



APPENDIX C – STATUTORY COMPLIANCE TABLE

Table 1 Statutory compliance assessment

Statutory Reference	Relevant Considerations	Response	Section in EIS
<i>Environmental Planning and Assessment Act 1979</i>			
Section 1.3	<i>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</i>	Complies The proposal seeks to redevelop the site which is currently underutilised. As identified in the SIA, the proposal will result in several social and economic benefits to the community. The EIS includes thorough environmental, economic, and social assessments to inform the design of the proposal and ensure its suitability for the site. Where appropriate, mitigation measures are provided to manage the social and economic welfare of the community during construction and operational phases of the development.	Section 6 & 7
	<i>To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	Complies The proposal addresses the principles of ESD including the precautionary principle, intergenerational equity, conservation of biological and ecological integrity and improved valuation, pricing and incentive mechanisms in accordance with the requirements of the Environmental Planning and Assessment Regulation 2021. In addition, ESD and BASIX Reports have been prepared to accompany the EIS which identify how ESD best practice principles are incorporated into the design and ongoing operation of the proposed development; how the development will exceed the relevant industry-recognised building sustainability and environmental performance standards; and how the development minimises greenhouse gas emissions and consumption of resources. In addition, the development will be constructed and operated to contribute towards the net zero priorities as outlined within the DPIE, Net Zero Plan 2020-2030. In support of this, and as required by the Sustainable Buildings SEPP, a Net Zero Transition Plan has been prepared for the development, outlining the necessary steps to remove fossil-fuel reliance and consumption across the project.	Section 6 & 7
	<i>To promote the orderly and economic use and development of land</i>	Complies The proposed redevelopment of the site responds to the State’s growing population and the need to build more homes in accessible locations and to boost housing supply. The redevelopment of the site has been informed by a thorough site and local context analysis, environmental assessments and assessment against strategic and statutory planning policies to promote the orderly and economic use and development of the land.	Section 6 & 7
	<i>To promote the delivery and maintenance of affordable housing,</i>	Complies An affordable housing contribution equivalent to 10% of new residential GFA proposed on the site will be made to North Sydney Council to fund affordable housing in the LGA in partnership with their nominated Community Housing Provider.	Section 6 & 7
	<i>To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>	Complies A BDAR Waiver has been issued for the proposal, confirming that the development is unlikely to have any significant impact on biodiversity values on or off site.	Appendix FF
	<i>To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	Complies A Heritage Impact Assessment (HIS) has been prepared to assess the impacts of the proposal on built heritage. The HIS concluded that the proposed development will not have a detrimental impact on any matters of built heritage.	Section 6.2.1

Statutory Reference	Relevant Considerations	Response	Section in EIS
		The site is not identified as containing any items of Aboriginal heritage significance. This has been confirmed via an Aboriginal Cultural Heritage Assessment Report (ACHAR) carried out for the previous Infill SSDA and reviewed by Heritage NSW. Therefore, a new ACHAR is not required for the subject TOD SSDA.	
	<i>To promote good design and amenity of the built environment,</i>	Complies The proposed TOD SSDA scheme seeks to continue the same high-quality design that was achieved for the Infill SSDA that was presented twice to the SDRP. Notwithstanding, a meeting date has been booked to present the TOD SSDA scheme to the SDRP which, due to high volumes of SDRP applications, will occur post lodgement and any key comments will be incorporated into the design at that time. Key design principles from the Infill SSDA that were supported by the SDRP have been carried over to the TOD SSDA as detailed in Section 6.1.1 of the EIS.	Section 6.1.1.
	<i>To provide increased opportunity for community participation in environmental planning and assessment.</i>	Complies Community and stakeholder engagement has been undertaken during the preparation of the SSDA, as detailed in Section 5 of the EIS. Through the assessment period, there will be another opportunity for community and stakeholders to respond to the proposed development. The Applicant will respond to any concerns raised during the notification of the SSDA.	Section 5.
	<u>Relevant environmental planning instruments:</u> - State Environmental Planning Policy (Planning Systems) 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 (Housing) 2021 - State Environmental Planning Policy (Sustainable Buildings) 2022 - North Sydney Local Environmental Plan (LEP) 2013	See detail below under State Environmental Planning Policies (SEPPs).	Appendix C
	<u>Draft environmental planning instruments:</u> None relevant to the proposal.	N/A	N/A
Section 4.15	<u>Relevant planning agreement or draft planning agreement</u> Not Applicable	N/A	N/A
	<i>Environmental Planning and Assessment Regulation 2021 – Schedule 2</i>	Complies This EIS has been prepared in accordance with Schedule 2 of the Regulations.	N/A
	Development control plans: North Sydney Development Control Plan 2013	See details below under Development Control Plan.	Appendix C
	The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.	The likely impacts of the development are assessed in detail within the EIS.	Section 6
	The suitability of the site for the development	The suitability of the site for the proposed development is demonstrated in the EIS.	Section 7
	Any submissions made	Submissions will be considered following exhibition of the application.	Section 5
	The public interest	The proposed development satisfactorily responds to the relevant planning instruments and controls applying to the site. The proposal will not create any adverse social, economic or environmental impacts that cannot be mitigated by the proposed mitigation measures provided at Appendix D. On balance, the benefits of the development outweigh any adverse impacts and the development is deemed to be in the public interest.	Section 7

Statutory Reference	Relevant Considerations	Response	Section in EIS
Environmental Planning and Assessment Regulation 2021			
Section 173	Section 173 of the Regulations provides that environmental assessment requirements will be issued by the Secretary with respect to the proposed EIS.	Complies This EIS has been prepared to address the requirements of Clause 173 of the EP&A Regulation and SEARs.	Section 1, Appendix A
Section 193	Section 193 of the Regulations requires an assessment against the principles of ESD.	Complies The EIS has addressed the principles of ESD including the precautionary principle, intergenerational equity, conservation of biological and ecological integrity and improved valuation, pricing and incentive mechanisms.	Section 6.1.9
Biodiversity Conservation Act 2016			
Section 7.14	The likely impact of the proposed development on biodiversity values as assessed in the Biodiversity Development Assessment Report (BDAR). The Minister for Planning may (but is not required to) further consider under that BC Act the likely impact of the proposed development on biodiversity values.	Complies A BDAR Waiver has been issued for the proposed development confirming that the development is unlikely to have any significant impact on biodiversity values of the site and surroundings.	Appendix FF
State Environmental Planning Policies			
<i>State Environmental Planning Policy (Planning Systems) 2021</i>	In accordance with Schedule 2, Section 19 of the Planning Systems SEPP, the following development is SSD: - development for the purposes of residential accommodation or mixed use development on land identified as an 'Accelerated TOD Precinct', and - the part of the development that is for the purposes of residential accommodation has an estimated cost of more than \$60 million	Complies The site is located in the Crows Nest Accelerated TOD Precinct. The residential component of the proposed mixed use development has an estimated development cost of more than \$60 million (refer Appendix H). As such, the proposal is SSD.	Section 4
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>	Clause 4.6(1) states that land must not be rezoned or developed unless contamination has been considered and, where relevant, land has been appropriately remediated.	Complies A Preliminary Site Investigation (PSI) has been undertaken. The PSI sampling uncovered that the concentrations of potential contaminants of concern in all soil samples analysed were below the adopted site assessment criteria. Therefore, the site will be made suitable for the proposed development. While some groundwater contamination has been identified; it is not considered to render the site unsuitable for the proposed development. The PSI concludes that the proposed development is suitable and warrants approval subject to the implementation of recommendations within the report.	Appendix V
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	Section 2.98: A consent authority must take into consideration any response from the rail authority for the rail corridor received within 21 days after the notice is given.	The site is adjacent to Crows Nest Metro Station and rail corridor. Therefore, the SSDA will be referred to the relevant rail authority.	Appendix B
	Section 2.99: Excavation in, above, below or adjacent to rail corridors, applies to development within a rail corridor that has excavation more than 2m below ground level.	The consent authority will give notice the rail authority of the proposed development within 7 days of the application being made and consider any response received within 21 days of notice being given.	Appendix B
	Section 2.100: Impact of rail noise or vibration on non-rail development	Complies The accompanying Acoustic Assessment has assessed the proposal in relation to the site's proximity to the Sydney Metro rail network and has concluded that ground-borne noise and vibration generated by the Sydney Metro rail network, is unlikely to impact the proposed development.	Appendix Q
	Section 2.119: Development with a frontage to a classified road requires the consent authority to be satisfied the matters listed in clause 101 have been addressed.	The site has a frontage to Pacific Highway which is a classified road. Vehicular access to the site is proposed on Hume Street. The accompanying Transport Impact Assessment has assessed that the proposal will not have a negative impact on the safety, efficiency and ongoing operation of Pacific Highway.	Appendix P

Statutory Reference	Relevant Considerations	Response	Section in EIS
		The proposed development has been appropriately designed to ameliorate potential traffic noise and vehicle emissions through acoustic glazing treatments and mechanical ventilation systems for apartments fronting Pacific Highway. Dense landscaping along the Pacific Highway edge of the communal open spaces is also proposed.	
	Section 2.120: Impact of road noise or vibration on non-road development	Complies The accompanying Acoustic Assessment assesses the proposed development in relation to the noise level requirements of the T&I SEPP. The report demonstrates that the proposal can achieve compliance with the mandatory road noise criteria in the T&I SEPP. Apartments that exceed the noise intrusion criteria when doors or windows are open for natural ventilation purposes, have been provided with a dedicated mechanical ventilation system that complies with “NCC 2022 F6D7 Ventilation of Rooms” thus eliminating reliance natural ventilation which breaches acoustic amenity limits.	Appendix Q
	Section 2.122A: Traffic-generating development – exemption for Accelerated TOD Precincts: This section states that Section 2.122 in relation to traffic-generating development does not apply to development for the purposes of residential accommodation on land identified as an ‘Accelerated TOD Precinct’.	The site is located in the Crows Nest Accelerated TOD Precinct. This SSD application has not been made before the commencement of Section 2.122A and has not been made after 30 November 2027. Therefore Section 2.122 of the T&I SEPP does not apply to the proposed development.	N/A
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>	Chapter 2 Vegetation in non-rural areas aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.	Complies The proposal includes the removal of three street trees on Hume Street to accommodate the proposed development. Two of the High Retention Value trees and one Medium Retention Value tree are proposed to be removed as part of the sub-station installation works. Three replacement trees are proposed on the Hume Street and Pacific Highway frontage. A BDAR Waiver has been issued for the proposed development confirming that the development is unlikely to have any significant impact on biodiversity values of the site and surroundings.	Appendix W, Appendix FF
<i>State Environmental Planning Policy (Housing) 2021</i>	Chapter 4 Design of Residential Apartment Development Under Chapter 4 of the Housing SEPP, the consent authority must consider: (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9, (b) the Apartment Design Guide,	Generally Complies A detailed assessment of the proposal against the design principles for residential apartment development and the Apartment Design Guide (ADG) is provided in the accompanying Design Report. The assessment demonstrates that the proposal achieves a high level of compliance with the key numerical requirements of the ADG including: ▪ Solar and daylight access. ▪ Natural ventilation. ▪ Apartment size and layout. ▪ Ceiling heights. ▪ Private open space and balconies. ▪ Communal Open Space. ▪ Visual Privacy. ▪ Deep soil area (on merit). ▪ Storage.	Appendix J
<i>State Environmental Planning Policy (Sustainable Buildings) 2022</i>	The Sustainable Buildings SEPP aims to encourage the design and delivery of sustainable buildings and to ensure consistent assessment of the sustainability of buildings.	Complies An ESD and BASIX Report accompanies the proposal which demonstrates how a high level of energy efficiency and environmental sustainability are achieved in the proposed development, with a strong emphasis placed on the passive efficiency of the building, including passive heating, cooling, natural lighting and natural ventilation. The proposal meets the relevant BASIX targets. An Embodied Emissions Report also accompanies the ESD and BASIX Report which quantifies the amounts of key materials used in the construction of the proposed development.	Appendix AA, Appendix DD
North Sydney Local Environmental Plan 2013			

Statutory Reference	Relevant Considerations	Response	Section in EIS
4.3 Height of Buildings	135m	Variation proposed The proposal has a maximum height of RL 233.2 to the highest point of the building which is the lift overrun. This equates to a maximum building height of 142.2m to 144.2m accounting for the slope in the site. This represents a maximum percentage variation of 6.8% (9.2m above the height limit). Other non-compliant elements include a rooftop screening structure and a minor portion of the upper penthouse level on Level 39. The height non-compliance is comprehensively justified in the accompanying Clause 4.6 Variation Request. A taller lift overrun than is contemplated by the Crows Nest Design Guide is required to appropriately service the 40-storey building. Importantly, the non-compliant height is not responsible for any additional adverse impacts beyond a compliant built form height plane, particularly in regard to overshadowing to public open spaces or residential buildings.	Appendix F
4.4 Floor Space Ratio	12:1	Complies The proposal will result in a total GFA on the site of 23,749m² which equates to an FSR of 12:1. This includes new and existing GFA as follows: ▪ New GFA proposed at 378-390 Pacific Highway: 21,975m², including – 19,595 m² residential GFA – 2,378m² non-residential GFA – ▪ Existing GFA at 398 Pacific Highway: 1,785m², including – 1,406m² residential GFA – 379m² non-residential GFA	Appendix B
4.4A Non-residential floor space ratios	1.5:1	Variation Proposed A non-residential FSR of 1.38:1 which is a discrepancy of 0.12:1, or a percentage variation of 8%. The proposed quantum of non-residential floor space is primarily a response to the reduced non-residential FSR control for the site under the Crows Nest TOD controls and what can be reasonably accommodated in appropriate podium form. A Clause 4.6 Variation Request has been prepared to justify the minor floor space departure.	Appendix G
5.10 Heritage Conservation	The consent authority must consider any impacts to heritage items.	Complies The site does not contain any items of European, Indigenous or environmental heritage. A group of locally listed heritage buildings (the 'Higgins building') are located to the south of the site, on the southern side of Hume Street. A Heritage Impact Statement has been prepared to support the proposed development which concludes that the proposal would have an acceptable impact on the heritage significance of heritage items in the vicinity of the site.	Appendix KK
5.21 Flood Planning	The objectives of this clause are as follows— (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, (c) to avoid adverse or cumulative impacts on flood behaviour and the environment, (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.	Complies The site experiences flooding in the existing condition from the 1% AEP event and the PMF event. Flood modelling has been carried out for the proposed development, with results provided in the accompanying Flood Report. The post-development condition for both the 1% AEP and PMF events show negligible changes in water depth, elevation and velocity. The only notable difference in the vicinity of the site is a marginal improvement in the area where new stormwater pits are introduced to service the proposed building.	Appendix JJ

