

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD-79316759 Concept Proposal for shop-top housing development with in-fill affordable H\housing – 45-53 Macleay Street, Potts Point
Applicant	T&P CHIMES DEVELOPMENT PTY LTD
Consent Authority	Minister for Planning and Public Spaces

Decision

The Deputy Secretary, Development Assessment and Sustainability under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (the Act) granted consent to the development application subject to conditions.

A copy of the development consent and conditions] is available [here](#).

A copy of the Department of Planning, Housing and Infrastructure's assessment report is available [here](#).

Date of decision

18 December 2025

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the department's assessment report;
- the prescribed matters under the Environmental Planning and Assessment Regulation 2021
- the objects of the Act;
- all information submitted to the department during the assessment of the development application;
- the findings and recommendations in the department's assessment report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the department's assessment report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the project would provide a range of benefits for the region and the State as a whole, including a total capital investment of \$91,550,000, the creation of 160 construction jobs and 13 operational jobs;
- the project is permissible with development consent, and is consistent with NSW Government policies to deliver well located housing by providing 4,809.05 square metres of residential floor are, including 15% of the floor area as affordable housing;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the conditions of consent. Engagement on the project is considered to be in line with *Undertaking Engagement Guidelines for State Significant Projects*, including the community participation objectives outlined in these guidelines; and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The applicant engaged with the community during the preparation of the environmental impact statement (EIS) as a requirement of the Secretary's environmental assessment requirements. The EIS detailed the findings of the engagement and how it influenced the scope and design of the project.

Once the EIS was submitted to the department it was placed on exhibition from 2 April 2025 until 29 April 2025. 154 submissions were received including 147 objections (including from City of Sydney Council), three in support and four comments. The Department also exhibited the Applicant's Amendment report from 2 September 2025 to 25 September 2025. 41 further submissions were received including 40 objections (including from Council) and one in support.

The department also visited the site and surrounding area on two occasions.

The key issues raised by the community (including in submissions) and considered in the department's assessment report and by the decision maker include concerns about affordable housing, concerns about the building envelope, heritage impacts, overshadowing and solar access impacts, inappropriate commercial/retail development and associated amenity impacts, social impacts, inadequate community consultation, incompatibility with existing streetscape and character, construction and excavation impacts, view loss, technical concerns, noise impacts, privacy impacts, and other issues. Other issues are addressed in detail in the department's assessment report.

Issue	Consideration
Affordable housing - loss of existing affordable housing - reduction of overall dwelling numbers - inadequate proposed provision of affordable housing - inconsistency with Housing SEPP objectives, and inappropriate application of Housing SEPP bonuses - inadequate apartment mix and housing diversity - inconsistency with local policies to increase affordable housing and Council's dwelling retention requirements	- The proposal does not seek consent for a specific number, size or mix of dwellings. - While the existing apartments on the site are comparatively lower cost to other dwellings in the locality, the existing building does not contain any dedicated affordable housing, as defined under the Environmental Planning and Assessment Act 1979 (EP&A Act). - The proposal would provide higher-quality and more diverse housing, supporting a broader range of household types and needs. - The proposal includes a commitment to deliver purpose-built affordable housing, with 15% of the gross floor area (GFA) to be managed by a registered Community Housing Provider (CHP) consistent with the requirements of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP), contributing to housing affordability and social diversity in a highly accessible area. - Further, the proposal would not significantly alter the predominant studio, one- and two-bedroom dwelling mix in Potts Point. When factoring in the nearby development applications being considered in the locality, there would likely be an increase in the overall provision of housing in the locality, which would include a mix of apartment sizes and dedicated affordable housing, in the coming years. - Clause 1.8A of the Sydney Local Environmental Plan 2012 (SLEP) provides that the dwelling retention requirements do not apply as the application was lodged before these controls came into force. <i>Recommended conditions:</i> - Future detailed design DA to provide a minimum of 50% of the total apartments as studio dwellings. 15% of the total GFA of the project to be allocated as affordable housing.

