

Department of Planning, Housing and Infrastructure

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Transport Oriented Development (TOD) 20-22 Atchison Street, St Leonards

State Significant Development Assessment Report (SSD-87486461)

June 2026





Acknowledgement of Country

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

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Executive Summary

This report details the Department of Planning, Housing and Infrastructure's (the Department's) assessment of a State significant development (SSD) application for a shop top housing development at 20-22 Atchison Street, St Leonards in the North Sydney local government area (SSD-87486461).

The application was lodged by Setia Sydney Pty Ltd (the Applicant) and seeks consent for the construction of a 40-storey shop top housing development with a mix of commercial and residential uses including 181 residential apartments.

The project has an estimated development cost (EDC) of \$177,640,178 and is expected to generate approximately 145 construction jobs and 93 full-time equivalent operational jobs.

The project is SSD as the residential component of the development has an EDC over \$60 million and is located in an Accelerated Transport Oriented Development (TOD) Precinct as specified in Section 19 of Schedule 2 of State Environmental Planning Policy (Planning Systems) 2021.

The Department exhibited the SSD application on two occasions from:

- 2 December 2025 to 15 December 2025, and
- 14 May 2026 to 28 May 2026.

In response to the public exhibitions, the Department received a total of:

- 21 submissions from the public (16 objecting to the proposal, three providing comments, and two in support)
- a submission from North Sydney Council (Council) providing comments
- advice from seven Government agencies.

Key issues raised in the submissions and Government agencies advice related to the built form and design, view loss, overshadowing, traffic and car parking and residential amenity.

The Applicant provided separate submissions reports in March and June 2026 addressing the issues raised in the submissions and Government agency advice. Minor refinements were made to the proposal including improved street activation, provision of a public art zone and amendments to the balcony louvres.

The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the issues raised in the submissions, Government agency advice and the Applicant's response. The Department's assessment concludes that the proposal is acceptable as:

- it supports the NSW Government's priorities to deliver housing close to public transport, jobs and services
- the proposal largely complies with the primary built form controls applying to the site with only a minor FSR variation of less than 1% and full compliance with the maximum height control
- it is compatible with the existing and emerging high-density character in St Leonards and the broader Crows Nest Accelerated TOD precinct

- the built form exhibits an appropriate bulk and scale that will deliver a high level of residential amenity for future occupants
- it would not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
- the proposal complies with the maximum car parking controls that apply to the site and would not result in any significant traffic impacts
- monetary contributions will be paid to Council for the provision of affordable housing.

The Department has also recommended conditions to address any residual impacts. Subject to the recommended conditions, the Department's assessment concludes that the project is in the public interest and recommends that the application be approved.

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1 Introduction

1.1 Project location

The site is located at 20-22 Atchison Street, St Leonards in the North Sydney local government area. The site sits within the Crows Nest Accelerated TOD Precinct, which was recently rezoned, to support the delivery of well-located affordable and market housing. The site location is shown in **Figure 1** and **Figure 2**.

Further details of the site and the surrounding area are described in **Table 1**.

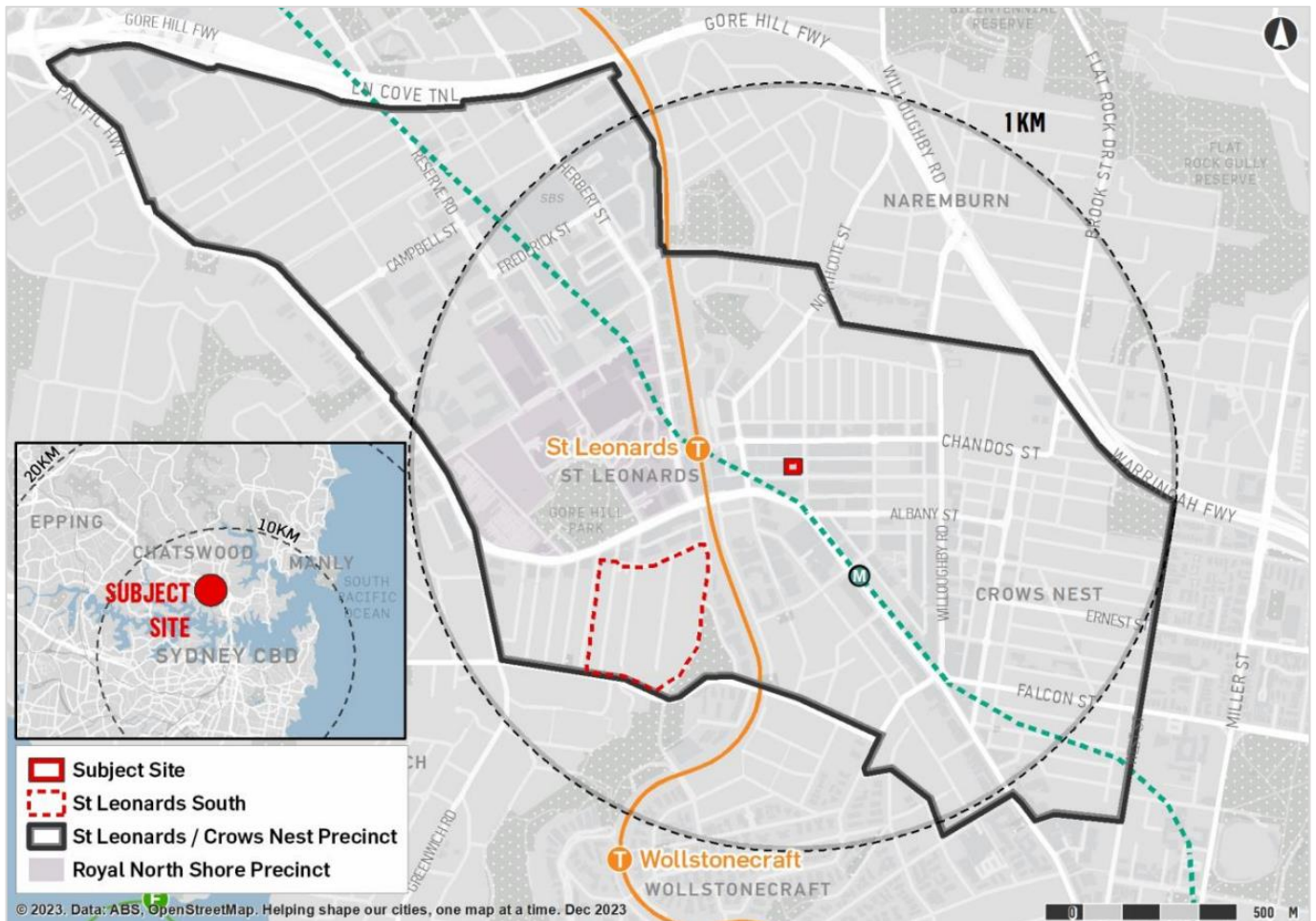


Figure 1 | Site location (source: Applicant's EIS)

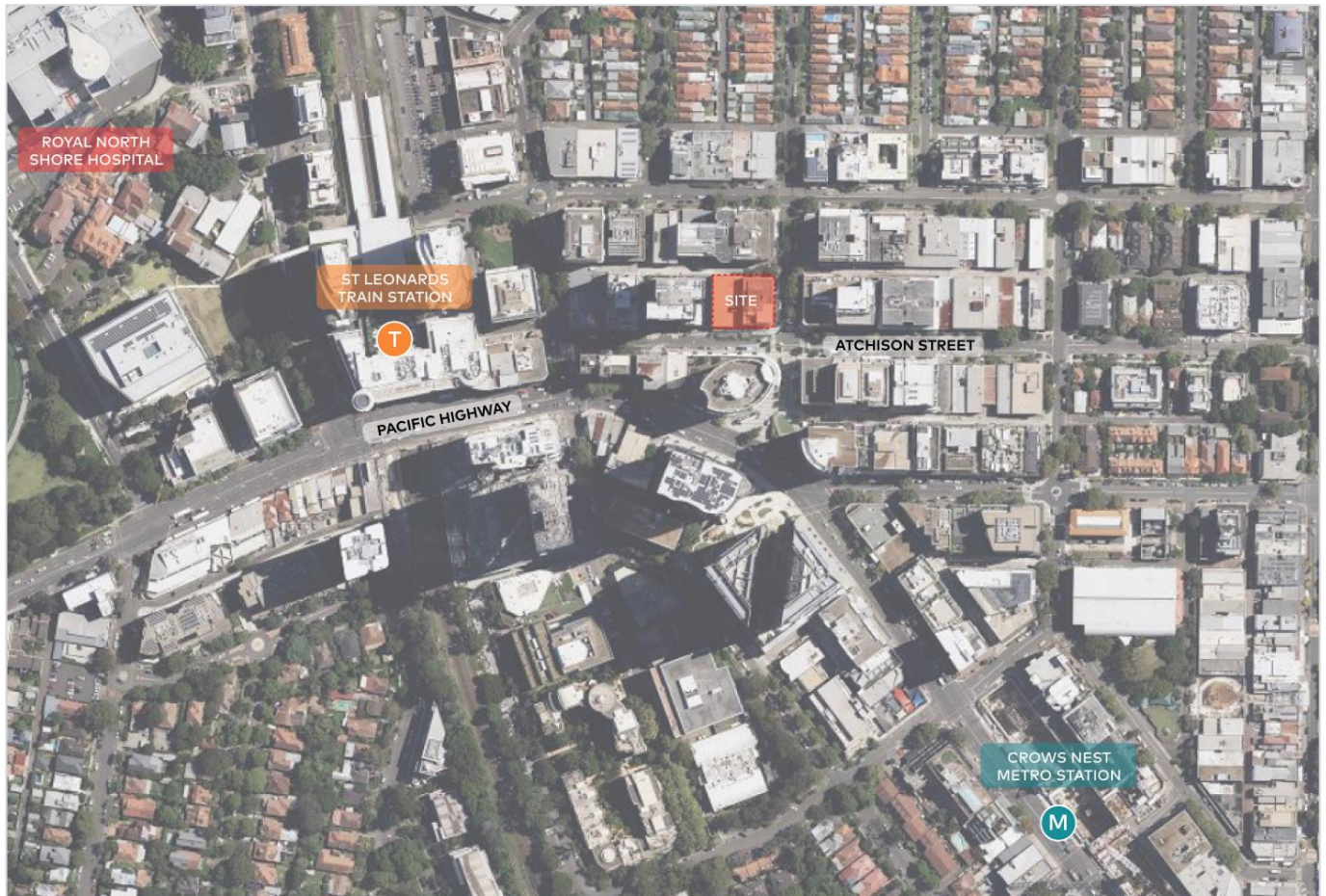


Figure 2 | Local context map (base source: Applicant's EIS)

Table 1 | Key aspects of the project site

Aspect	Description
Address and legal description	20-22 Atchison Street, St Leonards Lot 1 DP 740017 and Lot 120 DP 564606
Local government area	North Sydney
Site area	1374 square meters (m ²)
Topography	The site is located near the crest of a high ridgeline point. The site has an approximate 4.3 metre (m) fall from the south-eastern to north-western corners of the site.
Existing development	20 Atchison Street is occupied by a three-storey commercial building, which is currently vacant. 22 Atchison Street is occupied by a six-storey commercial office building.
Surrounding development	Surrounding development primarily comprises five to seven-storey commercial buildings to the north and east, and 12 to-28-storey mixed-use commercial and residential buildings to the south and west.

