

Concept proposal for a mixed-use development with in-fill affordable housing – 45-53 Macleay Street, Potts Point

State Significant Development Assessment Report (SSD-79316759)

December 2025





Acknowledgement of Country

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

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of the State significant development (SSD) application for a shop-top housing development with in-fill affordable housing concept proposal and Stage 1 demolition works located at 45-53 Macleay Street, Potts Point, lodged by T&P Chimes Development Pty Ltd (the Applicant).

The report includes:

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

Executive Summary

This report details the Department of Planning, Housing and Infrastructure's (the Department's) assessment of the State significant development (SSD) application (SSD-79316759) for a concept proposal for a shop-top housing development with in-fill affordable housing and Stage 1 demolition works at 45-53 Macleay Street, Potts Point, lodged by T&P Chimes Development Pty Ltd (the Applicant).

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

The site is in the City of Sydney local government area (LGA). The proposal has an estimated development cost (EDC) of \$91,550,000 and is expected to generate 160 construction jobs and 13 operational jobs.

The application seeks consent for a concept development application for a shop-top housing development comprising residential apartments, including in-fill affordable housing, ground floor retail/commercial premises, and Stage 1 demolition works. If approved, the Applicant will be required to lodge a future development application which would seek consent for the detailed design and construction of the proposal (future detailed design DA).

The proposal is classified as SSD under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is in-fill affordable housing as specified in section 26A, Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP). 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 this SSD application has been delegated to the Deputy Secretary, Development Assessment and Sustainability.

The Department exhibited the Environmental Impact Statement (EIS) from 2 April 2025 until 29 April 2025. During the exhibition period, the Department received 153 public submissions (146 objections, three in support and four comments), an objection from the City of Sydney and advice from seven government agencies.

The Applicant submitted a Response to Submissions Report (RtS) and additional information to address the issues raised in submissions, agency advice and the Department (see **Appendix A**). The Applicant also submitted an Amendment Report to incorporate Stage 1 demolition works into the proposal.

The Department exhibited the Amendment Report from 12 September 2025 to 25 September 2025. During the exhibition period, the Department received 40 further public submissions (39 objections and one in support), a further objection from Council and advice from seven government agencies.

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

The key issues raised by Council and the community relate to the demolition of the existing building and the potential loss of dwellings, including low-cost dwellings on the site. Council and the community consider that the building should be retained and adaptively re-used.

The Applicant has demonstrated why it is not pursuing the retention and adaptive reuse of the building as it does not provide a reasonable building safety and amenity for residents, and upgrades to meet National Construction Code (NCC), Australian Standards and amenity standards would require demolition or major alteration and reconstruction.

The retention of the existing building is also not founded on heritage grounds as it does not have any heritage status, is a detracting item in the Potts Point Heritage Conservation Area (HCA).

The existing building does not contain any affordable housing, as defined in the EP&A Act.

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

- it would be unreasonable to expect the retention of the existing building which requires substantial upgrade to comply with NCC and amenity requirements and has no identified heritage significance
- it would support State government priorities to deliver well-located housing as it would provide 4,809.05 m² of residential floor space (approximately 1,900 m² more than the existing building), including 15% of the total gross floor area of the proposal as affordable housing, offering housing choice in a highly accessible location
- it is permissible with consent and provides non-residential land uses on the ground floor consistent with the objectives of the Sydney Local Environmental Plan 2012 MU1 Mixed-Use zoning
- the proposed building envelope is consistent with the envisaged character of Potts Point and statutory instruments which permit and incentivise increased height and density where affordable housing is provided in accessible locations
- it would not result in unreasonable traffic, overshadowing, visual impacts, privacy impacts and view loss impacts on adjoining developments, the Potts Point HCA or the public domain
- it would provide for 160 construction jobs and 13 operational jobs.

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

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

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1 Introduction

1.1 The proposal

T&P Chimes Development Pty Ltd (the Applicant) seeks approval for a State significant development (SSD) concept development application (SSD-79316759) for a shop-top housing development with in-fill affordable housing, and Stage 1 demolition works at 45-53 Macleay Street, Potts Point (the site). If approved, the Applicant will be required to lodge a future development application which would seek consent for the detailed design and construction of the proposal (future detailed design DA).

The concept proposal description and mitigation measures provided in **Section 3** and **Appendix C** of the environmental impact statement (EIS), as refined in the Amendment Report, are the subject of this report and will form part of the development consent.

An overview of the proposal as amended is provided in **Section 2**.

1.2 Proposal location

The site is shown in **Figure 1** and **Figure 2**. Key characteristics of the site are summarised in **Table 1**.

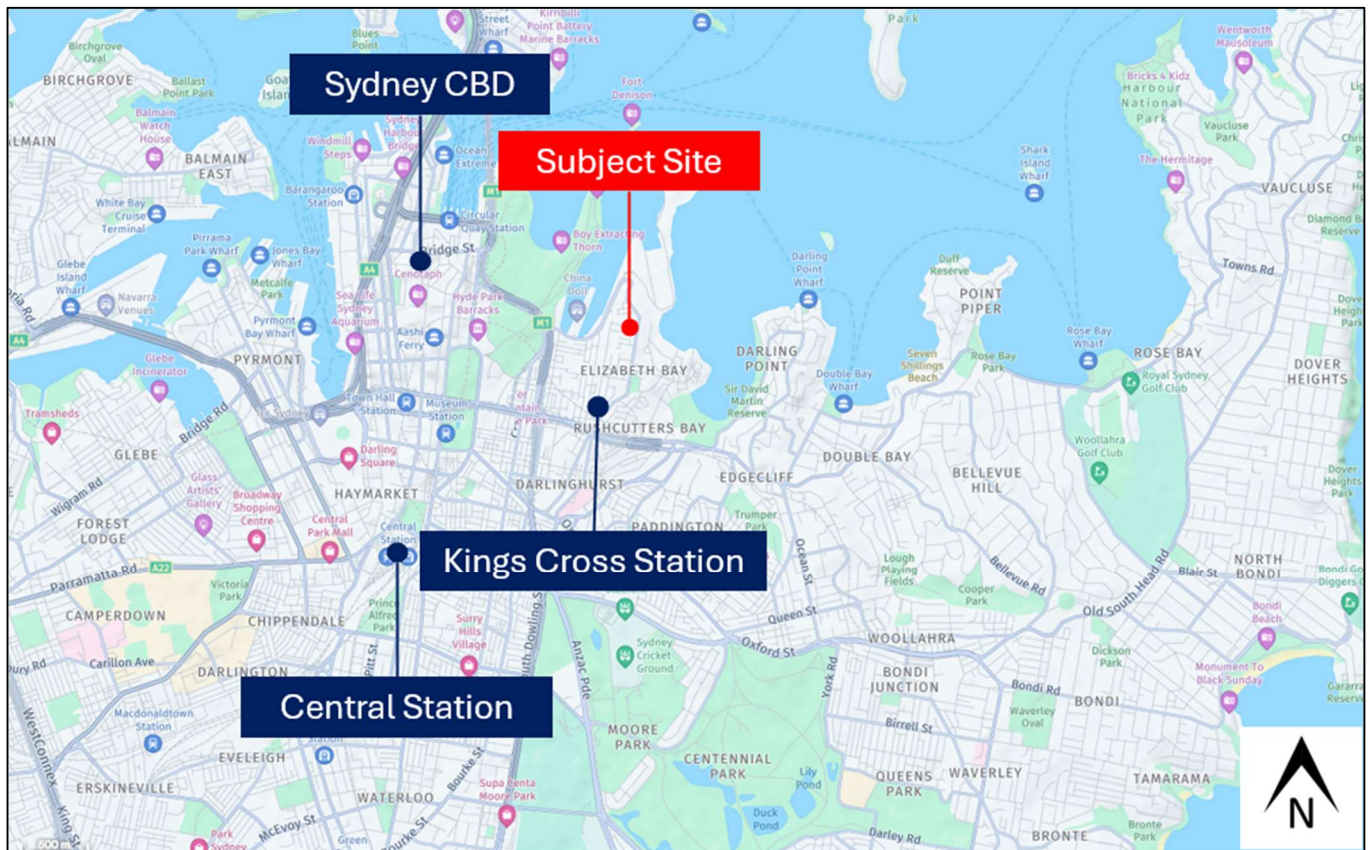


Figure 1 | Regional context map (Base source: Nearmap, 2025)

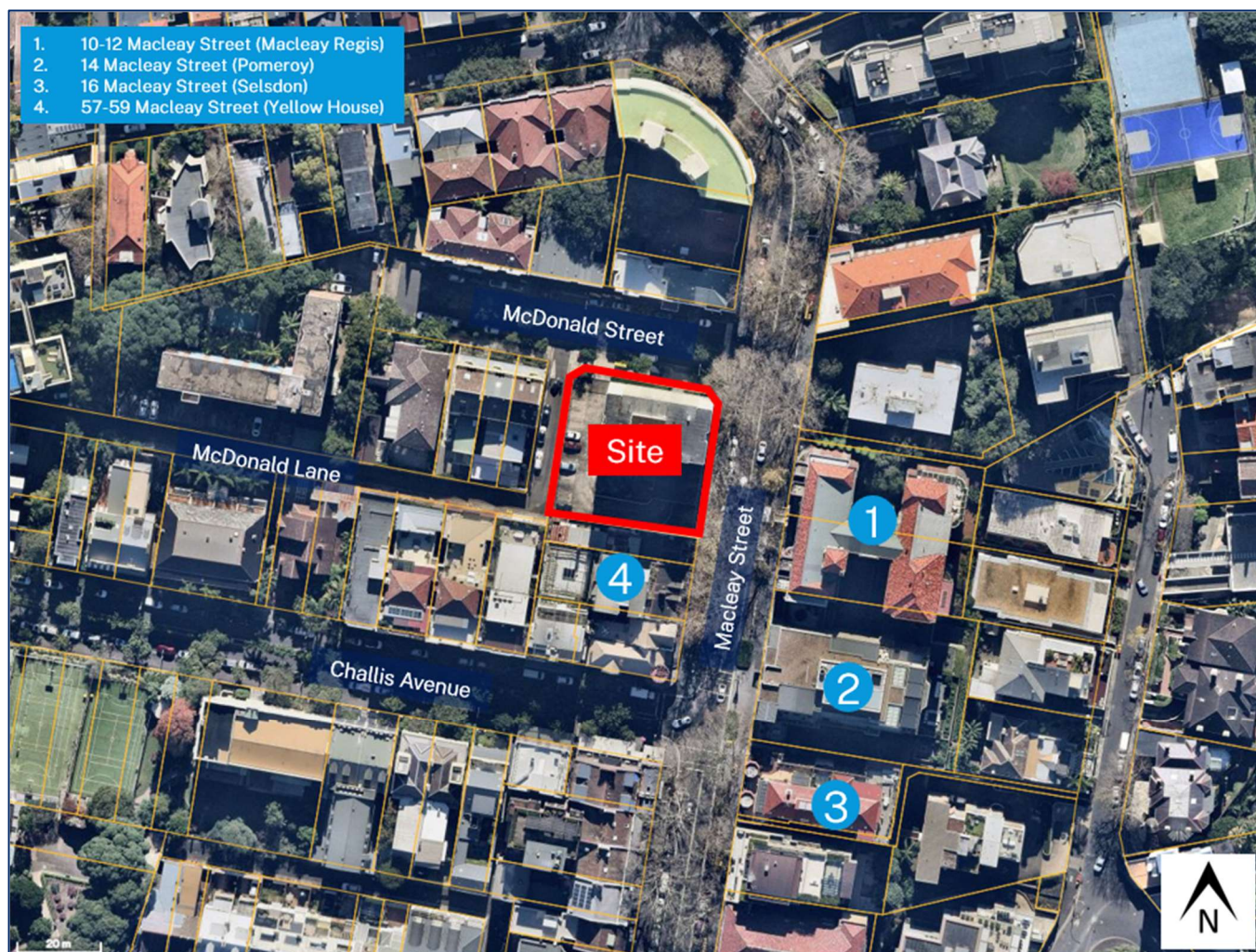


Figure 2 | Local context map (Base source: Nearmap, 2025)

Table 1 | Key aspects of the proposal site

Aspect	Description
Local government area (LGA)	City of Sydney
Legal description	SP 934
Site area	1,289.5 m ²
Existing development	Existing 12-storey residential flat building (with approximately 2,900 m ² of gross floor area) and associated car parking (Figure 3).
Surrounding roads	Macleay Street to the east, McDonald Street to the north and McDonald Lane to west.

Aspect	Description
Topography	The site has an approximate crossfall of 1.5 m from the south-east to north-west.
Public transport	There are several bus stops within 150 m walking distance to the site serviced by bus route 311 on Macleay Street. The site is also approximately 800 m walking distance from Kings Cross Station.
Heritage	The site is within the Potts Point Heritage Conservation Area (HCA), and within the vicinity of several local heritage items listed in the Sydney Local Environmental Plan 2012 (SLEP), including: • Flat building “Macleay Regis” (Item 591) • Terrace house “Santa Fe” (Item 1139) • Former artists’ studio “The Yellow House” (Item 1140) • Flat building “Wirrawa” (Item 1141) • Flat building (Item 1198).
Flooding	The site in the Woolloomooloo catchment area and is impacted by flooding during the 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) events.
Easements	The site is not burdened by any easements or covenants.
Site context	The surrounding area is generally characterised by residential flat buildings, shop-top housing developments, hotels and terrace housing. • <i>North:</i> On the opposite side of McDonald Street are three- and four-storey residential flat buildings. Further north, there are a range of residential buildings of varying typologies and heights, and the Garden Island Royal Australian Navy base. • <i>East:</i> On the opposite side of Macleay Street are several residential flat buildings, including the “Macleay Regis”, “Pomeroy” and “Selsdon” apartment buildings. Further east, there are a range of residential buildings of varying typologies and heights, and Elizabeth Bay. • <i>South:</i> Directly adjacent is a four-storey hotel, the “Yellow House” heritage building, and further south are various three-storey residential buildings with ground floor retail. Further south, there are various retail and commercial developments along Macleay Street. Kings Cross Station is located further south on Darlinghurst Road.

Aspect	Description
	West: On the opposite side of McDonald Lane are a series of predominantly two to four-storey Victorian terrace houses and small apartment buildings. Further west, there are there are a range of residential buildings of varying typologies and heights, and St Vincent's College.



Figure 3 | Existing building (Source: Applicant's EIS)

1.3 Relevant planning background

A concept development application (D/2022/960) was submitted to Council on 15 September 2022, seeking consent for a concept building envelope for a mixed-use development with a maximum height of 35 m. This application was accompanied by a reference design for a nine-storey mixed-use development with 28 residential apartments, ground floor retail/commercial, two basement parking levels and associated communal open space. This application was withdrawn on 28 May 2025.

2 Proposal

2.1 Proposal overview

The Applicant seeks consent for a concept proposal for a shop-top housing development comprising basement car parking, ground floor retail and residential apartments above, including affordable housing, and Stage 1 demolition works.

The key aspects of the proposal are provided in detail in the project description chapter of the EIS, as refined by the Response to Submissions Report (RtS), Amendment Report and additional

information (see **Appendix A**), outlined in **Table 2** and shown in **Figure 4** and

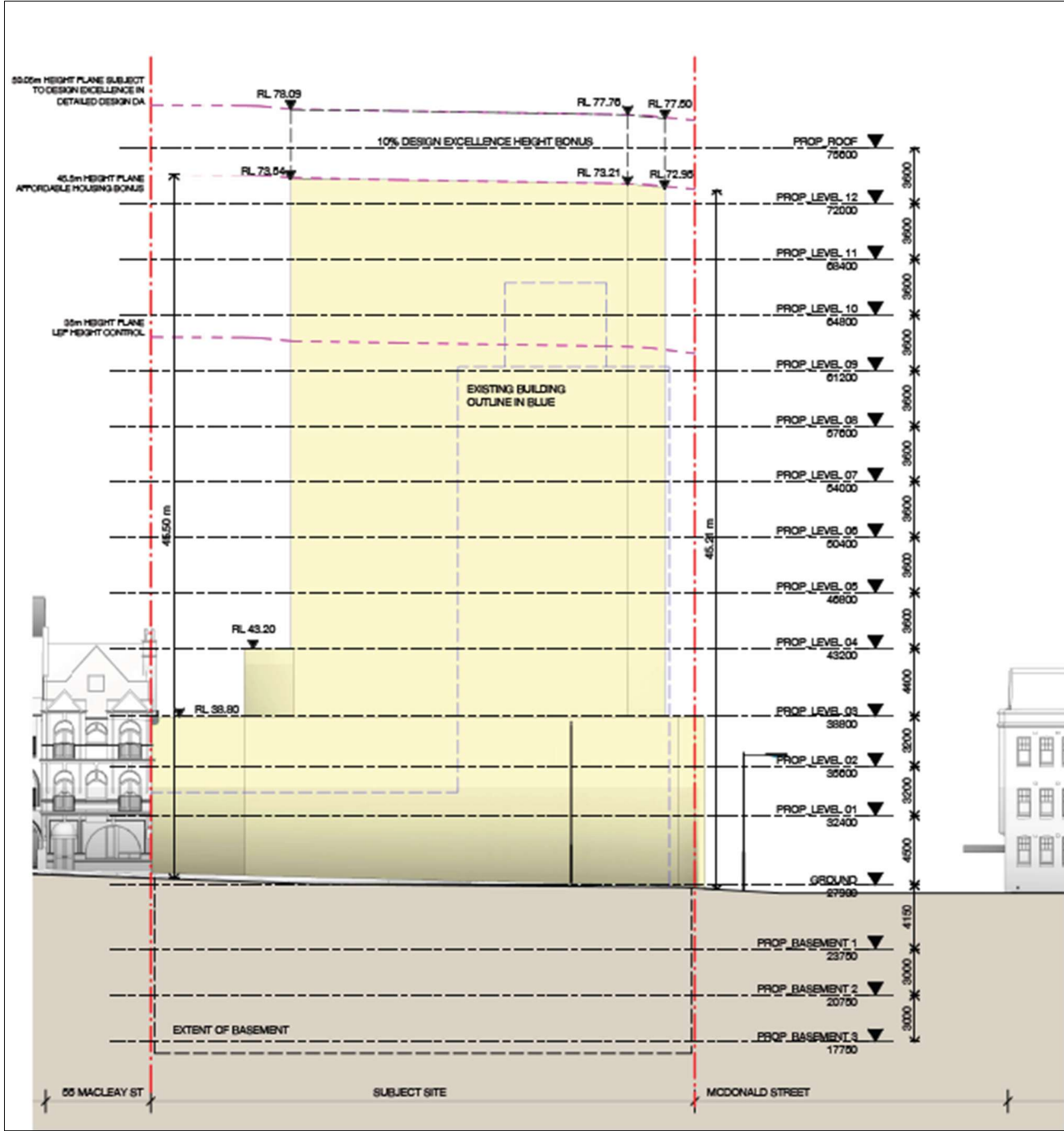


Figure 5.

