



New South Wales Government
Independent Planning Commission

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The Timberyards by RTL Co.

SSD-76927247

Statement of Reasons for Decision

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17 February 2026

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1. Introduction

1. On 14 November 2025, the NSW Department of Planning, Housing and Infrastructure (**Department**) referred State significant development (**SSD**) application SSD-76927247 (**Application**) from The Trustee for RTL Marrickville Property Trust (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for The Timberyards by RTL Co. a rental housing precinct development (the **Project**) located in the Inner West Council Local Government Area (**LGA**). The Application constitutes SSD under section 4.36 of the EP&A Act as it satisfies the criteria under section 2.6(1) and section 27 of Schedule 1 of the *State Environmental Planning Policy (Planning Systems) 2021* (**SEPP Planning Systems**).
3. The Minister for Planning and Public Spaces (**Minister**) is the declared consent authority under Section 4.5(a) of the EP&A Act. However, the Application was referred to the Commission for determination as the Minister's delegate (under delegation dated 14 September 2011). The delegation was exercised by the Minister because there were more than 50 public submissions objecting to the Application before amendments to section 2.7 of SEPP Planning Systems were made on 17 October 2025 making the Minister the consent authority rather than the Commission.
4. Andrew Mills, Chair of the Commission, determined that Michael Chilcott (Chair), Juliet Grant and Suellen Fitzgerald would constitute the Commission for the purpose of exercising its functions with respect to the Application.
5. The Department concluded in its Assessment Report (**AR**), dated November 2025, that the Project is in the public interest and approvable, subject to conditions.

2. The Application

6. The Project is proposed to be constructed across 39 separate allotments, bound by Victoria Road, Sydenham Road, Farr Street and Mitchell Street, Marrickville (the **Site**). The Site currently contains single and two storey industrial developments with dwellings located along Farr Street and Victoria Road.
7. Land uses surrounding the Site to the north, north-east, south and west are generally characterised by light industrial developments, showrooms and low-to-medium density dwellings. Public open space known as 'Wicks Park' is located to the south-east of the Site and a recently completed 12-storey development known as 'Wicks Place', is located to the east. Marrickville Public School is located to the north of the Site.
8. The Site and its surrounding context are illustrated at **Figure 1**.

Figure 1 – The Site and surrounding developments (source: AR, Figure 2)



9. The Application seeks development consent for the demolition of existing structures and the construction of a rental housing precinct, comprising of a mix of dwelling typologies and retail floor space.
10. The Project, as proposed, comprises seven buildings – identified as Buildings A to G – ranging in height from five to 14 storeys, and includes the following land uses:
 - residential flat buildings, shop-top housing, co-living housing, and retail and neighbourhood shop floor space, comprising:
 - 475 build-to-rent apartments (**BTR**);
 - 115 infill-affordable housing apartments;
 - 591 co-living dwellings; and
 - 1,425 m² of retail and neighbourhood shop floor space.
 - landscaping, publicly accessible open space, private resident communal open space and internal amenity areas; and
 - lot amalgamation and stratum subdivision of proposed buildings.
11. A Site plan is shown at **Figure 2** and a visualisation of the proposed Victoria Road frontage of the Project is shown at **Figure 3**.
12. The Project is to be constructed in three separate precincts and over four stages:
 - *Precinct 1* – constructed in 2 stages, inclusive of basements, Buildings A, B and a retail loading dock;
 - *Precinct 2* – Buildings C and D; and
 - *Precinct 3* – Buildings E, F and G.
13. Key aspects of the Project are summarised in **Table 1** below. A full description of the project can be found in Section 2 of the Department's AR.

Figure 2 – Site plan (source: AR, Figure 3)



Figure 3 – View of 'The Gateway' (source: Applicant's Revised Architectural Drawings (RtS))



Table 1 – Key aspects of the Project

Aspect	Description		
Demolition and site preparation	• Demolition of existing buildings and structures with the retention of an existing roof truss structure for use as part of a through-site link • Bulk earthworks and excavation • Infrastructure connections		
Site area	22,770 m ² (22,564 m ² when excluding an 'SP2 Infrastructure' zoned portion of the Site adjoining Victoria Road, which will not be built upon).		
Building uses and heights	Building	Use	Height (storeys)
	A	BTR	7-8
	B	BTR, infill-affordable housing, co-living	9-14
	C	Co-living, retail	8
	D	Co-living, retail	8
	E	BTR, infill-affordable housing, co-living	2-14
	F	Co-living, neighbourhood shop	8
	G	BTR	5-7
Outdoor communal open space	10,728 m ²		
Public Domain, Landscaping and tree removal	• Landscaping: ground floor and communal rooftop areas with a tree canopy area of 4,707m² • Deep Soil: 2,531m² • North-south and east-west through site links/connections • Pocket Park (between Buildings A and F 'far Street Pocket Park') and publicly accessible green spaces		
Parking	• 263 car parking spaces comprising: ○ 238 residential spaces, including 22 car share spaces ○ 18 retail and commercial spaces ○ 7 staff spaces • 15 motorcycle parking spaces • 726 bicycle spaces		
Estimated development cost	\$664,218,532		
Employment	• 760 construction jobs • 180 operational jobs		

3. Material Considered by the Commission

14. In this determination, the Commission has given consideration to:
- matters raised in public submissions received by the Commission as set out in [Appendix A – Community Consultation Report](#);
 - material and planning framework as set out in [Appendix B – Commission's Considerations](#); and
 - the Department's whole-of-government assessment as set out in [Appendix C – Department's Assessment Report](#).

4. Reasons for the Decision

15. A whole-of-government assessment of the Project has been undertaken by the Department, including consultation with ten government agencies, including Transport for NSW (TfNSW), Civil Aviation Safety Authority (CASA), NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW), Heritage NSW, Sydney Water and Ausgrid. None of the agencies consulted objected to the Project.
16. The Project will deliver purpose-built BTR housing units designed to provide long-term tenancies, in-fill affordable housing apartments, co-living dwellings and retail floor space in a highly accessible location. The Project supports the National Housing Accord, which sets a national housing target of delivering 1.2 million new homes over five years from mid-2024, with NSW's share being 377,000 well-located homes.
17. Inner West Council (**Council**) provided a comment on the proposal in response to the Environmental Impact Statement (**EIS**), and further comments in response to the Applicant's Response to Submissions (**RtS**) and Amendment Report. In its correspondence with the Department, Council confirmed that some of its concerns had been addressed by the Applicant through its RtS and accompanying documents, but, in its view, some matters remained unresolved, including those relating to the height of Building G, site isolation of the remaining lots along the east of Sydenham Road and at the corner of Victoria Road, stormwater management, traffic and parking, and waste management. The Commission's reasons for its decision specifically address these matters raised by Council.