Aspect	Description
	The suburb of Naremburn is located further to the north. There is a mix of residential building typologies in the area, including detached dwellings, townhouses and residential flat buildings.
Surrounding roads	The site has a primary frontage to Atchison Street, with a secondary frontage to Mitchell Street. Atchison Lane is located to the rear of the site.
Existing access	20 and 22 Atchison Street have existing vehicular access from Atchison Lane. 22 Atchison Street also has an existing driveway off Mitchell Street.
Public transport	The site is within walking distance of St Leonards Railway Station, Crows Nest Metro Station and bus services operating along the Pacific Highway.
Heritage	The site is not heritage listed and is not within a heritage conservation area.
Flooding	The site is subject to low-level overland flow and is not impacted by the probable maximum flood event.
Easements or covenants	The site has covenants relating to existing leases, which are to be extinguished. The site does not contain any easements.

2 Project

2.1 Project overview

The proposal seeks approval for a 40-storey shop top housing development. Key aspects of the project are provided in detail in the Project Description chapter of the environmental impact statement (EIS) and section 3.2 of the submissions report (see **Appendix A**). Key aspects of the project are further outlined in **Table 2** below.

Table 2 | Key aspects of the project

Aspect	Description
Built form	Construction of a 40-storey shop top housing development, incorporating: • five levels of basement car parking • a four-storey podium with a mix of commercial and residential uses • 181 residential apartments • indoor and outdoor communal open space areas • rooftop mechanical plant
Gross floor area (GFA)	Total GFA of 18,990 m ² comprised of: • 1,938 m² commercial GFA • 17,052 m² residential GFA
Floor space ratio (FSR)	13.82:1
Building height	139 m
Car parking	Five levels of basement car parking providing 87 parking spaces, including: • 81 residential spaces • five commercial spaces • four service vehicle spaces
Access	Vehicle access to the basement car park from Atchison Lane. Pedestrian access to the residential and commercial lobbies from Atchison Street.
Landscaping and public domain works	• four new street trees • continuation of the Mitchell Street linear park
Communal areas	• 640 m² of communal open space on Level 4.
Site preparation	Site preparation works including the demolition of all existing buildings and structures, bulk excavation and basement dewatering and removal of four trees

Aspect	Description
Apartment mix	181 residential apartments, comprising: 74 one-bedroom apartments 85 two-bedroom apartments 22 three-bedroom apartments
Site amalgamation	Amalgamation of two existing lots into a single title
Estimated development cost (EDC)	\$177,640,178

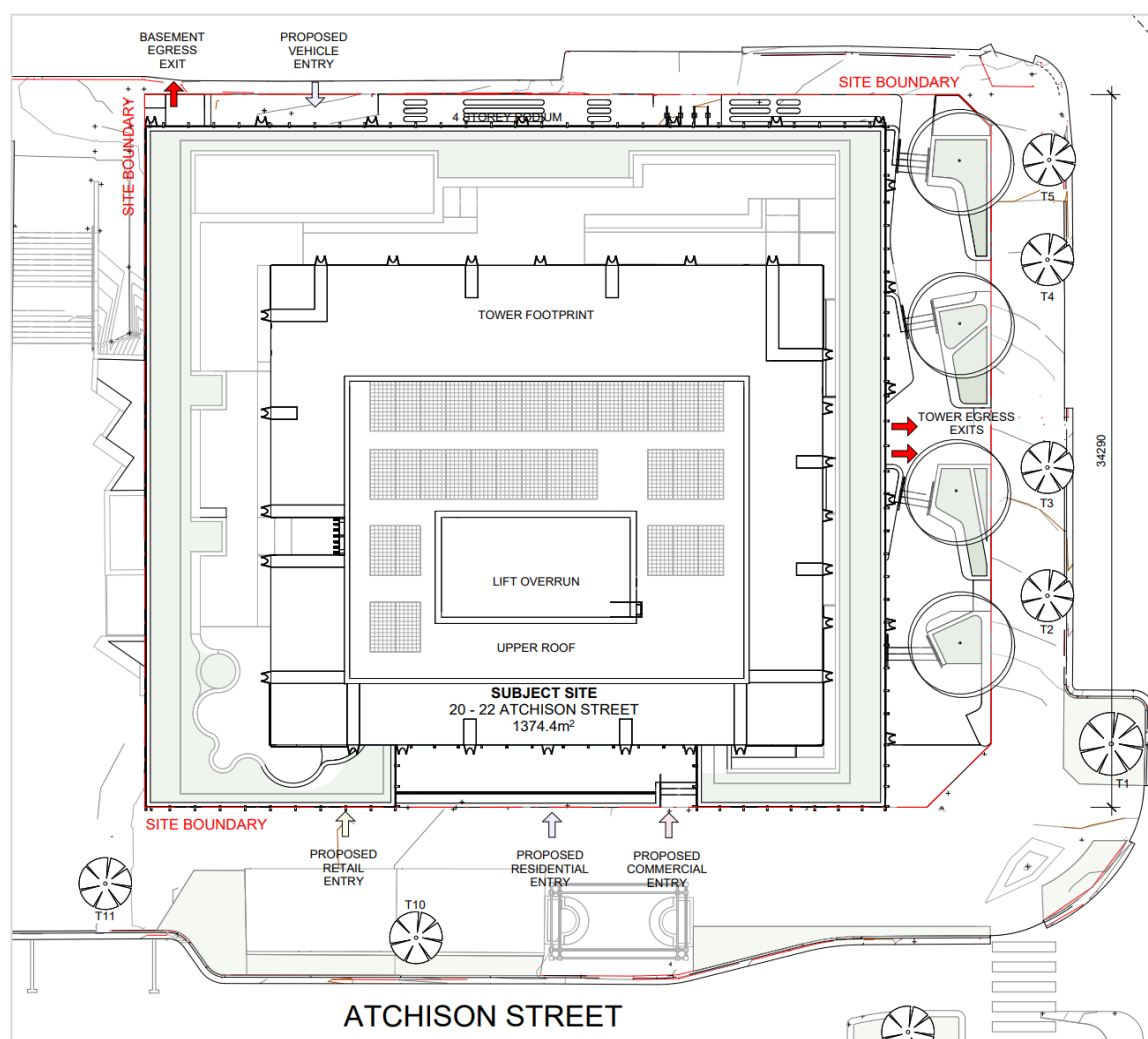


Figure 3 | Proposed site layout (Source: EIS)



Figure 4 | Indicative image of the proposal— viewed from the corner of Atchison Street and Mitchell Street (Source: EIS)

3 Policy and statutory context

3.1 Housing supply

The NSW Government has a target of 377,000 well-located homes over the next 5 years. This policy supports the National Housing Accord, which aims to deliver a national target of 1.2 million new, well-located homes over five years to June 2029.

In late 2024, the Department identified eight Accelerated TOD Precincts with the capacity to increase residential density near to metro and train stations, including Crows Nest. The accelerated TOD precincts were rezoned following a period of strategic review to support the delivery of well-located affordable and market housing.

In November 2024, the Department introduced a new SSD pathway for development in Accelerated TOD Precincts if part of the development is for the purposes of residential accommodation with an EDC of more than \$60 million.

3.2 Permissibility and assessment pathway

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

Table 3 | Permissibility and assessment pathway

Consideration	Description
Assessment pathway	The project is declared SSD under section 4.36 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) as it satisfies the criteria under section 2.6(1) of State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP).
Consent authority	The Minister for Planning and Public Spaces (the Minister) is the consent authority under section 4.5(a) of the EP&A Act.
Decision-maker	Under the Minister's Instrument of Delegation dated 21 November 2025, the Executive Director, Housing and Key Sites Assessment, may determine the application as: • a reportable political donation or gift has not been disclosed • there are less than 100 public submissions by way of objection • the submissions received from Council and the public have been considered in the assessment of the application.
Permissibility	The site is zoned MU1 Mixed Use under the North Sydney Local Environmental Plan 2013 (NSLEP). Shop top housing is permitted with consent in the MU1 zone.

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.

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 **Sections 4 and 5**). Suitable conditions have been included in the recommended conditions of consent (see **Appendix F**).

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 issued on 9 July 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 for consideration required by the EP&A Act
- objects of the EP&A Act and ecologically sustainable development (ESD)
- matters of consideration required by the Environmental Planning and Assessment Regulation 2021 (EP&A Regs)
- matters of consideration required by environmental planning instruments.

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

4 Engagement

4.1.1 Exhibition of the EIS

After accepting the development application and EIS, the Department:

- publicly exhibiting the application from 2 December 2025 to 15 December 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 the relevant Government agencies and Council.

Following the exhibition of the EIS, the Applicant submitted a response to submissions report and the Department re-exhibited the development application. This included:

- publicly exhibiting the application from 14 May 2026 to 28 May 2026 on the NSW Planning Portal
- notified occupiers and landowners in the vicinity of the site about the public re-exhibition
- notifying relevant Government agencies and Council.