Building envelope • excessive bulk and scale • excessive building height • inadequate building setbacks and building separation and associated privacy impacts • concerns with the reference design, including lobby and building entrances, podium and façade treatment, materials and finishes, design of the common open space (COS) and rooftop terraces, study rooms and parking rates	• The proposed building envelope complies with the maximum building height and floor space ratio standards permissible for the site and will be compatible with the character of the area • The proposed building setbacks and building separation are acceptable, and any associated privacy impacts will be further considered during the assessment of the future detailed design development application (DA). • The reference design was submitted to indicatively demonstrate how future development could respond to the building envelope parameters. However, no approval is sought for the reference design, noting that the future detailed design DA would be subject to a design competition and future assessment process, where the detailed design will be assessed. <i>Recommended conditions:</i> • No approval granted for the layout and number of residential apartments. • Future detailed design DA must address the design principles in the Housing SEPP and amenity outcomes consistent with the Apartment Design Guide (ADG).
Heritage impacts • impacts on surrounding heritage items • impacts on the HCA • existing building is significant and should be retained and adaptively re-used • reliance on engineering advice from 2021 to justify demolition • impacts on relics during excavation works	• The existing building is not a heritage item, nor is it a contributory item in the Potts Point Heritage Conservation Area (HCA). The building is identified as a 'detracting' item in the HCA. • The existing building was not recognised in Council's planning proposal relating to modern residential flat buildings, which is currently on exhibition. The retention of the building on heritage grounds is therefore not founded. • The Applicant has also provided sufficient justification for why it is not pursuing the retention and adaptive reuse of the building. In particular, the existing building does not provide a reasonable level amenity for residents, and compliance upgrades to meet National Construction Code (NCC) and Australian Standards would require demolition or major alteration and reconstruction in order to comply with current requirements. The building structure has not been substantially altered between 2021 and 2025 and the findings of the engineering advice remain valid. • The proposal would not have any unreasonable impacts on the HCA noting that it fully complies with the Housing SEPP planning controls for the site which envisage a taller and denser development on this site. The proposal would not impact on any identified heritage view corridors. • The future detailed design DA will need to implement the recommendations of the Archaeological Research Design and Excavation Methodology, including implementing an unexpected finds procedure should any unexpected archaeological relics be uncovered during excavation or construction • A Section 139 permit under the Heritage Act 1977 is not required for SSDs in accordance with Section 4.41 of the EP&A Act. <i>Recommended conditions:</i> • Future DA must have regard to the proposed archaeological excavation works outlined in the Archaeological Research Design and Excavation Methodology (ARDEM), prepared by Urbis and dated August 2025, prepared for the concept application. • All reasonable steps must be taken to avoid harm, modification of or impact to heritage items and relics except as authorised by this approval.

	No relics of State significance are approved for excavation or impact under this, or any future development application. • The detailed design must be prepared in consultation with a suitably qualified and experienced heritage specialist to ensure that the visual impacts of the development are minimised. • The detailed design must consider the use of materiality, scale, form, articulation and colour to minimise visual impacts on surrounding heritage items and streetscapes. • Future development application(s) must be accompanied by a Statement of Heritage Impact • The Registered Aboriginal Parties must be kept informed about the SSD.
Overshadowing impacts	• Overshadowing impacts to developments to the south and south-east are unavoidable considering the high-density context and orientation of the site. • All apartments affected by the proposal will continue to receive some direct sunlight to either their living or POS areas on 21 June. • The proposal provides a slight improvement in afternoon solar access for 11 apartments at 10–12 Macleay Street, due to the tower's increased setbacks from Macleay Street compared with the existing building. • The public domain and street trees along Macleay Street will retain at least 2 hours solar access between 10am and 12pm on June 21. • The overshadowing impacts represents the worst-case scenario during mid-winter, and higher levels of solar access will be retained at other times of the year. Further, the built form will be further refined and modulated under the detailed design application, potentially reducing overshadowing impacts.
Inadequate community consultation • inadequate notification period • inadequate extent of notification • applicant's inadequate response to community concerns • additional information submitted during the assessment should be re-exhibited	• The Department publicly exhibited the Applicant's EIS for 28 days, and the Amendment Report for 14 days. This included notifying adjoining landowners and displaying the Application on the Department's website. The Department placed the Applicant's Response to Submissions Report (RtS) and additional information on its website, in addition to providing a copy to Council and government agencies. • The Department notified adjoining landowners in accordance with the Department's Community Participation Plan. • The Department considers that the Applicant's RtS satisfies the requirements of the State significant development guidelines and the RtS has informed the assessment of the proposal. • The Department also notes that the additional information received during the assessment of the proposal was placed on its website, however it did not result in any changes to the proposal or the nature or extent of impacts and did not require exhibition.
Inappropriate retail/commercial development • amenity impacts including increased noise, traffic, odour and vermin issues • inconsistent with existing residential character	• The proposal seeks approval for 220 m2 of commercial/retail GFA on the ground floor. • Retail/commercial land uses are permitted with consent and consistent with the objectives for development in the MU1 Mixed Use zone. • The proposal does not seek approval for the construction, detailed design or operation of any retail/commercial components of the development. The Department is satisfied that any potential impacts could be assessed and managed/mitigated, would be subject to a future assessment

