

# Novus on Albert, Chatswood - Build-to-Rent

State Significant Development Assessment Report (SSD-59805958)

June 2025





# Acknowledgement of Country

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

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# Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of the State significant development (SSD) application for the Novus on Albert, Chatswood – Build-to-Rent (BTR) project located at 763-769 Pacific Highway, Chatswood, lodged by The Trustee for Albert Avenue Sub Trust. The report includes:

- an explanation of why the project is considered SSD and who the consent authority is
- an assessment of the project against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the project during the assessment process
- an assessment of the likely environmental, social and economic impacts of the project
- an evaluation which weighs up the likely impacts and benefits of the project, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- an opinion on whether the project is approvable or not, along with the reasons, to assist the Independent Planning Commission in making an informed decision about whether development consent for the project can be granted and any conditions that should be imposed.

# Executive Summary

This report details the Department of Planning, Housing and Infrastructure's (the Department) assessment of the State significant development (SSD) application for the Novus on Albert, Chatswood – Build-to-Rent development (SSD-59805958).

The Trustee for Albert Avenue Sub Trust (the Applicant) proposes to construct a 27 storey build-to-rent shop top housing development. The project is located at 763-769 Pacific Highway, Chatswood in the Willoughby City local government area (LGA).

The proposal has an estimated development cost (EDC) of \$117,224,908 and is expected to generate 194 construction jobs and 70 operational jobs. If approved, construction of the project is proposed to commence in 2025 and be completed by 2028.

The project is classified as SSD under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because the primary purpose of the development is BTR housing with an EDC of more than \$50 million which satisfies the criteria under section 27 of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP). The project is wholly permissible with consent.

The Department exhibited the environmental impact statement (EIS) from Tuesday 25 June 2024 until Monday 22 July 2024. During the exhibition period, the Department received:

- 17 public submissions (15 objections and two comments)
- a submission from Willoughby City Council (Council) objecting to the proposal
- advice from 10 government agencies.

The Independent Planning Commission (IPC) is the consent authority for the project under section 4.5(a) of the EP&A Act because it satisfies criteria under section 2.7(1) of the Planning Systems SEPP as Council objected to the proposal.

Key concerns raised by the community and Council related to the demolition of a local heritage item (Old Fire Station) and the proposed heritage reinterpretation strategy, setbacks, traffic and parking, built form, overshadowing impacts and waste management.

The Applicant submitted a Response to Submissions (RtS) report on 4 November 2024 and additional information to address the issues raised by the Department, Council, government agencies and public submissions (see **Appendix A**). A key refinement to the proposal included a revised approach to the heritage re-interpretation strategy for the Old Fire Station, which is proposed for demolition.



The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) of the EP&A Act, the issues raised in the submissions, the applicant's response and additional information.

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

- it supports State government priorities to deliver well-located housing by delivering 198 BTR units in a highly accessible location
- is permissible with consent and would provide residential uses which support the objectives of the E2 zone under the Willoughby LEP 2012.
- it achieves design excellence in its architectural expression, use of high-quality materials, good residential amenity and positive contribution to the public domain
- it does not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
- it provides a bulk and scale which is compatible with the character of the area and an appropriate built-form relationship to adjoining development in the Chatswood CBD
- the proposed heritage reinterpretation strategy of the Old Fire Station demonstrates the most appropriate outcome for the site
- it provides commercially managed residential accommodation, together with 167m<sup>2</sup> of retail floor space that would generate up to 194 construction jobs and 70 operational jobs.

The Department has recommended a suite of conditions to appropriately address any residual issues.

Following its detailed assessment, the Department considers the project is in the public interest and concludes that the project is approvable, subject to conditions.

