



4 August 2025
Our Ref: 22379A.2KM_SUB

planning consultants

The Secretary
NSW Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Madam

**Re: Objection to SSD-75660711 - Crows OSD Site A – Detailed SSDA
32 Hume Street, Crows Nest**

1.0 Introduction

DFP Planning Pty Ltd (DFP) has been commissioned by Mevote Pty Ltd (our Client), owner of 28-34 Clarke Street, Crows Nest (our Client's Land), to review the abovementioned development application (DA) and to consider the potential impacts of the proposed development on their property.

We have reviewed the DA material available via the NSW Planning Portal and have concluded that the proposal will have significant prejudicial impacts and therefore, on behalf of our Client, we object to the proposal in its current form. Our objections can be summarised as follows:

- The Applicant has failed to acknowledge that our Client's Land can be developed with a tower to 62m and a Floor Space Ratio (FSR) of 6:1;
- The proposed Tower 1 has a minimal setback to Clarke Lane (~2.5m) and will result in inadequate building separation between 65 east-facing apartments at Levels 4-16 within the tower, and residential apartments in a future tower on our Client's Land; and
- DHPI should require the Applicant to amend the design including:
 - increasing the eastern setback (currently only 2.5m) to provide additional privacy and visual relief. In this regard, we accept that the ADG requirements may not be able to be met in full but there must be an equitable distribution of building separation between our Client's Land and the Development Site;
 - amalgamating apartments to reduce the number of single aspect apartments facing our Client's Land. At present, 65 apartments will look directly into a future residential tower on Our Client's Land; and,
 - modifying the façade treatments to introduce oblique windows and terraces in combination with privacy screening. A more skilful design could incorporate architectural features to achieve this.

This remainder of this submission provides a brief description of our Client's Land in the context of the Development Site and outlines our assessment of impacts.

In making this submission, DFP declares that it has not made any reportable political donations in the last two years and that we acknowledge the Department's Disclaimer and Declaration.

2.0 Our Clients' Land

Our Client's Land is located east of the proposed development (the Development Site), on the opposite side of Clarke Lane (see **Figure 1**), is within the Crows Nest Transit Oriented Development (TOD) Accelerated Precinct and is zoned MU1 Mixed Use (the MU1 Zone) pursuant to *North Sydney Local Environmental Plan 2013* (the LEP).



Figure 1 Site Context

Our Client's Land is known as 28-34 Clarke Street, Crows Nest and is legally described as Lots 21-24 Section 8 Deposited Plan (DP) 2872.

The site has an area of approximately 1,200m² and is occupied by a 4-5 storey commercial building constructed circa 1972 in the brutalist architectural style for the Commercial Banking Company, although there have been subsequent roof additions and internal refurbishments. The building is listed as a local heritage item under the LEP.

Our Client actively participated with NSW Government and other stakeholders during the preparation of the draft St Leonards 2036 Plan and the Crows Nest TOD Precinct Plan. As part of those strategic processes, our Client supported the Government's initiative to optimise density in proximity to the new metro station.

The Final TOD Precinct Plan included an increase in the building height limit for our Client's Land from 20m to 62m and application of a maximum Floor Space Ratio (FSR) of 6:1 (minimum 1.5:1 non-residential). The development envisaged by these controls is shown in the Post-Exhibition Urban Design Report (see **Figure 2** overleaf).

Based on this uplift in density, our Client has sought specialist heritage, structural engineering and architectural advice to inform plans for a development involving construction of a residential tower above the existing commercial building.

