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Director Key Site Assessments
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

joina.mathew@planning.nsw.gov.au

GM (CIS)

6 October 2020

Dear Ms Mathew,

RE: SYDNEY METRO CROWS NEST OVER STATION DEVELOPMENT (SSD 9579)

Thank you for the opportunity of reviewing the Sydney Metro Crows Nest over station development which has recently been exhibited for public comment.

The elected Council considered a report at its meeting of 28 September 2020 in response to the exhibition of the SSD. It is acknowledged that this is an amended concept SSD and further detailed application(s) will be lodged, notified and assessed in due course.

Council resolved:

1. THAT Council make a submission in response to the amended SSD Concept for the Crows Nest Over Station Development prior to the close of exhibition on 6 October 2020 based on the contents of this report. It is noted that additional matters for submission may arise as staff work their way through the various documents that have been exhibited.

The attached submission summarises the Council's position in the context of the above resolution and should be considered as an objection to the granting of consent at this time. I am also attaching a copy of the Council Officer's report that was considered by Council.

Should the Department consider consent is warranted at this time, Council would welcome the opportunity to have input into any revised concept plans and/or to review any conditions proposed.

If the Department has any queries in relation to this application, please do not hesitate to contact the undersigned on 9936 8100.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'S. Beattie', with a long horizontal stroke extending to the right.

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

Enclosure

ENGLISH	If you do not understand this information, please ring the Translating and Interpreting Service (TIS) on 13 14 50, and ask for an interpreter in your language to contact North Sydney Council on (02) 9936 8100. This is a free service.
ARABIC	إذا لم يكن بمقدورك فهم هذه المعلومات، فالرجاء الاتصال بخدمات الترجمة الخطية و الفورية (Translating and Interpreting Service (TIS)) على الرقم 13 14 50 والطلب من مترجم فوري يتحدث العربية أن يتصل لك بمجلس مدينة شمال سيدني على الرقم (02) 9936 8100 – هذه الخدمة مجانية
GREEK	Αν δεν καταλαβαίνετε αυτές τις πληροφορίες, παρακαλώ τηλεφωνήστε στην Υπηρεσία Μετάφρασης και Διερμηνείας (Translating and Interpreting Service (TIS)) στο 13 14 50, και ζητήστε να σας διαθέσουν ένα διερμηνέα στη γλώσσα σας για να επικοινωνήσει με το Δήμο του North Sydney στο (02) 9936 8100. Αυτή είναι μια δωρεάν υπηρεσία.
HINDI	यदि आप इस जानकारी को समझ नहीं सकते हैं तो कृपया अनुवाद और दुभाषिया सेवा (Translating and Interpreting Service - TIS) को 13 14 50 पर फ़ोन करें और अपनी भाषा के दुभाषिए द्वारा उत्तरी सिडनी काउंसिल (North Sydney Council) को (02) 9936 8100 पर फ़ोन करने के लिए कहें। यह सेवा निःशुल्क है।
INDONESIAN	Jika Anda kurang memahami informasi ini, silakan telepon Translating and Interpreting Service (TIS) di 13 14 50, dan mintalah seorang juru bahasa dalam bahasa Anda untuk menghubungi North Sydney Council di (02) 9936 8100. Layanan ini tidak dipungut biaya.
ITALIAN	Se non capite queste informazioni, chiamate il Servizio di Traduzione e Interpretariato (TIS - Translating and Interpreting Service) al numero 13 14 50, e chiedete ad un interprete nella vostra lingua di contattare il North Sydney Council al numero (02) 9936 8100. Il servizio è gratuito.
JAPANESE	上記の情報について何かご質問がございましたら、通訳・翻訳サービス (Translating and Interpreting Service (TIS)) 電話番号 13 14 50 までお問い合わせください。また、ご自分の国の言語で通訳の手配をご希望の方は、ノース・シドニー・カウンシル (North Sydney Council) 電話番号 (02) 9936 8100。まで電話でお問い合わせください。尚、このサービスは、無料です。
KOREAN	이 정보를 이해하지 못하실 경우 번역 통역 서비스 (Translating and Interpreting Service (TIS))에 13 14 50으로 연락하셔서 한국어 통역사를 요청하시고 노스 시드니 카운슬 (North Sydney Council) 연락처인 (02) 9936 8100로 연결하도록 요청하십시오. 이 서비스는 무료입니다.
TAGALOG	Kung hindi ninyo naiintindihan ang impormasyong ito, mangyari lamang na tumawag sa Translating and Interpreting Service (TIS) sa 13 14 50, at hilingin sa interpreter ng inyong wika na tawagan ang North Sydney Council sa (02) 9936 8100. Ito ay isang libreng serbisyo.
TRADITIONAL CHINESE	如果你不明白這份資料，請致電13 14 50聯絡Translating and Interpreting Service (TIS)，要求一名能說你的語言的傳譯員，代你致電(02) 9936 8100聯絡North Sydney Council。這是免費服務。



Concept Development Application (SSD 9579) for an OSD above the Crows Nest Metro station including maximum building envelopes, gross floor area, conceptual land uses, car spaces and signage zones

The Concept Development Application was reported to Council at its meeting of 28 September 2020.

Council resolved:

THAT Council make a submission in response to the amended SSD Concept for the Crows Nest Over Station Development prior to the close of exhibition on 6 October 2020 based on the contents of this report. It is noted that additional matters for submission may arise as staff work their way through the various documents that have been exhibited.