Statutory Reference	Relevant Considerations	Response	Section in EIS
		A basement access driveway crest is proposed to provide protection for the Probable Maximum Flood Storm event.	
6.10 Earthworks	Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.	Complies Consent is sought for earthworks to accommodate a 6 level basement parking structure. A Geotechnical Report has been prepared in support of the proposed development. This report provides recommendations on excavation, retention, hydrogeological considerations, footings, subgrade preparation and basement slabs; together with dewatering strategies for the proposed 'drained' basement.	Appendix T
6.15 Airspace operations	If development is proposed to penetrate the Limitation or Operations Surface, the consent authority must not grant consent unless it has consulted with the relevant Commonwealth Body.	The lowest prescribed airspace protection surface covering the site is the Sydney Airport OLS which has a height of 156m AHD. The proposed development which has a maximum height of RL 233.2m will penetrate this height. A controlled activity approval will be sought prior to the development being erected. Importantly, the proposal is well below the Sydney Airport PANS-OPS height which ranges from 272.5-273.1m AHD.	N/A
PART 7 CROWS NEST TRANSPORT ORIENTED DEVELOPMENT PRECINCT 7.1 Objectives	The objectives of this part are to— (a) increase housing supply in the Crows Nest Transport Oriented Development Precinct, and (b) enable a variety of land uses within walking distance of the St Leonards train and Crows Nest metro stations, and (c) deliver housing supported by public spaces, vibrancy and community amenity, and (d) increase the amount of affordable housing in the Precinct	Complies The proposal includes 178 residential apartments which will boost housing supply in this highly accessible location. A variety of land uses are proposed including residential, retail and commercial uses. The site is within walking distance to both Crows Nest metro station and St Leonards train station. An activated and improved public domain outcome associated with the high quality podium design will contribute to vibrancy and community amenity in this part of Crows Nest. An affordable housing contribution equivalent to 10% of new residential GFA proposed on the site will be made to North Sydney Council to fund affordable housing in the LGA in partnership with their nominated Community Housing Provider.	Appendix B
7.2 Application of part	This part applies to land identified as “Crows Nest Transport Oriented Development Precinct” on the <i>Key Sites Map</i>	Complies The site is located within the Crows Nest TOD Precinct on the Key Sites Map.	Appendix B
7.3 Design Guide	Development consent must not be granted for development on land to which this part applies unless the consent authority is satisfied the development will be consistent with the <i>Crows Nest Transport Oriented Development Precinct Design Guide</i> .	Complies An assessment of the proposal's consistency with the Crows Nest TOD Precinct Design Guide is provided below.	Appendix C
7.4 Design excellence	(1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design. (2) Development consent must not be granted for development on land to which this part applies unless the consent authority considers that the development exhibits design excellence. (3) 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, (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain, (c) whether the development detrimentally impacts on view corridors from public spaces, (d) how the development addresses the following matters— i. the suitability of the land for development, ii. existing and proposed uses and use mix, iii. heritage issues and streetscape constraints,	Complies As presented in the architectural plans (Appendix B), Architectural Design Report (Appendix J) and Landscape Design Report (Appendix Y), the design of the proposal is consistent with the design excellence matters listed in Clause 7.4(3)(a) – (d). Furthermore, while the Government Architect confirmed that the TOD SSDA proposal was not required to be presented to the SDRP, the proposed design seeks to continue the same high-quality design that was achieved for the Infill SSDA that was presented twice to the SDRP. Key design principles from the Infill SSDA that were supported by the SDRP have been carried over to the TOD SSDA as detailed in Section 6.1.1 of the EIS which confirms that design excellence is achieved.	Section 6.1.1, Appendix B, Appendix J, Appendix Y

Statutory Reference	Relevant Considerations	Response	Section in EIS
	iv. 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, v. bulk, massing and modulation of buildings, vi. environmental impacts such as sustainable design, overshadowing, wind and reflectivity, vii. the achievement of the principles of ecologically sustainable development, viii. pedestrian, cycle, vehicular and service access, circulation and requirements, ix. the impact on, and proposed improvements to, the public domain, x. achieving appropriate interfaces at ground level between the development and the public domain, xi. active street frontages, xii. integration of landscape design.		
7.5 Affordable housing	(1) In this clause, the <i>Crows Nest Transport Oriented Development Precinct Affordable Housing Principles</i> are as follows— (a) affordable housing must be provided and managed to accommodate a diverse residential population within areas representative of all income groups in North Sydney, (b) affordable housing must be rented to tenants at rents that do not exceed a benchmark of 30% of actual household income, (c) dwellings provided for affordable housing must be managed to maintain their continued use as affordable housing, (d) the Council must use the following received by or on behalf of the Council to improve or replace, or provide additional, affordable housing in North Sydney— i. rent from affordable housing, excluding landlords' expenses, such as management and maintenance costs and rates and taxes payable in connection with the dwellings, ii. money from the disposal of affordable housing, (e) affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with the same type of dwellings forming part of the proposed development that are not intended to be used as affordable housing, particularly in relation to internal fittings and finishes, solar access and privacy. (2) This clause applies to development on land identified as “Affordable Housing Contribution Area” on the Affordable Housing Map resulting in— (a) the erection of a new building with more than 200m² of gross floor area used for the purposes of residential accommodation, or (b) alterations to an existing building that result in at least 200m² of additional gross floor area used for the purposes of residential accommodation. (3) This clause does not apply to development for the purposes of boarding houses, community housing, group homes, hostels or public housing. (4) Development consent must not be granted to development to which this clause applies unless the consent authority has considered the following— (a) the Crows Nest Transport Oriented Development Precinct Affordable Housing Principles, (b) the impact of the development on the existing mix and likely future mix of residential accommodation in North Sydney.	Complies An affordable housing contribution equivalent to 10% of new residential GFA proposed on the site will be made to North Sydney Council to fund affordable housing in the LGA in partnership with their nominated Community Housing Provider, thereby satisfying Section 7.5(7)(b).	Section 3

Statutory Reference	Relevant Considerations	Response	Section in EIS
	(5) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring an affordable housing contribution equivalent to the contribution specified in subclause (6). (6) The contribution for development is the amount of gross floor area equivalent to the percentage, shown for the land on the Affordable Housing Map, of the gross floor area of the residential component of the development. (7) A condition imposed under this clause must permit a person to satisfy the contribution by— (a) a dedication, in favour of the Council, of land comprising 1 or more dwellings, each having a gross floor area of at least 50m², and a monetary contribution, paid to the Council, for any remainder, or (b) a monetary contribution paid to the Council, of equivalent value to the gross floor area specified in subclause (6). (8) The rate at which a monetary contribution is taken to be equivalent to floor area for the purposes of this clause must be calculated by reference to the market value of dwellings of a similar size to the dwellings in the proposed development.		

Table 2 Crows Nest Transport Oriented Development Precinct Design Guide Consistency Assessment

Reference	Provision	Assessment										
3.2 Connecting with Country	a. Consider how development responds to the physical and cultural connection of the local Aboriginal community to the land. b. Consider, how development can revive and enliven pre-development landscapes and traditional uses of Country and language. Country centred approach – c. Encourage incorporation of locally indigenous vegetation that enhances environmental quality, relationship to Country and optimises opportunities for habitat for endemic and native flora and fauna species; d. acknowledge Aboriginal knowledge systems and consider how they can contribute to informing future building design and landscaping outcomes as an expression of Connecting with Country; e. acknowledge and celebrate Aboriginal living cultures, relationships and site-specific stories of place through architecture, landscaping, art, and other creative expression involving the engagement of suitably qualified Aboriginal practitioners and the protection of Aboriginal cultural and intellectual property rights; f. consider Aboriginal inclusion, comfort and access in the design and operation of publicly accessible space; g. identify opportunities to name streets, public places, and provide wayfinding signage in local traditional language or implement dual naming. Where Aboriginal naming is adopted, consider providing physical material that outlines the pronunciation and history behind the Aboriginal name, where appropriate and agreed to by relevant Aboriginal stakeholders. Note: for Aboriginal naming and dual naming, consultation is encouraged with the NSW Geographical Names Board, local language subject matter experts and with Aboriginal stakeholder groups.	The project has been informed by a deep understanding of the system of Country and the importance of embedding cultural knowledge into the planning, design, and development of the proposed development. The design team has engaged with Traditional Custodians (TCs) through the project’s cultural advisor, Arcadia. This engagement included a workshop with Uncle Dennis Foley who joined the project team on site where he shared rich stories of Country. The key themes of this engagement and how these elements have been interpreted and incorporated into the design are outlined below and are discussed in more detail in the Connection to Country Report at Appendix Z. <table><tr><th>Key themes</th><th>Design Response</th></tr><tr><td> Six Seasons The cycles of Country are dynamic and responsive to events, and recognising these cycles along with the six seasons can help create a meaningful and enduring project identity. </td><td> The six indigenous seasons hold great importance as it links natural events together in a cycle of seasonal change. The endemic plant palette includes species from each season to provide insight into the inter-connectivity of the natural world and its processes. </td></tr><tr><td> Angophora Ecotones The Angophora tree symbolises transformation, resilience, healing, and the female form, and is deeply connected to the spiritual aspects of life, death, and spirit in local First Nations culture. </td><td> The landscape and façade design will draw narrative from the wider landscape, of which can be observed from the upper levels of the tower. </td></tr><tr><td> Sandstone Vegetation The suburb of Crows Nest and it’s surrounds are home to unique endemic vegetation communities. The site is on sandstone Country which is key to defining the characteristics within each vegetation community. </td><td> Incorporating endemic vegetation will connect the site to the unique and beautiful character of Gaimaragal Country. </td></tr><tr><td> Views From Afar The project sits on the Pacific Highway, an important road pre-colonisation that linked clans from the north and northwest to the local ceremonial grounds ending at the ‘five ways’ where four main tracks leading to the harbour and major connected waterways to the south, north, east, and south. Commonly called song lines, they are major distribution highways. </td><td> The site sits on a significant ridge line on Gai-mariagal Country, connecting it to various other songlines. Stories of these distant Countries are to be represented throughout the design of each floor. An example to the east that is proposed to be highlighted is Car rang-gel (North Head), a site where 5 major song lines emanate. </td></tr></table>	Key themes	Design Response	Six Seasons The cycles of Country are dynamic and responsive to events, and recognising these cycles along with the six seasons can help create a meaningful and enduring project identity.	The six indigenous seasons hold great importance as it links natural events together in a cycle of seasonal change. The endemic plant palette includes species from each season to provide insight into the inter-connectivity of the natural world and its processes.	Angophora Ecotones The Angophora tree symbolises transformation, resilience, healing, and the female form, and is deeply connected to the spiritual aspects of life, death, and spirit in local First Nations culture.	The landscape and façade design will draw narrative from the wider landscape, of which can be observed from the upper levels of the tower.	Sandstone Vegetation The suburb of Crows Nest and it’s surrounds are home to unique endemic vegetation communities. The site is on sandstone Country which is key to defining the characteristics within each vegetation community.	Incorporating endemic vegetation will connect the site to the unique and beautiful character of Gaimaragal Country.	Views From Afar The project sits on the Pacific Highway, an important road pre-colonisation that linked clans from the north and northwest to the local ceremonial grounds ending at the ‘five ways’ where four main tracks leading to the harbour and major connected waterways to the south, north, east, and south. Commonly called song lines, they are major distribution highways.	The site sits on a significant ridge line on Gai-mariagal Country, connecting it to various other songlines. Stories of these distant Countries are to be represented throughout the design of each floor. An example to the east that is proposed to be highlighted is Car rang-gel (North Head), a site where 5 major song lines emanate.
	Key themes	Design Response										
Six Seasons The cycles of Country are dynamic and responsive to events, and recognising these cycles along with the six seasons can help create a meaningful and enduring project identity.	The six indigenous seasons hold great importance as it links natural events together in a cycle of seasonal change. The endemic plant palette includes species from each season to provide insight into the inter-connectivity of the natural world and its processes.											
Angophora Ecotones The Angophora tree symbolises transformation, resilience, healing, and the female form, and is deeply connected to the spiritual aspects of life, death, and spirit in local First Nations culture.	The landscape and façade design will draw narrative from the wider landscape, of which can be observed from the upper levels of the tower.											
Sandstone Vegetation The suburb of Crows Nest and it’s surrounds are home to unique endemic vegetation communities. The site is on sandstone Country which is key to defining the characteristics within each vegetation community.	Incorporating endemic vegetation will connect the site to the unique and beautiful character of Gaimaragal Country.											
Views From Afar The project sits on the Pacific Highway, an important road pre-colonisation that linked clans from the north and northwest to the local ceremonial grounds ending at the ‘five ways’ where four main tracks leading to the harbour and major connected waterways to the south, north, east, and south. Commonly called song lines, they are major distribution highways.	The site sits on a significant ridge line on Gai-mariagal Country, connecting it to various other songlines. Stories of these distant Countries are to be represented throughout the design of each floor. An example to the east that is proposed to be highlighted is Car rang-gel (North Head), a site where 5 major song lines emanate.											
3.3 Land Use	1. The distribution of land uses in the precinct is to be generally consistent with Figure 4 and as zoned under the relevant LEP. 2. Development should retain a balance of commercial and residential uses within the St Leonards Core with a minimum non-residential floor space requirement for the MU1 Mixed Use zone to provide jobs as required in the LEP. 3. Retain commercial core on appropriate sites to maintain viability of the St Leonards Core.	Complies The proposed mix of retail/commercial and residential land uses on the site is consistent with the MU1 Mixed Use zoning under North Sydney LEP. A mix of retail, commercial and residential uses are proposed.										
3.4 Built Form	1. Building heights are to transition from St Leonards Train Station, Crows Nest Metro Station and the Pacific Highway down to the surrounding lower density areas. 2. Tall buildings are to be positioned to avoid significant impact on the solar amenity and wind impact of lower density areas and public open space. 3. Preserve the existing low-scale fine-grain built form of Crows Nest Village to maintain its local shopping street character and limit overshadowing and view impacts. 4. Developments must consider appropriate interfaces and sensitive design to limit impact on heritage conservation areas and high-quality character areas. 5. Maximum floor height assumptions should be based on: (i) Ground Floor- 5m. (ii) Above ground floor (residential) - 3.2m. (iii) Above ground floor (commercial) - 3.8m.	Partial Compliance The proposed 40-storey building is located adjacent to Crows Nest metro station where the TOD controls have identified sites as having capacity for taller buildings. As confirmed throughout the EIS and supporting documents, the proposal is able to be accommodated on the site while limiting overshadowing and view impacts due to the slender nature of the tower form. Floor to floor heights have been proposed to achieve compliances with ADG requirements. Where variations are proposed to the floor to floor assumptions in the Design Guide (notably on Level 1 and 2 and at the penthouse levels on the upper levels of the tower), these are considered appropriate to achieve alignment between the proposed										

