughby Council made a submission in the form of an objection during the public exhibition of the EIS. Council provided further submissions in response to the RtS and to the Applicant's additional information. A link to all submissions is provided in **Appendix A**.

A summary of the issues raised by Council and a link to all submissions in full is provided in **Appendix A**.

Table 6 | Summary of issues raised by Council

Issue	Summary
Height	The height should be reduced to have appropriate regard to the location on the boundary of the Chatswood CBD, opposite the low-density residential North Chatswood Conservation Area, which would result in view impacts.

Issue	Summary
Affordable housing contribution and Infrastructure contributions	Council requests an affordable housing consent condition as part of any consent to ensure the transparent provision of monetary contributions for affordable housing and to ensure the methodology for calculating the contribution is clear. The local contributions should be calculated prior to issuing the consent and the contributions payable should be specified in the conditions.
Excessive car parking spaces	The SSDA is requested to be amended to include car parking consistent with the location's exceptional transit access and WDCP car parking rates.
Cambridge Lane and the public right of way	The previous consent for the approved development application (DA-2023/160) contained conditions regarding upgrades to Cambridge Lane. These conditions of consent are still relevant. This is to improve Cambridge Lane to accommodate increased vehicle and pedestrian movements, and to ensure the public right of way is provided and utilised appropriately.
Waste management issues	Ensure waste management meets the requirements of the Waste Management Technical Guide and the Development Controls of the Northern Sydney Regional Organisation of Councils (NSROC). Conditions are recommended for compliance.
Building sustainability	The applicant is to comment on the recently exhibited amendments to the WDCP from 17 March to 22 May 2025, which provide clarity on Council expectations regarding sustainability standards for new development across the Chatswood CBD. Council seeks a clear commitment consistent with the exhibited WDCP amendment (soon to be finalised) for a minimum 5-star GBCA rating or the equivalent for the proposed SSDA development.
Flood and Engineering issues	Council accepted the Flood Risk Assessment and noted that while the basement ramp does not meet the PMF, it exceeds the 1% AEP + 500 mm. Council also recommended conditions to further address remaining concerns regarding stormwater discharge rates, overflow gates, and levels of the onsite detention tank, and to address the waste vehicle's tight manoeuvring into the loading dock, recommending increased clearance to ensure safe and practical access.

4.1.3 Summary of public submissions

The Department received 13 submissions during the public exhibition period for the EIS (one from a special interest group and 12 from individuals). All submissions objected to the project. Further detail is provided in Table 7 below and a link to all submissions in full is provided in Appendix C.

Table 7 | Key issues raised in submissions on the EIS

Issue
Traffic congestion and excessive parking provided
Impacts on infrastructure
Overshadowing
Overdeveloped and overcrowding
Privacy impact
View loss
Noise and rubbish on streets
Decrease wellbeing, social isolation and negative community impacts
Construction impacts including surrounding developments
Cumulative development impacts from surrounding developments
Safety issues and CPTED
Not in the character of the area
Mass and bulk
Wind impacts
Building height
Separation distance from surrounding buildings
Land devaluation
Undesirable architectural and landscape style
Not meeting the required non-residential gross floor area
Impact on flora and fauna
Urban heat island effect

4.2 Response to submissions

Following the public exhibition period, the Department asked the Applicant to respond to the issues raised in submissions and the advice received from government agencies. The Applicant provided a response to the submissions report, amended the Architectural Plans and updated the Traffic Impact Assessment, Survey Plan, Operational Waste Management, Civil Engineering Drawings, Technical Ground Water Impact Memorandum, letter to registered Aboriginal Parties and letter from the lift consultant to the Department on 18 September 2025 (see **Appendix A**). Changes to the Architectural Plans included updates to the waste management areas, visual privacy and loading areas.

The Department published the submissions report on the NSW Planning Portal and forwarded the submissions report to relevant government agencies and Council for comment on 23 September 2025. Council maintained its objection to the proposal.

5 Assessment

5.1 Built form

The site has a maximum permissible FSR of 7.8:1 and a building height of 115.5 m, which consists of:

- a permissible base FSR of 6:1 and maximum building height of 90 m under the WLEP, and
- an additional 28% increase to the base FSR and maximum building height under section 16 of the Housing SEPP, as 14.05% of the total GFA of the development is for the purposes of affordable housing.

The proposal complies with the site's maximum FSR and building height controls. The proposal is eligible for the height and floor space bonuses under the Housing SEPP incentives, as the site is a highly accessible location, more than 15% of the proposal's total GFA is for affordable housing, and it aligns with Chatswood CBD's current and future character.

Council considered that the height, bulk and scale of the proposal would impact on the amenity of nearby low-density residential properties, nearby local heritage items and the adjacent North Chatswood HCA and recommended that the WLEP height control not be exceeded. Public submissions also raised concern about the scale of the proposed development and its compatibility with the surrounding neighbourhood character.

The Department has carefully considered the proposal along with the concerns raised in the submissions and is satisfied the proposed built forms are acceptable for the following reasons:

- the proposal fully complies with the density and height controls of the Housing SEPP and will deliver much-needed housing at this accessible location, including 14% affordable housing
- the bulk and scale of the proposal is compatible with existing and proposed surrounding development, including infill affordable housing projects to the south and the existing Pacific Place towers to the west (See Section 1.2 – Nearby development applications)
- the proposed tower will be positioned behind the existing development at 28 Anderson Street and future towers along Anderson Street. When viewed from the North Chatswood Heritage Conservation Area, it will appear as part of a cluster of tall buildings, blending with other high-density developments in the Chatswood CBD
- the proposal is based on a winning Design Competition entry and was endorsed by the Design Integrity Panel (DIP) for retaining key design excellence features, such as its singular form, sensitive modulation for northern light, and podium alignment with neighbouring buildings
- amenity impacts on surrounding properties, particularly overshadowing, are considered to be acceptable (see Section 5.2).

5.2 Residential Amenity

5.2.1 Building separation and visual privacy

The proposal provides the recommended ADG separation to the surrounding properties to the north, south and east. However, the proposal departs from the ADG recommended 12 m - 24 m separation distance to 1 Cambridge Lane to the west and it also encroaches on the separation distance required for 28 Anderson Street.

The proposal provides a 12 m setback from the centre of Cambridge Lane and a 16 m building separation from the neighbouring property, which has a nil to 1 m frontage to the Lane. It also achieves a 9.4 m separation from 28 Anderson Street (east), exceeding the required 9 m distance for buildings up to eight storeys (see Figure 7 below).

Public submissions raised concerns that the proposed building separation to neighbouring buildings at 1 Cambridge Lane and 28 Anderson Street would result in adverse visual privacy impacts.

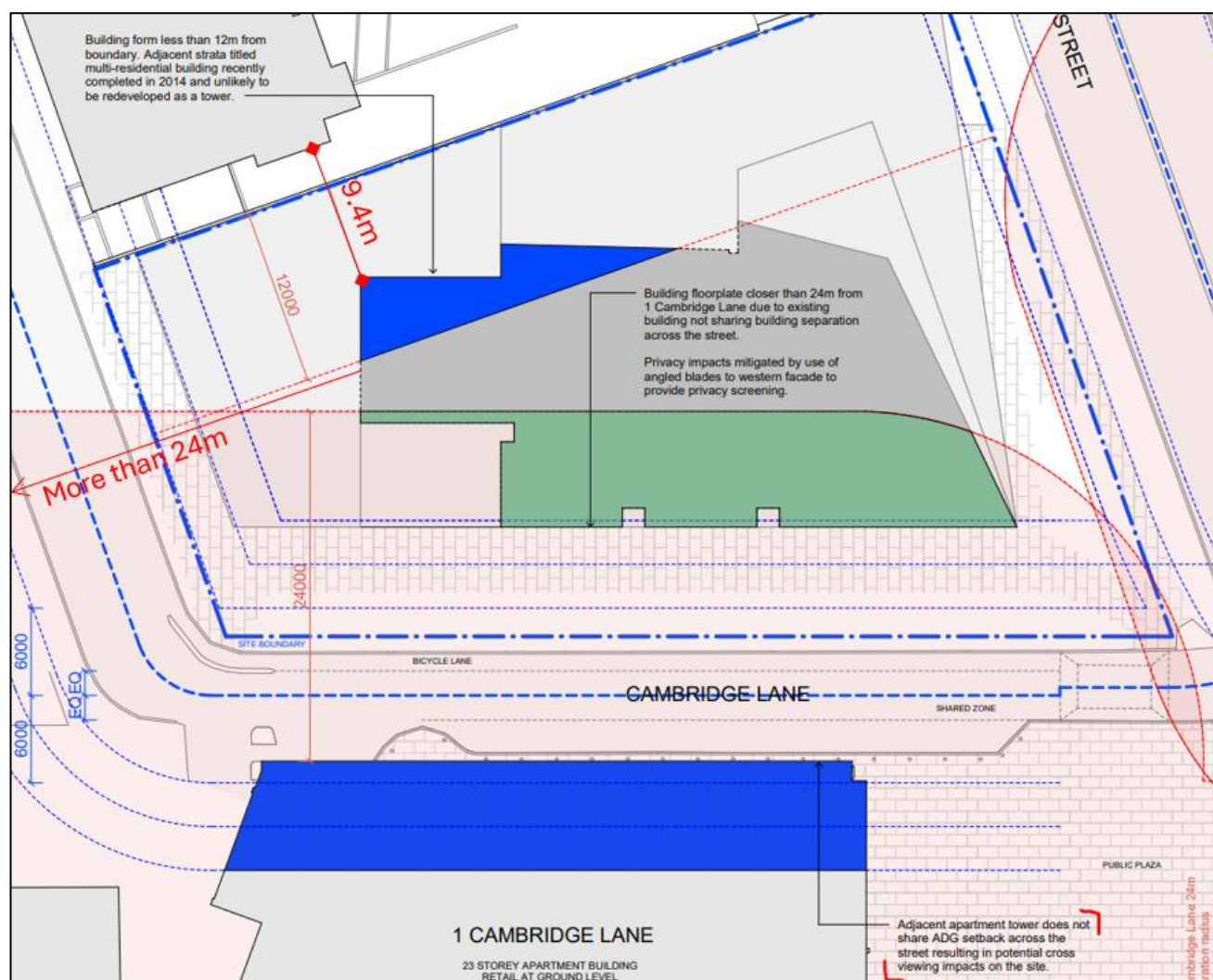


Figure 8 | Proposed building separation to surrounding buildings (source: EMBECE Design Report)

In response, the Applicant submitted a detailed Visual Privacy Plan for Levels 04 and 05, showing the building separation and detailing additional privacy treatments for eastern-facing windows and balconies, including frosted windows for living rooms and privacy screening (Figure 8).

