



Crows Nest Over Station Development (Concept Proposal)

State Significant Development Assessment
SSD 9579

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Cover image: Perspective looking north-west across the intersection of Pacific Highway and Hume Street towards indicative Building A and Building C beyond (Source: Applicant's RtS)

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Glossary

Abbreviation	Definition
Applicant	Sydney Metro
ARH	Affordable rental housing
BC Act	<i>Biodiversity Conservation Act 2016</i>
BDAR	Biodiversity Development Assessment Report
CASA	Civil Aviation Safety Authority
CIV	Capital Investment Value
Consent	Development Consent
Concept Proposal	The current SSD application
CSSI	Critical State Significant Infrastructure
CSSI Approval	The approval for the construction of the Sydney Metro City and Southwest Chatswood to Sydenham project (SSI 7400) approved 9 January 2017 (as modified)
DA	Development application
DCP	Development Control Plan
DES	Design Excellence Strategy
Design Guidelines	Crows Nest Design Quality Guidelines (November 2020)
DoE	NSW Department of Education
DRP	Sydney Metro Design Review Panel
Council	North Sydney Council
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (formerly a division of OEH)
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
FSR	Floor Space Ratio
FTS 2056	Future Transport Strategy 2056
GANSW	Government Architect of NSW
GFA	Gross Floor Area
GSC	Greater Sydney Commission
Heritage item	An item of environmental heritage listed in Schedule 5 of North Sydney Local Environmental Plan 2013 or on the SHR under the Heritage Act 1977
Heritage NSW	Heritage Division of the Department of Premier and Cabinet (formerly a division of OEH)
ICNG	Interim Construction Noise Guidelines

Abbreviation	Definition
Infrastructure SEPP	State Environmental Planning Policy (Infrastructure) 2007
Integrated station development	The combined Crows Nest station, OSD and public domain works
LGA	Local government area
Minister	Minister for Planning and Public Spaces
NIA	Noise Impact Assessment
NSDCP	North Sydney Development Control Plan 2013
NSLEP	North Sydney Local Environmental Plan 2013
NSW Health	Northern Sydney Local Health District
OEH	Former Office of Environment and Heritage
OLS	Obstacle Limitation Surface
OSD	Over station development
Planning Secretary	Planning Secretary of the Department of Planning and Environment
Rezoning Proposal	Crows Nest Sydney Metro Station Site Rezoning Proposal
RtS	Response to Submissions
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SEPP 55	State Environmental Planning Policy No. 55 - Remediation of Land
SEPP 64	State Environmental Planning Policy No. 64 – Advertising Structures and Signage
SHR	State Heritage Register
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SRtS	Supplementary Response to Submissions dated Nov 2020
SSD	State significant development
Station box	The volumetric area of the Crows Nest station development approved under the CSSI Approval
TfNSW	Transport for New South Wales
VPA	Voluntary planning agreement
vph	Vehicles per hour
2036 Plan	The St Leonards and Crows Nest 2036 plan

Executive Summary

This report provides an assessment of a State significant development (SSD) application (SSD 9579) seeking Concept approval for an over station development (OSD), at 477- 495 and 497-521 Pacific Highway and 14 Clarke Street, Crows Nest (the Proposal).

The Crows Nest station is one of the seven new stations approved as part of the new Sydney Metro City and Southwest Metro lines.

The site was recently rezoned following the completion of the St Leonards and Crows Nest Precinct 2036 Plan, which provides a strategic planning framework to guide future development within the catchment of the existing St Leonards railway station and the new Crows Nest Metro station.

The proposal would provide 43,238 m² of commercial floor space and approximately 150 apartments, reflecting the new the transit-oriented development opportunity provided by the new Crows Nest Metro Station. The proposal includes:

- three building envelopes comprising:
 - 21 storeys for Site A
 - 17 storeys for Site B
 - 9 storeys for Site C
- a maximum GFA of 56,400 m² for commercial and residential floor space
- 101 car parking spaces and vehicular / pedestrian access arrangements
- a design excellence framework and design guidelines to guide the detailed design of future development within the envelopes.

The Capital Investment Value (CIV) of the development is \$381,943,255 million and the proposal is predicted to generate up to 945 construction jobs and 2,010 operational jobs. The proposal seeks approval for concept only. The detailed design of individual buildings would be subject to future development applications.

The Applicant is Sydney Metro and the site is located within the North Sydney Council (Council) local government area (LGA). The Minister for Planning and Public Spaces is the consent authority as North Sydney Council has objected to the application, the Department received more than 600 objections and the Applicant is a public authority.

Community engagement

The Department of Planning, Industry and Environment (the Department) publicly exhibited the Environmental Impact Statement (EIS) between 16 November 2018 and 8 February 2019 (85 days). The Department received 618 submissions, comprising 10 from public authorities providing comments, a submission from North Sydney Council and Lane Cove Council both objecting to the proposal and 606 submissions from the public comprising 599 objections (including 2 petitions with 139 signatures), six comments and one in support of the proposal.

On 9 September 2020, the Applicant submitted its Response to Submissions (RtS), which provided additional information and included amendments to the proposal including reducing the building envelope for Site A and changing its use from residential to commercial. The RtS was exhibited between 8 September 2020 and 6 October 2020 (28 days). The Department received 30 submissions including four from public authorities, a submission from North Sydney Council reiterating its

objection, 25 from the public comprising 22 objections, one comment and two in support. Lane Cove Council did not make a further submission.

On 25 November 2020, the Applicant submitted a Supplementary RtS (SRtS) that responded to the submissions and provided revised Design Guidelines with respect to articulation of the future built forms.

Council objected to the proposal, raising concerns about height and scale, setbacks, visual impacts, development contributions, heritage, overshadowing, car parking, vehicular access and servicing. The key concerns raised in the public submissions relate to land use, height and scale, visual impacts, overshadowing, car parking, setbacks, open space, public consultation and views.

Assessment

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 (EP&A Act), the issues raised in the submissions and the Applicant's response.

The Department considers the proposal is acceptable because:

- the proposal is consistent with the strategic planning objectives for the site as it would capitalise on the Government's investment in public transport infrastructure by locating additional jobs and housing above a new metro station
- the proposal is consistent with the recently adopted amendments to the North Sydney Local Environment Plan (NSLEP), as it:
 - complies with the Floor Space Ratio and non-residential floorspace controls for the site noting it now providing a total of 43,400m² employment generating floorspace which would generate up to 2,010 operational jobs
 - complies with the building height controls for the site, providing an appropriate transition in building heights between the taller tower developments at St Leonards and along Pacific Highway to lower scale developments in Crows Nest
 - meets the solar access controls for the site noting it would not overshadow Ernest Place and Hume Park between 10am – 3pm during mid-winter
- the Department has recommended a suite of measures to mitigate the scale and length of the proposed building envelopes (for Site A and B) including:
 - limiting the maximum extent to which future buildings can fill the proposed envelopes of 85% for Site A and 80% for Site B, to ensure future buildings provide sufficient articulation
 - providing full height recesses within the building facades of Site A and Site B to break up the length of future buildings
- the proposal is capable of achieving Design Excellence, subject to the submitted Design Guidelines (with recommended amendments) and Design Excellence Strategy, including review of future applications by the Sydney Metro Design Review Panel
- the Department's independent traffic consultant is satisfied the proposal would not result in any additional traffic impacts on the surrounding road network as the proposal would generate less traffic compared to the previous bulky goods retail and car repair uses located on the site

- the Department considers the reduced car parking rate is appropriate given it complies with Council's maximum car parking controls, the proposal is located directly above the new Crows Nest Metro Station and the provision of basement car parking is not practical.
- the proposal would deliver several public benefits including the provision of at least 5 % of its residential floor space as affordable housing for a minimum of ten years or an equivalent contribution to be paid to Council or a registered community housing provider toward the provision of affordable housing within the North Sydney local government area (LGA). The proposal would also provide an upfront payment of all local contributions (approximately \$9M) and an additional \$ 2M contribution to support Council in providing local infrastructure improvements.

Conclusion

Following a detailed assessment of the proposal, the Department considers the proposal is acceptable as it is consistent with the strategic planning framework adopted for the site which encourages employment generation and housing at this highly accessible location, served by the new Metro network.

The proposal fully complies with the height and FSR controls recently adopted for the site and it would not result in any significant amenity impacts, in particular, overshadowing of key public open spaces, including Ernest Place or Hume Park. The Department is also satisfied that the changes made to the proposal, with regards to increased commercial floor space, reduced building envelopes and revised Design Guidelines together with the recommended conditions of approval, appropriately address the concerns raised in submissions.

For these reasons, the Department considers the proposal is in the public interest and is approvable, subject to the recommended conditions of consent.

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1 Introduction

1.1 Introduction

This report provides an assessment of a State significant development (SSD) application (SSD 9579) seeking concept approval for an over station development (OSD), at 477-495 and 497-521 Pacific Highway and 14 Clarke Street, Crows Nest (the Proposal) within the North Sydney local government area (LGA).

The application seeks approval for three building envelopes on three sites located above the future Cross Nest metro station, including:

- three building envelope with maximum building heights of:
 - 21 storeys for Site A
 - 17 storeys for Site B
 - 9 storeys for Site C
- total maximum gross floor area (GFA) of 56,400 square metres (m²) including 43,400 m² commercial and 13,000 m² residential GFA
- maximum of 101 car parking spaces and loading, vehicle and pedestrian access arrangements
- design excellence strategy and design guidelines to guide future development.

The application has been lodged by Sydney Metro (the Applicant) under Part 4, Section 4.22 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Crows Nest Metro station is one of the seven new stations approved as part of the Critical State Significant Infrastructure (CSSI) approval (CSSI 7400) for the Sydney Metro City and Southwest Metro between Chatswood and Sydenham (Figure 1).

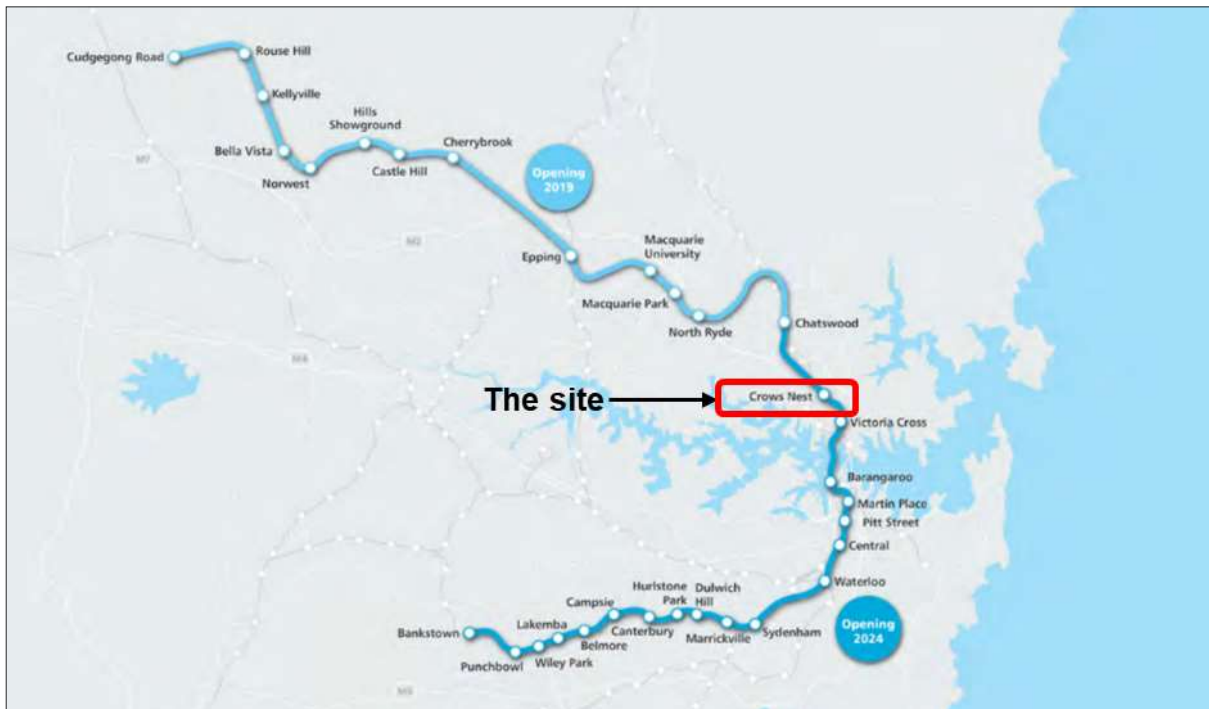


Figure 1 | Regional Context Map (Base source: Applicant's EIS)

1.2 St Leonards and Crows Nest Precinct

The site approximately 1 km north of the North Sydney CBD and 5 km north-west of the Sydney CBD. It forms part of the St Leonards and Crows Nest Precinct (identified in the 2036 plan), which expands across the North Sydney, Lane Cove and Willoughby LGAs and extends north to Naremburn and Artarmon, south to Greenwich and Wollstonecraft, east to Cammeray, west to Lane Cove (**Figure 2**). The precinct has excellent access to employment, public transport, services and open spaces. St Leonards station, North Shore Hospital and Pacific Highway are located centrally within the precinct.

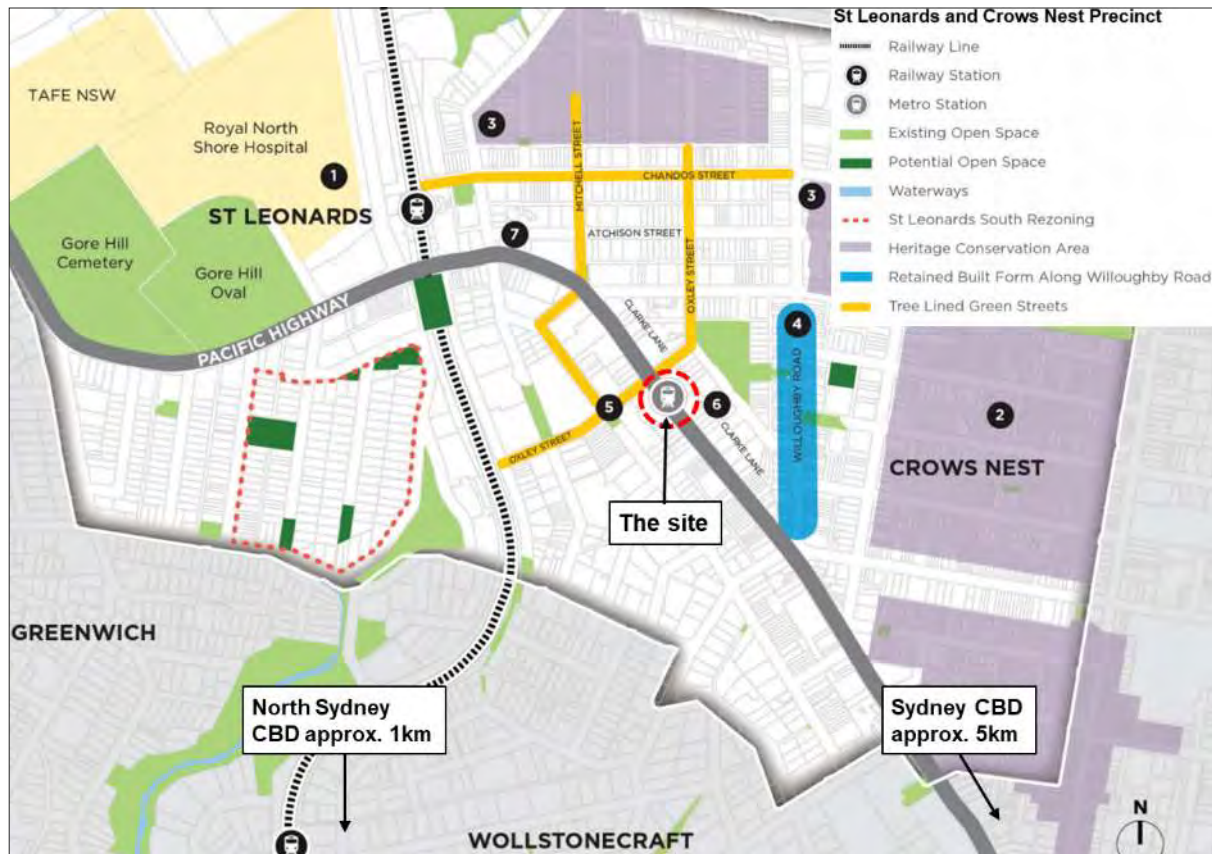


Figure 2 | The St Leonards and Crows Nest precinct (Base source: St Leonards and Crows Nest 2036 plan)

The precinct is characterised by a diverse mix of buildings and building heights. In particular, St Leonards is characterised by a cluster of high density residential and commercial towers around St Leonards station and a medical / warehousing / light industrial district to the north-west. Crows Nest is predominantly low to medium density residential, with a cluster of commercial uses along Willoughby Road and Pacific Highway forming a town centre.

In August 2020, the NSW Government adopted the strategic plan, St Leonards and Crows Nest 2036 plan (2036 Plan), which provides strategic land use and infrastructure guidance for future developments in the precinct. The plan recognised the precinct's important role for growth within metropolitan Sydney and particularly its capacity for additional commercial and residential development by leveraging the benefits of the new transport capacity from the new Crows Nest Metro Station. The St Leonards and Crows Nest 2036 plan will provide for additional 63,500 jobs and 6,683 dwellings.

1.3 Rezoning Proposal for Crows Nest metro station

Concurrent with the 2036 plan, the Government finalised the rezoning proposal for the site to reflect the opportunities for transit-oriented development at the new Crows Nest metro station. The rezoning proposal amended the North Sydney Local Environmental Plan (NSLEP) height, FSR, employment floor space and design excellence provisions applicable to the site.

On 31 August 2020, the Rezoning Proposal was finalised and gazetted. The changes to the NSLEP relating to the site are summarised at **Table 1**:

Table 1 | The amendments to the NSLEP by the Rezoning Proposal relating to the site

Control	Original NSLEP Control (2013)	Revised NSLEP Control (2020)	Difference (+/-)
Height	Site A: max. 20 m Site B: max. 10 m Site C: max. 20 m	Site A: max. RL 180 m Site B: max. RL 155 m Site C: max. RL 127 m	+160 m +145 m +107 m
Exceptions to height	No height exceptions	Site C: rooftop enclosures can exceed the maximum building height by 5 m (to a total height of RL 132 m).	+5 m
FSR	No FSR control	Site A: max. FSR 11.5:1 Site B: max. FSR 7.5:1 Site C: max. FSR 6.1	+11.5:1 +7.5:1 +6.1:1
Non-residential FSR	Site A: min. FSR 1.5:1 Site B: min. FSR 0.5:1 Site C: min. FSR 0.5:1	Site A: min. FSR 10:1 Site B: min. FSR 0.5:1 Site C: min. FSR 5:1	+8.5:1 no change +4.5:1
Design excellence	No design excellence requirement	Development must exhibit design excellence	Design excellence requirement added

1.4 The site

The site comprises three rectangular blocks, which are separated by Hume Street and Clarke Lane (hereafter collectively referred to as 'the site') (**Figure 3**):

- **Site A** is bound by Pacific Highway to the west, Hume Street to the south, Clarke Lane to the east and Oxley Street to the north
- **Site B** is bound by Pacific Highway to the west, Hume Street to the north, Clarke Lane to the east and 473 Pacific Highway to the south
- **Site C** is bound by Clarke Lane to the west, Hume Street to the south, Clarke Street to the east and 20 Clarke Street to the north.

The site has a total combined area of 6,356 m² and consists of airspace located above the future Crows Nest Metro station. The site falls approximately 8 m from the southern end of Site B (RL 95) to the northern end of Site A (RL 87) and is located within an area at low risk for flooding events.

The site has excellent access to public transport being located directly above the future Crows Nest metro station and is located 600 m south-east of St Leonards railway station / interchange and 10 bus services pass directly outside the site along Pacific Highway. A dedicated bicycle lane is located east of the site along Clarke Street.

The surrounding road network consists of dual carriageway local roads / lanes providing time restricted on-street parking, with the exception of Pacific Highway which is a six lane State arterial road with a mixture of clearway and on-street parking segments. The surrounding intersections are a mixture of priority and signalised intersections, with the Pacific Highway and Oxley Street / Hume Street being the closest traffic light controlled intersections to the site.

The site formerly contained mixed-use commercial properties of varied architectural styles up to two storeys in height. However, all previous development on the site has been demolished and excavation and works for the construction of metro infrastructure are underway. The new Crows Nest Metro Station will occupy the entirety of Sites A, B and C to a height of approximately two to four storeys (Section 2.3).



Figure 3 | The site location (Sites A, B and C highlighted red and nearby residential properties highlighted blue) (Base source: Nearmap)

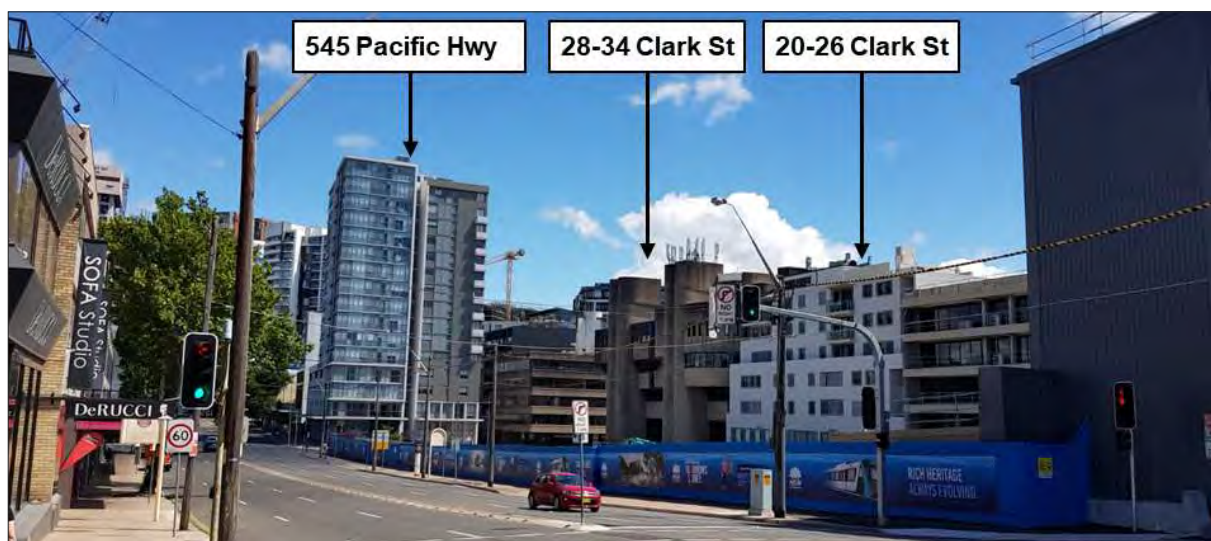


Figure 4 | View north along Pacific Highway to Site A (Source: Department site visit)



Figure 5 | View south along Pacific Highway to Site B (Source: Department site visit)



Figure 6 | View from the corner of Hume and Clarke Streets towards Site C (Source: Department site visit)

1.5 Surrounding context

Existing and surrounding developments in the vicinity of the site vary significantly in use, form, age, height and architectural design. The surrounding context is summarised below:

- north of the site, on the opposite side of Oxley Street, is a 16 storey apartment building at 545 Pacific Highway and a 5 storey commercial building (**Figure 4**). Further beyond these properties is St Leonards and a broad variety of existing medium to high density developments up to approximately 20 storeys. A number of significant tower developments up to 50 storeys have also been approved along Pacific Highway within St Leonards (**Figure 9**).
- directly opposite the site, on the western side of Pacific Highway and a variety of two to six storey mixed-use buildings at 402 Pacific Highway, with ground floor shops and commercial and residential use above (**Figure 7**). Further beyond these properties are low-density residential dwellings and small apartment buildings within the suburb of Wollstonecraft.
- east of the site, on the opposite side of Clarke Lane, is the six storey St Leonards Centre commercial building (locally listed item), an eight-storey residential apartment building at 22-

26 Clarke Street and three to seven storey commercial buildings at 8, 10 and 20 Clarke Street. Beyond these properties is a small public open space known as Hume Park (including childcare centre) (**Figure 8**), an indoor sports complex and public car park and Willoughby Road / the Crows Nest Village town centre.

- south of Site B is 473 Pacific Highway and a continuous parade of two storey properties with ground floor shops and a mixture of commercial and residential uses on first floor. Further beyond these properties is the Five Ways intersection and additional mixed-use developments.

There are no State heritage register (SHR) heritage items within the immediate vicinity of the site. However, the site is adjacent to a number of local heritage items, including:

- Higgins Buildings 366-376 Pacific Highway, comprising a group of six two storey shop buildings
- St Leonards Centre 28-34 Clarke Street, comprising a six storey commercial building designed in the Brutalist architectural style.