Reference	Provision	Assessment
	(iv) Rooftop service zone (2-20 storeys) - 2m. (v) Rooftop service zone (21-40 storeys) - 4.5m. 6. Maximum floorspace ratio (FSR) and minimum non-residential FSR assumptions should be based on the following gross building area (GBA) to gross floor area (GFA): (i) Residential - 75%. (ii) Ground floor (non-residential - retail) - 65%. (iii) Non-residential - 85%. 7. Rooftop plant is to be incorporated into the overall building height as indicated in the maximum height of buildings map. 8. Ensure active street frontages are provided at ground level and accommodate non- residential land uses, particularly along Christie, Mitchel, Oxley, Atchison, Chandos and Clarke Streets. 9. The built form recommendations (Figures 5, 6 and 7) should be considered in future development. 10. Preserve high quality heritage character around the Fiveways Intersection as a key gateway to the southern end of the Precinct (Figure 6). 11. Taller buildings are to be concentrated close to the Crows Nest Metro and ensure a better transition to lower density areas (Figure 7). 12. Increase permeability through blocks by providing through site links between the Metro Station and the mixed-use zone (Figure 7). 13. Provide quality open space for the use of occupants in any new high-density development. 14. Ensure a variety of dwelling sizes are provided within a development to cater for diverse families.	podium and the existing built form at 398 Pacific Highway. At the upper levels of the tower, increased floor to floor heights achieve premium amenity for those penthouse apartments. The proposed rooftop plant and lift overrun exceeds the maximum height which is in part due to the increased height of a lift overrun required for a 40-storey building, being 6.1m as opposed to the 4.5m rooftop service zone nominated by the Design Guide. The proposed height variation allows the proposal to achieve a high degree of internal amenity. Increased floor to floor height at the Level 20 communal amenities allows for a greater sense of openness and adequate natural light to access to communal open space which was one of the recommendations by the SDRP for the Infill SSDA. One level of plant is also located centrally within the building to support the communal open space as well as to alleviate pressure throughout the building. This is a bespoke design solution for this development. Active street frontages are provided to Pacific Highway and Hume Street. High quality communal open space is provided at Level 20 for the occupants of the building which includes a swimming pool, outdoor seating and landscaped areas and areas for exercising. A mix of 1, 2, 3 and 4-bedroom units are provided within the development.
3.4.1 Solar Amenity and Overshadowing	1. Solar amenity and protection from overshadowing should be consistent with Table 2. 2. The consent authority may grant consent to development that seeks to provide affordable housing consistent with the LEP height and FSR controls, subject to the consideration at development application stage of acceptable overshadowing impacts. Low density residential areas located outside the Crows Nest TOD Precinct boundary should not receive less than 2 hours of sunlight in accordance with Table 2. 3. Shadow diagrams and analysis should be prepared on a site by site basis at development application stage for consideration of the consent authority to demonstrate compliance with Table 2 and Figure 8.	Complies Shadow diagrams have been prepared by COX Architecture which show the shadow cast by the proposed development at hourly intervals between 9am and 3pm. The shadow diagrams demonstrate that the proposed development does not result in any additional overshadowing of the public open spaces nominated by the Crows Nest Design Guide between 10am and 3pm in mid winter. While shadows will be cast on the residential areas to the south-west of the site, the slender nature of the proposed built form ensures that its shadow moves quickly across properties within 30-minute windows. In addition, shadows extend beyond the Crows Nest precinct boundary between 9am and approximately 10.15am only, which remains compliant with the Crows Nest Design Guide which specifically requires a minimum of 3 hours solar access to be retained to the low-density residential areas outside the precinct boundary between 9am and 3pm on June 21st by any development on the subject site. The shadow diagrams show that the proposed development including height variation will not overshadow these properties between approximately 10.15am and 3pm, therefore complying with the control.

Reference	Provision	Assessment
		Figure 1 Shadow diagrams  Source: COX Architecture
3.5 Minimum Lot Size	Certain sites in the Crows Nest TOD Precinct include affordable housing rates above the base rate of 3% and will require amalgamation of lots to achieve the height and FSR under the LEP. Table 3 provides minimum site area for developable sites consistent with the heights under the LEP for the development of towers along Pacific Highway. This seeks to ensure suitable amenity and separation distances between residential development and that site isolation does not occur. The site is required to have a minimum lot size of 1,500m².	Complies The site has a total area of 1,980m².
3.6.3 Tree Canopy, Deep Soil and Biodiversity	<u>Deep Soil</u> 1. Provide deep soil zones are to be a minimum dimension of 3m x 3m to support new trees and retain any existing trees. Deep soil zones for development should be provided as per the benchmarks in Tables 4 and 5. Development is not to reduce the amount of deep soil provided. 2. Deep soil is to be unimpeded by any building or structure above or below ground, except for minor structures such as pathways, access ramps or area of paving with a maximum width of 1.2m; essential services infrastructure (such as stormwater pipes) with a maximum diameter of up to 300mm; and landscape structures (such as lightweight fences, light poles or seating) requiring a footing with a maximum size of up to 300mm x 300mm in cross section. 3. Where possible establish contiguous deep soil zones within and between property boundaries to maximise tree planting by establishing them right up to abutting boundary walls and fence lines. 4. Development is to maintain existing soil profiles and not regrade soils and levels of soils surrounding retained vegetation and buffers to ensure the health of retained vegetation. <u>Tree Canopy</u> 1. Development should retain existing canopy cover to provide shade for urban heat mitigation and contribute to the NSW government tree canopy targets for Greater Sydney. Canopy cover for private land should be provided as per the canopy cover or tree planting rate in Table 4. Development shall not reduce the amount of canopy coverage provided.	Complies While there is limited opportunity for deep soil planting on the ground plane due to the mixed use nature of the proposal which has almost 100% site coverage, on structure planting has been maximised at upper levels. The proposal provides 9sqm of deep soil at street level to accommodate new street trees, while 151sqm of soft landscaping area is provided on Level 3, Level 20 and Level 39. Three street trees are proposed to be removed on Hume Street to accommodate the proposed substation requirements. Three replacement trees will be planted, one on Hume Street and two on Pacific Highway, thereby ensuring no net loss of tree canopy cover. A BDAR Waiver accompanies the EIS confirming that the development is unlikely to have any significant impact on biodiversity values on or off site. The planting strategy seeks to connect to the broader coastal bushland character of Gai-mariagal Country through the incorporation of endemic planting. The Connection with Country Report prepared by Arcadia includes the theme of the Six Seasons – the six indigenous seasons of the Sydney Basin. The endemic plant palette includes species from each season to provide insight into the inter-connectivity of the natural world and its processes.

Reference	Provision	Assessment
	2. Canopy cover on streets and public open space should be provided as per Table 5. Development shall not reduce the amount of canopy coverage provided. 3. All proposed trees are to align with the minimum diameter spread and canopy are at maturity in Table 6. 4. Provide adequate setbacks as outlined in section 3.8 and Figure 9 to allow for opportunities to enhance transition areas and pedestrian links. 5. Maintain existing trees where possible. 6. Trees planted should reflect diversity of local and endemic indigenous flora and fauna that is tolerant and resilient within the urban environment. 7. Preserve the green edge and views along Gore Hill Park and Cemetery emphasising its significance to the community by preserving view lines. <u>Biodiversity</u> 1. Development applications are required to complete an analysis of the biodiversity values within the development site, as well as surrounding sites to determine the location and extent of the biodiversity values. The results of the analysis are used to: - avoid impacts to biodiversity values and supporting vegetation that provide significant landscape or amenity value, are part of a threatened ecological community, or provide habitat (including hollow bearing trees, dead standing trees, recruitment trees, roost trees, nest trees, or trees with any other habitat features) - retain and rehabilitate biodiversity values within the site - retain or create buffers within the site to the biodiversity values within the precinct. 2. Retained biodiversity values are protected during construction and operation of the development. Prior to any works commencing on site, a vegetation management plan to rehabilitate and manage existing native vegetation must be prepared by a suitably qualified ecologist. 3. Landscape plans are to incorporate: - a diversity of local provenance native trees, shrubs and groundcover species (rather than exotic species or non-local native species) from the relevant native vegetation community (or communities) that occur or once occurred in the local area - growth forms from all strata including groundcovers, shrubs and canopy species existing ecosystem features including bush rock, fallen logs and branches.	Plant species have been selected to withstand shade and wind conditions. The proposed planting strategy responds to each level's solar conditions by including a high proportion of shade tolerant species in the proposed planting palette.
3.7 Design Excellence	1. Development consent must not be granted for development on land identified as "Crows Nest Transport Oriented Development Precinct" on the Key Sites Map unless the consent authority considers that the development exhibits design excellence. 2. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters - whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, - whether the form and external appearance of the development will improve the quality and amenity of the public domain, - whether the development detrimentally impacts on view corridors from public spaces, - the consistency of the development with any guidelines issued by the Planning Secretary relating to the design and amenity of the area 3. There are a number of matters where consideration must be given to how the development addresses the following matters - - the suitability of the land for development, - existing and proposed uses and use mix, - heritage issues and streetscape constraints, - 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, - bulk, massing and modulation of buildings, - environmental impacts such as sustainable design, overshadowing, wind and reflectivity, - the achievement of the principles of ecologically sustainable development, - pedestrian, cycle, vehicular and service access, circulation and requirements, - the impact on, and any proposed improvements to, the public domain, - achieving appropriate interfaces at ground level between the development and the public domain, - active street frontages, - integration of landscape design.	Complies The proposed TOD SSDA scheme seeks to continue the same high-quality design that was achieved for the Infill SSDA that was presented twice to the SDRP. The previous SSDA application that applied the infill affordable housing policy provisions was considered by the SDRP on two occasions. The building form was ostensibly comparable to the current proposal. After engaging with DPHI and Government Architect prior to lodgement of this application, we were advised that, we have been advised that given the history the proposal is not required to go to another SDRP meeting. Key design principles from the Infill SSDA that were supported by the SDRP have been carried over to the TOD SSDA as detailed in Section 6.1.1 of the EIS which confirms that design excellence can be achieved. Section 6 of the EIS demonstrates that the proposed development achieves all matters for consideration in regard to Design Excellence.
3.8 Setbacks	1. Buildings are to be setback from all street frontages in accordance with the setbacks shown in the map at Figure 10.	Partial Compliance The proposal complies with the nil street setback to Pacific Highway and Hume Street as required.