# Contents

<b>Preface.....</b>	<b>i</b>
<b>Executive Summary .....</b>	<b>ii</b>
<b>1 Introduction.....</b>	<b>1</b>
1.1 The proposal.....	1
1.2 Project location.....	1
<b>2 Project.....</b>	<b>5</b>
2.1 Project overview.....	5
<b>3 Policy and statutory context.....</b>	<b>7</b>
3.1 Housing supply .....	7
3.2 Permissibility and assessment pathway .....	7
3.3 Other approvals and authorisations.....	8
3.4 Planning Secretary’s environmental assessment requirements.....	8
3.5 Mandatory matters for consideration .....	8
<b>4 Engagement.....</b>	<b>10</b>
4.1 Exhibition of the EIS .....	10
<b>5 Assessment.....</b>	<b>14</b>
5.1 Design Excellence.....	14
5.2 Built Form.....	16
5.3 Heritage .....	23
5.4 Residential Amenity.....	27
5.5 Waste Management, Loading & Servicing.....	34
5.6 Other issues.....	35
<b>6 Evaluation.....</b>	<b>45</b>
<b>Appendices.....</b>	<b>46</b>
Appendix A – List of referenced documents, submissions and advice .....	46
Appendix B – Statutory considerations.....	47

Appendix C – Assessment of Overshadowing Impacts.....	86
Appendix D – Assessment of View Loss and Visual Impacts .....	90
Appendix E – Recommended instrument of consent.....	94

# 1 Introduction

## 1.1 The proposal

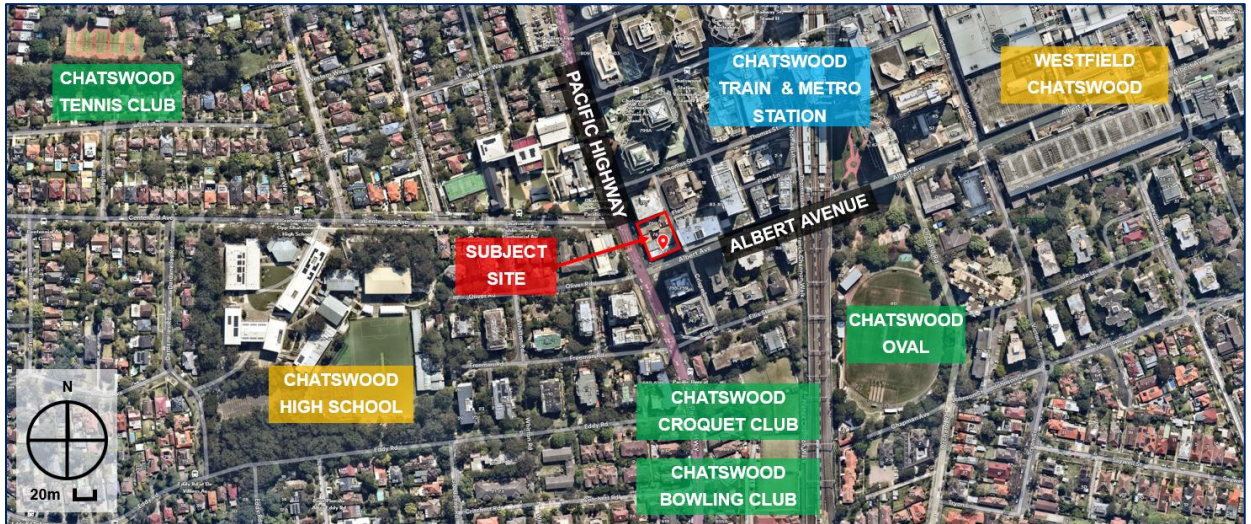
1. The Trustee for Albert Avenue Sub Trust (the Applicant) proposes demolition of existing buildings and construction of 198 build-to-rent (BTR) units within a 27 storey shop-top housing development, ground floor retail, car parking across three basement levels and rooftop communal open space at 763-769 Pacific Highway, Chatswood.
2. The project description and mitigation measures provided in **Section 2** and **Appendix A** of the environmental impact statement (EIS) are the subject of this report and will form part of the development consent if the project is approved.
3. An overview of the proposed development as refined is provided in **Section 2**.

## 1.2 Project location

4. The site is located at 763-769 Pacific Highway, Chatswood in the Willoughby local government area (LGA) (see Figure 1 and Figure 2).



**Figure 1** | Regional context map



**Figure 2 |** Local context map

5. Further project location details are described in Table 1.

**Table 1 |** Key aspects of the project site

Aspect	Description
Address	763-769 Pacific Highway, Chatswood
Local Government Area (LGA)	Willoughby City
Legal description	<ul style="list-style-type: none"> <li>• Lot 6 in DP2983</li> <li>• Lot 7 in DP2983</li> <li>• Lot 8 in DP2983</li> <li>• Lot 100 in DP618823</li> </ul>
Site area	<ul style="list-style-type: none"> <li>• 1,554.6m<sup>2</sup></li> </ul>
Existing development	The site contains small scale retail/commercial buildings including a gym, dance studio and retail shops.