oversupply of restaurants and cafes and lack of demand for retail/commercial uses	process. <i>Recommended conditions:</i> No approval granted for the non-residential tenancies.
Social impacts - displacement of existing residents - reduction of population diversity	- The Department understands that the Applicant has ownership of all apartments, however most apartments are occupied by private renters on short term leases. The relocation of existing residents, at the end of their lease period, would be managed by those individual renters. - The proposal would contribute to diversity by incorporating a mix of apartment types and sizes in a well-designed building contributing positively to the surrounding context. The proposal would also include at least 15% of the GFA as affordable housing, managed by a CHP for 15 years.
View loss	- The proposal would result in minor to moderate view loss impacts to the most affected apartments. Most impacted apartments will maintain views of the Sydney CBD skyline and other iconic elements - The impacts are acceptable and reasonable in the circumstances as: - any development consistent with the planning controls that apply to the site would interrupt existing views from neighbouring apartment buildings - the bonus height and density permitted by the Housing SEPP would primarily impact sky views - the interruption of views that are currently unimpeded by development, particularly in a high-density urban environment, is considered reasonable. - The proposal is for a concept envelope only, and the built form will be further refined and modulated under the detailed design application, potentially reducing view loss impacts. - The proposal would not result in any impacts on any iconic views from the public domain.
Incompatibility with streetscape and character	- The proposal fully complies with the development standards under the SLEP and the Housing SEPP, which anticipate a development of greater height and density than surrounding buildings. - The proposed concept envelope provides for appropriate setbacks that respond sensitively to the site's context and surrounding built form.
Construction, excavation and groundwater impacts	- Excavation and construction works are not proposed as part of the concept DA. - The Department is satisfied that likely impacts can be managed during the detailed design and assessment phase. In particular, the future detailed design DA will be required to be supported by a Geotechnical Assessment, Groundwater Assessment and a Preliminary Construction Traffic Management Plan which would assess and outline mitigation measures for any excavation and construction impacts. <i>Recommended conditions:</i> - No approval granted for the depth, extent, layout or design of basement levels. - Future application(s) to provide an assessment of groundwater impacts.
Demolition impacts	The Applicant provided an assessment of the likely impacts of the demolition works on the local area in terms of noise and traffic, as well as

	a demolition work plan, erosion and sediment control plan and demolition waste management plan. - The site is in a dense urban area and the proposed demolition works will result in some temporary impacts, particularly in relation to noise impacts where some works will exceed the highly noise affected criteria at the nearest residential properties. The Department has recommended mitigation and management measures to limit impacts where reasonable. <i>Recommended conditions:</i> - Preparation of a Demolition Environmental Management Plan, Dilapidation Reports and a Hazardous Materials Survey - Protection of public infrastructure and trees - Hours of demolition works, demolition noise limits and vibration criteria.
Contamination issues	- The Applicant has provided a Detailed Site Investigation and a Remediation Action Plan which documents the contaminants on the site and the remediation strategy to making the site suitable for the proposed residential and commercial/retail land uses in line with the State Environmental Planning Policy (Hazards and Resilience) 2021 (Hazards and Resilience SEPP). - The Department is satisfied that the Applicant has provided an adequate assessment of the site condition and outlined a strategy in line with the Hazards and Resilience SEPP to make the site suitable for the proposal. Contamination and remediation matters will be further considered as part of the future detailed design DA and conditions imposed on any future consent. This would include the requirement for a site audit statement prepared by the site auditor on completion of the remediation and validation works. <i>Recommended conditions:</i> - Future detailed design DA must address the requirements of Chapter 4 Remediation of Land, Hazards and Resilience SEPP.
Other amenity impacts - noise impacts - wind impacts - natural ventilation - safety concerns	- The application seeks concept approval only and does not include consent for construction, fit out or operation of the proposal, including the ground floor non-residential tenancies and the level 3 communal facilities. The Department is satisfied that operational noise impacts can be mitigated and managed through the future detailed design DA with operational design and management measures if required. - The Wind Impact Assessment found that, while the proposal is larger than surrounding structures and will influence the local wind environment, any changes are unlikely to affect pedestrian comfort or safety and wind conditions around the development are anticipated to remain suitable for pedestrian standing or walking and meet safety standards. - The proposal will not obstruct openings from any neighbouring properties from attaining natural ventilation. - Safety issues can be addressed in the future detailed design DA, noting that the Applicant will also be required to submit a Crime Prevention Through Environmental Design (CPTED) report. <i>Recommended conditions:</i> - submission of a CPTED Report and Wind Tunnel Assessment with the future detailed design DA.