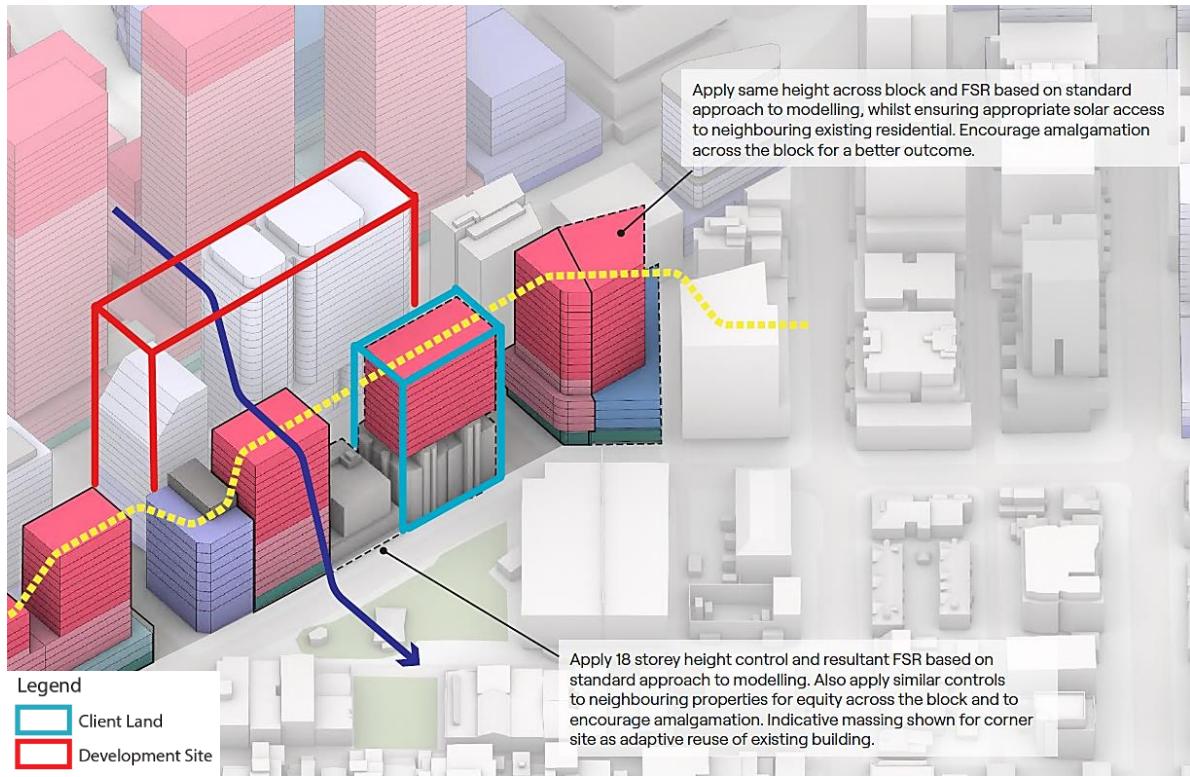
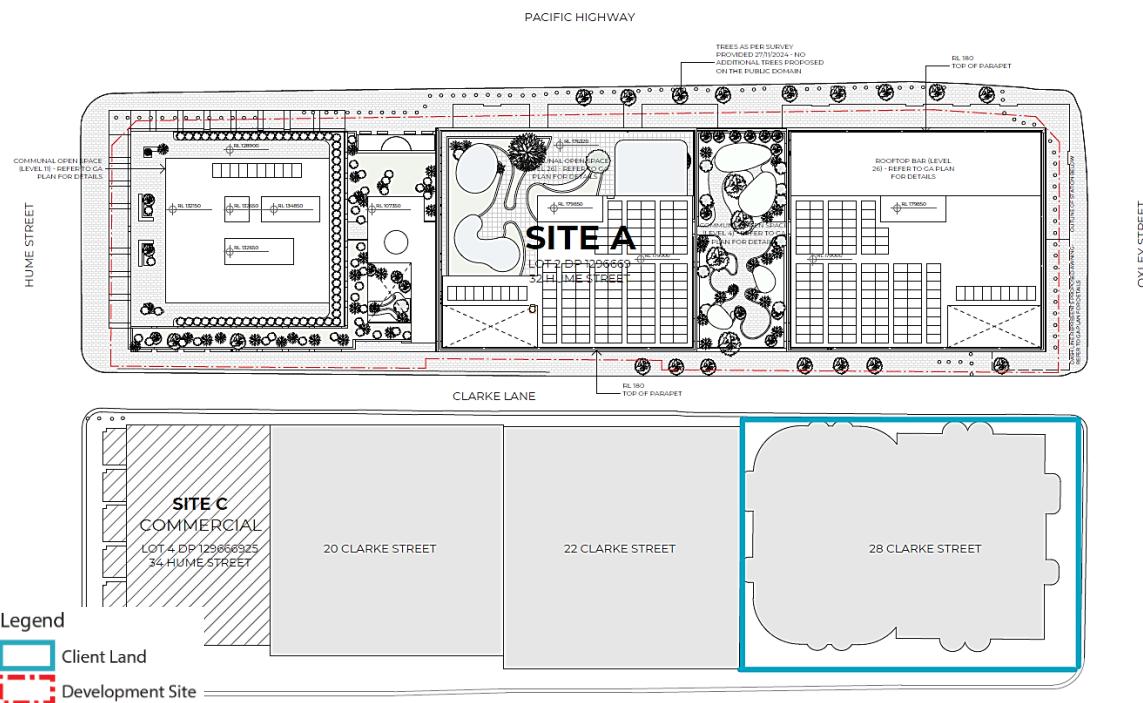