The Department has considered the design of the proposed tower and its relationship with the neighbouring properties. In this instance, the Department considers the proposed separation distances are acceptable because:

- the siting of the proposal is constrained by the irregular/ trapezium shape of the site
- the proposal generally provides at least 50% of the ADG building separation from neighbouring properties at 28 Anderson Street and 1 Cambridge Lane; however, these properties have not contributed their equitable share, particularly 1 Cambridge Lane, which has a nil setback from the laneway
- the proposed design will appropriately maintain reasonable privacy between the proposal and adjoining development by:
 - locating the building's lift core on the west façade to minimise the number of habitable spaces facing the adjacent apartment building
 - privacy screens are proposed for those windows to habitable rooms that directly face 1 Cambridge Lane up to level 25 to prevent overlooking a skilful interface given the highly built-up nature of the Chatswood CBD
- fencing and plantings will be provided along the eastern communal open space to screen potential view lines into neighbouring lots.

Despite the proposal's departures from ADG building separation distances from existing developments, the Department is satisfied that the proposal addresses the objectives of the ADG and will maintain reasonable visual privacy with adjoining properties through appropriate design and mitigating measures, including landscape, screening, and appropriate window and balcony designs.

5.2.2 Solar access

The Applicant has demonstrated that 76.3% of the proposed apartments are capable of receiving at least two hours of direct sunlight at midwinter, consistent with the ADG requirements.

Council and the Department raised concerns about the building's apartments and communal open space not receiving sufficient direct sunlight during the winter solstice due to overshadowing from surrounding developments.

In response, the Applicant provided updated solar access and 'view from the sun' diagrams that incorporate the neighbouring proposal (SSD-74670720) to the north at 38–42 Anderson Street, 3 McIntosh Street, and 2 Day Street, Chatswood. The overshadowing impacts of the 33-storey eastern

tower and 23-storey western tower at 38 Anderson Street (Figure 9) would reduce the proposal's solar access at mid-winter to 36.9%. Solar access to the communal open space on Level 02 will also decrease from more than two hours to between 0.1 and 1 hour during mid-winter.

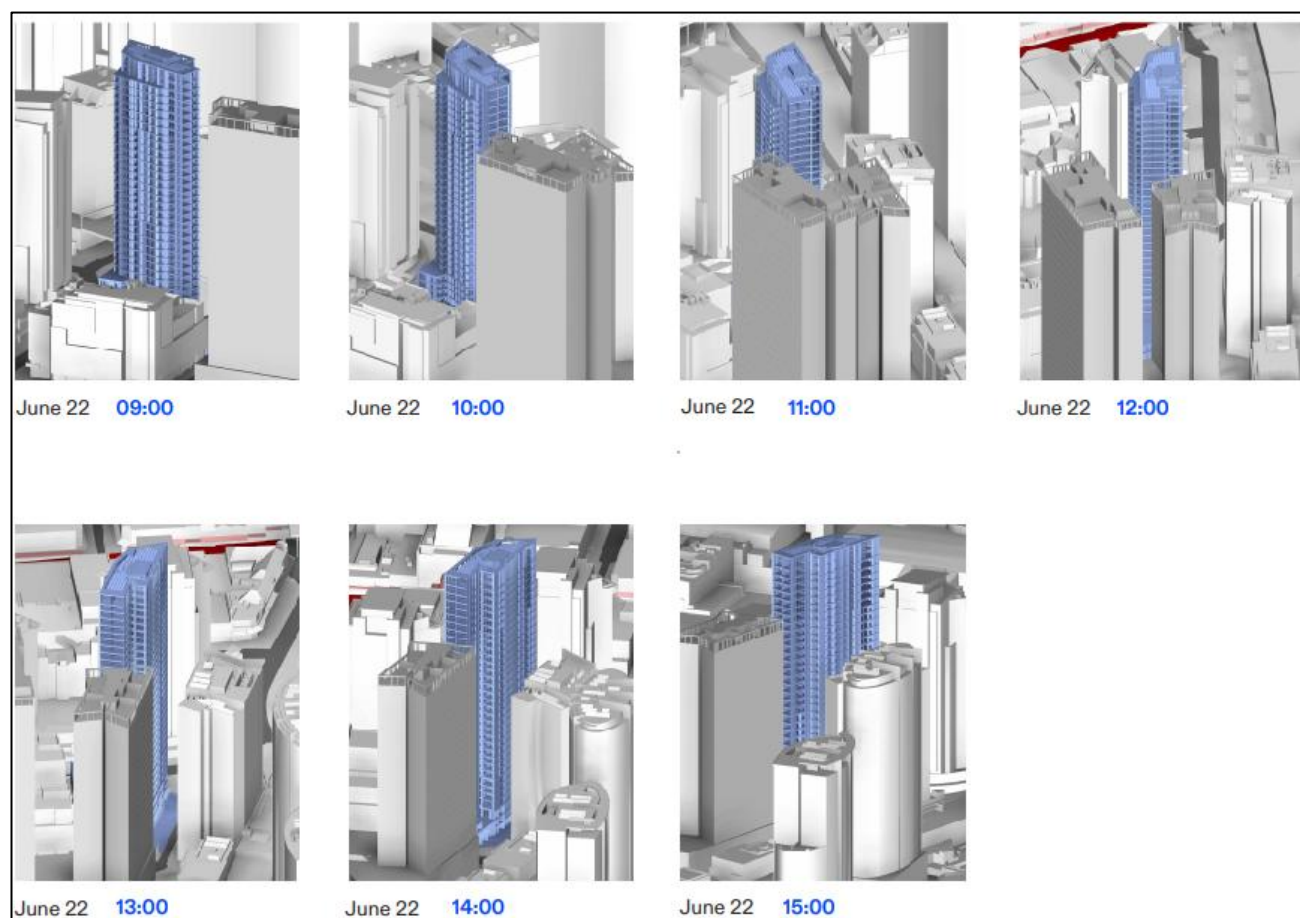


Figure 9 | Views from the sun – June 12pm (Source: Applicant's RtS)

While the Department acknowledges the proposal would not achieve the ADG recommended solar access, it is satisfied that the proposed apartments will receive an acceptable level of solar access to support good residential amenity because:

- the level of solar access is commensurate with the adopted planning controls that permit tall development to the north, resulting in overshadowing of the subject site. The site's south-facing orientation further limits sunlight, as it is directly adjacent to four proposed towers up to 117 m high, including 28–36 Anderson Street
- although the proposal does not meet the ADG guidance between 9:00 am and 3:00 pm, the Department notes that at least 74% of apartments will receive sunlight when assessed between 8:00 am and 4:00 pm at mid-winter
- no more than 15% of units would be receiving no sunlight at midwinter, consistent with the ADG guidance

- the proposed design, being a slender built form, maximises the north-south orientation to allow sunlight into the angled balconies and windows
- the communal space is designed to maximise as much sunlight as possible within the developing CBD by positioning the space with a northerly orientation.

The Department is therefore satisfied that the proposal achieves the objectives of the ADG through an appropriate design that maximises solar access to the proposed apartments and open space, despite the site's limitations, including its orientation and high-density context.

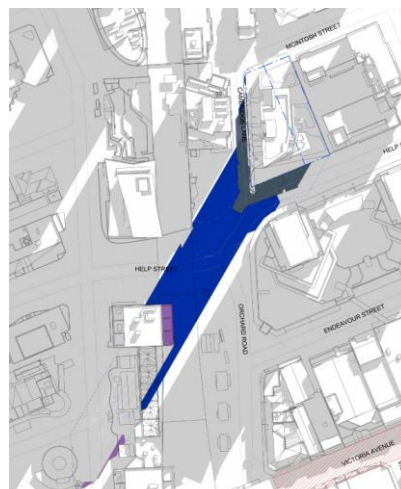
5.2.3 Overshadowing

Public submissions raised concerns about overshadowing of private dwellings at 1 Cambridge Lane, 2A Help Street and the surrounding public domain.

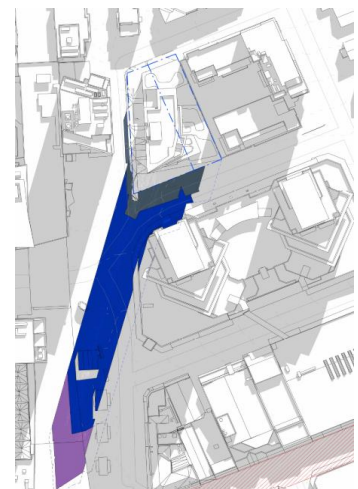
In response, the Applicant submitted additional shadow diagrams illustrating the overshadowing impacts of the proposal, which utilises the 28% height and FSR bonus under the Housing SEPP compared to the approved local DA.



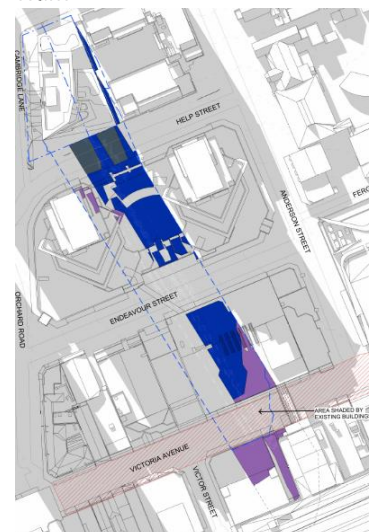
9am



10am



11am



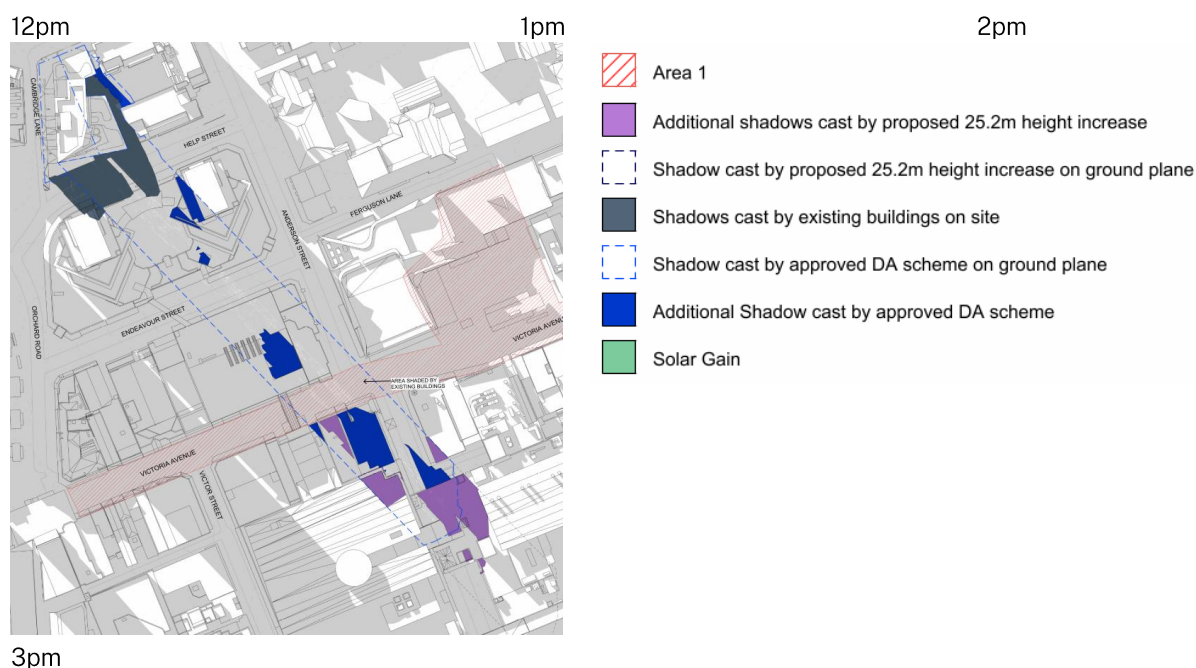


Figure 10 | Overshadowing diagrams (Source: Applicant's EIS)