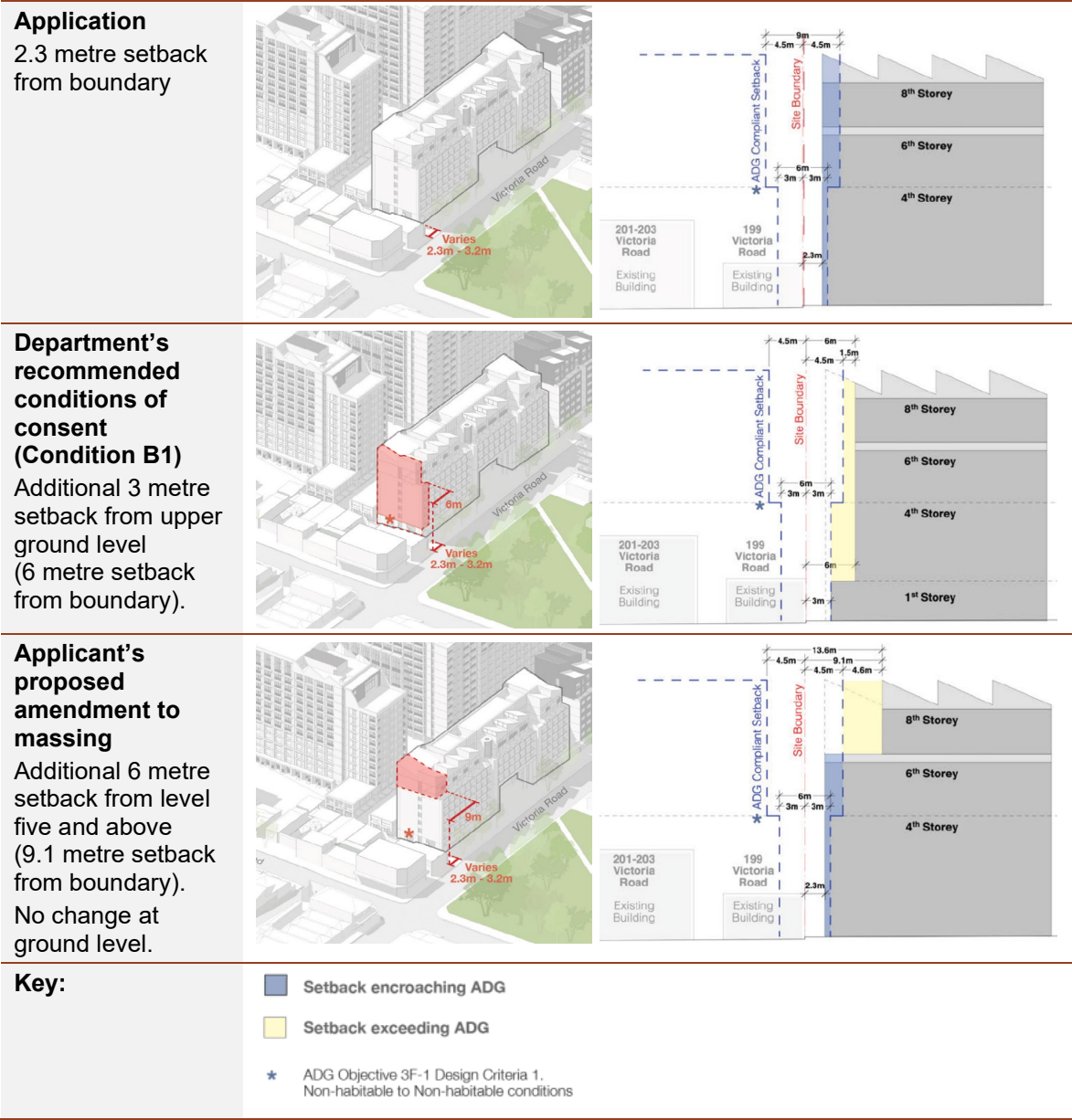
Built form

18. The Commission's consideration of the Project's built form, including its height, bulk and scale is set out in the following paragraphs and at Appendix B, Table 3.
19. The Site is subject to maximum permissible building height controls under the *Inner West Local Environmental Plan 2022 (IWLEP)*, *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)* and the Sydney Airport Obstacle Limitation Surface (**OLS**), which imposes a height limit ranging from RL 47.6 metres to RL 51.0 metres across the Site. The Department (at AR para 49) states that "although the Housing SEPP allows building heights up to RL 60 metres within the centre of the Site (including bonus height provisions), buildings cannot exceed the OLS, under the requirements of the *Airports Act 1996* and the *Airports (Protection of Airspace) Regulations 1996*".
20. Five of the seven proposed buildings would exceed the maximum permissible building height under the provisions of IWLEP and the Housing SEPP (as detailed in Table 6 of the Department's AR). As a consequence, the Applicant has submitted a written request under clause 4.6 of the IWLEP to vary the permissible building heights permitted under section 16(3) of the Housing SEPP. The clause 4.6 request contends that strict compliance with the development standard is both unreasonable and unnecessary and that there are sufficient environmental grounds to justify a variation to the standard because (AR para 51):
 - due to the OLS, the floor space ratio (**FSR**) permissible on the Site cannot be accommodated within the central portion of the Site. The Applicant has proposed that the FSR that would otherwise have been permissible at the centre of the Site, be redistributed to perimeter buildings, resulting in certain exceedances of the applicable height development standard;
 - strict compliance with the development standard is unnecessary as the Project achieves the objectives of the applicable height of buildings development standard through appropriate massing, setbacks and articulation;

- strict compliance would thwart delivery of affordable housing, which is an objective of the applicable development standard, in an area with a known shortage of affordable housing, as it would preclude application of bonus provisions available to the Applicant under the Housing SEPP (20% uplift in both building height and FSR); and
 - approval of the requested variation would support a high-quality urban design outcome while also adhering to OLS height restrictions applicable to the Site.
21. The Commission is satisfied that the Applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the Application. The Commission also accepts that the written request has identified sufficient environmental planning grounds to support a finding that the requested variation to the height of buildings development standard sought under the clause 4.6 request should be upheld.
22. The Commission has considered the interface of the Project with the eight properties that are located on the same block as the Project but are not included in the Application – they are referred to in the material as the ‘corner site’ and comprise 9, 111, 113, 115, 117 and 119 Sydenham Road, and 199 and 203 Victoria Road (**Corner Site**).
23. In particular, the Commission has considered the design of Building D (eight storeys) and its setback to the adjoining Corner Site – specifically, 199 Victoria Road. The Application proposes a minimum 2.3 metre setback along the boundary of the Site and inclusion of a narrow laneway to be known as ‘Wicks Alley’.
24. In its submission to the Department, dated 30 June 2025, Council raised concern with the proposed building separation and recommended that Building D be required to provide an increased side setback in line with ADG building requirements to “ensure any future development on the ‘corner site’ can reasonably achieve the minimum solar access requirements of the ADG” (page 4).
25. The Department, in Table 7 of its AR, noted that the Applicant’s proposed setback “may result in negative amenity impacts or restrict the future development potential of the adjoining Corner Site at 199 Victoria Road”. In particular, the Department observed that the north-facing elevation of any future building on that site would require adequate separation to ensure appropriate solar access and privacy.
26. To address these concerns, the Department has recommended the imposition of a condition of consent requiring certain design amendments to Building D (Condition B1). This condition would require that the design of Building D provide for an increased building separation to a minimum of 3 metres at the ground-floor level and 6 metres for all levels above. The Department’s AR explained that the intended outcome of recommended Condition B1 is to:
- ensure the future development potential of the Corner Site is not constrained by requiring setbacks to have a compliant built form;
 - minimise negative amenity impacts on existing occupants of the Corner Site, including potential loss of sunlight and privacy; and
 - provide a minimum 3 metre setback at ground level for Wicks Alley to improve the usability, pedestrian comfort and safety of this laneway connection.
27. Following its meetings with the Applicant on 3 December 2026, the Commission sought the Applicant’s response to the Department’s recommended design changes under Condition B1, including a summary of the impacts of the increased setbacks on apartment yield and mix.

28. The Applicant’s response to the Commission (letter dated 15 December 2025 and email dated 17 December 2025) acknowledged the intent of the Department’s recommended design change and outlined an alternative design response. The Applicant’s alternative proposal would retain the 2.3 metre boundary setback for the first 6 storeys (as per the Application) and provide a 9.1 metre setback for the upper two storeys (levels 7 and 8). The response also provided justification for why, in the Applicant’s view, this approach would deliver a more favourable urban planning and amenity outcome.
29. Illustrations of Building D as proposed by the Application, as a result of the Department’s recommended design changes, and as proposed to be amended by the Applicant are compared at **Figure 4** below.