In accordance with Council's resolution, the following submission is made in response to the exhibition of the above application and should be considered as an objection.

Council's contact person is Stephen Beattie, Manager Development Services

(phone: 02 9936 8100)

The amended concept SSD Application

The concept SSD Application seeks concept approval in accordance with section 4.22 of the EP&A Act for the OSD above the approved Crows Nest Station.

This application seeks planning approval for:

Maximum building envelopes for Sites A, B and C, including street wall heights and setbacks
Indicative plans are included in the body of this report for Council's information.

Maximum building heights:

- Site A: RL 175.6m (previously RL 183m) or equivalent of 21 commercial storeys (previously 27 residential storeys) includes two station levels and conceptual OSD space in the podium approved under the CSSI Approval)
- Site B: RL 155m or equivalent of 17 storeys (includes two station levels and conceptual OSD space approved under the CSSI Approval). This has remained unchanged.
- Site C: RL 127m or 9 storeys (previously 8 storeys) and includes two station levels and conceptual OSD space approved under the CSSI Approval.

Maximum gross floor area (GFA) of 56,400sqm (previously 55,400sqm) for the OSD comprising the following based on the proposed land uses:

- Site A: commercial premises with a maximum of 40,300sqm (previously residential accommodation with a maximum 37,500m² or approximately 350 apartments)
- Site B: Residential accommodation with a maximum of 13,000 sqm (of which 5% could be provided as affordable rental housing) – previously identified as hotel / tourist accommodation and associated conference with GFA of maximum 15,200m² (approximately 250 hotel rooms)
- Site C: Commercial office premises GFA- maximum of 3,100 sqm (previously 2,700m²)



Minimum non-residential floor space ratio (FSR) for the OSD across combined Sites A, B and C of 6.8:1 or 43,300sqm (compared with previous 2.81:1 or the equivalent of 17,900sqm)

Clause 4.4A of NSLEP 2013 requires minimum non residential FSR of 10:1 for site A (10.4:1 provided); FSR of 0.5:1 for site B (none shown but would be provided at ground level); FSR of 5:1 for Site C (5.1:1 provided)

A maximum of 101 car parking spaces (previously 150) on Sites A and B associated with the proposed commercial, hotel and residential uses

As this concept SSD Application is a staged development pursuant to section 4.22 of the EP&A Act, future approval would be sought for detailed design and construction of the OSD.

If this concept SSD Application is approved, it is anticipated that Council would be given further opportunity to have input into any detailed development application or applications that will be submitted for construction of the development.

DPIE's Response to Council's Previous Submission

Council notes the department's response to its early submission as follows;

Development Contributions

Council has already submitted that like other development sites in the precinct that promoted more intensive development than is identified in the North Sydney LEP 2013, the OSD should make contributions over and above those identified in the North Sydney Contributions Plan and the State Infrastructure Contribution should also apply. This contribution would be in addition to a monetary payment of \$2M which Metro has offered. The contributions arrangements should be the subject of a Voluntary Planning Agreement.

Clause 4.6 Variation Request

At the time of Council's previous submission, Metro had relied on a "clause 4.6 variation" to the height controls in the North Sydney LEP 2013 that were applicable at the time. Since the gazettal of the various amendments to the LEP in August, including height, these issues have now been largely superseded. This should be confirmed in the detailed assessment undertaken by the Department.

Non-Residential FSR

Council submitted that the non-residential FSR controls for the individual sites may not be complied with if the sites were separately sold and developed. Moreover, there was a lower level commitment by Metro to employment floor space than Council considered desirable given the employment role of the precinct. This was particularly so given the largely residential character of the proposal as a whole. DPIE has responded by stating that the quantum of commercial floor space has increased significantly. This is concurred with and is considered a positive development from the previous concept plan.

Certainty and Imminence of the (then) 2036 Plan

Council had submitted that the Concept Plan for the OSD should be considered only after the 2036 Plan had been finalised and enabling a better strategic and contextual fit for the OSD



assessment. Strategically, this was considered important in order that the built form, character, density, supporting infrastructure, placemaking qualities etc., could all be considered holistically. Council acknowledges that the 2036 Plan, has now been finalised and made by the NSW Government.

Prematurity of the Concept SSD Application

Council had previously raised that the Concept Plan application should, be considered after the adoption of the 2036 Plan. As noted previously this issue has been addressed by the finalisation of the 2036 plan.

View and Visual Impacts

Council previously submitted that the representation of the visual impacts were somewhat misleading and that it was important to accurately reflect the significant impacts that would arise. DPIE agreed with the lack of accuracy. The visual impact studies have now been updated. As has been well documented, the character of Crows Nest comprises low density, low scale development with a high degree of fine grain detailing and amenity. Whilst the architectural quality of a future development application will be relevant, the amended building envelope has a high propensity to be quite overbearing and potentially inconsistent with the highly valued character of Crows Nest. These issues should be addressed in the staged development applications to come.

Overshadowing

Council submitted that the resulting overshadowing of Ernest Place and Willoughby Road was unacceptable. DPIE has outlined in its response, that the building envelope has been revised and as a result, will afford Ernest Place in particular, a greater degree of solar access in later parts of the day. DPIE has determined that the greatest impact at 4pm (on 21 September) is the south west corner of the site which is a "transient" environment of the footpath area. It also states that no area of Willoughby Road will be impacted prior to 2.30pm all year round. The reduction of the previous envelope has resulted in a reduced impact upon Ernest Place. It is noted that the 2036 plan has outlined shadow controls of a lesser threshold than Council was seeking. This issue remains of concern.