Aspect	Description
<b>Surrounding development</b>	<ul style="list-style-type: none"> <li>• <b>North:</b> 781 Pacific Highway, a seven storey commercial premises. Further north is a mix of commercial and mixed-use developments within the Chatswood CBD.</li> <li>• <b>East:</b> 77-79 Albert Street, a 33-38 storey serviced apartment development. Further east of the site includes a mix of high density residential and commercial developments making up the Chatswood CBD.</li> <li>• <b>South:</b> a range of medium to high density residential accommodation. Further south is a mixture of private and public recreational space including the Chatswood Croquet Club.</li> <li>• <b>West:</b> a range of medium scale shop top housing and residential accommodation. Further west includes Chatswood High School and Chatswood Public School to the north-west.</li> </ul> <p>The remaining surrounding development is generally characterised as a mix of medium to high density commercial, residential and mixed-use towers.</p>
<b>Surrounding roads</b>	The site has street frontages to Pacific Highway (west) Albert Avenue (south) and Albert Lane (east).
<b>Topography</b>	The site has an approximate slope of 1.5m from the Pacific Highway frontage to Albert Lane.
<b>Existing access</b>	<ul style="list-style-type: none"> <li>• Existing pedestrian access is from the Pacific Highway.</li> <li>• Existing vehicular access is from Albert Lane to garages and driveways.</li> </ul>
<b>Public transport</b>	The site is located 200m from Chatswood Transport Interchange with metro, rail and bus services.
<b>Heritage</b>	The site contains one local heritage item – the ‘Old Fire Station’ at 767 Pacific Highway.
<b>Flooding</b>	The site is not mapped as flood prone land

Aspect	Description
<b>Soil and water</b>	<ul style="list-style-type: none"> <li>• Groundwater was measured at a depth of 10.6m, within the siltstone bedrock.</li> <li>• Acid Sulphate Soils are not mapped within the vicinity of the site.</li> </ul>
<b>Easements or covenants</b>	Four easements are registered in relation to the prior land uses on site.

## 2 Project

### 2.1 Project overview

7. This SSD application seeks the demolition of existing buildings, excavation and construction of a new shop top housing development comprising of BTR housing, retail premises, landscaping, tree removal and associated works.
8. The key aspects of the project are provided in detail in the Project Description chapter of the EIS (see **Appendix A**) and are outlined in **Table 2**.

**Table 2** | Key aspects of the project

Aspect	Description	
<b>Demolition and site preparation</b>	<ul style="list-style-type: none"><li>• Demolition of existing buildings including removal of the commercial tenancies, associated driveways, concrete footpaths and any ancillary structures within the site boundaries</li><li>• Bulk earthworks and excavation</li></ul>	
<b>Land uses</b>	Construction and operation of a shop-top housing development including: <ul style="list-style-type: none"><li>• 198 BTR units</li><li>• ground level retail use and residential area lobbies</li><li>• residential amenities, co-working facilities and communal spaces.</li></ul>	
<b>Building height</b>	<ul style="list-style-type: none"><li>• RL 193.877m (90m height)</li><li>• 27 storeys</li></ul>	
<b>Gross floor area (GFA) / Floor space ratio (FSR)</b>	Residential GFA: 15,246m <sup>2</sup> Retail GFA: 167m <sup>2</sup> Total: 15,413m <sup>2</sup>	FSR: 11.44:1
<b>Basement</b>	Construction of three levels of basement comprising: <ul style="list-style-type: none"><li>• 53 car parking spaces (including six accessible and two loading spaces)</li><li>• four motorcycle spaces</li><li>• 121 bicycle spaces.</li></ul>	