Across both exhibition periods, the Department received:

- advice from seven Government agencies
- 21 submissions from the public (16 objecting to the proposal, three providing comments, and two in support)
- a submission from Council providing comments.

4.1.2 Summary of advice received from Government agencies

The Department received advice from seven Government agencies on the EIS.

A summary of the advice is provided in **Table 4**. A link to the full copy of the advice is provided in **Appendix A**.

Table 4 | Summary of Government agency advice

Agency	Advice summary
Sydney Metro	Sydney Metro advised that the proposal would not adversely impact on the operation and safety of the metro rail corridor, subject to recommended conditions.
Civil Aviation Safety Authority (CASA)	CASA advised that the proposed building and crane will infringe the Obstacle Limitation Surface for Sydney Airport and will need to be assessed under the Airports (Protection of Airspace) Regulations 1996.
Sydney Airport Corporation	Sydney Airport Corporation have advised that the proposed building will infringe the Obstacle Limitation Surface (Outer Horizontal Surface at 156 m above AHD) for Sydney Airport and needs to be assessed under the Airports (Protection of Airspace) Regulations 1996. Approval to operate construction equipment (i.e. cranes) should be obtained before any commitment to construct.

Agency	Advice summary
Sydney Water	Sydney Water advised that the water and wastewater servicing should be available for the proposed development and that detailed requirements will be provided at the section 73 application stage.
Ausgrid	Ausgrid provided advice to ensure compatibility of the development with existing Ausgrid infrastructure.
Conservation Programs, Heritage and Regulation Group	No concerns raised or recommendations provided.
Fire and Rescue NSW	No concerns raised or recommendations provided.

4.1.3 Summary of Council submission

Council provided comments on the project. The key issues raised by Council related to:

- building setbacks and separation
- non-residential FSR provision
- traffic generation
- affordable housing
- reflectivity impacts.

A copy of the submissions in full is provided in **Appendix A**.

4.1.4 Summary of public submissions

The Department received 21 submissions during both exhibition periods (two submissions from special interest groups, one from a public authority and 18 submissions from individuals), as follows:

- during the first exhibition period: 12 submissions were received, including eight objecting to the application, three submissions commenting on the application, and one submission supporting the application.
- during the second exhibition period: 9 submissions were received, including eight objections and one submission supporting the application.

The key issues raised in the public submissions related to:

- built form, including building height, non-residential floor space and building separation
- amenity, including view loss, overshadowing, acoustic, reflectivity and wind impacts
- traffic and car parking
- contamination

- cumulative infrastructure impacts
- landscaping and deep soil provision
- basement excavation and groundwater impacts
- statutory requirements for exhibition.

A copy of all submissions in full is provided in **Appendix A**. The Department's consideration of community views is provided in **Appendix B**.

4.2 Response to submissions

The Department requested that the Applicant respond to the issues raised in submissions, the advice received from Government agencies and the Department's key issues letter.

On 26 March 2026, the Applicant provided a submissions report to the Department responding to the issues raised during the first exhibition period.

On 10 June 2026, the Applicant provided a supplementary submission report to the Department responding to the issues raised during the re-exhibition period.

In response to the submissions received and issues raised by the Department, the Applicant provided the following minor refinements to the proposal:

- further activation of the ground floor
- provision of a public art zone to the western elevation of the podium
- widening of the vehicle crossing to accommodate waste collection vehicles
- changes to louvres on residential balconies and subsequent minor increase in residential GFA

The Department published the submissions reports on the NSW Planning Portal and notified Council and the relevant Government agencies (see **Appendix A**).

5 Assessment

Key issues considered by the Department include built form, which is discussed in **Section 5.1**. The Department's consideration of other issues is discussed in **Section 5.2** and the appendices of this report.

5.1 Built form

5.1.1 Building separation

The Apartment Design Guide (ADG) recommends that building separation be shared equitably between neighbouring sites to maintain visual privacy. The ADG recommends minimum building setbacks between habitable rooms and neighbouring residential properties of 6 m for the first four storeys, 9 m between 5–8 storeys, and 12 m above eight storeys.

The proposed building separation to the adjoining property to the west at 6-16 Atchison Street does not meet the recommended ADG design criteria, providing a 0 m setback at the residential podium levels (Levels 2 and 3) and a 6 m tower setback. The proposed separation distance to the neighbouring building is shown in **Figure 5** below.

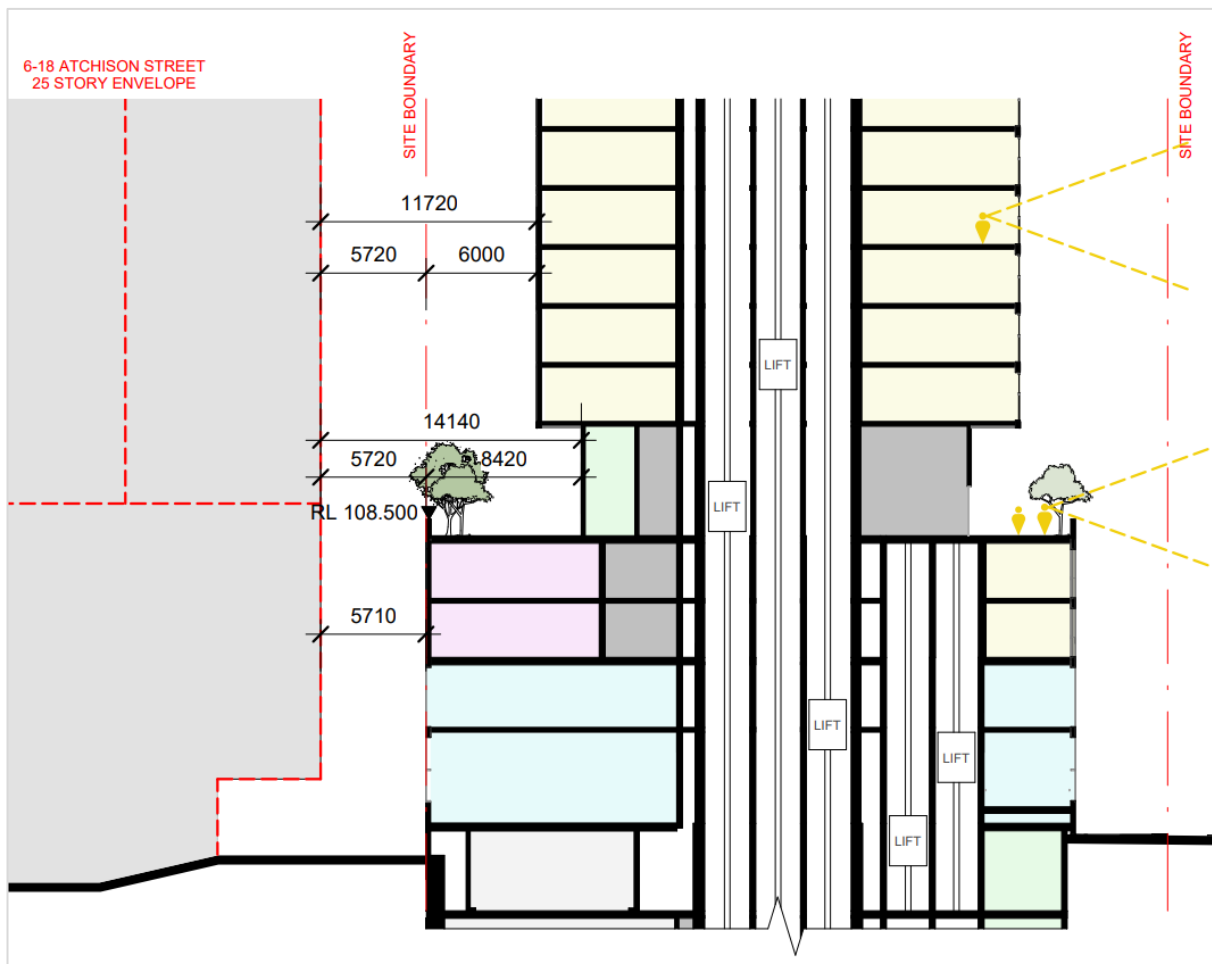


Figure 5 | Building separation to the neighbouring property at 6-16 Atchison Street (Source: EIS)

Council raised concerns that the non-compliant setbacks would result in an overbearing building with intrusive bulk and scale. The building separation distance and perceived bulk and scale of the proposal was also raised as a concern in the public submissions.

The Department has carefully considered the setback and building separation to the western boundary, as well as the Applicant's response and considers the proposal to be acceptable as:

- there are no windows on the western facade of the building, therefore preventing any direct lines of sight or overlooking opportunities and maintaining visual privacy of the neighbouring property which currently incorporates privacy screening on its eastern elevation
- the built form and massing responds appropriately to the established and emerging high-density character of the area
- there are no windows on the western facade of the building, therefore preventing any direct lines of sight or overlooking opportunities and maintaining visual privacy of the neighbouring property which currently incorporates privacy screening on its eastern elevation
- the tower setback of 6 m is slightly greater than the 5.7m tower setback at 6-16 Atchison Street, responding to the existing built form of the neighbouring development and character of the surrounding area
- the proposal is consistent with the TOD Precinct Design Guide and largely complies with the primary built form controls, with only a minor variation of less than 1% to the FSR and full compliance with the maximum building height. It also delivers much needed housing within a highly accessible location. In this context, the proposed setbacks within a high density area are considered reasonable, given the broader strategic and housing delivery benefits it provides.

Overall, the Department is satisfied that the proposal aligns with the building separation and visual privacy objectives outlined in the ADG and would provide an acceptable level of visual privacy for future residents on the site and the neighbouring building to the east.

5.1.2 Non-residential floor space ratio

The proposal provides 1,938 m² of non-residential floor space (NRFS), including commercial uses in the podium levels. There is a shortfall of 2,185 m² required to comply with the minimum 3:1 NRFS ratio control under the NSLEP (equivalent to 1.6:1 or a 53% variation).

Council and submissions raised concerns that the proposal does not meet the minimum NRFS ratio requirement, which is considered important in ensuring the precinct has future employment opportunities.