Carparking

Council's submission questioned the need for above ground car parking as this was neither a good transport planning outcome nor an architectural one. The proposed concept has reduced the number of parking spaces on site. This has been reduced from 150 spaces to a maximum of 101 spaces. It is maintained that above ground parking is not an optimum architectural response for a transit oriented development site such as this and represents less than optimum urban design outcome. Given the constraints of providing carparking on the site, consideration should be given to replacing onsite parking with a contribution to public carparking and access to offsite parking. The issue of design must guide future staged development applications.

Built Form

Council previously submitted that the bulk and massing of the building form is of particular concern given the tall slender tower forms currently under consideration and construction in the St Leonards area. DPIE has argued that the concept is only an envelope at this stage and



that it has been further reduced since its initial lodgement by a small reduction in height and chamfering of the southern corner of Building A. While the amendments to the concept design are noted, the bulk and massing shown on the exhibited documents, has the capacity to be somewhat incongruent with both the emerging character of St Leonards and the existing character of Crows Nest. This issue must be addressed in the subsequent staged development applications.

Land Use to meet Employment Targets

Council submitted that in lieu of hotel accommodation, it was its preference for this to be included as office accommodation to meet ambitious jobs targets. The hotel accommodation has been replaced with residential floor space but the mixed use, largely residential nature of Building A has been converted to a commercial development. This is supported and the development overall, provides a significant increase in employment (commercial) floor space from the previous 17,900sqm to a minimum 43,300 sqm.

Affordable Housing

Council submitted that a level of affordable housing should be provided on site as part of the residential component of the development. Metro has committed to a minimum of 5% affordable housing or equivalent monetary contribution to a community housing provider to provide affordable housing in the local area. The level of contribution and/or provision is considered appropriate. Any contribution to affordable housing should be via Council who maintains public ownership of the North Sydney affordable housing stock and has contractual arrangements in place with community housing provider(s) to manage the stock.

Collaboration in the Finalisation of the 2036 Plan

Council's previous submission included a request that Council have collaborative involvement in the finalisation of the 2036 Plan including in the drafting and consideration of the State Infrastructure Contribution (SIC) and the rezoning of the Metro site. It is clear that this did not occur to the extent that Council would have desired. Whilst it is maintained that the suite of planning documents and consideration would have benefitted from Council's closer involvement, the Plan has now been made and the Metro site rezoned.

Specific concerns with revised concept plan.

Council raises specific concerns regarding the revised concept plans.

Setbacks

The proposed building envelopes have various setbacks to several frontages.

Site A has a setback of between 1.5 metres and 3 metres from Pacific Highway in response to the design of the station box approved under SSI 15_7400. The building envelopes are setback along Hume Street to allow for a 24 metre building separation between the buildings on Site A and Site B (SEPP 65 requirement). Site A and B are setback 2-2.8 metres and 1.2-2.6 metres respectively along Clarke Lane to allow for future street widening. Site A is also set back approximately 1.5 metres along Oxley Street to align with the St Leonards Centre heritage item across Clarke Lane.

Above podium setbacks / Articulation zones



The station box has virtually set the base or podiums of the buildings. Council's DCP Character statement requires setbacks above the podiums and the proposal has provided the following:

	Required	Proposed
Pacific Highway	3m	1.5m building A; Nil building B
Hume Street	3m	1.5m building A; 2.1m building B
Oxley Street	3m	1.5m building A
Clarke Street	3m	1.2m building C
Clarke Lane	1.5m whole building	1.5m building A; Nil building C; building B not shown

No setback shown on southern boundary of building B. This is a residential building needing to satisfy SEPP 65 separation distances. The adjoining development is likely to be an eight-storey mixed use building with 2 storey podium. Above podium development would be apartments. An absolute minimum side setback of 3m should be provided on each side to allow for some minimum separation, light and ventilation. The finalised form must not borrow or rely upon adjoining sites for separation.

The set back of building B to Clarke Lane is an issue to ensure adequate separation between future residential buildings on the other side of the lane.

The proposed setbacks are indicated as articulation zones allowing for the buildings to be built closer to the boundary within the setback to allow for the articulation of the facades. It is noted that the articulation zone will not result in additional floor space. This would mean that greater setbacks than shown would need to be provided to compensate for floor area within the articulation zone

Council requires the minimum setback be provided where there is a non-compliance (most sites) having regard to the massing of the buildings. Articulation of the building could be provided by providing a weighted setback where the average setback is at least equal to the DCP requirement. The proposed setbacks might be the absolute minimum but would be compensated for greater than 3m setbacks to ensure the weighted average of setbacks being 3m.

This issue should be required to be addressed by condition in latter staged applications.

Built Form

The concept SSD Application proposes a built form to provide a notable locational marker as an identifier of the new station in accordance with the height and density identified in the 2036 Plan.

The articulation of the building at Site A seeks to demarcate between the podium and the building above. The podium is largely dictated by the station box.



Sydney Metro Crows Nest Over Station Development

The proposed building envelope sits above the approved station building (CSSI Approval) and therefore has no bearing on street level setbacks.