Figure 7 | View north along Pacific Highway towards 400 and 402-420 Pacific Highway (Source: Nearmap)

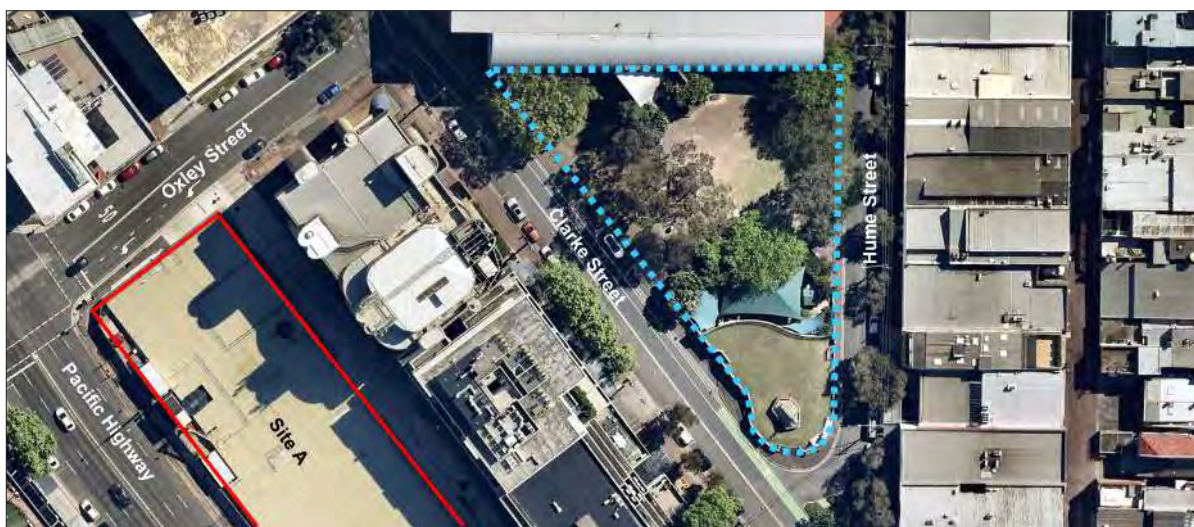


Figure 8 | Hume Street Park outlined in blue-dash line (Source: Nearmap)



Figure 9 | Approved and existing tall building / tower developments within St Leonards and Crows Nest (Base source: Applicants RtS)

2 Project

2.1 Description of development

This SSD application seeks Concept approval for an OSD above Crows Nest metro station comprising three building envelopes for commercial and residential uses.

The proposal is also accompanied by a Design Quality Guidelines (Design Guidelines) and a design excellence strategy (DES) to inform the detailed design and built form of the future development.

The key components and features of the proposal are summarised at Table 2.

Table 2 | Main components of the Concept Proposal

Component	Description
Building envelope height	<p>Maximum heights of the three building envelopes are summarised below:</p> <ul style="list-style-type: none"> Building A Maximum RL 175.6 m (21 storeys) with a roof top plant zone up to RL 180 (an additional 4.4 m) Building B Maximum RL 155 m (17 storeys) with a roof top plant zone up to RL 158 (an additional 3 m) Building C Maximum RL 127 m (nine storeys) with roof top plant zone up to RL 132 (an additional 5 m) <p>NOTE: above RL heights and storeys incorporate the height of the station levels approved under CSSI Approval.</p>
Floor space ratio (FSR)	<p>Maximum FSR of the three building envelopes are summarised below:</p> <ul style="list-style-type: none"> Building A: FSR 10.4:1 (11.12:1 including CSSI Approved station). Building B: FSR 6.9:1 (7.27:1 including CSSI Approved station). Building C: FSR 5:1 (5.73:1 including CSSI Approved station).
GFA and land use	<p>Maximum 56,400 m² GFA comprising:</p> <ul style="list-style-type: none"> 43,400 m² GFA for commercial use within building envelopes A and C 13,000 m² GFA for residential use within building envelope B. <p>NOTE: above GFA excludes GFA approved under the CSSI Approval.</p>
Façade articulation zone	<ul style="list-style-type: none"> Façade articulation zones are provided to the Hume and Clarke Street elevations of Building C. Façade articulation zones are proposed to be in addition to / extend beyond the building envelope facades and are for non-habitable floorspace only.
Affordable rental housing	<p>Provision of 5% of residential GFA (maximum 650 m²) as affordable rental housing (ARH), comprising either:</p> <ul style="list-style-type: none"> the inclusion of ARH within Building B for a minimum of 10 years, or an equivalent monetary contribution to a community housing provider to provide ARH off-site and within the local area.
Parking	<ul style="list-style-type: none"> 101 car parking spaces, comprising 46 commercial spaces within Building A and 55 residential spaces within Building B. Loading facilities and service access will be provided from Clarke Lane
Jobs	945 construction jobs and 2,010 operational jobs.
Capital investment value (CIV)	\$381,943,255

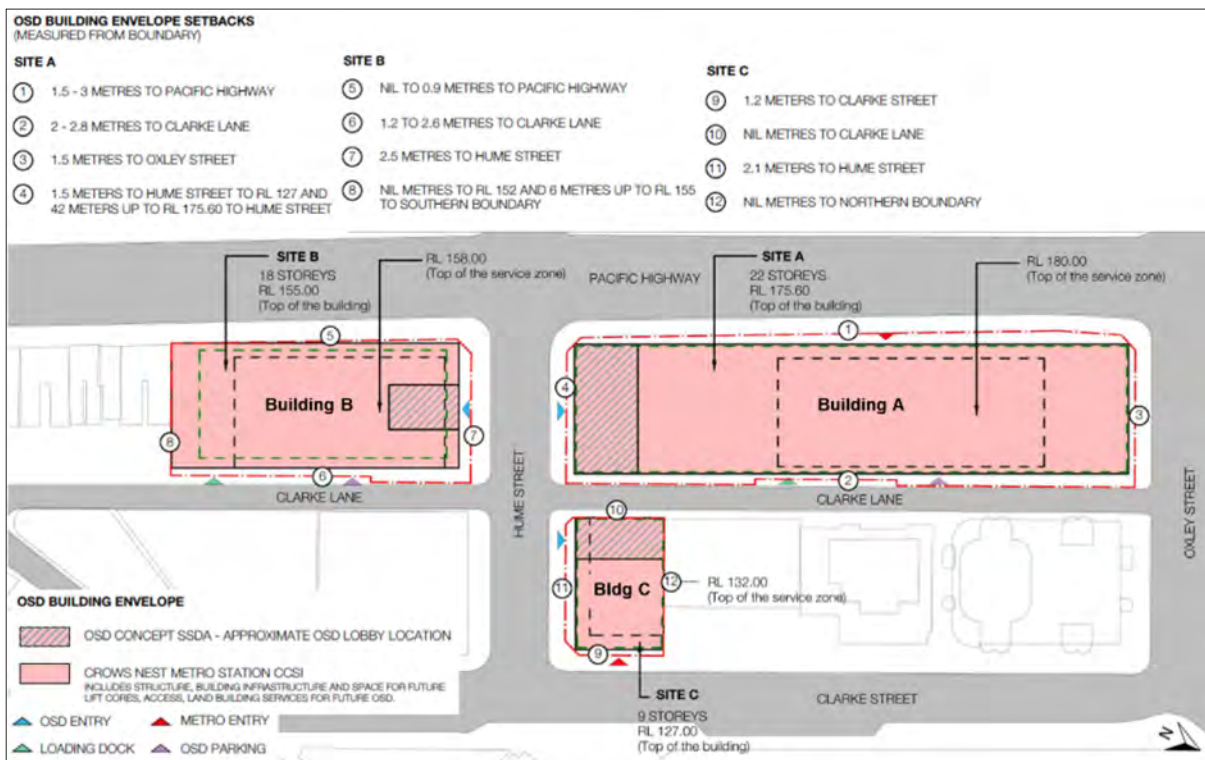


Figure 10 | The proposed location, layout and setbacks of building envelopes (Base source: Applicant's SRTs)

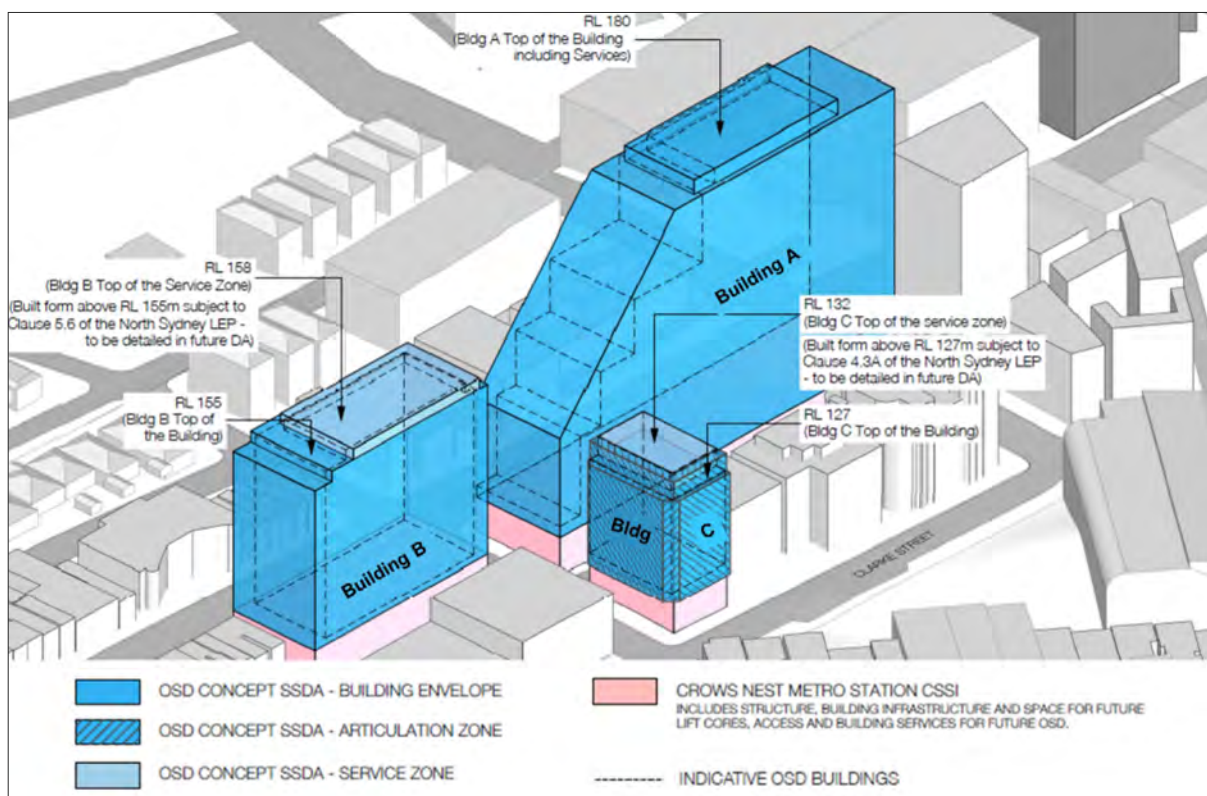


Figure 11 | Axonometric view towards the south-east towards a 3D block-massing of the proposed building envelopes and surrounding context (Base source: Applicant's SRTs)

2.2 Indicative proposal

The Applicant has provided an indicative proposal demonstrating how a detailed development can respond to the building envelope parameters (GFA and height) and the Design Guidelines (**Figure 12**

and **Figure 13**). The indicative proposal comprises:

- 43,238 m² commercial / office / retail GFA within Buildings A and C
- 148 apartments within Building B
- 101 car parking spaces within Buildings A Building B.

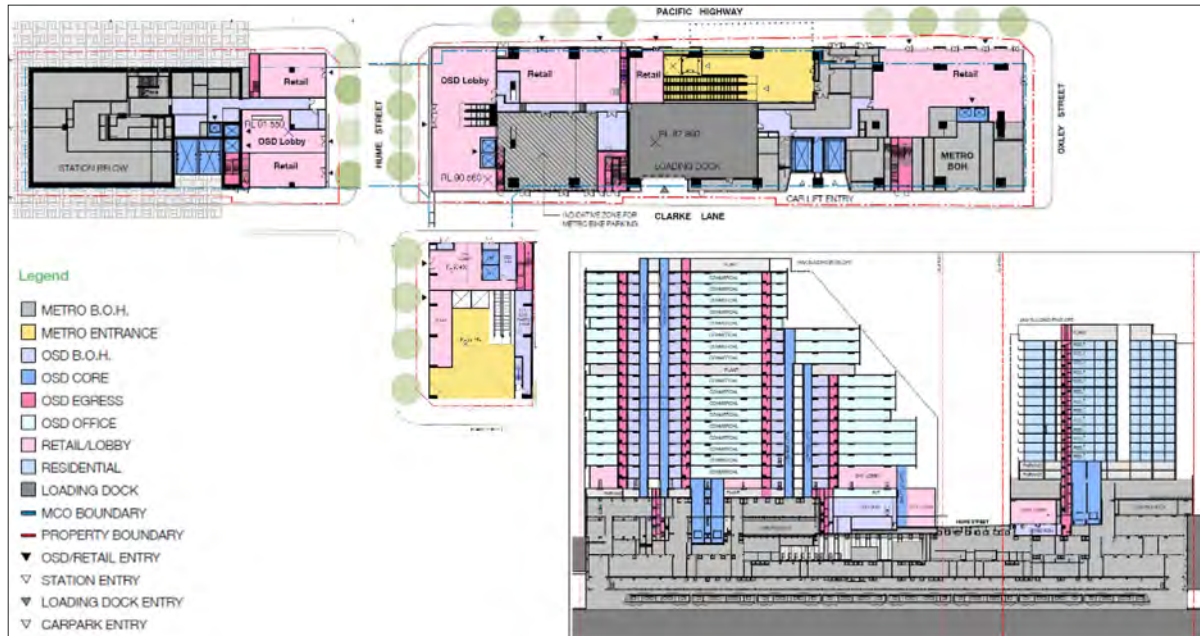


Figure 12 | Station level layout and section through indicative Buildings A and B (fronting Pacific Highway) (Base source: Applicant's RtS)



Figure 13 | Elevated perspective looking west towards indicative Buildings A, B and C, including outline of approved future towers within St Leonards (Base source: Applicants RtS)

2.3 Relationship between the OSD and Crows Nest metro station

The CSSI Approval includes construction of below and above ground structures necessary for delivery of the station and also enabling work for an integrated OSD. The proposed OSD building envelopes (the subject of this application), are located above the approved station envelope. The OSD will align and integrate into the station from an architectural, structural and operational perspective.

The delineation between the OSD and the station works under the CSSI Approval is generally defined by the 'transfer level', which is located approximately two to three storeys above the ground level (however, the maximum approved transfer level height is RL100.4 for Site A, RL 106.5 for Site B and RL 98.4 Site C). Notwithstanding this, due to the reliance of the OSD on the CSSI Approved station levels for physical and access arrangements, key components of the OSD are addressed by CSSI Approval and contained within its envelope, including:

- structural and service elements and the relevant space necessary for construction OSD, such as columns and beams, space for lift cores, plant rooms and the like
- pedestrian and vehicular access, loading/unloading, retail and building services.

The transfer level is indicated at **Figure 14**. The indicative ground floor station layout, including key OSD components and access is shown at **Figure 12**.

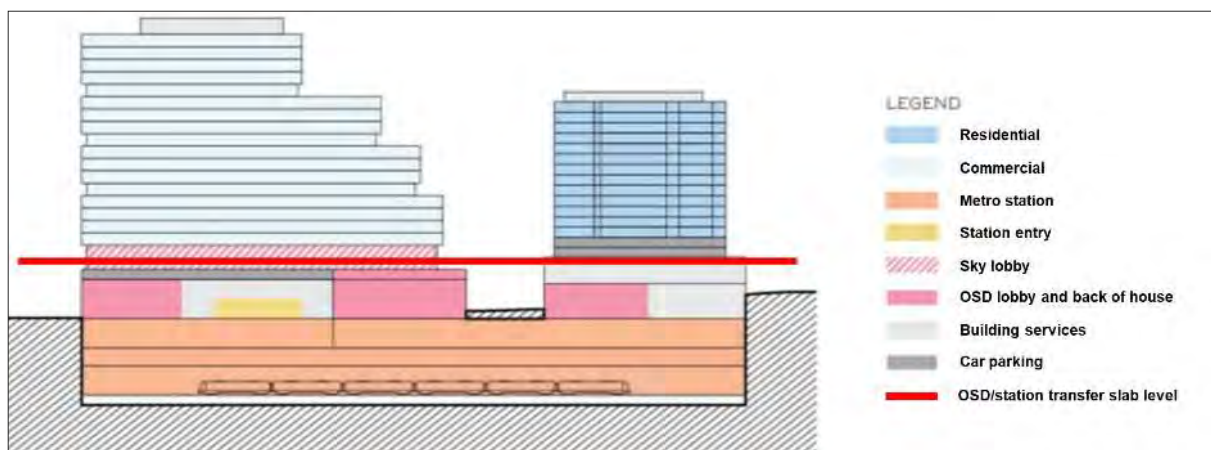


Figure 14 | Transfer slab delineation (approximately 2 storeys) between the OSD and the station (red line) (Base source: Applicant's RtS)

2.4 Staging

The Concept Application does not seek approval for construction works. The detailed design and construction of the development would be subject to a separate future SSD development application(s) (DAs).

The Applicant is targeting concurrent construction of the station infrastructure, public domain works and Building C of the OSD (**Figure 15**). The Applicant would separately invite tenders for the Building A and B from the private sector the successful tenderer would seek approval for the detailed design and construction of the OSD. The Crows Nest metro station is scheduled for completion in 2024.

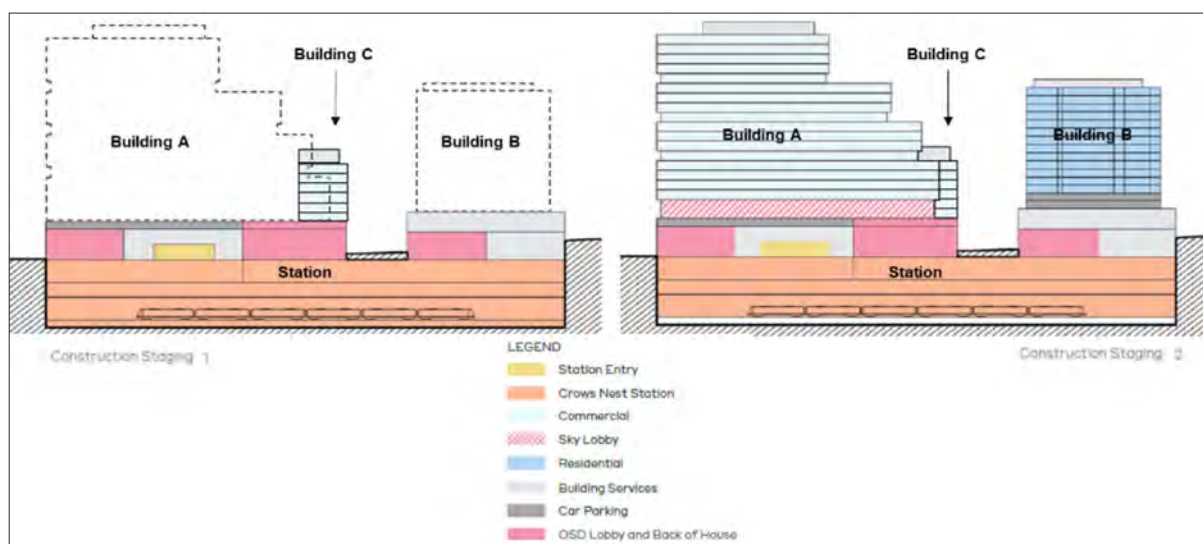


Figure 15 | Three OSD construction staging scenarios (Base source: Applicant's RTS)

2.5 Related Development

2.5.1 Sydney Metro City and Southwest Metro (CSSI 7400)

On 9 January 2017, the former Minister for Planning granted Critical State Significant Infrastructure (CSSI) approval for Sydney Metro City and Southwest between Chatswood and Sydenham (CSSI 7400) (the CSSI Approval) (**Figure 10**).

CSSI Approval has been modified on seven occasions and, in relation to Crows Nest station, allows:

- demolition of existing buildings and excavation of metro rail tunnel
- the construction of station, concourse and platforms and operation of the metro line
- provision of two station entries, including one off Pacific Highway (Building A) and the other off Clarke Street (Building C)
- provision of retail spaces and loading docks within the station
- public domain upgrade works around the station
- structural and service elements/spaces necessary for retail premises and OSD within the CSSI footprint.

The CSSI Approval conditions relevant to OSD at Crows Nest metro station include:

- **Condition A4** which notes that any OSD, including associated future use, does not form part of the CSSI and will be subject to the relevant assessment pathway
- **Condition E92** requires an Interchange Access Plan (IAP) to be prepared and approved for each station, in consultation with the Sydney Metro Design Review Panel (DRP), to inform the final design of transport and access facilities and services, including footpaths, cycleways, passenger facilities, parking, traffic and road closures, and integration of public domain and transport initiatives
- **Condition E100** requires the DRP be established to refine the design objectives for the development and provide advice on place making, architecture, heritage, urban design, landscape design and artistic aspects. The DRP comprises five members, chaired by the NSW Government Architect (GANSW) and includes a representative of the Heritage Council of NSW, with the opportunity for Council or other stakeholders to be invited to attend

- **Condition E101** requires the preparation and approval of Station Design Precinct Plans (SDPPs) for each station. The SDPPs are to present an integrated urban and place making outcome. The SDPPs must be prepared in collaboration and consultation with relevant stakeholders, including council, the local community and the DRP. The SDPP must identify and address specific design objectives, principles and standards as are identified in Condition E101.

3 Strategic context

3.1 Greater Sydney Region Plan: A Metropolis of Three Cities

In March 2018, the Greater Sydney Commission's (GSC) published the Greater Sydney Region Plan (the Region Plan) and the associated District Plans.

The Region Plan outlines how Greater Sydney will manage growth and change and guide infrastructure delivery. It sets the vision and strategy for Greater Sydney, to be implemented at a local level through District Plans. The Region Plan's overriding vision for Greater Sydney is to rebalance Sydney into a metropolis of three unique but connected cities; an Eastern Harbour City, the Western Parkland City (west of the M7) and the Central River City (with Greater Parramatta at its heart).

The site is located within the Metropolitan Centre and Eastern Economic Corridor. The proposal is consistent with the Directions and Actions of the Region Plan as:

- it would provide residential and commercial uses within walkable distance to a metro station within the Eastern Economic Corridor
- it would provide additional homes within the St Leonards and Crows Nest growth precinct
- St Leonards and Crows Nest is an emerging employment centre and the proposal would expand on the supply of employment space located to the north of the harbour

The proposal would therefore support integrated land use and transport planning by providing jobs and housing above a new metro station, consistent with the Region Plan.

3.2 North District Plan

The GSC has prepared District Plans to inform regional and local-level planning and assist the actions of State agencies. The aim of the District Plans is to connect local planning with longer-term metropolitan planning for Greater Sydney.

The proposal is located within the North District area. The North District Plan contains key priorities relevant to the proposed development including supporting infrastructure and services provision, housing supply, the Eastern Economic Corridor, growing investment and integrated land use / transport planning and creating a 30-minute city.

The proposal is consistent with the above priorities as it facilitates the construction of a high-quality mixed-use development incorporating commercial and residential uses in an area with strong public transport connections and integrated employment opportunities. The proposal assists in providing jobs and investment in the Eastern Economic Corridor and opening new commercial leasing opportunities to a more connected catchment along the City and Southwest metro corridor.

3.3 Sydney Metro City and Southwest Project

The construction of the Sydney Metro network is a significant public transport and a city-shaping project and the Sydney Metro City and Southwest stage of the project has an investment value over \$11 billion. This significant public investment in world-class transport infrastructure results in substantial public benefits, opportunities for placemaking and transit-oriented development to provide jobs, homes and public domain around new stations.

The concept proposal would take advantage of the Government's investment in public transport by

locating 13,000 m² residential GFA for new homes and 43,400 m² commercial GFA for new employment floorspace above the Crows Nest metro station. It would also create a vibrant precinct that is well connected to transport, capable of achieving design excellence and resulting in the creation of 945 construction and 2,010 operational jobs.

3.4 St Leonards and Crows Nest 2036

The St Leonards and Crows Nest 2036 plan (2036 Plan) is a strategic land use and infrastructure plan that seeks to facilitate the urban renewal of St Leonards and Crows Nest for an expanding employment centre and growing residential community.

The site has been rezoned consistent with the 2036 Plan (**Section 1.3**) and the Department has considered the proposal against the objectives of the 2036 Plan at **Appendix C**.

3.5 Future Transport Strategy 2056

The Future Transport Strategy 2056 (FTS 2056) sets out a transport vision, directions and outcomes framework for NSW to guide transport investment and policy over a 40-year period. The FTS 2056 aims to achieve greater transport capacity, improved accessibility to housing, jobs and services, continued innovation, address challenges and support the State's economy and social performance.

The proposal is consistent with the key outcomes of the FTS 2056 as it provides new homes and jobs above/ around a new metro station and encourages the use of public transport and walking and cycling. In addition, the proposal would reduce reliance on private vehicles by including less car parking than the maximum permissible on the site under the NSLEP.

3.6 NSW State Infrastructure Strategy 2018-2038

The NSW State Infrastructure Strategy 2018-2038 sets out the Government's vision for the State over a 20-year period and across all sectors. The strategy is underpinned by the Region Plan, District Plans and the FTS 2056 to bring together infrastructure and land-use planning. The strategy, among other things, aims to ensure capital investment keeps pace with new homes and jobs in priority locations to support population growth while maintaining local amenity.

The Department is satisfied the proposal is consistent with the strategy as it capitalises on the investment in the metro network and comprises a well-connected / serviced and accessible proposal.

3.7 Sydney's Rail Future

Sydney's Rail Future: Modernising Sydney's Trains 2012, is the NSW Government's long-term plan to increase the capacity of Sydney's heavy rail network through investment in new and existing services and infrastructure. The plan aims to increase the carrying capacity of Sydney's CBD rail lines by up to 100,000 additional people per hour in the peak period. A key part of this aim is to deliver the Sydney Metro rapid transit system to free up bottlenecks and provide new transport opportunities.

The proposal is located above the Crows Nest metro station development and would benefit from the creation of the new transport node. The proposal would facilitate the success and patronage on the metro by providing for high quality residential and commercial floorspace within walking distance of the station.

4 Statutory context

4.1 State Significant Development

The proposal is SSD under Section 4.36 of the EP&A Act and Clause 8(1)(b) of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) as the development has a CIV of more than \$30 million and is for residential accommodation and commercial premises associated with railway infrastructure under Schedule 1, Clause 19(2) of the SRD SEPP.

4.2 Consent Authority

In accordance with Section 4.5 of the EP&A Act and Clause 8A of the SRD SEPP the Minister for Planning and Public Spaces is designated as the consent authority as the application has been made by a public authority.