Table 2 | Key aspects of the proposal

Aspect	Description
Gross floor area (GFA)	The proposal has a total GFA of 5,029.05 m ² comprising: 4,809.05 m² of residential gross floor area (GFA), inclusive of 15% (754.36 m²) of affordable housing GFA

Aspect	Description
	220 m² of commercial/retail GFA
Floor space ratio	Maximum FSR of 3.9:1 (5,029.05 m ²),
Building height	Maximum building height of 45.5 m (RL 73.54)
Access	Vehicular access is proposed from McDonald Street to the north. Pedestrian access is proposed via Macleay Street and McDonald Street.
Associated works	Stage 1 demolition works, comprising site establishment, demolition and removal of existing structures, and the installation of hoarding and scaffolding.
Community housing provider (CHP)	Bridge Housing would manage the in-fill affordable housing component of the development for at least 15 years.
Employment	160 construction jobs and 13 operational jobs.
Estimated development cost (EDC)	\$91,550,000, with a residential EDC of \$89,900,000.
Staging	Demolition works are expected to take around five months.

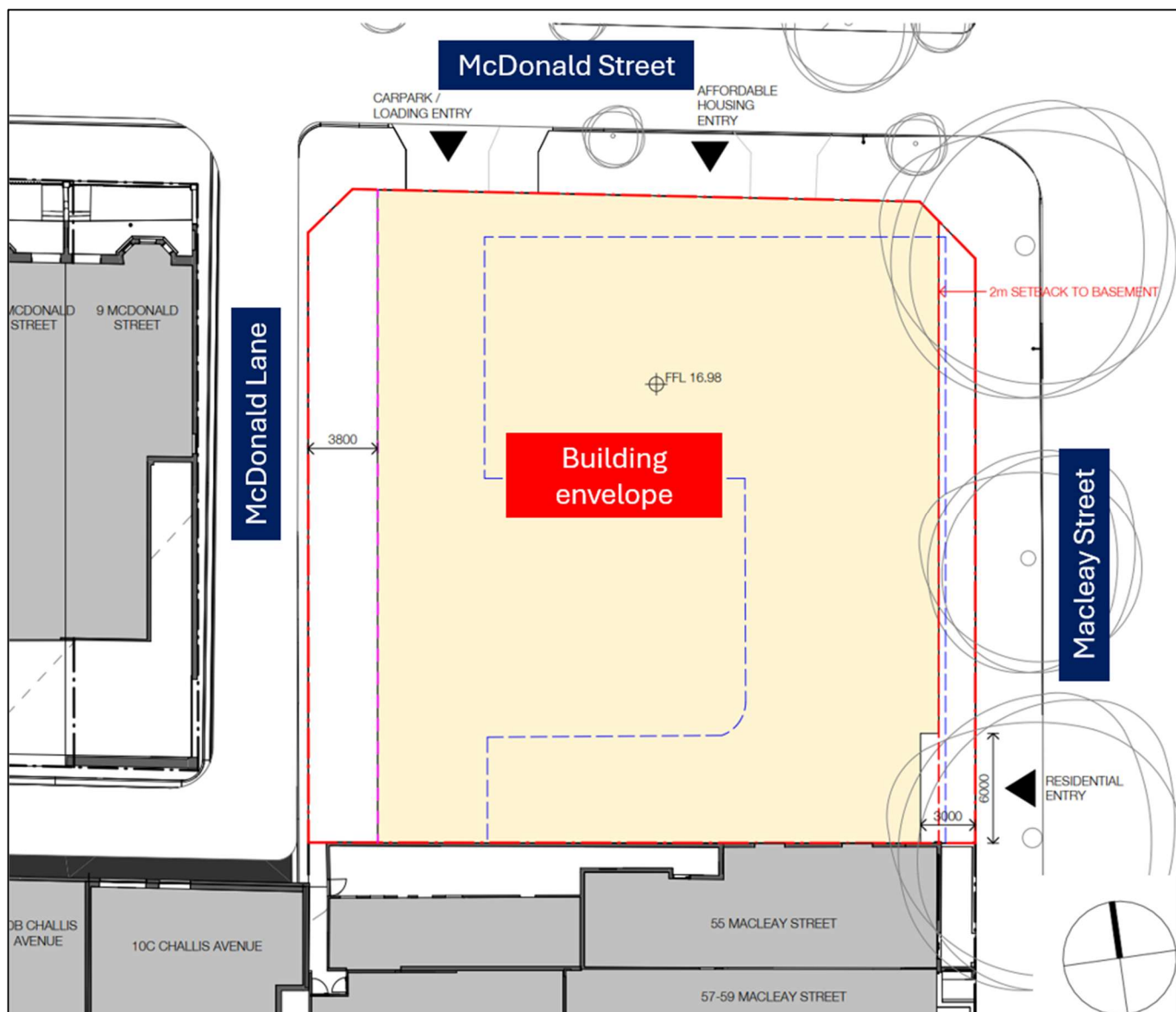


Figure 4 | Site Plan (Source: Applicant's EIS)

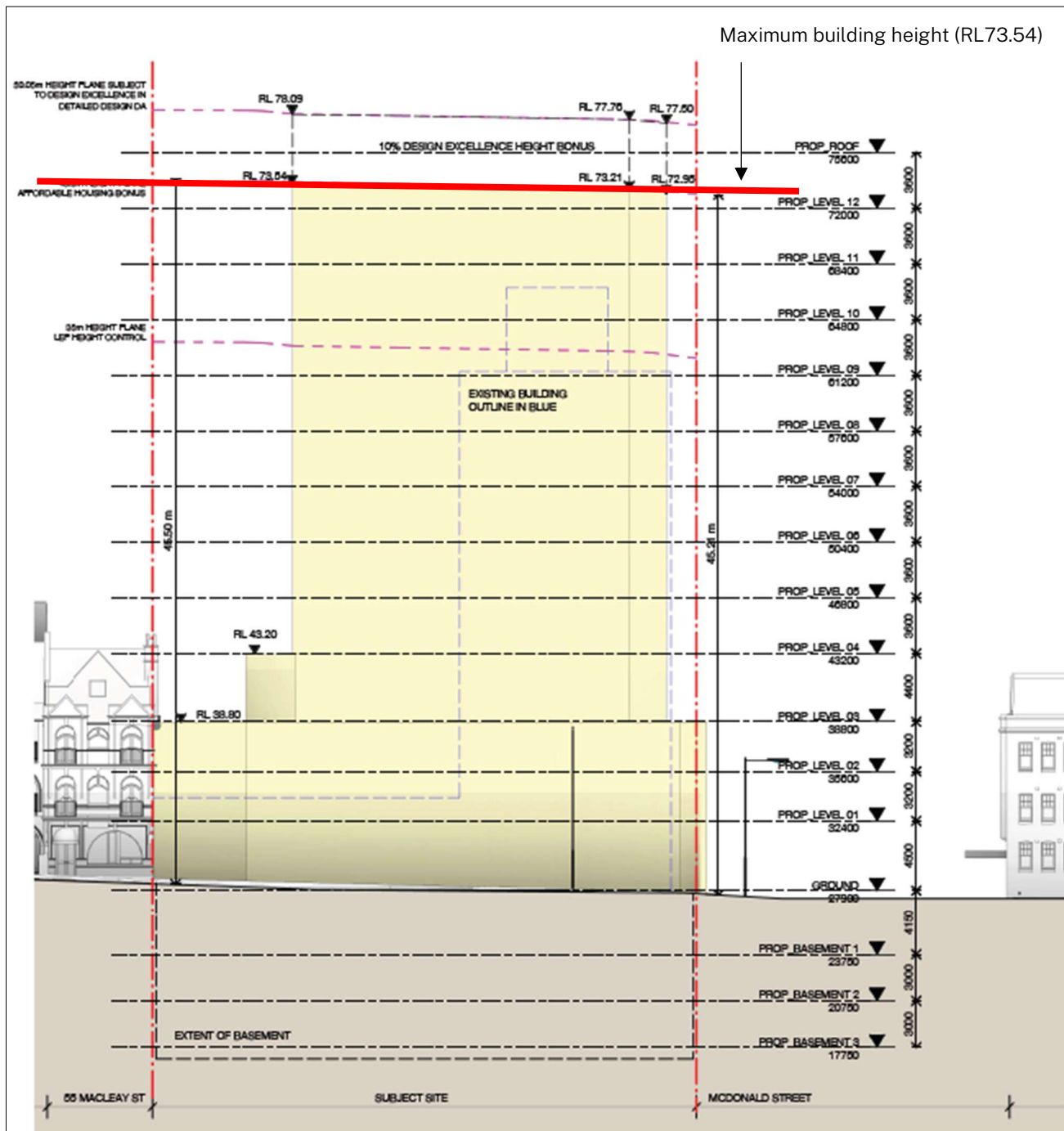


Figure 5 | Concept building envelope (Macleay Street elevation) (Source: Applicant's EIS)

2.2 Reference design

The Applicant has provided a reference design that demonstrates how future development may respond to the building envelope parameters. The reference design includes additional height and floor space which may be awarded under the SLEP if the future detailed design DA demonstrates design excellence. A photomontage of the reference design is provided in **Figure 6**.



Figure 6 | Photomontage of reference design from Macleay Street, looking south-west (Source: Applicant's EIS)

3 Policy and statutory context

3.1 Housing supply

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

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

3.2 Permissibility and assessment pathway

Details of the legal pathway under which consent is sought, and the permissibility of the proposal are provided in **Table 3** below:

Table 3 | Permissibility and assessment pathway

Consideration	Description
Assessment pathway	The proposal is declared SSD under section 4.36 of the EP&A Act as it satisfies the criteria under section 2.6(1) of the State Environmental Planning Policy Planning Systems) 2021 (Planning Systems SEPP) as it is: - not permissible without development consent - development specified in section 26A of Schedule 1 of the Planning Systems SEPP.
Consent authority	The Minister for Planning and Public Spaces (Minister) is the consent authority under section 4.5(a) of the EP&A Act and section 2.7(7) of the Planning Systems SEPP.
Decision-maker	The Deputy Secretary, Development Assessment and Sustainability, of the Department, as the delegate of the Minister, is the decision-maker as over 100 submissions were received (from Council and the public) objecting to the proposal during the public exhibition of the EIS, and a political disclosure statement has not been made.

Consideration	Description
Permissibility	The site is zoned MU1 Mixed Use under the SLEP. ‘Shop-top housing’ developments are permissible with consent.

3.3 Other approvals and authorisations

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

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

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

3.4 Planning Secretary’s environmental assessment requirements

The Department’s review determined that the EIS addresses each matter set out in the Planning Secretary’s environmental assessment requirements (SEARs) issued on 7 February 2025 and is sufficient to enable an adequate consideration and assessment of the project for determination purposes.

3.5 Mandatory matters for consideration

Mandatory matters for consideration include:

- matters of consideration required by the EP&A Act
- objects of the EP&A Act and ecologically sustainable development (ESD)
- biodiversity development assessment report
- matters of consideration required by the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)
- matters of consideration required by environmental planning instruments.

The Department’s consideration of these matters is summarised in **Appendix C**. As a result of this consideration, the Department is satisfied that the concept proposal meets statutory requirements.

4 Engagement

4.1 Preparation of SEARs

During the preparation of the SEARs, the Department consulted with relevant State government agencies and Council.

4.2 Public exhibition of the EIS

After accepting the development application and EIS, the Department:

- publicly exhibited the proposal for 28 days between 2 April 2025 until 29 April 2025 on the NSW Planning Portal
- notified occupiers and landowners in the vicinity of the site about the public exhibition
- notified and invited comment from relevant government agencies and Council.

The Department received 153 public submissions (146 objections, three in support and four comments), a submission from Council objecting to the proposal and advice from seven government agencies.

Department officers visited the site and surrounding area on 10 July 2025 and 6 November 2025 to gain a better understanding of the site context, and the issues raised in submissions.

Following the public exhibition period, the Department asked the Applicant to respond to the issues raised in submissions and the comments received from government agencies.

4.3 Applicant's response to submissions and amendments

The Applicant submitted a RtS to the Department on 12 June 2025 (see **Appendix A**) and additional information on 12 August 2025 and 3 September 2025 responding to submissions, agency comments and the Department's requests for information.

The Applicant submitted an Amendment Report to the Department on 9 September 2025.

The RtS, additional information and Amendment Report made the following key changes to the proposal:

- incorporated Stage 1 demolition works into the proposal
- clarified that the 10% design excellence bonus would not be sought under this application included minor amendments to the concept building envelope to increase the basement setback.

The Department published the RtS on the NSW Planning Portal and forwarded it to relevant agencies and Council for comment.

4.4 Public exhibition of the Amendment Report

After accepting the Amendment Report, the Department:

- publicly exhibited the amended proposal from 12 September 2025 to 25 September 2025 on the NSW Planning Portal
- notified occupiers, landowners in the vicinity of the site, and previous submitters, about the public exhibition
- notified and invited comment from relevant government agencies and Council.

The Department received 40 public submissions (39 objections and 1 in support), a further objection from Council and advice from seven government agencies.

4.5 Summary of advice received from government agencies

The Department received advice from seven government agencies on the proposal in response to the exhibition of the EIS, referral of the RtS and exhibition of the Amendment Report. A summary of the agency advice is provided in **Table 4**. A link to the advice is provided in **Appendix A**.

Table 4 | Summary of agency advice

Agency	Advice summary
Ausgrid	Ausgrid recommended that the proponent discuss any new connections and load requirements directly with Ausgrid and submit a connection application as soon as practicable.
Department of Climate Change, Energy, the Environment and Water (DCCEEW) – Conservation Programs and Regulation Group (CPHR)	DCCEEW CPHR recommended conditions requiring the detailed design to include tie-in works to the existing footpath to mitigate flooding impacts and tree protection measures.

Agency	Advice summary
DCCEEW – Water Group (DCCEEW Water)	DCCEEW Water acknowledges that the proposal does not involve physical works (except demolition) however noted that the proposed excavation would likely significantly intercept ground water. DCCEEW recommended further assessment to understand potential risks that may impact the design and management of the project. DCCEEW raised no concerns about the Stage 1 demolition works.
Heritage NSW (HNSW)	HNSW recommended conditions requiring archaeological works to be carried out in accordance with the Archaeological Research Design and Excavation Methodology, the detailed design to be prepared in consultation with a suitably qualified heritage specialist, and that a Statement of Heritage Impact and an Interpretation Plan accompany the detailed design.
Heritage NSW (Aboriginal Cultural Heritage) (HNSW ACH)	HNSW ACH recommended conditions requiring the avoidance of adverse impacts to Aboriginal objects, consultation with Registered Aboriginal Parties and updates to the unexpected finds procedures.
Transport for NSW (TfNSW)	TfNSW confirmed the proposal would not have an adverse impact on the State road network.
Sydney Water	Sydney Water provided comments including: - potable water and wastewater servicing should be available and amplifications, adjustments and/or minor extensions may be required - a Section 73 compliance certificate must be obtained. These matters will be required under the future detailed design DA.

4.6 Summary of Council submissions

Council objected to the proposal and raised concerns regarding:

- lack of investigation into the adaptive reuse of the existing building
- the concept envelope does not provide an acceptable framework for the comprehensive redevelopment of the site, due to its lack of setbacks/separation and amenity impacts
- inconsistency with building separation requirements and inadequate building setbacks
- the absence of a wind report
- overshadowing impacts on neighbouring properties and the public domain

- view loss impacts on neighbouring properties
- impacts on the HCA
- inconsistent ecologically sustainable development (ESD) targets
- inadequate information, including relating to the survey plan to establish the maximum permitted building height, deep soil areas, building setbacks and public art
- issues with the reference design, including lobby access, building design, colours and materials, COS amenity, apartment layouts and parking
- inconsistent scope of demolition, impacts on street trees.

Council also recommended that conditions be imposed in relation to detailed design matters, public art, ESD targets, and construction vibration and traffic management should be application be approved.

4.7 Summary of public submissions

The Department received a combined total of 193 submissions¹ during the public exhibition period of the EIS and Amendment Report comprising:

- 185 submissions objected to the proposal, including an objection from Alex Greewich, MP
- four submissions of support
- four providing comment.

The key issues raised in the public submissions are provided in **Table 5** and a link to all submissions in full is provided in **Appendix A**. The Department's consideration of the public submissions is provided in **Appendix B**.

Summary of objections

Table 5 | Summary of key issues raised in public submissions

Issue	Proportion of submissions that raised the issue
Affordable housing	89%
• loss of existing affordable housing	

¹ Each petition or submission that contains the same or substantially the same text is counted as one submission in accordance with section 2.7(6) of the Planning System SEPP.