Aspect	Description
<b>Access</b>	<p>The primary pedestrian access points to the residential lobby will be from Albert Lane and Albert Avenue, whilst Pacific Highway will provide pedestrian access to the bike storage area as well as the retail premises.</p> <p>Vehicular access is proposed via Albert Lane to basement car parking.</p>
<b>Dwelling mix</b>	<ul style="list-style-type: none"> <li>• Studios: 76</li> <li>• 1 bedroom : 24</li> <li>• 2 bedroom: 92</li> <li>• 3 bedrooms: 6</li> </ul> <p>Total: 198 BTR units</p>
<b>Communal spaces</b>	<ul style="list-style-type: none"> <li>• Internal: 833.7m<sup>2</sup> (61.9% of site area)</li> <li>• External: 371m<sup>2</sup> (27.5% of site area)</li> </ul> <p>Total: 1,205m<sup>2</sup> (89.4% of site area)</p>
<b>Public Domain, Landscaping and tree removal</b>	<ul style="list-style-type: none"> <li>• Landscaping: Ground, levels 1 (podium), 2, 4 and 26 (roof) equating to 256.3m<sup>2</sup> (19% of site area) excluding deep soil area</li> <li>• Deep Soil: 128.9m<sup>2</sup> (9.6% of site area) excluding SP2 zone at ground floor level</li> </ul>
<b>Staging</b>	Single stage construction commencing in 2025 and completing in 2028
<b>EDC</b>	\$117,224,908 (of which \$91,874,669 is attributed to the tenanted residential component, comprising 78% of the total)
<b>Employment</b>	<ul style="list-style-type: none"> <li>• 194 construction jobs</li> <li>• 70 operational jobs</li> </ul>

## 3 Policy and statutory context

### 3.1 Housing supply

9. The NSW Government has a target of 377,000 well-located homes over the next 5 years. This policy supports the National Housing Accord that provides a national target of delivering 1.2 million new, well-located homes over 5 years.
10. In February 2021, BTR housing was introduced into the NSW planning system to recognise and support this emergent development type. An SSD pathway for build-to-rent housing was also introduced for large scale BTR developments. This SSD application has been submitted pursuant to these initiatives that aim to support the delivery of well-located BTR housing.

### 3.2 Permissibility and assessment pathway

11. Details of the legal pathway under which consent is sought and the permissibility of the project are provided in Table 3 below.

**Table 3** | Permissibility and assessment pathway

Consideration	Description
<b>Assessment pathway</b>	<p>State significant development</p> <ul style="list-style-type: none"><li>• The project is declared SSD under section 4.36 of the EP&amp;A Act as it satisfies the criteria under section 2.6(1) and section 27 of Schedule 1 of the Planning Systems SEPP, being build-to-rent housing.</li><li>• The proposal is SSD under section 27 of Schedule 1 of the Planning Systems SEPP as:<ul style="list-style-type: none"><li>– it proposes BTR housing with an estimated development cost (EDC) in the Greater Sydney Region of more than \$50 million</li><li>– the tenanted component represents more than 60% of the estimated EDC</li><li>– the development does not involve development that is prohibited under an EPI applying to the land.</li></ul></li></ul>
<b>Consent authority</b>	<p>The IPC is the declared consent authority under section 4.5(a) of the EP&amp;A Act and section 2.7(1) of the Planning Systems SEPP, as Council made a submission by way of objection.</p>



Consideration	Description
<b>Permissibility</b>	<p>Permissible with consent</p> <ul style="list-style-type: none"> <li>• The site is primarily zoned E2: Commercial Centre pursuant to Willoughby Local Environmental Plan 2012 (WLEP 2012).</li> <li>• A portion of the site fronting Pacific Highway and Albert Avenue is zoned SP2: Classified Road and identified for acquisition by TfNSW for the purposes of road widening. No building works are proposed on this land.</li> <li>• Retail premises are permissible with consent in the E2 zone.</li> </ul>

### 3.3 Other approvals and authorisations

12. Under section 4.41 of the EP&A Act, a number of other authorisations required under other Acts are not required for SSD. This is because all relevant issues are considered during the assessment of the SSD application.
13. Under section 4.42 of the EP&A Act, certain approvals cannot be refused if they are necessary to carry out the SSD (e.g. *Roads Act 1993*). These authorisations must be substantially consistent with any SSD development consent for the project.
14. The Department has consulted with and considered the advice of the relevant government agencies responsible for these other authorisations in its assessment of the project (see **Section 4** and **Section 5**). Suitable conditions have been included in the recommended conditions of consent (see **Appendix E**).

### 3.4 Planning Secretary's environmental assessment requirements

15. The Department's review determined that the EIS addresses each matter set out in the Planning Secretary's environmental assessment requirements (SEARs) issued on 4 July 2023 and is sufficient to enable an adequate consideration and assessment of the project for determination purposes.