The EIS included an Economic Analysis that considered the viability of commercial office space at the site. The analysis determined that the site is capable of supporting approximately 1,500 m² of commercial floor space in the local market upon completion. Any additional commercial floor space would not be supportable from a market perspective and would otherwise prevent the NRFS ratio of 3:1 from being achieved.

The Applicant submitted a clause 4.6 variation request to justify the proposed shortfall. The Applicant argues that strict compliance with the development standard is unreasonable and unnecessary in the circumstances, as the development proposes a suitable design and quantum of NRFS within the podium to support employment and economic growth.

While the proposal does not comply with the minimum NRFS control, the Department is satisfied that the proposal is acceptable as:

- the proposal continues to provide an active and functional ground floor commercial and retail tenancies that will provide employment opportunities and create activated street frontages and improve public domain outcomes along Atchison Street and Mitchell Street
- the Economic Analysis submitted with the application indicates that the local market is likely to support a limited amount of commercial floor space (approximately 1,500 m²) upon completion, reflecting current demand constraints. Strict compliance with the control could therefore potentially result in an inefficient and underutilised allocation of floor space
- the proposal supports the key aims and objectives of the Crows Nest Accelerated TOD Precinct to increase housing supply and includes a monetary contribution towards the provision of affordable housing
- the proposed shortfall of NRFS would not compromise the employment role of St Leonards and Crows Nest as a strategic centre.

The Department's assessment therefore concludes that the proposal is acceptable, as it would continue to deliver non-residential floor space at a scale and configuration that upholds the intent of the controls, including the provision of employment opportunities and active street frontages. The Department's detailed consideration of the Applicant's clause 4.6 variation request to the NRFS ratio is provided in **Appendix E**.

5.2 Other issues

The Department's consideration of other issues is summarised in **Table 5** below.

Table 5 | Assessment of other issues

Issue	Findings and conclusions	Recommended conditions
Apartment Design Guide (ADG)	The Department has undertaken a detailed assessment of the proposal against the ADG in Appendix C and reduced building separation in Section 5.1.1 . Overall, the Department is satisfied that the proposal is largely consistent with the ADG's recommendations and would deliver acceptable levels of amenity for future residents.	No recommended conditions required.
Floor space ratio	The proposal includes 18,990 m² of GFA representing an FSR of 13.82:1 and results in a minor variation of less than 1% (0.15%) above the FSR control of 13.8:1 under the NSLEP. The Department considers the proposed exceedance to be acceptable as: • the proposed variation is negligible and is sought to provide adequate amenity to the upper-level balconies • the fixed louvres installed on the upper-level balconies on Levels 30–39 are attributable to additional GFA and aim to mitigate wind impacts and enhance balcony usability for future residents • the additional GFA would not result in a built form that results in adverse overshadowing, view loss or privacy impacts.	No recommended conditions required.

Issue	Findings and conclusions	Recommended conditions
	The Department has carefully considered the proposed FSR exceedance and concludes that the minor departure from the development standard will not result in adverse environmental impacts. The Department's detailed consideration of the Applicant's clause 4.6 variation request to the FSR is provided in Appendix D.	
Overshadowing	Council and public submissions raised concerns about overshadowing. In particular, Council was concerned that the development would overshadow Mitchell Street Plaza. The Department has carefully considered the issues raised by Council and public submissions, along with the Applicant's plans and supporting studies, and is satisfied that the overshadowing impacts of the proposal are acceptable. While the solar access to Mitchell Street Plaza would be slightly reduced at 1 pm and 2 pm, the proposal involves an extension of Mitchell Street Plaza, enhancing the usability and amenity of the space. Additionally, the shadow cast by the proposal will be largely consistent with what was anticipated as part of the Crows Nest Accelerated TOD Precinct rezoning and the majority of the plaza will still receive sunlight during the lunchtime period in mid-winter. On this basis, the Department finds the overshadowing impact to be acceptable.	No recommended conditions required.
Design excellence	Council and public submissions raised concerns that the development was not reviewed by the State Design Review Panel (SDRP). The Department notes that the proposal did not meet the criteria for SDRP review. Notwithstanding, the Department has carefully considered the design excellence provisions under clause 7.4 of the NSLEP and considers that: • a high standard of architectural design is achieved with respect to the podium's scale and the building's materiality • the podium provides active frontages and an awning, which will improve the public domain • the development design will have a positive relationship to surrounding development • it is largely consistent with the Precinct Design Guide. On balance, the Department is satisfied that the development can achieve design excellence, noting that it largely complies with the built form controls and presents a high standard of architectural design and materiality.	No recommended conditions required.
Street activation	The Department, Council and public submissions sought additional street activation along Atchison Street, Mitchell Street and the through-site link.	No recommended conditions required.

Issue	Findings and conclusions	Recommended conditions
	In response, the Applicant submitted revised architectural plans with a café tenancy within the commercial lobby and a takeaway window on the Mitchell Street elevation. The Department considers that the café provides opportunities for customers to use the landscaped seating along Mitchell Street, enhancing street activation and resulting in an appropriate design response.	
Podium design	The proposal provides a four-storey podium with commercial and residential uses. Due to the significant level differences between Atchison Street and Atchison Lane, it presents as a four- to five-storey podium on Mitchell Street and a five-storey podium on Atchison Lane. The podium design does not strictly align with the Precinct Design Guide, which recommends a podium height of four storeys along Atchison Street and three storeys along Atchison Lane. Notwithstanding, the Department considers the proposed four-five storey podium to be acceptable as: - the podium datum aligns with the podium height of the two adjoining properties of 6-16 Atchison Street and 30 Atchison Street, providing a consistent streetscape - the floor-to-floor levels of the podium are consistent with the Precinct Design Guide - the massing responds to the sloping site, and stepping the podium would result in an inconsistent street wall along Mitchell Street. The Department therefore considers that the podium appropriately responds to the site's context and would create an acceptable visual transition along both street frontages.	No recommended conditions required.
Reflectivity	Council and public submissions raised concerns about the predominant use of glass over other building materials without a comprehensive assessment of potential reflectivity and visual impacts. In response, the Applicant provided a Reflected Glare Report which assessed the effects of potential solar glare against a veiling luminance performance criteria. The assessment found that the proposal would at times exceed the recommended performance criteria at two nearby roads, Royal North Shore Hospital (RNSH), Gore Hill Oval, and one neighbouring building. The proposal was refined to include vertical shading fins to effectively mitigate any critical glare impacts. The Department acknowledges that the proposal would result in infrequent marginal exceedances of reflected glare despite the mitigation measures. However, it is considered that any reflectivity impacts of the proposal to be acceptable for the following reasons:	The recommended conditions require the materials used on the building facades be less than 20% specular reflectivity.

Issue	Findings and conclusions	Recommended conditions
	- vertical shading fins have been incorporated into the building design to appropriately mitigate potential critical reflectivity and glare impacts - the marginal exceedances observed at the two nearby roads and Gore Hill Oval occur infrequently, can be mitigated by a standard vehicle sun visor, and oval users can avert their gaze from the glare source - the aviation consultant identified that the reflections at the RNSH are close to perpendicular to the helicopter's flight path. Therefore, the reflected light is unlikely to be within the pilot's field of view to impact the safety of helicopter operation - the exceedances observed at the RNSH building and the neighbouring building (88 Christie Street) are minimal, and an occupant of a room must be seated by the window and looking towards the glare source for their vision to be impacted by the reflected light. The Department recommends a condition requiring implementation of the reflectivity treatments included in the reflected glare report. The Department is satisfied that with the incorporation of the proposed reflectivity treatments the proposal would not result in adverse reflectivity impacts.	
Traffic impacts	Council and public submissions raised concerns that the proposal would result in increased traffic generation and impacts on the local road network. The Applicant's Transport Impact Assessment confirmed that the traffic generation rates were guided by the recently released TfNSW Guide to Transport Impact Assessment. The Department is satisfied that the proposal will have an acceptable impact on the surrounding road network as: - the proposal is expected to generate approximately 37 additional vehicle movements during the AM peak and 30 during the PM peak. This minor increase will not adversely affect the operation of surrounding intersections or the overall road network - the site is located in close proximity to St Leonards Station and Crows Nest Metro Station, providing frequent and rapid public transport services that would reduce reliance on private car use - the site is located within easy walking distance of shops, services and amenities reducing the demand for private car usage - the transport assessments undertaken during the Crows Nest TOD rezoning process indicate that additional traffic demands are unlikely to have a material impact on the performance of the traffic network.	The recommended conditions require the preparation of a Car Parking, Loading and Servicing Management Plan.

Issue	Findings and conclusions	Recommended conditions
	Overall, the Department is satisfied that the proposal would not result in any significant increase in traffic movements and would not materially affect the operation of the surrounding road network.	
Sydney Metro infrastructure	The basement encroaches within the second reserve of the metro corridor. Sydney Metro required further information to ensure the proposal does not adversely impact Metro infrastructure. The Applicant submitted a Metro Impact Assessment report including detailed survey plans, engineering impact assessment report, stray current and electrolysis report and structural design details. Following the review of the additional information, Sydney Metro recommended conditions of consent to ensure the ongoing safety and operation of the metro corridor. The Department has recommended a condition of consent requiring the Applicant to comply with the Sydney Metro's requirements.	The recommended conditions require compliance with Sydney Metro's requirements.
Waste collection	Commercial waste will be collected on-site via a private contractor. Residential waste would be collected onsite by Council's medium rigid vehicle. The Department requested that the development be designed with adequate access and manoeuvring space for waste collection vehicles. In response, the Applicant confirmed in the submissions report that the lower ground floor vehicle entrance has been widened to accommodate Council's waste collection fleet. Council raised no concerns with the proposed waste management arrangement, subject to conditions. The Department is satisfied that waste storage and collection can be appropriately managed as part of an Operational Waste Management Plan and has been recommended as a condition of consent.	The recommended conditions require the preparation of an Operational Waste Management Plan.
Sydney Airport Obstacle Limitation Surfaces (OLS)	The proposed building height of RL 230.3 will infringe within OLS for Sydney Airport which is RL 156. The building height fully complies with the maximum building height control. CASA and Sydney Airports Corporation raised no objection to the proposed building height and advised that the cranes will need to be assessed under the Airports (Protection of Airspace) Regulations 1996, and approval is required before construction. The Department notes such infringements are common for tall buildings in the Crows Nest St Leonards area, where many existing and planned developments exceed the OLS height. The Department is satisfied that the proposal will not adversely impact airspace operations of Sydney Airport	The recommended conditions require approval to be obtained under the Airports (Protection of Airspace) Regulations 1996.