Issue	Proportion of submissions that raised the issue
- 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	
Building envelope	54%
- excessive bulk and scale - excessive building height - inadequate building setbacks and building separation	
Heritage impacts	53%
- impacts on surrounding heritage items - impacts on the HCA - existing building is significant and should be retained and adaptively re-used - impacts on relics during excavation works	
Overshadowing and solar access impacts	32%
Inappropriate commercial/retail development and associated amenity impacts	25%
- amenity impacts including increased noise and traffic - inconsistent with existing residential character - oversupply of restaurants and cafes and lack of demand for retail/commercial uses	
Social impacts	24%
- displacement of existing residents - reduction of population diversity	
Inadequate community consultation	24%
- inadequate notification period - inadequate extent of notification of residents - inadequate response to community concerns	
Incompatibility with existing streetscape and character	22%

Issue	Proportion of submissions that raised the issue
Construction and excavation impacts	21%
View loss impacts	18%
Technical concerns with planning processes and assessment pathway	15%
- proposal is not State Significant - proposal should be assessed and determined by either Council or the Independent Planning Commission - proposal should not be eligible for the design excellence bonuses - two DAs on this site should not be permitted to be assessed at the same time - the concept DA pathway is inappropriate - owner's consent has not been provided	
Noise impacts	14%
Privacy impacts	11%
Other issues	<10%
- traffic and parking impacts - wind impacts - impacts on natural ventilation of surrounding properties - safety concerns - impacts on street trees - insufficient landscaping and deep soil - groundwater impacts - contamination - demolition impacts - impacts on existing infrastructure and lack of public benefits - waste management - impacts on property values - lack of economic benefits - environmental impacts - inaccurate information in the Applicant's EIS	

The key reasons provided in public submissions for supporting the proposal included:

- that affordable housing will be provided

- the existing building detracts from the streetscape, and that the site is well-located for redevelopment
- support for retail uses
- support for further increases in building height.

Four submissions provided comments requesting a reduction in the height, bulk and scale of the development, reduction of parking, and raising concerns regarding the loss of dwelling numbers.

4.8 Summary of issues raised outside of the exhibition process

The Department also received feedback from the community outside of the EIS and Amendment Report exhibition periods raising further concerns regarding the proposed height, density and bulk and scale, inadequate affordable housing provision, heritage impacts and the lack of adaptive re-use, incompatibility with the streetscape, lack of design excellence, amenity impacts including overshadowing, wind and noise, view loss, groundwater, excavation and vibration risks, contamination risks and inappropriate commercial/retail development.

Feedback was also provided on a range of procedural matters including concerns that a concept development pathway is inappropriate, inappropriate inclusion of demolition within a concept development application, inadequate community consultation, that additional information submitted during the assessment should be re-exhibited, inaccurate information, that a public hearing should be held and that the development should be refused due to the number of objections raised during the exhibition process.

5 Assessment

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

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

- demolition of the existing building
- built form and design
- heritage
- residential amenity.

These issues are discussed in the following sections of this report. Other issues considered during the assessment are addressed in **Section 5.5**.

5.1 Demolition of the existing building

The existing 12 storey building, containing entirely studio apartments, was constructed in the 1960s. The building was designed by Hugo Stossel, who designed several similar residential apartment buildings in Sydney's inner eastern suburbs.

The existing building is identified as a detracting item to the Potts Point HCA in the Sydney Development Control Plan 2012 (SDCP).

The proposal seeks to demolish the existing building and construct a new shop-top housing development which will contain 4,809.05 m² of residential floor space (inclusive of 754.36 m² of affordable housing GFA) and 220 m² of retail/commercial GFA.

The proposal does not seek consent for a specific number, size or mix of dwellings. However, the reference scheme (as outlined in **Section 2.2**) indicatively includes a dwelling yield of 34 dwellings, however the actual dwelling yield and mix would be determined within the future detailed design DA.

Public submissions raised concerns about the proposed demolition of the existing building, considering it should be retained and adaptively reused. Concerns were also raised about the loss of low-cost housing and displacement of existing residents.

Alex Greenwich MP specifically raised concerns about other developments in the Potts Point and Elizabeth Bay area, which would result in a net loss of dwellings.

Council recommended that the redevelopment of the more detracting elements of the building would be preferable to a complete knock down rebuild.

In response to concerns raised, the Applicant notes that it explored the potential adaptive re-use of the existing building in 2021 prior to the submission of the previous local DA to Council in 2022.

This included engineering advice which concludes that the existing building has exceed its intended design life of 50 years and provided the following key constraints in relation to adaptively re-using the building:

- an estimated 65% of the façade would be required to be removed
- significant additional structure would be required to offset the removal of load bearing concrete columns
- the slab of every second level would need to be removed
- the building is not capable of meeting Australian Standards nor the requirements of the *Design and Buildings Practitioners Act 2020* which mandate construction and design standards for apartment buildings

The Applicant also notes that the existing building does not contain any dedicated affordable housing, as defined under the EP&A Act. It also noted that there is a strong supply of smaller apartments in Potts Point with 92% of apartments comprising of studios, one- or two-bedroom apartments. It therefore contends that there is a significant undersupply and demand for larger three- and four-bedroom apartments.

The Applicant also notes that a number of proposed developments within the Potts Point/Woolloomooloo ABS statistical area which would, if approved, contribute to supply of approximately 381 additional dwellings, including 112 dedicated affordable housing units in the Potts Point/Woolloomooloo area (**Table 6**).

Table 6 | Proposed residential developments in Potts Point/Woolloomooloo

Project	Existing dwellings	Proposed dwellings	Proposed studio/1-bedroom units	Proposed affordable housing units	Net change in dwellings	Application status
91-93 Macleay Street and 10-12 Hughes Street (SSD-88739961)	44	64	18	28	+20	SEARs issued
117 Victoria Street (D/2024/524)	45	25	5	5	-20	Approved

Project	Existing dwellings	Proposed dwellings	Proposed studio/1-bedroom units	Proposed affordable housing units	Net change in dwellings	Application status
203-225 Victoria Street (SSD-84718460)	0	200	10	10	+200	SEARs issued
164-194 William Street (SSD-80211463)	0	227	54	60	+227	Under assessment
This proposal - 45-53 Macleay Street (SSD-79316759)	80	34	4	9	-46	Under assessment
Total	169	555	91	112	+381	

The Department has carefully considered the concerns raised by Council and the community and the Applicant's response.

As discussed further in **Section 5.3**, the Department notes the existing building is a detracting item, with no heritage status and was not recognised in Council's planning proposal, identifying certain modern residential flat buildings that are considered to have heritage significance, which is currently on exhibition. The retention of the building on heritage grounds is therefore not founded.

The Department further accepts the Applicant's reasoning as to why it is not pursuing the retention and adaptive reuse of the building noting that:

- the existing building does not provide a reasonable level amenity for residents, particularly in terms of insufficient lift provision, small apartment sizes with no private open space, no communal open space, no cross ventilation, and low floor-to-ceiling heights
- compliance upgrades to meet National Construction Code (NCC) and Australian Standards would require demolition or major alteration of the façade; electrical, mechanical, and fire safety systems require complete replacement, and the lift and stair core would need to be reconstructed to comply with current requirements.

The Department also appreciates the concerns raised about the potential reduction in lower cost housing, which is perceived by the community as affordable housing, and concerns about displacement of existing residents.

The Department notes that while the existing apartments are comparatively lower cost to other dwellings in the locality by virtue of their size, condition and quality, the existing apartments are not

managed as affordable housing under the EP&A Act, as they are strata titled into individual units which are privately tenanted at market rates.

Critically, the extent of upgrade that would be required to provide a safe NCC compliant building with reasonable amenity would be at a substantial cost, which would ultimately be borne by future owners and tenants and result in significantly higher cost housing for future residents.

The Department also notes:

- the proposal provides an opportunity to deliver additional GFA for housing (an increase of approximately 1.900 m² more than the existing building) 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 GFA to be managed by a registered CHP consistent with the requirements of the Housing SEPP, contributing to housing affordability and social diversity in the area
- the proposal would not significantly alter the predominant studio, one- and two-bedroom dwelling mix in Potts Point
- while a number of nearby proposed or approved redevelopments may result in a reduction of dwellings on those sites, there are also a number of development applications being considered in the locality (**Table 6**) which indicate an overall likely increase in the overall provision of housing in the locality, which would include a mix of apartment sizes and dedicated affordable housing
- the relocation of existing residents, at the end of their lease period, would be managed by those individual renters.

The Department therefore concludes that it would be unreasonable to expect the retention of the existing building which requires substantial upgrade to comply with NCC and amenity requirements and has no heritage significance.

To mitigate the potential reduction in dwellings on the site and ensure that the future building continues to contribute smaller apartments in the locality, the Department recommends a condition requiring that the future detailed design DA include at least 50% of its total dwelling mix as studio apartments.

5.2 Built form and design

The proposal includes a building envelope for a shop-top housing development as summarised in **Table 2**.

While this application does not seek approval for the detailed design of the proposal, the Applicant has provided a reference scheme which demonstrates indicatively how the development may be delivered within the building envelope (refer to **Section 2.2**).

The Department has considered the building height and density, design excellence requirements, proposed land uses and compatibility with the streetscape and character of the neighbourhood below.

5.2.1 Building height and density

The concept proposal envelope has a maximum building height of 45.5 m, which fully complies with the maximum permissible building height under section 16 of the Housing SEPP comprising:

- a base building height of 35 m under the SLEP
- an additional 30% increase (10.5 m), as 15% of the total GFA of the building envelope would be provided as affordable housing.

The concept proposal seeks consent for FSR of 3.9:1 (5,029.05 m²), which also fully complies with the maximum permissible FSR under section 16 of the Housing SEPP comprising:

- a base FSR of 3.1 (3,868.5 m²) under clause 4.4 of the SLEP
- an additional 30% increase to the maximum FSR under the SLEP, which permits an FSR of 3.9:1 (5,029.05 m²)

Clause 6.21D of the SLEP allows an additional 10% increase to the building height, permitting an overall building height up to 50.05 m, or an additional 10% increase to the FSR permitting an overall FSR up to 4.29:1 (5,529.8 m²), if the proposal is subject to a design competition and the consent authority is satisfied that the building demonstrates design excellence. These bonuses will not be awarded under this application and will be considered in the assessment of the future detailed design DA.

Public submissions raised concerns that the proposal has an excessive height, bulk and scale. Concerns were also expressed that the application of the Housing SEPP bonuses was inappropriate, and that the proposal should not qualify for these bonuses as it is inconsistent with the overall objectives of the Housing SEPP.

The Department acknowledges the concerns raised in public submissions and notes that the proposal will replace an existing 12-storey building which has a smaller footprint than the proposed

building envelope. However, the Department has carefully considered the proposed height and density of the proposal and, on balance, is satisfied that the proposed building envelope, height and density is acceptable because:

- the proposed building envelope fully complies with the maximum building height and floor space ratio standards permissible for the site
- the proposal would be compatible with the character of the area (refer to **Section 5.2.3**)
- the proposal would not result in unacceptable privacy, overshadowing or view loss impacts to neighbouring properties or the public domain (refer to **Section 5.4**)
- the proposal is consistent with the objectives of the Housing SEPP as it will provide for 15% of the total GFA (754.36 m²) as affordable housing to meet the needs of very low-, low- and moderate-income households for a minimum 15 years, which will be managed by a registered CHP, within an accessible area with excellent access to transport, employment and community infrastructure
- the detailed design of the proposal, including the podium and tower, will be further refined through the competitive design process required under the SLEP, the subsequent design integrity process required before lodgement of the future detailed design DA, and the assessment of the future detailed design DA (refer to **Section 5.2.2**).

The Department recommends conditions which will stipulate that:

- the approved concept envelope defines the maximum development parameters for the future built form; however, the detailed design may not necessarily occupy the full extent of the approved envelope
- the maximum GFA can only be achieved, subject to being wholly within the envelope
- 15% of the total GFA of the project is allocated as affordable housing.

5.2.2 Design excellence

Division 4 of the SLEP provides for the delivery of design excellence in the City of Sydney. In particular, it:

- has the objective of delivering the highest standard of architectural, urban and landscape design (clause 6.21)
- prohibits the granting of development consent unless in the consent authority's opinion, the proposed development exhibits design excellence (clause 6.21C(1))
- sets out the considerations that the consent authority must have regard to when forming the view of whether a development exhibits design excellence (clause 6.21C(2))

- requires a competitive design process be undertaken for development which meets certain criteria including development with an EDC of more than \$100 million and development for which a development control plan (or concept proposal) is required under clause 7.20 (clause 6.21D)

The Applicant prepared a design excellence strategy (DES), in consultation with the Government Architect NSW (GANSW), Council and the Department which provides for a competitive design process in accordance with the City of Sydney Competitive Design Policy and the GANSW Design Excellence Competition Guidelines.

The Applicant also provided an assessment of the concept proposal against the requirements of Clause 6.21C of the SLEP and the objectives for good design in Better Placed to demonstrate that the Concept Proposal exhibits design excellence.

The Department notes the Applicant held the design competition over a 5-week period, between January and March 2025, which included:

- the preparation of a DES competition brief endorsed by GANSW, which was informed by the concept proposal
- establishment of a competition jury, including five members
- five design teams being invited to participate in the competition
- the competition jury met in March 2025 to review the concept designs and determined a competition winner.

In accordance with the DES, a Design Integrity Panel (DIP), comprising of members of the competition jury, will oversee the detailed design as it is developed into the next development application and through to construction.

The Department notes that the competition process, including the jury's evaluation of the five competitors designs, was observed by Council and Department staff, and that the outcome of the competition does not fetter the discretion of the consent authority in the assessment of this concept development application, any requirements of any concept approval which may be granted or the assessment of any future detailed design DA.

The Department has considered the proposal against the matters set out in Clause 6.21C(2) of the SLEP in considering whether the proposal exhibits design excellence as set out in **Appendix C** and, in summary, is satisfied the concept proposal exhibits design excellence as:

- the proposal will deliver a high standard of architectural design, materials and detailing through the competition, DIP review and future detailed design DA process

- the form and external appearance of the proposal will improve the quality and amenity of the public domain
- the proposal will not unreasonably impact on any view corridors
- the proposed building envelope complies with building height and FSR development standard contained in the Housing SEPP, and the bulk, massing, modulation, street frontage heights, and other impacts will be assessed in the future detailed design DA.

To ensure the future detailed design DA achieves design excellence, the Department recommends conditions requiring:

- the detailed design of the development is subject to a design excellence competition carried out in accordance with the DES
- the establishment of a DIP, which must review the detailed design prior to lodgement of any future DA.

The Department concludes that the DES, together with the proposed building height and density (**Section 5.2.1**) and the SEARs for the future detailed design DA, provide a sound framework for the development and will ensure that the future detailed design will achieve design excellence.

5.2.3 Character

The Housing SEPP requires the consent authority to consider whether a development's design is compatible with the existing character of the local area, or with the desired future character in precincts undergoing transition.

As outlined in **Section 1.2**, the existing character is generally characterised by residential flat buildings, shop-top housing developments, hotels and terrace housing. This site is also within the Potts Point HCA.

The desired future character of the area is informed by the SLEP height and FSR provisions, as well as the HCA, ADG and SDGP. The Department notes in particular that the SLEP provides varied height and density controls throughout the Potts Point HCA, with heights and densities along Macleay Street ranging from 15 m, 35 m up to 70 m and FSRs from 2:1 up to 11:1 (**Error! Reference source not found.**).

Public submissions raised concerns that the proposal is incompatible with the local neighbourhood character, particularly due to its excessive height, bulk, and scale. The Department has carefully considered the concerns raised by the community.

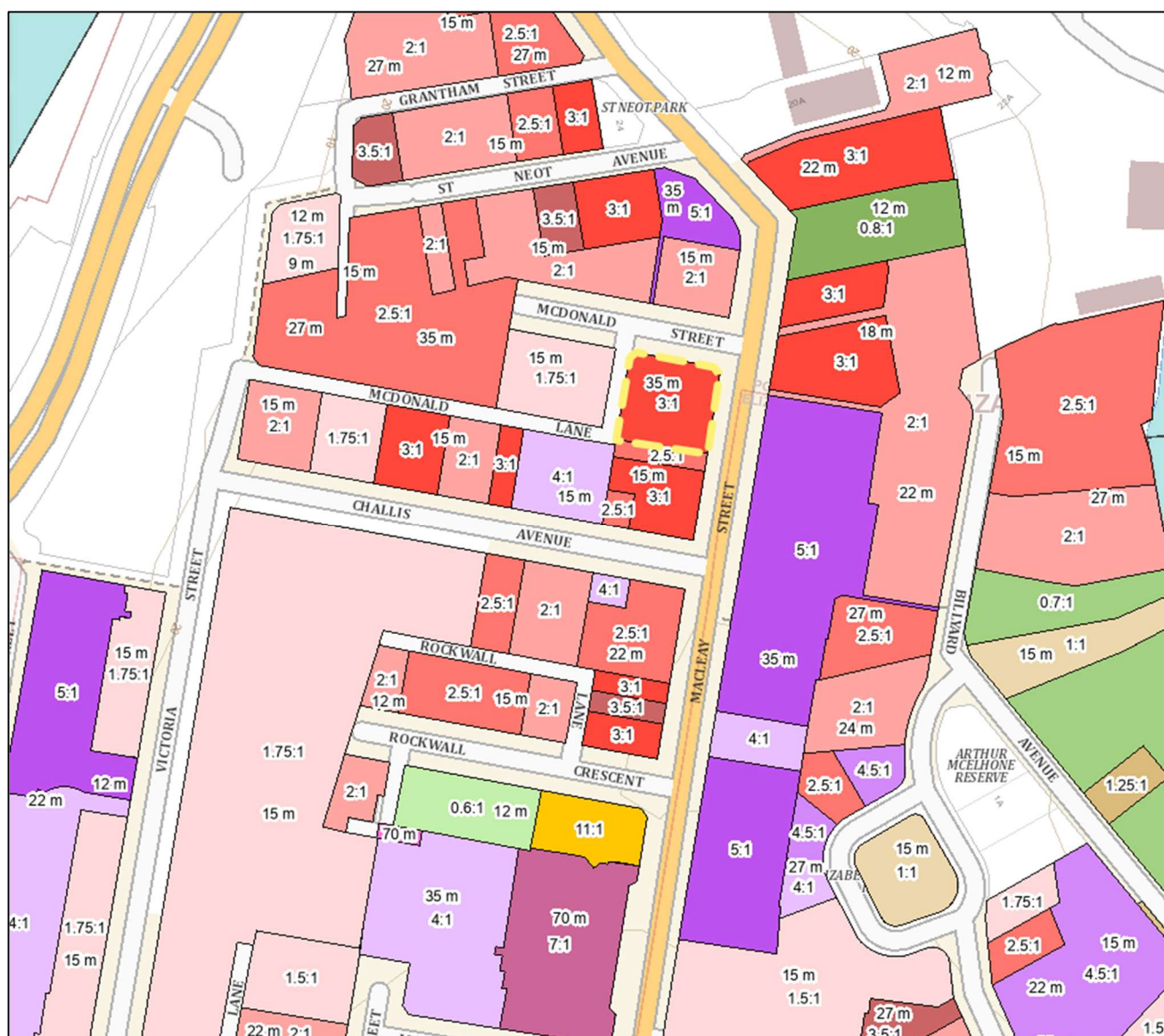


Figure 7 | SLEP Building height and FSR (site outlined in yellow) (Source: NSW Spatial Viewer)

The Department acknowledges that the proposal would be larger and taller than the existing building on the site, however, is satisfied that the proposal is compatible with the desired future character of the area as:

- the existing building height and FSR development standards under the SLEP establish a reasonable expectation that the site will support a development of greater height and FSR than surrounding buildings
- the proposal provides an opportunity to improve the site's built form to creating a stronger relationship between any future development and the heritage context and architectural character of the neighbourhood
- the proposed setbacks from Macleay Street, McDonald Street and McDonald Lane are compatible with the built form character of the area and provide a distinct podium element

which relates to and activates the Macleay Street and McDonald Street frontages, and a separate tower form above.