Figure 4 – Comparison images (source: Applicant’s response to RFI, 15 December 2025)



30. The Applicant is of the view that its alternative design would provide a superior design outcome (letter from the Applicant dated 15 December 2025, page 3) because it would:
- maintain the uniform Victoria Road street wall and consistent façade rhythm, avoiding the abrupt visual “step” that would occur under the Department’s recommended condition;
 - allow for better solar access to the adjoining Corner Site and through to Wicks Park;
 - retain the current setback up to Level 6, and increase separation for the top two levels, providing a rational built form that allows the Corner Site to respond appropriately in the future, maximising both amenity and development potential;
 - support a safe, activated laneway environment with passive surveillance and ground level activity;
 - avoid privacy impacts through non-habitable window treatment; and
 - enable the creation of a distinctive and intimate character along Wicks Lane.
31. In its letter to the Commission dated 16 January 2025, the Department provided an assessment of the Applicant’s alternative design for Building D. It states:
- While the Applicant’s alternative design represents an improvement over the original SSDA submission, it does not fully achieve the Department’s intended outcomes for building D as set out in condition B1. The objectives of condition B1, providing adequate building separation, protecting future development potential, and enhancing pedestrian amenity, are more effectively met through the required conditions.*
32. The Commission acknowledges the Applicant’s justification and the Department’s assessment. The Commission finds that the Applicant’s alternative design for Building D:
- maintains the Victoria Road street wall, contributing positively to the desired urban design outcome for the precinct;
 - introduces upper-level setbacks beyond those required by recommended condition B1, but retains the existing alignment from ground level to Level 6;
 - delivers improved solar access to Wicks Park, noting however that this benefit was not the primary objective of condition B1;
 - results in negligible solar access benefits to the adjoining Corner Site;
 - retains a higher dwelling yield – the Department’s design would result in 196 units in Building D (a reduction of 14 co-living units), whereas the Applicant’s alternative design would provide 204 units (a reduction of only 6 co-living units) (see further detail at **Table 2**);
 - does not achieve the pedestrian comfort, safety, or activation opportunities intended by condition B1, which would provide a wider laneway (Wicks Alley);
 - remains inconsistent with the Apartment Design Guide (ADG) recommended setbacks between non-habitable rooms; and
 - fails to provide adequate building separation to safeguard the amenity and future development potential of the Corner Site.
33. Given the above, the Commission agrees with the Department’s assessment and finds the design amendments proposed by the Department would better address the building separation concerns raised by Council and the Department. The Commission has therefore imposed condition B1, as recommended by the Department.
34. The Commission notes that if the lots that constitute the Corner Site were to be amalgamated within the Project Site in the future – which is not proposed under the current Application – then an alternative design that achieves a continuous Victoria Road street wall may be possible.
35. The Commission has also considered the design of Building G, including its proposed setbacks to the Corner Site (specifically 119 Sydenham Road).

36. Building G, as proposed, includes a 6-metre setback to the Corner Site. The Department is of the view that design changes should be made to further setback the upper levels of the building to improve amenity outcomes to the Corner Site. The Department has therefore recommended condition B2, which would require a further 3-metre setback on levels five to seven of Building G to provide additional separation to 119 Sydenham Road.
37. The Commission finds that the proposed additional building setback, in combination with the proposed privacy screening along the southern edge of Building G and the internal apartment orientation, would effectively mitigate potential privacy impacts to 119 Sydenham Road. The Commission has therefore imposed condition B2, as recommended by the Department.
38. The Commission notes that the Applicant, in its letter to the Commission dated 15 December 2025, accepts the recommended additional setback.
39. The imposition of conditions B1 and B2 would result in a reduced apartment yield for the Project, as set out in **Table 2**.

Table 2 – Apartment yield and mix

Number of units	Application	Department's recommended conditions of consent	Applicant's proposed alternative design
Building D	210	196 (-14 co-living)	204 (-6 co-living)
Building G	51	50 (-1 BTR)	50 (-1 BTR)
Precinct-wide breakdown	475 (BTR)	474 (-1 BTR)	474 (-1 BTR)
	591 (co-living)	577 (-14 co-living)	585 (-6 co-living)
	115 (affordable housing)	115 (affordable housing)	115 (affordable housing)
	1,425 m ² Retail	1,425m ² Retail	1,425 m ² Retail
Precinct-wide total	1,181	1,166 (-15 units)	1,174 (-7 units)

40. The Commission finds that the amenity benefits that result from requiring additional building separation at Buildings D and G outweigh the slight reduction in apartment yield for the Project.

Car parking

41. The Housing SEPP provides the following non-discretionary development standard (**NDDS**) minimum car parking standards for each of the proposed residential uses:
- 0.2 spaces per BTR dwelling;
 - 0.2 spaces per co-living dwelling; and
 - between 0.4 and 1 parking space per dwelling for in-fill affordable housing.
42. The Applicant has applied a consistent rate of 0.2 spaces per dwelling for all 1,181 dwellings, which equates to 236 car parking spaces, and the Project proposes to provide 238 car parking spaces. Given that a higher ratio of car-parking spaces applies to the in-fill affordable housing component of the development (as per section 19 of the Housing SEPP), the Commission is of the view that there is a shortfall in the number of car parking spaces required.
43. The Department, at paragraph 123 of its AR, states that the Project provides “at least 0.2 spaces per dwelling” and considers that the Application “meets the Housing SEPP NDDS for BTR and co-living and considers that it is appropriate to apply the same rate for the in-fill affordable housing dwellings”.

44. The Applicant, in its response to the Commission's request for further information about car parking numbers (letter from the Applicant dated 15 December 2025, page 6), states:

Although the parking provision for the in-fill affordable housing is below the relevant non-discretionary standard, the variation is considered acceptable on its merits because:

- The proposed development delivers a single, integrated parking solution that meets the non-discretionary standards for the co-living and BTR components under the Housing SEPP.*
- It is reasonable and appropriate to apply the same parking rate to the in-fill affordable housing given the precinct-wide parking pool that will serve all residents' needs.*
- The site is highly accessible, being located close to high-frequency public transport, including bus services and the recently opened Sydney Metro, which provides fast and efficient access to the Sydney CBD from Sydenham Station in approximately six minutes.*
- Residential parking spaces will be allocated to tenants on request through their rental agreements rather than being tied to specific units, enabling RTL Co to actively manage parking allocation and ensure the efficient use of parking in response to actual tenant demand.*
- The provision of 22 car share spaces will encourage and support sustainable transport choices and further improve the efficient use of parking in a location that is already very well served by public transport.*

45. The Commission notes that the Applicant (at page 6 of its 15 December 2025 letter to the Commission, as quoted above) concedes that the parking provision for the in-fill affordable housing is "below the relevant non-discretionary standard". The Commission's assessment is consistent with this interpretation of the parking standards applicable to the Project, which differs from that adopted within the Department's AR.
46. The Applicant's interpretation follows that the Project's provision of car parking does not have the benefit of section 4.15(2) of the EP&A Act. Consequently, the Commission is entitled (indeed, required) to take the provision of car parking by the Project into further consideration in determining the Application. In doing so, the Commission accepts that – consistent with the notes to sections 19(1) and 74(1) of the Housing SEPP – this non-compliance with a non-discretionary development standard does not prevent development consent being granted by the Commission (the provisions are explicitly intended to prevent the consent authority from imposing more rigorous standards).
47. Noting this interpretation, and as per the Applicant's submission in its 15 December 2025 letter to the Commission, the Applicant has not been required by the Commission to apply a provision of an environmental planning instrument that allows flexibility in the application of a development standard.
48. It is the Commission's finding that, given the constraints of the Site, along with the availability of high-frequency public transport, and the proposed active management of the available car parking spaces provided by the Applicant, the Project provides adequate car parking to meet the needs of residents and visitors. In making this finding, the Commission has considered the public submissions identifying car parking as a matter of community concern. However, the Commission has concluded that the provision of car parking, while less than that prescribed under the provisions of the Housing SEPP, is not of such weight as to warrant refusal of the Application.

Construction impacts

49. The Commission has considered submissions that raised concerns about potential construction noise and vibration impacts.