There is no podium element on Site B, however, the first three levels are proposed to be a more solid element in comparison to the levels above, providing a lower built form which reads similarly to a traditional podium.

However, the bulk and massing of the building form is still of concern given the tall slender tower forms currently under consideration and construction in the locality. The bulk and massing shown on the exhibited documents are incongruent with both the emerging character of St Leonards and the existing character of Crows Nest. Although the heights and floor space ratio are now gazetted within the NSLEP 2013, the building envelopes must comply with DCP setback requirements for buildings above the station component (particularly as the proposed buildings are significantly larger than surrounding development, both existing and proposed).

Additional setbacks could be imposed by condition to be resolved upon lodgement of latter applications.

Visual Prominence

The proposal is visually prominent from certain local viewpoints, in particular from Ernest Place, Hume Street Park and Willoughby Road. The bulk of the proposed envelopes are of a concern particularly when they do not satisfy the basic controls under the DCP that applies to all other developments in the surrounding area.

Parking

The amended OSD design provides for 101 parking spaces, including 46 spaces in Site A (for commercial uses) and 55 spaces in Site B (for residential uses). This represents a decrease of 49 spaces from that of the exhibited scheme.

Two car lifts have been proposed to access the car parking area of Site A and Site B as part of the proposed exhibited OSD scheme.

Council does not support the use of car lifts to provide for above ground parking. This space would be better used for commercial use. Concern is also raised over the ability of a lift system to adequately serve a public car park. It is maintained that above ground parking is not an optimum architectural response for a transit oriented development site such as this.

The car parking space above ground does not allow for proper and adequate setbacks and articulation of the envelopes that seek to maximise the height and FSR controls

Given the constraints of providing carparking on the site, consideration should be given to replacing onsite parking with a contribution to public carparking and access to offsite parking. The issue of design must guide future staged development applications.

Signage

Details of the signage would be provided as part of the future detailed SSD Application(s) and would have regards to the provisions of this DCP. Signage Zones do not need to be part of



the concept application and should form part of a detailed application once the final building form is established.

Clause 4.6

The proposed building envelope for Site B marginally (3m) exceeds the maximum height as shown on the Height of Buildings Map under Clause 4.3 of NSLEP 2013. The Clause 4.6 variation request details how the minor proposed services zone on Site B is appropriate, and that compliance with the maximum building height development standard is unreasonable and unnecessary in the circumstances. However, given the recent adoption of planning controls for the site strict adherence to the height control is mandated.

Conclusion

The concept plan should be further developed and amended to provide realistic expectation and direction with regards to the final built form design. Lack of adequate setbacks above the station box (podium) and the provision of parking on site above ground level needs to be addressed.

Council would welcome the opportunity to have further input into any revised concept plans and/or to review any proposed conditions.

8.5. Crows Nest Over Station Development Amended Concept Plan

AUTHOR: Marcelo Occhiuzzi, Manager Strategic Planning

ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS: Nil

PURPOSE:

To report to Council the Crows Nest Over Station Development Concept Plan as has been amended since it was last exhibited in late 2018 and recommend that Council make a submission in response.

EXECUTIVE SUMMARY:

In December 2018, Council considered a report into the rezoning of the metro site in Crows Nest as well as a report into State Significant Development (SSD) Concept Plan.

Since that time, the land has been rezoned and its controls under the *North Sydney Local Environmental Plan 2013*, been amended in August 2020 by the NSW Government as part of the previously exhibited draft amendments to planning controls for the site.

The amended concept SSD has been placed on public exhibition between 9 September to 6 October 2020. The Concept Plan essentially seeks development consent for a detailed building envelope, including maximum heights, maximum floor space provisions as well as a broad definition of carparking, vehicular and pedestrian access, stormwater, signage and other ancillary matters.

Since the previous exhibition of the SSD Concept Plan in late 2018, the 2036 Plan has been finalised and the Metro site rezoned. As a result, these events have rendered some of Council's previous submissions superfluous.

Various amendments have been made to the Concept Plan which are now being publicly exhibited for comment. The most significant of these include:

- "Chamfering" of 42 metres to the southern corner of building A;
- Slight reduction in height of building A from RL 183 to RL 175.6;
- Slight increase in total GFA across the three sites of 1,000sqm to 56,400sqm; and
- Building A comprising commercial floor space instead of largely residential and Building B comprising residential development instead of hotel accommodation.

Some of these amendments represent positive changes to the concept. In particular, it is pleasing to see the mixed use, largely residential Building A, being replaced with a

commercial building, that will add to the employment role and function of the precinct. The overshadowing impacts have also been somewhat improved.

Whilst it is acknowledged that the new Metro should accommodate a degree of higher density development given the improved transport characteristics, the proposed envelope continues to represent a very significant visual impact on what is a much finer grain environment in Crows Nest. It also differs markedly from the slim towers that are characterising the skyline of St Leonards.

Given the internal deadlines for the preparation of Council reports, this report has not been able to provide a comprehensive response to the amended SSD concept plan but instead, provides a high level overview as a basis to prepare and finalise a submission post Council's consideration of this report.

FINANCIAL IMPLICATIONS:

Nil.