Reference	Provision	Assessment
	2. New development adjoining the increased setbacks and landscaped areas should contribute to its landscape character. For example, by providing planter boxes, lighting, green walls and deep soil to support larger trees. 3. Above podium setbacks are to be provided in accordance with the relevant council DCP.	The proposal complies with the above podium setback requirements of 3m to Pacific Highway and 3m to Hume Street, with an increased setback of 4m to Pacific Highway provided. While the DCP requires a 15m above-podium setback to residentially zoned land, being the site's rear boundary, a 9m above-podium setback is proposed to this interface as recommended by the TOD Urban Design Report prepared by SJB. This represents an increased setback from the 8m tower setback established by the Planning Proposal scheme. The tower form is proposed to extend to the northern boundary of 390 Pacific Highway in response to the Applicant's purchase of the air rights to 398 Pacific Highway. Purchasing of the air rights ensures that the site at 398 Pacific Highway will not be built up in the future and will provide the surety that a significant separation distance between the proposed tower and a potential tower development on the northern end of the urban block will be maintained. This in turn protects the northern elevation of the proposed tower, enabling a habitable northern façade which can be built to the boundary, resulting in a more efficient floor plate. It also allows for a 20m setback to the northern boundary of 398 Pacific Highway and therefore a minimum 24m separation distance to any future development on the most northern site (402-420 Pacific Highway). The SDRP has previously supported the use of 398 Pacific Highway to unlock the northern tower façade to provide better solar access, outlook and natural ventilation.
3.9 Street Wall Heights	1. Podium heights are to be provided in accordance with the heights shown in the map in Figure 11. 2. Corner sites are to maintain a consistent podium height to all street frontages	Variation sought A 3-storey podium is proposed to accommodate the reduced minimum non-residential FSR as required by the North Sydney LEP. A 4-storey podium as per the Design Guide would far exceed the non-residential floor space requirements and cannot be viably accommodated on the site. We note that there are a range of street wall height controls along Pacific Highway, and the proposal would match the 3 storey height of development on the metro station directly opposite, creating a positive synergy. In preparing the design response for the site, the architectural analysis explored a number of podium design options to best accommodate the required non-residential FSR within the developable portion of the site. In order to achieve strict compliance across the site, a 3.5 storey podium would be required. Given the building footprint is approximately 950m², splitting the residential and commercial uses within the same level is considered to result in a poor urban design outcome and results in an efficient use of space. A 3-storey podium was then investigated which is considered to result in a superior urban design outcome and is able to accommodate a suitable level of non-residential floor space to promote employment opportunities, while ensuring the appropriate alignment of podium heights between the existing and proposed structures within the site. Complies Ceiling heights are proposed to achieve compliance with the ADG. In this regard, floor to floor heights of 3.1m to 3.5m are proposed for the residential component to allow for residential apartments to achieve a minimum ceiling height of 2.7m. In addition, a 5m floor to floor height is proposed at ground level, and 4.3m floor to floor heights proposed for the podium levels above to enable alignment with the existing development at 398 Pacific Highway. The communal open space and amenities level at Level 20 will have a 4.5m height clearance to increase the sense of openness, improve outdoor amenity and access to sunlight. The proposal represents a tall slender form. Articulation includes horizontal landscaped breaks in the tower form at Level 20 for the communal open space. The tower façade facing Pacific Highway also has a vertical indentation at the internal circulation corridor. Podium façade articulation includes angular brick and intricate detailing to create a sense of place and a positive relationship with the streetscape.
3.10 Movement	1. The movement network should consider the movement map in Figure 12. 2. Establish a pedestrian route between St Leonards Train Station and the Crows Nest Metro. 3. Provide shade and shelter for pedestrians with reverse setbacks where possible. 4. Establish active transport routes away from high traffic networks. 5. Introduce through site links to improve permeability and walkability. 6. Establish and upgrade crossings and footpaths to improve pedestrian amenity particularly around the Crows Nest Metro Station and along the Pacific Highway.	Complies Shade is provided for pedestrians through the provision of awnings long the Pacific Highway and Hume Street frontage. Footpaths will be upgraded and street trees added to Pacific Highway to improve pedestrian amenity.

Reference	Provision	Assessment
3.11 Car Parking	- The parking provisions for development of residential flat buildings and the residential component of shop top housing is to be provided in accordance with maximum car parking rates in Table 7. - Notwithstanding the car parking rates, in Table 7 and the relevant LEP's and DCP's for other land uses, minimised provision of parking for all land uses is encouraged to capitalise on the proximity of St Leonards Train Station and the Crows Nest Metro Station. - The provision of car parking (including driveways and ramps) is not to result in the underachievement of deep soil requirements. - All above ground car parking areas must be sleeved through architectural treatments or landscaping. - Electric vehicle (EV) charging stations are to be provided in accordance with the following provisions: - All garages and car spaces allocated to an individual residential apartment must make provision for charging stations, as defined by NSW Electric and Hybrid Vehicle Plan (part of Transport for NSW's Future Transport 2056) which provides faster, more secure charging. - In new development: - EV charging switchboards should have sufficient capacity for a future when all residents are charging. - For commercial development, EV charging is to be provided to cover a wide range and future possibilities for EV charging, including individual tenancies and public fast-charging infrastructure options. - Loading and servicing facilities are to be provided according to the applicable council DCP.	Complies Residential parking is provided in compliance with the Design Guide parking rates. In this regard, the proposal generates a maximum residential parking rate of 132 car space. The proposal also complies with the North Sydney DCP parking rates for non-residential uses. In this regard, the proposal generates a maximum requirement of 6 commercial car spaces. Four commercial spaces are proposed. Loading and service facilities are also provided in accordance with North Sydney DCP requirements.
3.12 Wind Management	- All new development is to be designed to mitigate adverse wind effects. - A development application is to be accompanied by a quantitative wind effects report.	Complies An Environmental Wind Tunnel Study has been prepared by SLR to assess wind conditions associated with the existing site and the proposed development. Mitigation measures included in the study to mitigate adverse wind effects have been incorporated into the design of the development. The Environmental Wind Tunnel Study is provided at Appendix N.
3.13 Flooding	- Requirements for development outside of the potentially flood-affected lots on Figure 13 - Flood Consideration Lots Map: - The Flood Planning Level (FPL) is 0.3 m above the surrounding ground levels Any basement levels including basement car parking is to be suitably protected from the effects of flooding via use of a FPL at all basement entry points. - Surrounding ground refers to a gutter invert, where a gutter is present, otherwise ground levels in the vicinity of the basement entry point. - Entry points refer to ramps, driveways, elevators, stairs, vents and any other openings where water may enter the basement. - Requirements for development of the potentially flood-affected lots on Figure 13 - Flood Consideration Lots Map: - Carry out a Flood Impact and Risk Assessment (FIRA) in accordance with NSW Flood Risk Management Guideline LU01 This will document in a site-specific report the flood depths and levels at the site in a range of flood events, up to the PMF, and assess compliance of the development with Council controls and those set out below. Flood behaviour may be determined from Council studies or the State Led Rezoning Crows Nest - Flooding and Stormwater Study (GRC Hydro, 2024) where mapping is not available. Modelling can be updated to include features at and around the site not captured in the catchment-wide studies. - Map and describe design flood behaviour at the site including flood hazard and flood function in a range of events. Demonstrate proposed development will not impact existing flood behaviour in accordance with the requirements of a FIRA. - Demonstrate compliance with the Flood Planning Levels (FPLs) at the site. FPLs are set out in Council policy. If no FPLs are specified, North Sydney Council's may be used, as set out in Section 4.4 of the "Floodplain Management Policy (Interim)" (2022). It specifies, amongst others, an FPL of 1% AEP + 0.3 m for residential, habitable rooms, and a minimum of 1% AEP for businesses. - Determine the evacuation procedures and emergency access to be used in the event of a flood. If shelter-in-place is to be used, demonstrate the site can be safely occupied during all flood events which may involve access to level 1 and above if the ground floor is below the PMF.	Complies The site is not identified as a site with potential major overland flow on the Flood Consideration Lots map, however the accompanying Flood Impact Assessment report confirms that the site experiences flooding in the existing condition from the 1% AEP event to depths up to 100mm varying in elevation from 90.4m to 90.6m across the site. For the PMF event the site experiences flooding up to depths of 300mm in the existing condition ranging in elevation from 90.6m to 90.8m. The Flood Impact Assessment confirms that: - The post-development condition for both the 1% AEP and PMF events show negligible changes in water depth, elevation and velocity. - The only notable difference in the vicinity of the site is a marginal improvement in the area where the new stormwater pits were introduced to service the proposed building. - It is recommended that the finished floor level for the proposed development be maintained at a level of 300mm freeboard above the 1%AEP flood level and that any potential water entry points be maintained at a minimum of the reported PMF flood level at the site. - The site is generally safe for people, vehicles and buildings based on the general flood hazard vulnerability curve.

Table 3 North Sydney Development Control Plan

Section	Control	Response
Part B – Section 2 Commercial and Mixed Use Development		
Part 2.2.1 Diversity of activities, facilities, opportunities and services	P1 Non-residential buildings or components of buildings should incorporate a variety of different sized spaces that reflect a site's location in the commercial centre hierarchy (i.e. large floor plates should be provided in higher order centres with small floor plates in lower order centres). P2 Consideration should be given to incorporating community and entertainment facilities within a development. P3 A variety of uses should be provided at street level, which contributes positively to economic and social vitality. P4 Avoid blank walls that face streets and laneways at the ground level. P5 Enhance the amenity of the public domain to meet the needs of the workforce, residents and visitors. P6 Mixed use developments within the E1 Local Centre, MU1 Mixed Use or E3 Productivity Support zones should: (a) ensure all residential common areas of the building (including the principal entrance to the building) are accessible to all persons regardless of mobility; and (b) have the retail/commercial uses located on the ground floor, retail/commercial or residential uses on the first floor, and residential uses on upper floors.	Complies The proposal incorporates a number of different sized commercial and retail tenancies which allows for flexibility in accommodating a diverse range of uses, reflecting the site's location within the commercial centre hierarchy. The inclusion of two retail uses at ground level will contribute to the economic and social viability of Crows Nest. Upgraded public domain works and tree planting are proposed to enhance the amenity for workers, residents and visitors. The residential lobby is accessible to all persons, as confirmed in by the accompanying Access Assessment Report. Retail and commercial uses are located on ground floor to Level 2. Residential uses are located above.
2.2.2 Maximise use of public transport	P1 Locate pick up and drop off points for public transport and taxi ranks as close as possible to public spaces and activities. P2 Locate short stay (ten minute) parking spaces within or as close as possible to meeting places. P3 Limit the amount of long stay off street commuter parking to that which existed at the time of gazettal of NSLEP 2001 (Amendment No.9 – North Sydney Centre) on the 28 February 2003. P4 Minimise any non-residential parking on site. P5 Bicycle storage facilities are provided in accordance with Part B: Section 10 - Car Parking and Transport of the DCP. P6 Provide showers for use by cyclists and people that walk to work.	Complies Four non-residential parking spaces are proposed on site which is less than the maximum six spaces that are permitted under the DCP. Compliant bicycle storage is proposed on Basement Level, as well as end-of-trip facilities including showers and lockers.
2.2.3 Mixed Residential Population	P3 Mixed use developments incorporating residential accommodation containing 20 or more dwellings should provide a mix of dwelling sizes in accordance with Table B-2.1. P4 Variations to the dwelling mix within P2 or P3 will not be considered, unless the applicant can adequately demonstrate by an authoritative analysis of current and future market demand that the suggested mix is not reasonable. P5 In mixed use developments containing residential accommodation, all new dwellings must satisfy the Silver level performance requirements of the Livable Housing Design Guidelines. The incorporation of Gold and Platinum level universal design features is strongly supported.¹ Note: For details on the universal design features and performance requirements of the Livable Housing Design Guidelines visit http://www.livablehousingaustralia.org.au/. P6 A minimum of 20% of dwellings in mixed use developments containing more than 5 dwellings must comprise adaptable housing and be designed and constructed to a minimum Class C Certification under AS 4299 – Adaptable Housing. P7 Where adaptable housing is to be provided, the adaptable housing components must: (a) be integrated into the overall design of the development, and must not be isolated; and (b) not use a different standard of materials and finishes to the remainder of the building. P8 Where universally designed and adaptable dwellings are proposed, those dwellings must be clearly identified as such on the submitted development application plans. P9 Developments requiring adaptable housing must also satisfy the provisions of Part B: Section 12 - Access of this DCP. P10 Provide services and facilities within the development that meet the needs of different population groups and build flexibility into communal spaces to meet changing needs.	Complies The following unit mix is proposed: ▪ 26 x 1 Bedroom apartments (14.6%), ▪ 101 x 2 Bedroom Apartments (56.7%), 4 ▪ 7 x 3 Bedroom Apartments (26.4%), ▪ 4 x 4 Bedroom Apartments ((2.2%) (inclusive of 2 x 4 Bedroom Penthouse Apartments). 36 (20%) of the apartments are adaptable units. While the unit mix slightly deviates from the specified mix within Table B-2.1, with a lower proportion of 1-bedroom dwellings and higher proportion of 2-bedroom and 3-bedroom dwellings, this variation is justified by the proposal's alignment with market demands in the Crows Nest area and general market trends more broadly reflecting the increased numbers of people working from home. Importantly, the inclusion of a wide range of apartment types caters to diverse demographics and promotes inclusivity, thereby facilitating broader access to housing within Crows Nest. The proposed communal open space has been designed to be flexible for different users.
2.3.1 Clean Air	P1 Operating plant, building materials and finishes should be incorporated that are nontoxic and reduce toxic emissions. P2 Discourage use of the private motor car and encourage walking, cycling and use of public transport. P3 Car parking is provided in accordance with Part B: Section 10 - Car parking and Transport of the DCP.	Complies All plant, building materials and finishes are nontoxic. Car parking generally complies with the Infill affordable housing provisions of the Housing SEPP.