The Department has carefully considered the concerns raised in submissions and the submitted shadow diagrams and solar eye diagrams. The Department finds:

- the overall building envelope, height and massing were established by a competitive design excellence process that found the proposal could achieve design excellence
- shadow analysis demonstrates that the impact of the 28% additional height and floor space provided under the Housing SEEP is negligible and represents a minimal increase in shadow as the two upper penthouse levels of the tower have been tapered to reduce impact on surrounding public open space
- shadow will move over the 1 Cambridge Lane complex between 9 am and 10 am in mid-winter minimising its impact and ensuring that suitable solar access is maintained
- shadow falls across 2A Help Street from 11 am to 3 pm in mid-winter. This building maintains 2 hours of solar access during the morning
- the shadow impact is proportional to the level of development expected under the Chatswood CBD Strategy and is not expected to cause any unacceptable impacts on the surrounding area, including Victoria Avenue and the Concourse area between midday and 2 pm mid-winter.

The Department acknowledges that there will be additional overshadowing of surrounding apartment buildings, but this would not be avoided by a more skilful design and is therefore acceptable. The Department is therefore satisfied that the proposal would not unreasonably overshadow the neighbouring residential developments or protected public open space.

5.3 Non-residential floor space

The proposal is subject to a minimum non-residential standard of 17% of its total GFA under the WLEP. Based on a total GFA of 17,584 m², a minimum of 2,989.28 m² of GFA would be required. However, the proposal contains 2,345.4 m² (13.3%) of GFA, representing a 3.7% shortfall (643.88 m²).

Council raised this as a concern in its submission and advised that there were no evident site constraints that would reasonably inhibit compliance with the control.

The Applicant requested a variation to the minimum non-residential standard, citing that if additional non-residential GFA were to be provided, it would create undesirable outcomes in the tower portion or an extension of the podium form.

The Department's detailed consideration of the Applicant's request is contained in **Appendix D**. In summary, the Department accepts that the proposed non-residential floor space is acceptable because:

- the proposed amount of non-residential GFA is appropriate for the site in a MU1 Mixed Use Zone
- the design of the proposal meets the intent of the LEP standard as it provides active street frontage, employment space and supports the Chatswood CBD core
- the location of the site at the northern end of the Chatswood CBD fringe would support the amount of non-residential GFA and play a secondary role to the core
- the design promotes active street frontage and vibrancy
- the extent of the proposed variation is minor.

The Department has carefully considered the request to vary the non-residential floor space requirement under clause 6.25 of the WLEP and is satisfied that there are sufficient environmental planning grounds to justify the proposed contravention for the reasons stated above.

5.4 Other issues

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

Table 8 | Assessment of other issues

Issue	Findings and conclusions	Recommended conditions
Traffic Impacts	Council and public submissions raised concerns that the proposal would increase traffic congestion in the local road network, particularly along Anderson Street southbound toward the Chatswood CBD.	Conditions are recommended in preparation of a Green Travel Plan

Issue	Findings and conclusions	Recommended conditions
	The Applicant provided an updated Transport Impact Assessment in the RTS which included traffic modelling that concluded additional traffic generated by the proposal is not anticipated to compromise the safety or function of the road network. The Department has considered the issues raised in submissions and is satisfied that the proposal would have acceptable traffic impacts. This conclusion is based on the submitted Traffic Impact Assessment and additional modelling, which confirm that surrounding intersections will continue to operate effectively. The Department also accepts TfNSW's advice that the proposal is unlikely to significantly affect the state-classified road network, including the Pacific Highway.	prior to occupation of the development.
Car Parking	The proposal includes 166 car parking spaces comprising 133 residential spaces, 10 commercial spaces and 23 visitor spaces. The Applicant states that the proposal complies with the residential car parking rates in SEPP (Housing) 2021, which are minimum rates, and with the Willoughby DCP for commercial and visitor spaces. Council raised concerns that the development's excessive parking provision would increase congestion on the local road network, and public submissions also raised similar concerns. While the Department acknowledges Council's and submitters' views that the site is well connected to public transport and near amenities, it also notes that Section 4.15(2) of the EP&A Act prevents a consent authority from imposing a standard more onerous than that required by a Non-Discretionary Development Standard (NDDS). The Department therefore accepts that the proposed residential parking complies with the applicable NDDS for residential parking rates under the Housing SEPP, and non-residential and visitor parking complies with the Willoughby DCP. Given that compliance is achieved, particularly with respect to the NDDS, the Department considers the proposed parking provision acceptable.	Conditions are recommended in relation to maximum car parking provisions.
Tree removal	The proposal involves the removal of 23 trees planting of 26 new trees. No trees are proposed for retention. The proposed development provides a deep soil area with a 3m width, which is a departure from the ADG requirements but is consistent with Section 4 of the Site-Specific DCP. The Department considers the proposed tree planting strategy appropriate for the site. The inclusion of replacement trees will	The conditions include requirements to comply with the Arborist's Report and Landscape Plans.

Issue	Findings and conclusions	Recommended conditions
	enhance the site's landscape character and contribute to improved amenity outcomes. The proposal will deliver additional vegetation, achieving a total tree canopy coverage of approximately 558.75 m², which supports a high-quality landscaping amenity and the management of urban heat.	
Wind	Public submissions raised concerns regarding wind impact on the public domain and surrounding private property. The Applicant submitted a Pedestrian Wind Environment Statement (PWES) with the submissions report to address impacts on the adjacent development. The Applicant's PWES found that the proposal will not result in any notable change in wind conditions for Help Street, Cambridge Lane and the surrounding buildings. The Department has reviewed the findings and recommendations of the Wind Assessment and is satisfied that impacts will be within acceptable limits, subject to the recommended conditions of consent.	No conditions are required in relation to this issue.
Flooding	The site is not classified as flood-prone land but is subject to overland flow due to its proximity to the trunk drainage line. The application includes an overland flow impact assessment. CPHR raised concerns that the flood planning levels provided by the consultant may not adequately safeguard the building during a design flood event, particularly in the basement. CPHR also noted discrepancies between the Applicant's flood risk assessment and the draft Scotts Creek Overland Flood Study currently being prepared by Council. SES expressed similar concerns regarding potential water ingress to the basement and recommended further investigation and mitigation measures. In response, the Applicant updated the civil engineering drawings, increasing the OSD tank volume while maintaining discharge along the Help Street frontage bypass, citing constraints on basement access due to road levels. Council accepted the proposed basement and driveway levels, acknowledging that setting the vehicle access ramp at the PMF level is not feasible given the height above the roadway. The Department notes that the proposal seeks a dispensation for a lower basement access level, which is required to be at or above the 1% AEP flood level plus 500 mm or the PMF, whichever is higher. After considering advice from CPHR, SES, and Council, and reviewing the submitted Flood Risk Assessment, the Department considers the proposal acceptable in this instance, noting: all habitable floor levels exceed the required minimum of the 1% AEP flood level plus 500 mm freeboard (Flood Planning Level)	The conditions require the applicant to provide further details on stormwater management and overland flow, and to implement FPL and mitigation devices.

Issue	Findings and conclusions	Recommended conditions
	- the proposed basement ramp entrance is set at RL91.71 at the property boundary to align with the footpath and roadway - the PMF critical duration is 15 minutes, and the ramp crest is proposed at RL91.91, which is above the 1% AEP plus 500 mm level - raising the basement crest to the PMF level would require significant design changes to maintain clearance for vehicles and Council's garbage truck. The Department also recommends additional flood mitigation measures, including flood warning systems and flood protection devices (such as barriers or flow-control mechanisms), to further protect the basement during a PMF event. Finally, the Department supports Council's recommended conditions requiring certification by a suitably qualified civil engineer that the development complies with Council's Technical Standard 2 – Floodplain Management. Where floor levels need to be raised or additional flood protection measures are necessary, details must be submitted to and approved by Council.	
Waste	Council submission raised concerns that on-site waste management does not meet the standards set out in the Waste Management Technical Guide and Development Controls by North Sydney Regional Organisation of Councils (NSROC) for multi-dwelling housing, residential flat buildings, and mixed-use developments. The conditions of the approved DA generally still apply, except for the need to upscale requirements and add bulky waste areas. The Applicant submitted an updated Waste Management Plan and amendments to Level 00 to include the bulky waste room and increased the size of the residential organics room and non-residential waste rooms. Council did not comment on the amended plans but has included updated conditions recommended for addressing Council's waste requirements. The Department accepts Council's recommended conditions in respect to waste management.	Council conditions are recommended to address the implementation of storage and collection of residential and commercial waste.
Apartment Design Guide (ADG)	The Department has undertaken a detailed assessment of the proposal against the ADG in Appendix C. The Department's assessment found the proposed apartments would provide acceptable levels of amenity for residents. With the exception of solar access and building separation, as discussed in Section 5 of the report, the proposal performs well against key amenity guidance within the ADG, including natural cross-ventilation (77.5%), communal open space (27%) and deep soil area (7.5%). The Department is therefore satisfied that the proposed apartments would provide acceptable levels of amenity for future residents.	No conditions are required in relation to this issue.