### 3.5 Mandatory matters for consideration

16. Mandatory matters for consideration include:
  - matters of consideration required by the EP&A Act
  - objects of the EP&A Act and ecologically sustainable development (ESD)
  - biodiversity development assessment report

- matters of consideration required by the Environmental Planning & Assessment Regulation 2021 (EP&A Regulation)
- matters of consideration required by environmental planning instruments.

17. The Department's consideration of these matters is summarised in **Appendix B** and the Department is satisfied that the development meets these statutory requirements.

## 4 Engagement

### 4.1 Exhibition of the EIS

#### 4.1.1 Public exhibition of the EIS

18. After accepting the development application and EIS, the Department:
  - publicly exhibited the project from Tuesday 25 June 2024 until Monday 22 July 2024 on the NSW Planning Portal.
  - notified occupiers and landowners in the vicinity of the site about the public exhibition.
  - notified and invited comment from relevant government agencies and Council.
19. The Department received 17 public submissions (15 objections and two comments), advice from 10 government agencies and an objection from Council.
20. Department officers conducted a site visit on 13 March 2025 to understand the site context and the issues raised in submissions.
21. The Department also met with Council staff to discuss its concerns about the project on 2 August 2024 and 2 September 2024.
22. The Department requested the Applicant to respond to the issues raised in submissions and the comments received from government agencies. The Applicant provided the Response to Submissions (RtS) Report to the Department on 4 November 2024 (see **Appendix A**).
23. The Department made the RtS and additional information publicly available on the NSW Planning Portal and notified the relevant government agencies and Council.
24. A summary of the key issues raised is provided below.

#### 4.1.2 Summary of advice received from government agencies

25. The Department received advice from 10 government agencies on the EIS.
26. A summary of the agency advice is provided in **Table 4**. A link to the full copy of the advice is provided in **Appendix A**.

**Table 4 | Summary of agency advice**

Agency	Advice Summary
<b>Heritage NSW – Heritage Council</b>	<ul style="list-style-type: none"> <li>Heritage NSW identified locally significant archaeological resources within the project area which have the potential to be impacted.</li> <li>The Department sought comment from Heritage NSW on the heritage re-interpretation strategy for the Old Fire Station (a locally listed heritage item) proposed by the Applicant, in response to heritage re-interpretation outcomes recommended by Council.</li> <li>Heritage NSW supported the Applicant’s heritage re-interpretation strategy, subject to conditions. This is discussed in detail in Section 5.3.</li> </ul>
<b>Heritage NSW - Aboriginal Cultural Heritage</b>	<ul style="list-style-type: none"> <li>Heritage NSW agreed with the recommendations of the Applicant’s Aboriginal Cultural Heritage Assessment Report (ACHAR) and subsequent information and recommended conditions of consent.</li> </ul>
<b>Transport for NSW (TfNSW)</b>	<ul style="list-style-type: none"> <li>TfNSW raised no concerns with the proposal and recommended conditions relating to works in the SP2 zone, excavation, public utilities and road occupancy licences.</li> </ul>
<b>NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Water Group</b>	<ul style="list-style-type: none"> <li>DCCEEW raised no concerns with the proposal and recommended conditions to ensure correct licensees and approvals are obtained under the Water Management Act.</li> </ul>
<b>Ausgrid</b>	<ul style="list-style-type: none"> <li>Ausgrid provided advice on electrical infrastructure (both underground and overhead powerlines) in the vicinity of the site and recommended conditions of consent.</li> </ul>

27. Fire and Rescue NSW, Sydney Metro, Sydney Trains, Civil Aviation Safety Authority and Jemena raised no concerns or provided no comment.

#### 4.1.3 Summary of council submissions

28. Willoughby City Council (Council) made a submission by way of objection during the public exhibition of the EIS. Council provided further submissions in response to the RtS and additional information submitted by the Applicant. A link to all submissions is provided in Appendix A.