RECOMMENDATION:

1. THAT Council make a submission in response to the amended SSD Concept for the Crows Nest Over Station Development prior to the close of exhibition on 6 October 2020 based on the contents of this report. It is noted that additional matters for submission may arise as staff work their way through the various documents that have been exhibited.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment

1.4 Public open space and recreation facilities and services meet community needs

2. Our Built Infrastructure

2.2 Vibrant centres, public domain, villages and streetscapes

2.3 Sustainable transport is encouraged

2.4 Improved traffic and parking management

3. Our Future Planning

3.1 Prosperous and vibrant economy

3.4 North Sydney is distinctive with a sense of place and quality design

5. Our Civic Leadership

5.1 Council leads the strategic direction of North Sydney

BACKGROUND

Then initial State Significant Development (SSD) Concept Plan for the Crows Nest Over Station Development (OSD) was exhibited in late 2018. At that time, the St Leonards Crows Nest 2036 Plan ("the 2036 Plan") remained in draft form and was exhibited at the same time.

In December 2018, Council considered a detailed report into the rezoning of the metro site in Crows Nest as well as a report into State Significant Development (SSD) Concept Plan. In January 2019, Council considered a detailed report responding to the draft *St Leonards Crows Nest 2036 Plan* that was simultaneously being exhibited for comment by the NSW Government. Whilst there was a relatively long period of time between these two exhibition processes, very little public information was released about either of these processes.

In August 2020, the NSW Government announced the finalisation of the *2036 Plan* and the gazettal of amended planning controls for the Metro site. These included increased height limits and floor space ratio controls. These amended controls took effect in the *North Sydney Local Environmental Plan (NSLEP) 2013* and effectively provide the basis for the consideration of the SSD Concept Plan currently on public exhibition.

The amended concept SSD has been placed on public exhibition between 9 September to 6 October 2020. The material that is currently on exhibition, can be found by following the link below:

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

Given internal deadlines for Council reports, it has not been possible to prepare a comprehensive report in response to the amended SSD. This report, however, provides the basis for a more comprehensive submission following Council's consideration. A more thorough analysis will continue to be undertaken after the finalisation of this report and following Council's decision in response.

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

1.1 Overview

The following details are provided from the OSD application EIS. The Crows Nest Station precinct has been divided into three separate sites as described below:

- **Site A:** The block bound by the Pacific Highway, Hume Street, Oxley Street, and Clarke Lane (497-521 Pacific Highway, Crows Nest). Site A has a consolidated site area of 3,877m².
- **Site B:** The block on the southern corner of Hume Street and the Pacific Highway (477495 Pacific Highway, Crows Nest). Site B has a consolidated site area of 1,871m².
- **Site C:** One lot on the north-western corner of Hume Street and Clarke Street (14 Clarke Street, Crows Nest). Site C has a site area of 608m². Sites A, B and C have a combined site area of 6,356m². The consolidated site has frontages of approximately 180 metres to the Pacific Highway, 25 metres to Hume Street and 25 metres to Clarke Street.



Source: OSD Submissions Report - DPIE 2020

While the Crows Nest Station and OSD will form a single integrated station development, the planning pathways defined under the *Environmental Planning & Assessment Act* (EP&A Act) require separate assessment for each component of the development. In this regard, the approved station works (Critical State Significant Infrastructure - CSSI Approval) are subject to the provisions of Part 5.2 of the EP&A Act and the OSD component is subject to the provisions of Part 4 of the EP&A Act.

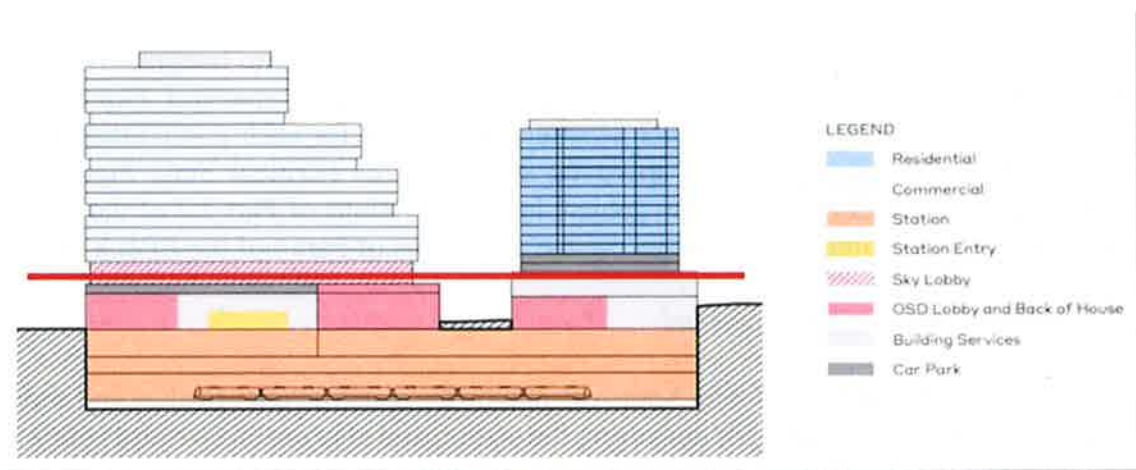
1.2 Relationship to CSSI Approval

The station works under the CSSI Approval include the construction of below and above ground structures necessary for delivering the station and also enabling construction of the integrated OSD. This includes but is not limited to:

- demolition of the existing development;
- excavation;
- station structure including concourse and platforms;
- lobbies;
- retail spaces within the station;
- public domain improvements;
- pedestrian through-site link;
- access arrangements including vertical transport such as escalators and lifts; and
- structural and service elements and relevant space provisioning necessary for constructing OSD, such as columns and beams, space for lift cores, plant rooms, access, parking and building services.