Issue	Findings and conclusions	Recommended conditions
Design excellence	A competitive design process was carried out prior to the determination of the Local DA, leading to the identification of key elements contributing to design excellence and the appointment of EMBECE Architects. The submitted EIS includes: • a Design Excellence Bridging Strategy requiring members of the original competition jury for the approved Local DA to reconvene as a Design Integrity Panel (DIP) • a Design Integrity Report describing the outcomes of the DIP's consideration of the proposal • confirmation from the NSW Government Architects Office (GANSW) that a new competition design process is not required. The DIP was reconvened to review the proposed 28% increase in building height and floor area. However, the DIP's feedback extends to the entire development, including ground-floor activation, podium form, basement car parking, apartment layouts, and facade design. The Department has reviewed the Design Integrity Panel (DIP) process and considers the proposal to demonstrate design excellence, noting the Applicant's appropriate response to the panel's feedback. The proposed public domain and landscaping along street frontages will deliver new public spaces, outdoor dining opportunities, and activate Cambridge Lane. The development also satisfies the objectives of the Apartment Design Guide (ADG) and Willoughby Local Environmental Plan 2012 design excellence provisions (refer to Appendix C).	The conditions include a requirement to reconvene the Design Integrity Panel should there be any design changes during detailed design which impact upon elements of the design that contribute to design excellence.
Operational noise	A public submission raised concerns that the proposal will result in unacceptable noise impacts upon residents surrounding the site. The submitted Noise and Vibration Impact Assessment (NVIA) made recommendations to ensure that the noise emissions associated with mechanical plant and equipment will be acceptable. The Department is satisfied that potential operational noise impacts can be appropriately mitigated and managed, subject to conditions of consent requiring the recommendations of NVIA to be implemented, which include measures such as glazing and mechanical plan recommendations.	The conditions requiring the implementation of the NVIA.
Construction impacts	Public submissions raised concerns regarding construction noise, traffic, and dust affecting surrounding dwellings and a nearby school. In response, the EIS included a preliminary Construction Traffic Management Plan and a Noise Impact Assessment to address these issues. The Department has reviewed the submitted reports and considered the matters raised in submissions. The Department recommends	The conditions include the preparation of a detailed Construction Management Plan including sub-plans for

Issue	Findings and conclusions	Recommended conditions
	conditions of consent requiring detailed construction management plans for traffic, air quality, noise, and waste to ensure impacts are appropriately controlled. While the Department acknowledges that some construction impacts are inevitable, it is satisfied that these impacts can be effectively mitigated and managed to an acceptable level through the implementation of the recommended conditions of consent.	management of noise, air quality, traffic, standard hours of construction and waste.
Sydney Trains and Sydney Metro infrastructure	The Department is satisfied that the proposal would not result in any significant impacts on rail infrastructure, noting that the subject site is located outside the Sydney Trains and Sydney Metro reserves. Additionally, following the submission of the RTS, neither Sydney Metro nor Sydney Trains objected to the proposal, and the Department has included their recommended conditions as part of the consent.	The conditions included to address Sydney Metro's recommendations.
Aboriginal cultural heritage	The submitted EIS includes an Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared in consultation with registered Aboriginal parties, recommending the management of any objects or sites discovered during works, ongoing consultation with Aboriginal parties, heritage induction for workers, and a Heritage Interpretation Strategy for the site. Heritage NSW advised the ACHAR has been prepared in accordance with relevant guidelines and the SEARs and has recommended conditions in line with the mitigation measures within the ACHAR.	Conditions are recommended requiring the implementation of the ACHAR's mitigation measures.
Affordable housing	The proposal includes the provision of 14% of the total GFA (32 dwellings with a combined area of 2,471 m²) to be managed as affordable housing by a registered Community Housing Provider for a minimum of 15 years from the issue of the Occupation Certificate, in accordance with the Housing SEPP. Additionally, a monetary contribution for affordable housing will be paid to Council, ensuring full compliance with the Willoughby LEP requirements.	The conditions include securing the affordable housing in accordance with SEPP (Housing) and the Willoughby LEP.
Local infrastructure contributions	The proposal is subject to local and state contributions as follows: • payment of local section 7.11 development contributions for the provision of local amenities • payment of Housing and Productivity Contributions towards the cost of providing regional amenities. Council received full payment of the VPA in October 2021 (executed between the Applicant and Council) for the associated rezoning under the Chatswood CBD Strategy prior to the lodgement of the SSD. The payment has contributed towards community infrastructure.	Conditions are recommended for the payment of the required developer contributions.

Issue	Findings and conclusions	Recommended conditions
Public domain works	Council has recommended conditions of consent in relation to public domain works in accordance with its Anderson Street Precinct Public Domain Concept Design including: • reconstruction of Cambridge Lane as a shared zone including raised thresholds, road paving, landscaping and signage upgrade • stormwater upgrade in Help Street and associated road repaving, footpath, kerb and gutter and landscaping • new footpath, kerb and gutter, tree planting and turf along McIntosh Street. The Department considers that these works would ensure the surrounding public domain supports amenity and accessibility in a manner consistent with the increased density of the area. These requirements have been consistently applied to development consents within the Chatswood CBD and ensure appropriate infrastructure is delivered as development progresses. The Department accepts that upgrades to Cambridge Lane as required under previous consent for the approved development application (DA-2023/160) remains relevant to support the increase in vehicle and pedestrian movements, and to ensure the public right of way is provided and utilised appropriately.	The Department has recommended conditions requiring infrastructure improvement works within the road reserve consistent with Council's standard conditions

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, Council and public submissions, and Government policies and plans.

The Department's assessment concludes that the proposal is acceptable for the following reasons:

- it will support the NSW Government's priorities to deliver well-located housing in a highly accessible location, including affordable housing to be managed by a community housing provider for at least 15 years
- it is consistent with the relevant strategic planning framework in providing greater housing supply in a highly accessible location near the Chatswood Train and Metro Station
- it complies with the overall height and floor space ratio controls applying to the site and provides a bulk and scale that is compatible with the desired future character of the Chatswood CBD
- while the proposal does not comply with the non-residential floor space requirement, it is consistent with the intent of Chatswood CBD Strategy by providing commercial floor space at the podium levels to deliver employment-generating uses and appropriate street activation
- it achieves a high level of residential amenity for future residents in accordance with the Apartment Design Guide
- it achieves design excellence in its architectural expression, use of high-quality materials, good residential amenity and positive contribution to the public domain
- it does not result in any unreasonable overshadowing, visual or privacy impacts

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 recommends the Application be approved subject to conditions.

7 Recommendation

It is recommended that the Director, Key sites and TOD 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 3-5 Help Street, Chatswood (SSD-76555711) as amended, subject to the conditions in the attached development consent
- signs the attached development consent (**Appendix D**).

Recommended by:



Edwina Ross
Senior Planning Officer
Key Sites and TOD Assessments

Recommended by:



Annie Leung
Team Leader
Key Sites and TOD Assessment

8 Determination

The recommendation is adopted by:



28 November 2025

Anthony Witherdin

Director

Key Sites and TOD Assessments

Appendices

Appendix A – List of referenced documents

The following documents can be accessed at <https://www.planningportal.nsw.gov.au/major-projects/projects/mixed-use-infill-affordable-housing-3-5-help-street-chatswood>:

- Environmental Impact Statement
- Response to submissions report
- Applicants' additional information
- Council and public submissions
- Government agency advice.

Appendix B – Department’s consideration of submissions

Table 9 | Key issues and how they have been considered

Issue	Consideration
Car parking, traffic, demand on local infrastructure and services (Council and Public)	Assessment: The proposal meets the non-discretionary development standards for car parking under the Housing SEPP for residential development and is consistent with Council’s development control plan for non-residential uses. Traffic modelling concluded additional traffic generated by the proposal is not anticipated to compromise the safety or function of the road network. The proposal is not expected to generate demand for on-street parking due to its highly accessible location within walking distance of public transport, services and employment opportunities. Recommended conditions/response: Conditions are recommended in relation to maximum car parking provision and preparation of a Green Travel Plan prior to occupation of the development. The Department has recommended a condition requiring the payment of local section 7.11 development contributions for the provision of local amenities and the payment of Housing and Productivity Contributions towards the cost of providing regional amenities. Conditions have also been imposed for road and public domain upgrades.
Overshadowing (Public)	Assessment: The proposal has no shadow impact on Victoria Avenue during mid-winter. The overshadowing impacts of the proposal are considered acceptable as they result from a built form that is compliant with the applicable controls and could not be comprehensively minimised by an alternative design or through revised siting of the buildings (see Section 5.2.3 for further details). Recommended conditions/response: No conditions are recommended.
Construction impacts (Public)	Assessment: The Department has recommended conditions to ensure the construction of the development does not have an unreasonable impact on the amenity (traffic, noise, vibration, air quality, etc.) of nearby residents or result in any damage to neighbouring development and public domain. Recommended conditions/response: Recommended conditions include the preparation of a detailed Construction Pedestrian and Traffic Management Plan (CPTMP) including sub-plans for management of noise, air quality, traffic and waste.