The Department considers that the proposal is compatible with the current and desired future character of the area, noting that the proposal will be refined during the assessment of the future detailed design DA.

5.3 Heritage

The site is not identified as item of heritage significance, however it is located within the Potts Point HCA and is in the vicinity of two State heritage items, the Sydney Harbour Naval Precinct and “Jenner House”, as well as several local heritage items as shown in **Figure 8**. The existing building is identified as a ‘detracting’ item in the HCA.

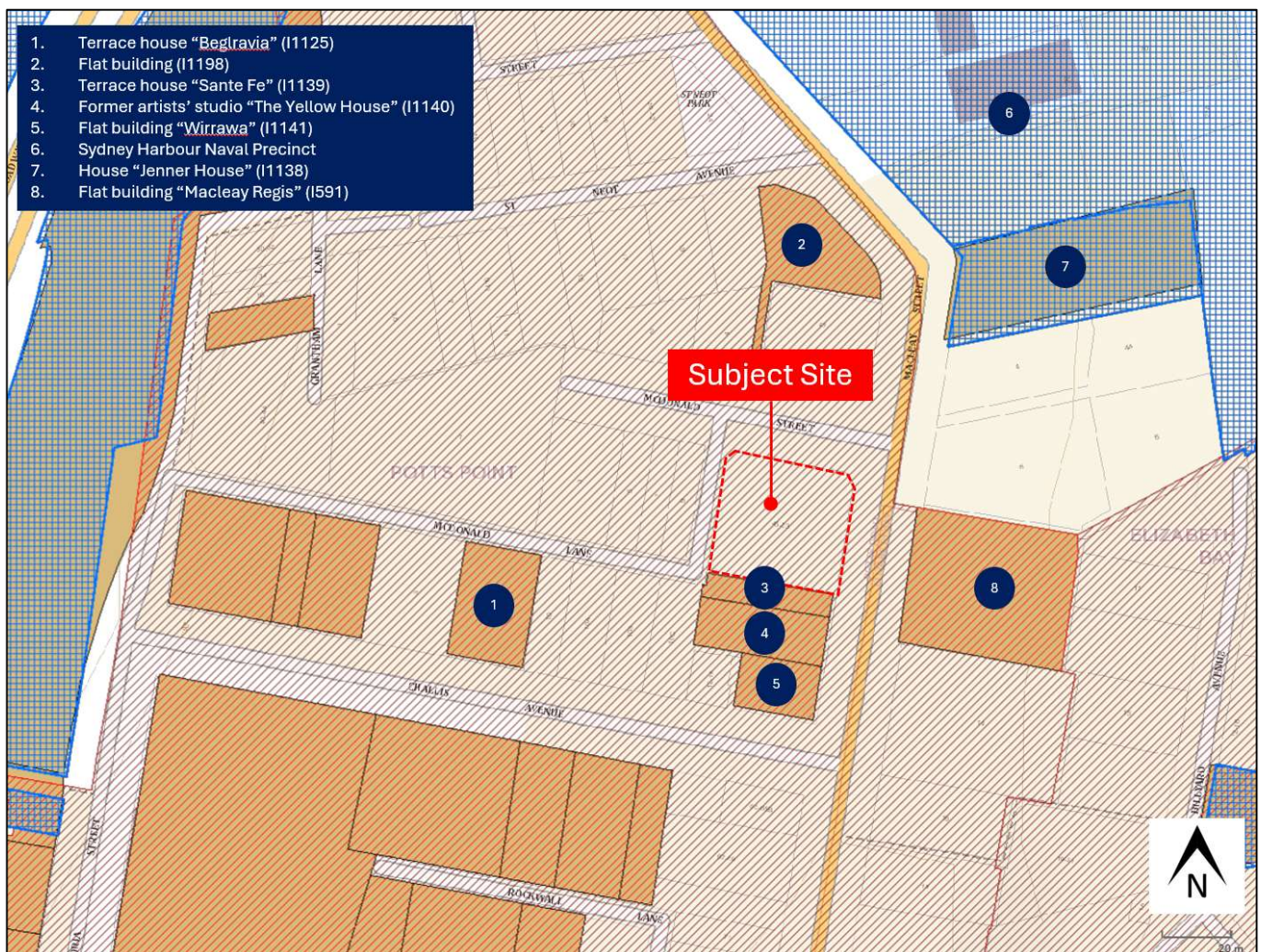


Figure 8 | Heritage surrounding the site (Source: NSW Spatial Viewer)

The Applicant provided a Heritage Impact Statement (HIS) assessing the impact of the proposal on the locality and nearby heritage items. The HIS concludes that:

- the existing building is a ‘detracting’ item, does not contribute to the character or significance of the Potts Point HCA and does not satisfy any criteria outlined in the Heritage Manual for local heritage significance
- the site’s historical value primarily relates to earlier structures that have since been demolished
- while the building was designed by Hugo Stossel, a recognised architect, it is regarded as a modest and unremarkable representation of his work, lacking broader influence or significance
- the proposal would have a limited and acceptable impact on nearby heritage items and the overall setting of the Potts Point HCA.

The Applicant also provided an Archaeological Research Design and Excavation Methodology which assessed the impacts of the proposal on locally significant archaeological relics across the site and recommended a methodology for the investigation and management of potential locally significant relics.

Public submissions and Council raised concerns regarding the impacts of the development on surrounding heritage items and the HCA. Council specifically notes that the heritage inventory sheet for the Potts Point HCA has been updated to include the contribution of Interwar and Post-war residential flat buildings generally in the area, despite the building being identified as a ‘detracting’ item.

Public submissions also raised concerns regarding the impact on heritage view corridors to and from the ‘Macleay Regis’, and artworks located on the rear balconies of the ‘Yellow House’. Submissions also raised concerns about impacts on relics during excavation works associated with the development.

The Department has carefully considered the Applicant’s HIS and the heritage concerns raised by the community and Council regarding the Potts Point HCA.

In relation to Council’s comments about the contribution of Interwar and Post-war residential flat buildings, the Department is aware that since 2019, there has been considerable interest from City of Sydney Councillors, community members and community groups to recognise the heritage significance of residential flat buildings within the post-war era of 1945-1975.

The Department is also aware that Council recently commissioned an independent heritage assessment of 18 modern residential flat buildings and subsequently prepared a planning proposal (PP 2025-109) which is currently on exhibition and proposes to list nine of the 18 assessed

residential flat buildings as local heritage items. The existing building at 45-53 Macleay Street, Potts Point, was not assessed nor recommended for listing.

On balance, the Department considers the heritage impacts are acceptable and would not detract from the significance of nearby heritage items or the Potts Point HCA as:

- the existing building is not a heritage item, nor is it a contributory item in the Potts Point HCA
- the proposal is consistent with the planning controls under the SLEP and Housing SEPP, which anticipate a prominent building form on the site, as well as several other sites within the HCA as shown in Error! Reference source not found. in **Section 5.2.3**
- the proposal does not impact on any heritage view corridors, noting that there are no identified heritage view corridors associated with the 'Macleay Regis' or the 'Yellow House'.

The Department recommends conditions and future assessment requirements which require the future detailed design DA to:

- include a Statement of Heritage Impact and demonstrate that the design has been prepared in consultation with a heritage specialist and that the materiality, scale, form, articulation and colours minimise visual impacts on surrounding heritage items and streetscapes
- have regard to the Archaeological Research Design and Excavation Methodology
- take all reasonable steps to avoid harm, modification of or impact to heritage items and relics.

5.4 Residential amenity

The Housing SEPP requires the consent authority to evaluate the quality of design of residential apartment development in accordance with the design quality principles, including residential amenity. It also requires the consent authority to consider the ADG which provides planning guidance and principles to ensure acceptable levels of internal amenity are provided to residential apartments.

The Department has undertaken a detailed assessment of the residential amenity of the concept proposal at **Appendix C** and is satisfied that it is generally consistent with the key ADG criteria except for building separation. These issues, along with view loss and overshadowing impacts to neighbouring properties, are discussed below.

5.4.1 Building separation and visual privacy

The ADG recommends minimum setbacks to side and rear boundaries to ensure adequate visual privacy of future residents. The ADG recommends that building separation should be shared

equitably between neighbouring sites, to achieve reasonable levels of visual privacy. Additionally, the SDCP outlines that street setbacks should match the setbacks of adjoining buildings to the site.

Public submissions and Council have raised concerns regarding the proposed building separation and building setbacks addressing the western (McDonald Lane) and southern boundaries. Council recommended that the minimum separation distances of the ADG should be applied to mitigate potential visual privacy concerns.

The proposed concept envelopes with setbacks from the site's boundaries are summarised in **Error! Reference source not found.** and illustrated in **Figure 9** and **Error! Reference source not found.** below.

Table 7 | Building setbacks

Elevation	Building separation/setbacks
North (McDonald Street)	- Basement – Nil setback - Ground to Level 2 – Nil setback - Levels 3 to 12 – 1.93 m – 2.62 m
East (Macleay Street)	- Basement – 2 m - Ground to Level 2 – 2 m – 3 m - Levels 4 to 12 – 3 m
South (adjoining 55 Macleay Street)	- Basement – Nil setback - Ground – Nil setback - Levels 1 to 2 – Nil to 6 m - Level 3 – 6 m - Levels 4-12 – 9 m
West (McDonald Lane)	- Basement – 3.8 m - Ground to Level 2 – 3.8 m - Levels 3 to 12 – 5.31 m

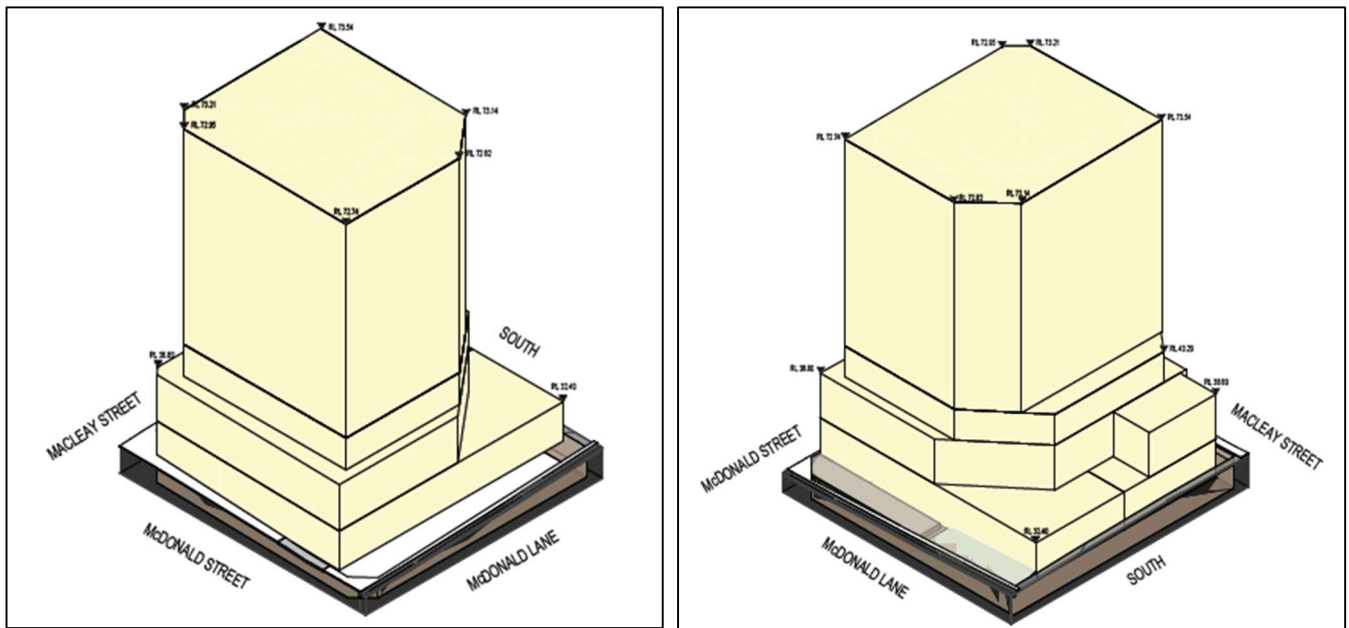


Figure 9 | Axonometric diagrams of the concept proposal as viewed from the northwest (left) and southwest (right) (Source: Applicant's EIS)

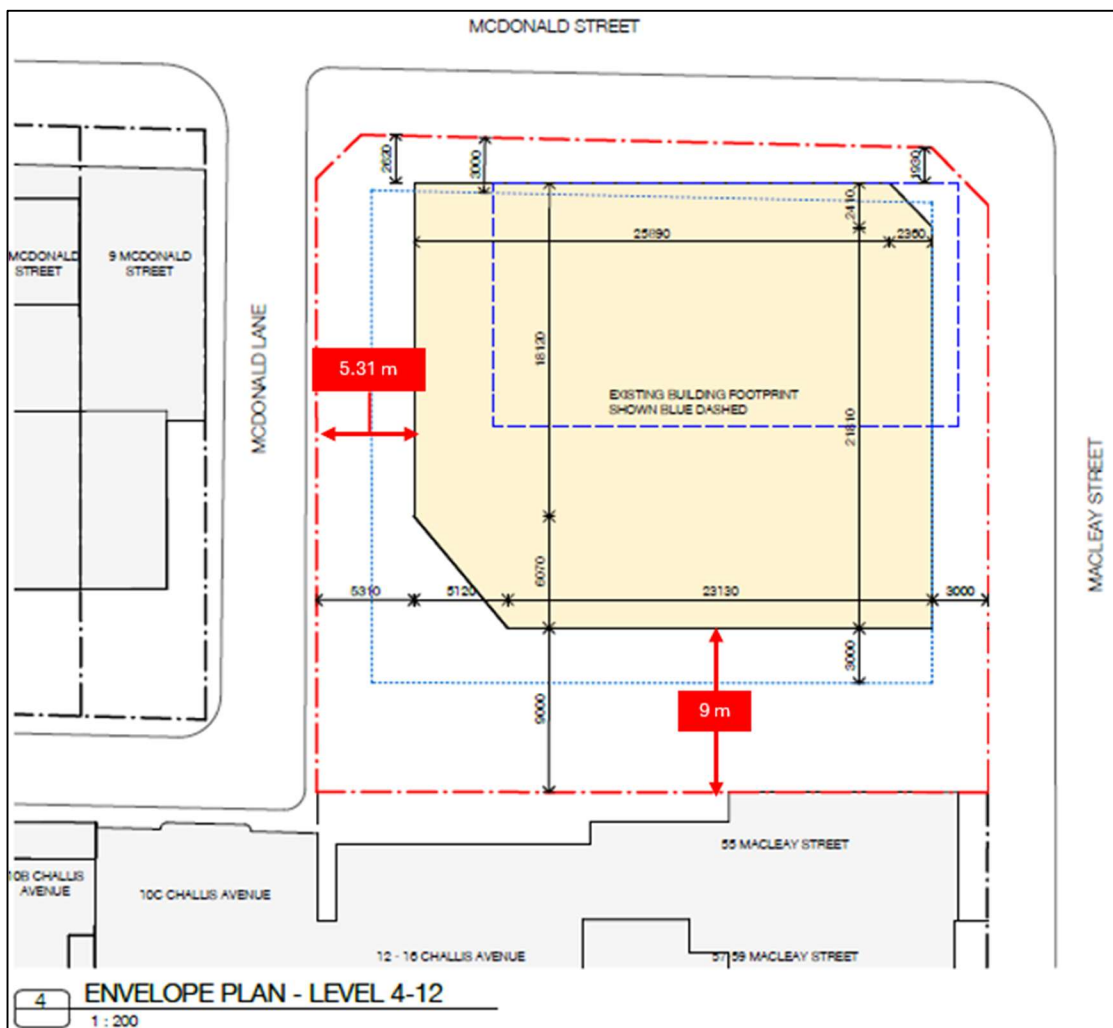


Figure 10 | Building envelope upper-level floor plan and separation distances (Source: Applicant's EIS)

The Department has reviewed the proposed setbacks having regard to the SDCP as well as the ADG. The Department is satisfied that the proposal provides adequate street setbacks, consistent with the SDCP as:

- the 2 m setback to the Macleay Street frontage is generally consistent with the setback to the neighbouring property, and would also enable retention and protect existing street trees
- the nil setback up to level 2 and varying upper levels setbacks (1.93 m to 2.62 m) to the McDonald Street frontage is generally consistent with neighbouring apartment developments which feature nil setbacks at ground level and have increased upper-level setbacks.

The proposal is also generally consistent with the ADG building separation design criteria, except for:

- the 9 m setback to the southern boundary which adjoins 55 Macleay Street. Above level 8, the ADG recommends a 12 m setback for habitable rooms/balconies
- the 3.8 m setback up to level 2, and 5.31 m setback to the western boundary to McDonald Lane, where the ADG recommends a 6 m setback up to level 3, a 9 m setback above level 4 and a 12 m setback above level 8.

The Applicant considers the proposed building separation to 55 Macleay Street and 9 McDonald Street is acceptable because both sites have a maximum permissible building height of 15 m (approx. four storeys). Further the building at 55 Macleay Street is heritage-listed, making it unlikely that any future development on that site would rise above the existing roofline.