Section	Control	Response
2.3.2 Noise	P1 Noise emission associated with the operation of non-residential premises or non-residential components of a building must not exceed the maximum 1 hour noise levels (LAeq 1 Hour) specified in Table B-2.3.	Complies
	P2 In terms of determining the maximum noise levels as required by P1 above, the measurement is to be taken at the property boundary of the nearest residential premises. Within a mixed use development, the boundary is taken to be nearest floor ceiling or wall to a residential dwelling on the site.	An Acoustic Assessment has been prepared to support the SSDA as required by SEARs item 10. A detailed assessment of acoustic impacts is provided in Appendix Q and Section 6.1.6 of the EIS.
	P3 Despite P1 above, the noise emission associated with the operation of non-residential premises or non-residential components of a building must not exceed 5 dBA above the background maximum 1 hour noise level (LAeq 1 Hour) during the day and evening and not exceeding the background level at night when measured at the boundary of the property.	The Acoustic Assessment demonstrates how the proposal can achieve compliance with the relevant noise criteria, noting the site's location on Pacific Highway.
	P4 Council may require the submission of an Acoustic Report to ensure compliance with P1 above.	Apartments that exceed the noise intrusion criteria when doors or windows are open for natural ventilation purposes, have been provided with a dedicated mechanical ventilation system that complies with the NCC, thus eliminating reliance natural ventilation which breaches acoustic amenity limits.
	P5 Plant and machinery should incorporate noise reduction measures to minimise their impacts.	
	P6 Developments should be designed and / or incorporate features that reduce noise transmission.	
	P7 Where practical, development should incorporate adequate measures for tonal, low frequency, impulsive, or intermittent noise.	
	P8 Developments must comply with EPA Noise Policy for Industry 2017 in particular the modification required for acceptable noise level (ANL).	
2.3.3 Wind Speed	P1 Buildings should be designed to reduce wind velocity at footpaths and public outdoor spaces.	Complies
	P2 Development should not result in the wind speed exceeding 13m/s at footpaths and accessible outdoor spaces.	An Environmental Wind Tunnel Study has been prepared in support of the proposal and is provided at Appendix N.
	P3 A Wind Impact Report, prepared by an appropriately qualified person, must be submitted with any application where the proposal results in the building exceeding 33m in height.	The report confirms that wind conditions for all outdoor trafficable areas within and around the proposed development will be suitable for their intended uses, subject to mitigation measures already incorporated into the design of the proposed development.
2.3.4 Reflectivity	P1 Buildings should provide a greater proportion of solid to void on all facades and use non-reflective materials.	Complies
	P2 Buildings should use non-reflective glass and / or recess glass behind balconies.	The building will use exclusively low-reflective materials at lower levels to avoid reflectivity impacts on passing motorists. In addition, the proposed vertical and horizontal tower façade elements and building articulation will assist in reducing the reflectivity of the façade.
	P3 Sun shields, such as awnings, canopies and pergolas should be provided to glazed areas. P4 Council may require the submission of a Reflectivity Study prepared by a suitably qualified consultant.	
2.3.5 Artificial Illumination	P1 External facades of buildings should not be floodlit.	Complies
	P2 Where external artificial illumination is proposed: (a) it should be designed and sited to minimise glare. (b) It must comply with the standards set out in Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting.	The façade of the building is not proposed to be illuminated. Other lighting throughout the development will comply with the DCP provisions.
	P3 Illumination of roof top and/or podium level facilities is not to exceed the curfew outlined in Table B-2.4.	
	P4 Entrances must be well lit and do not produce shadows or adverse glare.	
	P5 Staff entrances which are separated from the main building entrance must be well lit and opportunities for casual surveillance is maximised.	
	P6 Timers and sensors should be used to minimise sky glow.	
	P7 Council may require the submission of a Lighting Report for a development prepared by an appropriately qualified person.	
2.3.6 Awnings	P1 Provide continuous, horizontal awnings on all street frontages which are activated by ground floor uses and those streets identified in the relevant area character statement (refer to Part C of the DCP), using materials that are sun, rain and wind proof.	Complies
	P2 Awnings must be provided as required in Table B-2.5.	Continuous horizontal awnings are proposed along the Pacific Highway and Hume Street frontages above ground level.
	P3 New awnings should match the height of existing awnings on adjacent sites.	The awning has been designed to integrate with the awning height of the existing building at 398 Pacific Highway, then steps up in height as the site slopes up towards the southern side of the Pacific Highway frontage.
	P4 Weather seals are to be provided between new and existing awnings on adjacent sites and between the waning and the building.	

Section	Control	Response
	P5 Where appropriate, temporary shade structures such as retractable blinds, umbrellas and pergolas may be provided (e.g. to outdoor café and gardens). P6 Openings with a minimum dimension of 1.5m – 2m (measured from kerb) by 2.5m wide must be provided in awnings located over public footpaths to allow for the accommodation of street trees.	Positioned 1.9 meters from the site boundary line along Hume Street and 1.5m from the site boundary along Pacific Highway, the awnings adhere to the DCP requirements that emphasize the preservation of vegetation, which states that 1.5m setback from the kerb should be given to facilitate existing trees. The aluminium awnings are finished in bronze and terracotta hues, featuring glazed panels between them to ensure stability against wind loads. The design incorporates a variation in length along Pacific Highway, where the awnings extend further at entry points from perimeter and retail spaces into lobby areas. This variation enhances the visual appeal and also aids in wayfinding for both residents and commercial users by clearly emphasizing entry points and transitions between different zones.
2.3.7 Solar Access	P1 Developments within the North Sydney Centre must comply with the height and overshadowing requirements contained within cl.4.3, and cl.6.3 of NSLEP 2013. P2 Developments located outside of the North Sydney Centre should be designed and sited such that solar access at the winter solstice (21st June) provides a minimum of 3 hours between the hours of 9.00am and 3.00pm to: (a) any solar panels; (b) the windows of main internal living areas; (c) principal private open space areas; and (d) any communal open space areas. Located on the subject property and any adjoining residential properties. Note: Main internal living areas excludes bedrooms, studies, laundries, storage areas. P3 Despite P2 above, living rooms and private open spaces for at least 70% of dwellings within a residential flat building or shoptop housing should receive a minimum of 2 hours of solar access between the hours of 9.00am and 3.00pm at the winter solstice (21st June). P4 New development should not overshadow existing or proposed public open spaces located outside of the North Sydney Centre between 11.30am and 2.30pm. P5 Spaces are to be created between taller buildings to avoid a solid mass of development and to allow daylight and/or sunlight to penetrate through to pedestrian level. P6 Setbacks must be provided between buildings above the podium level. P7 Provide a mix of sun-protected and unprotected areas in public open space, roof top gardens and other outdoor spaces. P8 Avoid providing apartments within mixed use developments that have a sole orientation to the south. Where south facing apartments cannot be avoided, ensure that they are provided with adequate access to natural light (e.g. by providing enlarged windows, skylights and the like). No more than 15% of all dwellings in the development must not receive no direct sunlight between 9am and 3pm at mid-winter. P9 The use, location and placement of photovoltaic solar panels take into account the potential permissible building form on adjoining properties.	Complies Shadow diagrams and solar access diagrams have been prepared in support of the proposed development and are provided in the Architectural Design Report at Appendix J. The shadow diagrams demonstrate that the proposed development does not result in any additional overshadowing of the nominated public open spaces in the Character Statement between 10.00am and 3.00pm. In addition, shadows extend beyond the Crows Nest precinct boundary between 9am and approximately 10.15am only, which remains compliant with the Crows Nest Design Guide which specifically requires a minimum of 3 hours solar access to be retained to the low-density residential areas outside the precinct boundary between 9am and 3pm on June 21st by any development on the subject site. The shadow diagrams show that the proposed development including height variation will not overshadow these properties between approximately 10.15am and 3pm, therefore complying with the control. The Architectural Design Report demonstrates that 63% of apartments achieve at least 2 hours solar access. This is considered acceptable in dense urban environments, noting that the solar access studies include surrounding approved development (including the Crows Nest OSD) as well as existing development. Apartments which don't receive 2 hours solar access benefit from outstanding views of Sydney Harbour and the CBD south-east and south-west and that meet the objectives of design criteria. Only 11% of apartments receive no solar access, complying with the maximum 15% ADG design criteria. The ADG acknowledges that the full 70% solar access design criteria may not be possible on sites where greater residential amenity can be achieved along a busy road by orienting living rooms away from the noise source, and where significant views are oriented away from the desired aspect for direct sunlight. Such circumstances apply to the subject site where Pacific Highway is located on the north-eastern frontage of the site and significant views are located to the south. The future Crows Nest OSD is also located to the north-east, whose shadow has been factored into the solar studies. This will limit solar access to the midday and afternoon periods when solar access is available from the north/ west. The design has included measures to maximise solar access including providing no south-facing single-aspect apartments. All apartments between level 31 and 38 have dual aspect, while only one apartment per level on Level 21 to 30 is single aspect, which has a northern aspect.
2.3.8 Views	P1 Where appropriate, the opening up of views should be sought to improve the legibility of the area. P2 Provide public or semi-public access to top floors where possible (e.g. restaurants, roof top gardens and facilities). P3 Use setbacks, design and articulation of buildings to maintain street views, views from public areas and those identified in the relevant area character statement (refer to Part C of the DCP). P4 Maintain and protect views identified in the relevant area character statement (refer to Part C of the DCP) from future development. P5 Where a proposal is likely to adversely affect views from either public or private land, Council will give consideration to the Land and Environment Court's Planning Principles for view sharing established in Rose Bay Marina Pty Ltd v Woollahra Municipal Council and anor [2013] NSWLEC 1046 and Tenacity Consulting v Warringah Council [2004] NSWLEC 140. The Planning Principles are available to view on the Land and Environment Court's website (https://www.lec.nsw.gov.au/practice-andprocedure/principles.html).	Complies The proposed development has been oriented to celebrate the outstanding views that surround the site, including Sydney Harbour and CBD to the south. A view loss and view sharing assessment has been carried out (Appendix O) of the proposal's impacts on the key private residential properties that may be impacted by the proposal. These were: ▪ The future mixed use OSD building at 497-521 Pacific Highway, Crows Nest, and ▪ An existing residential building at 545-553 Pacific Highway, St Leonards The residential component of the existing development to the north at 398 Pacific Highway will not be impacted by view loss, as their views to the south and south-west will be maintained by the proposed development.

Section	Control	Response
		An assessment was carried out taking into account the planning principles established in <i>Tenacity v Warringah Council</i>. In relation to the OSD site at 497-521 Pacific Highway, this site was originally intended as a commercial building. As part of the TOD precinct controls, residential land uses were made permissible on this site, enabling Tower 1 and Tower 2 to be used for the purpose of BTR and Tower 3 to be dedicated as Affordable Housing. SEARs have been issued for the proposed development (SSD-75662958) along with concept plans which illustrate the intent for future redevelopment. The VIA prepared by Keylan takes into consideration this future land use, with view points taken from Level 20 and Level 26, at both the south eastern corner and the south western corner of the site. The VIA confirms that there will be some degree of view impact, however the given the building footprint and tower envelope is confined, this site will continue to get views across the site. These impacts are minimised by the design and articulation of the proposal and are considered acceptable in the future context of the area, pursuant to the Crows Nest TOD precinct controls. In relation to 545-553 Pacific Highway, indicative massing has been prepared to identify views from the south western and western elevation at Level 16. This site is located on the north eastern side of Oxley Street, approximately 100m from the subject site. It is noted that the site to the north is also subject to the TOD precinct controls, and will likely be redeveloped in the future, placing increased built form between 545-553 Pacific Highway and the site. Notwithstanding, views from the south-east of this building are oriented towards the Sydney CBD skyline and Harbour. Given the distance of the building from this property and the angle of the view corridor, the views would not be entirely interrupted by the proposed development. Overall, the assessment notes that whilst there will be a degree of view loss associated with the proposed development, the distance of the development from the site and the angle of the building mitigates the impact. Further, it is acknowledged that the degree of view loss is commensurate with that of tall tower forms along Pacific Highway, as contemplated by the TOD planning controls.
2.3.9 Acoustic privacy	P1 This subsection only applies to the residential component of any mixed use development. P2 New dwellings shall be designed and constructed to comply with the criteria specified in Table B-2.6 for all noise intrusion from external noise sources (including mechanical services noise from within the development itself), with windows and doors closed. P3 Where multiple dwellings are provided within the same building, the residential components of the building shall be designed and constructed to comply with the requirements in Table B-2.7 regarding acoustic insulation of walls and floors. P4 An acoustic report prepared by a certified acoustic consultant must be submitted with all development applications which involves the construction of 4 or more new dwellings and must address the requirements to P2. P5 Buildings are to be designed and rooms positioned to reduce noise transmission within and between dwellings. P6 Bedrooms should be designed so that wardrobes provide additional sound buffering between rooms within the dwelling or between adjoining dwellings over and above the requirements in P3 above. P7 Windows and doors should be located away from external noise sources, or buffers used where separation cannot be achieved. P8 Materials with low noise penetration properties should be used where practical. P9 Locate bedrooms and private open spaces away from noise sources such as garages, driveways, mechanical equipment and recreation areas. P10 Mechanical equipment, such as pumps, lifts or air conditioners should not be located adjacent to bedrooms or living rooms of dwellings within the development or on adjoining properties. P11 Where dwellings are located on busy roads incorporate the following into the design of the development to reduce traffic noise within the dwelling: (a) cavity brick walls;	Complies The accompanying Acoustic Assessment demonstrates how the proposal can achieve compliance with the relevant noise criteria, noting the site's location on Pacific Highway. Apartments that exceed the noise intrusion criteria when doors or windows are open for natural ventilation purposes, have been provided with a dedicated mechanical ventilation system that complies with the NCC, thus eliminating reliance natural ventilation which breaches acoustic amenity limits.