Issue	Consideration
Overdevelopment and density (Council and Public)	Assessment: The proposal complies with the applicable height and FSR controls and is well located for high-density residential development, being near services, jobs and public transport. The development would not significantly impact the amenity of surrounding properties and has an acceptable bulk and scale for the site, particularly when considered as an extension of the form of the approved Local DA. Recommended conditions/response: No conditions are recommended.
Neighbourhood character and building mass (Council and Public)	Assessment: The Chatswood CBD Strategy envisions a substantial increase in height and density in and around the CBD. The development is consistent with the applicable built form controls and with the intended future character of the Chatswood CBD. The Applicant submitted a Bridging Design Excellence Strategy confirming that the Design Integrity Panel supports the amended scheme presented by EMBECE as it is consistent with the design and quality of the Design Excellence Competition proposal. Recommended conditions/response: No conditions are recommended.
View loss (Council and Public)	Assessment: The Applicant has provided a Visual Impact Assessment that includes an assessment of the loss of public views around Chatswood. The Applicant was not requested to prepare an additional view-loss impact assessment for the objector's apartments looking east from 7 Railway Street and 1 Cambridge Street, as the site has already been approved for a 25-storey building, and the proposed SSD is compliant with height and FSR. The Department acknowledges that general district views from some surrounding properties will be affected. However, the development complies with the maximum building height and FSR controls and is suitably separated from the affected buildings. The Department, therefore, is satisfied that the view impacts associated with the proposal are reasonable and acceptable in this case. Recommended conditions/response: No conditions are recommended.
Wind impacts (Public)	Assessment: The Applicant has provided an Environmental Wind Assessment Report (EWAR), which includes a desktop analysis that finds the proposal will have acceptable wind impacts on the public domain and surrounding private property. Wind mitigation measures were proposed to minimise impacts on the public domain and improve comfort within the development. The

Issue	Consideration
	Department has recommended that a condition requiring the wind mitigation measures set out in the EWAR be included in the development. Recommended conditions/response: Recommended conditions require compliance with the recommendations of the EWAR.
Tree removal (Public)	Assessment: The proposal involves the removal of 23 trees planting of 26 new trees. The Department considers the proposed new tree plantings to be suitable as it will result in a tree canopy coverage of 558.75m² for the site. Recommended conditions/response: Recommended conditions require compliance with the recommendations of the Arboricultural Impact Assessment Report (AIAR).
Building separation and privacy (Public)	Assessment: The building separation is compliant up to the 8 storey but provides insufficient building separation of 16m from storeys 9 and above from 1 Cambridge Lane to the west (22 storeys in height). This is due to the neighbouring building facing Cambridge Lane not providing sufficient setbacks on the lane. The proposal has oriented habitable room windows away from neighbouring properties where possible and would further mitigate potential privacy concerns with measures such as screening and obscured glazing. The Department is satisfied that the proposal would maintain reasonable privacy with neighbouring properties. Recommended conditions/response: No conditions are recommended.
Operational noise (Public)	Assessment: The proposal included a Noise Vibration Impacts Assessment, which concluded the development can achieve satisfactory amenity, subject to recommendations related to building design and operational requirements for the outdoor common areas. Recommended conditions/response: Recommended conditions require the implementation of the recommended NVIA.
Waste and safety issues (Council and Public)	Assessment: The proposal implements design initiatives to ensure safety and security within the development and public domain, including clear and secure entrances to the building and car park, well-lit communal spaces, passive surveillance opportunities from balconies and common areas, and a basement design with clear sight lines.

Issue	Consideration
	The Department has no reason to believe additional rubbish and trolleys or increased illegal car parking would occur as a result of the proposal. Recommended conditions/response: The Department recommends standard conditions of consent in relation to construction management, including preparation of a CEMP and associated sub-plans in relation to noise, air quality, traffic and waste. A condition requiring payment of section 7.11 development contributions in accordance with the WLCP is included.
Affordable housing devaluing land values (Public)	Assessment: The proposal supports the NSW Government's priorities to deliver well-located housing in a highly accessible location. The Department has undertaken a detailed merit assessment of the proposal and has found it would not result in any unreasonable amenity impacts on adjoining properties. As such, the proposal is not expected to result in any significant impact on land values. Recommended conditions/response: No conditions are recommended.
Non-residential gross floor area non-compliance (Council and Public)	Assessment: The Department acknowledges that the proposal allocates approximately 13% of the building's total GFA as non-residential floor space (NRFS), which is a 3.7 % shortfall (643.88 m²) of the minimum 17% required under clause 6.25 of the WLEP. The Department has considered the clause 4.6 variation request in detail in Appendix D. Overall, the Department is satisfied that there are sufficient environmental planning grounds to justify the minor variation. Recommended conditions/response: No conditions are recommended.
Cumulative development/construction impacts (Public)	Assessment: The Department recommends conditions of consent in relation to construction management including preparation of a Construction and Environmental Management Plan and associated sub-plans in relation to noise, air quality, traffic and waste. The Department notes that contributions to local and State infrastructure are required. Recommended conditions/response: Recommended conditions for CEMP and associated sub-plans.

Appendix C - Statutory considerations

Biodiversity Conservation Act 2016

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 project is not likely to have any significant impact on biodiversity values (as identified in the BC Act and in the *Biodiversity Conservation Regulation 2017*).

The proposal includes the clearing of a small amount of native vegetation, and therefore, a biodiversity development assessment report (BDAR) waiver was prepared by the Applicant in accordance with the 'Streamlined Assessment Module - Small Area' Biodiversity Assessment Method. The NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) confirmed that the proposed development is unlikely to have a significant impact on biodiversity values and therefore a BDAR is not required.

The proposed development will involve the removal of 23 trees and the replacement and planting of 26 trees, proposing a canopy cover of 558.75m².

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 10 below.

Table 10 | Matters for consideration

Matter for consideration	Department's assessment
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Appendix C
EP&A Regulation	Appendix C
Likely impacts	Section 5 – Assessment
Suitability of the site	Section 1.1 – Project background, Section 3 – Policy and Statutory Context and Section 5 – Assessment

Matter for consideration	Department's assessment
Public submissions	Section 4 – Engagement & Section 5 – Assessment
Public interest	Section 4 – Engagement, Section 5 – Assessment & Section 6 – Evaluation

Objects of the EP&A Act

In determining the application, the consent authority should consider whether the project is consistent with the relevant objects of the EP&A Act (s 1.3) including the principles of ecologically sustainable development. Consideration of those factors is described in **Appendix E**.

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 11 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	• The proposed development promotes the social and economic welfare of the community by providing additional affordable housing. The proposal would provide new affordable housing stock in an accessible area near public transport. • Environmental impacts will be mitigated through the building's design and by the recommended conditions of consent. Impacts on the natural environment will be offset by tree planting, and landscaping works. • The proposal is not anticipated to have any adverse impact on the State's natural or other resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	• The proposal includes ESD initiatives and sustainability measures which would allow the proposal to meet the Building Sustainability Index (BASIX) requirements and achieve a minimum 4-star GBCA building rating.

Object	Consideration
(c) to promote the orderly and economic use and development of land,	The proposal represents the orderly and economic use of the land primarily as it will increase housing supply in an accessible location, close public transport, jobs and services. The form of the development has had regard to the applicable land use planning controls, the existing and emerging character of the locality and the surrounding area.
(d) to promote the delivery and maintenance of affordable housing,	The development will increase housing supply in a well-located area by providing 160 new apartments. Of these, 32 apartments will be for the purpose of affordable housing and managed by a registered community housing provider for at least 15 years.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The Biodiversity Development Assessment Report (BDAR) waiver confirms that a BDAR is not required as the proposal requires the clearance of 23 trees, which are non-indigenous native and exotic species; most trees are of low retention value. It is not likely to have any significant impact on biodiversity values.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	- The proposal would not have an adverse impact on any built heritage items and will have only minor adverse impacts on views from the nearby North Chatswood heritage conservation area. - An ACHAR has been prepared finding that the site has been substantially disturbed and that there are no areas of archaeological potential. No Aboriginal cultural heritage values were identified in the study area.
(g) to promote good design and amenity of the built environment,	- The proposal has been subject to an architectural design competition and is capable of achieving design excellence. - The proposal has been designed to minimise amenity impacts to the surrounding residences and to provide good levels of internal amenity for future occupants. - The proposal has been assessed against the design principles for residential apartment development in Schedule 9 of the Housing SEPP below.
(h) to promote the proper construction and maintenance of buildings, including the protection	The proposal demonstrates that construction work would be undertaken in accordance with national construction standards, relevant regulations and the site-specific construction management plan.

Object	Consideration
of the health and safety of their occupants,	Any impacts during construction will be monitored and managed in keeping with the conditions of consent set out to mitigate any impacts. Ongoing management and maintenance of the development shall be overseen by the building management.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal as outlined in Section 4. This included consultation with Council and other Government agencies, and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	- The Department publicly exhibited the application, which included notifying nearby landowners and displaying the application on the Department's website. - The Department placed the submissions report and additional information on its website, in addition to providing a copy to Council and other relevant Government agencies. - The engagement activities carried out by the Department are detailed in Section 4.

Ecologically sustainable development

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

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

The Applicant has committed to achieving the following minimum sustainability targets:

- meet or exceed BASIX minimum Energy and Water requirements
- meet the BASIX thermal performance requirements.

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

The Department has considered the proposed development 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 proposed development. The conservation principle has been applied through the provision of new landscaping around the development 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 proposed development 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.

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 Regulation have been complied with.

Environmental Planning Instruments

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

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

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021

- State Environmental Planning Policy (Sustainable Buildings) 2022
- Willoughby Local Environmental Plan 2012

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

Chapter 2 of the Planning Systems SEPP identifies State significant development (SSD). Under section 2.6, development that is not permissible without development consent under Part 4 of the Act and which is identified in schedule 1 or 2 of the Planning Systems SEPP is declared to be State significant development.

The proposal is State significant development under schedule 1, section 26A of the Planning Systems SEPP as it is development for the purpose of in-fill affordable housing located within the Eastern Harbour City having an EDC of over \$75 million for the residential component.

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

The Housing SEPP aims to facilitate the supply of affordable and diverse housing in NSW, sets out specific standards and controls for different forms of residential accommodation including in-fill affordable housing and ensures new housing development provides residents with a reasonable level of amenity.

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 mandate 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 satisfies these non-discretionary development standards.

An assessment of the proposal against the relevant considerations of the Housing SEPP is provided in Table 12 below. An assessment against the design principles for residential apartment development set out in Schedule 9 of the Housing SEPP is provided in Error! Reference source not found.. An assessment against the design criteria of the ADG is in Table 13.

Table 12 | Housing SEPP compliance table

Section	Consideration
15C – Development to	Division 1 (In-fill affordable housing) in Part 2 of Chapter 2 of the Housing SEPP applies as:

Section	Consideration
which division applies	- the development includes residential development that is permitted with consent under another EPI (the Central River City SEPP), and - the affordable housing component is at least 10%, and - it is on land within the Six Cities Region in an accessible area.
16 – Affordable housing requirements for additional floor space ratio	Under section 16 of the SEPP, a 14% GFA contribution to affordable housing permits a 28% increase to the maximum permissible FSR and building height. The application proposes a GFA contribution in excess of the minimum required (i.e., 10%) toward affordable housing to take advantage of the additional (bonus) FSR provided under section 16(1). Additional building height is also permitted under section 16(3), which is equivalent to the additional FSR (as a percentage). As the proposal meets the relevant requirements of section 16, the maximum permissible FSR and building height is increased by 28%
19 – Non-discretionary development standards	The proposal complies with the minimum non-discretionary development standards.
20 – Design Requirements	The site and surrounding area have been recently rezoned to encourage the development of shop-top housing in the Chatswood CBD. SSDAs for multiple residential apartment buildings of comparable sizes in the vicinity have been lodged and are currently under assessment. These developments are proposed in accordance with the principles of the Chatswood CBD Strategy and having regard to the in-fill affordable housing provisions available under the Housing SEPP. The proposal will result in an appropriately scaled building that complies with the built form controls, activates its street frontages, and encourages pedestrian activity. The proposal is consistent with the desired future character of the site having regard to the Chatswood CBD Strategy.
21 – Must be used for affordable housing for at least 15 years	Link Wentworth is a registered CHP and has been involved in the design of the affordable apartments. Property Management services have been offered by Link Wentworth for the in-fill affordable dwellings for the minimum required 15-year period. A condition of consent is also recommended to this effect.
147 – Determination of development applications and	The design principles under Schedule 9 have been considered in detail in Error! Reference source not found. and the ADG has been considered in detail in Table. The development application has not been referred to a design review panel.