The proposed OSD building envelope, which is the subject of this concept SSD Application, is located entirely above the already approved station envelope. The base of the building envelope, including its alignment, allows for the appropriate integration of the station and OSD from an architectural, structural and operational perspective. The OSD is governed by the design of the station, in particular as to where primary structural elements, such as columns and lift cores, are located.

The delineation between the station works approved under the CSSI Approval and OSD (defined by the exhibited concept SSD Application) is generally defined by the 'transfer level', which is located approximately two to three storeys above the ground level. For Site A, the transfer level is located at RL 100.4, for Site B the transfer level is RL 106.5 and for Site C the transfer level is RL 98.4. The transfer level represents the designated areas for approval between the concept SSD Application and the CSSI. This is illustrated in the figure below with the transfer level being indicated as the hard red line.



Source: OSD Submissions Report - DPIE 2020

1.3 The amended concept SSD Application

The concept SSD Application seeks concept approval in accordance with section 4.22 of the EP&A Act for the OSD above the approved Crows Nest Station. This application establishes the planning framework and strategies to inform the detailed design of the future OSD and specifically seeks planning approval for:

Maximum building envelopes for Sites A, B and C, including street wall heights and setbacks Indicative plans are included in the body of this report for Council's information.

Maximum building heights:

- **Site A:** RL 175.6m (previously RL 183m) or equivalent of 21 commercial storeys (previously 27 residential storeys) includes two station levels and conceptual OSD space in the podium approved under the CSSI Approval)
- **Site B:** RL 155m or equivalent of 17 storeys (includes two station levels and conceptual OSD space approved under the CSSI Approval). This has remained unchanged.
- **Site C:** RL 127m or 9 storeys (previously 8 storeys) and includes two station levels and conceptual OSD space approved under the CSSI Approval.

Maximum gross floor area (GFA) of 56,400sqm (previously 55,400sqm) for the OSD comprising the following based on the proposed land uses:

- **Site A:** commercial premises with a maximum of 40,300sqm (previously residential accommodation with a maximum 37,500m² or approximately 350 apartments)
- **Site B:** Residential accommodation with a maximum of 13,000 sqm (of which 5% could be provided as affordable rental housing) – previously identified as hotel /

tourist accommodation and associated conference with GFA of maximum 15,200m² (approximately 250 hotel rooms)

- **Site C:** Commercial office premises GFA- maximum of 3,100 sqm (previously 2,700m²)

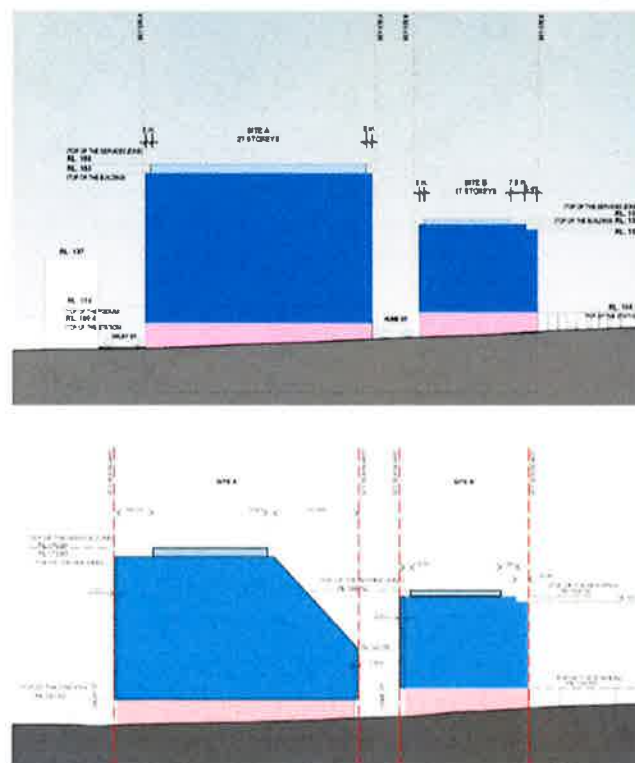
Minimum non-residential floor space ratio (FSR) for the OSD across combined Sites A, B and C of 6.8:1 or 43,300sqm (compared with previous 2.81:1 or the equivalent of 17,900sqm)

A maximum of 101 car parking spaces (previously 150) on Sites A and B associated with the proposed commercial, hotel and residential uses

As this concept SSD Application is a staged development pursuant to section 4.22 of the EP&A Act, future approval would be sought for detailed design and construction of the OSD. A concept indicative design, showing a potential building form outcome at the site, has been provided as part of this concept SSD Application.