The Department has carefully considered the concerns raised by Council and public submissions, as well as the Applicant's justification. On balance, the Department considers the proposed building separation is acceptable for the following reasons:

- the concept scheme has been designed to allow flexibility for the future detailed design DA to allow for design-led outcomes that can address visual privacy and amenity
- the 9 m setback (from levels 4 to 12) to the southern boundary is not expected to cause any adverse privacy impacts to neighbouring properties as the adjacent building to the south of the site at 55 Macleay Street is a three-four storey heritage-listed building with a blank wall on the common boundary to the site, and a further setback wall with limited openings (**Figure 11**)
- the proposed 3.8 m to 5.3 m setback to McDonald Lane is considered acceptable as it would provide approximately 8.8 m to 10.3 m separation to the three-storey terrace house at 9 McDonald Street, which has a nil setback to McDonald Lane (**Figure 11**).



Figure 11 | Northern elevation of 55 Macleay Street (left) and western elevation of 9 McDonald Street (Source: DPHI)

5.4.2 View impacts

Public submissions and Council raised concerns that the proposal will result in view loss impacts for surrounding residents, including the potential loss of iconic views, including the Sydney Harbour Bridge and Sydney Opera House.

The Applicant prepared a View Sharing Report which assessed the impacts of the proposal on the views currently available from neighbouring properties as shown in **Figure 12**. Views were considered from 19 apartments within the following buildings:

- 57–59 Macleay Street (also known as the “Yellow House”) – five-storey mixed-use development
- 10–12 Macleay Street (also known as the “Macleay Regis”) – nine-storey mixed-use development
- 14 Macleay Street (also known as the “Pomeroy”) – nine-storey mixed-use development
- 16 Macleay Street (also known as the “Selsdon”) – seven-storey residential flat building

From these, five apartments were selected for detailed analysis to provide a representative sample of the views available from neighbouring residences towards the site. The Applicant also analysed the height, location, and internal layouts of surrounding residential flat buildings, confirming that floor plans were generally consistent across levels, and therefore the nature of view impacts would be similar between floors. Although view inspections were undertaken in 2023, the Applicant has confirmed that no material changes have occurred to the site, its immediate context, or the views available from neighbouring buildings since that time.

The Applicant’s analysis indicates that 46 of 182 dwellings (25%) within the above four buildings would experience some level of visual change because of the proposal, and of those 46 dwellings, 25 (13.7%) would experience view loss impacts:

- 16 of 87 dwellings (18%) within the “Macleay Regis”
- 6 of 34 dwellings (17.6%) within the “Pomeroy”
- 2 of 52 dwellings (3.8%) within the “Selsdon”
- 1 of 9 dwellings (11%) in the “Yellow House”.

The Applicant’s View Sharing Report analysed view loss impacts using the four-step assessment established by *Tenacity Consulting vs Warringah Council [2004] NSWLEC 140* (Tenacity). The report includes existing and proposed imagery of typical views from the above four properties at key viewpoints. A link to the report is provided in **Appendix A**, with the key findings summarised in **Table 8**.

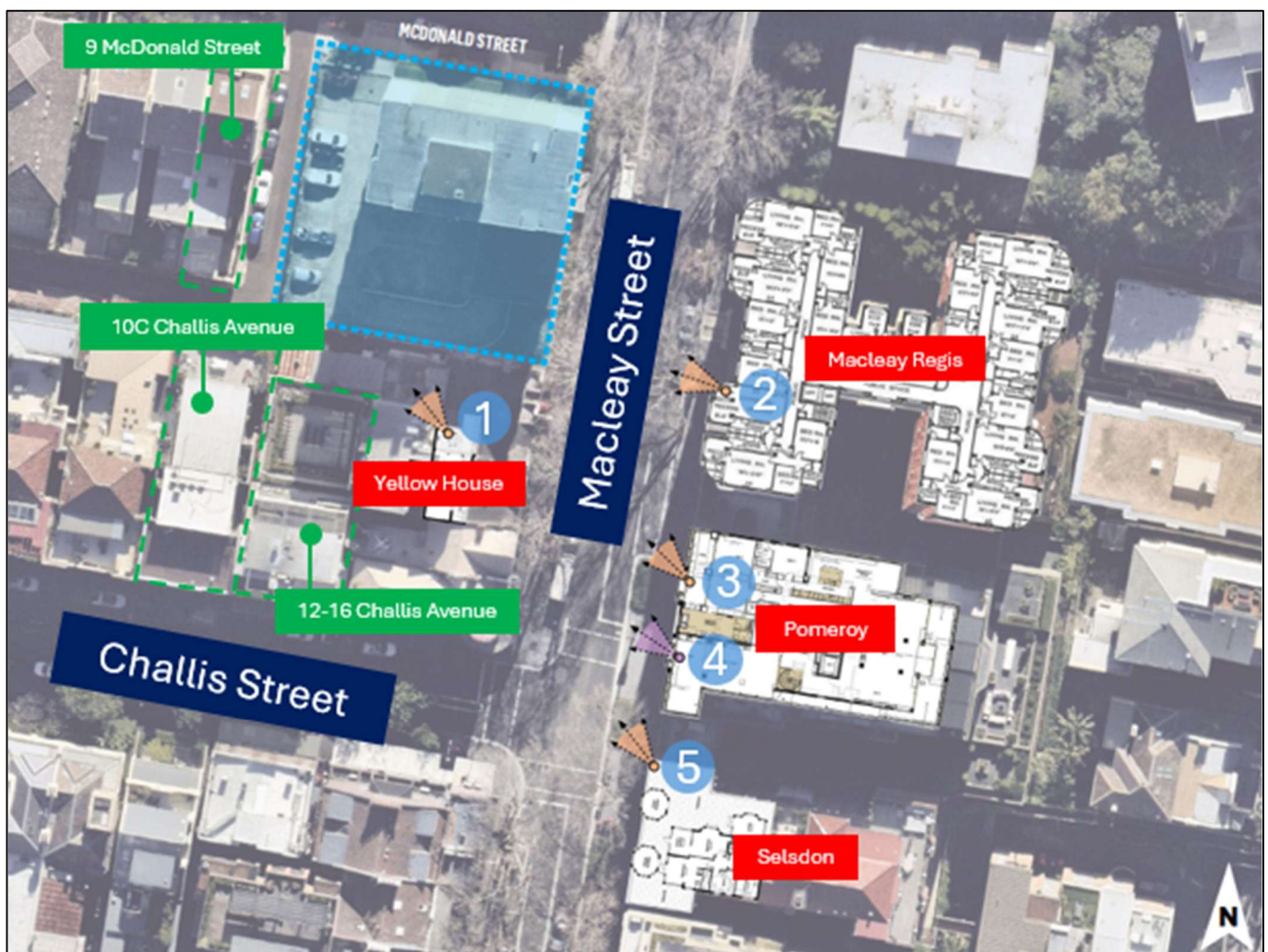


Figure 12 | Buildings and viewpoints assessed for view impacts identified in red, and properties which raised view loss concerns in submissions identified in green (Base source: Applicant’s EIS)

Table 8 | Summary of the Applicant's consideration of view impacts

Step 1 – Existing views	Step 2 – Location	Step 3 – Applicant's assessment of the extent of impacts
57-59 Macleay Street (Yellow House) Views of the North Sydney CBD skyline and the Harbour Bridge, and partial views of the Opera House (refer to Figure 13).	- Unit 7, a north facing apartment on the uppermost floor of the building. - Views are obtained from a balcony via a side boundary from seated and standing positions.	- Views lost include the North Sydney CBD skyline and the northern pylon of the Sydney Harbour Bridge. - The Applicant considers the view loss impacts as minor because: - most of the view, including the most scenic and iconic items, such as the Sydney Harbour Bridge, are retained - views lost are obtained over private property and across an underdeveloped part of the site.
10-12 Macleay Street (Macleay Regis) Views of the CBD skyline and notable buildings, including Sydney Tower, St Mary's Cathedral and parts of the Domain (refer to Figure 14).	- Unit 901, an east facing apartment on the uppermost floor of the building. - Views are obtained from a living room via the front boundary from sitting and standing positions.	- Views lost include foreground and mid-ground development, part of the CBD skyline and notable buildings. The view overall would be considered as low-medium scenic quality, some depth of field and distant areas of open sky. The proposed development does not block access to scenic and highly valued views or compositions as defined in Tenacity, or unique features such as heritage items, HCAs, a whole view or any icons. - The Applicant considers the view loss impacts as minor because: - views available from the living and dining areas to the south-west are expansive and of moderate scenic quality, and views to notable buildings, including Sydney Tower and St Mary's Cathedral, will remain unaffected - views lost are obtained over private property and across an underdeveloped part of the site.

Step 1 – Existing views	Step 2 – Location	Step 3 – Applicant’s assessment of the extent of impacts
14 Macleay Street (Pomeroy) Views of the CBD skyline, the Domain, St Mary’s Cathedral. North-westerly views include water in Woolloomooloo and sections of land-water interface, parts of the Royal Botanic Gardens and Mrs Macquarie’s Chair, the southern pylons and lower south section of the arch of the Harbour Bridge (refer to Figure 14 and 16).	- Unit 801, an east facing apartment on the uppermost floor of the building. - Views are obtained from an enclosed balcony associated with a bedroom across the front boundary from seated and standing positions (refer to Error! Reference source not found. and 16).	- The Applicant considers the view loss impact for this dwelling as minor to moderate as: - this apartment occupies the entirety of level 8 and the southern half of level 7, providing expansive views from multiple locations along both elevations towards the north-west, west, south-west, north-east, east, and south-east - views to the east and most of the west remain unaffected, with only the north-westerly aspect subject to change - scenic and highly valued elements of the north-westerly view, including the land–water interface at Woolloomooloo Bay, the Royal Botanic Gardens, and the full Sydney CBD skyline as seen from the secondary kitchen and dining room, are unaffected and retained - view loss is caused by a building envelope compliant with the relevant development standards.
16 Macleay Street (Selsdon) Views include part of the North Sydney CBD skyline, the Sydney Harbour Bridge, and the majority of the Sydney Opera House including the sail roof form (Figure 16).	- Unit 60, a north-east facing apartment on the uppermost floor of the building. - Views are obtained from the roof terrace of Unit 60 via the front and side boundaries, from standing and seated positions.	- Views lost include part of the North Sydney CBD skyline and the northern pylon of the Sydney Harbour Bridge. Views will be retained to the remainder of the Sydney Harbour Bridge and the Sydney Opera House. - The Applicant considers the view loss impact as negligible because: - scenic and highly valued parts of the view including the Sydney Opera House and the majority of the Sydney Harbour Bridge are retained - views to the north-east will be unaffected by the proposal.

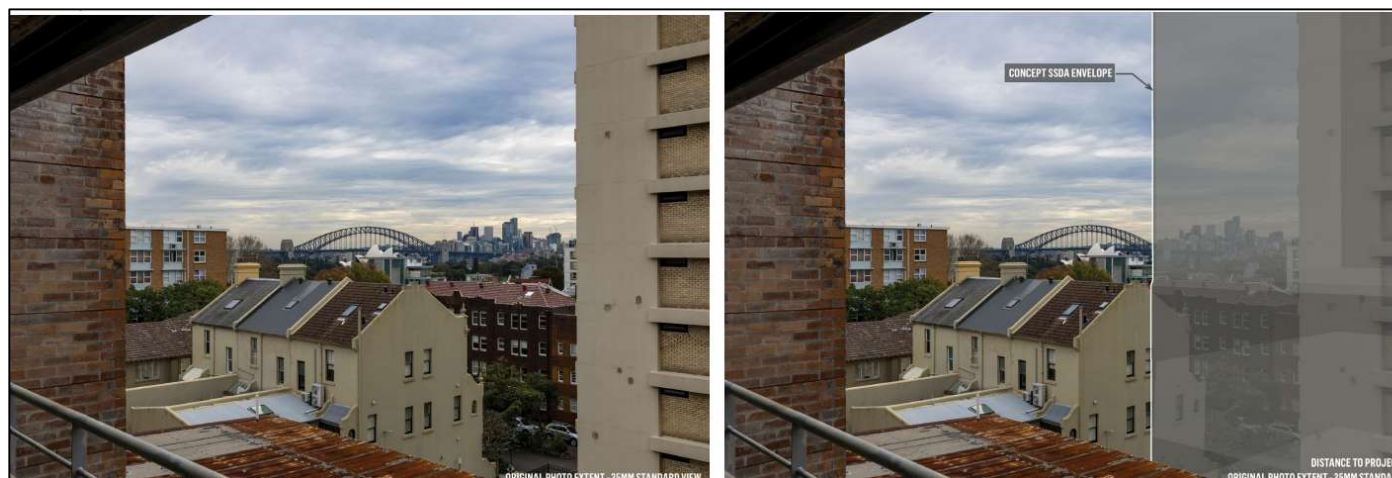


Figure 13 | Existing (left) and proposed (right) view from Unit 7 of the “Yellow House” from viewpoint 1 (Source: Applicant’s EIS)



Figure 14 | Existing (left) and proposed (right) view from Unit 901 of the “Macleay Regis” viewpoint 2 (Source: Applicant’s EIS)



Figure 15 | Existing (left) and proposed (right) view from Unit 801 of the “Pomeroy” from viewpoints 3 and 4 (Source: Applicant’s EIS)

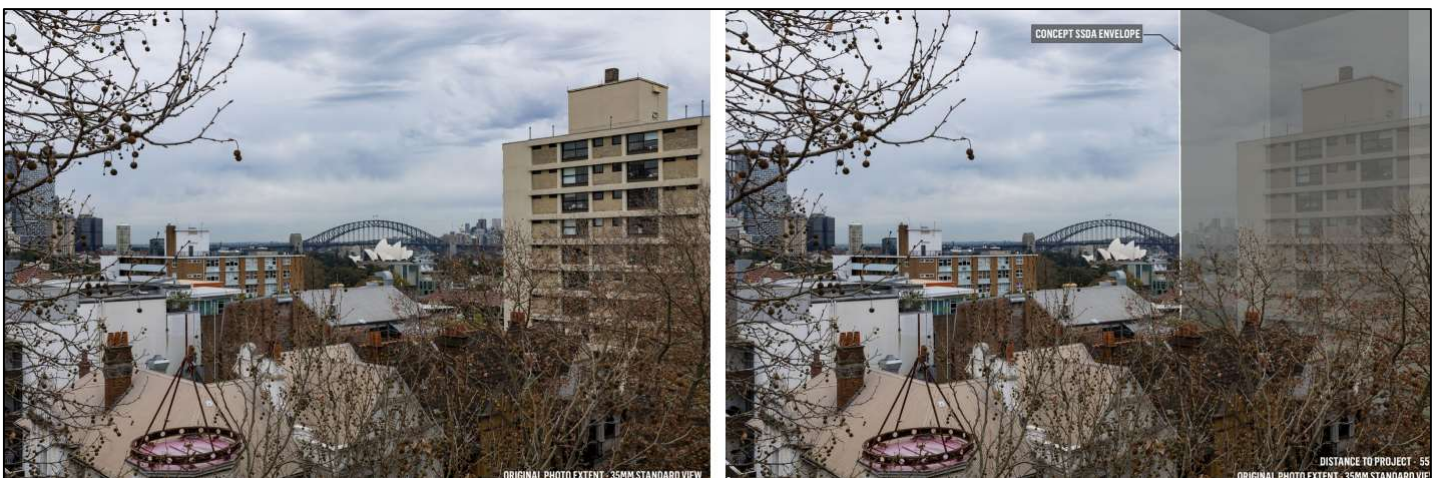


Figure 16 | Existing (left) and proposed (right) view from “Selsdon” from viewpoint 5 (Source: Applicant’s EIS)

The Department has reviewed the Applicant's View Sharing Report and supplementary information and generally accepts its findings regarding the extent of impacts from the most affected properties as shown in the above figures and summarised in **Table 8**.

The fourth step of the Tenacity principle is to assess the reasonableness of the proposal that is causing the impact.

The Applicant's View Sharing Report concludes that the view sharing outcome for neighbouring properties is reasonable as the extent of view loss ranges from minor to moderate and the proposal complies with all relevant development standards.

The Department has carefully considered the Applicant's View Sharing Report and the concerns raised in public submissions. On balance, the Department considers that view loss impacts to neighbouring properties are acceptable because:

- the proposal complies with the building height and FSR development standards under the Housing SEPP and consistent with the Housing SEPP objectives, which seeks to incentivise the delivery of affordable housing by allowing height and FSR bonuses in accessible locations
- the proposal is compatible with the desired future character of the locality and the planning controls for the site which envisage a taller and denser development than the immediately surrounding sites
- the minor to moderate view loss impacts to the most affected apartments are acceptable in the circumstances and most impacted apartments will maintain views of the Sydney CBD skyline and other iconic elements
- 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 Department concludes that any development consistent with the planning controls that apply to the site would interrupt existing views from neighbouring apartment buildings. The Department also notes that the bonus height and density permitted by the Housing SEPP would primarily impact sky views, and no immediate neighbouring residential developments rise to heights above the existing built form on the site or above the SLEP height limit that applies to the site.

Overall, the Department concludes that the interruption of views that are currently unimpeded by development, particularly in a high-density urban environment, is considered reasonable and the view loss impacts as a result of the proposal are acceptable.

Impacts to views/outlook from other properties

Public submissions also raised concern about potential view loss impacts on the four to six storey residential flat buildings at 10C Challis Avenue and 12–16 Challis Avenue, located to the south of the site, and the three-storey terrace at 9 McDonald Street to the east of the site (**Figure 12**).

In response the Applicant notes that:

- views/outlook from these properties are over an underdeveloped portion of the land and would result from a compliant built form already anticipated by the controls.
- north-westerly views towards the Sydney CBD from upper-level apartments of 10C and 12-16 Challis Avenue would not be affected.
- the primary living areas and balconies of the terrace at 9 McDonald Street are oriented towards the north and the partial and oblique water views towards Elizabeth Bay from bedroom windows on the eastern elevation of the terrace are available over an underdeveloped part of the site.

The Department has considered the concerns raised by residents about view loss from other neighbouring properties including 10C and 12-16 Challis Avenue and 9 McDonald Street, however on balance considers that the proposal would not cause unreasonable impacts for the following reasons:

- the outlook from primary living areas and balconies of 9 McDonald Street and the north-west outlook from 10C and 12-16 Challis Avenue would be unimpacted by the proposal
- the reduction of views and outlook from low to mid-rise development is considered reasonable in the context of the planning controls which envisage a taller and denser development than the existing building on the site.