Section	Control	Response
	(b) double glazing; (c) solid core doors; (d) concrete floors; and (e) recessed balconies. P12 Development comprising places of public worship, hospitals, educational facilities or child care centres or containing residential uses on land which is on or is within 100m of a railway corridor, a road corridor for a freeway, a tollway, a transit way or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the Transport for NSW) must consider the requirements of the DoP's Development Near Rail Corridors and Busy Roads – Interim Guideline (19 December 2008) in accordance with cl.s 2.100(2) and 2.120(2) of SEPP (Transport and Infrastructure) 2021. An acoustic report may be required to be prepared to demonstrate compliance with this Guideline and the acoustic requirements within cl.s 2.100(3) and 2.120(3) of the SEPP (Transport and Infrastructure) 2021. P13 Where possible, avoid the use high brick fences on busy roads. High fences present a harsh and bland appearance to the street, obstruct views from the footpath to gardens and dwelling entries, reduce amenity for pedestrians and reduce casual surveillance of the street. Try to reduce acoustic impacts through other acoustic reduction measures.	
2.3.10 Vibration	P1 Development on land which is on or is within 60m of a railway corridor, or is adjacent to a road corridor for a freeway, a tollway, a transit way or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the Transport for NSW) must consider the requirements of the DoP's Development Near Rail Corridors and Busy Roads – Interim Guideline (19 December 2008) in accordance with cl.s 2.100(2) and 2.120(2) of SEPP (Transport and Infrastructure) 2021. In particular, consideration should be given to the vibration criteria contained within the Department of Environment Climate Change and Water's Assessing Vibration: a technical guideline. A vibration assessment report may be required to be prepared to demonstrate compliance with these Guidelines.	Complies The accompanying Acoustic Assessment has also considered ground-borne vibration generated by the Sydney Metro rail network. The report concludes that Sydney Metro is unlikely to impact the proposed development in regard to vibration. To confirm this assessment, it is recommended that vibration measurements of train pass-bys along Sydney Metro should be undertaken once excavation works are completed, but prior to start of construction works on the basement levels.
2.3.11 Visual privacy	P1 Locate windows to avoid direct or close views into the windows, balconies or private open space of adjoining dwellings. P2 Where windows are located with a direct outlook to windows of an adjacent dwelling, the windows must be provided with a minimum sill height of 1.5m, or use fixed obscure glazing or other privacy devices. P3 Provide suitable screening structures or planting to minimise overlooking from proposed dwellings to the windows, balconies or private open space of adjacent dwellings, to windows, balconies or private open space of dwellings within the same development. P4 Provide visual separation between any non-residential use and residential uses within buildings and sites. P5 The residential components of mixed use developments are to provide adequate separation between habitable rooms, balconies and non-habitable rooms, consistent with SEPP (Housing) 2021. The relevant separation distances are reproduced in Table B-2.8.	Complies The proposal has carefully considered the sensitive interfaces with the existing residential apartments to the north, and the existing low density residential development to the south-west (as well as the allowance for a future 12-storey residential development on those sites). The proposal features podium setbacks in accordance with the urban design studies prepared to inform the Crows Nest TOD Precinct controls, with the podium designed to scale down to harmonize with the existing built form at 398 Pacific Highway. Acoustic mitigation measures have been implemented following consultations with an acoustic engineer. Deep planter beds will be provided as per the landscape plans on the Level 3 terrace to provide screening to the existing neighbour at 398 Pacific Highway. In addition, the upper-level north-facing apartments within the proposed development have been considered in relation to overlooking of 398 Pacific Highway. The outlook from the northern apartment on Level 04 is situated above the roof level of 398 Pacific Highway, and whilst it is close to the rooftop, the apartment offers sweeping views of Sydney's skyline and harbour beyond. The apartments on Level 04 also feature a corner glazed unit to living rooms and interface with private balconies to frame views towards the skyline and harbour, whilst focusing away from the adjacent properties.
2.4.1 Context	P1 Proposed developments must be designed to respond to the issues identified in the site analysis and in the relevant area character statement (refer to Part C of the DCP). P2 A Site Analysis is undertaken in accordance with Part A: Section 5 - Site Analysis of this DCP.	Complies Thorough site analysis has been carried out for the proposed development. The proposal has been designed to respond to the existing and future context of the area. The proposal also complies with the St Leonards/Crows Nest Planning Area character statement, as demonstrated below.
2.4.2 Site Consolidation	P1 Amalgamate lots to achieve lot frontage identified in the relevant area character statement (refer to Part C of the DCP). P2 Break down the apparent length of buildings by incorporating articulation, design and detailing and or a change in materials, finishes and colours.	Complies The lots included in the sites at 378-390 Pacific Highway will be amalgamated to accommodate the proposed development. In addition, a new lot is proposed to be created for the air rights above the existing development at 398 Pacific Highway. This new lot will also be amalgamated into the site.
2.4.3 Setbacks	P1 Provide a setback for public space at ground level where indicated in the relevant area character statement (refer to Part C of the DCP). P2 New development must give consideration to the setbacks of adjacent buildings and heritage items.	Partial Compliance – however the Design Guide provisions prevail The proposal provides a nil setback to Pacific Highway and Hume Street in accordance with the Crows Nest TOD Design Guide which prevails over any inconsistency with the DCP.

Section	Control	Response
		While the DCP requires a 6m setback at ground level to a residentially zoned interface (being the rear/western interface of the site), the proposal has adopted a minimum 4.5m setback to the residential zoned land to the rear which is the setback envisioned for the site in the Urban Design Report prepared by SJB to inform the Crows Nest TOD precinct controls. Figure 2 Recommended rear setbacks from TOD Urban Design Report KEY ----- Boundaries - Proposed Residential - Proposed Non-Residential - Existing Built Form - Other Development Source: Urbis This rear setback was used in the architectural testing of a 40-storey tower on the site that was part of Freecity's submission on the TOD rezoning proposal and has been carried through to the proposed SSDA development. The Architectural Design Report demonstrates that the proposed building setbacks provide sufficient separation distance between the proposed development and a future 12-storey building on site to the rear.
2.4.4 Podiums	P1 Where required, a podium must be provided along all street frontages including laneways, with a height and setback above the podium, in accordance with the relevant area character statement (refer to Part C of the DCP). P2 Podiums should match the height and setbacks of adjacent buildings or the average of the heights of the adjacent podiums having regard to their existing nature and/or their redevelopment potential. P3 Where the ground level changes across the width of a site, the podium should be stepped at an appropriate location to maintain a characteristic podium height.	Variation sought A 3-storey podium is proposed to accommodate the reduced minimum non-residential FSR as required by the North Sydney LEP. A 4-storey podium would far exceed the non-residential floor space requirements and cannot be viably accommodated on the site. In preparing the design response for the site, the architectural analysis explored a number of podium design options to best accommodate the required non-residential FSR within the developable portion of the site. In order to achieve strict compliance across the site, a 3.5 storey podium would be required. Given the building footprint is approximately 950m², splitting the residential and commercial uses within the same level is considered to result in a poor urban design outcome and results in an efficient use of space. A 3-storey podium was then investigated which is considered to result in a superior urban design outcome and is able to accommodate a suitable level of non-residential floor space to promote employment opportunities, while ensuring the appropriate alignment of podium heights between the existing and proposed structures within the site. Having regard to the Design Guide, there are a range of street wall heights planned along Pacific Highway. The 3 storey height will complement the street wall heights directly opposite at the Crows Nest metro site and for development on the block immediately south. As such, it will still achieve a comparable streetscape character and thus acceptable in this context.
2.4.5 Building design	P1 Floor to ceiling heights should be provided in accordance with the minimum requirements set out in Table B-2.9. P2 Council may consider a variation to the minimum requirements in P1, but only if the applicant can demonstrate that the dwelling or non-residential floor space is capable of receiving satisfactory natural daylight and ventilation (e.g. shallow apartments / commercial tenancies with large amounts of window area).	Complies Ceiling heights are proposed to achieve compliance with the ADG. In this regard, floor to floor heights of 3.1m to 3.5m are proposed for the residential component to allow for residential apartments to achieve a minimum ceiling height of 2.7m.

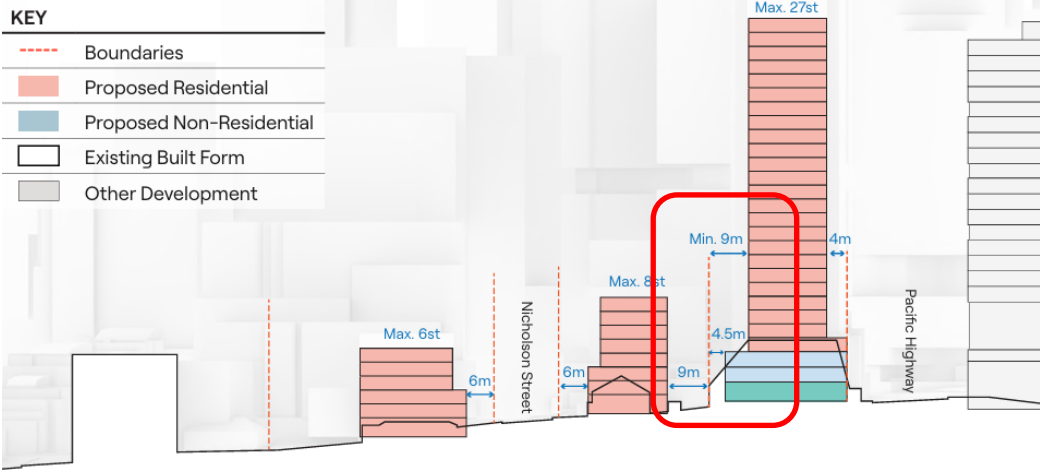
Section	Control	Response
	P3 The apparent length of buildings should be broken down through the use of articulation, design and detailing, changes in materials and colours. P4 High quality materials should be used throughout the building design. P5 Podiums are to be built to the boundary of the site unless providing a setback for public space at ground level as required by the relevant area character statement (refer to Part C of the DCP). P6 Buildings should be built predominantly to setback alignment. P7 Building should be articulated and have a positive relationship with the public domain in terms of scale and setbacks.	In addition, a 5m floor to floor height is proposed at ground level, and 4.3m floor to floor heights proposed for the podium levels above to enable alignment with the existing development at 398 Pacific Highway. The communal open space and amenities level at Level 20 will have a 4.5m height clearance to increase the sense of openness, improve outdoor amenity and access to sunlight. The proposal represents a tall slender form. Articulation includes horizontal landscaped breaks in the tower form at Level 20 for the communal open space. The tower façade facing Pacific Highway also has a vertical indentation at the internal circulation corridor. Podium façade articulation includes angular brick and intricate detailing to create a sense of place and a positive relationship with the streetscape.
2.4.7 Junction and Termination of Street	P1 Buildings located on the corner of a street intersection or at the termination of a street should: (a) be designed with increased emphasis to anchor primary vistas and nodal points; (b) be designed such that the corner of the building addressing an intersection is reinforced through utilisation of splays, curves, building entries and other architectural elements; (c) where located at a street intersection, incorporate a minimum 1.5m splay measured from the corner of the intersection along each property boundary; and (d) be designed such that the building's height is concentrated on that section of the building located at the corner of the street intersection or is centralised on the street façade where it is located at the termination of a street.	Complies The site is located at the Pacific Highway and Hume Street intersection. The proposed podium has been designed to integrate seamlessly into the evolving context of Crows Nest. The podium's prominent corner at the intersection of Hume Street and Pacific Highway highlights the area's dynamic transformation and the importance of this junction that lies directly across from Crows Nest Metro. The nil setback to Pacific Highway and Hume Street reinforces the street edge and aligns with existing adjoining development to the north along Pacific Highway. Ground level retail spaces with frontages to Pacific Highway and Hume Street are designed to complement and engage with the future character of Crows Nest, ensuring that the proposed development is well-integrated with the area's growth and changing landscape.
2.4.8 Balconies – Apartments	P1 Balconies must be incorporated within building envelope (as specified by setbacks and or building height plane) and should not be located on roofs, podiums or be cantilevered. P2 Balconies should be integrated into the overall architectural form and detail of the building. P3 No balconies, verandahs or the like are to project over the public domain. P4 Where a proposal involves the conversion of an existing commercial building, and that commercial building's envelope does not comply with the setback and/or building envelope controls for the site, any new balcony must not project beyond the existing building's envelope. P5 Balconies should not be enclosed. P6 Notwithstanding P5, Council may permit the enclosure of a balcony, but only if: (a) the building is predominantly characterised by enclosed balconies; or (b) if the building is not predominately characterised by enclosed balconies, subject to the approval of a balcony strategy for the building. P7 A balcony strategy should: (a) include details outlining the size, scale and choice of materials of the proposed enclosure(s); and (b) be adopted by the body corporate before being submitted to Council.	Complies Balconies are incorporated into the tower design and are contained within the building envelope.
2.4.9 Through Site Pedestrian Links	P1 Provide linkages through sites to other streets and laneways as identified in the relevant area character statement (refer to Part C of the DCP) applying to the site or where enhancing pedestrian movement to public transport infrastructure.	Not Applicable
2.4.10 Streetscape	P1 The ground level of buildings should align with the corresponding level of the adjacent footpath, laneway or outdoor space. P2 Continuous active uses, such as shops and cafes, should be provided at the ground level of the building to all streets, laneways and public spaces. P3 Where practical, the building's ground level façade to a laneway should be provided as an active frontage (e.g. has a retail or commercial premises fronting the laneway). P4 Landscaping and changes in level at building frontages is to be avoided where possible to facilitate natural surveillance of public areas and views into buildings. P5 All ground level windows fronting street, laneways and public spaces must be glazed with clear glass, to promote active surveillance of the public domain.	Complies The accompanying Architectural Plans provided at Appendix B demonstrate that the ground level of the proposed building corresponds with the ground level of Pacific Highway where the main access to the retail tenancies and residential / commercial lobbies are located. Clear glazing is proposed within all ground level openings. The podium materiality includes intricate brick detailing to add visual interest. Opportunities for connecting to Country elements are also identified in the Connection with Country report, including artwork and paving inlays.