4.3 Permissibility

The site is zoned B4 Mixed Use in the NSLEP. Commercial premises (comprising offices, business premises, retail and food and drink premises) and residential accommodation are permissible with consent.

The Department has considered the proposal against the NSLEP development standards in detail at **Appendix B** and is satisfied the proposal complies with all relevant standards.

4.4 Secretary's Environment Assessment Requirements

On 26 September 2018, the Department notified the Applicant of the Planning Secretary's Environmental Assessment Requirements (SEARs) that apply to the proposal. The Department is satisfied that the EIS and RtS adequately address the requirements of the SEARs to enable the assessment and determination of the application.

4.5 Biodiversity Development Assessment Report

Under section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act), SSD applications are to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.

On 17 October 2018, EESG determined that the proposed development would not be likely to have any significant impact on biodiversity values and that a BDAR is not required. The Department supported EESG's decision and on 24 October 2018 determined that the application is not required to be accompanied by a BDAR under section 7.9(2) BC Act.

4.6 Mandatory matters for consideration

The following are the relevant mandatory matters for consideration:

- the matters in section 4.15(1) of the EP&A Act
- relevant EPIs
- objects of the EP&A Act
- Ecological Sustainable Development (ESD)

- Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

The Department has undertaken a detailed assessment of the above at **Appendix B** and is satisfied the application has appropriately addressed the mandatory matters for consideration.

4.7 Other approvals

As the proposal is a concept application, the Department has recommended conditions for the proposal in accordance with the following requirements:

- all physical works and subsequent stages of the concept proposal are to be subject to future DA(s) (section 4.22(4) of the EP&A Act)
- the determination of future DA(s) cannot be inconsistent with the terms of the concept approval (section 4.24(2) of the EP&A Act)
- the concept approval lapses five years after the date of the consent unless works the subject of future DA(s) has physically commenced on the site (section 4.53 of the EP&A Act).

The Department has recommended terms of approval (ToAs) in accordance with the above requirements.

5 Engagement

5.1 Department's engagement

On 9 November 2018, the Applicant lodged the SSD application for the redevelopment of the site. The application has been revised two times, by the:

- Response to Submissions (RtS), dated September 2020
- Supplementary Response to Submissions (SRtS), dated November 2020

The Department publicly exhibited the EIS and the RtS. A total of 653 submissions were received in response to the exhibitions of the EIS and RtS, comprising 14 from public authorities, three from Councils and 636 from the public. A summary of the exhibition and notification is provided at **Table 3**. A summary of the issues raised in the submissions is provided at **Section 5.2 to 5.4**. Copies of the submissions may be viewed at **Appendix E**.

Table 3 | Summary of public exhibition and notification of the application

Stage	Exhibition / Notification Period	Public notice date (newspaper publication)	Consultation method	Submissions
EIS	16 Nov 2018 until 8 Feb 2019 (85 days)	15 Nov 2018 <ul style="list-style-type: none"> • North Shore Times • Mosman Daily • Sydney Morning Herald • Daily Telegraph • Sun Herald 	Displayed: <ul style="list-style-type: none"> • Department's website • North Sydney and Lane Cove Councils' offices • NSW Service Centre Notified: <ul style="list-style-type: none"> • Adjoining landholders • Council • Public authorities 	623 submissions comprising: <ul style="list-style-type: none"> • 2 Councils • 10 Public authorities • 611 public
RtS	8 Sep 2020 until 6 Oct 2020 (28 days)	No publication	Displayed: <ul style="list-style-type: none"> • Department's website • North Sydney and Lane Cove Councils' offices • NSW Service Centre Notified: <ul style="list-style-type: none"> • Adjoining landholders • North Sydney and Lane Cove Councils • Public authorities 	30 submissions comprising: <ul style="list-style-type: none"> • 1 Council • 4 Public authorities • 25 public
SRtS	30 Nov 2020 Until 10 Dec 2020 (10 days)	No publication	Displayed: <ul style="list-style-type: none"> • Department's website • NSW Service Centre Notified: <ul style="list-style-type: none"> • Council • EESG 	Council made an additional submission. EESG provided no further comments.

The Department considered the comments raised by community, Council and public authority submissions during the assessment of the application (**Section 0**) and by recommended conditions of consent at **Appendix G**.

5.2 Key issues – public authorities

The key issues raised in submissions are summarised in **Table 4**.

Table 4 | Public authority submissions to the EIS, RtS of the proposal

Heritage Division of the Department of Premier and Cabinet (formerly a division of the Office of Environment and Heritage) (Heritage NSW)	
EIS	Heritage NSW does not object to the proposal and provided the following comments: <ul style="list-style-type: none"> the proposal would not impact on any heritage items listed on the SHR. However, the site is located near to several locally listed heritage items the Design Guidelines are considered appropriate to mitigate the heritage impacts of future development(s) the Heritage Interpretation Strategy that forms part of the CSSI Approval applies to the proposal.
RtS	Heritage NSW reiterated its comments provided in response to the EIS and recommended a condition requiring the Applicant prepare an archaeological unexpected finds protocol.
Environment Protection Authority	
EIS	The EPA does not object to the proposal and provided the following comments: <ul style="list-style-type: none"> the application does not constitute a Scheduled Activity under Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> (POEO Act) and the proposal does not require an Environment Protection Licence. the EPA is not the regulatory authority under the POEO Act for the project the development is located above operational rail lines and the development should be subject to appropriate vibration and ground borne noise limits in accordance with the EPA's Rail Infrastructure Guideline (EPA, 2013) and Assessing Vibration: a technical guideline (DECC, 2006).
RtS	EPA stated as it has no regulatory role in relation to the proposal, it makes no comment.
Environment, Energy and Science Group of the Department of Planning, Industry and Environment (formerly a division of the Office of Environment and Heritage) (EESG)	
EIS	EESG does not object to the proposal and provided the following comments: <ul style="list-style-type: none"> the proposal does not involve any ground or below ground level works and would not impact on any Aboriginal sites EESG approved a BDAR waiver on 17 October 2018.
RtS	EESG reiterated its comments relating to the EIS. EESG provided the following new/additional comments: <ul style="list-style-type: none"> further consideration (and revision where necessary) is required of flooding impacts to entrances, adjoining properties and station infrastructure.
Water NSW	
EIS	Water NSW provided no comment on the proposal as the site is not located near any operational Water NSW land of infrastructure.
RtS	Water NSW reiterated its comments provided in response to the EIS.
Northern Sydney Local Health District (NSW Health)	
EIS	NSW Health does not object to the proposal and recommended future DA(s) employ appropriate noise mitigation measures to ensure the required noise management levels at all sensitive receivers are met and that the Applicant engage with affected sensitive receivers.
Civil Aviation Safety Authority (CASA)	
EIS	CASA does not object to the proposal and provided the following comments: <ul style="list-style-type: none"> the height of building and construction cranes will infringe the Obstacle Limitation Surface (OLS) for Sydney Airport and the development therefore requires a controlled activity

Heritage Division of the Department of Premier and Cabinet (formerly a division of the Office of Environment and Heritage) (Heritage NSW)

- | | |
|--|--|
| | <p>approval from the federal Department of Infrastructure, Regional Development and Cities (DIRDC)</p> <ul style="list-style-type: none"> the development may impact on the operation of the Royal North Shore Hospital helipad and NSW Health should be consulted. |
|--|--|

Sydney Water

- | | |
|-----|--|
| EIS | Sydney Water does not object to the proposal and has advised that although water and waste water services are available to the site pipe infrastructure capacity upgrades will be necessary. |
|-----|--|

NSW Police

- | | |
|-----|--|
| EIS | NSW Police does not object to the proposal and recommended future buildings be design in accordance with Crime Prevention Through Environmental Design (CPTED) principles. |
|-----|--|

Fire and Rescue NSW (RFNSW)

- | | |
|-----|--|
| EIS | FRNSW does not object to the proposal and requested that it be consulted on future DA(s) and the design of fire and life safety systems and pedestrian interfaces. |
|-----|--|

Ausgrid

- | | |
|-----|---|
| EIS | Ausgrid provided no comments on the proposal noting the Applicant is undertaking ongoing consultation with Ausgrid. |
|-----|---|

5.3 Key issues – Council and community

5.3.1 Council key issues

North Sydney and Lane Cove Councils object to the proposal. The Councils' submissions are summarised in Table 5.

Table 5 | North Sydney and Lane Cove Councils' submissions to the EIS and RtS

North Sydney Council

- | | |
|-----|---|
| EIS | <p>Council objected to the proposal on the following grounds (the EIS Objections):</p> <ul style="list-style-type: none"> there is no demonstrated reason to waive of the requirement for payment of development contributions under Section 7.11 or the SIC the bulk and mass of the built form is of concern in the context of the surrounding skyline and by comparison to other slender towers under construction in the area all loading facilities should be provided within the buildings on-site above ground car parking should be removed queuing areas should be provided for vehicles accessing lifts to above ground parking the development should not result in any overshadowing of Ernest Place and Willoughby Road before 4pm or Hume Street Park between 10am and 2pm. <p>Council also raised the following other initial objections, which have been addressed by the RtS (the Initial Objections):</p> <ul style="list-style-type: none"> the application is premature as the following have not been finalised/adopted: <ul style="list-style-type: none"> the St Leonards and Crows Nest 2026 Draft Plan draft Rezoning Proposal for Crows Nest Sydney Metro Special Infrastructure Contribution (SIC) for St Leonards and Crows Nest |
|-----|---|

North Sydney Council

	<ul style="list-style-type: none"> the section 4.6 variation requests do not adequately address the relevant controls and are therefore not considered to be well founded Buildings A and B would have unacceptable heritage impacts on 20 and 28 Clarke Street the photomontage imagery within the visual impact assessment includes building location discrepancies and refers to buildings that have not been approved the hotel floorspace should be replaced with office floorspace the proposal should include 5-10% affordable housing and included as part of a voluntary planning agreement (VPA) with Council additional detail is required on the location, type and amount of proposed community facilities. Such facilities should be included within the VPA.
RtS	<p>Council confirmed the RtS has addressed its Initial Objections.</p> <p>Council reiterated its EIS objections and provided the following additional objections:</p> <ul style="list-style-type: none"> future DA(s) should consider the impact of the bulk, massing and visual impact of future development on the existing and emerging character of Crows Nest the proposal is visually prominent when viewed from Ernest Place, Hume Street Park and Willoughby Road Council does not support the inclusion of car lifts and the servicing bay on Clarke Lane, behind Building C as they have the potential to result in vehicle queuing that would block the roadway Council does not support the provision of the servicing bay on Clarke Lane, behind Building C, as this the car park should be removed replaced with commercial floorspace and a contribution made to off-site public car parking any contribution towards affordable housing should be via Council setbacks above podium level should be provided in accordance with the North Sydney Development Control Plan 2013 (NSDCP) signage should form part of future DA(s) and should have regard to the provisions of NSDCP Council does not support the 3m exceedance of the NSLEP maximum height control for Site B Council raised concern Building A would have an adverse impact on the setting and views towards the St Leonards Centre heritage item.

Lane Cove Council

EIS	<p>Lane Cove Council objected to the proposal on the following grounds:</p> <ul style="list-style-type: none"> an underground pedestrian connection from Oxley Street (on the opposite side of Pacific Highway) to the underground metro station should be incorporated into the design the space requirements for bus / metro interchange should be determined now rather than being deferred to future DA stage the proposal does not provide for an appropriate built form transition to adjoining buildings / surrounding areas the proposal should incorporate either a central or branch library the hotel floorspace should be replaced with office floorspace Council does not support the grant of an exemption from the payment of development contributions under Section 7.11 and SIC.
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5.4 Community key issues

A total of 636 public submissions were received (excluding duplicate submissions) in response to the public exhibitions of the EIS and RtS. Submissions comprised 626 objections, seven comments and three in support as summarised at **Table 6**. The key issues raised in submissions are summarised in **Table 7**.

Table 6 | Summary of public submissions (excluding duplicates)

Submitter	EIS	RtS	Total	Position
Community	604	23	627	
	597	21	618	Objection
	6	1	7	Comment
	1	1	2	Support
Petitions	2	0	2	
Petition 1 (119 signatures)	1		1	Object
Petition 2 (20 signatures)	1		1	
Special Interest Groups	5	2	7	
Waverton Precinct	1		1	Object
Association for the Committee for North Sydney	1		1	
Northern Suburbs Basketball	1		1	
Naremburn Progress Association	1		1	
Greenwich Community Association Inc.	1		1	
Wollstonecraft Precinct		1	1	Support
Geosentinel Australia Pty Ltd		1	1	
TOTAL	611	25	636	

Table 7 | Public submissions raised in response to the exhibitions of the EIS and the RtS

Issue	Proportion of total EIS (604) submissions	Proportion of total RtS (25) submissions
Issues raised in response to both the EIS and the RtS exhibitions		
Objection to residential use / amount of residential	88%	40%
Buildings should include health or education uses in accordance with the 2036 Plan	87%	4%
Building C should be deleted	85%	40%
Overshadowing of Willoughby Road, Ernest Place, Crows Nest Village and Hume Park	84%	88%
Overshadowing of Wollstonecraft East / residential area west of site	84%	52%

Issue	Proportion of total EIS (604) submissions	Proportion of total RtS (25) submissions
The development should be car free	84%	4%
Excessive building height that is out of character for the area	83%	88%
Inadequate building setbacks	81%	8%
The development should include a public open space	79%	52%
Inappropriate scale resulting in adverse visual impacts	79%	36%
Development does not consider the Council led precinct planning for the area	72%	36%
Sets a precedent for redevelopment of adjacent sites	70%	36%
The development should not be exempt from paying SIC and s7.11 contributions	5%	4%
inadequate community consultation	5%	40%
excessive building density / overdevelopment	3%	84%
adverse wind impacts	3%	4%
insufficient social infrastructure to support residential development	<1%	4%
Issues raised just in response to the EIS exhibition		
Development should include more commercial use and encourage job creation	85%	-
The development should include recreational use(s)	80%	-
Wider public footpaths should be provided	78%	-
Objection to hotel use on the site	73%	-
Inconsistent with the NSLEP controls	70%	-
Inconsistent with the St Leonards Crows Nest Plan 2036	6%	-
adverse traffic impacts	2%	-
the development should not include above ground car parking	1%	-
adverse amenity impacts (privacy, outlook, overshadowing)	1%	-
adverse construction and operational noise	<1%	-
support for hotel use	<1%	-
adverse impact on property values	<1%	-
Issues raised just in response to the RtS exhibition		
RtS public exhibition period was too short	-	36%
The claimed 20% reduction in scale is misleading	-	36%

Issue	Proportion of total EIS (604) submissions	Proportion of total RtS (25) submissions
The proposal blocks views of the sky from residential properties	-	36%
The proposal should consider the cumulative impact of overshadowing with other potential tall developments	-	36%
Proposal results in excessive job creation	-	36%
The proposal should be amended to have no impact on Hume park		
A pedestrian connection across the Pacific Highway should be provided	-	8%
Objections to the rezoning and the content of the 2036 Plan	-	8%
Affordable housing should be provided on-site (not taken as contribution)	-	4%
The amount of car parking should not be reduced	-	4%

5.5 Applicant's responses to submissions

Following the exhibition of the EIS, the Department placed copies of all submissions received on its website and requested the Applicant to provide a response to the issues raised.

On 9 September 2020, the Applicant provided its RtS, which included additional information and justification in response to the issues raised during the public exhibition of the proposal. The RtS includes amendments to the proposal and a detailed summary and comparison the key changes to the proposal are outlined below and at **Table 8**:

- amendment to the form and volume of Building A by chamfering off a triangular segment above RL 127 m at the southern end of the building envelope opposite Hume Street (**Figure 16**)
- introduction of building articulation zones to the elevations of all building envelopes
- removal of community use from the development
- provision of 5% GFA as ARH on the site or a contribution in lieu of on-site provision
- amendments to the Design Guidelines
- updated indicative development design and layout.

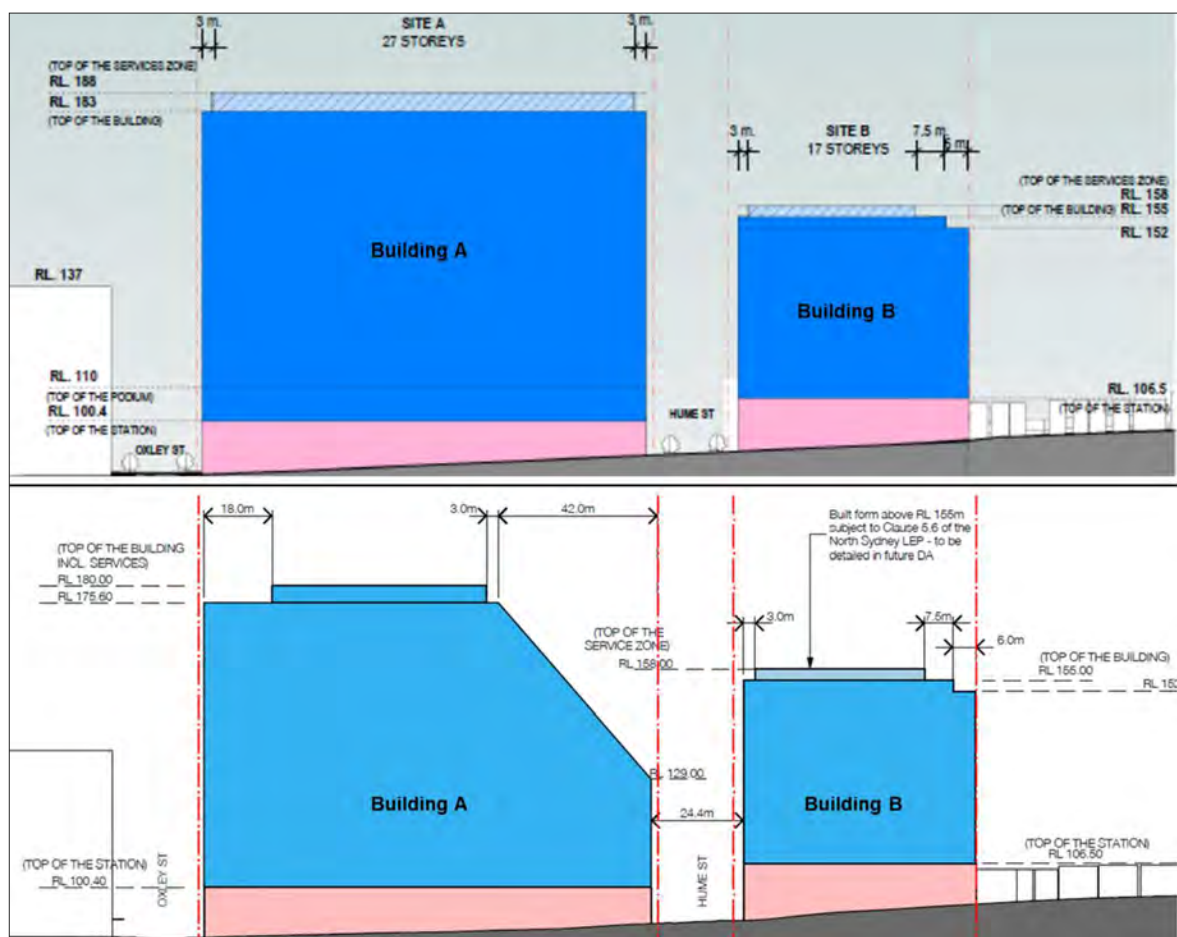


Figure 16 | Pacific Highway elevation of the proposed submitted with the EIS (top) and as revised by the RtS (bottom) (Base source: Applicants RtS)

Table 8 | Summary and comparison of the changes to the proposal

Component	EIS	RtS	Difference (+/-)
Land use	Site A: Residential Site B: Hotel/tourist	Site A: Commercial Site B: Residential	Change to commercial Change to residential
GFA	55,400 m ² comprising: Site A: 37,500 m ² residential Site B: 15,200 m ² hotel Site C: 2,700 m ² commercial	56,400 m ² comprising: Site A: 40,300 m ² commercial Site B: 13,000 m ² residential Site C: 3,100 m ² commercial	+1,000 m ²
Max. height	Site A: RL 188	Site A: RL 180	-8 m
Envelope height	Site A: RL 183	Site A: RL 175.60	-7.4 m
FSR *	Site A: FSR 9.67:1 Site B: FSR 8.12:1 Site C: FSR 4.44:1	Site A: FSR 10.4:1 Site B: FSR 6.9:1 Site C: FSR 5.1:1	+0.73:1 -1.22:1 +0.66:1
Non-residential FSR	Site A: FSR 0.7:1 Site B: FSR 8.12:1 Site C: FSR 4.44:1	Site A: FSR 11.12:1 Site B: FSR 0.55:1 Site C: FSR 5.73:1	+10.42:1 -7.57:1 +1.29:1

Component	EIS	RtS	Difference (+/-)
Car parking	150 spaces comprising: Site A: 125 spaces Site B: 25 spaces	101 spaces comprising: Site A: 46 spaces Site B: 55 spaces	-49 spaces

* FSR relates specifically to OSD and excludes the metro station GFA

On 25 Nov 2020, the Applicant provided its SRtS, which included additional information and justification in response to the issues raised during the exhibition of the RtS. The SRtS also included the following amendments to the proposal:

- removal of articulation zones from Buildings A and B and retention of articulation zones to the Hume and Clarke Street elevations of Building C
- update Design Guidelines to include controls regarding building scale and articulation and a response to clause 6.19B of the NSLEP
- a revised public benefit offer, including upfront payment of section 7.11 contributions (\$9 million) and an additional public benefit offer of \$2 million
- confirmation the application no longer seeks to increase the height of Building B via a clause 4.6 variation request. Any rooftop enclosure for that building would be instead subject to clause 5.6 'Architectural Roof Features'
- confirmation the application no longer seeks approval for signage zones
- confirmation of motorcycle and bicycle parking
- amended DES to include reference to the Sydney Metro Design Review Panel and changes to design delivery of the project
- updated predicted operational and construction jobs.

Council remained concerns about the bulk and massing of the proposed built form. Council also considers the proposed minimum of 15% of the building envelope for articulation would be significantly less than what would be expected under Council's DCP control and would result in larger buildings than surrounding area. Council also reiterated their concerns on the use of car lifts and above ground parking.

EESG notes that the proposal is for the tower element only and on this basis has no comments is provided. However, EESG noted that DPIE will be including flooding requirement on any consent that may be issuing.

6 Assessment

6.1 Key assessment issues

The Department has considered the Applicant's EIS, RtS and SRtS and the issues raised in submissions in its assessment of the proposal. The Department considers the key assessment issues associated with the Concept Proposal are:

- land use and density
- building envelopes
- amenity
- design excellence
- parking and traffic.

Each of these issues is discussed in the following sections of this report. Other issues were taken into consideration during the assessment of the Concept Proposal and are discussed at **Section 6.8**.

6.2 Land use and Density

The proposal seeks approval for a maximum gross floor area of 56,400 m² GFA, comprising 43,400 m² for commercial use within building envelopes A and C and 13,000 m² GFA for residential use within building envelope B.

The proposed land use mix was amended in response to public concerns about the need for more employment generating floorspace in St Leonards. The amendments made as part of the RtS include:

- changing the use of Building A from residential to commercial use
- changing the use of Building B from hotel to residential use
- increasing the overall commercial GFA by 40,700 m²
- reducing the overall residential GFA by 24,500 m².

Concern was also raised in public submissions about the density of the development and that it represents an overdevelopment of the site.

Council raised no concerns over the proposed density and acknowledged that changing Building A from a residential to a commercial development would result in a significant increase in employment floor space (from the previous 17,900 m² to 43,300 m²) consistent with the recently adopted LEP controls.

The Department is satisfied the proposed density and revised land uses fully comply with the recently adopted maximum FSR and minimum non-residential FSR controls for the site as outlined in **Table 9**.

Table 9 | The new maximum overall NSLEP FSR and minimum non-residential FSR controls for the site

Control	Building Envelope	NSLEP Control	Proposed FSR	Compliance
Maximum FSR	Building A	11.5:1	11.12:1	Yes
	Building B	7.5:1	7.27:1	Yes
	Building C	6.1	5.73:1	Yes

Control	Building Envelope	NSLEP Control	Proposed FSR	Compliance
Minimum Non-Residential FSR	Building A	10:1	11:1	Yes
	Building B	0.5:1	0.55:1	Yes
	Building C	5:1	5.73:1	Yes

As discussed in **Section 3**, the Department considers the site can accommodate higher density commercial and residential development, given it is located above a new Metro Station and within easy walking distance to a range of facilities, services and open space within the surrounding area.

The Department has also considered the appropriateness of the proposed density having regard to the built form and the potential impacts on traffic generation, amenity and demand on existing/future infrastructure. In this regard, the Department has assessed the impact of the proposal and concludes:

- the building height and scale is appropriate, as it fully complies with the recently adopted planning controls for the site and the Department has recommended a suite of measures to ensure the scale of future buildings is appropriately mitigated (**Section 6.3**)
- the proposal would not result in any unreasonable overshadow impacts on the adjoining open space or public domain (**Section 6.5**)
- the site is ideally located to manage additional density being located above a new high frequency metro line with close access, to services, facilities and open space within the surrounding area
- traffic generation is negligible and the proposal would have a limited impact on the road network (**Section 6.7**).

The Department's assessment therefore concludes the proposed density and land-uses are appropriate for the site and the increased commercial floor space would provide additional employment opportunities, in accordance with the recently adopted planning controls.

6.3 Building envelopes

The proposal seeks concept approval for three building envelopes located above the Crows Nest metro station. The proposal includes building envelope parameters (maximum height and GFA) as summarised at **Table 2** and shown at **Figure 11**. While the proposal does not seek approval for detailed building design, the Applicant has provided an indicative scheme for illustrative purposes (**Section 2.2**).

Concerns were raised in public submissions about the height, scale, setbacks and visual impact of the proposed building envelopes.