Traffic and parking impacts	- The estimated traffic generated by the proposal (10 vehicles per hour (VPH) during the morning peak, and 11 VPH during the afternoon peak) is not expected to adversely impact the surrounding road network. - The application does not seek approval for the number or configuration of parking spaces. The final provision and layout of car parking, bicycle spaces, service vehicle areas and loading zones will be subject to further detailed assessment as part of the future detailed design DA.
Landscaping and trees	- The Concept envelope setbacks provide a framework for the future detailed design DA to include landscaping to enhance the amenity of the development and contribute to the public domain. The basement and building envelope would be setback to enable all existing street trees would be retained and protected. - At least 7% of the site area would be provided as deep soil consistent with the design criteria in the ADG. - The proposed landscaping would be assessed in detail as part of the future detailed design DA. <i>Recommended conditions:</i> - Future detailed design DA must maximise the provision of deep soil, by meeting or exceeding the ADG design criteria - Future detailed design DA must retain all street trees. - Tree protection measures to protect street trees during demolition works - Minor pruning in line with Council's recommendation - No approval to remove trees, shrubs or soil in the public domain as part of demolition works
Waste management	- The Application was accompanied by a Demolition Waste Management Plan for Stage 1 works, as well as a Waste Management Plan (WMP) for the Concept Proposal which details the anticipated waste management arrangements for the future development. - The adequacy and impacts of the final proposed waste management will be assessed in detail as part of the future detailed design DA. <i>Recommended conditions:</i> - Preparation and implementation of a Final Demolition Waste Management Plan. - Future detailed design DA must demonstrate that adequately sized waste management facilities including waste storage areas and truck access and loading comply with the Sydney Development Control Plan 2012 and Council's Guidelines for Waste Management in New Developments.
Impacts on existing infrastructure and lack of public benefits	The proposal is located in a highly accessible urban area and is suitable for high density residential development. Additionally, if the future detailed design DA is approved, the proposal will be subject to local development contributions, and Housing and Productivity Contributions (HPC), which will fund infrastructure at both local and state levels. These future monetary contributions will support the delivery of infrastructure and community facilities in the locality.
Lack of economic benefits	The proposal would provide for approximately 160 construction jobs and 13 operational jobs.
Environmental impacts	The Applicant has committed to a range of ecologically sustainable development (ESD) initiatives for the development in the ESD Report and

creation of greenhouse gas emissions and landfill from demolition of the building	the Design Competition Brief, including compliance with BASIX targets for Energy, Water, and delivering a high level of thermal performance, achieving a 7-star average and a 6-star minimum NatHERS rating across the development. The Applicant also proposes a range of sustainability initiatives across the site spanning energy efficiency, water efficiency, indoor environment quality, waste management and comfort.
Technical concerns regarding planning processes and the assessment pathway - proposal should not be SSD - inappropriate inclusion of demolition in a concept SSD - proposal should be determined by the Independent Planning Commission (IPC) or Council - concurrent local DAs and SSDs should not be permitted - proposal should not be eligible for the design excellence bonuses - the concept DA pathway is inappropriate - a public hearing should be held - owner's consent has not been provided	- The proposal is State significant development under section 2.6(1) and section 26A of Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP), being an in-fill affordable housing development pursuant to Chapter 2, Part 2, Division 1 of the Housing SEPP as it is located on land within the Eastern Harbour City in the Six Cities Region with a residential EDC of more than \$75 million. - There is no restriction preventing Stage 1 demolition works from being included within a concept SSD. - In accordance with section 2.7(7) of the Planning Systems SEPP, the IPC is not declared to be the consent authority for development specified in Schedule 1, section 26A. Accordingly, the Minister for Planning and Public Spaces (the Minister) is the consent authority under section 4.5(a) of the EP&A Act. The Minister's functions as consent authority under Part 4 of the EP&A Act in respect of the development application has been delegated to the Deputy Secretary, Development Assessment and Sustainability of the Department. - Whilst there are no legislative provisions preventing the lodgement of multiple applications on a single site, the concurrent concept development application submitted to the City of Sydney has been withdrawn. - The Department has considered the design excellence requirements of the SLEP and is satisfied that concept proposal exhibits and provides a framework for the future detailed design DA to achieve design excellence. The potential award of a design excellence bonuses would be considered in the assessment of the future detailed design DA. - The Minister has not directed that a public hearing should be held for this application. - The Department is satisfied that adequate owner's consent has been provided.
Impacts on property values	The Department has undertaken a detailed assessment of the proposal having regard to the requirements of SLEP, the Housing SEPP and has considered the views of the community, Council and advice from relevant agencies. The Department has also considered the likely impacts of the development and suitability of the site and concludes that the proposal will have acceptable impacts and is in the public interest.