Section	Consideration
modification applications for residential apartment development	
148 – Non-discretionary development standards for residential apartment development — the Act, s 4.15	The proposal provides 166 car parking spaces for the residential portion of the development. This exceeds the minimum car parking requirement under section 19 of the Housing SEPP and therefore complies. The internal areas of all apartments are equal to, or greater than, the minimums specified in Part 4D of the ADG. The ceiling heights are equal to, or greater than, the minimums specified in Part 4C of the ADG.

Table 13 | Consideration of the Design principles for residential apartment development

Design Principles	Department's Comments
1. Context and neighbourhood character	The proposal is compatible with the desired future character of the Chatswood CBD. The proposal appropriately responds to and contributes to the area's key built features through its architectural and landscape design. The proposal will result in a shop top housing building that is commensurate with the scale of anticipated future development in the area and will have acceptable amenity impacts on existing and future neighbouring development.
2. Built form and scale	The height, bulk and scale of the proposed development will be compatible with the desired future character of mixed-use zone on the periphery of the Chatswood CBD. The proposal also provides appropriate built form for the site. The 3-4 storey podium provides an appropriate visual transition between the lower scale residential neighbourhood to the north-west and creates the opportunity for a consistent street wall height along Help Street. The tower's slender form can offer high levels of internal amenity, minimise environmental impacts and are consistent with anticipated pattern of development.

Design Principles	Department's Comments
3. Density	The proposal is of an appropriate density and scale, consistent with the desired future character of the Chatswood CBD and the provisions of the Housing SEPP.
4. Sustainability	The proposal satisfies BASIX requirements in relation to water conservation, thermal performance and energy efficiency.
5. Landscape	The proposal provides suitable landscaping and sufficient deep soil is provided to support the planting of appropriate trees.
6. Amenity	The proposal is considered to positively contribute to living environments and resident well-being. It also satisfies the intent of the ADG in terms of achieving a high level of residential amenity for future residents (see ADG assessment in Table 12).
7. Safety	The proposal implements design initiatives to ensure safety and security within the development and public domain, including clear and secure entrances to the building and car park, well-lit communal spaces, passive surveillance opportunities from balconies and common areas, and a basement design with clear sight lines.
8. Housing diversity and social interaction	The proposal provides one, two and three-bedroom apartments providing housing choice for different demographics, living needs and household budgets. The proposal provides 32 in-fill affordable apartments and 32 adaptable apartments. The proposal provides communal open space and multiple common rooms above the podium at Level 2, creating opportunities for social interaction amongst residents.
9. Aesthetics	The proposal demonstrates a high standard of architectural design and uses an appropriate variety of materials, colours and textures which responds to the existing setting and the desired future character of the surrounding neighbourhood.

Apartment Design Guide

The ADG sets guidelines for residential flat development to ensure apartments are provided with an appropriate level of residential amenity.

The Applicant has provided analysis which demonstrates that the design is suitable having regard to the relevant ADG amenity criteria in terms of apartment sizes, communal open space, vehicle and pedestrian access, ceiling heights, apartment depth and natural ventilation. The reference design

scheme results in minor numerical inconsistencies but is broadly consistent with the guidance of the ADG and will provide suitable amenity for occupants.

The Department accepts the Applicant's analysis and is satisfied that the proposal is generally consistent with the aims and provisions of the ADG. The Department's consideration of the ADG is discussed in Table 14 below.

Table 14 | ADG compliance table

ADG Criteria	Consideration
3A Site Analysis Site analysis illustrates design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	The Applicant's Design Report demonstrates how the proposal has been informed by a site analysis, including the opportunities and constraints of the site and the surrounding context.
3B Orientation - Building types and layouts respond to the streetscape and site while optimising solar access within the development. - Overshadowing of neighbouring properties is minimised during mid-winter.	The proposed buildings are appropriately oriented to respond to the streetscape of Help Street and Cambridge Lane, optimise solar access and minimise overshadowing of neighbouring properties (see Section 5.3).
3C Public Domain Interface - Transition between public/private domain is achieved without compromising safety and security. - Amenity of the public domain is retained and enhanced.	- The proposed building is setback from the street with landscaped setbacks to Help Street, Cambridge Lane and the design achieves an acceptable transition between the public and private domain. - The residential lobby will be suitably separated from the public domain areas within the site, not compromising the safety and security of the future occupants. - Passive surveillance of the public domain will be available from balconies, windows, communal open space and retail shops lining the ground floor, activating the street frontage.
3D Communal and Public Open Space Communal open space has a minimum area equal to 25% of the site.	The total site area is 2290 m² requiring a minimum of 572.5 (25%) to be provided as Communal Open Space.

ADG Criteria	Consideration												
- Minimum 50% direct sunlight to principal usable part of the communal 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.	- Approximately 617m² (27% of the site area) is provided as communal space and open spaces as outlined below: 186 m² (indoor) and 431 m² (outdoor) on level 2 - With the addition of public space on the ground floor areas: 695m² (outdoor). - The communal open space provided on level 2 does not achieve 50% direct sunlight in mid-winter but more than 50% will achieve 0.1-1 hours of some sunlight in mid-winter (see Section 5.2).												
3E Deep Soil Zones For sites greater than 1,500 m², a minimum of 7% of the site with a minimum dimension of 6 m should provide for deep soil zone(s).	- The proposed deep soil zone covers 7.5% of the site or 172.7 m² (with a minimum width of 3 m outside the basement footprint). An additional 58m² is provided on Council owned land along Cambridge Lane. - Located along its interface with Help Street and Cambridge Lane. The integration of the Cambridge Lane landscape with the nature strip enhances width, growth medium and overall aesthetic quality of the landscape scheme.												
3F Visual Privacy Minimum separation distance from building to side and rear boundaries: <table><tr><th>Height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	- The development has a height of 35 storeys and adequate building separation is provided to the north, south and east maintaining visual privacy within the development and/or to surrounding properties. - The western building setback over 25 storeys is non-compliant and proposes a 12m setback from the Centre of Cambridge lane. The opposite tower is built to the boundary resulting in a building separation of 16m. This non-compliance is managed by minimising habitable rooms on this facade and using privacy and solar screening. - A detailed assessment on setbacks and visual privacy is provided in Section 5 of this report. - The Department is satisfied the design incorporates appropriate features such as
Height	Habitable rooms and balconies	Non-habitable rooms											
Up to 12m (4 storeys)	6m	3m											
Up to 25m (5-8 storeys)	9m	4.5m											
Over 25m (9+ storeys)	12m	6m											

ADG Criteria	Consideration																																				
<i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room.</i>	screened and translucent windows and privacy screens and orientation of the active façade to ameliorate any potential privacy impacts from the proposed building separation variations. The proposed minor variations to the ADG design criteria are therefore supported.																																				
3G Pedestrian Access to Entries • Building entries and pedestrian access connects to and addresses the public domain. • Access, entries and pathways are accessible and easy to identify. • Large sites provide pedestrian links for access to streets and connection to destinations.	• One building entry to the residential units is off Cambridge Lane and the commercial entry is adjacent. • All residential building entries address the public domain, accessible and are easy to identify.																																				
3H Vehicle Access • Vehicle access points are to be designed to achieve safety, minimise conflicts between pedestrians and vehicles and create high-quality streetscapes.	• One main vehicular access points off Help Street. • The vehicular access point is designed to minimise potential conflicts between pedestrians and vehicles and are appropriately landscaped for visual interest. This will allow for the creation of a high-quality streetscape.																																				
3J Bicycle and Car Parking	• The proposal includes car parking rates consistent with the intent of the Housing SEPP (see Section 5.3). There is no applicable maximum. <table><tr><th>Unit type</th><th>Min per unit</th><th>Units</th><th>Max parking</th></tr><tr><td colspan="4">Affordable Housing</td></tr><tr><td>1-bed</td><td>0.4</td><td>18</td><td>7.2</td></tr><tr><td>2-bed</td><td>0.5</td><td>14</td><td>7</td></tr><tr><td colspan="4">Non-affordable Housing</td></tr><tr><td>1-bed</td><td>0.5</td><td>37</td><td>18.5</td></tr><tr><td>2-bed</td><td>1</td><td>75</td><td>75</td></tr><tr><td>3+-bed</td><td>1.5</td><td>16</td><td>24</td></tr><tr><td>Total</td><td>-</td><td>160</td><td>131.7</td></tr></table>	Unit type	Min per unit	Units	Max parking	Affordable Housing				1-bed	0.4	18	7.2	2-bed	0.5	14	7	Non-affordable Housing				1-bed	0.5	37	18.5	2-bed	1	75	75	3+-bed	1.5	16	24	Total	-	160	131.7
Unit type	Min per unit	Units	Max parking																																		
Affordable Housing																																					
1-bed	0.4	18	7.2																																		
2-bed	0.5	14	7																																		
Non-affordable Housing																																					
1-bed	0.5	37	18.5																																		
2-bed	1	75	75																																		
3+-bed	1.5	16	24																																		
Total	-	160	131.7																																		

ADG Criteria	Consideration
	• All car parking is located off-street within the basement car park. • The Department is satisfied the visual and environmental impacts of the proposed basement car park have been minimised. • The proposal provides adequate bicycle parking for residents and visitors according to the Willoughby DCP.
4A Solar and Daylight Access • To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. • Minimum of 70% of apartments' living rooms and private open spaces receive 2hrs direct sunlight between 9 am -3 pm in mid-winter in the Sydney Metropolitan Area. • Maximum of 15% of apartments have no direct sunlight between 9 am - 3 pm in mid-winter. • Daylight access is maximised where sunlight is limited. • Design incorporates shading and glare control, particularly for warmer months.	• The proposal does not meet the numerical requirements, but clearly demonstrates a skilful and considered approach to apartment planning, that optimises solar access and satisfies the objectives of the ADG, especially taking into consideration the dense urban context in which the site is located (see Section 5.2.2). • A minimum 36.9% of apartments receive more than 2 hours of solar access and 15% of apartments receive no sunlight. 48.1% of the apartments receive some solar access of 0.25 - 1.75 hours in mid-winter. • A minimum 74% of living areas and private open spaces of apartments receive a minimum of two hours direct sunlight between 8am and 4pm in mid-winter. • Design incorporates shading and glare control as recommended by design comp and DIP.
4B Natural Ventilation • At least 60% of apartments are cross ventilated in the first nine storeys (apartments 10 storeys or greater are deemed to be cross ventilated). • Overall depth of a cross-over or cross-through apartment does not exceed 18 m.	• The building provides 64.7% of apartments that are cross-ventilated. • All apartment layouts can be described as shallow, extending along N-S axis and 15% of single aspect-south facing apartments.
4C Ceiling Heights	• A ceiling height of 2.7m is proposed across all habitable rooms in the proposal with a ceiling height of 2.4m for bulkheads (to conceal

