

Objection to Amended State Significant Development Application

SSD-61400212

Crows Nest Over Station Development - Site B

25 Hume Street, Crows Nest

This submission registers my objection to the amended development application for the Crows Nest Over Station Development (OSD) - Site B (SSD-61400212).

The proponent has amended the scheme in response to submissions. However, these amendments fail to resolve the proposal's most critical flaws. Instead, they introduce new strategic failures and double down on unacceptable compromises to build-form and residential amenity. The amendments, particularly the decision to sacrifice housing for car parking, represent a direct repudiation of the principles of Transit-Oriented Development (TOD), that this project is supposed to champion.

The proposal, in its current form, represents a significant overdevelopment of the site that will have lasting negative impacts on the amenity of the Crows Nest area and sets a poor precedent for future integrated transport projects.

Moreover, the amended proposal fails to satisfy key Secretary's Environmental Assessment Requirements (SEARs). We urge the Department to refuse the application on the specific grounds detailed below.

Critique of the Amendments Against Key SEARs

1. Failure to Satisfy SEARs 3 & 4: Design Quality, Built Form, and Urban Design

The SEARs require the proposal to demonstrate design excellence and a built form that responds appropriately to its context. The amended proposal fails on several fronts.

- **Unacceptable Building Separation and Bulk:** The proposal's significant non-compliance with the building separation distances mandated by the Apartment Design Guide (ADG) is a primary concern. The proponent justifies this by claiming the building's footprint is locked in by the structural columns of the metro station below, creating an "inherited non-compliance." This is not an acceptable justification. It suggests a fundamental failure in the integrated planning of the station and the OSD from the outset.

To approve a development that knowingly compromises the amenity, privacy, and daylight access of future residents in adjoining properties sets a dangerous precedent. The ADG exists to ensure a minimum standard of liveability, and engineering constraints should not be used as a blanket excuse to disregard it. The result is a building of excessive bulk that will dominate its surroundings, particularly when viewed from the narrow Clarke Lane.

- **Questionable Gross Floor Area (GFA) Calculation:** In response to concerns from both the Department and Council regarding the exclusion of corridors from GFA calculations, the proponent has made a token amendment to enclose some narrower corridors while still excluding the main lift lobbies. Their justification rests on legal advice that these "open-ended" spaces are external. This argument is unconvincing. The design includes automated, operable louvres that can enclose these spaces during inclement weather. The ability for these spaces to be enclosed, even temporarily, fundamentally changes their character from truly "open" corridors to internal circulation space.

This appears to be a deliberate design strategy to exploit a loophole, allowing the proponent to build to the absolute maximum building envelope and deliver a bulkier building than the FSR control intends and what is permissible under the planning controls, undermining the intent of the North Sydney LEP. This contravenes the SEARs requirement for a built form that is appropriate in scale.

2. Failure to Satisfy SEARs 10 & Strategic Context: Traffic, Transport, and TOD Principles

A core objective of the SEARs is to ensure the development aligns with strategic planning for a TOD precinct. The amended proposal fundamentally contradicts these principles.

- **Increased Car Parking at the Expense of Housing:** The most egregious amendment is the decision to replace an entire residential floor (Level 7) with an additional level of car parking. This specific action increases the car parking provision by 42% (from 55 to 78 spaces) at the direct expense of eight residential apartments, reducing the total yield from 130 to 122 units.

This is a fundamentally regressive step for a flagship TOD project. The primary strategic objective of a TOD is to leverage investment in high-capacity public transport to *reduce* car dependency and maximize housing density. This amendment does the exact opposite. It actively prioritizes the storage of private vehicles over the provision of much-needed homes directly above a new metro station, near a heavy rail station (St Leonards) and on a highway with regular bus services – one of the most accessible locations possible!

The proponent's justification - that the new total of 78 spaces complies with the *maximum* parking rates under the North Sydney DCP, is a flawed and misleading metric. A genuine TOD should be striving for parking *minimisation*, not maximisation. Citing compliance with a maximum rate is an argument of convenience that ignores the strategic failure at the heart of this amendment.

This decision signals a profound lack of commitment to, and disregard of, the government's strategic housing and transport objectives and fails to meet the strategic requirements of the SEARs.