Figure 2 Extract from TOD Precinct Post-Exhibition Urban Design Report.

3.0 Objection to the Proposed Development - Building Separation

The proposed development includes a 26-storey tower (Tower 1) immediately opposite our Client's Land (see **Figure 3**).



Proposed Tower 1 has a height above existing ground level of approximately 95m and has residential apartments from Level 4 to Level 25 (see **Figure 4**).

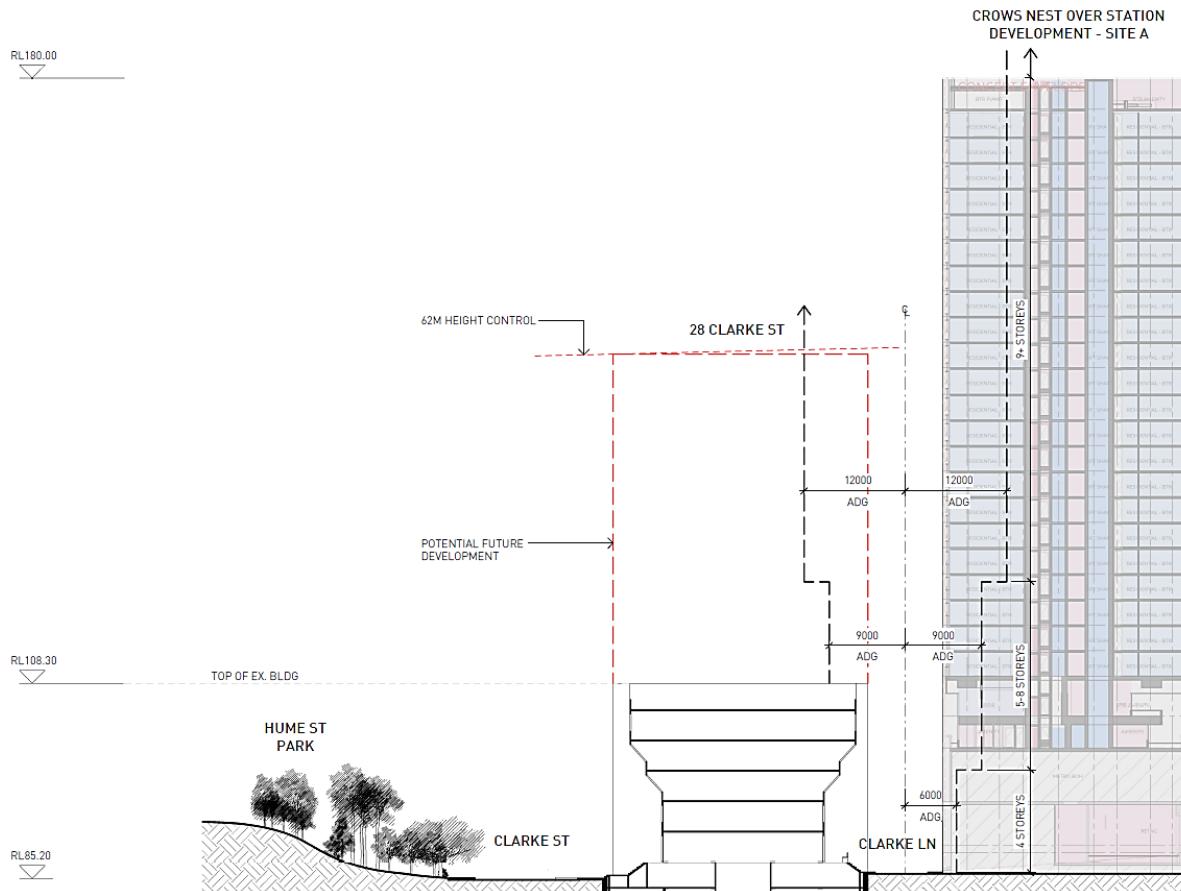


Figure 4 Building Separation study prepared by Smart Design Studio showing proposed Tower 1 (right of image) relative to a future building on our Client's Land (left of image).

Along the eastern elevation, Tower 1 includes five (5) apartments at each level with habitable rooms and outdoor terraces facing our Client's Land. Across the 13 storeys above the height of our Client's existing building (i.e. up to the 62m height limit applying to Our Client's Land) this equates to 65 apartments facing our Client's Land.

As can be seen in **Figure 3**, the Development Site boundary is defined by a dashed red line and we estimate that the distance between the eastern site boundary and Tower 1 to be approximately 2.5m. However, the Development Site boundary is not identified on the Applicant's elevations or section drawings, of which an extract is included in **Figure 4** above.

Accordingly, it is unclear from the proposed plans and elevations, where the eastern façade of Tower 1 sits relative to the eastern boundary of the Development Site.

We recommend that DPHI clarify this - if the proposed Tower 1 has no setback to the eastern boundary of the Development Site, the adverse impacts on our Client's Land will be exacerbated.

Notwithstanding, for the purposes of our discussion hereunder, we have assumed there will be a 2.5m tower setback.

Based on the Deposited Plan information submitted with the DA, Clarke Lane has a width of 6.095m in the section between Our Client's Land and the Development Site.