ADG Criteria	Consideration
- Measured from finished floor level to finished ceiling level, minimum ceiling heights are: - Habitable rooms 2.7 m - Non-habitable rooms 2.4 m.	- services) limited to non-habitable rooms (kitchen and bathrooms). - The commercial levels within the podium have ceiling heights of 3.3 m. - All ceiling heights comply with the guidelines.
4D Apartment Size and Layout - Minimum apartment sizes - Studio 35 m² 1 bedroom 50 m² 2 bedroom 70 m² 3 bedroom 90 m² - 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 8m from a window. - Master bedroom have a minimum area of 10 m² and other bedrooms have 9 m². - 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.	- All apartments within the proposal meet the minimum size recommendations. - All apartments provide windows in habitable rooms on external walls. - All apartments satisfy the habitable room depth and width recommendations.
4E Private Open Space and Balconies Primary balconies are provided to all apartments providing for:	All apartments include balconies that meet the minimum size and depth recommendations.

ADG Criteria	Consideration
○ Studios apartments min area 4 m² ○ 1-bedroom min area 8 m² min depth 2m ○ 2-bedroom min area 10 m² min depth 2m ○ 3-bedroom min area 12 m² min depth 2.5m. • For apartments at ground floor level or similar, private open space must have a minimum area of 15 m² 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. • Primary open space and balconies maximises safety.	• The proposed balconies within each building are suitably integrated into, and contribute to, the architectural form and detail of the building. • Apartments balconies all minimum size and depth. Acceptable privacy will be achieved to level 2 private open space and communal garden through the use of design features of planter boxes, fences and landscaping.
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 six apartments are proposed off a circulation core with three lifts, which equates to a ratio of 1 lift per 53 dwellings. The Department considers the lift provision acceptable as the Applicant has provided a lift simulation study in the RTS which demonstrates acceptable lift provisions within the building. • The residential lobbies and circulation spaces provide opportunities for interaction in each building. Windows for daylight and natural ventilation are provided to all corridors.
4G Storage • The following storage is required (with at least 50% located within the apartment): ○ Studio apartments 4 m³ ○ 1-bedroom apartments 6 m³ ○ 2-bedroom apartments 8 m³ ○ 3-bedroom apartments 10 m³	• Residential storage within each building is located within the apartments and individual 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.

ADG Criteria	Consideration
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 through the appropriate layout of the buildings. - Apartments are appropriately stacked and laid out to prevent noise transfer between apartments.
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.	In accordance with the recommendations of the acoustic report, apartments will be appropriately insulated to ensure compliance from external noise sources.
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, logically distributed within each building. - The development proposes a total of 160 apartments in the following mix: 1 bed: 55 apartments (34%) 2 bed: 89 apartments (56%) 3+ bed: 16 apartments (10%) - The development proposes a range of apartment types and sizes to cater for different households.
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 facades have been designed to break down the scale of the proposed buildings and will offer a positive contribution to the character of the development and streetscape. - The design for each building provides acceptable visual interest at street level and maintains the design approved through the design competition.

ADG Criteria	Consideration
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.	• Integrated roof parapet to conceal plant and equipment from the street and adjacent buildings
4O Landscape Design and 4P Planting on Structures • Landscape design is viable and sustainable. • Landscape design contributes to streetscape and amenity. • Appropriate soil profiles are provided and plant growth is maximised (selection/maintenance). • Plant growth is optimised with appropriate selection and maintenance. • Building design includes opportunity for planting on structure.	• A detailed landscape plan has been provided for the site and public domain, including the ground level communal and roof garden. Proposed landscaping includes 26 trees, shrubs and grasses across the development. • Adequate soil depth, consistent with ADG recommendations, is proposed.
4Q Universal Design • 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. • A variety of apartments with adaptable designs are provided. • Apartment layouts are flexible and accommodate a range of lifestyle needs.	• The proposed development provides a total of 32 adaptable dwellings (20%). • 20% of apartments will achieve a silver-level performance rating (Liveable Housing Guidelines). • Apartments are of a size and layout that allows for flexible use and design and therefore can accommodate a range of lifestyle needs.
4T Awning and Signage • Awnings are well located and complement and integrate with the building. • Signage responds to the context and design streetscape character.	• Entrance lobbies for each building are covered by an awning along Cambridge Lane.

ADG Criteria	Consideration
4U Energy Efficiency • Development incorporates passive environmental and solar design. • Adequate natural ventilation minimises the need for mechanical ventilation.	• The proposed development will meet BASIX water, thermal and energy efficiency targets. • The buildings have been designed to maximise solar access and natural ventilation.
4V Water Management and Conservation • Potable water use is minimised. • Urban stormwater is treated on site before being discharged to receiving waters. • Flood management systems are integrated into the site design.	• Water efficient fittings and appliances will be installed. • Plant selections are designed for the microclimate and will be typically low water use, per the landscape report. • All stormwater management systems are integrated into the site design along with water treatment measures, in accordance with Council's requirements. • Flood management has been integrated into the design and conditioned accordingly (see Section 5.3).
4W Waste Management • Waste storage facilities are designed to minimise impacts on streetscape, building entry and residential amenity. • Domestic waste is minimised by providing safe and convenient source separation and recycling.	• The building contains garbage chutes for general waste, a recycling storage cupboard within each ground level chute room, and a basement room for the temporary storage of bulky waste. • The Applicant proposes internal waste collection to the loading dock for residential and Council vehicles can enter and exit in a forward direction. A private waste collection vehicle will service the retail/commercial bins.
4X Building Maintenance • Building design detail provides protection from weathering. • Systems and access enable ease of maintenance. • Material selection reduced ongoing maintenance cost.	• The buildings have been appropriately designed to allow ease of maintenance. • The proposed materials are robust.

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

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

The site is located near the Pacific Highway, a classified road, and Chatswood Railway Station, which provides both heavy rail and metro services. The Department provided notice of the application to TfNSW, Sydney Trains and Sydney Metro as the relevant transport authorities during the exhibition. At the request of Sydney Trains and Sydney Metro, the applicant provided additional information demonstrating that the proposal is outside of the second reserve for train and metro services.

Sydney Trains and Sydney Metro both proposed conditions of consent, which have been included in the conditions of consent where relevant.

The Transport and Infrastructure SEPP also requires consideration of rail noise and vibration impacts where non-rail development is proposed adjacent to a railway corridor. The application included an NVIA, which found that reasonable controls can be incorporated into the building design to ensure compliance with the relevant Transport and Infrastructure SEPP standards for internal noise levels to mitigate rail noise impacts. The recommended conditions of consent require the development to incorporate the external noise control recommendations that are outlined in the NVIA, including appropriate acoustically glazed windows.

The NVIA has also considered the impact of road and rail noise on apartments within the building. It recommends glazing with sound-reducing properties to achieve compliance with the internal noise criteria stipulated in clause 2.120 (3) of the Transport and Infrastructure SEPP.

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

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

Following the Preliminary Site Investigation, it is considered that the site presents a relatively low risk of contamination and would not prohibit the approval of the development application for the construction of the proposed development and future land use.

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

Chapter 2 of the Biodiversity and Conservation SEPP applies to the subject development. A permit will be required from Council prior to the clearing of vegetation.

State Environmental Planning Policy (Sustainable Buildings) 2022

The Sustainable Buildings SEPP encourages the design and construction of more sustainable buildings across to help meet climate change targets.

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 requiring compliance with the BASIX certificate.

Willoughby Local Environmental Plan 2012 (WLEP)

The relevant WLEP controls and are considered in Table 15 below.

Table 15 | WLEP 2012 compliance assessment

LEP Clause/Requirement	Complies	Assessment/Comment
PART 1 - PRELIMINARY		
1.2 Aims of the Plan	Yes	The proposal is consistent with the plan's aims. The proposed residential dwellings have suitable amenity and will increase the supply and diversity of housing in the area. Non-residential uses support a diversity of retail and commercial uses.
PART 2 – PERMITTED OR PROHIBITED DEVELOPMENT		
Zoning	Yes	The site is zoned MU1 Mixed Use. The development is for the purposes of shop top housing, providing a podium containing 'food and drink premises'. These proposed uses are permissible with consent in the MU1 zone.
2.7 Demolition	Yes	The proposal seeks demolition works that is permitted with development consent.
PART 4 – PRINCIPAL DEVELOPMENT STANDARDS		
4.3 Height of Buildings	Yes	The subject site has a maximum height limit of 90 m under the WLEP. Under section 16 of the Housing SEPP, the development is permitted a

LEP Clause/Requirement	Complies	Assessment/Comment
• 90m		28% increase in height, which results in a maximum height limit of 115.5 m. The proposal complies.
4.4 Floor Space Ratio	Yes	The site has a permissible base FSR of 6:1 under the WLEP. Under section 16 of the Housing SEPP, the development is permitted a 28% increase to the base FSR, which results in a maximum FSR of 7.8:1.
4.6 Exceptions to Development Standards	Yes	A Clause 4.6 Variation Request has been prepared to justify a contravention of Clause 6.25 “Shop top housing in Zone MU1” of the WLEP. Clause 6.25 is not expressly excluded from the application of Clause 4.6 under subsection Cl 4.6(8). The Department’s consideration of the request is discussed further in Appendix D.