- **Operational Risk of Mechanical Car Lifts:** The reliance on two mechanical car lifts to service 78 parking spaces presents a significant operational risk. While the proponent's queuing analysis predicts minimal impact (of course), this model does not adequately account for peak usage conflicts or the potential for mechanical failure. A breakdown of one or both lifts could lead to significant vehicle queuing and traffic chaos on Clarke Lane, a narrow and vital local accessway.

3. Failure to Satisfy SEARs 5: Environmental Amenity

The SEARs demand a high level of environmental amenity for both future residents and the surrounding locality. The proposal makes unacceptable compromises in this regard.

- **Poor Solar Access - Amenity Sacrificed for Views:** The proponent openly concedes that a significant number of apartments will not meet the ADG's solar access benchmarks, justifying this by prioritizing southern views towards the harbour. This is a deliberate design trade-off that permanently sacrifices a fundamental component of residential amenity - natural sunlight - for a perceived market advantage. The amendments do not rectify this.

Further grist to the mill is the argument that future TOD up-zoning will overshadow the precinct anyway. This is a blatant, self-serving and cynical justification for delivering a substandard product now.

- **Unproven Amenity Solutions:** The reliance on innovative but complex solutions like "wintergardens" for acoustic buffering and "open air" corridors with automated louvres raises significant concerns about long-term liveability and maintenance. The State Design Review Panel (SDRP) repeatedly sought expert analysis to validate these strategies, indicating that their effectiveness may not be fully proven.

Accordingly, there is a real risk that these features will fail to provide the intended acoustic and wind comfort, leaving residents in a high-noise, high-wind environment without adequate protection or potential remediation.

4. Unresolved Built Form and Amenity Deficiencies (SEARs 3, 4 & 5)

The amendments fail to address the fundamental built form and amenity issues raised in the initial assessment. The proponent's responses are inadequate and rely on justifications that should be unacceptable to the consent authority.

- **"Inherited Non-Compliance" is Not a Justification for Poor Urban Outcomes:** The proposal's significant non-compliance with the ADG building separation distances remains a critical flaw. The proponent continues to defend this by citing structural constraints from the metro station box below, arguing it is an "inherited non-compliance" that is physically impossible to rectify without compromising the station's structural integrity. This excuse is unacceptable. It points to a either a negligent and/or incompetent failure (deliberate perhaps?) of integrated planning at the Concept Approval stage, where the engineering of the station was not properly reconciled with the urban design requirements for the building above.

To approve a building with such poor separation sets a dangerous precedent, effectively allowing foundational engineering errors to override planning controls designed to ensure basic levels of privacy and daylight for future residents and neighbours. The amendments do nothing to mitigate this and instead lock in a poor urban outcome.

Conclusion and Recommendation

The amendments submitted for SSD-61400212 do not resolve the proposal's inherent flaws; they compound them. It is a flawed development that fails to meet the standards of design excellence, residential amenity, and strategic planning required by the SEARs.

The proponent's responses attempt to justify significant non-compliances with key planning controls by citing engineering constraints, questionable legal interpretations of GFA, and a future context of even greater density. These justifications are insufficient and seek to normalize a lower standard of development. The decision to increase car parking at the expense of housing is a direct contradiction of the principles of Transit-Oriented Development.

The specific decision to remove homes to add car parking is a strategic failure that undermines the very purpose of this TOD precinct. The continued reliance on questionable justifications for severe non-compliances with building separation and GFA controls demonstrates a lack of commitment to achieving genuine design excellence and high residential amenity.

This project should be an exemplar for future development above public transport infrastructure. Instead, it prioritizes commercial yield and parking over the long-term liveability of its residents and the surrounding community in a location that demands the opposite. As amended, it is an example of compromised principles, where the goals of sustainable urbanism have been subordinated to pure commercial convenience.

We strongly urge the Department of Planning, Housing and Infrastructure to refuse this application. At a minimum, the proponent should be required to undertake a fundamental redesign that addresses the critical issues of building separation, solar access, and car parking provision to ensure the project genuinely contributes to a high-quality, sustainable, and liveable Crows Nest precinct.