5.4.3 Overshadowing and solar access

The ADG recommends that overshadowing of neighbouring properties is minimised during mid-winter. It recommends that living areas and private open space (POS) of neighbouring properties should receive two hours of solar access between 9am and 3pm mid-winter.

Public submissions and Council raised concern regarding overshadowing impacts to neighbouring properties and the public domain, including impacts to the existing street trees along Macleay Street. Council also notes that the Housing SEPP building height and density bonuses, and the reduced building separation, exacerbates overshadowing impacts to neighbouring dwellings.

The Applicant provided shadow diagrams and a detailed solar access analysis which demonstrates the overshadowing impacts onto surrounding properties (**Figure 17**). The Department has reviewed the Applicant's shadow diagrams and analysis and has found that the proposal would result in the following impacts in mid-winter:

- one apartment within 12–16 Challis Avenue would no longer receive two hours of sunlight to both its POS and living areas. Another apartment, which already receives less than two hours of solar access to its POS and living areas, would also experience a further reduction
- overshadowing impacts on 17 west-facing apartments within the “Pomeroy”. One apartment would no longer receive two hours of solar access to both its POS and living areas. Of the remaining 16 apartments, 14 would no longer receive two hours of solar access to their POS, while the other two already receive less than two hours of solar access to their POS and would experience a further reduction. In relation to living areas, none of the 16 apartments currently achieve two hours of solar access, but their solar access would be further reduced
- overshadowing impacts resulting in four apartments within the “Macleay Regis” no longer receiving two hours of solar access to their living areas
- overshadowing impacts to approximately six west-facing apartments within the “Selsdon”, with three apartments no longer receiving two hours of solar access to their living areas.

The Applicant's analysis demonstrates that the proposal would not adversely impact apartments in 10C Challis Avenue and the “Yellow House” which would maintain at least 2 hours of sunlight in mid-winter.

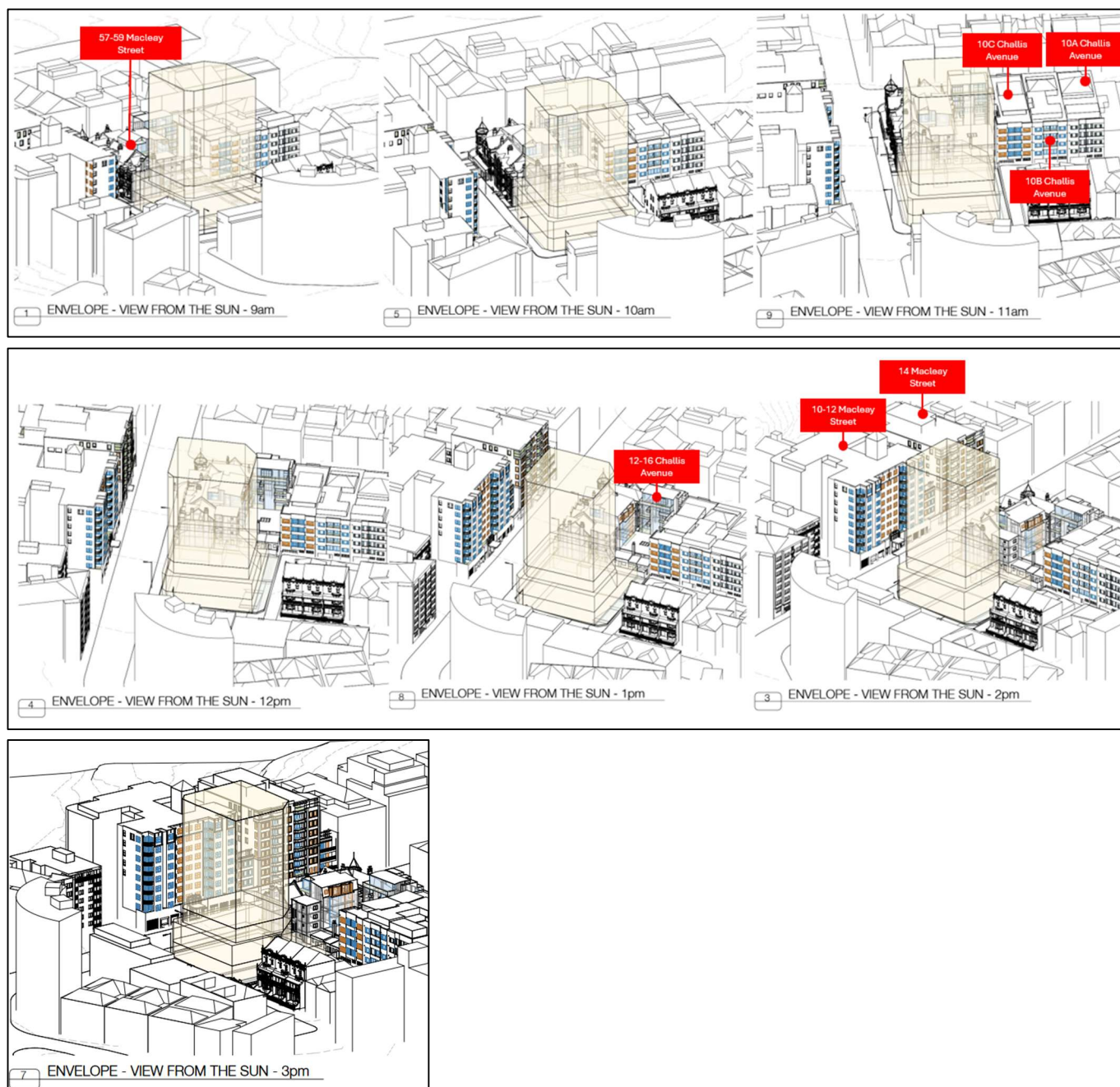


Figure 17 | Eye of the sun diagrams (Source: Applicant's EIS)

The Department has carefully considered the overshadowing impacts and concern raised by Council and in public submissions. The Department considers the overshadowing impacts acceptable as:

- the proposal fully complies with the building height and FSR development standards under the Housing SEPP, and the overshadowing impacts are consistent with the built form contemplated by the development standards applying to the site
- 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
- 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 overshadowing impacts.

On balance, the Department concludes that the overshadowing impacts are reasonable and unavoidable in the context of the site’s high-density location, and the planning controls which envisage a dense high-rise residential development on this site.

5.5 Other issues

The Department’s consideration of other issues is summarised in **Table 9** below.

Table 9 | Assessment of other issues

Issue	Recommended conditions
Traffic The proposal was accompanied by a Transport Impact Assessment (TIA) prepared in accordance with TfNSW’s Guide to Traffic Impact Assessment (GTIA) which concludes that the proposal will not have a significant impact on the surrounding road network as it is predicted to generate 10 vehicles per hour (VPH) during the morning peak, and 11 VPH during the afternoon peak. The TIA concludes that this would be in line or less than that generated by the existing building and would have a negligible impact on the surrounding road network. TfNSW and Council raised no issues with traffic impacts, however public submissions raised concerns regarding the proposed traffic impact of the development.	• No conditions required.

Issue	Recommended conditions
The Department has carefully considered the concerns raised in public submissions however is satisfied that the traffic generated by the proposal would be relatively minor and unlikely to result in adverse impacts. The Department also notes that the SEARs for the future detailed DA require a TIA to be submitted, to enable traffic impacts to be assessed in more detail, based on the final dwelling and car parking numbers.	
Parking The proposal seeks concept approval for a three-level basement to accommodate car parking spaces and loading requirements for the future development. The Department notes that the application does not seek approval for the number or configuration of parking spaces, however, has indicatively shown how parking could be provided in line with the Housing SEPP rates. The final provision and layout of car parking, bicycle spaces, service vehicle areas and loading zones would be subject to further detailed assessment as part of the future detailed design DA. Accordingly, the Department recommends a limit on any consent that no approval is granted for the design or number of car parking spaces.	• No approval granted for the design and number of car parking spaces. • Conditions recommending: ○ loading dock management ○ swept path and vertical clearance assessments ○ details of bicycle parking and end-of-trip facilities ○ compliance with the relevant Australian Standards ○ demonstration of suitable access for waste management vehicles.
Stormwater and flooding A Stormwater Management Plan and Concept Drainage Plans have been prepared, which demonstrate in concept that stormwater impacts can be appropriately managed. Stormwater impacts will be further considered as part of any future detailed design DA. A Flood Impact and Risk Assessment (FIRA) has been prepared. The FIRA confirms that whilst the site is impacted by flooding in the 1% Annual Exceedance Probability and Probable Maximum Flood events, most of the proposed development lies outside the extents of flooding. The proposal was referred to DCCEEW CPHR who raised no concerns regarding flooding, subject to conditions.	• Submission of an integrated water management plan with the future detailed design DA.

Issue	Recommended conditions
The SEARs for the future DA require further assessment of flooding, and a FIRA to be submitted with the future DA.	
Wind impacts Public submissions and Council raised concerns about potential wind impacts. In response, the Applicant commissioned a Wind Impact Assessment. The assessment found that, while the proposed development 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 Department recommends imposing conditions requiring a further Wind Impact Assessment to accompany the detailed design application.	• Submission of a Wind Impact Assessment with the future detailed design DA.
Natural ventilation Public submissions raised concern about the proposal obstructing natural ventilation into their properties. The Department is satisfied that the proposal would not obstruct openings from any neighbouring properties from attaining natural ventilation.	• No conditions required.
Noise and vibration impacts Public submissions raised concerns about potential noise and vibration impacts during demolition, construction, and operation. <u>Demolition noise</u> The Interim Construction Noise Guidelines (ICNG) recommends limits to construction noise impacts in NSW. It sets noise management levels (NML), standard construction hours (7am to 6pm Monday to Friday and 8am to 1pm on Saturdays) and notes that noise impacts above 75dB represent a point where sensitive receivers may be ‘highly noise affected’ and additional mitigation is warranted. The Applicant has submitted a Noise and Vibration Management Plan (NVMP) report for the demolition works. The Applicant has requested construction hours as follows: • Monday to Friday – 7:30am to 5:30pm • Saturday – 7:30am to 3:30pm	• Preparation of a site-specific demolition NVIA, including the NVIA mitigation measures, before demolition works commence • Submission of a Noise and Vibration Impact Assessment with the future detailed design DA • Demolition hours of work • Compliance with the recommendations of the NVMP.

Issue

Recommended conditions

- Sundays and public holidays – no works.

The NVMP confirms that predicted noise levels, associated with the use of demolition tools and machinery (in particular, excavator mounted hampering and jackhammering equipment) would exceed the highly noise-affected management levels (HNML) threshold of 75 db(A) for residents to the south of the site. To mitigate demolition noise impacts, the NVIA recommends the following project-specific mitigation measures:

- external walls of each floor shall be retained until the last stage of demolition to minimise noise emissions
- construction equipment/machinery shall be selected to minimise noise emissions
- the use of standard A-class/B-Class hoarding to mitigate the impact of the highest predicted noise levels
- material drop zones shall be located to maximise distance to noise sensitive receivers
- truck operators follow measures to minimise road traffic noise
- frequent and proactive communication with neighbours.

The Department acknowledges that the site is located in a dense urban environment and that some temporary impacts during demolition is inevitable. However, the Department considers that impacts can be managed and mitigated within acceptable limits subject to conditions including preparing of a Demolition NVMP, standard is satisfied that the proposed demolition will not result in adverse impacts on neighbours, subject to recommended conditions.

Demolition vibration

Council raised concerns that the proposal does not identify appropriate vibration criteria or management strategies for the neighbouring buildings.

Council recommended that the proposal adopt the most stringent 'Category 3' criteria under German Standard DIN 4150-3, given that the adjoining buildings to the south are heritage items. It also recommended that a site-specific Vibration Management Plan (VMP) be prepared before the commencement of works.

Issue	Recommended conditions
The Department agrees with Council's advice and has recommends that a VMP be required as a condition of consent. The Department considers that through implementation of the above recommendations, vibration impacts on nearby development can be suitably managed to prevent excessive impact. <u>Future detailed design DA - construction works and operation</u> The proposal does not seek consent for the detailed design, construction, fit-out or operation of the building or any of its residential/non-residential uses. The Department is satisfied that operational noise impacts can be assessed in detail with appropriate design, mitigation and management measures detailed in the future detailed design DA.	
Other demolition impacts The EIS was accompanied by: • a demolition work plan (DWP) • a demolition traffic management plan • a demolition waste management plan • an erosion and sediment control plan The Department reviewed the Applicant's reports and is satisfied that the building can be demolished without resulting in unreasonable amenity impacts. The Department recommends conditions to minimise and manage impacts to neighbouring residents, adjoining developments, and the public domain.	• Preparation of a Demolition Environmental Management Plan before the commencement of demolition works, including traffic and pedestrian, noise and vibration, air quality, waste, soil and water management. • Erosion and sediment control, stormwater measures and implementation of management plans
Construction, excavation and groundwater impacts Public submissions raised concern about the construction and excavation impacts of the proposal. Council raised concerns about the potential impact of the proposed basement on the zone of influence of the heritage properties to the south. DCCEEW Water noted that the proposed excavation would likely significantly intercept groundwater and recommended that further assessment be undertaken to confirm the estimated groundwater take. DCCEEW Water also noted that a Water Access Licence would be required if water take is greater than 3 ML per water per year.	• No approval granted for the depth, extent, layout and design of basement levels. • Submission of a Groundwater Assessment the future detailed design application.

Issue	Recommended conditions
Whilst excavation and construction works are not proposed as part of the concept DA, the Department considers 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. The Department recommends conditions accordingly.	
Public art Council raised concern that a preliminary public art plan was not provided. The Department has recommended a condition of consent requiring 1% of the construction budget to be allocated to the provision of public art and the submission of a public art plan with the detailed DA.	• Submission of a Public Art Plan with the future detailed design DA.
Landscaping and deep soil The ADG recommends that, for sites between 650 m² and 1,500 m² in area, deep soil zones are to be at least 7% of the site area and have minimum dimensions of 3 m. The reference design indicatively shows that approximately 10% of the site could be provided a deep soil zone which would meet the ADG recommendation. Public submissions and Council raised concerns regarding a lack of adequate landscaping and deep soil provided on site. Council recommended that 15% of the site area be provided as deep soil. The Department acknowledges Council's request however, as the site is located within a dense urban area, the provision of at least 7% of the site area as deep soil in line with the ADG would represent a good outcome. The Department also notes that the SEARs for the future detailed design DA include the requirement for a landscape plan, to enable the proposed landscaping to be assessed as part of the detailed design.	• Future detailed design DA to maximise deep soil by achieving or exceeding the ADG criteria
Impacts to street trees	• Detailed assessment of potential impacts to street

Issue	Recommended conditions
Public submissions and Council raised concerns regarding the proposal's impact on street trees adjoining the site along Macleay Street. In relation to demolition works, Council also provided comments that: • pruning of street trees must be limited to branch removal not exceeding 50 mm diameter and removal of no more than 5% live canopy • the building footings must not be removed, until a detailed root investigation is undertaken to determine the impact of potential impacts to the roots of existing trees • no trees, shrubs or soil in the public domain should be removed during demolitions works. The Applicant has provided an Arboricultural Impact Assessment identifying that the seven street trees directly adjoining the site will be retained, and that the basement is appropriately setback to ensure their retention. The Department considers that Councils recommendations regarding limitations on pruning of street trees, further root investigation and restricting impacts to trees, shrubs and soil in the public domain during demolition works are appropriate and has recommended these be imposed on any consent.	trees, including root investigation • Limits on pruning of street trees and no approval granted for removal of building footings or removal of any trees, shrubs or soil in the public domain as part of demolition works.
Inadequate infrastructure and lack of public benefits Public submissions raised concerns that the proposal could place additional strain on local infrastructure. The Department notes that 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. The Department is satisfied that these future monetary contributions from the Applicant will support the delivery of infrastructure and community facilities in the locality.	• No conditions recommended
Waste management Public submissions raised concerns about waste management and collection arrangements. The Application was accompanied by a Waste Management Plan (WMP) which details the anticipated waste	• Conditions recommending that adequate waste management facilities and waste storage areas are provided.

Issue	Recommended conditions
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management arrangements for the proposal. An updated Operational WMP will be submitted with the future detailed design DA.

6 Evaluation

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

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

- it would be unreasonable to expect the retention of the existing building which requires substantial upgrade to comply with NCC and amenity requirements and has no identified heritage significance
- it would support State government priorities to deliver well-located housing as it would provide 4,809.05 m² of residential floor space (approximately 1,900 m² more than the existing building), including 15% of the total gross floor area of the proposal as affordable housing, offering housing choice in a highly accessible location
- it is permissible with consent and provides non-residential land uses on the ground floor consistent with the objectives of the Sydney Local Environmental Plan 2012 MU1 Mixed-Use zoning
- the proposed building envelope is consistent with the envisaged character of Potts Point and statutory instruments which permit and incentivise increased height and density where affordable housing is provided in accessible locations
- it would not result in unreasonable traffic, overshadowing, visual impacts, privacy impacts and view loss impacts on adjoining developments, the Potts Point HCA or the public domain
- it would provide for 160 construction jobs and 13 operational jobs.

The Department has recommended conditions at **Appendix D** to manage any residual environmental impacts.

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

7 Recommendation

It is recommended that the Deputy Secretary, Development Assessment and Sustainability as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to grant/refuse consent/approval to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of the concept proposal for a mixed-use shop top housing development with affordable housing at 45-53 Macleay Street, Potts Point (SSD-79316759) as amended, subject to the conditions in the attached development consent
- **signs** the attached development consent (**Appendix A**).

Recommended by:



Amy Watson

Director

Affordable Housing Assessments

Recommended by:



Ben Lusher

Executive Director

Housing and Key Sites Assessments

8 Determination

The recommendation is **adopted** by:



18/12/2025

David Gainsford

Deputy Secretary

Development Assessment and Sustainability

Appendices

Appendix A – List of referenced documents

Documents and supporting information can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/concept-proposal-mixed-use-affordable-housing-45-53-macleay-street-potts-point>

Appendix B – Department’s consideration of submissions

Table 10 | Department’s consideration of submissions

Issue	Consideration
Inadequate housing provision - 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.