50. The Applicant's Noise and Vibration Impact Assessment (**NVIA**) identifies that the most significant sources of noise and vibration during construction would occur during building demolition works and excavation for the basement (which, it notes, is limited to a small portion of the Site and the duration of this phase is expected to be shorter than typical for projects of this scale). The NVIA predicts temporary noise exceedances at nearby receivers, with the most impacted being properties on the corner of Sydenham and Victoria Road (the Corner Site).
51. The Department, at Table 9 of its AR, identifies that even with the proposed mitigation measures, works are likely to exceed the Project's identified noise management levels and potentially the Interim Construction Noise Guideline's (**ICNG**) highly noise affected criteria for the closest residential receivers. The Department has therefore recommended the following noise mitigation measures:
- preparation and implementation of a detailed Construction Noise and Vibration Management Plan (CNVMP);
 - providing at least 7-days' notice to neighbouring properties of high-noise activities;
 - restricting construction hours to standard ICNG hours on Saturdays to between 8am to 1pm with no high-noise activities before 9am or after 12pm;
 - prohibiting out-of-hours vehicle deliveries; and
 - ensuring idle plant and vehicles are switched off when not in use.
52. The Commission agrees with the Department's assessment and finds that construction noise impacts can be appropriately managed to minimise amenity impacts on nearby residential receivers and are therefore acceptable. As such, the Commission has imposed the noise mitigation conditions as recommended by the Department.
53. The Commission has also considered public submissions that raised concern related to the potential impacts of dust during construction.
54. The Commission notes the Department's comment (at AR Table 9) that some construction impacts, including dust generation, while unavoidable, are temporary in nature and can be mitigated through the imposition of conditions.
55. Consequently, the Commission has imposed mitigation and management conditions (including requiring practices such as watering of exposed surfaces and stockpiles, and covering of truck loads, in accordance with an Air Quality Management Plan) and is satisfied that works can be carried out to appropriate standards without causing unreasonable impacts.
56. The Commission received submissions at its public meeting concerning potential impacts to the property at 119 Sydenham Road, a property not included within the Site boundary. Specifically, one speaker noted that the property was "included for the purposes of interim development and construction access" but that the "landowner hasn't provided owner's consent" for such access (Public Meeting transcript, page 13).
57. Subsequently, the Commission sought clarification from the Applicant in its letter dated 10 December 2025 and, in its response to the Commission dated 15 December 2025, the Applicant clarified that "construction vehicle access via Sydenham Road (including 119 Sydenham Road) will not be required" and that "all construction vehicle access will be via Farr Street and Mitchell Street only" (page 9). The Commission is therefore satisfied that the Project would not require construction access via 119 Sydenham Road – and, in any event, the Commission's grant of development consent does not include consent for the use of that land for construction vehicle access.

The Commission's findings

58. Overall, the Commission is of the view that the Project will deliver a high-quality urban outcome with an improved and activated public domain. The Commission assesses that the Project will:
- support the NSW Government's target of delivering 377,000 well-located homes over five years from mid-2024 by contributing new housing supply;
 - deliver well-located high-density housing in an area serviced by rapid public transport and within walking distance of employment, services and amenities, in accordance with Sydney's strategic planning objectives;
 - deliver diverse rental accommodation that meets the needs of Inner West residents at various life stages and supports a range of household types;
 - demonstrate design excellence through high-quality architectural outcomes which consider the Site's topography, opportunities and constraints;
 - complement the existing character of Marrickville by providing a highly permeable, pedestrian-friendly precinct with quality public spaces, including 'Timberyard Commons', 'Farr Street Pocket Park', the 'Residential Mews', and 'Warehouse Place' (which will be a generous 24-metre-wide active thoroughfare and central spine through the precinct);
 - broadly align with the indicative layout envisaged under the *Victoria Road (Precinct 47) DCP Structure Plan*;
 - strengthen the Inner West economy through provision of new retail spaces, increased demand for local goods and services generated by residents; and
 - generate up to 760 construction jobs and 180 operational jobs.
59. The Commission finds that the Application meets all necessary legal requirements, is consistent with NSW Government policies and its approval supports the public interest in providing appropriate housing supply. The Commission has therefore determined to approve the Application subject to the conditions of consent in [Appendix D – Instrument of Consent](#).
60. The reasons for the Decision are given in the Statement of Reasons for Decision dated 17 February 2026.



Michael Chilcott (Chair)
Member of the Commission



Juliet Grant
Member of the Commission



Suellen Fitzgerald
Member of the Commission

Appendix A – Community Consultation Report

Public consultation overview

A summary of the SSD application timeline and key engagement milestones are outlined below.

Appendix A – Figure 1: Engagement timeline



Department's public exhibition of the Project

During its assessment of the Application, the Department exhibited the Project and received 225 submissions comprised of 176 objections, 15 comments and 34 submissions in support. The Department also consulted with key government agencies and Inner West Council. Part 4 of the Department's Assessment Report outlines how these submissions were considered in its assessment.

The Commission's public consultation

The Commission's meetings

The Commission met with the Department, the Applicant, and Council (refer to *Appendix B – Material Considered by the Commission*). Transcripts from these meetings were made publicly available on the Commission's website.

Public meeting

The Commission held a public meeting on 8 December 2025 at Marrickville & District Hardcourt Tennis Club. At the meeting the Panel heard from 10 members of the community.

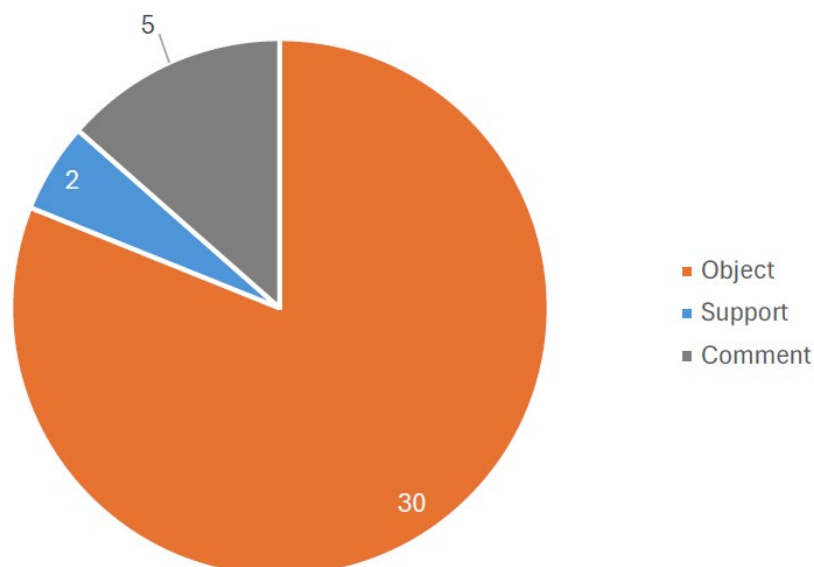
Appendix A – Figure 2: The Timberyards public meeting, held in Marrickville



Written submissions

The community was offered the opportunity to make written submissions to the Commission from 14 November – 15 December 2025. The Commission received a total of 37 written submissions (see *Appendix A – Figure 3*).

Appendix A – Figure 3: The Timberyards public meeting, held in Marrickville



Consideration of submissions

The Commission appreciates the time and effort the community put into their submissions. These submissions, whether shared verbally at the public meeting or provided in writing, were reviewed carefully by the Commission. Although submissions are just one of the materials that the Commission considers, they play a key role in the Commission's decision-making process.

Table 1 below reflects the major themes of submissions and provides a summary of the main concerns people raised and how the Commission has considered them in its decision.

To view all submissions, please see the submissions tab on the Commission's website:

<https://www.ipcn.nsw.gov.au/cases/timberyards>

Appendix A – Table 1: Key matters raised in submissions

Themes raised in submissions from the community	Commission's consideration
Bulk, scale, design - Excessive height and bulk – the buildings will dominate the streetscape and are out of scale with the surroundings, in particular, Edward Street and Farr Street which are low-to-mid-rise residential streets. - At Farr Street, the building height should be reduced to minimise the visual dominance. The building façade should be amended to provide better articulation, including balconies, recesses, and the use of different materials. - There is a lack of adequate setback and building articulation. - The development is overwhelming and inconsistent with the character and form of dwelling house developments within these surrounding streets. This will impact the amenity enjoyed by existing local residents and will have adverse streetscape outcomes. - The height should be limited to the Housing SEPP FSR bonus only with no additional exceedance via clause 4.6.	A key concern for the community is the bulk and scale of the development, in particular, the proposed building heights and building setbacks. The Applicant proposes to breach the maximum building height control and submitted justification for this in its Application. The Commission heard the community's concerns regarding setbacks, in particular, those to Farr Street, Edward Street and properties on the east of Sydenham Road. The Commission acknowledges that there will be some impact to adjoining sites as a result of the Project's built form. However, the Commission finds that impacts have been minimised as far as practicable, including for example, through the Commission's imposition of conditions to require additional building separation at Buildings D and G to provide for improved amenity to neighbouring properties. Overall, the Commission finds that the proposed built form is acceptable.

Amenity – privacy and solar access

- The development should be required to include screening to windows that overlook the private open space of adjoining residences.
- There should be boundary landscaping to buffer privacy impacts to adjoining residents.
- The buildings will be so high that people will be able to overlook children in the playground at Marrickville Public School, presenting an unacceptable child protection risk.
- The proposed buildings are too tall – they will have a negatively impact existing resident's access to natural light
- Some adjoining houses will not meet the minimum requirements for access to sunlight. This will worsen existing problems in an area already struggling with damp issues in buildings and flooding on roads.