Section	Control	Response
	P6 All ground level shopfronts are to have a zero metre setback unless specified in the relevant area character statement (refer to Part C of the DCP). P7 Introduce visually interesting elements to the building façade such as articulation, detailing and art works. P8 Streetscape elements, such as street furniture, lighting, paving, awnings, outdoor seating and umbrellas, are to be consistent with Council's Public Domain Style Manual and Design Codes. P9 Undergrounding of overhead infrastructure should be provided in association with significant new development, consistent with the North Sydney Council Undergrounding Master Plan.	
2.4.11 Entrances and Exits	P1 Main entrances and exits located at the front of the site must be directly visible from the street. P2 At least one main entrance to the building provides a continuous path of travel. P3 Entrances must not be obscured by landscaping or other obstacles and have clear sight lines. P4 Entrances are clearly identifiable to reduce confusion and unintentional entry. P5 If exits to the building are closed after hours, this must be indicated at the entrance of the building. P6 Entrance lobbies are well illuminated, with seating provided and a firm and level nonslip floor surface. P7 Places of safe refuge are incorporated into the overall design of buildings. Lift lobbies or toilets may be used as all or part of a safe refuge. P8 Access to the building must be designed in accordance with the provisions contained within Part B: Section 12 – Access of the DCP. P9 Separated pedestrian entrances and lobbies are to be provided where it is proposed to accommodate within the same building, the following mixture of land uses: (a) residential accommodation and non-residential development; or (b) hotel or motel accommodation or serviced apartments and any other form non-residential development.	Complies Entrances to the residential and commercial lobby and retail tenancies are easily identifiable. Lobby entries are set in from the site boundary while the awning design incorporates a variation in length along Pacific Highway, where the awnings extend further at entry points from perimeter and retail spaces into lobby areas. This variation not only enhances the visual appeal but also aids in wayfinding for both residents and commercial users by clearly emphasizing entry points and transitions between different zones.
2.4.1 Public Spaces and Facilities	P1 In terms of built form and intensity, new development should respect the scale, character and density of existing development located adjacent to business zoned land. P2 Development should not detrimentally affect the amenity of the existing area, having regard to its redevelopment potential. P3 A range of outdoor spaces should be provided. Larger spaces and deeper footpaths provide opportunities for a wider range of activities to be accommodated. P4 Avoid cluttering spaces and changes of level. P5 Locate facilities that attract people, such as public phones, seating and information kiosks, in public spaces to reinforce activity at ground level. P6 Avoid over-management of public spaces by security patrols or through the use of closed circuit television (CCTV).	Complies The accompanying Architectural Design Report includes overshadowing diagrams which demonstrate that the proposal will not overshadow key public open spaces as required by the DCP.
2.5.1 Accessibility	P1 Buildings are to be designed in accordance with the provisions contained within Part B: Section 12 - Access of the DCP.	Complies The proposal is accompanied by an Access Assessment report which confirms that the proposal has been assessed against the applicable provisions for Accessibility and that the proposal complies with or is capable of complying with the relevant provisions.
2.5.2 Safety and Security	P1 Design routes between building entrances to maximise personal safety. Routes from parking areas to lift lobbies are particularly important in this regard. Clear lines of sight and well-lit routes are required. P2 Where open space and pedestrian routes are provided, they must be clearly defined, and have clear and direct sightlines for the users. P3 Adequate lighting must be provided to open spaces, entrances and pedestrian areas to avoid the creation of shadowed areas. P4 Rear service areas and access lanes should either be well secured or easily visible.	Complies The design of the proposed development aligns with the DCP which aims to provide greater connectivity in North Sydney and provide greater amenity to incoming residents. The proposal incorporates the four CPTED principles: surveillance, access control, territorial reinforcement, and space and activity management. The proposal is expected to increase activation around the Crows Nest Metro Station Precinct during the day and evening by encouraging a mix of users throughout the day and night through

Section	Control	Response
	P5 Land use activities which operate after normal business hours should be located along well-used pedestrian routes. P6 Public toilets, telephones and other public facilities must be provided with direct access and good visibility from well used public spaces. P7 Robust and durable design features should be used where relevant to discourage vandalism. P8 Consider the use of bollards or low walls and the careful design of shopfronts to decrease the likelihood of ram raids and provide higher levels of security for shop owners or tenants. P9 The use of security grilles at the street frontage is discouraged. If security grilles are necessary then install on the inside of the shopfront and maintain clear visibility into the shop. Use toughened glass. P10 Solid security rollers to shopfronts are not permitted. P11 Fire escapes should not be recessed into the building form. If it is necessary locate them in recesses, then the recess must be shallow to provide for personal security of pedestrians. P12 Buildings should be designed to allow for the overlooking and natural surveillance of rear lanes (e.g. from retail and other uses at all levels of the building). P13 Rear lanes should be provided with safe and secure lighting. P14 Clear sight lines should be maintained around all vehicle access points. P15 Street numbering of buildings must be clearly visible from street at all times of the day such that they are easily identifiable.	the residential, commercial and retails areas, as well as supporting pedestrian movement around the site.
2.5.4 High Quality Residential Accommodation	P1 Apartments within mixed use developments, must be designed to provide the following minimum internal areas: (a) Studio 35m2 (b) 1 bedroom 50m2 (c) 2 bedrooms 70m2 (d) 3+ bedrooms 90m2 P2 Include courtyards, balconies and gardens as the principal open space area for residents. These should have solar access for a minimum of 2 hours a day measured at June 21st . P3 Communal corridors must have a minimum width of 2m to facilitate movement (i.e. no right angled corners). P4 No more than 8 dwellings are to be accessible from a single common lobby space. P5 Avoid the use of double loaded corridors. P6 Maximum depth of a habitable room from a window, providing light and air to that room, is 10m. P7 Apartments have a minimum width of 4m. An apartment's width should increase relative to an increase in its depth. P8 Single aspect apartments have a maximum depth of 8m from a window. P9 The habitable space serviced by a window is no more than 10 times the glazed area of the window. P10 At least 60% of apartments are to be provided with cross ventilation (i.e. window openings that face different directions). For apartments with no cross ventilation, ceiling fans must be provided. P11 Utilise double glazing, awnings or window solar screens to reduce reliance on artificial cooling of buildings. P12 The amount of glazing on eastern and western elevations is to be minimised and incorporate external shading devices. P13 Amenity and safety of residents is protected from intrusion by users of the non-residential parts of the development (e.g. through the use of security access to lifts and car parking).	Complies All apartments have been designed to comply with the ADG in regard to internal areas, number of dwellings on a communal corridor, apartment width and depth, access to glazing, cross ventilation, and secure access. A full assessment against the provisions of the ADG is provided at Appendix J.
2.5.6 Private Open Space	P1 Apartments within mixed use developments must provide at least one private open space with the following minimum areas: (a) Studio 4m2 (b) 1 bedroom 8m2 (c) 2 bedrooms 10m2 (d) 3+ bedrooms 12m2	Complies Each apartment contains a balcony which meets or exceeds the minimum requirements of the ADG. All balconies will be directly accessed from the main living area.

Section	Control	Response
	P2 Private open spaces must provide a minimum depth of 2m, or 2.4m where it relates to a 3+ bedroom apartment. P3 Where apartments are proposed without private open space, the size of the apartment must be increased by the minimum private open space requirement. P4 Private open spaces should be located such that they are directly accessible off a main living area of the dwelling. P5 In addition to the requirements of P1, multi-dwelling developments are encouraged to provide communal residential areas to encourage social interaction. Notes: It is considered best practice to provide communal areas in the order of 25% to 30% of the site area. A reduction in this requirement could be considered acceptable where private open spaces in excess of the minimum requirements are provided. P6 Communal residential spaces: (a) should comprise a mixture of indoor and outdoor spaces (such as gymnasium, pool and meeting rooms for residents); (b) must be provided in developments containing more than 15 bedrooms, with a minimum area of 20m² or 1m² per bedroom, whichever is the greater; (c) may be provided in form of an internal room as long as it has a minimum area of 75% of the total residential communal area requirement (as required in P6(b) above), with the remainder appropriately located in the external recreation area; and (d) must be provided with access to natural light and not be located in basements.	Communal open space on Level 3 and 20 equates to or 27% of the developable site area. Communal indoor space is also provided on Level 20. When taking into account the existing communal open space at 398 Pacific Highway of 165sqm, communal open space equates to 26% of the whole site area.
2.5.7 Vehicular Access	P1 Where available and practical, all vehicle access must be provided from laneways. P2 Service vehicle access should be combined with parking access. P3 Vehicular access points should be limited to a maximum of one access point per building. P4 Where possible, shared or amalgamated vehicle access points with an adjoining building should be provided. P5 Vehicle entries, walls and ceilings should be finished with high quality materials, finishes and detailing, similar to the overall external facades of the building. P6 Service ducts and pipes should be concealed when viewed from the public domain. P7 Parking areas must be designed to enable vehicles to enter and leave the site in a forward direction.	Complies Vehicular access is provided on Hume Street, consistent with existing access to 378 Pacific Highway. Service vehicle access has been combined with car parking access. One vehicular access point is proposed. The accompanying Transport Impact Assessment confirms that the proposed parking structure has been designed in accordance with the relevant Australian Standards and allows for vehicles to enter and exit the building in a forward direction.
2.5.8 Car Parking	P1 Provide on-site car parking in accordance with Part B: Section 10 – Car Parking and Transport of the DCP. P2 All car parking must be provided underground. P3 Where security doors/gates are proposed provide an intercom system to facilitate visitor/service access to underground parking areas. P4 Disabled and visitor parking spaces must be designated common property once the development is subdivided.	Complies Part B, Section 10 of the DCP generates a maximum residential parking requirement of 132 spaces and non-residential parking requirement of 6 spaces. The proposal includes 132 residential spaces across the 8 basement levels and 4 commercial spaces, thereby complying with the maximum parking rates.
2.5.9 Garbage Storage	P1 Communal on-site waste storage, recycling and collection points must be provided for each development site. P2 Separate waste storage facilities must be provided where a development contains a mixture of both residential and commercial uses. Access to these separate storage areas is to be restricted to their respective users. P3 A garbage storage area should be located within 2m of the street or laneway boundary. P4 Notwithstanding P3 above, a garbage storage area may be located anywhere on a site, but only if a garbage collection area, capable of accommodating all of the required bins for the entire development is located within 2m of the street or laneway boundary. P5 Garbage storage facilities should not be located in conjunction with the main pedestrian entrances to a building.	Complies Communal on-site waste storage and recycling is proposed on ground level towards the rear of the site. Residential bins will be brought to the street for Council collection. Commercial bins will be collected on site from the temporary bin collection zone. A turntable is proposed within the service area to facilitate waste collection and service vehicles to exit the site in a forward direction.
Part C – Section 3 – St Leonards/Crows Nest Planning Area		
3.1.2 Diversity of activities, facilities, opportunities and services	P1 Predominantly high to medium-high rise, commercial and mixed commercial and residential development. P2 Provision of a variety of different sized commercial office, business, retail, recreation, (indoor and outdoor) community, entertainment, food and drink and other active non-residential uses at the street level in the E2 Commercial Centre and MU1 Mixed Use zones.	Complies The proposal provides a high-density, mixed-use development next to Crows Nest Metro Station, with active retail uses proposed at ground level and first floor, commercial uses on level 2, and residential uses above.