Having carefully considered the location, scale and form of the proposed building envelopes the Department considers the key issues for consideration are:

- height
- building bulk and visual impacts
- setbacks
- articulation zones.

6.3.1 Height

Building envelope height

The heights of the proposed building envelopes (including the Crows Nest metro station) are:

- Building A – approximately 21 storeys (RL 175.6 m)
- Building B – approximately 17 storeys (RL 155 m)
- Building C – approximately nine storeys (RL 127 m).

Concern was raised in public submissions the heights of the building envelopes are excessive and out of character with the locality.

In response, the Applicant reduced the height of Building A by 8 m and chamfered the southern end of the envelope above RL 127 m. The Applicant states that following the reduction of the height of Building A, the proposal is consistent with the maximum NSLEP building heights for Site A, B and C.

The Department notes existing developments in Crows Nest is generally characterised by low-rise buildings interspersed with some medium-rise buildings along key transport corridors. Notwithstanding, the St Leonards and Crows Nest precinct is undergoing a period of renewal, which has and will result in changes to the built environment. In particular, the 2036 plan envisages the construction of significantly taller developments located between St Leonards station and Crows Nest metro station, along Pacific Highway and in other appropriate locations (**Figure 9**).

As summarised at **Section 1.3**, the Rezoning Proposal increased the height of buildings and introduced FSR controls for the site. These amendments to the NSLEP development standards for the site were made in response to the introduction of a new Metro station at the site, the opportunity it provides to create a new mixed-use precinct and to support the strategic vision for the area.

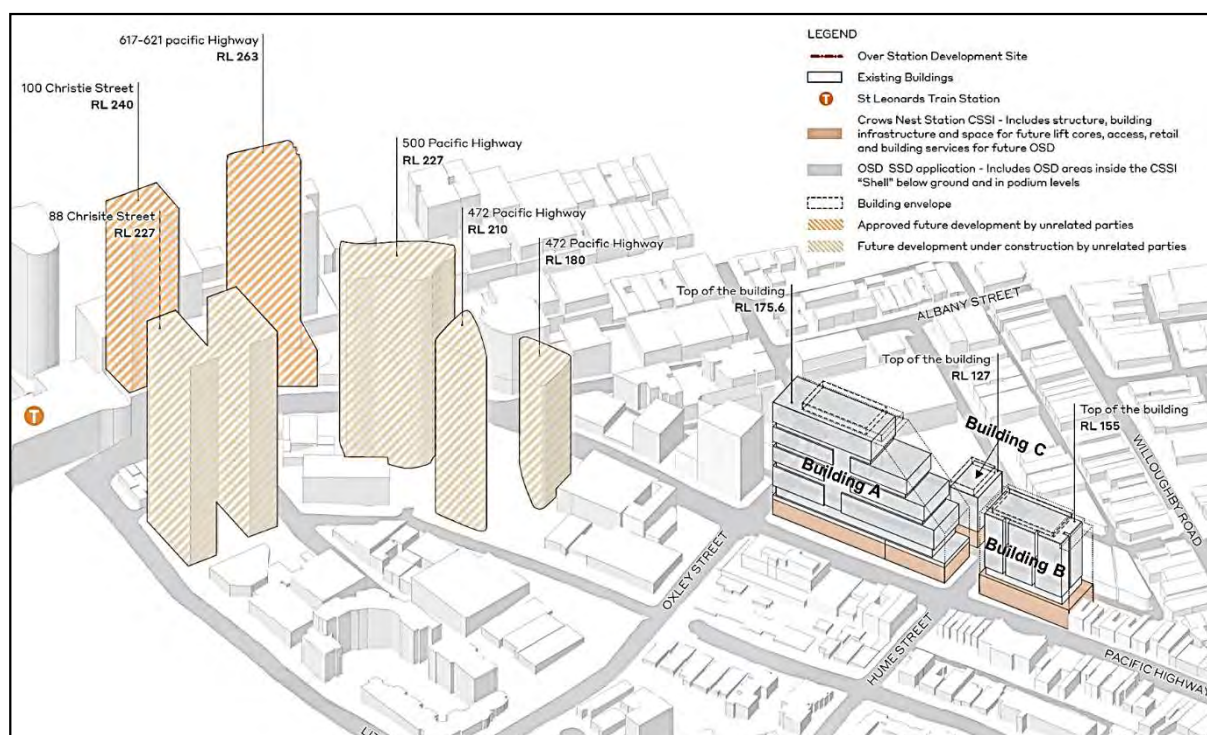


Figure 17 | The building envelopes in context with existing surrounding development and approved future tower developments in St Leonards (Base source: Applicant's RfS)

The Department accepts the proposed development as amended complies with the new height controls for the site as summarised in **Table 10**.

Table 10 | The new maximum NSLEP height controls and proposed maximum building envelope heights

Control	Building Envelope	New NSLEP Maximum Height Control	Proposed Maximum Building Envelope Height	Compliance
Height	Building A	RL 180 m	RL 176.6 m	Yes
	Building B	RL 155 m	RL 155 m	Yes
	Building C	RL 127 m	RL 127 m	Yes

The Department also considers the proposed maximum building envelope heights are appropriate because:

- the proposal is consistent with, and contributes to, the emerging character of the St Leonards and Crows Nest precinct (as established by planning policy and recent planning approvals), which includes the creation of a cluster of tall buildings either side of Pacific Highway between St Leonards station and Crows Nest metro station
- the proposed building envelopes are between two and 21 storeys lower than all recent approvals and proposals to the north and nearby the site (**Figure 9**) and therefore would not appear out of character within the surrounding streetscapes
- the proposed building envelopes step down in height from Building A in the north to Buildings B and C in the south, providing a downward graduation of built form across the site and an appropriate built form transition from the taller developments along Pacific Highway to lower scale developments in Crows Nest
- the proposal would not result in unreasonable amenity impacts on the surrounding locality in terms of solar access, outlook views and privacy (**Section 6.5**)
- the height of the proposed building envelopes are consistent with the NSLEP and 2036 Plan open space and public domain solar access requirements (**Section 6.5.1**)
- Council raised no concern about the height of the proposed building envelopes.

Rooftop enclosures

While the proposed building envelopes comply with the building envelope height controls, the Department notes Buildings A, B and C each include a rooftop enclosure envelope above the proposed maximum building envelope heights, as summarised below:

- Building A – Maximum 4.4 m rooftop enclosure envelope (up to RL 180 m)
- Building B – Maximum 3 m rooftop enclosure envelope (up to RL 158 m)
- Building C – Maximum 5 m rooftop enclosure envelope (up to RL 132).

Council objected to the exceedance of the NSLEP maximum height control for Building B by 3 m to accommodate the rooftop enclosure.

In response to the concerns raised the Applicant has confirmed that it no longer seeks a clause 4.6 variation to increase the height of Building B by 3 m to accommodate the rooftop enclosure. Instead, the Applicant has proposed that any future rooftop enclosure to Building B exceeding the NSLEP maximum height control (RL 155) would be required to demonstrate consistency with the requirements of Clause 5.6 'Architectural roof features' of the NSLEP (**Figure 18**).

The Department acknowledges the rooftop enclosure envelope on Buildings B exceeds the NSLEP maximum height control (RL 155) by 3 m and Building C exceeds the maximum height control (RL 127) by 5 m.

However, the Department notes the key objectives of Clause 5.6 of NSLEP is to permit variations to maximum building height standards for roof features of visual interest, ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard. The Department therefore considers the proposed rooftop enclosure for Building B is acceptable subject to future design of any rooftop plant is consistent with the requirements of Clause 5.6.

Similarly, for Site C, the Department notes Clause 4.3A of the NSLEP sets out a building height exception for Site C, which allows for future building(s) on Site C to exceed the maximum height control by up to 5 m (to RL 132) for the purposes of architectural roof feature, including the accommodation of any integrated building services.

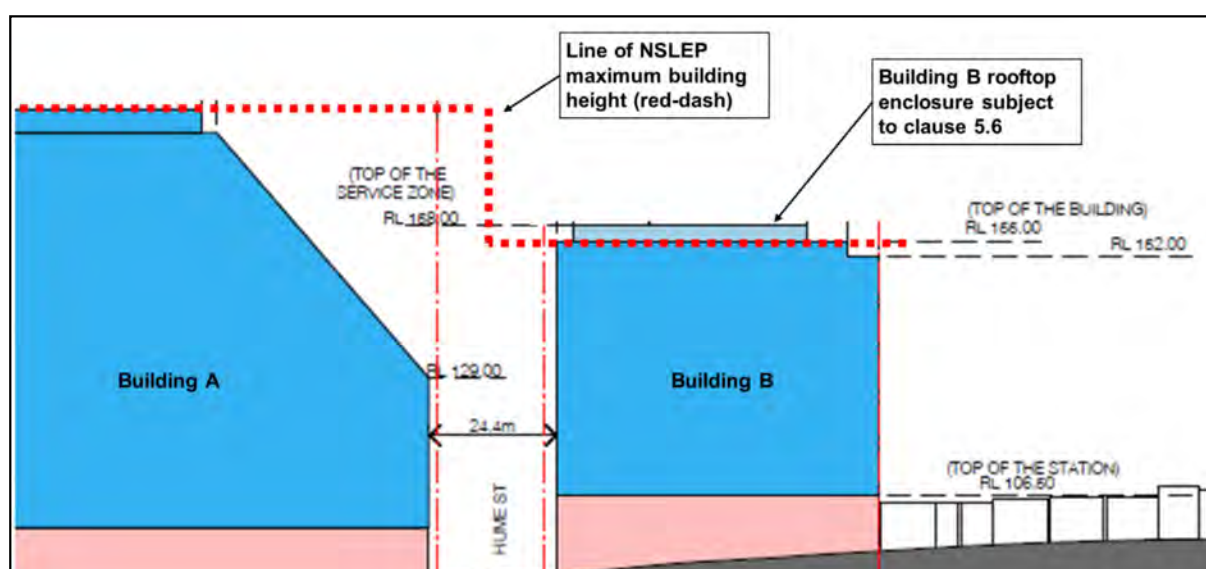


Figure 18 | Building B rooftop enclosure envelope (Base source: Applicant's SRTS)

The Department considers the proposed rooftop enclosure envelopes for each building are acceptable because:

- the maximum height of the rooftop enclosure envelope to Buildings A is consistent with the overall NSLEP maximum building height control for Site A
- architectural roof features are permitted for Site B and Site C subject to respective requirements in Clause 5.6 and Clause 4.3A of NSLEP
- the rooftop enclosures are centrally located on the roof of each building envelope and are setback from the building envelope street edge by a minimum of 3 m, which ensure they are recessive and not visually dominant.

The Department also recommends future environmental assessment requirements (FEARs) confirming the roof enclosures will be subject to further consideration against the provisions of the NSLEP and the following additional requirements:

- any roof enclosure above Building B or C shall not exceed the maximum building envelope height, unless the proposal can demonstrate consistency with clauses 4.3A or 5.6 of the NSLEP as applicable

- any roof enclosure shall be discrete and/or integrated into the architectural design of the building and shall not have an adverse visual impact on the design and appearance of the building or the surrounding streetscape
- where roof enclosures are visible, they shall be designed or architecturally treated / screened so that they form a decorative roof feature
- roof enclosures shall not have an unacceptable amenity impacts in terms of adverse:
 - overshadowing of residential properties and public open spaces,
 - loss of outlook.
- roof enclosures shall not include floor space area and shall not be reasonably capable of modification to include floor space area.

Subject to the above requirements, the Department's assessment concludes the overall height of the proposed building envelope are acceptable and consistent with the objectives and controls in NSLEP.

6.3.2 Building bulk and visual impacts

Public submissions raised concerns regarding the visual bulk of the proposed building envelopes and considered the proposal would have an adverse visual impact when viewed from surrounding streets, places and spaces.

Council's submission on the RtS noted the amendments have reduced the building envelope for Site A, but it remained concerned that the proposal would be visually prominent when viewed from Ernest Place, Willoughby Road and Hume Street Park. Council noted the building bulk and massing of the proposal will not be in keeping with other developments in the area that are subject to NSDCP controls. Council also mentioned other recent developments within St Leonards provide for more slender tower forms.

The Application includes a Visual and View Impact Assessment (VVIA) which provides perspectives of the proposed envelopes when viewed from key vantage points. The VVIA contends the scale of the building envelopes are appropriate within their surroundings and strike an appropriate balance between providing additional floorspace above a key new metro station and reducing visual impacts. In addition, the VVIA stated that the amendments to Building A (by tapering the southern elevation) represents a significant reduction in scale and would ensure an appropriate built form transition is achieved to the lower scale buildings and spaces adjoining the site to the south.

The Applicant also updated the submitted Design Guidelines to provide additional parameters on how future built form will utilise the proposed building envelopes. The proposed additional guidelines are summarised below:

- provide recesses, protrusions, vertical modulation and relief where appropriate
- scale should transition down to Hume Street including roof gardens / activation
- minimum of 15% of the building envelope to be used for architectural articulation
- requirements to consider vertical and horizontal articulations
- a maximum floor plate depth of 27.5m
- a maximum floor plate area of 2,750m² (GFA)
- articulation beyond building envelope should include solar and architectural analysis and agreed during the design excellence process.

The Department considers the perception of visual bulk from the proposed building envelopes is attributed by the length of the proposed building envelopes relative to their maximum height, particularly for Building A and Building B. Based on the building envelope, Building A's longest elevations above the station levels are approximately 117 m and Building B's longest elevations are approximately 60 m, fronting Pacific Highway and Clarke Lane (**Figure 19**).

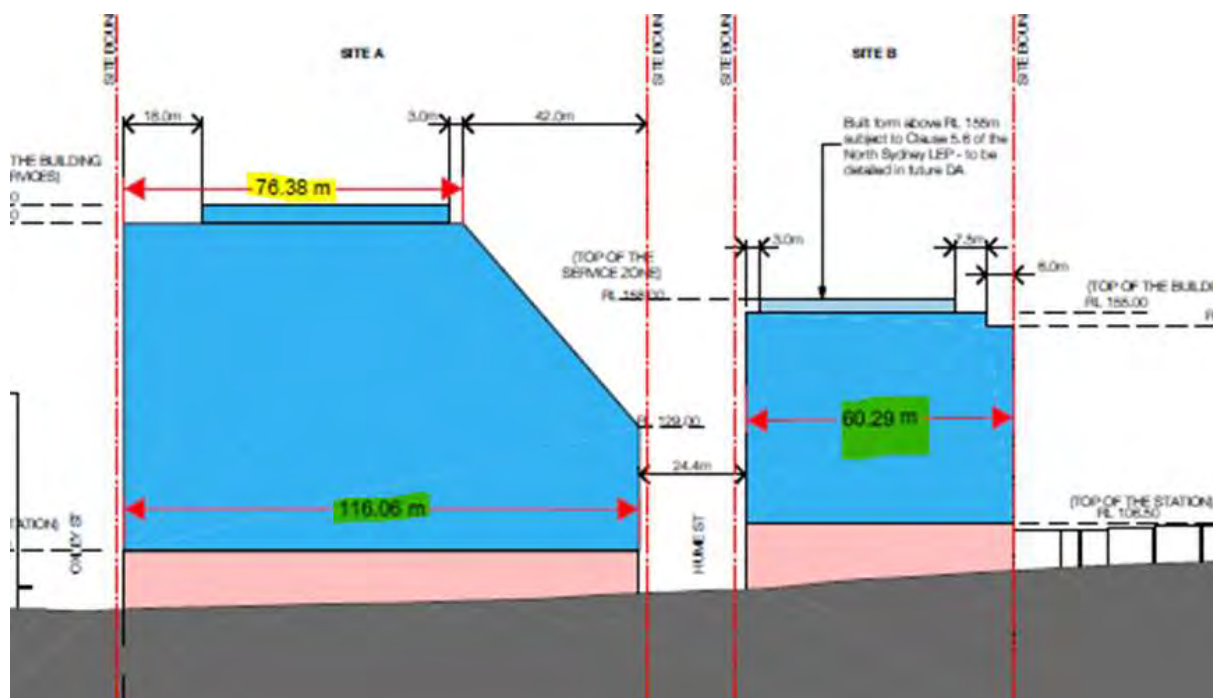


Figure 19 | Building envelope lengths and depths (Base source: Applicant's SRtS – added annotations on approximate lengths by the Department)

The Department notes the submitted VVIA identified the longest elevations of these buildings would be visible in close and distance views around the site, including along Pacific Highway, Hume Park, Ernest Place and Willoughby Road. The Department acknowledges the concerns raised by Council and in public submissions that the proposed building envelopes, particularly Buildings A and B, may result in buildings that are visually dominant, unless appropriate mitigation measures and targets are in place to ensure the bulk and scale of the development is managed.

The Department notes the indicative scheme confirms the proposed building envelopes have volumes that are larger than what is needed to accommodate the proposed total maximum GFA. This provides for opportunities to distribute the proposed building mass within the building envelope to create visual breaks, modulation and articulation of the built form.

The Department considers the additional Design Guidelines put forward in response to the concerns raised provide an appropriate starting point for the design of future buildings. However, the Department considers the Design Guidelines require further amendments to ensure they provide strong and robust design guidance to future development(s) and to manage and mitigate the scale of buildings.

The Department's consideration of the proposed additional Design Guidelines is outlined in **Table 11**.

Table 11 | Department's recommended amendments to the proposed Design Guidelines

Guideline	Department's Consideration	Recommendation
<p>Minimum of 15% of the building envelope to be used for architectural articulation</p>	<ul style="list-style-type: none"> • The Department considers a minimum 15% architectural articulation, which could include a range of architectural elements such as an awning or fin walls, is difficult to be measured against the volume of the building envelope and achieve the intended objective in managing the visual bulk and scale of future built forms. • The Departments also notes the proposed measure would not be appropriate for Site C, where a separate articulation zone is proposed. • The Department considers the articulation percentage should be replaced by a building efficiency target to ensure future buildings do not entirely fill the building envelopes and to allow for building modulation and articulation. • A building efficiency target is generally a measure of gross building area verse nett building area. It can also refer to the percentage of building envelope to be occupied by built form. • A building efficiency target is also the most commonly used measure to control the scale of future building envelopes in Concept Approvals and it would provide sufficient flexibility for future designs to explore alternative options to mitigate the scale of the building. • The Department therefore recommends the design guidelines be amended to include a maximum building efficiency target of 85% for Site A and 80% for Site B, based on the proposed gross floor area for each building as tested by the indicative scheme and the Apartment Design Guide. 	<ul style="list-style-type: none"> • The Department recommends the minimum 15% articulation design guideline be deleted. • The Department recommends a maximum building efficiency target of 85% for Site A and 80% for Site B.
<p>Consider breaking the height of the building by introducing vertical modulation and relief where appropriate within the envelope and facade.</p>	<ul style="list-style-type: none"> • Based on the respective length of the proposed building envelopes and the width of other recent development in the surrounding context, the Department considers that it is appropriate for future built form to provide at least one vertical break at every 40 m in length. • The Department also considers any such vertical breaks must be substantial in dimensions to effectively break up the mass of the buildings along its length and should be proportionate to the height and length of the buildings. • The Department therefore recommends vertical breaks to achieve building modulations along the length of Building A and B as follows: <ul style="list-style-type: none"> ○ the Pacific Highway and Clarke Lane elevations of Building A shall include at least two vertical breaks to ensure those elevations present as multiple built forms, comprising recesses each with dimensions no less than 5 m deep by 3 m wide for the full height of the building ○ the Pacific Highway and Clarke Lane elevations of Building B shall include at least one vertical break to ensure those elevations present as multiple built forms, comprising a recess each with dimensions no less than 5 m deep by 3 m 	<ul style="list-style-type: none"> • The Department recommends a new guideline requiring vertical breaks along the length of Building A and B. • The Department recommends new design guidelines relating to architectural expression and additional articulation and façade treatments.

Guideline	Department's Consideration	Recommendation
	<p>wide for the full height of the building</p> <ul style="list-style-type: none"> The Department also recommends additional objective be included for the design guidelines in respect to building articulations, which are to provide: <ul style="list-style-type: none"> a contemporary architectural expression and elements that create a sense of scale and rhythm on the facades are to be employed to add to the richness of architecture at the locality. additional building articulation, modulation and façade treatments to provide distinctive visual breaks along the Pacific Highway, Clarke Lane (Buildings A and B) and Hume Street (Building C) elevations. The breaks shall be proportional to the height and length of the street frontage and respond to the scale and character of the surrounding fabric as noted in the submitted Design Guidelines. 	
Maximum floorplate depth of 27.5m	<ul style="list-style-type: none"> The proposed maximum floor plate depth is almost the full depth of the proposed building envelopes which are 28 m. The Department considers the guideline would have no effect and recommends this guideline be deleted. 	<ul style="list-style-type: none"> The Department recommends the maximum floorplate depth design guideline be deleted.
Maximum floorplate area of 2750m ² (GFA)	<ul style="list-style-type: none"> The Department notes the proposed 2,750 m² maximum floor plate area is large when compared with other modern commercial towers in St Leonards, North Sydney and campus style offices in Macquarie Park. The Department also notes the proposed floor plate of 2750 m² is also greater than the floorplate indicated by the indicative design for the OSD. The Department is also concerned that establishing a maximum floorplate target may limit design flexibility due to the tapering form of the building envelope for Site A and therefore jeopardise the attainment of design excellence. The Department therefore recommends this guideline be deleted, noting the recommended maximum building efficiency requirement of 85% would allow for greater flexibility in achieving appropriate floorplate sizes. 	<ul style="list-style-type: none"> The Department recommends the maximum floorplate be replaced by the recommended building efficiency targets.
Articulation beyond building envelope	<ul style="list-style-type: none"> The original proposal sought approval for articulation zones outside of the building envelope for Buildings A, B and C. However, following concerns raised by the Department and Council, the articulation zones for Sites A and B have been deleted because the articulation for these building can be achieved within the proposed building envelopes. Articulation outside the building envelope for Site C has been retained due to the smaller scale of Site C (approximately 550 m²) and it would benefit from additional flexibility in how it provides for building 	<ul style="list-style-type: none"> The Department recommends the articulation beyond building envelope design guideline be deleted.

Guideline	Department's Consideration	Recommendation
	<p>articulation.</p> <ul style="list-style-type: none"> The Departments considers, other than any additional articulation located within agreed articulation zones for Site C, no other forms of articulation should be allowed to project beyond the building envelopes (See other recommendations on Articulation Zone in Section 6.3.4). 	

The Department acknowledges the scale of the proposed building envelopes for Site A and Site B, particularly their lengths, are greater than the existing built form in the surrounding area. In this regard, the Department considers the above amendments to the Design Guidelines are critical to ensure future developments:

- are designed so that building scale and impacts are appropriately managed and mitigated and so that future development is not permitted to fill the building envelopes entirely
- are provided with an appropriate and strong framework to guide the design of buildings and that guidelines are clear, purposeful and will effectively address visual bulk
- provide for appropriate articulation and vertical breaks within long facades to provide for multiple building forms
- include appropriate building articulation and modulation resulting in development that is reflective of the building context and desired future character for the St Leonards and Crows Nest Precinct.

Subject to the recommended changes to the Design Guidelines, the Department concludes the proposed scale of the development can be appropriately managed / mitigated through the detailed design of the future built form.

6.3.3 Setbacks

While SSD proposals do not need to comply with DCP requirements, the Department has undertaken a merit assessment of the proposed setbacks considering the NSDCP requirements and the setback of the approved station under the separate CSSI approval, as appropriate guidance. The proposed setbacks compared with requirements in NSDCP are summarised at **Table 12**.

Table 12 | NSDCP and proposed ground level and podium level building setbacks

Location	Building	NSDCP Ground Level Setbacks	Proposed Ground Level Setbacks	NSDCP Above Podium Setbacks	Proposed Podium Setbacks
Pacific Highway	Building A Building B	3 m	1.5 m to 3 m Nil to 0.9 m	3 m	0 m
Hume Street	Building A Building B Building C	3 m	1.5 m to 42 m 2.6 m 2.1 m	3 m	0 m
Oxley Street	Building A	6 m	1.5 m	3 m	0 m
Clarke Street	Building C	0 m	1.2 m	3 m	0 m
Clarke Lane	Building A Building B Building C	1.5 m	2 m to 2.8 m 1.2 m to 2.6 m Nil	1.5 m	0 m

Ground floor setbacks

Concern was raised in public submissions that the buildings do not include sufficient setbacks from surrounding streets.

The Department acknowledges the ground floor level setbacks are not consistent with the NSDCP recommended setbacks (**Table 12** and **Figure 10**). However, the Department accepts the ground floor level setbacks have been established by the CSSI Approval and do not form part of this application for the OSD.

Podium level setbacks

Concern was raised in public submissions that the building envelopes do not include sufficient setbacks above podium level. Council stated the bulk and mass of the building is inconsistent with the emerging character of the surrounding area and recommended the OSD should be setback above the station in accordance with the NSDCP podium setback requirements.

The Applicant argued above the station, setbacks are not necessary as building articulation and the selection of appropriate materials would appropriately differentiate the station and OSD developments and ensure visual impacts are limited.

The Department acknowledges the provision of a tower and podium built form typology is a conventional way to manage building scale which is reflected in the Council's DCP controls. However, the Department notes the existing streetscape, including adjacent and surrounding developments display a variety of built form typologies, including a mixture of tower with podium and sheer tower forms. A number of nearby developments that are of comparable heights to the proposal do not have distinctive podium and tower setbacks fronting Pacific Highway, in particular:

- 545 Pacific Highway, a recent 16 storey apartment building directly opposite Site A on Oxley Street.
- 599 Pacific Highway, a 20 storey mixed use development in St Leonards (approximately 200 m north of the site)
- IBM, 601 Pacific Highway, a 16 storey office building in St Leonards (approximately 280 m north of the site).