The Commission heard community concerns about amenity impacts relating to overlooking and overshadowing. Submissions state that these impacts result from the size, scale, and setbacks of the proposed buildings. The Commission finds that privacy and overshadowing impacts have been minimised as far as practicable, including through the Commission's requirement to increase building separation at Buildings D and G through the imposition of Conditions B1 and B2, as discussed in **Section 4** of this Statement of Reasons and above, to provide for improved amenity to neighbouring properties. Overall, the Commission finds that the proposed built form is generally consistent with the objectives for solar access and overshadowing contained within the Apartment Design Guide and is acceptable.

Parking

- There is insufficient parking provided for a development of this size – the surrounding streets cannot accommodate additional parking as many existing homes do not have off-street parking.
- The number of on-site parking spaces should be increased so that pressure on on-street parking is reduced.
- A substantial increase in vehicles, combined with insufficient parking will significantly increase frustration, angst and accessibility for existing residents adjoining the site. Several residents in the surrounding streets are elderly and require the ability to park close park to their home.

The Commission has considered the concerns raised by submissions regarding insufficient on-site car parking and acknowledges that the parking provision for the in-fill affordable housing component of the Project is below the relevant non-discretionary standard, as set out at **Section 4** of this Statement of Reasons. However, the Commission finds car parking to be acceptable because of the nearby availability of high-frequency public transport and the proposed active ongoing management of car parking spaces provided by the Applicant.

Construction

- School children within the area have already endured years of disruption due to noise from the Wicks Park development. How will this project ensure that students are not further disrupted in their schooling or exposed to environmental pollution from construction?
- Construction will create noise, and dust, impacting local amenity.

The construction impacts can be appropriately managed.

Conditions of consent require the Applicant to prepare a construction environmental management plan which must include regular updates to the local community and Council about key construction dates and activities.

The Applicant is also required to prepare a number of construction related sub-plans, including a construction traffic and pedestrian management sub-plan. This sub-plan is to include measures to reduce environmental impacts and harm during construction arising from construction traffic and must identify potential conflicts between vehicle movements required for construction and general traffic, pedestrians, bus services and school traffic. *Refer to conditions C1-C7.*

Unit mix and affordable housing

- The proposal does not provide enough larger units which would be suitable for families – this is needed to meet the demand of local housing needs.
- There is not enough affordable housing provided. Average income earners would see little or no benefit from the proposed development.

The Application identifies that 115 apartments would be provided as affordable housing. Subject to Conditions B1 and B2 as imposed by the Commission (which would slightly reduce the overall apartment yield for the Project) affordable housing would result in 10.3% of the total gross floor area of the Project. This complies with the applicable development standard under the Housing SEPP. The Commission notes that compliance with this standard does not require a net increase of affordable housing, but rather that the percentage of gross floor area as proposed is greater than 10%. The Commission also notes that an application is unable to be refused on this basis if it complies with the development standard.

In relation to unit mix, the Commission notes the material provided by the Applicant supporting the proposed mix.

Neighbourhood character and amenity

- The scale reduces the liveability and amenity of neighbouring homes and changes the character of the area.
- This is overdevelopment, with building heights that far exceed any existing structures in Marrickville. The neighbourhood is predominantly composed of single detached family homes in a relatively quiet, low-traffic area. The high-density housing will fundamentally alter the peaceful and close-knit nature of our community, leading to increased noise levels, reduced privacy for existing residents, and significant changes to the social fabric of the area.

The Application will change the exiting streetscape, in particular along Sydenham Road where the development adjoins existing low-density residential development.

Although this change may seem out-of-character compared to existing development, changes of this nature were anticipated under the Victoria Road Precinct rezoning which was undertaken in 2017. The Project is consistent with the strategic vision for the Victoria Road Precinct and that over time, the neighbourhood will continue to evolve with more medium and higher density residential developments within the locality.

The Commission acknowledges the community concern raised in submissions about access to public open space and is of the view that the Project will deliver a highly permeable, pedestrian-friendly precinct with quality public spaces, including 'Timberyard Commons', 'Farr Street Pocket Park', the 'Residential Mews', and 'Warehouse Place' (which will be a generous 24-metre-wide active thoroughfare and central spine through the precinct). The Commission has imposed a condition of consent to require the Applicant to provide an accessible path of travel through the Site from Victoria Street to Farr Street.

Appendix B – Commission’s Considerations

Material considered by the Commission

Appendix B – Table 1: Material considered by the Commission

Document	Date
Applicant’s Environmental Impact Statement and its accompanying appendices	23 January 2025
Government agency advice to the Department	Various
Public submissions made to the Department during exhibition	Various
Applicant’s Submissions and Amendment Report and its accompanying appendices	11 August 2025
Department’s Assessment Report and recommended conditions of consent	November 2025
Comments and presentation material from meetings with:	
• Applicant	3 December 2025
• Council	3 December 2025
• Department	3 December 2025
Observations made at the Site Inspection	8 December 2025
The following responses to the Commission from:	
• Council	9 December 2025
• Applicant	5 December 2025
	15 December 2025
	17 December 2025
	3 February 2026
• Department	16 January 2026
All written submissions made to the Commission up until	15 December 2025
Department’s advice to the Commission regarding the imposition of conditions	11 February 2026

Planning Framework

Strategic context

The Commission notes the NSW Government has a target of 377,000 well-located homes over the next 5 years. This policy is in support of the National Housing Accord that provides a national target of delivering 1.2 million new, well-located homes over 5 years (AR, para 8). The Project will assist in the delivery of the NSW Government’s target and Council’s own housing target of 7,800 dwellings by 2029.

Build-to-rent housing and an SSD pathway for build-to-rent housing was introduced into the NSW planning system to recognise and support the delivery of well-located housing (AR, para 9). Further, in-fill affordable housing and reforms were also introduced in 2023 which incentivise development through the availability of additional height and gross floor area concessions (AR, para 10).

The Commission has considered the NSW Government’s strategic framework, policies and guidelines as they apply to the Site and Application and is satisfied that the Application is consistent with those documents. The Project would deliver critically needed housing in a well serviced location, contribute to delivery of the NSW Government’s and Council’s housing targets and respond to the housing needs of the Inner West LGA. The Application’s strategic context is further outlined below in **Appendix B – Table 2**.

Appendix B – Table 2: Strategic and Statutory context

Strategic context	Commission's consideration
<i>Greater Sydney Regional Plan (GSRP) and Eastern City District Plan (ECDP)</i>	The GSRP informs planning across five districts including the North District. The ECDP is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney. It is a guide for implementing the GSRP at a district level and is a bridge between regional and local planning. The Project specifically aligns with the ECDP's 'Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport'. The ECDP notes: <i>"New housing must be in the right places to meet demand for different housing types, tenure, price points, preferred locations and design".</i> <i>"The number of single-person households is projected to increase by 61,100 households and comprise 35 per cent of all household types across the District. Couple-only households are expected to experience strong growth, increasing by 31,750 households to 2036".</i> The Commission finds the delivery of a rental housing precinct supports and the GSRP and ECDP priorities. The Commission has also considered the <i>Draft Sydney Plan</i> (on public exhibition until 27 February 2026), which is proposed to guide housing growth, infrastructure planning and local strategic assessments across the Sydney region.
<i>Inner West Local Strategic Planning Statement (LSPS)</i>	The Project will give effect to Planning Priorities 6 and 7 of the LSPS: • Planning Priority 6: Plan for high quality, accessible and sustainable housing growth in appropriate locations integrated with infrastructure provision and with respect for place, local character and heritage significance • Planning Priority 7: Provide for a rich diversity of functional, safe and enjoyable urban spaces connected with and enhanced by their surroundings The LSPS also provides that between 2016 and 2036, the Inner West LGA population is forecast to increase by 38,646 persons (20.13% growth), and notes that 41% of households are renting. To this end, a rental housing precinct in the location proposed directly gives effect to the LSPS priorities.
<i>Our Inner West Housing Strategy (LHS)</i>	Housing supply gaps are identified in the LHS as follows: • dwelling supply; • smaller dwellings; • housing for growing families; and • accessible housing (and neighbourhoods) The LHS also notes that rental vacancies are particularly low in Marrickville and nearby Enmore to the north-east. With the Project delivering a mix of rental housing typologies in a range of sizes, to accommodate single person households through to families in a highly accessible environment, the Commission finds the Project will contribute to filling housing supply gaps within the LGA and is in alignment with the LHS.
<i>Inner West Community Strategic Plan (CSP) - Our Inner West 2041</i>	Council's Inner West Community Strategic Plan is a plan developed with and on behalf of the community. It sets out the community's vision and aspirations for the next 10+ years. The Project is consistent with the CSP's strategic direction 'SD2 Liveable, connected neighbourhoods and transport', and its outcomes, 1, 2 and 4: <i>"1. Housing for all</i> • <i>Encourage greater housing diversity through development</i> • <i>Increase social, community, affordable and liveable housing</i> <i>2. Sustainable development</i> • <i>Integrate planning and urban design for public and private spaces</i>