Issue	Consideration
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

Issue	Consideration
	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 development application(s) 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.

Issue	Consideration
	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 process. <i>Recommended conditions:</i>

Issue	Consideration
oversupply of restaurants and cafes and lack of demand for retail/commercial uses	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.

Issue	Consideration
	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

Issue	Consideration
	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.

Recommended conditions:

- submission of a CPTED Report and Wind Tunnel Assessment with the future detailed design DA.

Issue	Consideration
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>

Issue	Consideration
	• 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 • creation of greenhouse gas emissions and landfill from demolition of the building	The Applicant has committed to a range of ecologically sustainable development (ESD) initiatives for the development in the ESD Report and 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	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

Issue	Consideration
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	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.

Appendix C – Statutory considerations

Matters of consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is shown in **Table 11** below.

Table 11 | Matters for consideration

Matter for consideration	Department's assessment
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Appendix C
EP&A Regulation	Appendix C
Likely impacts	Section 5 – Assessment
Suitability of the site	Section 1.2 – Proposal location , Section 3 – Policy and statutory context and Section 5 – Assessment
Public submissions	Section 4 – Engagement and Section 5 – Assessment
Public interest	Section 4 – Engagement , Section 5 – Assessment and Section 6 – Evaluation

Objects of the EP&A Act

In determining the application, the consent authority should consider whether the proposal is consistent with the relevant objects of the EP&A Act (section 1.3) including the principles of ESD. Consideration of these factors is described in **Table 12** below.

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

Table 12 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the	The proposal will benefit the social and economic welfare of the community by providing high-

Object	Consideration
proper management, development and conservation of the State's natural and other resources,	quality affordable and market housing, and jobs, at an accessible site, contributing to the achievement of State, regional and local planning objectives. The Concept proposal will provide a framework to improve the natural and built environmental outlook of the site in the future detailed application. The proposal does not have any impact on the State's natural or other resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The principles of ESD are considered below.
(c) to promote the orderly and economic use and development of land,	The proposal will result in an orderly and economic use of the site. The proposed land uses are permitted with consent in the MU1 Mixed Use zone and consistent with the zone objectives.
(d) to promote the delivery and maintenance of affordable housing,	The proposal designates 15% of the total GFA for affordable housing for at least 15 years and managed by a registered CHP. Additionally, it ensures these units are strategically located near public transport, key social infrastructure, public open spaces, and within proximity to Sydney's CBD.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposal will not have any adverse impact on threatened species, native flora and fauna, or ecological habitats. The proposal occupies a previously developed area, minimising the potential for any negative effects on the local ecosystem.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	As outlined in Section 5.3 and Section 5.5, the proposal will not have an adverse impact on nearby heritage items, conservation areas, or Aboriginal cultural heritage.

Object	Consideration
(g) to promote good design and amenity of the built environment,	As outlined in Section 5.2.2, the Concept proposal includes a design excellence strategy which outlines the framework for the future detailed design of the development to achieve design excellence and deliver the highest standard of architectural, urban, and landscape design.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	Demolition works are proposed and will be appropriately managed by conditions of consent. No other construction works are proposed. These matters will be addressed in future detailed design DA.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the EIS and Amendment Report as outlined in Section 4. This included consultation with Council and other government agencies, and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the EIS and Amendment Report as outlined in Section 4. This included notifying adjoining landowners and displaying the application on the Department's website. The Department also received feedback from the community outside of the EIS and Amendment Report exhibition periods. The Department considered the key issues raised in submissions and feedback in Appendix B.

Ecologically sustainable development

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

- the precautionary principle
- inter-generational equity

- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

Council and public submissions recommended that the existing building be retained and reused.

The Department is satisfied in the circumstances that adaptive re-use of the existing building is not feasible or appropriate, and that demolition of the existing building is acceptable in this circumstance.

The Department also notes that the proposal will provide opportunities for high levels of sustainability and environmental performance as identified in the ESD Report which may not be achieved if the existing building is retained, 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.

The Department has assessed the proposal against ESD principles. The precautionary and inter-generational equity principles have been considered through a thorough evaluation of potential environmental impacts. The conservation principle has been addressed through the provision of new landscaping with the detailed design DA, and the valuation principle through efficient site use, incorporation of sustainability measures, and creation of new employment opportunities.

The Department has recommended conditions requiring the implementation of ESD measures and minimum sustainability targets. Subject to these conditions, the proposal aligns with ESD principles and is considered capable of achieving sustainable outcomes in accordance with the objectives of the EP&A Act.

Biodiversity development assessment report (BDAR)

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

The Environment Agency Head of DCCEE and the Team Leader, Affordable Housing Assessments, as delegate of the Planning Secretary, determined that the development is not likely to have any significant impact on biodiversity values. A BDAR waiver was granted on 28 February 2025.

EP&A Regulation

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

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

The Department is satisfied the Applicant has demonstrated that the application has been prepared having regard to the relevant guidelines.

A Design Verification Statement was provided as required by Section 29 of the EP&A Regulation.

Environmental Planning Instruments (EPIs)

EPIs considered in the assessment of the proposal include:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Sydney Local Environmental Plan 2021 (SLEP)

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

The proposal is SSD under section 2.6(1) and section 26A of Schedule 1 of the Planning Systems SEPP, being an in-fill affordable housing development pursuant to Chapter 2, Part 2, Division 1 of the Housing SEPP as it is located on land within the Eastern Harbour City in the Six Cities Region with a residential EDC of more than \$75 million. Refer to **Section 3.2** for further consideration.

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

Chapter 2, Part 3 of the Housing SEPP deals with the retention of existing affordable rental housing. Section 46(2) specifies circumstances where these provisions do not apply, including where a building is approved for subdivision under the Strata Schemes Development Act 2015. As the existing building has been strata subdivided, Clause 46(2)(a) applies, and the provisions of Chapter 2, Part 3 of the Housing SEPP do not apply to this proposal.

A summary of the Department's consideration of the relevant development standards contained in the Housing SEPP are provided in **Table 13** and **Table 14**.

Table 13 | Consideration of Chapter 2, Division 1 of the Housing SEPP

Section	Consideration
15C Development to which division applies (1) This division applies to development that includes residential development if — (a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and (b) the affordable housing component is at least 10%, and (c) all or part of the development is carried out — (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area — in an accessible area	(a) The proposal is permitted with consent under the MU1 Mixed Use zone of the SLEP. (b) The affordable housing component exceeds 10%, being 15% of total GFA proposed. (c) The site is in the Six Cities Region and in an accessible area, being approximately 200 m walking distance from bus stops which are serviced by buses at the required frequency.
16 Floor space ratio (1) The maximum floor space ratio (FSR) for development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2). (2) The minimum affordable housing component, which must be at least 10%, is calculated as follows- Affordable housing component = additional floor space (as a percentage) divided by 2 (3) If the development includes residential flat buildings or shop top housing, the maximum building height used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional	(1) The proposal complies with the maximum permitted FSR under clause 16(1) of the Housing SEPP as discussed in Section 5.2.1. (2) The proposal will 15% of the total GFA as affordable housing, noting that the actual quantum of affordable housing GFA will be confirmed as part of the future detailed design DA. (3) The proposal complies with the maximum permitted building height under clause 16(3) of the Housing SEPP as discussed in Section 5.2.1.

Section	Consideration
building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	
19 Non-discretionary development standards	(a) Complies – the site has a total area of 1,289.5 m ²
(2) The following are non-discretionary development standards in relation to the residential development to which this division applies-	(b) Considered acceptable – a minimum landscaped area of 30% of the site (386.85 m ²) is required. The reference design proposes approximately 50% (649.2m ²) of the total site area as landscaped area at the ground, podium and rooftop levels and through the provision of planter boxes adjacent to balconies. The proportion of landscaped area will be confirmed at the detailed design stage.
(a) a minimum site area of 450 m ²	
(b) a minimum landscaped area that is the lesser of-	
(i) 35 m ² per dwelling, or	
(ii) 30% of the site area	
(c) a deep soil zone of at least 15% of the site area	(c) N/A per section 19(3). (d) N/A per section 19(3).
(d) living rooms and private open spaces (POS) in at least 70% of dwellings receive at least 3 hours of direct solar access between 9am and 3pm at midwinter	(e) Considered acceptable – refer to Section 5.5 for discussion regarding the proposed parking provision.
(e) the following number of parking spaces for dwellings used for affordable housing-	(f) Considered acceptable – refer to Section 5.5 for discussion regarding the proposed parking provision.
(i) for each dwelling containing 1 bedroom – at least 0.4 parking spaces	
(ii) for each dwelling containing 2 bedrooms – at least 0.5 parking spaces	
(iii) for each dwelling containing at least 3 bedrooms – at least 1 parking space	
(f) the following number of parking spaces for dwellings not used for affordable housing-	(g) Considered acceptable – refer to Table 16 .
(i) for each dwelling containing 1 bedroom – at least 0.5 parking spaces	
(ii) for each dwelling containing 2 bedrooms – at least 1 parking space	

Section	Consideration
(ii) for each dwelling containing at least 3 bedrooms – at least 1.5 parking spaces (g) the minimum internal area, if any, specified by the ADG for the type of residential development.	
20 Design requirements (3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with- (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition – the desired future character of the precinct.	As outlined in Section 1.2, the site is within the Potts Point Heritage Conservation Area, and within the vicinity of several local heritage items listed in the SLEP. The locality also features a range of building typologies including shop-top housing developments, residential flat buildings, hotels and terrace housing. The desired future character of the area, as outlined in the SLEP, envisages high density mixed-use developments that provide active street frontages. The Department is satisfied that the proposal would be compatible with the desired future character of the area because: • the development standards under the SLEP and the Housing SEPP anticipate a development of greater height and FSR than surrounding buildings • the redevelopment presents an opportunity to improve the site’s built form, creating a stronger relationship between any future development and the area’s heritage context and architectural character • the proposed concept envelope has been carefully designed to balance key planning considerations, including the design excellence and affordable housing uplift provision, while also managing potential impacts on view sharing, overshadowing, and heritage significance • the envelope provides for appropriate setbacks that respond sensitively to the site’s context and surrounding built form

Section	Consideration
	the proposed building envelope would facilitate a building that would not adversely impact local amenity including overshadowing, visual privacy and view loss. The Department considers that the Concept Proposal would be compatible with the current and desired future character of the area, and notes that the detailed design of the proposal will be considered in the future detailed design DA.
21 Must be used for affordable housing for at least 15 years (1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development- (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	The affordable housing component will be managed by Bridge Housing, a registered community housing provider (CHP). The EIS indicates that 15% of the total GFA will be provided as affordable housing in accordance with the Housing SEPP, and the Department has recommended a condition to secure this outcome.

Table 14 | Consideration of Chapter 4 of the Housing SEPP

Chapter 4 Design of residential apartment development	
147 Determination of development applications and modification applications for residential apartment development (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following –	- The design quality of the development is considered against the design principles for residential apartment development in Table 15. - The ADG is considered in Table 16.

Chapter 4 Design of residential apartment development

- (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,
- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

148 Non-discretionary development standards for residential apartment development – the Act, s4.15

(2) The following are non-discretionary development standards –

- (i) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (ii) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
- (iii) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

- Car parking is considered in **Section 5.5**.
- Apartment sizes and ceiling heights are considered in **Table 16**.
- The proposal generally satisfies these non-discretionary development standards, and the variations have been assessed as satisfactory in **Section 5.5** and **Table 16**.

The ADG is closely linked to the Schedule 9 design principles and sets out best practice design principles for residential developments. The Department is satisfied that the proposal is consistent with the design principles as outlined in **Table 15**.

Table 15 | Consideration of the Housing SEPP Design Principles

Principle	Consideration
Context and neighbourhood character	As discussed in Table 13, the Department has considered the height and scale of the concept building envelope and concludes the proposal is compatible with the existing and future context of the site and surrounding area. The architectural design and appearance of the building will be considered in the future detailed design DA.
Built form and scale	The proposal is compatible with the desired future character of the precinct, and the building envelope provides for an appropriate built form relationship with adjoining properties and the surrounding area. The architectural design and appearance of the building will be considered in the future detailed design DA.
Density	The proposed density is consistent with the provisions of the Housing SEPP, and the concept proposal has demonstrated that will not have unacceptable built form, traffic or amenity impacts.
Sustainability	The reference design demonstrates that the proposal can achieve good sustainable design, including the use of natural cross ventilation and sunlight. The Applicant is also committed to meeting BASIX water, thermal performance and energy targets under the detailed design DA. The reference design also incorporates good sustainable design measures, including deep soil zones for stormwater discharge and vegetation.
Landscape	The reference design includes landscaping at ground level and on the building. The landscaping outcome will be confirmed as part of the future detailed design DA.
Amenity	- The overall amenity of the proposal will be confirmed during the assessment of the future detailed design DA. - As discussed in Table 16, the reference scheme generally demonstrates internal and external amenity for residents and neighbours and is generally consistent with the objectives of the ADG.

Principle	Consideration
Safety	The Department is satisfied that building envelope and land uses would not cause any safety issues. The specific safety and security details will be confirmed during the assessment of the future detailed design DA.
Housing diversity and social interaction	- As identified in Table 2, the concept design proposes a variety of 1, 2 and 3 bedroom apartments. The concept proposal achieves a mix of apartment types and sizes, providing housing choice for different demographics, living needs and household budgets. - The proposal responds to the social context by providing market and affordable housing to suit the existing and future social mix. - The reference design includes ground floor and podium COS, enabling opportunities for social interaction among residents.
Aesthetics	The proposal is accompanied by a Design Excellence Strategy outlining the process for achieving design excellence in the future detailed design DA. The Department considers the proposal is capable of satisfying this principle.

Apartment Design Guide (ADG)

Section 147(1)(b) of the Housing SEPP requires the consent authority to consider the ADG. The ADG sets out best practice design principles for residential apartment developments. The application seeks approval for a concept building envelope. To support this, the Applicant has submitted a reference design with indicative floor plans demonstrating how a future building within the envelope could comply with the ADG guidelines. While detailed floor plans, layouts, and façade design will be assessed in the future detailed design DA, the Department is generally satisfied that the proposal is capable of delivering a high level of amenity consistent with the ADG as outlined in **Table 16**

Table 16 | Consideration of the ADG design criteria

Criteria	Consideration
3A Site Analysis	The reference design was accompanied by a site analysis that illustrates that design decisions have been based on opportunities and constraints of the site and the surrounding context. The Department has assessed the site

Criteria	Consideration
	analysis to be satisfactory, identifying the opportunities and constraints of the site.
3B Orientation	- The proposed building envelope is appropriately orientated having regard to the shape of the site. - The concept proposal responds to the streetscape and site and optimises solar access within the development. - As discussed in Section 5.4.3, overshadowing of neighbouring properties is minimised during mid-winter.
3C Public Domain Interface	- The transition between the private and public domain is achieved without comprising safety and security. - The amenity of the public domain is retained and enhanced. - Passive surveillance of the public domain will be achieved from residential balconies, terraces and windows.
3D Communal and public open space - Communal open space (COS) has a minimum area equal to 25% of the site area. - Developments achieve a minimum of 50% direct sunlight to the principal useable part of the COS for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).	- The reference design proposes approximately 52% (670 m²) of the total site area as COS, including COS at ground level totalling 270 m² and COS at level 3 (podium) of approximately 400 m². - The amenity and solar access to the COS will be considered as part of the future detailed design DA.
3E Deep soil zones For sites between 650 m² and 1,500 m² deep soil zones are to be at least 7% of the site area and have minimum dimensions of 3 m.	A minimum deep soil area of 7% (90.27 m²) is required, and deep soil zones totalling 10% (129 m²) are provided at ground level.
3F Visual privacy	Building separation is considered acceptable, subject to recommended conditions, as discussed in Section 5.4.1.

Criteria	Consideration
- Minimum building separation from buildings to side and rear boundaries: - Up to 12 m / 4 storeys – 6m - Up to 25 m / 5-8 storeys – 9m - Over 25 m / 9+ storeys – 12m	
3G Pedestrian access and entries	Building entries and pedestrian access are designed to connect with and address the public domain, with the reference design showing access points and entries from both Macleay Street and McDonald Street.
3H Vehicle access	Vehicle access is proposed via McDonald Street. The suitability of this access arrangement will be further considered as part of the future detailed design DA.
3J Bicycle and car parking	Bicycle and car parking is discussed in Section 5.5, Table 13 and Table 17.
4A Solar and daylight access - Living rooms and POS areas of at least 70% of apartments receive a minimum 2 hours sunlight between 9am and 3pm at mid-winter - Maximum 15% of apartments receive no direct sunlight between 9am and 3pm at mid-winter	- The reference scheme indicates that 88.3% of apartments (30 of 34) will achieve a minimum of 2 hours solar access on June 21. - No apartments will receive no direct sunlight on June 21.
4B Natural ventilation - Minimum 60% of apartments naturally cross ventilated at the first nine storeys. Apartments at 10 storeys or greater are deemed to be cross ventilated if enclosure of balconies allows adequate natural ventilation and cannot be fully enclosed - Maximum 18 m depth for a cross-over or cross-through apartment, measured glass line to glass line	The reference scheme indicates that 94.1% of apartments (32 of 34) are naturally cross ventilated.

Criteria	Consideration
4C Ceiling heights • Apartments to have the following minimum ceiling heights: ○ Habitable rooms – 2.7 m ○ Non-habitable room – 2.4 m ○ 2 storey apartments – 2.7 m for main living area floor, 2.4 m for second floor where area does not exceed 50% of total apartment area ○ Mixed-use areas – 3.3 m at ground and first floor	• Floor-to-floor heights vary between 3.2 m to 3.6 m for residential levels, and 4.5 m for the non-residential space at ground level. Ceiling heights of 2.7 m are capable of being provided to all habitable rooms.
4D Apartment size and layout • Apartments to have the following minimum internal areas: ○ 1 bedroom – 50 m² ○ 2 bedroom – 70 m² ○ 3 bedroom – 90 m² • Additional bathrooms increase the minimum internal area by 5 m² each, and additional bedrooms increase the minimum internal area by 12 m² each • Habitable rooms must have windows with a minimum glass area greater than 10% of the room floor area, and daylight and air may not be borrowed from other rooms • Maximum habitable room depth of 2.5 m x ceiling height • Maximum 8 m habitable room depth from a window for open plan layouts • Minimum area of 10 m² for master bedrooms and 9 m² for other bedrooms, and minimum dimension of 3 m (excluding wardrobes)	• The reference design demonstrates that apartments will meet or exceed the recommended apartment size guidance as follows: ○ 1 bedroom – 54-57 m² ○ 2 bedroom – 107-121 m² ○ 3+ bedroom – 126-260 m² • Consistency with design guidance relating to apartment layouts will be further considered as part of the future detailed design DA.