Taller tower developments (over 20 storeys in height) in nearby St Leonards also do not present consistent tower setbacks above podiums, but rather present varied architectural responses to provide horizontal architectural emphasises at podium level such as recessed levels, change in materiality and landscaped terrace.

Given the diverse built forms within the immediate area of the site, the Department considers it is not necessary to mandate a uniform tower setback above the station/podium for the proposed Building A and Building B from Pacific Highway. The Department notes that the submitted Design Guidelines encourage future developments to reference horizontal datums from adjoining buildings to mediate the changing heights and scale of the surrounding built form (**Figure 22**).

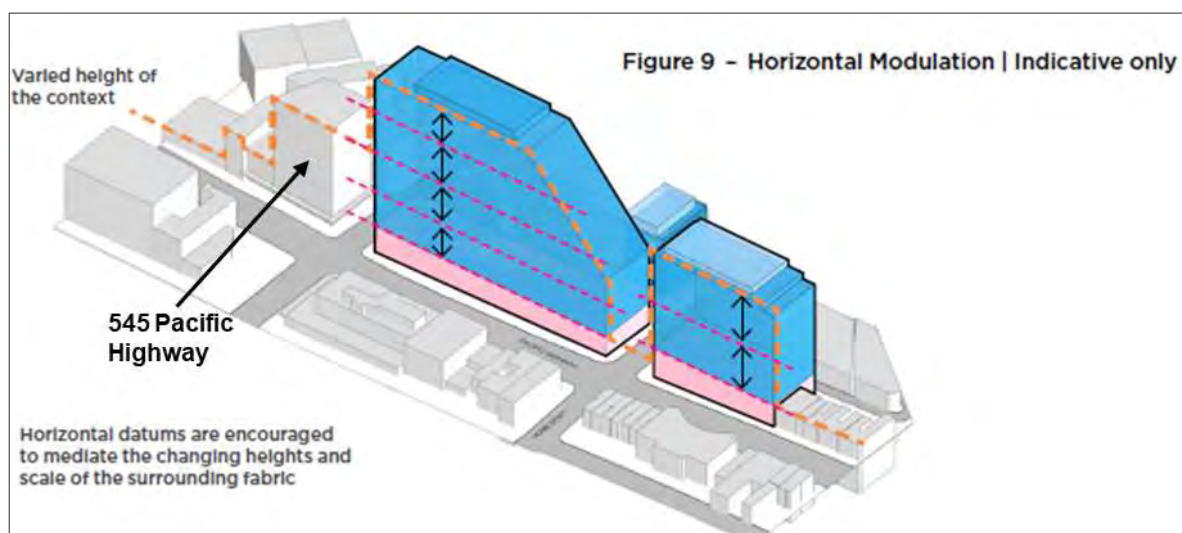


Figure 20 | Horizontal building modulation of the Pacific Highway elevations (Base source: Applicant's Design Guidelines)

The Department supports this Design Guideline as the incorporation of horizontal datums help to integrate developments into their context. However, the Department considers this requirement should be further clarified and recommends the following additions to the Design Guidelines:

- any horizontal building modulation incorporated into the facades of Building A and B should acknowledge and respond to the heights and horizontal datums of immediately adjoining and surrounding buildings to the site
- buildings shall be designed to provide for a strong horizontal delineation between the station and OSD developments through the use of articulation, recess, materials or other appropriate alternative architectural approaches that complement the overall design of the development
- the composition of building elevations shall incorporate a greater proportion of vertical articulation than horizontal modulation to ensure that appropriate overall vertical building proportions are achieved and reduce the perception of building scale.

The Department therefore concludes the provision of setbacks above the podium (station) levels are not required, subject to the future developments be designed in accordance with the Design Guidelines horizontal modulation requirements and the vertical articulation requirements (as amended by the Department) (**Section 6.3.2**).

Other setbacks

The Department has also considered the merits of the other building setbacks and is satisfied the proposed setbacks are acceptable as:

- on Hume Street, the Buildings B and C inconsistencies with the NSDCP are minor and Building A includes a significant setback (up to 42 m) above RL 127
- on Clarke Street, Building C has a comparable setback to no.10 Clarke Street on the opposite side of Hume Street
- on Clarke Lane, Building A exceeds, and Building B is negligibly less, than the NSDCP setback. Buildings either side of Building C also have nil setbacks.

6.3.4 Articulation zones

The previous proposal included articulation zones which projected out of the proposed building envelopes as shown in **Figure 21**. Council raised concerns with providing articulation outside the proposed building envelopes which would reduce building setback and exacerbate the visual bulk of the buildings. The Department since requested the Applicant review the appropriateness and justify the need for an articulation zone in addition to the articulation and modulation that can occur within the proposed building envelopes for Site A and Site B.

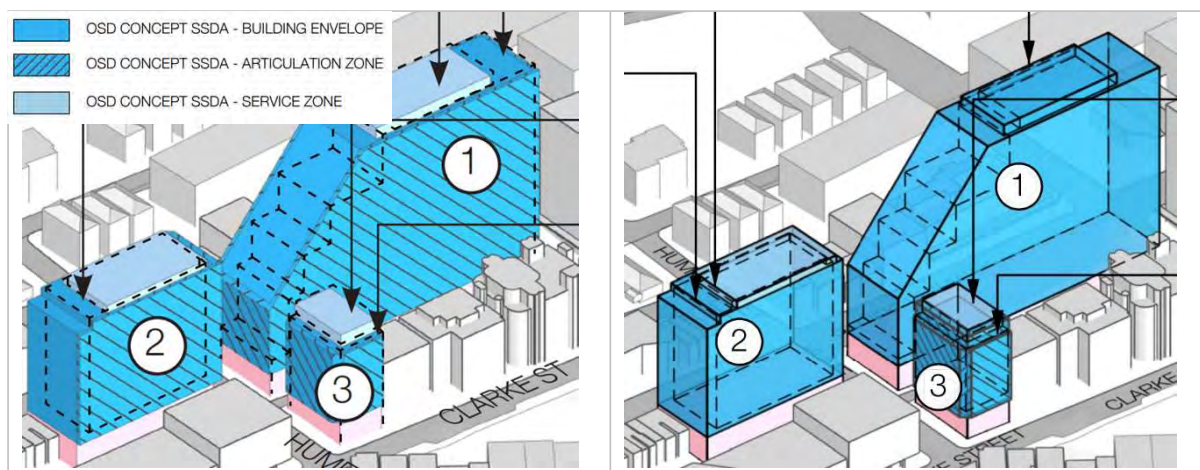


Figure 21 | Left RtS Scheme with articulation zones for all three building envelopes Right: SRtS scheme with articulation zones deleted for Site A and Site B. (Base source: RtS and SRtS).

In response, the Applicant removed the articulation zones for Building A and Building B but retained the articulation zones forward of the Building C envelope along its Hume Street (1.6 m) and Clarke Street (1.2 m) elevations. Council supported the removal of the articulation zones for Buildings A and B but stated that greater setbacks should be included to compensate for any floor area within the articulation zones for Building C.

The Department does not object to the provision of an articulation zone for Building C as it is a relatively smaller scale building. It has two principal facades which only have an area of approximately 550 m² and would benefit from additional flexibility in how it provides for building articulation. The Department also notes the proposed articulation zone would also allow for better architectural response to ensure the proposed rooftop plant permitted under Clause 4.3A of the NSLEP can be integrated with architectural features.

However, the Department notes the Application does not include an articulation zone definition or what types of uses / structure can occupy those zones. To ensure the articulation zone is only used for building articulation, the Department recommends conditions clearly stating the design objectives and requirements with respect to the proposed articulation zones. These includes:

- the articulation zone is for the purposes of architectural features, projections, balustrades, awnings and the like
- built form may occupy up to a maximum of 25% of the total volume of the Articulation Zones
- no GFA is to be provided in the articulation zone above RL 127 (height of building envelope excluding rooftop plant).

6.3.5 Conclusion

The Department's assessment therefore concludes the proposed building envelopes are fully compliant with the height and FSR controls applying to the site and are consistent with the emerging character of the St Leonards and Crows Nest Precinct, which is transitioning from low and medium scale buildings to taller buildings near existing and approved train stations.

To address the concerns raised about the scale of the development, in particular, the length of the proposed building envelopes, the Department has recommended a suite of mitigation measures and additional design guidelines including:

- maximum building efficiency targets (85% for Site A and 80% for Site B)
- new design guidelines requiring contemporary architectural expression, building articulation and a minimum number of vertical breaks for the longest building facades

6.4 Design excellence

Clause 6.19B of the NSLEP outlines the provisions for design excellence that relate specifically to the site. In particular it:

- defines the objective of developments delivering the highest standard of architectural, urban and landscape design (cl. 6.19B(1)).
- requires that development consent must not be granted unless the proposed development exhibits design excellence (cl. 6.19B(3))
- includes considerations to determine if a development exhibits design excellence (cl. 6.19B(4))
- does not include a provision specifically requiring a competitive design process be undertaken.

The Application includes a Design Excellence Strategy (DES) and Design Guidelines in order to ensure future developments achieve design excellence in accordance with the NSLEP design excellence provisions. The DES sets out a framework for a design review process, which includes:

- a competitive tender process to determine the design team and scheme for Buildings A and B (**Table 13**)
- Sydney Metro is preparing the design for Building C (i.e. no competitive tender) (**Table 14**).

Table 13 | Summary of DES key processes for Buildings A and B

Design Phase	Design Review	Key elements
1. Design Quality Expectations	Sydney Metro Design Review Panel (DRP)	<ul style="list-style-type: none">• Capture project requirements including design objectives and guidelines to inform the development of the project, including the concept development application• Set project benchmarks• Chaired by GANSW• Also provide design advice to station design and associated public domain as required under CSSI Approval.
2. Competitive Selection	Design Excellence Evaluation Panel (DEEP)	<ul style="list-style-type: none">• Inform a competitive selection process by producing a Design Excellence Report that identifies to the tender evaluation panel the elements of each tender scheme that contribute to design excellence and elements where further design refinement will be required• Draws on members of the Sydney Metro Design Review

Design Phase	Design Review	Key elements
		<ul style="list-style-type: none"> Panel Chaired by GANSW Include a nominee nominated by GANSW on behalf of the Department Include a member nominated by Council.
3. Design Integrity	Sydney Metro Design Review Panel (DRP)	<ul style="list-style-type: none"> Independent design review Chaired by GANSW Recommendation to draw on members of DRP to ensure consistent design advice and sufficient technical expertise.

Table 14 | Summary of DES key processes for Buildings C

Design Phase	Design Review	Key elements
1. Design Quality Expectations	Sydney Metro Design Review Panel (DRP)	<ul style="list-style-type: none"> Capture project requirements including design objectives and guidelines to inform the development of the project, including the concept development application Chaired by GANSW Also provide design advice to station design and associated public domain as required under CSSI Approval. Sydney Metro prepares detailed design for Building C OSD and a construct only procurement is awarded.
2. Design Integrity	Sydney Metro Design Review Panel (DRP)	<ul style="list-style-type: none"> Independent design review Chaired by GANSW Recommendation to draw on members of DRP to ensure consistent design advice and sufficient technical expertise.

The Applicant has confirmed the DES for Buildings A and B are generally similar to other Sydney Metro City and Southwest integrated station developments for Pitt Street North OSD, Pitt Street South OSD and Waterloo Metro Quarter.

The Department has considered the proposal against Clause 6.19B in detail at **Appendix B** and concludes the proposal meets the objectives of Clause 6.21B as:

- the DES supports an integrated design approach for the approved station and proposed OSD
- future developments are capable of delivering the highest standard of architectural, urban and landscape design for the project and for the site having considered the specific site constraints and project complexities.

Subject to the implementation of the DES, including involvement of the DRP and DEEP, the Department considers future developments are capable of being designed to achieve design excellence and maintain design integrity.

The Department also accepts advice from GA NSW and recommends a condition to require the Sydney Metro DRP to review and confirm that project benchmarks proposed in the DES to ensure are appropriate benchmarks for design excellence.

6.5 Amenity impacts

Public submissions raised concerns over the amenity impacts of the proposal, particularly overshadowing impacts to residential properties and public open spaces. Council also raised concern

about overshadowing impacts to public open spaces, in particularly, impacts to Ernest Place, Hume Park and Willoughby Road.

The Department has considered the key amenity impacts associated with the proposal, relating to overshadowing, view loss and privacy below.

6.5.1 Overshadowing

Overshadowing of neighbouring residential properties

Concern was raised in more than 84% of public submissions that the proposal would overshadow adjoining residential properties.

Properties at 400 and 402-420 Pacific Highway have a north-easterly aspect towards the site and would be affected by shadows cast by the proposal.

The ADG recommends standards for new residential developments including their impact on existing residential buildings. Although Buildings A and C of the proposal do not include a residential component, the Department considers the ADG is a helpful guide to assess the impact of the proposal on adjoining existing residential development. The ADG recommends at least 70% of apartments in urban areas should receive at least 2 hours of solar access between 9am and 3pm on 21 June (mid-winter).

The Applicant submitted drawings that show the predicted overshadowing impact on the immediate surroundings (the Overshadowing Analysis), including the impact on residential properties along the Pacific Highway during mid-winter (**Figure 22**). The Overshadowing Analysis indicates that between 9.00 am to 3.00 pm during mid-winter:

- solar access is reduced at 400 Pacific Highway, by approximately four to five hours on the NE facade and roof, due to overshadowing caused by the proposed development between 9:00 am and 1:00 pm. The building receives less than 2 hours of solar access throughout the day.
- solar access is reduced at 402-420 Pacific Highway, by approximately one to two hours on the NE facade and roof, due to overshadowing caused by the proposed development between 9:00 am and 12:00 pm. The building however still receives more than 2 hours of solar access in the afternoon.



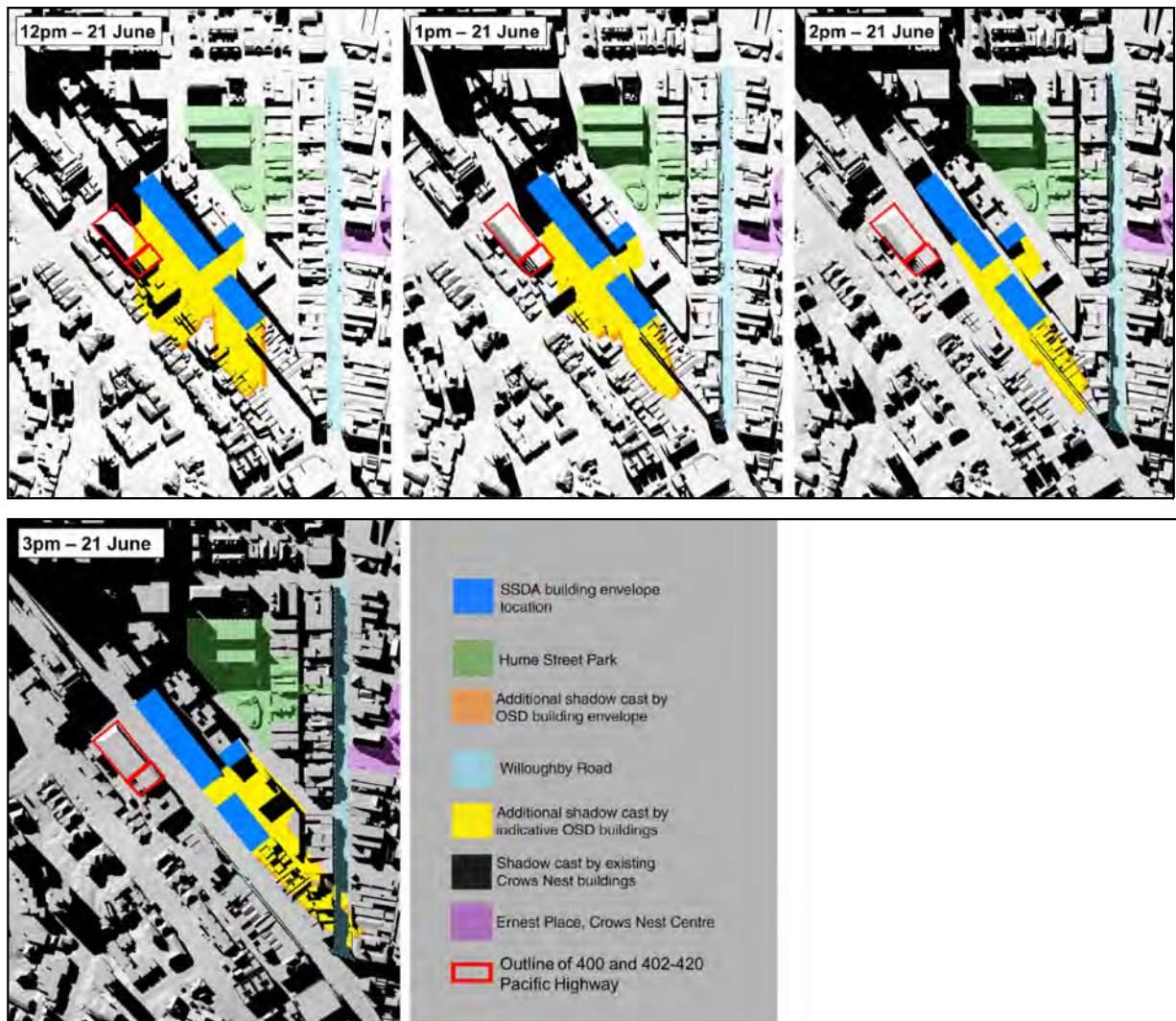


Figure 22 | Predicted overshadowing of adjoining properties and spaces on 21 June (mid-winter) (Base source: Applicant's RtS)

While 400 Pacific Highway would not meet the minimum ADG requirement, the Department considers that the overshadowing impacts are acceptable as:

- the proposed building envelopes are consistent with the height and scale of development permitted under the recently adopted NSLEP controls.
- amendments to the proposed building envelopes would not result in an effective reduction in overshadowing impacts given the orientation of the site to 400 Pacific Highway
- the Overshadowing Analysis represents the maximum overshadowing impact based on the full extent of the proposed building envelopes and the future development may result in less overshadowing
- the affected properties are located opposite a development site in a central urban area and changes to solar access are expected in such circumstances.

The Department has recommended a FEAR requiring future detailed DA(s) include overshadowing analysis and demonstrate that the overshadowing impact on neighbouring residential properties have been minimised.

Overshadowing of Wollstonecroft East / residential area to the west of the site

Concern was raised in public submissions that the proposal would adversely overshadow properties within Wollstonecraft East and the residential area west of the site. In addition, submissions recommended the proposal consider the cumulative overshadowing impact from potential future developments along Pacific Highway.

The Applicant states that the Overshadowing Analysis includes detailed consideration of the existing and proposed (including cumulative) impacts on the surrounding neighbourhood and concludes the impacts are acceptable.

The Department notes the area is undergoing urban renewal as envisaged in the 2036 Plan and acknowledges solar access to residential properties further to the west of the site and within Wollstonecraft East would be directly impacted by future redevelopments along the west side of Pacific Highway, rather than impacts from the proposal (on the eastern side of Pacific Highway).

The Department also notes the Overshadowing Analysis confirms that the residential area west of Pacific Highway would continue to receive 2 hours of direct sunlight during mid-winter. The Department is therefore satisfied the proposal's impacts to the residential area west of Pacific Highway is acceptable and consistent with the ADG requirements.

Overshadowing of public spaces / public open space

Clause 6.19B of the NSLEP and 2036 Plan require developments to consider overshadowing impacts on the following spaces at the following times in mid-winter (21 June):

- Ernest Place and Hume Street Park – between 10am - 3pm
- Willoughby Road – between 11.30am – 2.30pm.

The 2036 Plan also requires consideration be given to overshadowing impacts for Ernest Place and Willoughby Road at the equinoxes (21 March and 21 September).

Council's Crows Nest Placemaking and Principles Study (CNPPS) recommends no additional overshadowing of Ernest Place and Willoughby Road prior to 4pm at any time during the year.

A summary of the various applicable public space / public open space overshadowing controls and the proposed development is provided at **Table 15**.

Table 15 | The various applicable public / open space overshadowing controls and proposed overshadowing

Policy / EPI	Location	Date	Control – No Overshadowing	Proposal – No Overshadowing	Complies
NSLEP	Ernest Place & Hume Park	21 Jun	Between 10am – 3pm	Between 10am – 3pm	Yes
2036 Plan	Ernest Place & Hume Park	21 Jun	Between 10am – 3pm	Between 10am – 3pm	Yes
		21 Mar & 21 Sep	Consider impacts	Prior to 5pm Prior to 3:45pm	Yes
Council's Study (CNPPS)	Ernest Place	21 Mar 21 Jun 21 Sep 21 Dec	Prior to 4pm	Prior to 5pm Prior to 5pm Until after 3:45pm Prior to 5pm	Yes Yes No Yes

Policy / EPI	Location	Date	Control – No Overshadowing	Proposal – No Overshadowing	Complies
	Willoughby Rd	21 Mar 21 Jun 21 Sep 21 Dec	Prior to 4pm	Prior to 4:30pm Until after 2:30pm Until after 3:15pm Prior to 5pm	Yes No No Yes

Council objected to any additional overshadowing of Willoughby Road and Ernest Place before 4pm any time of the year. Concern was also raised in public submission about additional overshadowing of Willoughby Road and Ernest Place.

In response, the Applicant amended the proposed building envelope for Site A and included a chamfered section that would minimise shadow impacts to Ernest Place.

The Department accepts the overshadowing impact is consistent with the statutory requirements of the NSLEP and 2036 Plan. However, the Department notes the NSLEP and the 2036 plan did not adopt all the recommendations on overshadowing controls contained in Council's CNPPS which includes extensive all year around controls as well as overshadowing controls for Willoughby Road.

With respect to Council's CNPPS, the Department notes the submitted Overshadowing Analysis indicates the amended proposal would (**Figure 22**):

- not overshadow Ernest Place, Hume Street Park or Willoughby Road before 4pm during mid-winter (21 June)
- overshadow Ernest Place from 3.45pm on 21 September and would not overshadow the park prior to 5pm on 21 March.
- overshadow Willoughby Road from 3.15pm on 21 September and would not overshadow the road prior to 4.30pm on 21 March.

The Department has carefully considered the overshadowing impacts resulting from the proposed building envelopes on Ernest Place, Hume Street Park and Willoughby Road and is satisfied the proposal is acceptable because:

- the proposal would not overshadow Ernest Place, Hume Street Park and Willoughby Road during mid-winter consistent with the statutory requirements in NSLEP and 2036 Plan
- Council's CNPPS is not an adopted planning policy and the planning controls for the 2036 Plan gave consideration to the CNPPS
- the additional overshadowing of Ernest Place on 21 September before 4pm is very minor, i.e. being for 15 minutes and over footpaths and not active park areas
- the additional overshadowing of Willoughby Road on 21 September is minor, i.e. being for 45 minutes over a small area of public domain at the southern end of the street which mostly overlaps with shadows of existing buildings and or falls on the road carriageway of Willoughby Road and Burlington Street.

The Department has also recommended a condition or FEAR requiring future DA(s) include overshadowing analysis and demonstrate that the overshadowing impact on the neighbouring public open spaces has been minimised.

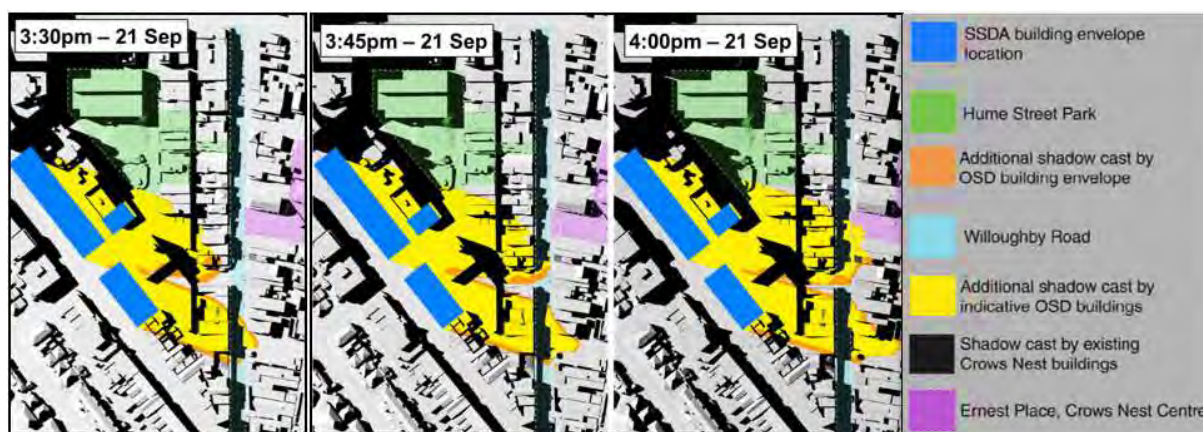


Figure 23 | Predicted overshadowing of Ernest Place and Willoughby Road on 21 September (Base source: Applicant's RtS)

6.5.2 View Loss

Concern was raised in public submissions that the proposal would have an adverse impact on the outlook of nearby residential properties.

The Application includes an assessment of view impacts against the principles established under *Tenacity vs Warringah* [2004] NSWLEC 140, which confirms all residential buildings opposite the site on the western side of Pacific Highway, across from Clarke Lane and to the north of the site on the corner of Pacific Highway and Oxley Street will experience changes to existing views. However, 545 Pacific Highway (being 16 storeys on the opposite side of Oxley Street) is the only property with existing long-distance district views (south, across the site). The details of existing views and resulting views from this assessment are shown at **Appendix D**.

The Applicant has stated the increase in density within the St Leonards and Crows Nest precinct, including the proposed built form will inevitably impact on views within the locality. The Applicant has confirmed that future DA(s) would investigate opportunities to vary and articulate the building form within the envelope in order to further minimise view impacts.