PART 5 – MISCELLANEOUS PROVISIONS

5.10 Heritage Conservation	Yes	The subject site is not a heritage item or within a heritage conservation area (HCA). The site is located opposite the “North Chatswood” HCA. It is also in the general vicinity of several listed heritage items within the North Chatswood HCA, including: - 157 - Our Lady of Dolours Church (including original interiors) - 94A Archer Street - 169 - House (including original interiors) - 4 Daisy Street - 170 - House (including original interiors) - 6 Daisy Street - 171 - House (including original interiors) - 8 Daisy Street - 172 - House (including original interiors) - 21 Daisy Street - 1129 - House (including original interiors) - 20 Tulip Street Due to its distance from the identified heritage items, the proposal will not have any physical impacts upon them, nor will it obscure views towards the heritage items. The proposal is expected to have a minor but acceptable impact on views from the North Chatswood HCA. The Department has considered the potential heritage impacts of the proposal and considers the identified impacts acceptable.
5.21 Flood Planning	Yes	The Department has considered the Flood Impact Risk Assessment and is satisfied that the proposed development will not have adverse

LEP Clause/Requirement	Complies	Assessment/Comment
		impacts on flooding elsewhere and that suitable mitigation measures have been adopted to mitigate risk from flooding, subject to conditions.
PART 6 – LOCAL PROVISIONS		
6.1 Acid Sulphate Soils	Yes	The site is classified as Class 5 Acid Sulphate Soils. The Applicant's Salinity and Acid Sulphate Soils Assessment concludes that the site is not known to be at risk of acid sulphate soils and is not within an area of known salinity risk; therefore, an Acid Sulphate Soils Management Plan or Salinity Management Plan is not required for the development.
6.2 Earthworks	Yes	The proposal includes excavation below the building's footprint to construct five basement levels to accommodate car parking, storage, and fire stair access. The Department is satisfied that the proposed earthworks would not have a detrimental impact on drainage patterns and soil stability in the locality. The recommended conditions also provide appropriate measures to avoid, minimise or mitigate the impacts of earthworks activities on the surrounding environment.
6.3 Urban Heat	Yes	The development incorporates the following design features, which will mitigate urban heating: - deep soil equal to 7.5% and 10% soft landscaped area, allowing substantial landscaping, including 26 trees - awnings and eaves are utilised - the building is oriented to provide appropriate solar access in mid-winter - building facades provide external shading of windows to limit heat transfer.
6.6 Airspace Operations	Yes	The application was referred to CASA, which confirms that the proposed development will not affect the safety, efficiency or regularity of current or future airspace operations at Sydney Airport.
6.7 Active Street Frontages	Yes	All frontages are identified as requiring an active street frontage.

LEP Clause/Requirement	Complies	Assessment/Comment
• Help Street • Cambridge Lane • McIntosh Street		The development provides active frontages on all sides and satisfies the objective of the clause to promote uses that attract pedestrian traffic.
6.8 Affordable Housing	Yes	Affordable housing contributions have been discussed in Section 5.3.
6.15 Sun Access (1) Development consent must not be granted to development on land in Zone MU1 Mixed Use that results in additional overshadowing on land identified as “Area 1” on the Sun Access Protection Map at mid-winter between 12pm and 2pm.	Yes	The development does not cause any additional overshadowing of Victoria Avenue or the Concourse Open Space between midday and 2pm. The development has been designed to avoid adding to the overshadowing on Victoria Avenue.
6.16 Minimum lot sizes for commercial and mixed use development in Chatswood CBD	Yes	The site is 2290m ² and complies with this mixed-use requirement.
6.23 Design Excellence	Yes	The clause applies as the site is within Area 5 on the Special Provisions Map. The Department is satisfied that the development exhibits design excellence. Please refer to Table 13 for a detailed consideration of the design excellence criteria.
6.25 Shop top housing in Zone MU1	Yes	The development is required to provide 17% of the total floor area for non-residential purposes. The proposal provides 4,517.3 m ² of NRFS, which is 13.04% of the total GFA.

LEP Clause/Requirement	Complies	Assessment/Comment
		A clause 4.6 variation request is provided in the EIS and is considered in detail in further Error! Reference source not found.. The Department considers the variation request is justified.

Table 16 | Design excellence provisions under clause 6.23

Section	Consideration
(4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—	
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	The proposal incorporates a high standard of architectural design, having been the winning entry in an architectural design competition. The design has been further refined in response to the competition jury's advice. The design provides a podium that is consistent with the WDCP controls for the site. The podium offers multiple entries and has fine-grained active frontages. One slender tower is proposed, which is expressed in vertical and horizontal bands utilising a mix of coloured concrete. The tower maximises solar access to the site and maximises views from the apartments while providing suitable separation.
(b) whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,	The building has been arranged to prioritise active street frontages and to welcome pedestrians through its colonnades. Building entries are clearly legible and offered for each building and use. The development will contribute towards the creation of a consistent streetscape along Help Street and Cambridge Lane and will improve the quality of the public domain.
(c) whether the development detrimentally impacts on view corridors.	The proposal does not impact upon any identified view corridors. View impacts from the public domain and from nearby private developments have been considered in Section Error! Reference source not found..
(5) The consent authority must also have regard to how the development addresses the following matters—	

Section	Consideration
(a) the suitability of the land for development,	The land is zoned MU1 where shop top housing is permitted with consent. The land is suitable for the proposed development.
(b) existing and proposed uses and use mix,	Existing development on the site consists of two three-storey residential flat buildings containing 57 apartments. The development contains 160 dwellings (32 of which are to be affordable dwellings for a minimum of 15 years) and 2,345 m² of NRFS. The proposal is consistent with the use envisioned under the Chatswood CBD Strategy.
(c) heritage and streetscape constraints	The subject site is not heritage listed nor is it located within an HCA.
(d) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,	The development will not unreasonably impact upon the amenity of, and will provide suitable separation from, existing and proposed development on nearby sites as discussed in Sections 5.2.1.
(e) bulk, massing and modulation of buildings,	The built form, massing and modulation of the building have been considered in Section Error! Reference source not found..
(f) street frontage heights,	The street-frontage heights comply with the recommendations of the WDCP.
(g) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,	The environmental impacts of the proposal have been considered throughout this assessment and are found to be acceptable subject to the proposed conditions.
(h) achieving the principles of ecologically sustainable development,	The proposal achieves the principles of ecologically sustainable development.
(i) pedestrian, cycle, vehicular and service access, circulation and requirements,	Vehicle and service access have been considered in Error! Reference source not found. The proposal provides well identified pedestrian entrances. The Department is satisfied that the development will provide suitable pedestrian, bicycle and vehicle access.

Section	Consideration
(j) the impact on, and proposed improvements to, the public domain,	The proposal would provide multiple retail and commercial tenancies to ensure appropriate activation of the public domain is achieved.
(k) the impact on special character areas,	The site is not within a special character area.
(l) achieving appropriate interfaces at ground level between the building and the public domain,	The development activates all three street frontages and provides clear entry points. The development clearly demarcates the public and private domain.
(m) excellence and integration of landscape design.	The proposal includes a landscape design that is consistent with the competition-winning scheme. The design achieves deep soil provision of 7.5%, a total of 26 trees and tree canopy coverage of 24.4%. The design includes creating a public connection along Help Street and Cambridge Lane, and a communal open space on the podium that incorporates native species planting and supports urban habitat.

Appendix D – Variation to Development Standards

The proposal seeks to vary an additional local provision prescribed by clause 6.25 of the WLEP – Shop top housing in Zone MU1, which requires 17% of the GFA of any building to be used as non-residential floor space (NRFS).

The GFA of the proposed building is 17,583.7 m², resulting in a minimum NRFS requirement of 2989.2 m² (17%). The development proposes a total NRFS of 2,345.4 m² in the podium levels, which is a variation of 643.8 m² (27.6%) from the standard and equates to 13.3% of the overall GFA.

Clause 4.6 of the WLEP permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The aim of clause 4.6 is to provide flexibility in applying development standards to achieve better development outcomes. The NRFS development standard is not excluded from the operation of clause 4.6 in the WLEP.

Clause 4.6(3) states that development must not be granted consent unless the consent authority is satisfied that the Applicant has demonstrated that the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

In accordance with section 35B of the EP&A Regulation, the Applicant has prepared a written request to vary the NRFS development standard. The following provides an assessment of the proposed exception to the NRFS development standard by 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?*

The Applicant's Clause 4.6 variation request relies on the first of the five Wehbe tests and argues that the development achieves the objectives of the NRFS standard despite the non-compliance. The Applicant notes that clause 6.25 has no objectives, but the intent of the clause is established in the Chatswood CBD Strategy, which has been endorsed by Council and the Department.

The Department is satisfied that the Chatswood CBD strategy sufficiently describes the objectives of the NRFS requirement to allow consideration. The Applicant's request demonstrates that compliance with the standard is unreasonable and unnecessary, as the objectives of clause 6.25 are achieved for the following reasons:

- the development provides NRFS consistent with the commercial FSR of 1:1 anticipated in the Chatswood CBD Strategy

- the development has provided a commercial podium that is 3-4 storeys in height, which is consistent with the podium envisioned in the Chatswood CBD Strategy
- the development provides 17.1% NRFS when considered against the site's WLEP FSR of 6:1, a gain of 9.2 m²
- the variation in NRFS arises from the uptake of the in-fill affordable housing provisions and an increase in commercial GFA would necessitate a reduction in residential GFA
- the proposal was subject to an architectural design competition in which additional NRFS was not considered for a proposal utilising additional FSR under the in-fill affordable housing pathway.

The Department is satisfied that strict compliance with clause 6.25 of the WLEP is unnecessary in the circumstances and that the first of the five-part tests in *Wehbe v Pittwater Council [2007] NSWLEC 827* has been satisfied.

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

The Applicant's written request offers the following environmental planning grounds to justify contravening the development standard:

- the proposed NRFS rate achieves the intent of the Chatswood CBD Strategy to deliver a reasonable amount of employment floorspace in the MU1 Mixed Use zone
- additional NRFS would require a comparable reduction in residential floor space including affordable apartments and would be contrary to the objectives of the Housing SEPP to facilitate the delivery of in-fill affordable housing
- achieving compliance would require an additional 643.8 m² of NRFS, necessitating design amendments to either add a storey to the podium or introduce commercial uses to the tower:
 - increasing the podium height would exacerbate non-compliance with the WDCP street wall height controls and would lead to inconsistent street wall heights along Anderson Street, having greater visual impacts on nearby low-density residential areas
 - introducing commercial uses to the towers would require a substantial redesign of the podium common areas and towers which would undermine the design excellence of the scheme and be inconsistent with the merits of the design competition scheme.

The Department is satisfied that the Applicant's written request has sufficiently identified environmental planning grounds that justify contravening the development standard for the reasons summarised above.

In conclusion, the Department is satisfied the Applicant has demonstrated that strict compliance with clause 6.25 of the WLEP is unreasonable and unnecessary in the context of the proposal and that there are sufficient environmental planning grounds to justify the contravention.

Appendix E – Recommended instrument of consent

The recommended instrument of consent can be accessed at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mixed-use-infill-affordable-housing-3-5-help-street-chatswood>