Criteria	Consideration
- Minimum living/dining room widths of 3.6 m for studios/1 bedroom and 4 m for 2/3 bedroom apartments - Minimum 4 m width of cross-over or cross-through apartments	
4E Private open space and balconies - Apartments to have the following minimum balcony areas and depths: 1 bedroom 8 m² x 2 m depth 2 bedroom 10 m² x 2 m depth 3+ bedroom 12 m² x 2.4 m depth - Apartments at ground level or on a podium shall have POS areas with a minimum area of 15 m² and depth of 3 m	All apartments meet the minimum balcony areas and depths.
4F Common circulation and spaces - Maximum 8 apartments off a circulation core on a single level - For buildings 10 storeys and over, maximum 40 apartments sharing a single lift	- The reference design does not propose more than eight apartments off a circulation core. - The reference design includes 34 apartments sharing two lifts.
4G Storage - Apartments to have the following storage (in addition to storage in kitchens, bathrooms and bedrooms): 1 bedroom 6 m³ 2 bedroom 8 m³ 3+ bedroom 10 m³ - At least 50% of the required storage is to be within the apartment	Storage areas are identified in the basement and within apartments.
4H Acoustic privacy	Noise impacts will be considered under the future detailed design DA, at which time

Criteria	Consideration
	appropriate mitigation measures can be identified and recommended.
4J Noise and pollution	Noise impacts will be considered under the future detailed design DA, at which time appropriate mitigation measures can be identified and recommended.
4K Apartment mix	The reference scheme proposes 1-, 2- and 3-bedroom apartments throughout the building. The apartment mix will be further refined in the future detailed design DA through recommended conditions.
4M Facades	The detailed design of the façade will be confirmed under the future detailed design DA.
4N Roof design	The roof design will be confirmed under the future detailed design DA.
4O Landscape design	The landscape design will be confirmed under the future detailed design DA.
4P Planting on structures	The landscape design will be confirmed under the future detailed design DA.
4Q Universal design	The future detailed design DA will be required to demonstrate that the required number of adaptable and Liveable dwellings are incorporated into the proposal.
4T Awnings and signage	While the reference scheme includes awnings along the Macleay Street frontage, Council has raised concerns that these may affect the street trees. Awning design will be further considered under the future detailed design DA. Recommended conditions will require the protection and retention of existing street trees.
4U Energy efficiency	The future detailed design DA will be required to meet BASIX requirements. A condition is recommended to confirm that the future detailed

Criteria	Consideration
	design DA must comply with the requirements of the Sustainable Buildings SEPP and be accompanied by a BASIX certificate.
4V Water management and conservation	The future detailed design DA will be required to meet BASIX requirements. A condition is recommended to confirm that the future detailed design DA must comply with the requirements of the Sustainable Buildings SEPP and be accompanied by a BASIX certificate.
4W Waste management	The EIS was accompanied by a Waste Management Plan demonstrating compliance with Council requirements and confirming sufficient space for both residential and retail waste. The reference scheme also provides waste storage facilities at ground level. Final waste management arrangements will be resolved at the detailed design stage.
4X Building maintenance	The building's design and material selection will be confirmed during the detailed design stage.

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

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

The site is located within a built-up urban area and is not likely to have any significant impacts on local biodiversity. A BDAR waiver was granted for the application.

The Department notes that tree removal and stormwater works are not proposed under this concept application and will be addressed under the future detailed design DA.

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

The Hazards SEPP aims to ensure potential contamination issues are considered in the determination of a development application, requiring the consent authority to assess whether the land is contaminated and, if so, whether it is suitable for the proposed development.

The EIS was accompanied by a Preliminary Site Investigation, Detailed Site Investigation (DSI) which assessed potential site contamination and identified possible health and ecological risks in soil. The reports conclude that the site can be made suitable for the proposal subject to the preparation and

implementation of a Remedial Action Plan (RAP). The DSI also notes that further investigation should be undertaken following demolition of the existing building. Additionally, a Hazardous Materials Building Assessment is recommended before demolition works commence.

The Applicant provided a RAP, consistent with the recommendations of the DSI. The RAP identifies that site remediation will be carried out through an 'excavation and off-site disposal' strategy. Remediation works will occur concurrently with construction, as shoring for the proposed basement and site boundaries will be required to facilitate the excavation and removal of contaminated fill.

Following demolition, a Data Gap Investigation (DGI) will also be undertaken to further characterise the fill throughout the site that was unable to be accessed due to access limitations. The RAP also acknowledges that it may not be feasible to remove all fill from the eastern and western setback areas. If the DGI confirms the presence of contaminated fill in these areas that cannot be practicably excavated, the RAP outlines a 'cap and contain' strategy to manage contamination. This would also require the preparation and implementation of a long-term Environmental Management Plan for the site. A site audit statement would be prepared by the site auditor on completion of the remediation and validation works.

The Department notes that the current application seeks approval for a concept proposal and Stage 1 demolition works only. However, the Department is satisfied that the site can be made suitable for the proposed residential and commercial/retail land uses. Contamination and remediation matters will be further considered as part of the future detailed design DA and conditions imposed on any future consent.

The Department recommends a condition for a Hazardous Materials Survey prior to the commencement of any demolition works to identify any potentially hazardous materials and management measures to prevent impacts.

State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP)

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

The proposal was accompanied by an ESD Report which proposes strategies to assist the development to achieve high levels of sustainability and environmental performances, including:

- meeting the minimum legislated BASIX benchmarks of 60% for energy and 40% for water
- delivering a high level of thermal performance, demonstrated through a 7-star average and 6-star minimum NatHERS rating across the development
- incorporating sustainability initiatives spanning energy efficiency, water efficient, indoor environment quality, waste management and comfort.

The future detailed design DA will be required to meet BASIX requirements. A condition is recommended to confirm that the future detailed design DA must comply with the requirements of the Sustainable Buildings SEPP and be accompanied by a BASIX certificate. The Department considers that the development will be consistent with the Sustainable Buildings SEPP.

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

The Transport and Infrastructure SEPP aims to facilitate the efficient delivery of infrastructure across the State by improving regulatory certainty, identifying key considerations for development near certain types of infrastructure, and providing for consultation with relevant public authorities during the assessment process.

Section 2.48 of the Transport and Infrastructure SEPP requires the consent authority to notify the relevant utility providers about the proposal. The Department consulted with Ausgrid who provided comments.

Section 2.122 and Schedule 3 of the T&I SEPP are not applicable as the proposal does not include a 200 or more parking spaces. Notwithstanding, the proposal was referred to Transport for NSW (TfNSW) who raised no concerns about the impacts on the classified road network.

Sydney Local Environmental Plan 2012 (SLEP)

A summary of the Department's consideration of the relevant development standards contained in the SLEP are provided in **Table 17** below.

Table 17 | Department's consideration of the SLEP

Clause	Consideration
1.8A Savings provisions relating to development applications	- On 30 May 2025, Clause 7.36 was introduced to the SLEP (Amendment No 109), which requires that the redevelopment of a residential flat building or mixed-use development must not result in the loss of more than one dwelling or more than 15% of the total dwellings, whichever is greater. - As per Clause 1.8A(9)(a) as the concept proposal was lodged before 30 May 2025, Clause 7.36 does not apply.
2.3 Zone objectives and land use table	The site is zoned MU1 Mixed Use. The proposal is permissible with consent, and is consistent with the zone objectives as it:

Clause	Consideration
	- includes business/retail uses at ground floor that generate employment opportunities - provides an active street frontage along Macleay Street - integrates business/retail and residential land uses in an accessible location to maximise public transport patronage and encourage walking and cycling.
2.7 Demolition requires development consent	Consent is sought for Stage 1 demolition works as identified in Section 2.1.
4.3 Height of buildings	The proposal complies with the maximum permitted building height under clause 16 of the Housing SEPP as discussed in Section 5.2.1.
4.4 Floor space ratio	The proposal complies with the maximum permitted FSR under clause 16 of the Housing SEPP as discussed in Section 5.2.1.
5.10 Heritage conservation	- The site is within the Potts Point Heritage Conservation Area (HCA) but is not identified as a heritage item. Additionally, the building is identified as a 'detracting' item within the HCA. - The Applicant provided a Heritage Impact Statement (HIS) assessing the impact of the proposal on the locality and nearby heritage items. - The Department is satisfied the proposal would not adversely impact on the significance of the HCA or surrounding heritage items as outlined in detail in Section 5.3. - An Aboriginal Cultural Heritage Assessment Report (ACHAR) was undertaken for the site. The ACHA concludes that the site has low Aboriginal cultural heritage significance, with nil to very low archaeological potential. It notes there is no evidence of a specific Aboriginal cultural

Clause	Consideration
	association with the area, and that the site has undergone a high level of ground disturbance, which is likely to have diminished any remaining social or cultural values. The proposal was referred to Heritage NSW, which raised no concerns regarding the findings of the ACHA, subject to recommended conditions relating to the protection of Aboriginal Heritage, including keeping RAPs informed about the SSD.

5.21 Flood Planning

(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development —

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters —

- The Applicant provided a Flood Impact and Risk Assessment (FIRA) in support of the proposal, which recommends flood planning levels (FPLs) for the development. Based on the details provided in the FIRA, the Department is satisfied that the proposal:
 - (a) is compatible with the flood function and behaviour on the land and would not impact surrounding buildings. Additionally, all areas of the building would comply with the flood planning level (FPL) requirements. Conditions are recommended to ensure that the future detailed design DA complies with the FPLs as specified in the FIRA
 - (b) will not adversely affect flood behaviour that results in detrimental increases in the potential flood affectation of other development or properties, as the only aspect of the proposal that may influence flood behaviour around the building are changes to the footpath, kerb and gutter. Conditions are recommended to incorporate appropriate tie-in works to the existing footpath across the front of the adjoining footpath to mitigate this risk
 - (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for

Clause	Consideration
(a) the impact of the development on projected changes to flood behaviour as a result of climate change, (b) the intended design and scale of buildings resulting from the development, (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.	the surrounding area in the event of a flood, as the proposal is in a low flood risk area at the top of the catchment, with low flood hazard in adjacent roads (d) incorporates appropriate measures to manage risk to life in the event of a flood, as the proposal incorporates appropriate FPLs and does not increase the likelihood of flooding on other developments. Any additional necessary measures to manage risk to life in the event of a flood can be addressed as part of the future detailed design DA (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.

The Department has also considered:

- (a) the proposal's impact on projected flood behaviour under climate change, noting that the FIRA compared peak flood depths and levels with and without climate change and found only a negligible increase in the 1% AEP flood levels
- (b) the intended design and scale of buildings resulting from the development, which will not cause a significant change in existing flood patterns
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, as the proposal incorporates appropriate FPLs and does not increase the likelihood of flooding on other developments
- (d) the potential need to modify, relocate, or remove buildings if the surrounding area

Clause	Consideration
	were impacted by flooding or coastal erosion. However, as the proposal is not located within a high-risk flood area, such measures are unnecessary.
6.21C and C.21D Design Excellence	• The Applicant prepared a design excellence strategy, in consultation with the Government Architect NSW (GANSW), Council and the Department which provides for a competitive design process in accordance with the City of Sydney Competitive Design Policy and the GANSW Design Excellence Competition Guidelines. The DES outlines that design competition will be held consistent with Clause 6.21D of the SLEP. • The clause also allows an additional 10% increase to the building height, permitting an overall building height up 50.05 m, or an additional 10% increase to the FSR permitting an overall FSR up to 4.29:1 (5,529.8 m²), if the proposal is subject to a design competition and the consent authority is satisfied that the building demonstrates design excellence. These bonuses will not be awarded under this application and will be considered in the assessment of the future detailed design DA.
7.5 Car Parking – residential flat buildings, dual occupancies and multi dwelling housing	• The site is identified as Category B under the Land Use and Transport Integration Map in the SLEP, which permits a maximum of 39.11 car spaces; the reference scheme proposes 58 spaces, exceeding this limit. Notwithstanding, the proposal is consistent with the non-discretionary parking rates in the Housing SEPP. The final car parking numbers and allocation will be assessed as part of the future detailed application.

Clause	Consideration
7.7 Car Parking – retail premises	- The site is on land in Category F per the Public Transport Accessibility Level Map, which permits a maximum parking rate of 1 space per 50 m² of GFA. The reference design indicates that 220 m² of commercial/retail GFA will be provided, and a maximum of 4.4 parking spaces are permitted. The reference design includes 4 parking spaces for the retail component of the development. - Car parking numbers and allocation will be assessed as part of the future detailed application.
7.13 Contribution for purpose of affordable housing	The proposal does not involve the construction of a building and therefore this provision does not apply. Notwithstanding, the site is mapped as residual land and any future application may be subject to a local affordable housing contribution.
7.14 Acid sulfate soils The site is mapped as Class 5 land. Development consent is required for carrying out of works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum (AHD) and by which the water table is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land.	Whilst no excavation works are proposed under this application, the DSI identified that there would be low risk of disturbance of ASS and that an ASS Management Plan would not be required.
7.16 Airspace operations	The proposal will not penetrate the Obstacle Limitation Surface of the Sydney (Kingsford-Smith) Airport.
7.19 Demolition must not result in long term adverse visual impact	The concept proposal also seeks approval for Stage 1 demolition works. The concept application establishes a framework for the comprehensive redevelopment of the site. The Applicant has indicated that they are committed to delivering the proposal, demonstrated by:

Clause	Consideration
	- o securing SEARs for the future detailed design DA - o undertaking a competitive design process for future detailed design DA - o progressing a design integrity process to inform submission of the future detailed design DA. • The Department is satisfied that the land subject to demolition will be comprehensively redeveloped. The subject concept application provides the necessary statutory assurance that the site will be comprehensively redeveloped. • Conditions are recommended to mitigate adverse visual impacts that arise from demolition works.
7.20 Development requiring or authorising preparation of a DCP	• Under Section 4.23 of the EP&A Act, the requirement for the preparation of a development control plan (DCP) is satisfied by the making and approval of a concept proposal.
7.36 Dwelling retention	• As discussed earlier in this table, this clause does not apply to the proposal due to the savings provisions under clause 1.8A.

Table 18 | Department's consideration of Clause 6.21C(2) of the SLEP

Criteria	Consideration
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved	• The Department is satisfied that the future built form within the proposed building envelope will achieve a high standard of architectural design, materials and detailing subject to a competitive design process to inform the detailed design of the future built form.
(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain	• Whilst the form and external appearance of the development will be determined under the detailed design DA, the proposal will improve the

Criteria	Consideration
	quality and amenity of the public domain by activating the Macleay Street and McDonald Street frontages
(c) whether the proposed development detrimentally impacts on view corridors	As discussed in Section 5.4.2, the Department's assessment concludes the proposal will not result in unacceptable impacts on view corridors.
(d) how the proposed development addresses the following matters— (i) the suitability of the land for development, (ii) the existing and proposed uses and use mix, (iii) any heritage issues and streetscape constraints, (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers, existing or proposed, on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (v) the bulk, massing and modulation of buildings, (vi) street frontage heights, (vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, (viii) the achievement of the principles of ecologically sustainable development, (ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,	(i) The proposal is permissible and consistent with the objectives of the MU1 zone. The site is also suitable for the development subject to the implementation of the RAP. (ii) The proposed land uses, being residential and ground floor commercial/retail, are permissible land uses, compatible with the locality and would not have an unacceptable amenity impact on surrounding residents. (iii) the proposal is considered to have an acceptable impact on the Potts Point HCA as outlined in Section 5.3. The proposal would enhance the Macleay Street and McDonald Street streetscapes by providing active street frontages through the provision of ground floor retail/commercial uses. (iv) The location of the proposed tower will have an acceptable relationship with surrounding developments in respect to building separation, setbacks, amenity (Section 5.4) and urban form (Section 0) (v) The proposed density of the development is discussed in Section 5.2.1. The massing and modulation of the building will be further refined in the future detailed design DA. (vi) The concept envelope depicts a 3-storey podium with the upper tower having increased setbacks, which is generally considered compatible with the existing streetscape. The

Criteria	Consideration
(x) the impact on, and any proposed improvements to, the public domain, (xi) the impact on any special character area, (xii) achieving appropriate interfaces at ground level between the building and the public domain, (xiii) excellence and integration of landscape design.	street frontage heights will be further refined in the future detailed design DA. (vii) Environmental impacts including overshadowing and solar access, visual and acoustic privacy, noise and wind have been considered in Section 5.4 and 5.5 and will be further considered in the future detailed design DA. The detailed design will also achieve sustainable design by complying with BASIX requirements and consider any reflectivity issues that may arise with the proposal. (viii) Recommended conditions require the implementation of ESD measures and minimum sustainability targets. (ix) Pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network, will be considered in the future detailed design DA (x) The impact on, and any proposed improvements to, the public domain will be considered in the future detailed design DA. The Department notes that the proposal will introduce active street frontages and retain existing street trees. (xi) Although not strictly applying to SSDAs, Council's DCP notes that this site is located within the Potts Point locality. The DCP notes that heritage buildings to the west of Macleay Street are to be maintained and respected, and new development is to protect and maintain the established landscape quality of streetscapes including significant planting along Macleay and Victoria Streets, median planting and small front gardens of several east-west running streets. The proposal is

Criteria	Consideration
	considered to have an acceptable impact on surrounding heritage items (Section 5.3) and existing street trees will be retained (xii) The proposal will result in an active street frontage and is considered an improvement to the existing interface between the current building and the public domain. The street interface will be further refined in the future detailed design DA. (xiii) The EIS was accompanied by a Landscape Report which demonstrates that a high-quality landscape outcome can be achieved within the proposal. The landscape outcome will be further refined in the future detailed design DA.

Appendix D – Recommended instrument of consent

The recommended instrument of consent can be found at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/concept-proposal-mixed-use-affordable-housing-45-53-macleay-street-potts-point>