4. Safe, clean and accessible public places

- *Ensure private spaces and developments contribute positively to public spaces”*
-

Victoria Road Precinct An amendment to the former *Marrickville Local Environmental Plan 2011* (MLEP) in 2017 (**Victoria Road Precinct**) rezoned the Site to a combination of MU1 Mixed Use, R4 High Density Residential, and SP2 Infrastructure zones. A maximum FSR of up to 3:1 and varying building height controls were also introduced. Objectives of the MLEP amendment included facilitating medium and high density residential development along the Victoria Road corridor, supporting creative industries, improving local amenity and connectivity, and ensuring new development responds appropriately to surrounding land uses and does not compete with established retail centres (AR, para 11-12).

A State Planning Agreement (SVPA 2018/9539) was executed to support the Victoria Road Precinct, requiring the developer to make monetary contributions towards regional open space, undertake specified road upgrades, and dedicate land needed for these works. The Commission notes such obligations are staged and linked to the progression of development within the precinct (AR, para 13). Please see discussion on planning agreements further below in this table.

**Inner West Council
Our Fairer Future Plan** Council has developed a “Fairer Future for the Inner West” Plan (May 2025) which proposes planning controls as an alternative to the NSW Government’s Transport Oriented Development (TOD) and Low and Mid-Rise Housing (LMR) policies. Plan is yet to be implemented in the form of a planning proposal to the Department, however it is noted to include proposed planning controls changes that would affect the Site, including (AR, para 14):

- rezoning portions from R4 to R3 (with continued permissibility of Residential Flat Buildings and co-living housing);
- mapping the site as a Special Entertainment Precinct; and
- introducing flexibility for architectural roof features to exceed height limits.

The Commission agrees with the Department’s assessment that the Project is consistent with the Plan (AR, para 15).

Statutory context

Commission’s consideration

Objects of the EP&A Act and Ecologically Sustainable Development

The Commission has considered the Objects of the EP&A Act and is satisfied that the Application is consistent with those Objects. The Commission finds that the Application is consistent with ESD principles and would achieve an acceptable balance between environment, economic and social considerations.

Permissibility

The Site is located within 3 separate land use zones under the *Inner West Local Environmental Plan 2022 (IWLEP)*, as shown in **Figure 6**:

Italicised land uses are defined at the end of this table*

- Zone R4 High Density Residential (**R4 zone**);
- Zone MU1 Mixed Use (**MU1 zone**); and
- Zone SP2 (Infrastructure) (**SP2 zone**) for the purpose of future road corridor widening – no works are proposed in the SP2 zone.

R4 Zone:

- *Residential flat buildings* are permitted with development consent pursuant to the IWLEP. Sections 15C and 72 of the Housing SEPP permit use of residential flat buildings for the purpose in-fill affordable housing and BTR respectively
 - *Co-living housing* is permitted with development consent pursuant to section 67 of the Housing SEPP (Building F)
 - *Neighbourhood shops*, which is a type of *shop* (proposed at the ground floor in Building F) are permitted with development consent pursuant to the IWLEP.
-

	• <i>Recreation areas</i> (pocket park) are permitted with development consent pursuant to the IWLEP. <u>MU1 Zone (Buildings C and D):</u> • <i>Co-living housing</i> is permitted with development consent pursuant to section 67 of the Housing SEPP • <i>Commercial premises</i>, which includes <i>retail premises</i> (ground floor of Buildings C and D) are permitted with consent pursuant to the IWLEP • <i>Shop top housing</i> (i.e. <i>co-living housing</i> over the ground floor <i>retail premises</i>) is permitted with development consent pursuant to the IWLEP Development for the purposes of shop top housing on land within the E2 zone may, however, be granted development consent pursuant to section 72 <i>Development for the purposes of build-to-rent housing permitted with consent</i>, of the Housing SEPP if: • the development will result in at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and • all buildings containing the dwellings are located on the same lot of land. The Project is permitted with development consent and to ensure that the Project's dwellings are located on the same lot of land, the Commission has imposed a condition of consent requiring all lots subject of the Application to be consolidated prior to the issue of any Construction Certificate for above ground works.
State significant development	The Project is SSD pursuant to section 4.36 of the EP&A Act as it satisfies criteria pursuant to section 2.6(1) and item 27 of Schedule 1 of SEPP Planning Systems: • BTR development with an EDC of more than \$50 million; • the tenanted BTR component of the Project has a value of at least 60% of the EDC of the proposed development; and • the project does not involve development that is prohibited under an environmental planning instrument applying to the land. The Commission notes a SSD pathway also exists for the Project's in-fill affordable housing component, however the Applicant has utilised the SSD pathway for BTR in its Application. Regardless, by virtue of section 2.6(2) of SEPP Planning Systems, other land uses proposed in the Application are also SSD.
Consent authority	The Minister is the consent authority pursuant to section 4.5(a) of the EP&A Act. The Commission however is to determine the applicant as the Minister's delegate, due to more than 50 public submissions objecting to the Application being received by the Department before amendments to Section 2.7 of SEPP Planning Systems were made on 17 October 2025.
Amended application	The Applicant lodged a Response to Submissions report (RtS) on 6 June 2025 and an Amended Report on 12 August 2025 outlining changes to the Project to address the issues raised in submissions and agency advice. Key changes made include: • built form changes: ○ <u>Building G</u>: height reduced from eight storeys to seven storeys; increased setbacks provided; GFA reduced by 1,062 m² (15 fewer apartments); introduction of an inclined roof plane to visually reducing bulk; landscaping added to the level 4 rooftop; ○ <u>Building B</u>: one additional storey, increasing GFA by 1,045 m² (13 additional apartments); ○ <u>Building A</u>: lower-level façade redesigned to a terrace-style expression to better fit Marrickville's character; and ○ <u>Building E</u>: increased boundary setback to the Corner Site to a minimum 3m; added privacy treatments to façade.

	- revised GFA: - Overall GFA increased by 72m² (76,634m² to 76,706m²); - Retail GFA increased: 70m² to 1,597m²; - Commercial floorspace removed: 2,324m² to 0m²; and - Community floorspace added: 0m² to 225m². - revised dwelling yield (total dwellings reduced from 1,188 to 1,181 apartments (-7 apartments)); - revised unit mix (more 3-bedroom apartments added and a new 4-bedroom apartment introduced); - privacy and amenity improvements: - introduction of operable screens to Buildings A, B, E, F, and G; - angled privacy panels added to Building A to prevent overlooking; - removal of first-floor windows on Building E facing the Corner Site; and - translucent glazing and screened windows added between Buildings F and G. - public domain improvements; - corner site integration (preparation of a detailed revised indicative scheme showing developability of the isolated Corner Site); - waste management updates; - new mitigation measures to reduce acoustic impacts during construction; - new crime prevention measures at 'Hardware Lane'; - new Flood Emergency Response Plan and updated basement entry level flood controls; and - other minor amendments.
Other approvals and authorisations	Pursuant to section 4.41 of the EP&A Act, several approvals are integrated into the SSD process and therefore are not required to be separately obtained for the Application. Pursuant to section 4.42 of the EP&A Act, further approvals are required but must be substantially consistent with any development consent for the Project.
Mandatory considerations	Commission's consideration
Relevant environmental planning instruments (EPIs)	Appendix D of the AR identifies relevant EPIs for consideration. The key EPIs (in their present, consolidated form) include: <i>State Environmental Planning Policy (Planning Systems) 2021;</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021;</i> <i>State Environmental Planning Policy (Housing) 2021 – and associated Apartment Design Guide;</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021;</i> <i>State Environmental Planning Policy (Sustainable Buildings) 2022;</i> and <i>Inner West Local Environmental Plan 2022.</i> The Commission has considered these EPIs as part of its determination.
Relevant DCPs	Pursuant to section 2.10 of the SEPP Planning Systems, DCPs do not apply to SSD.
Any planning agreement or draft planning agreement	As described at AR para 142, a State Planning Agreement (SVPA 2018/9539), which was executed to support redevelopment following the rezoning of the Site and requires the Applicant to make monetary contributions, including towards specified road upgrades, is subject to a deed of revocation and will be replaced with SVPA2024-28, which does not require intersection upgrades.