Section	Control	Response
	P3 Intensify the provision of commercial office and business premises in close proximity to the railway and metro stations with active uses such as food and drink premises and retail located at the ground level addressing the public domain. P4 Maximise ground level activation along Christie, Mitchell, Oxley, Atchison, Chandos and Clarke Streets by focusing food and drink premises and retail within a fine grain built form. This can be achieved through the emphasis of small to medium sized tenancies which directly address the public domain. P5 High density residential accommodation within mixed use buildings is concentrated closes to the railway and metro stations and along the Pacific Highway. P6 Retention of the medium density residential precinct in the north-eastern corner of the Locality Area.	
3.1.3.1 Subdivision	P1 Maintain a frontage of 20m - 40m, which equates approximately to the amalgamation of two or three original allotments. P2 Development on consolidated allotments with a frontage wider than 20m - 40m frontage is to be broken down by articulation, design and detailing, change in materials and colours.	Complies The development site has a frontage to Pacific Highway of 40m. The podium form is broken down by the stepping in of the built form at entrances to the building, materiality and articulation. Two street trees are proposed on Pacific Highway and one on Hume Street which will contribute to softening the podium form when viewed from surrounding areas.
3.1.3.2 Form, massing and scale	P1 Buildings should generally transition in height from St Leonards Railway Station, Crows Nest Metro Station and Pacific Highway down to the surrounding areas and the lower scale development on Chandos Street, Willoughby Road, Crows Nest Town Centre, the Upper Slopes Neighbourhood and Crows Nest Neighbourhood. P2 Roof design presents a varied, composed and interesting skyline when viewed from a regional context. P3 Architectural detailing and ornamentation provides a rich visual texture and a symbolic reference to the history of the place, the building's use or occupant. P4 Developments on land greater than 1,000sqm should consider the incorporation of internal courtyards adjacent to laneways and through site links to broaden the range and form of open space in the locality. P5 Development is to be designed to maximise year round solar access to existing and the new public spaces to be created within the Planning Area. P6 Tower elements located above the podium level should not exceed 45m in width, unless it can be adequately demonstrated that sufficient physical vertical articulation can be provided to break the tower elevation into distinct elements. P7 Minimum floor to floor heights on land zoned E2 Commercial Centre or MU1 Mixed Use must be provided: (a) Ground floor level: 4.0 – 4.5m (b) First floor level: 3.6m (c) Levels above: 3.0m (residential uses) or 3.6m (non-residential uses) P8 Residential floor to floor heights should generally not exceed 3.2m, except on the first floor level in accordance with P7 above. P9 Rooftop plant and structures should be designed and positioned to comprise a minor element of the roofscape and minimise any increases to the building's overall overshadowing impacts.	Complies The proposal represents a high-density landmark building opposite the entrance to Crows Nest Metro Station which has a height generally in accordance with the Crows Nest TOD precinct controls. The proposal represents a tall slender form. Articulation includes horizontal landscaped breaks in the tower form at Level 3 and 20 for private terraces and communal open space. The tower façade facing Pacific Highway also has a vertical indentation at the internal circulation corridor. Podium façade articulation includes angular brick and intricate detailing to create a sense of place and a positive relationship with the streetscape. The podium form also steps in on Pacific Highway at the building entries. The accompanying overshadowing diagrams demonstrate that the proposal will not overshadow any existing or new public spaces. Floor to floor heights of 3.15m to 3.3m are proposed for the residential component to allow for residential apartments to achieve a minimum ceiling height of 2.7m as required by the ADG. In addition, a 5m floor to floor height is proposed at ground level, and 4.2m floor to floor heights proposed for the podium levels above. The communal open space and amenities Level 20 will have a 4.5m clearance to increase the sense of openness, improve outdoor amenity and access to sunlight on these levels.
3.1.3.3 Setbacks	P1 Buildings are to be setback from all street frontages in accordance with the Building Setbacks Map (refer to Figure C-3.1-3). P2 A nil setback is permitted to all side and rear boundaries without a street frontage on land zoned E2 Commercial Core or MU1 Mixed Use. P3 Despite P2, a minimum 6m setback is required where land zoned E2 Commercial Centre or MU1 Mixed Use directly adjoins land which is residentially zoned along the zone interface. This requirement does not apply if the land is separated by a public road. P4 A minimum 4.5m setback is required to all side and rear boundaries without a street frontage on land zoned R4 High Density Residential. P5 Despite P1 and P2, setbacks may be varied to be consistent with the built form envelope approved as part of the approval for the Crows Nest Metro Station and Over Station Development (OSD). P6 Despite P1-P4, where a site contains a heritage item and that item is to be retained, the heritage item may maintain its existing setback.	Partial Compliance – However Design Guide provisions prevail The proposal provides a nil setback to Pacific Highway and Hume Street in accordance with the Crows Nest TOD Design Guide which prevail over the DCP. While the DCP requires a 6m setback at ground level to a residentially zoned interface (being the rear/western interface of the site), the proposal has adopted a minimum 4.5m setback to the residential zoned land to the rear which is the setback envisioned for the site in the Urban Design Report prepared by SJB to inform the Crows Nest TOD precinct controls.

Section	Control	Response
	P7 Despite P1-P4, increased setbacks may be required for podium levels that contain residential uses to achieve adequate building separation in accordance with SEPP (Housing) 2021. P8 Building alignments and setbacks should also respond to important elements of the nearby context including public spaces and heritage buildings, monuments and landscape elements, in order to complement the streetscape. In some places, this may require greater building setbacks than those specified in Figure C-3.1-3). P9 Where a whole of building setback is required to the Pacific Highway, Chandos Street, Oxley Street or Mitchell Street, any basement is also required to be setback the same distance, unless it can be adequately demonstrated that sufficient soil depth can be provided to enable the planting of canopy trees capable of growing to at least the height of any adjacent podium.	Figure 3 Recommended rear setbacks from TOD Urban Design Report  Source: Urbis This rear setback was used in the architectural testing of a 40-storey tower on the site that was part of Freecity's submission on the TOD rezoning proposal and has been carried through to the proposed SSDA development. The Architectural Design Report demonstrates that the proposed building setbacks provide sufficient separation distance between the proposed development and a future 12-storey building on site to the rear.
3.1.3.4 Podium Heights	P1 Podiums are to be provided in accordance with the Podium Heights Map (refer to Figure C-3.1-4). ‘ P2 Despite P1, corner sites are to maintain a consistent podium height to all street frontages to achieve consistent built form. P3 Despite P1, sites containing a heritage item and where that heritage item is to be retained the existing podium height may be retained. P4 Despite P1 podium heights may be varied to be consistent with the built form envelope approved as part of the approval for the Crows Nest Metro Station and Over Station Development (OSD). However, distinct architectural elements are to be incorporated to reflect the desired podium heights. P5 If required, podiums are to step down with the topography.	Variation sought A 3-storey podium is proposed to accommodate the reduced minimum non-residential FSR as required by the North Sydney LEP. A 4-storey podium would far exceed the non-residential floor space requirements and cannot be viably accommodated on the site. In preparing the design response for the site, the architectural analysis explored a number of podium design options to best accommodate the required non-residential FSR within the developable portion of the site. In order to achieve strict compliance across the site, a 3.5 storey podium would be required. Given the building footprint is approximately 950m², splitting the residential and commercial uses within the same level is considered to result in a poor urban design outcome and results in an efficient use of space. A 3-storey podium was then investigated which is considered to result in a superior urban design outcome and is able to accommodate a suitable level of non-residential floor space to promote employment opportunities, while ensuring the appropriate alignment of podium heights between the existing and proposed structures within the site.
3.1.3.5 Above Podium Setbacks	P1 All buildings are to be designed to provide setbacks above the podium in accordance with the Above Podium Setbacks Map (refer to Figure C-3.1-5). Setbacks above the podium are to be measured from the outer wall of the podium. P2 A minimum above podium setback to all side and rear boundaries is required as follows: (a) 4.5m for buildings up to 8 storeys in height; or (b) 6m for buildings from 9 storeys up to 18 storeys in height; or (c) 12m for buildings over 18 storeys in height. P3 Despite P1 and P2, above podium setbacks may be varied to be consistent with the built form envelope approved as part of the approval for the Crows Nest Metro Station and Over Station Development (OSD). P4 Despite P2, a minimum 15m above podium setback, measured from the property boundary, is required where land zoned E2 Commercial Centre or MU1 Mixed Use directly adjoins land which is residentially zoned along the zone interface. This requirement does not apply if the land is separated by a public road. P5 Despite P1-P4, increased setbacks above the podium may be required to achieve adequate building separation in accordance with SEPP (Housing) 2021.	Partial Compliance The proposal complies with the above podium setback requirements of 3m to Pacific Highway and 3m to Hume Street, with an increased setback of 4m to Pacific Highway provided. While the DCP requires a 15m above-podium setback to residentially zoned land, being the site's rear boundary, a 9m above-podium setback is proposed to this interface as recommended by the TOD Urban Design Report prepared by SJB. This represents an increased setback from the 8m tower setback established by the Planning Proposal scheme. The tower form is proposed to extend to the northern boundary of 390 Pacific Highway in response to the Applicant's purchase of the air rights to 398 Pacific Highway. Purchasing of the air rights ensures that the site at 398 Pacific Highway will not be built up in the future and will provide the surety that a significant separation distance between the proposed tower and a potential tower development on the northern end of the urban block will be maintained. This in turn protects the northern elevation of the proposed tower, enabling a habitable northern façade which can be built to the boundary, resulting in a more efficient floor plate. It also allows for a 20m

Section	Control	Response
	P6 Only one step in the built form between the podium walls and tower is permissible. P7 An existing adjacent building, even if heritage listed, cannot be used to justify a reduced setback that would compromise the development potential of the adjacent site in the future.	setback to the northern boundary of 398 Pacific Highway and therefore a minimum 24m separation distance to any future development on the most northern site (402-420 Pacific Highway). The SDRP has previously supported the use of 398 Pacific Highway to unlock the northern tower façade to provide better solar access, outlook and natural ventilation.
3.1.3.6 Active frontages	P1 Buildings must contain active frontages to all street frontages with the exceptions of public laneways. P2 Despite P1, an active frontage is to be provided to Sergeants Lane along the southern boundary to 100 Christie Street. P3 Active frontages to public laneways are encouraged where practical. P4 Where a site has a direct frontage to an existing or proposed open space, an active frontage is to be provided to that interface. In particular, active frontages are to be provided to: (a) Christie Street Reserve; (b) Mitchell Street, between Chandos Street and Pacific Highway; (c) Oxley Street, between Chandos Street and Pacific Highway; and (d) Clarke Street, between Oxley Street and Hume Street. P5 Active frontages are to be provided along both sides of the through site links. P6 Where a site has multiple street frontages, all service and vehicular access points must not be provided off the primary street frontage. P7 Fire escapes and service doors must be seamlessly incorporated into the facade with quality materials. P8 Avoid the use of colonnades along all street frontages.	Complies Active retail frontages are proposed to Pacific Highway and Hume Street. Service and vehicular access points are provided on Hume Street, being the secondary street. Fire escapes and service doors have been integrated into the overall design of the building. No colonnades are proposed.
3.1.3.7 Awnings	P1 Awnings are to be provided along all street frontages in the E2 Commercial Centre and MU1 Mixed Use zones.	Complies Awnings are proposed on the Pacific Highway and Hume Street frontages of the building.
3..3.8 Solar Access	P1 Development is to be designed to maximise year round solar access to existing and proposed new public spaces to be created within the Planning Area. P2 Development must not result in a net increase in overshadowing to the following existing and proposed public spaces between 10am and 3pm from the March Equinox to the September Equinox (inclusive): (a) Christie Street Reserve, comprising all land within Lots 2 and 3, DP 733528 and zoned RE1 Public Recreation; and (b) Hume Street Park, comprising all land located between Pole Lane, Willoughby Road, Clarke Street and Oxley Street and zoned RE1 Public Recreation; and (c) Ernest Place, comprising all land within the Ernest Street road reserve located between Willoughby Road and Willoughby Lane and zoned RE1 Public Recreation; and (d) Holtermann Reserve (proposed), comprising that part of Lot 1, DP 785343 and zoned SP2 Infrastructure – Car Park. P3 Development must not result in a net increase in overshadowing to the following existing and proposed public spaces between 10am and 3pm from the March Equinox to the September Equinox (inclusive): (a) Willoughby Road road reserve, between Chandos Street and Falcon Street; and (b) Mitchell Street road reserve and the whole of building setback requirement to the western side of Mitchel Street as required under s.3.1.3.3, between Chandos Street and the Pacific Highway; and (c) Oxley Street road reserve, and the whole of building setback requirement to the western side of Oxley Street as required under s.3.1.3.3, between Chandos Street and Clarke Street P4 Despite P2 and P3, development on land located directly adjacent to the identified public spaces may result in a net increase in overshadowing of that space, but only if that development strictly complies with key built form envelope controls that apply to that land under both NSLEP 2013 and this DCP.	Complies Shadow diagrams and solar access diagrams have been prepared in support of the proposed development and are provided in the Architectural Design Report at Appendix J. The shadow diagrams demonstrate that the proposed development does not result in any additional overshadowing of the nominated public open spaces in the Character Statement between 10.00am and 3.00pm.
3.1.3.9 Noise	P1 Elevations of buildings fronting the Pacific Highway and Chandos Street are to be designed and incorporate design features to minimise traffic noise transmission (e.g. the use of cavity brick walls, double glazing, minimal glazing, solid core doors, concrete floors, enclosed balconies etc).	Complies The Acoustic Assessment demonstrates how the proposal can achieve compliance with the relevant noise criteria, noting the site's location on Pacific Highway. Apartments that exceed the noise intrusion criteria when doors or windows are open for natural ventilation purposes, have been provided with a dedicated mechanical ventilation system that complies with the NCC, thus eliminating reliance natural ventilation which breaches acoustic amenity limits.
3.1.3.11 Car Accommodation	P1 Where a property has a frontage to a laneway, vehicular access must be made from the laneway.	Complies

Section	Control	Response
	P2 All off-street car parking must be provided underground.	No vehicular access is proposed on Pacific Highway.
	P3 Pick up and drop off points for public transport and taxi ranks should be located close to public spaces and activities, and main building entries.	All off-street parking is provided underground.
	P4 Short stay (ten minute) parking spaces should be located close to meeting places.	
	P5 The level of parking provided on sites in close proximity to the railway and metro stations should be minimised as far as practical.	