Issue	Findings and conclusions	Recommended conditions
	and recommends that all necessary approvals be obtained prior to the issue of the first Construction Certificate.	
Affordable housing contributions	Clause 7.5 of the NSLEP requires an affordable housing contribution equivalent to 10% of the new residential GFA of the development. The Applicant proposes to satisfy the requirement through a monetary contribution. The Department considers that clause 7.5(7)(b) requires the consideration of comparable dwellings, such that the contribution must be of equivalent value to the residential GFA of the proposed dwellings. A condition has been recommended to this effect.	The recommended conditions require a monetary contribution to Council for the provision of affordable housing.
Other contributions	Local infrastructure contributions apply to the development in accordance with North Sydney Infrastructure Contributions Plan 2020. Housing and Productivity Contributions (HPCs) also apply to the proposal in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024. Conditions are therefore recommended requiring the payment of these contributions.	The recommended conditions require the payment of developer contributions and HPCs.

6 Evaluation

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

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

- it supports the NSW Government's priorities to deliver housing close to public transport, jobs and services
- it is compatible with the existing and emerging high-density character in St Leonards and the broader Crows Nest Accelerated TOD precinct
- the built form exhibits an appropriate bulk and scale that will deliver a high level of residential amenity for future occupants
- it would not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
- the proposal complies with the maximum car parking controls that apply to the site and would not result in any significant traffic impacts
- monetary contributions will be paid to Council for the provision of affordable housing.

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 recommends the project be approved subject to condition.

7 Recommendation

It is recommended that the Executive Director, Housing and Key Sites Assessment, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of shop top housing development at 20-22 Atchison Street, St Leonards (SSD-87486461), subject to the conditions in the attached development consent.
- **signs** the attached development consent at **Appendix F**.

Prepared by:



Charley Wells

Senior Planner

Key Sites and TOD Assessments

Recommended by:



Brent Devine

Team Leader

Key Sites and TOD Assessments

Recommended by:



Anthony Withderdin

Director

Key Site and TOD Assessments

8 Determination

The recommendation is **adopted** by:



22 June 2026

Ben Lusher

Executive Director

Housing and Key Sites Assessment

Appendices

Appendix A – List of referenced documents, submissions and advice

The following documents can be accessed at <https://www.planningportal.nsw.gov.au/major-projects/projects/shop-top-housing-20-22-atchison-street>

- Environmental Impact Statement
- Submissions Report and Supplementary Response to Submissions
- Applicant's additional information
- Council and public submissions
- Government agency advice

Appendix B – Department’s consideration of community views

Table 6 | Department's consideration of community views

Issue	Consideration
Building height	The proposal complies with the maximum building height control of 139 m.
View impacts	A visual analysis of the development from key viewpoints was conducted, and concluded that the proposal will result in a low to moderate view loss. The Department acknowledges that views from some properties will be affected. However, the proposal complies with the maximum building height and is consistent with the impacts envisioned for the Crows Nest Accelerated TOD precinct. The Department is satisfied that the view impacts associated with the proposal are reasonable and acceptable.
Overshadowing	The Department’s assessment of solar access studies concludes the proposal does not result in any unacceptable overshadowing impacts on surrounding developments. Overshadowing impacts have been considered in detail in Section 5.2.
Car parking and traffic impacts	The Department considers the proposed parking provision to be acceptable as it complies with the maximum parking rate applicable under the Design Guide. The Department is satisfied that the proposal would not result in any significant increase in traffic movements and would not materially affect the operation of the surrounding road network. Car parking and traffic impacts have been considered in detail in Section 5.2.
Building setbacks and separation distance	The Department is satisfied that the proposal aligns with the building separation and visual privacy objectives outlined in the ADG and would provide an acceptable level of visual privacy for future residents on the site and for neighbours on adjoining lots. Building setbacks and separation distance have been considered in detail in Section 5.1.2.
Wind impacts	The Applicant’s wind assessment reports conclude that pedestrian safety and comfort were found to be acceptable. Wind mitigation measures are proposed to minimise impacts on the public domain and improve comfort within the development. The Department has recommended a condition requiring the wind mitigation measures to be included as part of the development.
Construction impacts	The Department has recommended conditions to ensure the construction of the development does not have an unreasonable impact on the amenity (traffic, noise, vibration, air quality, etc .) of nearby residents or result in any damage to neighbouring development and public domain. Detailed construction methodology, dilapidation surveys and monitoring of adjoining properties during excavation and construction works are required.

Issue	Consideration
Basement excavation and groundwater impacts	The Applicant has undertaken geotechnical investigations and provided a groundwater impact assessment report. The report details the proposed dewatering management strategy, including monitoring and reporting. The Department has recommended conditions requiring the dewatering to be monitored and carried out in accordance with the management strategy. In addition, the Applicant is required to submit a Construction Soil and Water Management Sub -Plan to the Certifier, prepared by a suitably qualified expert in consultation with Council. The Department is satisfied that these conditions will effectively mitigate groundwater impacts or adverse impacts arising from excavation works.
Contamination	The Applicant's detailed site investigation report identified the presence of asbestos on the site. The report details mitigation measures including the preparation of an asbestos removal plan, final waste classification of the fill underlying the natural soils after demolition, groundwater testing during basement construction and preparation of an unexpected finds protocol. The Department has recommended conditions requiring the mitigation measures to be undertaken. It is considered that the site is suitable for the proposed mixed-use subject to the implementation of the mitigation measures.
Reflectivity	The Department is satisfied that with the incorporation of the reflectivity treatments, the proposal would not result in adverse reflectivity impacts. Reflectivity impact has been considered in detail in Section 5.3.
Non-residential floor space	The Department has reviewed the variation request (see Appendix E) and considers that the Applicant has adequately addressed the requirements of clause 4.6 of the NSLEP. Non-residential floor space provision has been considered in detail in Section 5.1.2.
Design review	The proposal was not required to be reviewed by the SDRP as it does not meet any of the SDRP criteria. The Department has carefully considered whether the development demonstrates design excellence in Table 13, in accordance with clause 7.4 of the NSLEP. The Department is satisfied that the development can achieve design excellence. Design excellence has been considered in Section 5.3.
Landscaping and deep soil provision	The Department is satisfied with the landscaping provision, noting that the site is located within a dense mixed-use centre and a green link along Mitchell Street has been provided. Landscaping provision has been considered in Table 14.

Issue	Consideration
Exhibition period	The application was exhibited between 2 December 2025 and 15 December 2025 and re-exhibited from 14 May 2026 to 28 May 2026 in accordance with the requirements of the <i>EP&A Regs</i>. The Department is satisfied that the community and other stakeholders were given sufficient opportunity to provide comments on the development proposal.

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 7** below.

Table 7 | 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 2 – Project, Section 3 – Policy and statutory context and Section 5 – Assessment
Public submissions	Section 4 – Engagement, Section 5 – Assessment and Appendix C
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 project is consistent with the relevant objects of the EP&A Act (s 1.3), including the principles of ESD. Consideration of those factors is described in 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 8 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal promotes the social and economic welfare of the community by providing new housing and commercial floor space in an accessible location close to public transport, jobs and services. Further, the proposal includes a contribution toward the provision of affordable housing. The proposal is located on a brownfield site and will not adversely impact the State's natural resources.

Object	Consideration
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal includes ESD initiatives and sustainability measures to ensure the proposal meets the Building Sustainability Index (BASIX) requirements.
(c) to promote the orderly and economic use and development of land,	The proposal represents the orderly and economic use of the land by increasing housing supply in an accessible location that is close to public transport, jobs and services. The form of the development has regard to the applicable land use planning controls, the existing and emerging character of the locality and surrounding area.
(d) to promote the delivery and maintenance of affordable housing,	The proposal includes a monetary contribution towards the provision of affordable housing.
(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 adversely impact the natural environment or the conservation of threatened species.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposal will not have an adverse impact on any built heritage items or conservation areas. No impacts to Aboriginal cultural heritage have been identified. Conditions have been recommended for any unexpected finds or for the uncovering of any relics or Aboriginal objects.
(g) to promote good design and amenity of the built environment,	The proposal has been designed to minimise amenity impacts on the surrounding residential locality and to provide good levels of internal amenity for future occupants. The proposal has been assessed against the design principles for residential apartment development in Schedule 9 of the Housing SEPP in Table 9 below.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposal demonstrates that construction work would be undertaken in accordance with national construction standards, relevant regulations and the site-specific construction management plan. Any impacts during this phase will be monitored and managed in keeping with the conditions of consent set out to mitigate any impacts. Ongoing management and maintenance of the development shall be overseen by the building management to ensure the health and safety of occupants.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposal as outlined in Section 4 . This included consultation with Council and other Government agencies, and consideration of their responses.

Object	Consideration
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the application, which included notifying adjoining landowners and displaying the application on the Department's website. The Department placed the Submissions Report and additional information on its website, in addition to providing a copy to Council and other relevant Government agencies. The engagement activities carried out by the Department are detailed in Section 4.

Ecologically sustainable development

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

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

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

- meet or exceed BASIX minimum Energy and Water requirements
- achieve a minimum 7-star NatHERS rating with individual apartments achieving a minimum of 6 stars
- achieve net zero operational carbon by 2035.

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

The Department has considered the proposed development in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making process via a thorough and rigorous assessment of the environmental impacts of the proposed development. The conservation principle has been applied through the provision of a high proportion of native vegetation in the proposed landscaping and by managing stormwater runoff, while the valuation principle has been applied through the targeted diversion of construction waste and minimising operational and energy consumption.

The Department has recommended conditions requiring the implementation of ESD measures and minimum sustainability targets.