	SVPA2024-28 secures monetary contributions for Build -to-Rent, co-living, retail/commercial uses, and regional open space, aligned with the Housing and Productivity Contribution framework. The Commission has imposed recommended Condition A10 requiring that SVPA2024-28 be entered into prior to the issue of the first construction certificate.
Likely impacts of the development	The Commission has given consideration to the likely impacts of the development and has set out its reasons for decision in section 4 of the Statement of Reasons for Decision.
Suitability of the Site for development	The Site is suitable for the following reasons: - it is able to physically accommodate the Project without significant impacts arising on the natural and built environment; and - impacts on surrounding land uses have been minimised where possible, with remaining impacts capable of being further mitigated through conditions of consent.
The public interest	The Commission has considered the public interest in deciding to grant conditional consent to the Application. In doing so, the Commission has evaluated the likely impacts of the Application and considered the relevant ESD principles. The Commission has concluded that the Project will support the public interest, particularly in the provision of appropriate housing supply.

Key issues

Key issues considered by the Commission in its determination are outlined in **Appendix B – Table 3**. The Commission notes that this is not an exhaustive report of all the issues pertaining to the Project or as raised in written submissions, however it is illustrative of the Commission's consideration of the key issues in determining the Application.

Appendix B – Table 3: Key issues in the Commission's determination

Issue	Commission's findings
Residential amenity	<u>Building separation (internal) and visual privacy:</u> The Commission notes that the ADG recommends a minimum building separation of 18-metres for buildings between five and eight storeys to ensure adequate visual privacy for future residents. Minimum separation distances of 12-metres have been proposed between Buildings A and B, F and G, and F and E. The Commission has considered the Applicant's design amendments to the building facades to address privacy concerns and align with ADG objectives and the Department's assessment of these design amendments. The Department considers that residential amenity (internal) will be acceptable because (AR para 91): - the privacy objectives of the ADG are achieved via measures that direct views toward buildings separated in accordance with ADG recommended distances (such as by providing dual-aspect apartments where one aspect may not strictly comply, but the other is oriented toward compliant separations; and via selected privacy screening on corner balconies); - the inconsistency with ADG recommendations is limited to levels 5 to 8 and affects only selected portions of the buildings; and - the Project achieves key ADG recommendations for BTR and IFAH units, including solar access and cross ventilation despite not strictly meeting some internal building separation recommendations. The Commission agrees with the Department's assessment and considers that internal building separation is acceptable. <u>Building separation (external) and visual privacy:</u>

The Commission acknowledges that Council and public submissions raised concerns about the building separation between Buildings A, D, E and G and adjoining properties, particularly in relation to potential impacts on amenity and privacy. The Department has undertaken an assessment of external building separation and boundary setbacks in its AR (see Table 7).

With the exception of Building D, which is discussed in detail at **Section 4** of this Statement of Reasons, the Commission finds the proposed setbacks and separation distances – as amended by the Applicant's Amendment Report – to be acceptable and agrees with the Department's assessment (at AR para 93) that the building separation will "respond appropriately to the site's context, minimise amenity impacts on neighbouring properties and support the desired future character of the precinct".

Overshadowing:

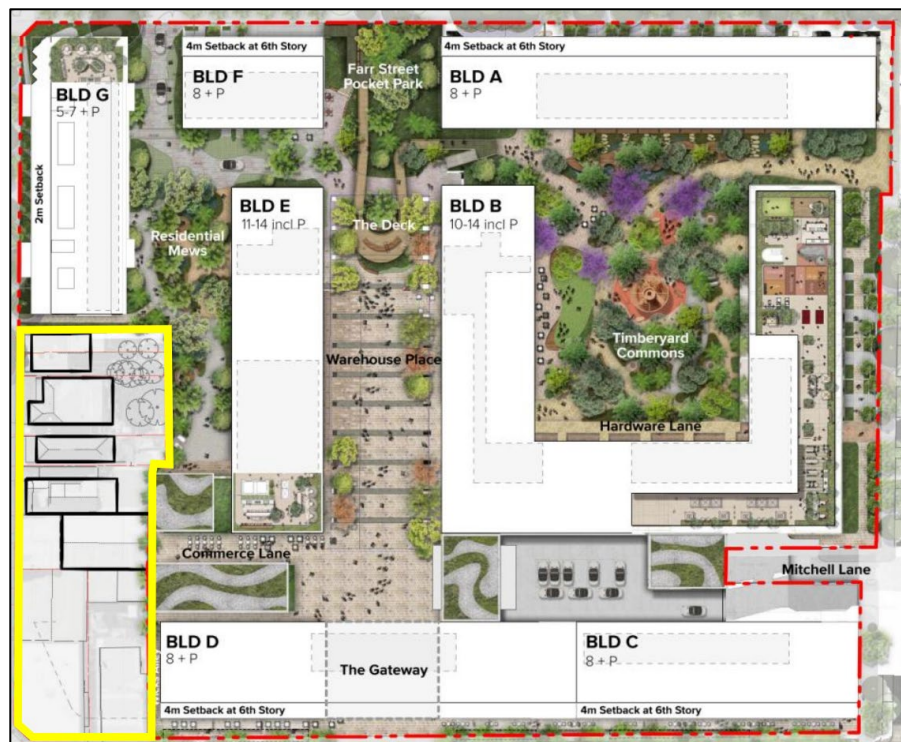
The Commission acknowledges that Council and community submissions raised concerns regarding overshadowing impacts, particularly on adjacent residential properties along Sydenham Road. Based on the Applicant's detailed shadow analysis, the Commission understands the key areas likely to be affected by overshadowing include properties on the southern side of Sydenham Road, the Corner Site, Wicks Place and Wicks Park. Based on the Department's assessment of overshadowing impacts (AR Table 8), the Commission agrees with the Department and is satisfied that the Project – as amended by the Applicant's Amendment Report – is generally consistent with ADG objectives for solar access and overshadowing, and solar access to living rooms and private open spaces of adjoining properties has been protected as much as possible.

Site isolation

The Project has the potential to create an isolated development site. 'Site isolation' creates a situation where a development renders a parcel or parcels of land sterilised or restricted in terms of development potential.

The Project comprises an entire block of allotments, with the exception of eight parcels of land, referred to in this Statement of Reasons as the Corner Site (see the Corner Site illustrated at Figure 5 below).

Figure 5 – Properties not included in Project (source, AR, Figure 24)



The Department, in its AR (paragraphs 101-111), has applied the planning principle for site isolation established in the NSW Land and Environment Court (LEC) case *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 (**Karavellas**) in consideration of the site isolation issue.

The Commission however notes the decision of the LEC in *Statewide Planning Pty Ltd v Canterbury-Bankstown Council* [2021] NSWLEC 1210 where the Court determined if there are specific provisions within a local environmental plan or development control plan that address site isolation, they must be considered in the first instance. In the absence of any land use controls pertaining to site isolation, the planning principle in *Karavellas* should then be referred to. The Commission notes there are no specific site isolation provisions applicable to the Project or sites, therefore *Karavellas* becomes a relevant consideration.