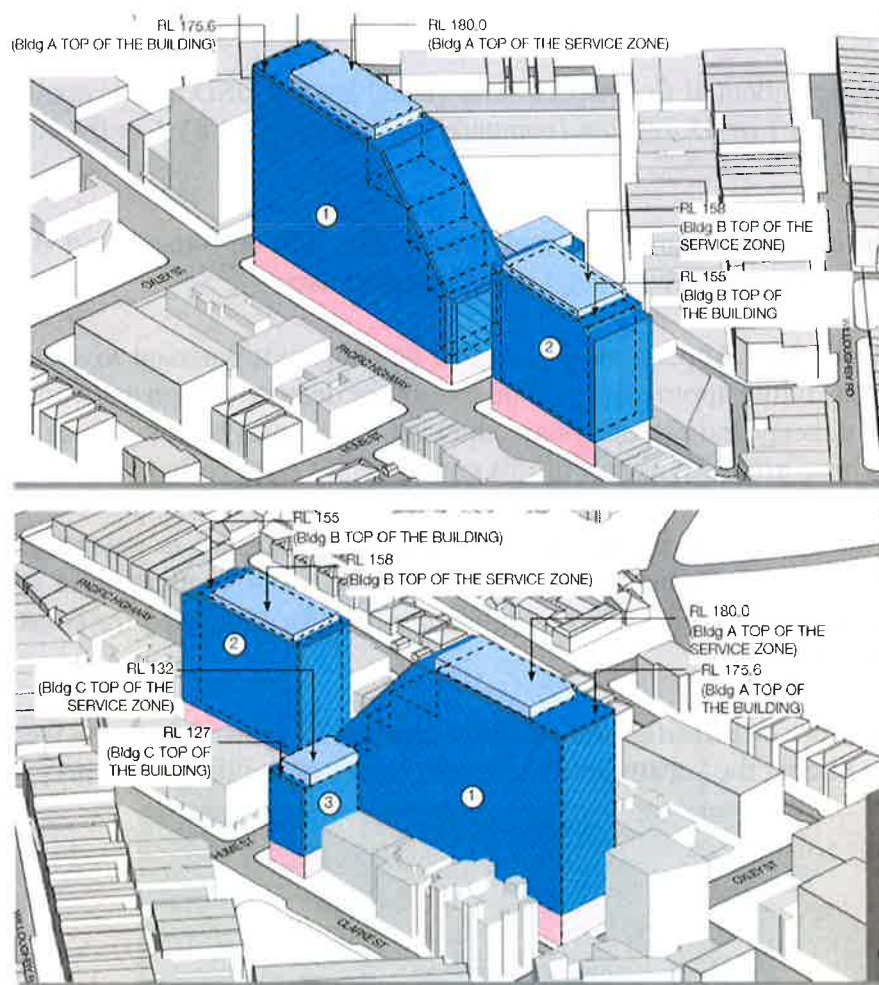
As this is the first stage in the assessment process, consent is not sought for any construction or other physical work. If this concept SSD Application is approved, a detailed development application or applications will be submitted for construction of the development.

Then diagram below identifies the envelope changes as viewed from the west with the major change being the “chamfered” southern corner of building A (42m).



Source; OSD Submissions Report DPIE 2020

The architectural drawings of the envelopes are included at attachment 1. An extract is provided below.



Source: Crows Nest - Over Station Development Appendix A - Architectural Drawings of Proposed OSD Building Envelope - DPIE 2020

2.0 DPIE's Response to Council's Submission

The DPIE discussion and responses to North Sydney Council's submission are outlined in pages 53 to 60 of its Submissions Report. In summary, they are as follows:

2.1 Development Contributions

Council submitted that like other development sites in the precinct that promoted more intensive development than is identified in the North Sydney LEP 2013, the OSD should make contributions over and above those identified in the North Sydney Contributions Plan and the State Infrastructure Contribution should also apply. DPIE has identified that Metro had offered to provide social infrastructure on-site but that Council had rejected this. It further stated that given the contribution that the Metro was making as fundamental supporting infrastructure to the precinct, that this was a significant benefit

and on this basis, it is reasonable that the OSD is exempted from the application of the SIC.

Whilst Council did reject the notion of on-site social infrastructure being provided within the development, it should be noted that this would have been in lieu of the usual contributions being payable. In other words, the acceptance of the floor space cited here would mean that Metro would not pay the usual local infrastructure contributions that are ordinarily payable as part of the development process.

It is important to note that the contributions discussion with Metro remains ongoing and Council has expressed a preference for monetary contributions to be paid to enable a higher degree of flexibility in the contribution's application.

Metro has offered to pay all applicable development contributions "up front" rather than when they are normally payable which is at the end of the approvals process. The difference here is that the traditional payment of these contributions would likely be payable in several years' time, compared with its offer which would be payable almost immediately and then be available for Council expend before the completion of the development. This contributions would be in addition to a monetary payment of \$2M which Metro has offered. The contributions arrangements will need to be the subject of a Voluntary Planning Agreement.

2.2 Clause 4.6 Variation Request

At the time of Council's previous submission, Metro had relied on a "clause 4.6 variation" to the height controls in the North Sydney LEP 2013 that were applicable at the time. Since the gazettal of the various amendments to the LEP in August, including height, these issues have now been largely superseded.

2.3 Non-Residential FSR

Council submitted that the non-residential FSR controls for the individual sites may not be complied with if the sites were separately sold and developed. Moreover, there was a lower level commitment by Metro to employment floor space than Council considered desirable given the employment role of the precinct. This was particularly so given the largely residential character of the proposal as a whole.

DPIE has responded by stating that the quantum of commercial floor space has increased significantly. This is concurred with and is a positive development from the previous concept plan. The current proposal includes a total non-residential FSR of 6.8:1, equating to approximately 43,300sqm, compared with previous 2.81:1 (or 17,900sqm). This is supported.