The Department has considered the *Tenacity* principles and considers the view impacts are reasonable and acceptable as:

- although southerly views from 545 Pacific Highway would be interrupted, district views would continue to be achieved either side of the proposed development to the south-east and south-west
- views west from 20-26 Clarke Street would be entirely obstructed. However, the apartment's living rooms are generally oriented to the north east (fronting Hume Park) and the affected windows are mostly bedroom windows
- there are no significant easterly views from 400 and 402-420 Pacific Highway (five storeys) as the rear elevations of the eight storey developments on Clarke Street already block district views
- the CSSI Approval allows for development up to the maximum transfer level RL100 for Site A which (Section 2.3), would have largely the same view impact as the current proposal on 400 and 402-400 Pacific Highway and 20-26 Clarke Street. Therefore, the view impacts may occur with or without the OSD

- the proposal is consistent with the planning controls which permit building heights up to RL180. In addition, given the planning context, any redevelopment of the site would be likely to result in view losses.

The Department's assessment therefore concludes the view impacts are reasonable in the context of the site and the recently adopted planning controls for the site. In addition, the Design Guidelines include requirements to ensure future developments are appropriately articulated, which would reduce the visual and view impacts on surrounding developments.

6.5.3 Privacy

Concern was raised in public submissions that the proposal would have an adverse impact on the privacy of nearby residential properties.

To ensure developments do not have an adverse impact on privacy and outlook, the ADG recommends minimum separation distance of 12 m between residential habitable rooms and commercial properties for buildings up to eight storeys and 18 m for buildings taller than eight storeys.

The Department notes the proposed building envelopes exceed the recommended minimum building separation distances for all adjoining properties. The Department therefore concludes future OSD buildings will be capable of being designed to not have an adverse impact on privacy and outlook of adjoining residential properties.

6.6 Future residential amenity

The Applicant states the building envelope parameters would ensure future detailed developments are generally capable of complying with the requirements of SEPP 65 and the ADG.

The Department has considered the proposal against the aims and objectives of SEPP 65 at **Appendix B** and concludes future developments are capable of achieving an appropriate standard of residential amenity.

The Department notes, as the Applicant seeks concept approval, the application does not include detailed apartment design/layouts. Notwithstanding this, the Department has considered the indicative proposal (**Section 2.2**) and its floor plan layouts against the key amenity criteria within the ADG and notes the proposal:

- meets or exceeds the various ADG minimum apartment sizes
- provides 30% (roof top) communal open space, in accordance with the ADG 30% minimum requirement
- provides 73% of apartments achieving 2 hours of solar access in mid-winter, exceeding the ADG 70% requirement
- provides 64% of apartments achieving natural ventilation, exceeding the ADG 60% requirement
- provides for a minimum 24.4 m building separation distance between Building A (commercial) and Building B (residential). This exceeds the ADG tower separation requirement between residential/commercial buildings of 12 m up to eight storeys and 18 m above that.

The ADG recommends a maximum of eight apartments per circulation core and 40 apartments sharing one lift. Where the standards cannot be met the ADG recommends a high level of amenity should be provided for circulation areas. The indicative proposal suggests 11 apartments per floor and 71 apartments per lift. The Applicant has stated that a higher amenity would be provided through

improved internal layout and design to offset the additional number of apartments. The Department is satisfied this can be considered as part of the detailed assessment of future DA(s).

The ADG recommends sites include 7% deep soil areas for tree planting. The proposal does not include any deep soil area. The Department considers this is acceptable given the OSD nature of the development, the site is located within an urban centre, parkland is located nearby the site and the CSSI Approval will deliver public domain improvements, including tree planting.

The Department's assessment therefore concludes the residential component of the development is generally capable of meeting the ADG recommended amenity standards and the minor non-compliances can be managed or mitigated.

The Department has recommended a FEAR requiring future DA(s) include an assessment of the residential components of the development against the ADG recommended amenity standards.

6.7 Parking and traffic

6.7.1 Car parking provision

The proposal includes a maximum of 101 on-site employee and resident car parking spaces as summarised at **Table 16**. In addition, to encourage sustainable travel modes (other than private car use), the proposal also commits to prepare and implement Travel Plans for employees, residents and visitors as part of future DA(s).

Public submissions provided a range of views on the proposed car parking provisions. Some submissions supported the position that minimal parking should be provided, in recognition that a new Metro station would be delivered on site. Other submissions considered additional parking should be provided to reduce on-street parking impacts.

Council recommended car parking should be deleted from the proposal and instead a contribution should be made towards public car parking facilities.

In response to the concerns raised, the Applicant reduced the maximum car parking rate by 49 spaces (from 150 to 101 spaces). The Applicant stated the car parking provision is appropriate noting the proposal provides for 37 spaces less than what existed on the site prior to demolition, 55 spaces less than the maximum permissible under the NSDCP and reduced parking provision is commensurate with the site's location above a Metro station.

The Department engaged a traffic consultant to undertake an independent peer review of the application to assist the Department in its the assessment of the transport impacts of the proposal. The Department's independent traffic consultant noted the proposed parking rates for the site are at the lower end of parking rates for comparable nearby developments and less than the NSDCP maximums. The independent traffic consultant confirmed support for the reduction of car parking on the site below the maximum permissible under the NSDCP. The independent traffic consultant also recommends future applications should be required to prepare a Travel Plan to ensure future occupants are aware of travel options and promote lower private car ownership.

Table 16 | Comparison between the NSDCP and proposed car parking rates

Land uses	Site	GFA / indicative no. of apartments	NSDCP maximum car parking rates	NSDCP maximum	Proposed maximum	Difference (+/-)
Non-Residential	Site A*	40,300 m²	1 space per 400 m² GFA	101	46	-55
Residential	Site B	65	0.25 space per 1 bedroom	55	55	0
		78	0.5 space per 2 or more bedroom			
Total				156	101	-55

* Site C includes a maximum of 3,100 m² non-residential GFA, however does not propose any car parking

The Department is satisfied the amended car parking provisions are appropriate because:

- the proposed lower car parking rates are consistent with the strategic objectives of NSW State Infrastructure Strategy 2018-2038 and Sydney's Rail Future which seek to suppress car parking spaces in highly accessible areas benefiting from additional transport capacity
- the reduced car parking spaces would actively encourage a shift in travel modes from private car use to public transport consistent with strategic policies for reducing car dependency in highly accessible locations. This approach would also be reinforced through the implementation of the Travel Plan
- the reduction in car parking spaces is consistent with other approved over station developments which have sought to maximise the transport benefits of the Metro service by limiting the provision of car parking spaces
- the proposed maximum car parking (101 spaces) is supported by the Department's independent traffic consultant and the final number would be determined at future DA stage.

The Department also recommends a condition:

- specifying the development shall not exceed 101 car parking spaces
- requiring future DA(s) explore providing car parking at a rate less than the maximum (101 spaces)
- requiring preparation and implementation of a Travel Plan to encourage sustainable modes of transport
- requiring the development incorporate car share spaces.

Subject to the recommended conditions, the Department is satisfied the reduced car parking provision is acceptable and will support a shift in travel mode from private car use to increased public transport, in a highly accessible location. The Department does not consider a separate contribution towards public car parking is required.

6.7.2 Above ground car parking

All car parking is proposed to be provided within Buildings A (46 commercial spaces, level 2) and Building B (55 residential spaces, levels 2 and 3), located above the metro station (**Figure 14**). Car

parking would be accessed via two access points from Clarke Lane and vehicle lifts are proposed to raise cars from the ground floor level to the car parking level.

Concerns were raised in public submissions that the proposal should not include above ground car parking. Council raised concern the above ground car parking would have adverse visual impacts and the proposal does not include any queuing areas for vehicles accessing lifts to the above ground levels. Council also provided advice that the Australian Standard requires 98th percentile queuing capacity to be provided.

The Department notes basement car parking cannot be provided at the site due to constraints imposed by the rail corridor and the new station. The Department therefore considers the provision of above ground car parking is acceptable subject to the Design Guidelines being updated to require future buildings to architecturally integrate the above ground car parking into the design of future buildings so that it is screened from view.

The Department also acknowledge Council's advice that queuing space must be accommodated for the proposed mechanical car lift to ensure Clarke Lane would not be impeded by queuing. However, the Department considers the queuing capacity required should reflect the actual capacity of the car parking not the traffic generation rates based on the proposed land use and gross floor area. The Department notes the proposal has minimised the provision of car parking at a rate 36% less than the maximum allowed by the NSDCP.

The Department's independent traffic consultant considered the provision of above ground car parking, access and the use of vehicle lifts. The consultant noted there was a 75% probability of a maximum of one car queuing to enter the site during the PM peak period and such queues would not impede cars travelling along Clarke Lane. The consultant recommended future applications include a swept path analysis to ensure any queues do not obstruct the movement of larger vehicles.

The Department accepts the independent traffic consultant's advice whom confirmed there is a high probability that only one car would be queuing to enter the site at any one time which would have negligible impacts on the operation of the surrounding road network.

The Department also notes the design of the ground plane, including access are within the station structure approved under the CSSI Approval, which is subject to requirements of the CSSI Approval. The CSSI Approval includes requirement for an Interchange Access Plan (IAP) which inform the final design of transport and access facilities and services, including footpaths, cycleways, passenger facilities, parking, traffic and road closures, and integration of public domain and transport initiatives. The design of the access to the proposal, including any queuing space would need to be integrated with the station design.

The Department therefore concludes the proposed above ground car parking arrangement is acceptable because:

- the site is constrained by the rail corridor and the new station and it is not possible to provide belowground carparking
- additional Design Guidelines are recommended to ensure the above ground carparking is architecturally integrated into the design of future buildings and screened from view
- the proposal would likely to result in one vehicle queuing along Clarke Lane

- there are existing requirements under the CSSI Approval including an IAP that will inform the design of the ground plane and access arrangements
- future applications would be subject further traffic assessment including swept path analysis recommended by the Department's independent consultant to ensure vehicular access to the proposal will not impede Clarke Lane.

6.7.3 Traffic generation

Public submissions raised concern about the proposal increasing traffic in the surrounding area.

The Transport Traffic and Pedestrian Assessment Report (TTPAR) notes the proposal based on its maximum gross floor area of 56,400 m² and proposed land use mix would generate up to 23 vehicles per hour during peak hours.

The Department notes the submitted TTPAR provides a comparison of the pre-demolition and predicted proposed vehicle trips associated with the site, which is summarised in Table 17.

Table 17 | Pre-demolition and predicted vehicle trips

Peak	Vehicle movements per hour (vph)		
	Pre-demolition	Proposed	Difference (+/-)
AM	131	23	-108
PM	81	23	-58

The Department's independent traffic consultant found that no adverse traffic impacts are expected on the surrounding road network, given the proposal would generate approximately 80% less vehicular traffic than previous bulky goods and car repair development on the site. The Department is therefore satisfied the proposal would not result in any significant traffic impacts.

6.8 Other issues

The Department's consideration of other issues is provided at **Table 18**.

Table 18 | Department's consideration of other issues

Issue	Consideration	Recommendation
Affordable housing	<ul style="list-style-type: none"> • The Applicant has committed to providing 5% of all residential GFA as ARH on the site for a minimum of 10 years or paying an equivalent contribution in lieu of providing ARH on the site. • Concern was raised in public submission that the ARH should be provided on-site with no option to make a contribution in lieu. • Council confirmed the offer of 5% ARH (on-site or contribution in lieu) is acceptable and recommended, in the event of a contribution being made in lieu of providing ARH on site, the payment should be made to Council as it maintains ownership of North Sydney's affordable housing stock. • The Department supports the provision of ARH as a part of the proposal and considers that it is reasonable to give the Applicant the option to provide the 5% ARH on-site or make 	<p>The Department recommends conditions requiring:</p> <ul style="list-style-type: none"> ○ future DA(s) for Building B either provide 5% of all residential GFA as ARH on-site or make an equivalent contribution to Council in lieu of on-site provision ○ in the event of a contribution being made in lieu of on-site provision, that contribution shall be used for ARH located within the

Issue	Consideration	Recommendation
	<p>an equivalent contribution in lieu, given only Site B contains residential apartments.</p> <ul style="list-style-type: none"> The Department also recommends that should the proposed ARH be provided off-site, the ARH should be provided within the North Sydney LGA to contribute to local affordable housing stock through Council's existing ARH contribution scheme or a community facility housing provider. 	North Sydney LGA.
Development contributions	<ul style="list-style-type: none"> Concern was raised by Council, Lane Cove Council and public submissions that the proposal should not be exempt from paying development contributions in accordance with Council's s7.11 Contribution Plan and the St Leonards and Crows Nest SIC. In response, the Applicant offered to make an up-front development contribution payment in accordance with the Council's s7.11 Contributions Plan of approximately \$9 million. In addition, the Applicant has offered to pay an additional \$2 million towards public domain improvements. Council has confirmed it supports the amount and timing of the two contribution offers. The Department notes the site is excluded from the Special Contributions Area based on the recently finalised St Leonards and Crows Nest SIC plan, because the site will accommodate the new Crows Nest Metro Station and will deliver significant public transport infrastructure and public domain improvements as part of the separate infrastructure approval (CSSI 7400). The Department supports the Applicant's development contribution offer and notes the upfront payment of approximately \$9 million 7.11 contribution and an additional \$2 million would allow Council to facilitate local infrastructure and public domain improvements. 	The Department recommends conditions requiring exhibition and execution of the applicant's offer in the form of a Voluntary Planning Agreement.
Community facility	<ul style="list-style-type: none"> Public submission suggested that the development should include community facilities to support the local area. The Department notes the original proposal included community floor space. However, Council recommended it be removed from the development as the proposed facility will no longer meet Council's priorities and needs. Conversely, Lane Cove Council recommended a library be included on the site. The Department notes the Applicant's offer of an additional \$2 million has been negotiated with Council and has been offered in lieu of the provision of community facilities on site. Council has confirmed its acceptance of this offer rather than an on-site community facility. The Department is satisfied that the proposed additional contributions is an acceptable replacement of public benefits in lieu of a community facility as it allows for greater flexibility for Council to meet local infrastructure and community needs. 	No additional conditions or amendments are necessary.

Issue	Consideration	Recommendation
Education Facility / School	<ul style="list-style-type: none"> Concern was raised in public submissions that the site should be used for, or included an element of, education use. The Applicant consulted with the NSW Department of Education (DoE) and confirmed that the site has not been identified for a future education facility. The Department acknowledges that the 2036 Plan has identified educational facilities are needed within the area and DoE is actively investigating the delivery of new education facilities in the wider St Leonards and Crows Nest Precinct. However, the Department accepts that the site has not been identified for educational uses and the proposed land uses are consistent with site specific rezoning and new planning controls recently adopted for the site. Further, the Department considers the proposed residential uses would not generate a significant increase in the demand for school places in the local area. 	No additional conditions or amendments are necessary.
Footpath widths	<ul style="list-style-type: none"> Concern was raised in public submissions that the proposal should include greater setbacks at ground floor level to provide for wider footpaths around the development. The Applicant states the CSSI Approval includes building setbacks at the ground floor level up to the transfer level, and the OSD would not alter this approved setback. The Department notes the ground floor level setbacks (between 1.2 and 3 m (Figure 10)) and footpath widths have been established by the CSSI Approval and therefore do not form part of this application. 	No additional conditions or amendments are necessary.
Flooding and stormwater	<ul style="list-style-type: none"> EESG raised concern the proposal could have adverse flood impacts on adjoining properties and the ground level entrances to the station and OSD could be flood affected. The Department notes the CSSI Approval requires the design of the station and entrances to not worsen existing flooding characteristics (where feasible and reasonable) up to and including the 100 year ARI, in the vicinity of the project. In addition, Condition E8 of the CSSI Approval requires the flooding mitigation measures to be incorporated into the design. The Department is satisfied the concerns raised by EESG have already been appropriately considered under the CSSI Approval. The proposed OSD does not change the footprint of development set by the approved station. The Department is satisfied the CSSI Approval conditions would appropriately manage any external flooding impacts relating to the site. However, the Department recommends future application should address any constraints imposed by flooding such as the height and design of the floor levels and access into the proposed buildings. 	The Department has recommended a standard FEAR requiring future DA(s) include a Flood Assessment
Wind	<ul style="list-style-type: none"> Concern was raised in public submissions about the potential wind impacts associated with the proposal. 	The Department has recommended a FEAR requiring future DA(s)

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> The Applicant submitted a Wind Impact Assessment (WIA), which undertook a desktop study to determine the likely wind conditions affecting various outdoor areas within and around the development. The WIA concludes wind conditions at most locations around the site (based on the concept proposal) would be expected to be similar to or marginally stronger than the existing wind conditions. Overall, the wind conditions at most locations around the proposed development site are expected to be suitable for pedestrian standing/walking activities. Given the proposal includes the provision of towers, the Department acknowledges the proposal could result in some additional wind impacts. However, based on the findings of the WIA, the Department is satisfied the additional impacts are minor and can be appropriately mitigated at the detailed design stage for each building. To ensure wind impacts are appropriately addressed at the detailed design stage, the Department recommends that a detailed Wind Assessment be undertaken, which includes wind management and mitigation measures for each building 	include a Wind Assessment
Noise impact	<p><u>Construction noise</u></p> <ul style="list-style-type: none"> As indicated at Section 1.5, there are residential properties located between 13 m and 26 m away from the site on the opposite side of existing roadways. Concern was raised in public submissions about potential construction noise impacts and NSW Health recommended future DA(s) consider construction noise impacts. The Application was accompanied by a Noise Impact Assessment (NIA), which considered the proposal against the requirements of the Interim Construction Noise Guidelines (ICNG). The NIA recommended future DA(s) include a Construction Noise and Vibration Management Plan (CNVMP) outlining appropriate mitigation measures and co-ordination with the Sydney Metro construction operations to further manage any impacts. The Department considers the NIA has demonstrated, subject to future detailed assessment, construction noise and vibration can be appropriately managed and mitigated. The Department recommends future DA(s) include a NIA and prepare a CNVMP. <p><u>Operational Noise</u></p> <ul style="list-style-type: none"> Concern was raised in public submissions about future operational noise impacts. The NIA considered potential operational noise impacts and noted the proposal includes a reduction in car parking and loading facilities compared to the pre-demolition condition and therefore would have less of noise impact. In addition, standard acoustic treatments (noise barriers, equipment selection etc) would ensure mechanical plant would not have an adverse impact on neighbouring properties. 	The Department has recommended a condition requiring future DA(s) include a NIA and CNVMP.

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> Based on the findings of the NIA, the Department is satisfied that the proposal would not result in any significant operational noise impacts. However, the Department recommends future DA(s) include a NIA to consider the potential operational noise impacts associated with each building and to outline appropriate noise management and mitigation measures. 	
Crime prevention	<ul style="list-style-type: none"> Concern was raised in public submissions the proposal may result in an increase in crime within the locality. NSW Police has recommended future buildings be design in accordance with CPTED principles. The application includes a concept CPTED report which confirms future developments are capable of being designed in accordance with CPTED principles through appropriate design features relating to surveillance, territorial reinforcement, access control and space and activity management. The Applicant has confirmed it agrees to NSW Police's recommendation. The Department is satisfied future developments can achieve an appropriate level of safety and security in accordance with CPTED principles. 	The Department has recommended a condition requiring future DA(s) include a CPTED assessment.
Amendments to the metro design	<ul style="list-style-type: none"> Comments were made in public submissions that the metro station should be amended to include a Pacific Highway pedestrian over/underpass. Lane Cove Council recommended aspects of the CSSI Approval should be amended to improve access to the metro station, including: <ul style="list-style-type: none"> the provision of an underground pedestrian connection beneath Pacific Highway from the western side of Oxley Street to the station the space requirements for bus / metro interchange should be determined now rather than being deferred to future DA stage The Department notes the suggested amendments. However, the design and access to the metro station was assessed and approved under the separate CSSI Approval and therefore does not form part of the current OSD application. Notwithstanding, the Department notes that the CSSI Approval: <ul style="list-style-type: none"> confirmed the Applicant is undertaking work to determine the feasibility of safeguarding an underground pedestrian link to the western side of the Pacific Highway includes the requirement to prepare an Interchange Access Plan, which will support the interchange between modes of transport. 	No additional conditions or amendments are necessary.
Incorporation of a public open space	<ul style="list-style-type: none"> Concern was raised in public submissions that the development should be amended to include a public open space. The Applicant has stated the proposal is located wholly above the Crows Nest metro station (CSSI Approval) with a 	No additional conditions or amendments are necessary.

Issue	Consideration	Recommendation
	<p>transfer level potentially above RL 100 m. As such, the provision of a public open space is impractical in such circumstances.</p> <ul style="list-style-type: none"> The Department notes Council has endorsed a masterplan to redevelop Hume Street Park (opposite the site) and increase its size by 3,518 m² (to 8,242 m²). The redeveloped park would become one of the largest in the area. The Department also notes the 2036 plan is supported by a Green Plan which identifies locations for future open space for the St Leonard Crows Nest Precinct but these locations do not include the subject site. Having considered the circumstances of the site and the public benefits arising from the redevelopment (including additional \$2 million monetary contribution towards public domain improvements), the Department accepts there is sufficient open space within close proximity to support the proposed development. 	
Reflectivity	<ul style="list-style-type: none"> The Department notes that the indicative proposal includes modern tower buildings that may contain a high proportion of glazing. The Applicant has confirmed that future DA(s) will include a reflectivity report confirming that materials would not exceed a maximum 20% reflectivity. The Department considers it important that future DA(s) consider potential reflectivity impacts and recommends a FEAR accordingly. 	The Department has recommended a condition requiring future DA(s) include a Reflectivity Assessment.
Subdivision	<ul style="list-style-type: none"> The application seeks approval for future subdivision of parts of the OSD footprint, if required. The Applicant has stated that any subdivision would form part of future DA(s). The Department accepts that subdivision can form part of, the Concept proposal. However, the detailed design of the subdivision is best addressed as part of the consideration and assessment of future DA(s). 	The Department recommends a condition specifying that subdivision is subject to assessment under future DA(s).
Signage zones	<ul style="list-style-type: none"> Council raised concern that it would be premature to approve signage zones at the concept stage of the proposal and signage should instead be considered at future DA stages and in accordance with the requirements of SEPP 64 and the NSDCP, which provides guidance on local character for signage. In response, the Applicant confirmed that it no longer seeks approval for signage zones and signage will form part of future DA(s). The Department agrees with Council that signage is best addressed as part of the assessment of future DA(s) and with the benefit of detailed building designs. 	The Department recommends a condition specifying that signage is subject to assessment under future DA(s).
Aviation impacts	<ul style="list-style-type: none"> The application was referred to CASA as the site is located in an area identified under the Civil Aviation (Buildings Control) Regulation 1988 that restricts the height of new structures to below the recommended OLS. 	The Department has recommended a condition requiring the Applicant obtain DIRDC

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> The Department notes the maximum building envelope height (RL 180) penetrates the OLS (156 m AHD). CASA raised no objection to the proposal subject to recommended conditions and a separate approval being obtained from the DIRDC for the building height and for any cranes / associated structures required to construct the building. 	approval for building height and cranes that penetrate the OLS.
Contamination	<ul style="list-style-type: none"> The OSD is located wholly above the CSSI Approval works, which relate to the entire development site. The Department has considered land contamination in detail at Appendix B. In summary, the Department is satisfied that: <ul style="list-style-type: none"> any remediation works required, and unexpected contaminants found on the site would be addressed as part of the requirements of the CSSI Approval there would be limited opportunity the OSD to further excavate and or cause ground disturbance above the station structure. 	The Department has recommended a FEAR requiring future DA(s) include a contamination report to confirm any remediation work/site investigation work carried under the CSSI Approval would have made the site suitable also for the proposed uses under the OSD and there is no further earthwork required for the OSD.
Heritage	<ul style="list-style-type: none"> Council recommended that the proposed building envelope for Site A be setback further from Oxley Street to retain sightlines from the Pacific Highway towards the St Leonards Centre at 28-34 Clarke Street, which is a local heritage item. However, the Department considers additional setbacks above the station would not materially improve views towards the St Leonards Centre from the Pacific Highway as the approved station would obstruct direct views to the western elevation (Clarke Lane elevation) of the St Leonards Centre from the Pacific Highway. Further, the Department notes Site A is setback approximately 1.5 metres along Oxley Street to align with the St Leonards Centre (consistent with the CSSI approval) to maintain an appropriate setting along the Oxley Street streetscape. The Department also notes the St Leonards Centre's primarily frontage is along Clarke Street and the proposed OSD would not materially change how it would be appreciated from this primary frontage. The Department is therefore satisfied the proposed Oxley Street setback is appropriate (as discussed in Section 6.3.4 of this report) and the proposal would not result in any unreasonable heritage impacts. 	No additional conditions or amendments are necessary.
Consultation	<ul style="list-style-type: none"> Concern was raised in the public submissions about the extent of community consultation undertaken and that the RtS exhibition period was too short. The Department notes that the Applicant carried out a range of consultation activities before the lodgement of the application and during the exhibition of the application (as described in Section 5 of EIS and Section 3 of the RtS). 	No additional conditions or amendments are necessary.

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> • The Department exhibited the EIS for 85 days, which is well in excess of the minimum 28 days statutory requirements of the EP&A Act (Section 5) and also exhibited the Applicant's RtS with an amended scheme for a further 28 day period. • The Department is therefore satisfied that the community has had a number of opportunities to comment on the proposal. 	
Development precedent	<ul style="list-style-type: none"> • Concern was raised in public submissions that the proposal may set a precedent for the development of other tall buildings within the locality. • The Department notes that all development applications are assessed on their merits, having regard to the planning controls applying to the site, the potential impacts of the development and the issues raised in submissions. • The Department has undertaken a detailed merit assessment of the proposal and is satisfied it is consistent with the recently adopted planning controls for the site and it would not result in any unreasonable visual or amenity impacts. • The Department therefore considers the proposal would not set a development precedent. 	No additional conditions or amendments are necessary.

7 Evaluation

The Department has reviewed the EIS, RtS and SRtS and assessed the merits of the proposal, taking into consideration advice from the public authorities and comments made by Council. Issues raised in public submissions have been considered and all environmental issues associated with the proposal have been thoroughly assessed.