In our opinion, it would be reasonable to take the centreline of Clarke Lane (as depicted in **Figure 4** above) as the datum from which building separation controls should apply to development on both parcels of land. That is, both sites could reasonably utilise 3.0475m of the laneway toward the required building separation under the ADG.

The ADG requires a distance of 9m at 5-8 storeys and 12m above 8 storeys. With a boundary setback of only 2.5m, Tower 1 provides for a setback from the centreline of the lane of only 5.5475m at all residential levels of the proposed building.

As shown in **Figure 4**, this would result in a situation where a future tower on Our Client's Land that was compliant with the ADG requirements (i.e. half the width of the required building separation) would be setback 14.5475m at 5-8 storeys (instead of the required 18m) and 17.5475m above 8 storeys (instead of the required 24m).

This non-compliance is not addressed in the SSDA material, with the EIS stating (Appendix 24, pp32-33):

The primary frontages of the BTR towers, consisting of living rooms and wintergardens, are oriented towards either Pacific Highway or Clarke Lane ...

and

Tower 1 is positioned directly opposite the heritage-listed St Leonards Centre, but since the tower begins above the centre, no significant privacy concerns are anticipated.

Accordingly, the proposed development and the environmental assessment are flawed in the assumption that there will be no development on our Client's Land above the height of the existing building.

As set out above, our Client's Land was afforded an uplift in height and density under the TOD Precinct Plan and there is an expectation that future tower development on our Client's Land will come forward in the near future.

With regard to building separation, Our Client recognises the inherent difficulties of design two opposing towers across a narrow laneway and accepts that the ADG requirements may not be possible in full.