Subject to the above conditions, the proposed development would be consistent with ESD principles, and the Department is satisfied that the future detailed development is capable of encouraging ESD, in accordance with the objects of the EP&A Act.

Biodiversity development assessment report

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

A BDAR waiver request was submitted to the Department on 7 August 2025. The Director Greater Sydney, of the Department of Climate Change, Energy, the Environment and Water and the Team Leader of Key sites and TOD 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 subsequently granted on 12 September 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 considers that the requirements of the EP&A Regulations have been complied with.

Environmental Planning Instruments (EPIs)

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

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

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- North Sydney Local Environmental Plan 2013

State Environmental Planning Policy (Planning Systems) 2021

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

The proposal is SSD under schedule 2, section 19(2) of the Planning Systems SEPP, as the residential component has an EDC over \$60 million, and it is located in an Accelerated Transport Oriented Development (TOD) precinct.

State Environmental Planning Policy (Housing) 2021

A summary of the Department's consideration of the relevant standards contained in the Housing SEPP is provided in **Table 9** and **Table 10** below.

Table 9 | Housing SEPP compliance table

SEPP (Housing) 2021 standard	Consideration
Chapter 4 Design of residential apartment development	
147 Determination of development applications and modification applications for residential apartment development	The design principles under Schedule 9 have been considered in detail in Table 10. The ADG has been considered in detail in Table 11.
148 Non-discretionary development standards for residential apartment development—the Act, s 4.15	The proposal complies with the non-discretionary development standards for residential apartment development in relation to car parking provision, internal areas for each apartment and ceiling heights.

Table 10 | Consideration of the Schedule 9 design principles for residential apartment development

Design principles	Department's consideration
1. Context and neighbourhood character	The proposal is compatible with the desired future high-density character of the Crows Nest Accelerated TOD Precinct. The proposed building appropriately responds and contributes to the key natural and built features of the area through its architectural and landscape design. The proposal will result in a shop top housing development that is commensurate with the scale of anticipated future development in the area and will have acceptable amenity impacts on existing and future neighbouring development.
2. Built form and scale	The scale, bulk and height of the proposed development is compatible with the desired future character of the Crows Nest Accelerated TOD Precinct. The proposal provides an appropriate built form for the site. The four-storey podium responds to the heights of neighbouring buildings along Atchison Street. The built form adequately defines the public domain, contributes to the character of the streetscape, responds to the surrounding context and provides satisfactory internal amenity and outlook.
3. Density	The proposal is of an appropriate density and scale, consistent with the desired future character of the Crows Nest Accelerated TOD Precinct.
4. Sustainability	The proposal satisfies the BASIX requirements and will achieve an average 7-star NatHERs rating. The building is intended to achieve net-zero carbon operation by 2035. The proposal has suitably considered sustainability.
5. Landscape	The proposal provides suitable landscaping for common areas. Street trees are proposed along Mitchell Street.

Design principles	Department's consideration
6. Amenity	The proposal is considered to positively contribute to living environments and resident well-being. The proposal satisfies the intent of the ADG in terms of achieving a high level of residential amenity for future residents (see ADG assessment in Table 11).
7. Safety	The proposal implements design initiatives to ensure safety and security within the development and public domain, including clear and secure entrances to the building and car park, well-lit communal spaces, passive surveillance opportunities from balconies and common areas, and a basement design with clear sight lines and minimal obstructions.
8. Housing diversity and social interaction	The proposal provides a variety of apartment sizes, providing housing choice for different demographics, living needs and household budgets. The proposal provides communal open space and indoor common space at level four, creating opportunities for social interaction amongst residents.
9. Aesthetics	The proposal demonstrates a high standard of architectural design. The proposal uses an appropriate variety of materials, colours and textures that respond to the existing setting and the desired future character of the neighbourhood.

Apartment Design Guide

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

The Applicant has provided an analysis which demonstrates that the design is suitable, having regard to the relevant ADG amenity criteria in terms of apartment sizes, communal open space, vehicle and pedestrian access, ceiling heights and solar access. The reference design scheme results in minor inconsistencies (deep soil, building separation and apartment depth) but is broadly consistent with the guidance of the ADG and will provide suitable amenity for occupants.

The Department accepts the Applicant's analysis and is satisfied that the proposal is generally consistent with the aims and provisions of the ADG. The Department's consideration of the ADG is discussed in **Table 11** below.

Table 11 | ADG compliance table

ADG criteria	Department's consideration	Complies
3A Site Analysis	The Applicant has prepared a detailed site analysis that demonstrates design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Yes
3B Orientation	The building responds to the streetscape and site while optimising solar access within the development and having acceptable overshadowing on neighbouring properties during mid-winter.	Yes

3C Public Domain Interface	The transition between private and public domain would not compromise safety and security and would enhance the public domain.	Yes
3D Communal and Public Open Space Communal open space has a minimum area equal to 25% of the site area.	The site area is 1374.4 m ² which requires a minimum communal open space of 343.6 m ² . A total of 640 m ² of communal space is proposed as part of the development. 171.45 m ² of public open space is provided at ground level on the eastern frontage of the site to continue the Mitchell Street linear park.	Yes
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter).	Compliant solar access is provided to the communal open space areas within the development.	Yes
3E Deep Soil Zones Deep soil zones are to meet the following minimum requirements: <u>below 650 m²</u> : 7% coverage <u>between 650 m² - 1,500 m²</u> : Minimum dimensions of 3 m and 7% coverage <u>above 1,500 m²</u> : Minimum dimensions of 6 m and 7% coverage	The proposed development does not provide deep soil. The site is located within a dense mixed-use centre and has close to a 100% site coverage. Appropriate soft landscaping is provided across the development, including the provision of a green link along Mitchell Street. Stormwater will be appropriately managed, justifying the provision of nil deep soil.	No - Justified
3F Visual Privacy Separation distance between windows and balconies is provided to ensure visual privacy is achieved. Minimum requires separation distance from buildings to the side and rear boundaries are as follows: <u>Building up to 12 m (4 storeys)</u> : 6 m between habitable rooms and balconies, 3 m between non-habitable rooms <u>Building up to 25 m (5-8 storeys)</u> : 9 m between habitable rooms and balconies, 4.5 m between non-habitable rooms <u>Building over 25 m (9+ storeys)</u> : 12 m between habitable rooms and	The residential podium levels 2 and 3 would have a 0 m setback to the western boundary (adjoining No. 6-16 Atchison Street). The proposed tower incorporates a 6 m setback to the western boundary. A solid western boundary wall is proposed, preventing any opportunity for overlooking. The visual privacy impact is considered negligible. The separation distance has been considered in further detail in Section 14 .	No - Justified

balconies, 6 m between non-habitable rooms																										
3G Pedestrian Access and Entries	Pedestrian access and entries to the development are accessible and easy to identify.	Yes																								
3H Vehicle Access	The vehicle access point has been located on Atchison Lane. The driveway is designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high-quality streetscapes.	Yes																								
3J Bicycle and Car Parking For development in the following locations: - on sites that are within 800 m of a railway station or light rail stop in the Sydney Metropolitan Area, or - on land zoned, and sites within 400 m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off-street.	The proposal provides 87 car parking spaces, including 81 residential spaces. The relevant parking requirement is provided by section 3.11 of the Design Guide, which permits a maximum parking rate of 111 for the residential component of the development, as per the table below. There is no applicable minimum. <table> <tr> <th>Unit type</th> <th>Max per unit</th> <th>Units</th> <th>Max parking</th> </tr> <tr> <td>Studio</td> <td>0.3</td> <td>0</td> <td>0</td> </tr> <tr> <td>1-bed</td> <td>0.4</td> <td>74</td> <td>29.6</td> </tr> <tr> <td>2-bed</td> <td>0.7</td> <td>85</td> <td>59.5</td> </tr> <tr> <td>3+-bed</td> <td>1</td> <td>22</td> <td>22</td> </tr> <tr> <td>Total</td> <td>-</td> <td>181</td> <td>111</td> </tr> </table> The 87 residential car parking spaces provided comply with the maximum car parking spaces as specified in the design guide and are considered adequate. Considering the site is well serviced by public transport, including the nearby Crows Nest Metro Station, St Leonards Railway Station and regular bus services, reducing reliance on private vehicle ownership. <u>Bicycle Parking</u> Secure bicycle storage is proposed within the Basement Levels. It allocates 198 spaces for residential bicycle parking and 16 for the building’s commercial areas. Bicycle parking is well located adjacent to the end-of-trip facilities.	Unit type	Max per unit	Units	Max parking	Studio	0.3	0	0	1-bed	0.4	74	29.6	2-bed	0.7	85	59.5	3+-bed	1	22	22	Total	-	181	111	Yes
Unit type	Max per unit	Units	Max parking																							
Studio	0.3	0	0																							
1-bed	0.4	74	29.6																							
2-bed	0.7	85	59.5																							
3+-bed	1	22	22																							
Total	-	181	111																							
4A Solar and Daylight Access	134 of 181 units (74%) will receive at least 2 hours of solar access during midwinter.	Yes																								
Living rooms and private open spaces of at least 70% of units in a building receive a minimum of 2 hours of direct sunlight.																										
A maximum of 15% receive no direct sunlight between 9 am and 3 pm midwinter.	6 of 181 units (3%) will receive no solar access in mid-winter.	Yes																								

4B Natural Ventilation At least 60% of apartments are naturally cross-ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be naturally ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	All habitable rooms are provided with at least one window for natural ventilation. 24 of 38 units (63%) up to level 9 achieve cross ventilation.	Yes
4C Ceiling Heights Measured from finished floor level to finished ceiling level, minimum ceiling heights are: • Habitable rooms: 2.7 m • Non-habitable rooms: 2.4 m • Two-storey units: 2.7 m for main living area, 2.4 m for second floor (if under 50% GFA) • Attics: 1.8 m with 30° minimum slope • Mixed-use areas: 3.3 m	The floor-to-ceiling heights of residential levels are at least 3.2m.	Yes
4D Apartment Size and Layout Apartments are required to have the following minimum internal areas: Studio: 35 m² One bedroom: 50 m² Two bedroom: 70 m² Three bedroom: 90 m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5 m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m² each.	All units comply with the minimum size requirements. All bedrooms meet the requirements in terms of dimensions and area. All robes have a minimum length of 1.5 m. The proposal is consistent with the objectives of this part of the ADG.	Yes

Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms are provided with suitable operable windows, with the exception of studies and dedicated media rooms.	Yes
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The floor-to-ceiling heights of the proposed apartments are 3m, resulting in a maximum permissible depth of 7.5 m. The bedrooms comply. The development features open plan layouts for kitchen, living rooms and dining areas. It is noted that a small number of these have maximum depths of over 7.5 m. The degrees of non-compliance vary, however the bedrooms and living spaces are all located on the external face of the building, and have large glazed doors that allow for the maximum daylight to enter the room. As such, it is considered that the layout complies with the objective of this criteria.	No – Justified
In an open plan layout (where the living, dining and kitchen are combined), the maximum habitable room depth is 8m from a window.	Some of the oversized 3-bedroom apartments and the 1-bedroom apartments on levels 2 and 3 have open-plan living rooms and kitchens with depths exceeding 8m from windows. Affected apartments have oversized internal areas and balconies. This variation is considered minor and acceptable.	No – Justified
Master bedrooms have a minimum area of 10 m ² and other bedrooms 9 m ² (excluding wardrobe space).	Bedrooms have appropriate dimensions and areas.	Yes
Living rooms or combined living/dining rooms have a minimum width of: One-bedroom units: 3.6 m Two+ bedroom units: 4 m	Living rooms comply with the minimum dimensions.	Yes
The width of cross-over or cross-through apartments are at least 4 m internally to avoid narrow apartment layouts.	N/A	N/A
4E Private Open Space and Balconies All apartments are required to have primary balconies as follows: Studios: 4 m² One-bedroom: 8 m² with a minimum depth of 2 m	All balconies comply with the minimum size and depth.	Yes

Two-bedroom: 10 m² with a minimum depth of 2 m Three+ bedroom: 12 m² with a minimum depth of 2.4 m The minimum balcony depth to be counted as contributing to the balcony area is 1 m.		
4F Common Circulation and Spaces The maximum number of apartments off a circulation core on a single level is eight. For buildings over 10 storeys, the maximum number of apartments sharing a single lift is 40.	The number of apartments off a circulation core does not exceed 8.	Yes
4G Storage In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio: 4 m³ One-bedroom: 6 m³ Two-bedroom: 8 m³ Three+ bedroom: 10 m³ At least 50% of the required storage is to be located within the apartment.	All apartments meet or exceed the recommended storage requirements.	Yes
4H Acoustic Privacy	The development minimises the transfer of noise through the building layout, and noise impacts are to be mitigated through layout and acoustic treatments.	Yes
4J Noise and Pollution	The Department is satisfied that, subject to the recommendations of the Acoustic Report and the recommended conditions of consent, the development can mitigate the acoustic impacts arising from external noise intrusion onto the development and construction and operational noise.	Yes
4K Apartment Mix	The development proposes a total of 181 units in the following mix: 1-bed: 74 units (40.8%) 2-bed: 85 units (47%) 3-bed: 22 units (13%)	Yes

	The development proposes a range of apartment types and sizes to cater for different households.	
4L Ground Floor Apartments	N/A	N/A
4M Facades	The proposed built form is a defined podium with tower form above, consistent with the desired future character of the area. The façade incorporates a variety of building elements and materials. At street level, active frontages are proposed. The façade would provide suitable visual interest.	Yes
4N Roof Design	Rooftop plant and equipment will not be readily visible due to its location in the centre of the roof plane. The flat roof design is appropriate to the scale of the building and local character.	Yes
4O Landscape Design	A detailed landscape design is proposed that contributes to the communal open space.	Yes
4P Planting on Structures	Detailed landscape plans have been prepared, providing adequate soil depth for the proposed planting.	Yes
4Q Universal Design	A variety of apartments with adaptable designs and features are provided to promote flexible housing for all community members. A total of 37 (20%) units are adaptable.	Yes
4R Adaptive Reuse	N/A	N/A
4S Mixed Use	The proposal is appropriately located for a mixed-use development. The design separates the commercial and residential land uses and minimises conflicts.	Yes
4T Awnings and Signage	The podium creates a building overhang, and a glazed awning is provided along Atchison Street. Signage is not proposed as part of this application.	Yes
4U Energy Efficiency	The design has been developed in consideration of energy efficiency and can meet or exceed the BASIX requirements.	Yes
4V Water Management and Conservation	The proposal will minimise the use of potable water, exceeding the BASIX water target. Stormwater detention and reuse systems are proposed.	Yes
4W Waste Management	Adequate bin storage is provided.	
4X Building Maintenance	The materials are appropriately selected to minimise obligations, and the building is designed to facilitate maintenance.	Yes

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

The relevant provisions of the Transport and Infrastructure SEPP, as considered in **Table 12**.

Table 12 | Transport and Infrastructure SEPP compliance

Provision	Department's consideration	Compliance
2.48 Determination of development applications – other development The consent authority must notify the relevant electricity supply authority if the development is carried out within 5m of an exposed overhead electricity power line.	The development would be within 5m of exposed overhead electricity power lines at Mitchell Street. The application was referred to Ausgrid, who have provided advice to ensure compatibility of the development with the overhead powerlines and the other existing Ausgrid infrastructure nearby.	Complies
2.99 Excavation in, above, below or adjacent to rail corridors The consent authority must notify the relevant rail authority that excavation is proposed near the railway corridor and seek concurrence.	The basement of the proposed development encroaches on the Metro corridor's second reserve zone. The Application was referred to Sydney Metro, who have provided conditions of consent to ensure that the development does not interfere with the safe functioning of the Metro. The Department has included these within the Recommended Conditions of Consent.	Complies
2.100 Impact of rail noise or vibration on non-rail development If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded— (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am, (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.	The application included a Noise and Vibration Impact Assessment (NVIA), which found that reasonable controls can be incorporated into the building design to ensure compliance with the relevant standards of the Transport and Infrastructure SEPP for internal noise levels to mitigate rail noise impacts. The recommended conditions of consent require the development to incorporate the external noise control recommendations that are outlined in the NVIA, including appropriate glazing. The Department is satisfied that, subject to the recommendations of the Acoustic Impact Assessment, appropriate measures will be taken to achieve the noise requirements under section 2.100.	Complies

State Environmental Planning Policy (Resilience and Hazards) 2021

The State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) aims to ensure that potential contamination issues are considered in the determination of an application. The Resilience and Hazards SEPP requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose of the proposed development.

A Detailed Site Investigation has been undertaken, including a historical analysis of the site along with soil and groundwater sampling. The Investigation found the site to be suitable for the proposed development subject to the implementation of mitigation measures, which included the preparation and implementation of an asbestos removal plan, final waste classification of the fill after demolition, groundwater testing and implementation of an unexpected finds protocol.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) aims to protect the biodiversity value of vegetation in non-rural areas and to protect the water quality and quantity of water catchments.

A BDAR Waiver was issued for the proposed development by the Department on 12 September 2025 in acknowledgement that the development is not likely to have any significant impact on biodiversity values.

State Environmental Planning Policy (Sustainable Buildings) 2022

The State Environmental Planning Policy (Sustainable Buildings) 2022 encourages the design and construction of more sustainable buildings to help meet climate change targets.

A BASIX certificate was submitted demonstrating that the proposal achieves compliance with the BASIX water, energy and thermal comfort requirements under this SEPP. The Department recommends a condition requiring compliance with the BASIX certificate.

North Sydney Local Environmental Plan 2013 (NSLEP)

The subject site is located within the MU1 Mixed Use zone under the NSLEP. The relevant controls are considered in **Table 13**.

Table 13 | NSLEP consideration

Section	Department's consideration
1.2 Aims of the Plan	The proposal is consistent with the aims of the plan. In particular, the proposal promotes a built form that is consistent with the desired future character of the area. The proposed residential dwellings have suitable amenity and increase the supply and diversity of housing in the area. The NRFS supports a diversity of commercial uses.
2.1 Land use zones	The site is zoned MU1 Mixed Use. The development proposes shop top housing which is permitted with consent in the MU1 zone and is consistent with the zone objectives. In particular, the proposal provides active ground floor frontages and provides suitable residential amenity.
4.3 Height of Buildings	The proposal has a compliant maximum height of 139 m.

4.4 Floor space ratio	The site has a maximum FSR of 13.38:1 and an area of 18,389.47 m². The proposal has a total GFA of 18,961 m², which equates to an FSR of 13.82:1. A clause 4.6 variation request has been provided (see Appendix D). The Department supports the variation.
4.4A Non-residential floor space ratios	The site has a minimum non-residential FSR requirement of 3:1, which equates to 4,123.2 m² of non-residential GFA. 1,938 m² of non-residential GFA is provided, which equates to an FSR of 1.43:1, being a shortfall of 2,185.2 m² or 1.6:1. A clause 4.6 variation request has been provided to support the proposed variation and has been considered by the Department in detail in Appendix E.
4.6 Exceptions to development standards	A clause 4.6 variation has been provided to justify contraventions of the floor space ratio and minimum NRFS ratio standards. The Department's consideration of the request is discussed further in Appendices D & E.
5.10 Heritage conservation	The subject site is not a heritage item or within a heritage conservation area.
5.21 Flood Planning	The site is not within a flood prone area.
6.10 Earthworks	The proposal includes excavation works to accommodate basement car parking and waste storage areas. The Department is satisfied that the proposed earthworks would not have a detrimental impact on drainage patterns and soil stability in the locality of the development. The recommended conditions also provide appropriate measures to avoid, minimise or mitigate the impacts of earthworks activities on the surrounding environment.
6.15 Airspace operations	Sydney Airport Corporation has advised that the development will infringe the Airport's Obstacle Limitation Surface (OLS) and that approval for the use of construction equipment (such as cranes and scaffolding) must be obtained prior to any commitment to construction. The Department notes that such infringements are common for tall buildings in the Crows Nest and St Leonards area, where many existing and planned developments exceed the OLS height. Accordingly, the Department recommends a condition requiring the Applicant to obtain approval under the Airports (Protection of Airspace) Regulations 1996 before the issue of the first construction certificate.
7.4 Design excellence	The Department considers the development is capable of achieving design excellence as: • a high standard of architectural design is achieved with respect to the podium's scale and the building's materiality • the podium provides active frontages and an awning, which will improve the public domain • the development design will have a positive relationship to surrounding development • it is largely consistent with the Precinct Design Guide.
7.5 Affordable housing	A 10% affordable housing requirement applies to the site. The Applicant proposes to satisfy this requirement through a monetary contribution to Council.