The proposal is consistent with the objects of the EP&A Act, including facilitating ESD, and the Department supports the achievement of the strategic aims of local, regional and State planning policies. The proposal will contribute to employment generation with approximately 945 direct construction jobs and 2,010 direct operational jobs located directly above the Crows Nest Metro Station.

The Department supports the proposed land uses and density of the development noting they have strategic merit and will provide for additional housing and employment generating floorspace that has excellent access to public transport and is conveniently located to shops and services. In addition, the density has acceptable impacts in terms of its built form, traffic and amenity impacts.

The height of building envelopes is consistent with the NSLEP maximum height controls and is compatible with the emerging character of the St Leonards and Crows Nest Precinct. In response to submissions from Council and the community, the Department has also recommended additional measures to mitigate the visual bulk and scale of the proposed development, particularly the length of the proposed building envelopes along Pacific Highway. The design of future built form will also be subject to a design excellence process, including design review by a panel of independent experts chaired by GA NSW to ensure they will achieve design excellence.

The Department is satisfied the amended proposal complies with the solar access controls in the NSLEP and 2036 Plan, which seek to protect solar access to Ernest Place and Hume Park between 10am – 3pm during mid-winter. The Department has also carefully considered the impact of the development on neighbouring amenity and concludes impacts on private views are reasonable and future buildings are capable of being designed not to have adverse impact on privacy and outlook.

The provision of a maximum of 101 on-site car parking spaces represents a reduced car parking rate which would encourage a shift in travel modes from private car use to public transport consistent with strategic policy. The inclusion of above ground car parking is acceptable subject to a new Design Guideline ensuring above car parking is architecturally integrated into the design of buildings.

The impacts of the proposal have been addressed by the amendments to the proposal and FEARs are recommended to ensure future DA(s) are appropriately designed and the potential impacts are appropriately managed and mitigated. The Department considers other impacts of the development are satisfactory and can be appropriately managed or mitigated through the implementation of the recommended conditions of consent.

The Department's assessment concludes the proposal is in the public interest and recommend that the application be approved, subject to the conditions outlined within the report.

8 Recommendation

It is recommended that the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of 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 (**Appendix G**)
- **grants consent** for the application in respect of the Crows Nest OSD Concept Proposal (SSD 9579)
- **signs** the attached development consent and recommended conditions of consent (**Appendix G**).

Recommended by:



Anthony Witherdin
Director
Key Sites Assessments

Recommended by:



Anthea Sargeant
Executive Director
Regions and Key Sites

9 Determination

The recommendation is **Adopted** / ~~Not adopted~~ by:

A handwritten signature in blue ink, appearing to read 'Rob Stokes', is positioned above the text identifying the signatory.

The Hon. Rob Stokes MP

Minister for Planning and Public Spaces

Appendices

Appendix A – List of Documents and Relevant Supporting Information

Appendix B – Statutory Considerations

Appendix C – 2036 Plan

Appendix D – Private Views

Appendix E – Summary of Department’s Consideration of Submissions

Appendix F – Design Guidelines

Appendix G – Recommended Instrument of Consent

Appendix A – List of Documents and Relevant Supporting Information

List of key documents relied on by the Department in its assessment:

- Environmental Impact Statement titled 'Concept State Significant Development Application – SSD 18_9579 Sydney Metro City & Southwest Crows Nest Over Station Development' prepared by Sydney Metro and dated November 2018
- Response to Submissions titled 'Crows Nest Over Station Development Submissions Report Sydney Metro City & Southwest' prepared by Sydney Metro and dated September 2020
- Supplementary Response to Submissions titled 'Crows Nest Over Station Development Submissions Report' prepared by Sydney Metro and dated Nov 2020
- Submissions

The above documents and relevant supporting information to this assessment report can be found on the Department's website:

<https://www.planningportal.nsw.gov.au/major-projects/project/11506>

Appendix B – Statutory considerations

B1 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects as set out in section 1.3 the Act. The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent / approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment, the objects should be considered to the extent they are relevant.

The Department has considered the proposal to be satisfactory with regard to the objects of the EP&A Act as detailed in **Table B1-a**.

Table B1-a | Consideration of the proposal against the objects of section 1.3 the EP&A Act

Objects of the EP&A Act	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	<p>The proposal promotes the social and economic welfare of the community by providing employment and housing within a highly accessible site for transport and urban services, and, in doing so, contributing to the achievement of State and regional planning objectives.</p> <p>The proposal comprises development above approved station infrastructure which would have a positive impact the economic welfare of the community and would not result in any impacts on the State's natural or other resources.</p> <p>The proposal is predicted to generate 945 construction and 2,010 operational jobs.</p>
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	<p>The proposal has integrated ESD principles as discussed in Appendix B, Section B3.</p>
(c) to promote the orderly and economic use and development of land,	<p>The proposal involves the orderly and economic use of land through the efficient development of an existing urban site that will include a high frequency metro station and is in close proximity to existing services and other public transport. The development of the site will provide economic benefits through job creation.</p> <p>The proposed land uses are permissible and the form of the development has regard to the planning controls that apply and the character of the locality. The merits of the proposal are considered in Section 6.</p>
(d) to promote the delivery and maintenance of affordable housing,	<p>The proposal includes the provision of a minimum 5% of the residential GFA as ARH.</p>

Objects of the EP&A Act	Consideration
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<p>The proposal, comprising mixed use development above and adjacent to a metro station, will have negligible impacts on the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.</p> <p>On 24 October 2018 the Department determined that the application is not required to be accompanied by a BDAR (Section 4.5).</p>
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	<p>The Department considers that the heritage impacts of the development are acceptable as set out in Section 6.8.</p>
(g) to promote good design and amenity of the built environment,	<p>The proposal demonstrates a suitable design approach to the relevant planning controls and local character, subject to the Department's recommended FEARs and amendments to the Design Guidelines. Amenity impacts are managed by either the form of the development or by the recommended conditions of consent.</p> <p>The Department has recommended built form conditions, which ensure future developments within the building envelopes would achieve a high standard of design.</p>
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	<p>The application is for concept approval and does not include the construction of buildings. However, relevant construction impacts of the concept have been taken into consideration in the assessment and are considered acceptable.</p> <p>Future DA(s) will include detailed reports confirming the development is capable of meeting relevant construction and amenity standards.</p>
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	<p>The Department publicly exhibited the proposed development as outlined in Section 5, which included consultation with Council and other public authorities and consideration of their responses.</p>
(j) to provide increased opportunity for community participation in environmental planning and assessment.	<p>The Department publicly exhibited the proposal as outlined in Section 5, which included notifying adjoining landowners, placing a notice in newspapers and displaying the proposal on the Department's website, at Council's office and Service NSW Office during the EIS and RtS public exhibition periods.</p>

B2 Section 4.15(1) matters for consideration

The matters for consideration under section 4.15(1) that apply to SSD in accordance with section 4.40 of the EP&A Act have been addressed in **Table B2-a**.

Table B2-a | Section 4.15(1) Matters for Consideration

Section 4.15(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Satisfactorily complies. The Department's consideration of the relevant EPIs is provided below, at Section 0 and Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to the relevant controls under the NSDCP at Section 0 and Appendix B, Table B5-d .
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations Refer Division 8 of the EP&A Regulation	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), public participation procedures for SSD and Schedule 2 relating to EIS.
(a)(v) any coastal zone management plan	The site is not identified as being located within a designated coastal area under the State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The impacts of the proposal have appropriately mitigated or conditioned as discussed in Section 0 of this report.
(c) the suitability of the site for the development	The site is suitable for the development as discussed in Section 0 of this report.
(d) any submissions	Consideration has been given to the submissions received during the exhibition of the proposal as summarised at Section 5 and considered at Section 0 of this report.
(e) the public interest	The proposal is in the public interest as discussed at Section 6 of this report.

B3 Ecologically sustainable development

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

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.
- The development proposes ESD initiatives and sustainability measures, including the following minimum sustainability targets:
- minimum Green Star 5 Star Design and As Built v1.2 for all buildings

- 5 Stars NABERS Energy and 4 Stars NABERS Water ratings for Buildings A and C (commercial)
- BASIX 40% green house gas emission and water consumption reduction and NatHERS 6 Star rating for Building B (residential)

The Department has considered the project in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision making process by a thorough assessment of the environmental impacts of the development. The proposed development is consistent with ESD principles as described in the Applicant's EIS and RtS, which have been prepared in accordance with the requirements of Schedule 2 of the EP&A Regulation.

The Department has recommended conditions requiring future DA(s) demonstrate how ESD principles have been incorporated into the proposal and that the minimum sustainability targets are met.

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

B4 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 6) and Fees (Part 15, Division 1AA) have been complied with.

B5 Environmental Planning Instruments (EPIs)

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

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

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation SEPP)
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65), including the Apartment Design Guide 2015
- North Sydney Local Environmental Plan 2013 (NSLEP)
- other relevant plans, policies or guidance:
 - North Sydney Development Control Plan 2013 (NSDCP).

State Environmental Planning Policy (State and Regional Development) 2011

The aims of the SRD SEPP are to identify SSD, State significant infrastructure (SSI), CSSI and to confer functions on regional planning panels to determine development applications. The proposal is SSD as summarised at **Table B5-a**.

Table B5-a | SRD SEPP compliance table

Relevant Sections	Department's consideration	Compliance
<p>3 Aims of Policy</p> <p>The aims of this Policy are as follows:</p> <p>(a) to identify development that is State significant development,</p>	<p>The proposed development is identified as SSD (Section 4.1).</p>	<p>Yes</p>
<p>8 Declaration of State significant development: section 4.36</p> <p>(1) Development is declared to be State significant development for the purposes of the Act if:</p> <p>(a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and</p> <p>(b) the development is specified in Schedule 1 or 2.</p>	<p>The proposed development is permissible with development consent. The development is specified in Schedule 1 of the SRD SEPP.</p>	<p>Yes</p>
<p>Schedule 1 State significant development</p> <p>(Clause 19 (2))</p> <p>Development within a rail corridor or associated with railway infrastructure that has a capital investment value of more than \$30 million for any of the following purposes—</p> <p>(a) commercial premises or residential accommodation</p>	<p>The proposal is development associated with railway infrastructure development with a CIV of more than \$30 million.</p>	<p>Yes</p>

State Environmental Planning Policy (Infrastructure) 2007

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

The ISEPP is applicable as the concept proposal involves development in or adjacent to a rail corridor (Division 15 Railways), being the Sydney Metro City and Southwest corridor.

The proposal includes residential development in proximity to railway infrastructure and clause 87 requires the consent authority to consider acoustic impacts in such circumstances. The Department has considered construction and operational noise at **Section 6.8** and concludes noise impacts can be managed and/or mitigated. The Department recommends a FEAR requiring future DA(s) consider construction and operational noise impacts.

The site adjoins a classified road (Pacific Highway) and clauses 101, 102 and 104 require the consent authority consider the impact of access to Pacific Highway, road noise impacts and consult with TfNSW. The Department has considered the impact of the proposal on the operation of the road network at **Section 6.7.3**, construction and operational noise at **Section 6.8** and consulted with TfNSW, which did not provide comments on the proposal.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP BASIX encourages sustainable residential development across NSW by setting targets that measure the efficiency of buildings in relation to water, energy and thermal comfort. SEPP BASIX requires all new dwellings meet sustainable targets of a 20% reduction in energy use (building size dependent) and 40% reduction in potable water.

The application is for a concept proposal and numeric compliance with BASIX targets is subject to the detailed design phase and certification process. However, the Applicant has committed to achieving better than minimum compliance, comprising BASIX energy 40% target and BASIX water 40%+ target. The Department has recommended conditions of consent accordingly.

The Department has recommended a FEAR requiring future DA(s) for the residential components of the development include a BASIX assessment.

State Environmental Planning Policy No.55 – Remediation of Land

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application.

A Phase 1 Contamination Investigation (P1CI) was undertaken as part of the CSSI Approval for all sites along the metro route to ensure sites were suitable for the construction and operation of metro railway infrastructure, including construction of Crows Nest station.

The P1CI confirmed the Crows Nest station site comprised residential properties in the 1930s and transitioned to commercial uses by the 1970s. A former tyre workshop was located on the corner of Clarke Street and Hume Street and was considered to have a low risk rating. The P1CI concluded there was no need for further contamination investigation at the Crows Nest station site as:

- there was no evidence to suggest that the site has been used for a purpose referred to in Table 1 of the contaminated land planning guidelines
- the site is not identified as an area of environmental interest

Conditions E66 to E70 of the CSSI Approval outline a contaminated land unexpected finds protocol for the site and any unexpected finds uncovered as a result of the excavation of the site will be resolved as part of the construction of the Crows Nest station as required by the CSSI Approval.

The Department notes the P1CI focused on the suitability of the Crows Nest station site for use as a metro station and did not specifically consider the suitability of the site for commercial and residential uses as part of potential future OSD. Notwithstanding this, the Department considers the site is suitable for its intended use (OSD including commercial and residential uses) in accordance with the requirements of SEPP 55 as:

- the CSSI Approval excavation works relate to the entirety of the application site, which is the subject of the current application (i.e. including Sites A, B and C) and any unexpected contaminants found on the site would be addressed as part of the requirements of the CSSI Approval
- there is no ability for the OSD to be exposed directly to any areas of earth as the proposal does not include any excavation or ground disturbance and works above the ground floor slab are limited to internal fitout.

Draft Remediation of Land State Environmental Planning Policy

The Explanation of Intended Effect for a Draft Remediation of Land SEPP was exhibited until 13 April 2018. The Draft Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works. As the proposal has demonstrated it can be suitable for the site, subject to future DA(s), the Department considers it would be consistent with the intended effect of the Remediation of Land SEPP.

State Environmental Planning Policy No. 65 – Residential Apartment Development, including Apartment Design Guide

State Environmental Planning Policy 65 – Residential Apartment Development (SEPP 65) seeks to improve the design quality of residential developments and encourage innovative design. The ADG is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments.

The Department has assessed the proposal against the SEPP 65 aims / objectives at **Table B5-b**.

Table B5-b | Consideration of the aims and objectives of SEPP 65

SEPP 65 Principle	Department's Response
1. Context and Neighbourhood Character	The development is located within the St Leonards and Crows Nest Precinct and is consistent in its form and function with the desired future character of this part of Crows Nest as discussed in Section 6.3 . The Department has recommended FEARs and amendments to the Design Guidelines to ensure the future detailed design of buildings respond to the existing and future context of the site and surrounding area, maintaining adequate levels of amenity for existing neighbouring properties.
2. Built Form and Scale	<p>The built form and height of the building envelopes are appropriate in this location and the proposal has demonstrated the envelopes are consistent with the desired future character of the site. Future developments are required to achieve design excellence as discussed in Section 6.4.</p> <p>The Department considers the proposal is acceptable, having regard to its location and exemplifying the principles of transit-oriented development.</p>
3. Density	The density of the development has strategic merit and the proposal has demonstrated that it would not have adverse built form, traffic or amenity impacts (Section 6.3). The proposal is of a density envisaged by the planning controls and the Department has recommended FEARs to ensure the detailed design of the buildings respond to the context of the site and surrounding area.
4. Sustainability	The Department has recommended FEARs requiring future DA(s) demonstrate developments have been designed in accordance with ESD principles and that minimum Green Star, NABERS and BASIX sustainability targets are achieved.
5. Landscape	<p>The OSD is located wholly above the Crows Nest Metro Station and the CSSI Approval for the station includes requirements for the provision of public domain improvements in the area immediately surrounding the site. Future DA(s) will consider the potential for the inclusion of private and communal open spaces, including landscaping, incorporated into Buildings A, B and C.</p> <p>The Applicant has made a public benefit offer totally \$11 million, which would be put towards improvements within the local area.</p>

SEPP 65 Principle	Department's Response
6. Amenity	<p>The proposed envelopes have been designed to maximise residential amenity while minimising wind and noise impacts.</p> <p>The proposal generally complies with the requirements of SEPP 65 and the proposal has demonstrated that future residential buildings would be capable of achieving satisfactory residential amenity, including satisfactory levels of solar access, natural ventilation and privacy (Section 6.5). The Department has recommended a FEAR requiring future DA(s) consider the ADG residential development controls.</p>
7. Safety	<p>The buildings, as proposed at a conceptual level, are capable of achieving safe and secure environments, allowing for passive and active surveillance of the surrounding area. The future detailed design of the buildings will further address other safety and security issues around public and private areas. The Department has recommended a FEAR requiring future DA(s) include a Crime Prevention Through Environmental Design assessment.</p>
8. Housing Diversity and Social Interaction	<p>The development will improve housing supply and choice and has the ability to provide for a mix of apartment types to cater for a range of households. The provision of new housing will aid in the creation of a mixed and balanced community.</p> <p>The proposal includes the provision of a minimum 5% of the residential GFA as ARH.</p>
9. Architectural Expression	<p>Subject to the Department's recommended FEARS and amendments to the Design Guidelines, the building envelopes would allow for appropriate building articulation, modulation and include appropriate setbacks to complement the existing and desired character for the site and surrounding area (Section 6.3). The Department has recommended a FEAR to ensure future developments to achieve design excellence.</p>

The ADG sets out a number of guidelines for residential apartment development to ensure apartments are provided with an appropriate level of residential amenity.

The application only seeks approval for concept building envelopes at this stage. Detailed floor plan layouts and façade design will be the subject of future DA(s). Indicative floor plans have been provided to demonstrate how the buildings envelopes may achieve the ADG guidelines (**Section 2.2**).

The Department has considered the indicative proposal against the key ADG amenity criteria (**Section 6.5**) and concludes it is acceptable in terms of apartment sizes, communal open space, solar access, natural ventilation and building separation. The proposal would result in minor inconsistencies with apartments per floor and lift and deep soil amenity standards. However, the Department concludes this is acceptable as discussed at **Section 6.5**.

The Department considers that the proposal is generally consistent with the aims and provisions of the ADG and the development is capable of addressing the ADG guidelines at future DA stages.

North Sydney Local Environmental Plan 2013

The NSLEP aims to encourage the development of housing, employment, infrastructure and community services to meet the needs of the existing and future residents of the North Sydney LGA. The NSLEP also aims to conserve and protect natural resources and foster economic, environmental and social well-being.

The Department consulted with Council throughout the assessment process and considered the matters raised in submissions by Council and the public (**Sections 5 and 0**).

The Department has considered the relevant provisions of the NSLEP at **Table B5-c** and concludes the development is consistent with the NSLEP.

Table B5-c | Consideration of the relevant clauses of the NSLEP

Clause	Control	Department's consideration	Compliance
Clause 2.3 Land use zones	The proposed development is on land zoned B4 Mixed Use	The proposal is permissible with consent and meets the objectives of the zone.	Yes
Clause 2.6 Subdivision	Land can be subdivided subject to consent	The application seeks approval for future subdivision of parts of the OSD footprint, if required. Any subdivision would form part of future DA(s) and the acceptability of any such subdivision would form part of the future assessment of DA(s).	Yes
Clause 4.3 Height of buildings	Height of buildings development standards apply, including: <ul style="list-style-type: none"> Site A: RL 180 Site B: RL 155 Site C: RL 127 	The proposed maximum building envelope heights are: <ul style="list-style-type: none"> Site A: RL 175.6 Site B: RL 155 Site C: RL 127 	Yes
Clause 4.3A Exceptions to Height of buildings	Despite clause 4.3, buildings on Site C can exceed the maximum building height by 5 m for roof top enclosures.	The roof enclosures component of Building C exceeds the recommended clause 4.3 maximum height of buildings by 5 m.	Yes
Clause 4.4 FSR	The following maximum FSR development standards apply: <ul style="list-style-type: none"> Site A: 11.5 Site B: 7.5 Site C: 6 	The proposed maximum FSRs do not exceed the clause 4.4 maximums, as shown below: <ul style="list-style-type: none"> Site A: 11.12:1 Site B: 7.27:1 Site C: 5.73:1 	Yes
Clause 4.4A Non-residential FSR	The following minimum non-residential FSR development standards apply: <ul style="list-style-type: none"> Site A: 10:1 Site B: 0.5:1 Site C: 5:1 Active street frontages must be provided	The proposed non-residential FSRs exceed the Clause 4.4A minimums, as shown below: <ul style="list-style-type: none"> Site A: 11:1 Site B: 0.55:1 Site C: 5.73:1 The CSSI Approval includes active street frontages.	Yes
Clause 5.6 Architectural roof features	To permit variations to maximum building height standards for roof features of visual interest, ensure that roof features are decorative	Architectural roof features are permitted for Site B and Site C subject to respective requirements in Clause 5.6 and Clause 4.3A of NSLEP.	Yes

Clause	Control	Department's consideration	Compliance
	elements and that the majority of the roof is contained within the maximum building height standard.	This will be determined as part of the assessment of future DA(s).	
Clause 5.10 Heritage conservation	To conserve the environmental heritage of North Sydney, the significance of heritage items and heritage conservation areas, including associated fabric, settings and views, archaeological sites, Aboriginal objects and Aboriginal places of heritage significance.	The site is located opposite and nearby locally listed heritage items. The Department has considered the heritage impact of the proposed on adjoining heritage items at Section 6.8 . The Department concludes the proposal would not have any adverse heritage impacts.	Yes
Clause 6.12A Residential Flat buildings in Zone B4 Mixed use	Residential flat buildings must be part of a mixed use development and no part of the ground floor of the building that is facing a street is used for residential accommodation.	The residential component of the development on Site B forms part of a mixed use development and no residential use is proposed at ground floor level.	Yes
Clause 6.15 Airspace operations	If a building penetrates the OLS, the relevant Commonwealth body must be consulted. Consent should not be granted unless the Commonwealth body has confirmed it has no objection to the penetration of the OLS.	The Department has consulted CASA, which has confirmed it does not object to the proposal subject to conditions (Section 6.8).	Yes
Clause 6.19B Design Excellence	All developments must exhibit design excellence and when considering whether a development exhibits design excellence the consent authority must have regard to the matters in subclause 4 (a) to (f).	The proposed envelopes are concept, and therefore the architectural design, external appearance, materials and detailing will be considered in the assessment of future development applications. The Department's assessment concludes the proposal is capable of exhibiting design excellence and recommends future DA(s) be subject to the DES and Design Guidelines (Section 6.4)	Yes

North Sydney Development Control Plan 2013

In accordance with Clause 11 of the SRD SEPP, development control plans do not apply to SSD. Notwithstanding this, the Department notes that the NSDCP would apply to the site were it not for the development being SSD.

Notwithstanding the above, the Department has considered the proposal against the relevant NSDCP controls at **Table B5-d** and throughout **Section 0** and concludes it generally complies and where

variations exist, they are generally justified. The Department has considered aspects of the NSDCP requirements in detail throughout **Section 0** of this report.

Table B5-d | Consideration of the relevant provisions of the NSDCP

NSDCP Section	Relevant controls / criteria	Department's Assessment
Part B (Development Controls)		
Section.2.1.1 – General Objectives	A series of 18 general objectives are specified including how development aligns with strategic planning guidance, relates to the site and surrounds and deals with impacts on amenity within the site and surrounding sites.	The proposal complies with the objectives for commercial and mixed use development.
Section.2.2 – Function	The size of spaces within a building should reflect the sites location in the commercial centre hierarchy. Large floor plates should be provided in higher order centres. There are also provisions relating to diversity and activation in ground level uses and enhancing the public domain. Development should maximise use of public transport.	The Department is recommending amendments to the submitted Design Guidelines in response to limiting future built form in the proposed building envelopes (Section 6.3). The approved CSSI includes the design and construction of the station footprint below the OSD.
Section.2.3 – Environmental criteria	Various objectives and provisions apply in relation to environmental protection and amenity including air quality, noise and vibration, wind impacts, pedestrian comfort, solar access, views and visual privacy.	The concept design, EIS and RtS have considered the relevant environmental context. The Department is satisfied that adequate measures are incorporated into the project and within the recommended conditions to minimise and manage environmental impacts.
Section.2.4 – Quality built form	Building design should respond to the context of the site and relevant character area statement in Part C including built form (i.e. podium and tower form) and setbacks. In relation to setbacks, development must consider the setbacks of adjacent buildings and heritage items.	Refer to Part C assessment below in relation to the character area statement. Section 6.3 of this report includes a detailed assessment of built form and concludes the proposal is considered suitable.
Section.2.5 – Quality urban environment	The DCP sets out numerous controls in relation to ground conditions including access, safety and security, vehicle access, servicing and the like.	The approved CSSI includes the design and construction of the station footprint and public domain below the OSD.
Section.2.6 – Efficient use of resources	The DCP specifies performance targets for energy efficiency, passive solar design, ventilation, thermal mass, water conservation, stormwater and waste.	The Department is satisfied the targets established for the project in the ESD Report submitted in support of the application are acceptable.
Section.2.7 – Public domain	The DCP provides guidance on the design of public domain works, public art and encouragement of native vegetation and water.	The approved CSSI includes the design and construction of the station footprint and public domain below the OSD. The application includes a preliminary public art strategy.

NSDCP Section	Relevant controls / criteria	Department's Assessment
Section 9 – Advertising and signage	Various objectives and provisions in relation to the location, design and impacts of signage are set out.	The Department notes that the proposal has been amended and now no longer proposes the incorporation of signage zones. Any signage would be assessed as part of detailed building designs submitted with future DA(s).
Section 10 – Car parking and transport Section 11 – Traffic guidelines for development	The DCP prescribes the Council's detailed requirements for car parking quantum, loading and unloading, accesses, bike parking, travel planning and construction traffic management.	The Department's independent traffic assessor has reviewed car parking and transport issues, including compliance with the DCP, and finds the assessment satisfactory.
Section 12 - Access	The DCP sets out the Council's detailed requirements for disabled access to and within development.	The approved CSSI includes the design and construction of the station footprint and surrounding public domain below the OSD. This includes OSD lobby and OSD retail spaces.
Section 13 – Heritage and conservation	The DCP sets out requirements for a heritage impact assessment and the Council's detailed requirements for development in the vicinity of heritage item.	The Department and the NSW Heritage Council are satisfied that the proposal will have acceptable heritage impacts in the locality. The detailed design phase will need to further consider the relation of the resolved building with the surrounding heritage items. Also see consideration of Council's advice on local heritage item in Section 6.8 .
Sections 17 to 21 – Erosion, stormwater, waste, services and telecommunications management	The DCP specifies detailed controls apply to construction works such as Council's expectations for stormwater quality and engineering works.	As the application is for a concept and does not include construction at this stage, the detailed requirements of the DCP are not applicable and would be relevant to the detailed design phase.