2.4 Certainty and Imminence of the (then) 2036 Plan

Council had submitted that the Concept Plan for the OSD should be considered only after the 2036 Plan had been finalised and enabling a better strategic and contextual fit for the OSD assessment. Strategically, this was considered important in order that the built form, character, density, supporting infrastructure, placemaking qualities etc.,

could all be considered holistically. Since the time of this initial assessment, the *2036 Plan*, has now been finalised and made by the NSW Government rendering this submission superfluous.

2.5 Prematurity of the Concept SSD Application

Council had previously raised that the Concept Plan application should, be considered after the adoption of the *2036 Plan*. This is allied to point 2.4 above.

2.6 View and Visual Impacts

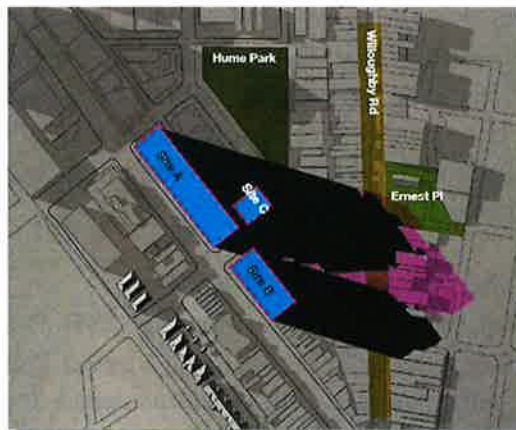
Council previously submitted that the representation of the visual impacts were somewhat misleading and that it was important to accurately reflect the significant impacts that would arise. DPIE agreed with the lack of accuracy. The visual impact studies have now been updated.

As has been well documented, the character of Crows Nest comprises low density, low scale development with a high degree of fine grain detailing and amenity. Whilst the architectural quality of a future development application will be relevant, the amended building envelope has a high propensity to be quite overbearing and potentially inconsistent with the highly valued character of Crows Nest. Further submissions will be made on this point.

2.7 Overshadowing

Council submitted that the resulting overshadowing of Ernest Place and Willoughby Road was unacceptable. DPIE has outlined in its response, that the building envelope has been revised and as a result, will afford Ernest Place in particular, a greater degree of solar access in later parts of the day. DPIE has determined that the greatest impact at 4pm (on 21 September) is the south west corner of the site which is a “transient” environment of the footpath area. It also states that no area of Willoughby Road will be impacted prior to 2.30pm all year round.

The reduction of the previous envelope has resulted in a reduced impact upon Ernest Place. The diagram below shows the extent of overshadowing at 4pm on September 21 with the pink shadow being the previous scheme and the darker shadow being the current scheme.



Source: OSD Submissions Report DPIE 2020

Notwithstanding this, this is a significant issue and with more time, will be reviewed further prior to making a submission.

2.8 Carparking

Council's submission questioned the need for above ground car parking as this was neither a good transport planning outcome nor an architectural one.

The proposed concept has reduced the number of parking spaces on site. This has been reduced from 150 spaces to a maximum of 101 spaces. DPIE note that this represents 37 less car parking spaces than existed on the site prior to demolition. This is noted, however, it is maintained that above ground parking is not an optimum architectural response for a transit oriented development site such as this.

2.9 Built Form

Council previously submitted that the bulk and massing of the building form is of particular concern given the tall slender tower forms currently under consideration and construction. DPIE has argued that the concept is only an envelope at this stage and that it has been further reduced since its initial lodgment by a small reduction in height and chamfering of the southern corner of Building A.

The amendments are noted. As discussed briefly in 2.6 above, the bulk and massing shown on the exhibited documents, have the capacity to be somewhat incongruent with both the emerging character of St Leonards and the existing character of Crows Nest.

2.10 Land Use to meet Employment Targets

Council submitted that in lieu of hotel accommodation, it was its preference for this to be included as office accommodation to meet ambitious jobs targets.

As per point 2.3 above, the hotel accommodation has been replaced with residential floor space but the mixed use, largely residential nature of Building A has been converted to a commercial development. As stated, this is supported and the development overall, provides a significant increase in employment (commercial) floor space from the previous 17,900sqm to a minimum 43,300 sqm.

2.11 Affordable Housing

Council submitted that a level of affordable housing should be provided on site as part of the residential component of the development.

Metro has committed to a minimum of 5% affordable housing or equivalent monetary contribution to a community housing provider to provide affordable housing in the local area.

2.12 Collaboration in the Finalisation of the 2036 Plan

Council's previous submission included a request that Council have collaborative involvement in the finalisation of the 2036 Plan including in the drafting and

consideration of the State Infrastructure Contribution (SIC) and the rezoning of the Metro site.

It is clear that this did not occur to the extent that Council would have desired. Whilst it is maintained that the suite of planning documents and consideration would have benefitted from Council's closer involvement, the Plan has now been made and the Metro site rezoned.

3.0 Submission

Given internal deadlines for Council reports, it has not been possible to prepare a comprehensive report in response to the amended SSD given the breadth of material that is required to be reviewed and considered. This report, however, provides the basis for a more comprehensive submission following Council's consideration. Submissions close on 6 October 2020 and along with any additional comments and feedback Council would like to include in its submission, Council staff will prepare a detailed submission, broadly based on the matters covered in this report and also covering matters that may arise as a result of this closer consideration.