Table 14 | Crows Nest Transport Oriented Development Design Guide compliance table

Section	Consideration
3.1 Land to which this chapter applies	Chapter 3 of the Precinct Design Guide applies to the site as the development is within the North Sydney local government area.
3.2 Connecting with Country	The Department has reviewed the EIS and design report and is satisfied that the development has suitably demonstrated connection with Country.
3.3 Land Use	The development has a NFSR of 1.6:1 which is below the 3:1 requirement under clause 4.4A of the NSLEP. The Applicant has provided a clause 4.6 variation request which is discussed in detail in Appendix E. The proposed development is consistent with the objectives of this section.
3.4 Built Form	The proposal has a compliant building height and is consistent with the objectives of this section. Amended plans have been submitted providing further activation of the street frontages to Atchison Street and Mitchell Street in accordance with the Design Guide provisions.
3.4.1 Solar Amenity and Overshadowing	Mitchell Street Streetscape and Hume Street Park are areas to be protected from overshadowing. No additional overshadowing of Mitchell Street Streetscape is permitted between 11.30 am and 2:30 pm (June 21). The proposal would result in some overshadowing of the Mitchell Street Streetscape between 1 pm and 2 pm and minor overshadowing of Hume Street Park at 3 pm. The Department considers the minor increase in overshadowing of Mitchell Street Streetscape and Hume Street Park is acceptable as the proposal complies with the maximum building height. The proposal involves an extension of the Mitchell Street Plaza, increasing the amenity of the space.
3.5 Minimum lot size	The proposal complies with the minimum lot size provision.
3.6 Landscape and Environment	The proposal does not provide provision for deep soil plantings. However, landscaping is provided on the structure at upper levels. The proposal includes public domain works and the planting of additional street trees to improve canopy coverage and the public domain.
3.7 Design Excellence	The proposal is considered capable of achieving design excellence and is considered in further detail in Table 13 .
3.8 Setbacks	The proposal has compliant podium setbacks of 5 m to Mitchell Street, 1.5 m to Atchison Lane and a 3 m reverse setback to Atchison Street.

	The podium setbacks align with the ADG requirements except for the western boundary, as discussed in further detail in Section 5 .
3.9 Street Wall Heights	The site requires a four-storey street wall to Atchison Street and a three-storey street wall Atchison Lane. The podium creates a four-storey street wall to Atchison Street and a five-storey street wall to Atchison Lane due to the site's uneven topography. The podium includes commercial floor space, which has larger floor-to-ceiling heights. The podium aligns with the existing neighbouring podium at 6-16 Atchison Street, providing a cohesive urban design response. The proposed podium height is consistent with the objective to provide a street wall at a human scale and to improve the street's quality and amenity for users.
3.10 Movement	Complies
3.11 Car Parking	The development provides 87 car parking spaces, which complies with the maximum parking rate.
3.12 Wind Management	An Environmental Wind Tunnel Study has been provided, which recommends mitigation measures. The report finds that, subject to implementation of its recommendations, the development will not result in unsafe wind conditions.
3.13 Flooding	The site is not flood affected.

Appendix D – Request to vary the floor space ratio development standard

The proposal seeks to vary the floor space ratio (FSR) development standard prescribed by clause 4.4 of the NSLEP. Clause 4.6 of the NSLEP permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The aim of clause 4.6 is to provide flexibility in applying development standards to achieve better development outcomes.

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

The proposal provides 18,990 m² of GFA representing an FSR of 13.82:1. This results in a minor variation of less than 1% (0.15%) above the FSR control of 13.8:1 prescribed under the NSLEP.

In accordance with section 35B of the EP&A Regulation, the Applicant prepared a written request to vary the development standard. The following provides an assessment of the proposed exception to the development standard under clause 4.6 by applying the tests summarised by Chief Justice Preston of the NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827, as reaffirmed in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34].

Has the consent authority considered a written request demonstrating compliance with the development standard is unreasonable or unnecessary in the circumstances?

The Applicant provided a written request as part of the submissions report seeking to vary the FSR development standard that applies to the site.

The Applicant's request considers that compliance with the standard is unreasonable and unnecessary in the circumstance of the case, as the development is consistent with the objectives of the NFSR ratio development standard notwithstanding the non-compliance, which is in keeping with the first test of the five-part tests in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The Department has reviewed the Applicant's request and accepts that compliance with the FSR development standard is unreasonable or unnecessary given the circumstances of the case for the following reasons:

- notwithstanding the minor non-compliance, the objectives of the FSR development standard are achieved in that the development is compatible with the desired future character for the land and the zone objectives for the land
- the proposal is consistent with the objectives of the MU 1 Mixed use zone as the balcony louvres will create a high-quality urban environment with residential amenity
- the balcony louvres proposed are within the building footprint and are consistent with the intended built form and character of the area
- the louvres are proposed on the mid- to upper-level balconies (Levels 6 to 39) to mitigate wind impacts and improve balcony usability and residential amenity. Levels 6 to 29 include glass balustrades to reduce perceived bulk
- the proposed FSR variation results in no material increase to the bulk or scale of the development. The louvres do not alter the overall form of the building.

The Department has reviewed the Applicant's request and accepts that compliance with the FSR standard is unnecessary given the circumstances of the case for the reasons summarised above.

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

The Department has considered the Applicant's written request and finds there are sufficient environmental planning grounds to justify contravening the NRFS ratio standard for the following reasons:

- the proposed variation to the FSR control is minor and is proposed solely to ensure there is adequate amenity to the open space delivered for the residential dwellings
- the fixed louvres installed on the upper-level balconies (Levels 30–39) mitigate wind impacts and enhance balcony usability and residential amenity for future residents
- the louvres support the MU1 Mixed use zone objective to create mixed-use centres with high-quality urban environments with residential amenity
- the additional GFA would not result in a built form that results in adverse overshadowing, view loss or privacy impacts.

The Department is satisfied that the Applicant's written request has sufficiently identified environmental planning grounds that justify contravening the development standard for the reasons stated above. The Department is satisfied that the Applicant has demonstrated that compliance with the FSR development standard is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the proposed contravention.

The Department concludes the Applicant's written request adequately addresses the matters required to be demonstrated under clause 4.6 of the NSLEP.

Appendix E – Request to vary the non-residential floor space ratio development standard

The proposal seeks to vary the non-residential floor space (NRFS) ratio development standard prescribed by clause 4.4A of the NSLEP. Clause 4.6 of the NSLEP permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The aim of clause 4.6 is to provide flexibility in applying development standards to achieve better development outcomes.

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

The proposal provides 1,938 m² of NRFS. Accordingly, there is a shortfall of 2, 185 m² required to comply with the 3:1 NRFS control under the NSLEP (equal to a 1.6:1 or a 53%) variation. In accordance with section 35B of the EP&A Regulation, the Applicant prepared a written request to vary the development standard.

The following provides an assessment of the proposed exception to the development standard under clause 4.6 by applying the tests summarised by Chief Justice Preston of the NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827, as reaffirmed in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34].

Has the consent authority considered a written request demonstrating compliance with the development standard is unreasonable or unnecessary in the circumstances?

The EIS included a written request seeking to vary the NRFS ratio development standard that applies to the site. The request included the findings of an Economic Analysis that considered the viability of commercial office space at the site. The analysis determined that the site is capable of supporting approximately 1,500 m² of commercial floor space in the local market upon completion. Any additional commercial floor space would not be supportable from a market perspective and would otherwise prevent the NRFS ratio of 3:1 from being achieved.

The Applicant therefore considers that compliance with the standard is unreasonable and unnecessary in the circumstance of the case, as the development is consistent with the objectives of the NFSR ratio development standard notwithstanding the non-compliance, which is in keeping with the first test of the five-part tests in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The Department has reviewed the Applicant's request and accepts that compliance with the standard is unreasonable or unnecessary given the circumstances of the case for the following reasons:

- the floor plans allow for the flexible use of the commercial floor space to support the employment role of the St Leonards and Crows Nest strategic centre
- the high-quality open plan layout of the commercial floor space is suitable for a future business or retail premises (subject to a separate development application for the fit-out)
- the ground floor commercial tenancies may include either retail or business premises that will contribute to active street frontages and improved public domain outcomes along Atchison Street and Mitchell Street
- as discussed in the Economic Analysis prepared by Urbis, there is insufficient demand for 3:1 NFSR.

The Department has reviewed the Applicant's request and accepts that compliance with the NRFS standard is unnecessary given the circumstances of the case for the reasons summarised above.

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

The Department has considered the Applicant's written request and finds there are sufficient environmental planning grounds to justify contravening the NRFS ratio standard for the following reasons:

- the floor plans allow for the flexible use of the commercial floor space to support the employment role of the St Leonards and Crows Nest as a strategic centre
- the high-quality open plan layout of the commercial floor space is suitable for a future business or retail premises (subject to a separate development application for the fit-out)
- the ground floor commercial tenancies may include either retail or business premises that will create activated street frontages and improve public domain outcomes along Atchison Street and Mitchell Street
- the proposed shortfall of NRFS would not compromise the employment role of St Leonards and Crows Nest as a strategic centre.

The Department is therefore satisfied that the Applicant's written request has sufficiently identified environmental planning grounds that justify contravening the development standard for the reasons stated above. The Department is satisfied that the Applicant has demonstrated that compliance with the NRFS ratio development standard is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the proposed contravention.

The Department concludes the Applicant's written request adequately addresses the matters required to be demonstrated under clause 4.6 of the NSLEP.

Appendix F – Recommended instrument of consent

The recommended instrument of consent can be accessed at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/shop-top-housing-20-22-atchison-street>