Part C (Character Statements) – Section 3.1 – St Leonards Town Centre *

* relating to Sites A and C

s.3.1.1 – Significant elements	<p>The DCP seeks development that:</p> <ul style="list-style-type: none"> is predominantly mixed use commercial and residential respects key icons and places which give identity, in this case St Leonards station interchange and Pacific Highway. takes advantage of accessibility provided by existing and planning public transport. 	The Department is satisfied that the concept achieves the outcomes sought in this section of the DCP.
s.3.1.2 – Desired future character	<p>The DCP seeks the following relevant matters:</p> <ul style="list-style-type: none"> predominantly medium-rise, mixed-use commercial and residential development. a variety of a variety of active non-residential uses at street level. concentration of high density 	<p>The Department is satisfied that the EIS and RtS address these DCP provisions. In particular, the concept design provides for a majority of commercial floorspace, a lesser proportion of residential floorspace and opportunities for non-office uses in retail and other land uses.</p> <p>The ground plane of the site is subject to the CSSI approval. Notwithstanding this,</p>

NSDCP Section	Relevant controls / criteria	Department's Assessment
	<p>residential accommodation within mixed-use buildings close to the railway station.</p> <ul style="list-style-type: none"> • Outdoor dining concentrated along key streets including Oxley Street. • Plazas to incorporate artworks, space for public entertainment and roof top gardens to allow access to district views. • Through site links to align with existing through site links. 	<p>the OSD design is generally consistent with the DCP provisions.</p>
s.3.1.3 – Desired built form (P1 to P11)	<p>The DCP seeks the following relevant matters:</p> <ul style="list-style-type: none"> • Maintains frontages of 20 m – 40 m with frontages broken down by articulation. • Buildings to step down from the height of The Forum (201-207 Pacific Highway). • Provide for varied roof designs and interesting skyline. • Architectural detailing to provide a rich visual texture • Sites greater than 1,000 m² to include courtyards and through site links to broaden open space typology in the locality. • Appropriate street and podium setbacks. • Above podium setbacks of between 1.5 m and 3 m. 	<p>The ground plane and podium of the site is subject to the CSSI approval. Notwithstanding this, the OSD design is generally consistent with the DCP provisions.</p> <p>The scale of building envelope A has been amended and Buildings B and C are stepped lower than Building A. The Department is satisfied the height and scale of all building envelopes respond appropriately to the surrounding context and are acceptable, subject to the Department's recommended FEARs and amendments to the Design Guidelines (Section 6.3).</p> <p>The Department has considered the scale of the building envelopes and appropriateness of building setbacks at Section 6.3.</p>
s.3.1.3 – Desired built form (P12 to P27)	<p>The DCP seeks the following relevant matters:</p> <ul style="list-style-type: none"> • Awning to be provided to all street frontages • Development not to increase overshadowing of public open space. • Facades to be designed to address traffic noise. • Views to the sky between buildings to be promoted. • Vehicular access to be from laneways. • Off-street parking to be underground. • Minimise non-residential and commuter long stay parking. 	<p>The ground plane and podium of the site is subject to the CSSI approval. Notwithstanding this, the OSD design is generally consistent with the DCP provisions.</p> <p>The proposal would not result in unacceptable overshadowing of Hume Street Park. The future detailed design of buildings will address traffic noise.</p> <p>Building envelopes are separated and allow for sky views between them.</p> <p>The proposal provides for all parking and loading off Clarke Lane and use of public transport is promoted.</p>

Part C (Character Statements) – Section 3.2 – Crows Nest Town Centre *

* relating to Site B

NSDCP Section	Relevant controls / criteria	Department's Assessment
s.3.2.1 – Significant elements	<p>The DCP seeks the following relevant matters:</p> <ul style="list-style-type: none"> • predominantly mixed-use commercial and residential development. • Slight fall in land to the east and along ridgeline (Pacific Highway). • Views along Pacific Highway and from upper levels of taller buildings to be preserved and where possible enhanced. • respects key icons and places which give identity, in this case Crows Nest five ways, formalised outdoor dining, Pacific Highway and Hume Park. 	<p>The proposal includes a variety of commercial and residential uses. The building envelopes reflect/respect the topography of the site/area and would not impinge existing NSDCP views.</p>
s.3.2.2 – Desired future character	<p>The DCP seeks the following relevant matters:</p> <ul style="list-style-type: none"> • medium rise mixed-use development, boundary to boundary, with setbacks at laneways and above podium. Shops at ground level. • Significant urban park (Hume Street Park) to be provided. 	<p>The Department is satisfied that the EIS and RtS address these DCP provisions. The ground plane of the site is subject to the CSSI approval. Notwithstanding this, the OSD design is generally consistent with the DCP provisions.</p>
s.3.2.3 – Desired built form	<p>The DCP seeks the following relevant matters:</p> <ul style="list-style-type: none"> • Maintains frontages of 10 m – 15 m with frontages broken down by articulation. • Consistent parapets heights along Pacific Highway. • Appropriate street and podium setbacks. • Above podium setbacks of 3 m. • Awning to be provided to all street frontages except laneways • Facades to be designed to address traffic noise. • No vehicular access to Pacific Highway between Shirley Road and Hume Street. • Off-street parking to be underground. 	<p>The ground plane and podium of the site is subject to the CSSI approval. Notwithstanding this, the OSD design is generally consistent with the DCP provisions.</p> <p>Buildings B is stepped lower than proposed adjoining Building A. The Department is satisfied the height and scale of all building envelopes respond appropriately to the surrounding context and are acceptable, subject to the Department's recommended FEARs and amendments to the Design Guidelines (Section 6.3).</p> <p>The Department has considered the scale of the building envelopes and appropriateness of building setbacks at Section 6.3.</p> <p>The future detailed design of buildings will address traffic noise. The proposal provides for all parking and loading off Clarke Lane and use of public transport is promoted.</p>

Appendix C – The 2036 Plan

The Department has considered the proposal against the objectives of the 2036 Plan Precinct Objectives at **Table C1-a**

Table C1-a | Proposal's response to the 2036 Plan Precinct Objectives

Objective	Proposal's response
<p>Infrastructure and Collaboration</p> <p>Deliver key State and regional infrastructure to support long-term growth.</p> <p>Enhance quality of life by providing infrastructure to support place outcomes.</p> <p>Coordinate the delivery of infrastructure with growth to ensure infrastructure is available at the right time.</p>	<p>OSD is integrated with the Metro station, which will support long-term growth within the precinct and support place outcomes</p> <p>The Metro station is predicted to be completed and operational in 2024. The OSD will be fully integrated with the station when complete.</p>
<p>Liveability</p> <p>Ensure new development retains and enhances important heritage elements.</p> <p>Retain and enhance the village atmosphere in Crows Nest (particularly Willoughby Road).</p> <p>consideration to wind impacts demonstrated through a wind assessment.</p> <p>Consider cumulative impacts of new developments on existing areas.</p> <p>Contain taller buildings between St Leonards Station and Crows Nest Metro Station.</p> <p>In transition areas between low and high-rise developments, new development should consider the prevailing scale and existing character in the design of their interfaces.</p> <p>New building design should provide high on-site amenity and consider street width and character by providing ground and upper level setbacks and awnings to achieve a human scale at street level.</p> <p>Ensure new development contributes to a range of dwelling types.</p> <p>Investigate and secure locations for education establishments to service the precinct.</p>	<p>The proposal would not have any adverse heritage impacts (Section 6.8)</p> <p>The proposed building height and scale is acceptable (Section 6.3)</p> <p>The proposal includes a concept wind assessment and future DA(s) will include detailed assessment.</p> <p>The proposal would not have unacceptable amenity impacts (Section 6.5)</p> <p>The development includes tall buildings and is located above Crows Nest Metro station.</p> <p>The proposed height of buildings is consistent with the NSLEP and is appropriate in its context. The future design of buildings will be guided by the DES and Design Guidelines (Section 6.4).</p> <p>Future developments are capable of provided for a high on-site amenity. The ground level setbacks are determined by the CSSI Approval. The built form of the OSD (Section 6.3) is considered to be acceptable subject to recommended controls.</p> <p>Future residential development within Building B is capable of providing for a range of dwelling types.</p> <p>The NSW Department of Education has not identified the site for education purposes.</p>
<p>Productivity</p> <p>Ensure new employment sites in the area cater to a range of business types and sizes.</p>	<p>The proposal has been amended to ensure it maximises the provision of commercial floorspace.</p>

Objective	Proposal's response
<p>Foster development of high technology and health related uses in the light industrial area to support the surrounding hospitals.</p> <p>New development in mixed-use areas should contribute to the delivery of active streets by providing a range of uses at ground floor</p>	<p>The site is not located within the 'light industrial area' adjoining the health precinct.</p> <p>The CSSI Approval and the OSD both include retail floorspace at ground floor level to activate surrounding streets.</p>
<p>Sustainability</p> <p>No additional overshadowing of public open spaces / places in accordance with 2036 Plan solar access controls.</p>	<p>The proposal would not result in additional overshadowing in accordance with the identified 2036 Plan solar access controls.</p>

Appendix D – Private Views

The existing and resulting views from adjoining residential properties at 400, 402-420 and 545 Pacific Highway and 20-26 Clarke Street are provided below.

The Department has considered private view impacts at **Section 6.5**.



Figure D1 | Typical view east from upper level of 400 Pacific Highway

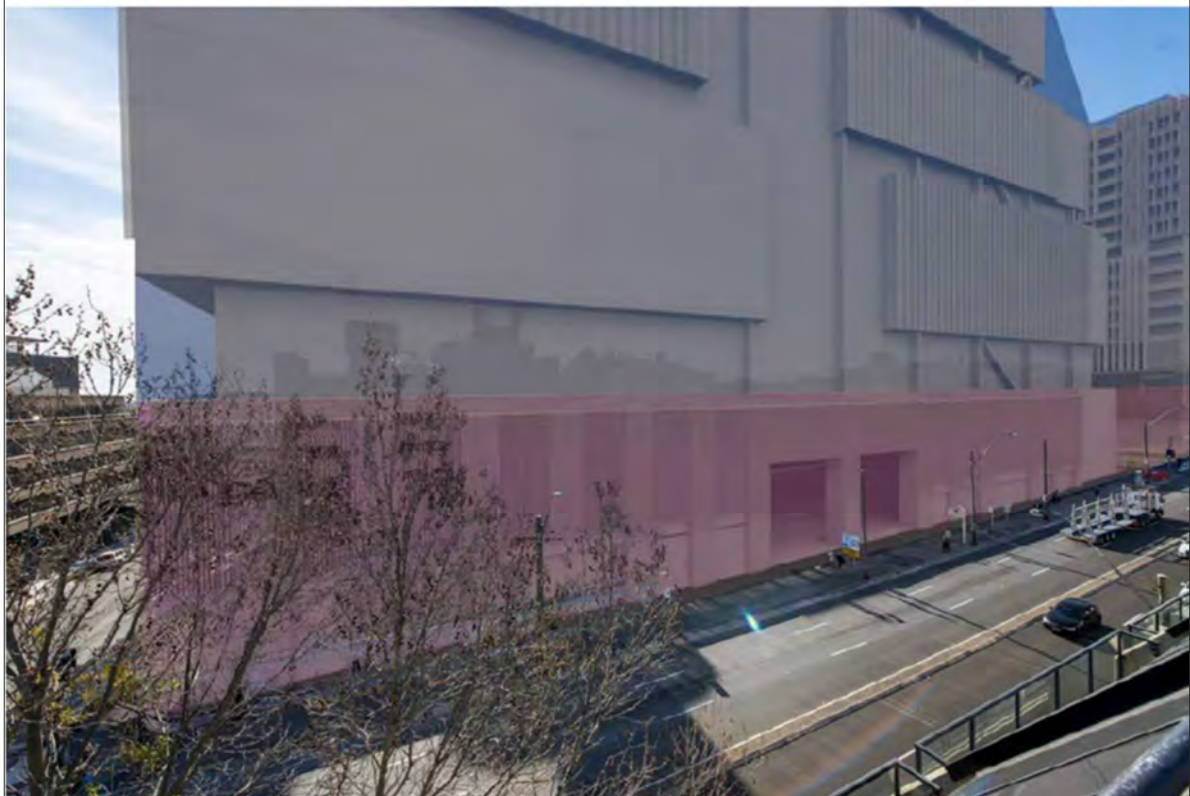


Figure D2 | Typical view east from upper level of 402-420 Pacific Highway

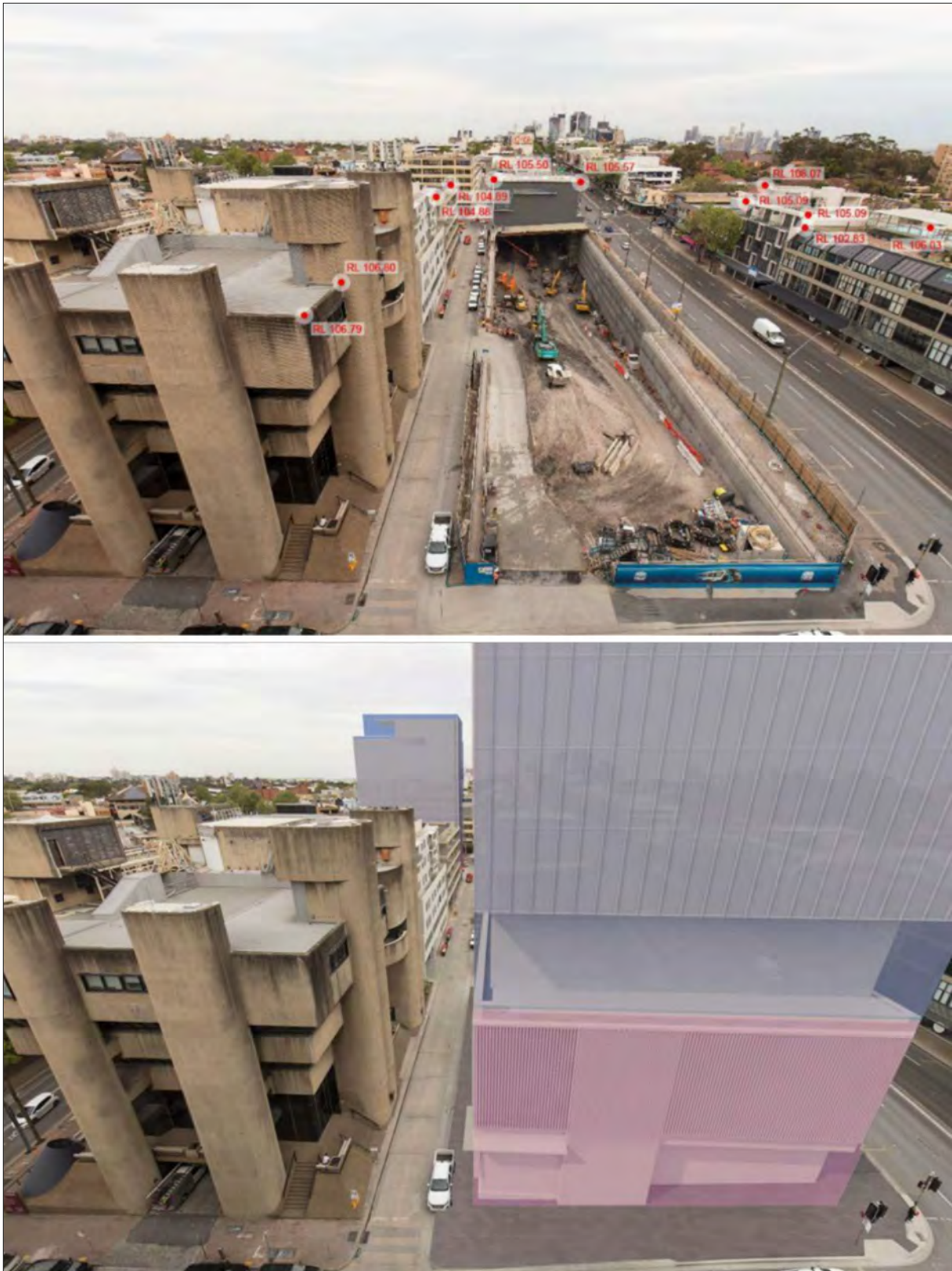


Figure D3 | Typical view south from upper level of 545 Pacific Highway



Figure D4 | Typical view west from upper level of 20-26 Clarke Street

Appendix E – Summary of Department’s Consideration of Public Submissions

A summary of the Department’s consideration of the issues raised in submissions is provided at **Table E1**.

Table E1 | Department’s consideration of key issues raised in public submissions

Issue raised	Department’s consideration
Land use and density	<p>Assessment</p> <ul style="list-style-type: none"> The proposed density and land uses are consistent with the new maximum overall FSR and minimum non-residential FSR controls for the site as finalised in the Rezoning Proposal. The Department acknowledges the proposal’s density would be greater than that of the pre-demolition development. However, the provision of higher density commercial and residential development in this location has strategic merit, particularly given it will provide for a significant increase in commercial floorspace, job creation, affordable housing, has excellent access to public transport and is conveniently located to facilities and services. The density would not have adverse amenity or traffic impacts.
Height, scale and building setbacks	<p>Assessment</p> <ul style="list-style-type: none"> The height of building envelopes is consistent with the NSLEP maximum height controls and the emerging character of the St Leonards and Crows Nest Precinct and provide for an appropriate built form transition to adjoining developments. The heights would not have unreasonable amenity impacts in terms of solar access, outlook views and privacy. The perception of visual bulk from the proposed building envelopes is attributable to the length of the proposed building envelopes relative to their maximum height, particularly for Building A and Building B. To manage and mitigate the scale of the development the Department recommends a maximum building efficiency control of 85% for Building A and 85% for Building B. In addition, new Design Guidelines are proposed requiring the incorporation of appropriate vertical building articulation. The ground floor level building setbacks have been established by the CSSI Approval and therefore they do not form part of this application. The absence of above podium setbacks is acceptable subject to future developments responding to the Design Guideline horizontal modulation requirements and other Design Guideline and built form parameters. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Future buildings shall not exceed the maximum building efficiency targets of 85% (Building A) and 80% (Building B). Additional Design Guidelines relating to vertical and horizontal building articulation.
Car parking, traffic and	<p>Assessment</p> <ul style="list-style-type: none"> The maximum car parking provision (101 spaces) represents a 26% reduction in the number of car parking spaces compared to the pre-demolition condition (138 spaces) and 36% less than the NSDCP maximum (156 spaces). Reduced car parking will encourage a mode shift away from private vehicle use towards public and active transport options. The metro station infrastructure occupies the entire site it would not be possible to provide for basement car parking. Above ground car parking is acceptable subject to it being integrated into the overall design of the building. the development results in a reduction of vehicle trips when compared to the pre-demolition condition and surrounding local road network including key intersections would generally function at the same LoS with or without the proposal. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Future development shall not exceed 101 car parking spaces and shall prepare and implement Travel Plans. Any above ground car parking shall be architecturally integrated into the design of buildings to ensure it is screened from view.

Overshadowing of public open space and residential properties	<p>Assessment</p> <ul style="list-style-type: none"> The overshadowing impact on Ernest Place, Hume Street Park and Willoughby Road is consistent with the requirements of the NSLEP and 2036 Plan and additional overshadowing of Ernest Place before 4pm is minor in nature and acceptable. Residential properties on Pacific Highway would continue to receive, as a minimum, between 1 and 2 hours of direct sunlight during mid-winter. The overshadowing impacts on residential properties are acceptable as the proposed building envelopes are consistent with the scale of surrounding modern developments and the NSLEP maximum height and FSR controls. In addition, the affected properties are located opposite a development site in a central urban area and changes to solar access are to be expected in such circumstances. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Future DA(s) are required to include overshadowing analysis and demonstrate that overshadowing has been minimised.
Impact on privacy, outlook and views	<p>Assessment</p> <ul style="list-style-type: none"> The increase in density associated with the St Leonards and Crows Nest Precinct, including the proposed built form, will inevitably impact on views within the locality. The impact on views is considered reasonable given the context of the site and the Precinct. The proposed building envelopes exceed the ADG recommended minimum building separation distances for all adjoining properties. The Department therefore concludes future OSD buildings will be capable of being designed to not have an adverse impact on privacy and outlook of adjoining residential properties.
Development contributions	<p>Assessment</p> <ul style="list-style-type: none"> Site A, B and C are excluded from the St Leonards and Crows Nest Special Infrastructure Contribution area and therefore this does not apply to the development. The Applicant has proposed to make an \$11 million development contribution. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Preparation and execution of a voluntary planning agreement for the \$11 million and payment of the contribution prior to the submission of the first DA.
Affordable housing	<p>Assessment</p> <ul style="list-style-type: none"> The Applicant has committed to providing 5% of all residential floor space as affordable rental housing (ARH) on the site for a minimum of ten years or the payment of an equivalent contribution in lieu of providing ARH on the site. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Future DA(s) for Building B to provide 5% ARH or make an equivalent contribution.
Incorporation of public open space	<p>Assessment</p> <ul style="list-style-type: none"> The proposal is located wholly above the Crows Nest metro station (CSSI Approval) with a transfer level potentially above RL 100 m. The provision of a public open space is impractical in such circumstances. the proposed land uses are permissible and meet the objectives of the zone and the strategic vision for the area. Council has endorsed a masterplan to redevelop and increase the size of Hume Street Park.
Footpath width	<p>Assessment</p> <ul style="list-style-type: none"> The ground floor level setbacks have been established by the CSSI Approval and therefore they (including footpath widths) do not form part of this application.
Development Precedent	<p>Assessment</p> <ul style="list-style-type: none"> Any development of surrounding land would be the subject of separate development applications (including public consultation), subject to height, floor space ratio and other planning controls and would be assessed on their merits

Appendix F – Design Guidelines

The proposal includes Design Guidelines titled ‘*Crows Nest Over Station Development Design Quality Guidelines*’ Prepared by Sydney Metro and dated November 2020, which are intended to inform the design excellence process and the detailed design of the development. The Design Guidelines provide guidance on a range of matters including urban design, scale and built form considerations.

The Department supports the creation of design guidelines for the development. However, the Department recommends a number of amendments to ensure the detailed design of the development achieves the urban design, scale and built form objectives for the development and incorporates the various changes recommended throughout this report.

The Department’s recommended amendments to the design guidelines (shown by the insertion of the following **bold and underlined** words/numbers and deletion of ~~**bold and struck out**~~ words/numbers) are provided below.

- 1) On page 17 ‘Built Form Above the Podium’ amend this section by adding new points ‘15 and 16’ as follows:

15. Buildings A and B shall be subject to the following building efficiency controls. Future buildings shall not fill the relevant building envelope to a volume greater than the following controls:

- **Building A: maximum 85%**
- **Building B: maximum 80%**

16. Any above ground car parking shall be architecturally integrated into the design of the building and treated so that it is screened from view from surrounding streets.

- 2) On page 19 ‘Building Articulation’ amend the ‘Horizontal and Vertical Modulation’ sub-section by adding new points ‘3, 4 and 5’ as follows:

3. Any horizontal building modulation incorporated into the facades of Building A and B should acknowledge and respond to the heights and horizontal datums of immediately adjoining and surrounding buildings to the site

4. Buildings shall be designed to provide for a strong horizontal delineation between the station and OSD developments through the use of articulation, recess, materials or other appropriate alternative architectural approaches that complement the overall design of the development

5. The composition of building elevations shall incorporate a greater proportion of vertical articulation than horizontal modulation to ensure that an appropriate overall vertical building proportions are achieved and reduce the perception of building scale.

- 3) On page 20 ‘Building Articulation’ amend the ‘Façade and Building Articulation’ sub-section by deleting points ‘2, 3, 4 and 5’ as follows:

~~**2. A minimum of 15% of the building envelope is recommended to be used for architectural articulation**~~

~~**3. A maximum floor plate depth of 27.5m**~~

~~**4. A maximum floor plate area of 2750m² (GFA)**~~

~~**5. Any articulation which is proposed beyond the defined building envelope should be supported by detailed solar and architectural analysis and agreed during the design excellence process**~~

- 4) On page 20 'Building Articulation' amend the 'Façade and Building Articulation' sub-section by adding new points '2, 3, 4 and 5' as follows:

- 2. The Pacific Highway and Clarke Lane elevations of Building A shall include at least two vertical breaks to ensure those elevations present as multiple built forms, comprising recesses each with dimensions of no less than 3 m by 5 m for the full height of the building.**
- 3. The Pacific Highway and Clarke Lane elevations of Building B shall include at least one vertical break to ensure those elevations present as multiple built forms, comprising a recess with dimensions of no less than 3 m by 5 m for the full height of the building.**
- 4. Additional building articulation, modulation and façade treatments to provide distinctive visual breaks along the Pacific Highway, Clarke Lane (Buildings A and B) and Hume Street (Building C) elevations. The breaks shall be proportional to the height and length of the street frontage and respond to the scale and character of the surrounding fabric.**
- 5. Buildings shall include contemporary architectural expression and elements that create a sense of scale and rhythm on the facades are to be employed to add to the richness of architecture at the locality**

Appendix G – Recommended Instrument of Consent

The recommended instrument of consent can be found on the Department's website as follows.

<https://www.planningportal.nsw.gov.au/major-projects/project/11506>