Karavellas sets out a two-limb test to determine if a development would result in a site or sites becoming isolated:

1. *is amalgamation of the site feasible?*
2. *can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?*

With regard to the first limb, the Department has considered the three steps of consideration established by the LEC:

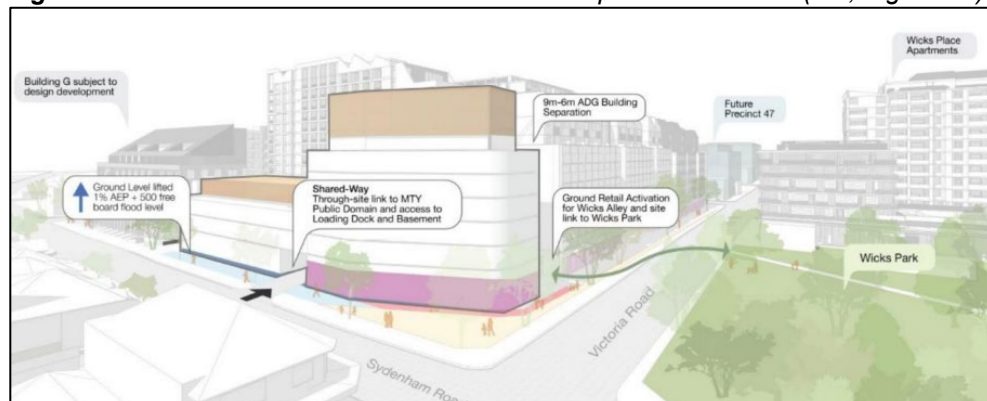
- *Step 1: early negotiations between landowners prior to the lodgement of the development application*
- *Step 2: documentation of those negotiations, including evidence of reasonable offers*
- *Step 3: consideration of the level and reasonableness of negotiation by the consent authority*

Regarding steps 1 and 2, the Applicant has demonstrated negotiations with the affected landowners of the potentially isolated site prior to lodging the Application, also providing evidence of the negotiations which show reasonable offers to purchase the land were made (AR, para 104-105).

In consideration of step 3, the Department's assessment finds that the Applicant has provided sufficient evidence of engagement and demonstrated that amalgamation was pursued but not possible. Terms were agreed with 4 of the 8 landowners, however they did not form a continuous grouping of allotments. Consolidating with the agreed landowners only would restrict the future development of the remaining 4 allotments within the cluster (AR, para 105).

To satisfy the second limb of *Karavellas*, the Applicant has provided a reference design for the potential isolated site (Figure 6). The Department's assessment considers the reference design demonstrates a development that is generally consistent with relevant planning controls could be achieved. The proposed scheme comprises a 4 to 8 storey mixed-use building, with commercial uses at ground level and residential uses above (AR, para 106-107).

Figure 6 – Potential isolated site reference development scheme – (AR, Figure 25)



	Sufficient detail to assess the relationship between the subject site and the potentially isolated site has been provided by the Applicant. The potential isolated site can be developed separately without being burned by the Project in terms of its development capacity (AR, para 109). The Commission agrees with the Department's assessment that the Project will not pose unreasonable constraints on the future development potential of the 8 adjoining allotments. The Applicant has demonstrated appropriate efforts were made to acquire the allotments comprising the potential isolated site for amalgamation into the Project. However, with only 4 of the 8 lots able to be acquired, an unsuitable design outcome would evolve, adversely impacting the development capabilities of the remaining 4 lots. The design reference provide clearly demonstrates the potential isolated site can be developed within the parameters of existing land use planning controls to achieve its development capacity. Whilst the reference design shows a FSR of 2.64:1 (0.36 below the IWLEP maximum of 3:1, introduced as part of the Victoria Road Precinct), the Commission notes the achievable FSR for the falls between 2.16:1 and 2.33:1 based on an analysis of the precinct-specific development control plan provisions applicable to the land (AR, para 107). To this end, the Commissions is satisfied the Project will not create an isolated development site.
Landscaping	The Application proposes a tree canopy cover of 4,707m², deep soil zones covering 2,447m², planting of 176 trees as well as shrubs and groundcover and integration of wayfinding elements and public art (AR, Table 9). The Commission agrees with the Department's assessment that the Applicant's proposal would deliver a high-quality landscaping outcome within a dense urban context and that the proposal would contribute positively to the amenity and local character of the site and surrounding area. To contribute to this outcome, the Commission has imposed conditions of consent requiring a detailed Landscape Plan prior to each Construction Certificate that includes public domain or landscape works and a Landscape Practical Completion Report to verify all proposed landscape works have been carried out and a maintenance program has been commenced.
Through-site link and pedestrian accessibility	The Commission has considered submissions that raise concern that there is no direct and accessible path of travel through the Site from Victoria Road to Farr Street. To address this issue, the Commission has amended Condition B8, as recommended by the Department, to require the Applicant to provide a direct and accessible through-site link between Victoria Road and Farr Street (in accordance with relevant accessibility standards) as part of the proposed public domain and landscape arrangements. The design of such an accessible path of travel is subject to the Applicant's detailed landscape design.
Pedestrian crossing of Victoria Road	The Commission has considered submissions that noted the likely pedestrian desire line from the Victoria Road frontage of the Site at 'The Gateway' to the retail shops (including a supermarket) at the recently completed mixed-use development known as Wicks Place on the other side of Victoria Road. The Commission also observed this likely pedestrian desire line during its site inspection on 8 December 2025. The Commission understands that as part of its EIS, the Applicant proposed the inclusion of a signalised pedestrian crossing 90 metres north of the existing signals at Sydenham Road / Victoria Road and, as revised by its RtS, a crossing 120 metres north of the intersection.

	Transport for NSW (TfNSW) provided advice to the Department in response to the EIS (letter dated 11 April 2025) and to the RtS (letter dated 2 July 2025). In both letters, TfNSW advised that it does not support the inclusion of a signalised pedestrian crossing of Victoria Road because such a crossing would not comply with <i>Traffic Signal Design – Section 2 Warrants v1.4</i> which requires a minimum 130 metre distance from existing signals and 30 metres from any side streets. TfNSW also noted that “no formal warrant assessment has been undertaken, and the pedestrian volume identified within the EIS of 100 pedestrians per hour does not meet the warrants” (letter dated 11 April 2025). The Commission accepts the advice of TfNSW. The Commission does, however, retain its view that a signalised pedestrian would be a positive pedestrian amenity improvement if it were possible in the future (for examples, as part of the redevelopment of the precinct to the north of the Site).
Stormwater management	The Applicant proposes to dispose of stormwater via Victoria Road through an existing drainage point and proposes a combination of detention basins to manage stormwater up to the 1%AEP event using orifice-controlled storage (AR, Table 9). In response to Council’s request for evidence that the drainage systems within the precinct would achieve a 5% AEP event capacity, the Applicant advised that the existing legal point of discharge is located in the southeast corner of the Site and that introducing additional drainage around the perimeter could exacerbate existing flooding issues (AR, Table 9). The Commission agrees with the Department that the Application proposes appropriate stormwater management measures and that subject to conditions, the proposed stormwater system would be capable of effectively managing stormwater runoff and not result in increased flood risk to neighbouring properties or the public infrastructure. The Commission has therefore imposed conditions of consent requiring a stormwater drainage design plan, a Construction Soil and Water Management Plan, approval of TfNSW of any changes to the stormwater design system on Sydenham Road, a Stormwater Operational Management Plan and the implementation of a Flood Emergency Response Plan.
Waste management	Council raised concerns with the proposed waste management requiring collection twice per week which does not align with Council’s collection schedule. The Applicant responded by proposed private waste collection twice a week, which is proposed to be included on title as a positive covenant. Council raised concerns with the proposed private waste collection as if in the future a future operator wishes to extinguish its private waste collection contract, Council is compelled to service the Site and as currently designed does not meet Council’s requirements for its collection schedule. The Commission agrees with the Department’s assessment that private waste collection is appropriate and has imposed as conditions of consent the requirement for a Waste and Recycling Management Plan including the requirement for all waste to be collected by a private waste contractor, and the requirement to register on title that waste collection must be undertaken by a private contractor or as agreed with Council. Further, the Commission has imposed conditions of consent requiring a Construction Waste Management Plan and an Operational Waste Management Plan.
All other issues	After consideration of all other issues identified by the Department in its AR, the Commission is satisfied that any potential land use planning impacts arising have been adequately addressed and/or can be mitigated and managed through the imposed conditions of development consent.

Appendix C – Department's Assessment Report

[Link to Department's Assessment Report, dated November 2026](#)

Appendix D – Instrument of Consent

[Link to Instrument of Consent, dated 17 February 2026](#)



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