However, it is not acceptable for the proposed development to have such a minimal setback and expect a future development on Our Client's Land to provide a greater setback to account for the shortfall. There should be an equitable distribution of building separation across both sites and including the laneway width.

As currently proposed, the lack of appropriate setback of Tower 1 from our Clients' Land and the lack of consideration to the vast number of residential apartments facing our Client's Land, will have significant adverse impacts on a future residential building within our Clients' Land in terms of visual privacy and visual bulk and scale.

We also note the following design and compliance matters that have not been adequately assessed in the EIS:

- **Solar Access non-compliance** - Whilst the east-facing apartments at Levels 4-16 of Tower 1 currently achieve ADG solar access compliance, most will not achieve compliance when a future tower is constructed on our Client's Land. The EIS indicates that only 55% of the apartments in the development achieve compliant solar access (i.e. approximately 261 apartments). Non-compliance of a further 50 or so apartments would reduce this to approximately 45% which is an unsatisfactory outcome and demonstrates that the design of the proposal requires reconsideration.

- **Natural Ventilation non-compliance** – The EIS and accompanying documents are inconsistent with respect to the number of apartments that achieve ADG natural ventilation compliance (60% of apartments in the first 9 storeys) as follows:
 - The Architectural Drawings (Sheet 2320) specify that 39% of apartments achieve compliance;
 - The EIS (p51) states that 46% of apartments achieve compliance; and
 - The Housing SEPP Design Statement (Appendix 24, p52) states that 51% of apartments achieve compliance.

Not all of these can be correct and in any event, the proposed development would still be significantly below the ADG requirements.

- **Apartment Mix** – the EIS (p50) indicates that only 6% of the apartments in the development will be 3-bedroom apartments although there does not appear to be any justification for this proportion, noting that the North Sydney DCP 2013 requires 10-20% of apartments in new multi-unit developments to be 3 or more bedrooms.

In addition, any suggestion that the BTR provisions of SEPP Housing provide for the magnitude of the above variations cannot reasonably be considered the “flexible” application of the ADG.

In our opinion, DPHI should require the Applicant to:

1. **Provide a greater eastern setback for Tower 1, in full or in part, to increase the building separation from a future tower on our Client’s Land and provide for an equitable distribution of building separation across both sites;**
2. **Amalgamate the smaller, east-facing apartments (Type 1B2, Type 1C2 and Type 1D) with the corner apartments (Type 1E and Type 2E) at Levels 4-16 to reduce the number of apartments directly facing our Client’s Land. This would also increase the ADG solar access and natural ventilation compliance of the proposed development and provide more 3-bedroom apartments; and**
3. **Redesign the windows and wintergardens at Levels 4-16 to have oblique outlooks (north or south) and privacy screening, rather than a direct outlook toward our Client’s Land.**

4.0 Conclusion and Recommendations

On behalf of our Client, the owner of 28-34 Clarke Street, Crows Nest, we have reviewed the DA material lodged with SSD-75660711.

Whilst we support the Government’s initiatives to optimise density in the Crows Nest TOD Accelerated Precinct, the proposed development has been designed without proper regard to the statutory planning context and therefore, likely future development on surrounding land.

As a consequence, the proposed development will be highly prejudicial to the development potential of our Client’s Land to the east and we do not consider that the proposal demonstrates design excellence.

The primary area of concern relates to the minimal eastern setback for Tower 1 although the targeted amendments outlined in this submission will mitigate or minimise the impacts on our Client’s Land and achieve a more equitable and therefore, better planning outcome, whilst also addressing some of the significant ADG non-compliances of the proposed development.



The amendments suggested herein would facilitate a reasonable development outcome for the Development Site and for a future development on our Client's Land, as envisaged by the TOD rezoning.

We look forward to DPHI's full and proper consideration of this submission and the DA more generally and should you have any queries, we would welcome the opportunity to discuss our concerns with DPHI's Assessment Officers.

Yours faithfully
DFP PLANNING PTY LTD

A handwritten signature in black ink, appearing to read 'K. Mackay'.

KENDAL MACKAY
MANAGING DIRECTOR

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Reviewed: _____