29. A summary of the issues raised by Council in response to the EIS is provided below:
- **Heritage** – The proposed demolition of the heritage-listed Old Fire Station façade does not align with Council’s adopted position, which requires its retention and integration into any future development.
  - **Built Form and Urban Design Issues** – The development does not adequately adhere to the vision for slender towers, setbacks, and building separation, particularly along Pacific Highway, which could result in an undesirable urban design outcome.
  - **Land Use and Strategic Planning Conflicts** – The proposal introduces an unanticipated residential land use within the E2 Commercial Centre zone, undermining the balance of non-residential and residential growth outlined in the Chatswood CBD Strategy.
  - **Road Widening** – Council requests the required setbacks outside of the TfNSW road widening and dedicated road reserve are subject to public right of way.
  - **Waste Management** – The proposed waste collection arrangements do not meet Council’s expectations, particularly regarding residential waste servicing, bulky waste disposal, and integration with future Food Organics and Garden Organics waste collection requirements.
30. Council acknowledged additional information submitted by the applicant addressed some of the matters previously raised. However, Council maintains its objection and continues to raise concerns with heritage, setbacks and waste management.
31. Council recommended conditions for the proposal (if approved) addressing engineering, stormwater, a damage deposit and ongoing services, loading/unloading and waste management.

#### **4.1.4 Summary of public submissions**

32. The Department received 17 submissions during the public exhibition period of the EIS. 15 submissions objected to the project and 2 provided comment.
33. The key issues raised in the public submissions is provided in **Table 5** and a link to all submissions in full is provided in **Appendix A**.



**Table 5 |** Key issues raised in public submissions to the EIS

Issue	Number of Submissions
Impacts to traffic	9 (53%)
Heritage impacts	8 (47%)
Lack of parking	5 (29%)
Safety of pedestrians and vehicles surrounding the site	4 (24%)
Increase density	3 (18%)
Overshadowing impacts	3 (18%)
Overdevelopment	2 (12%)
Built form and design	2 (12%)
Lack of engagement	2 (12%)
Construction impacts	2 (12%)
Negative impacts to businesses	2 (12%)

## 5 Assessment

35. The Department has assessed the proposal, considering all documentation submitted by the applicant, all issues raised in submissions and all advice provided by government agencies.
36. The Department considers the key assessment issues associated with the proposal are:
  - design excellence
  - built form
  - heritage
  - residential amenity
  - waste, loading and servicing.
37. The Department's consideration of other issues is described in Section 5.6 and the appendices of this report.

### 5.1 Design Excellence

38. The Willoughby Local Environment Plan 2012 (WLEP 2012) requires the development to exhibit design excellence through a design competition process.
39. The Applicant completed a design competition on 22 November 2023 which included:
  - a Design Excellence Strategy (DES) and competition brief endorsed by the Government Architect NSW (GANSW)
  - establishing a three member Competition Jury with members nominated by the Applicant, Council and GANSW
  - three design teams preparing schemes responding to the brief.
40. The Competition Jury considered the schemes and confirmed Rothelowman was the competition winner.



**Figure 3** | Competition winning design (left) and proposed design (right). (Source: Applicant's Design Excellence Competition Report and RtS)

41. In accordance with the DES, a Design Integrity Panel (DIP) with members from the Competition Jury was appointed to ensure the integrity of the winning scheme is maintained throughout all stages of the proposal.
42. The DIP were tasked with reviewing the project at key milestones and providing independent expert advice. The DIP ensures the design excellence awarded through the competition process is maintained through the design development.
43. Council raised concerns with the design excellence and design integrity process and that the Applicant has used the design excellence process to justify non-compliances with planning controls, including the setbacks. Council considers the development has the capacity to exhibit design excellence by adopting a complying building envelope.
44. The DIP reviewed the proposal and indicated their support, subject to refining the heritage reinterpretation strategy (see discussion in Section 5.3).
45. The Department has considered the matters set out in Clause 6.23 of WLEP 2012 in determining whether the proposal exhibits design excellence. The Department concludes

the proposal achieves the highest standard of architectural, urban and landscape design as the design:

- incorporates well considered modulation and architectural articulation through tonal variation. This breaks up the bulk and massing of the building by emphasising separate elements and enhancing the vertical appearance of the tower design
- has a variety of high quality materials with a well-considered approach to the overall quantity of glazed façade versus solid and permeable material finishes, contributing to a high quality ground and podium design
- supports the expansion and improvement of the public domain through an active ground plane and a well-considered heritage response complemented by tree planting and landscaping
- will not result in unreasonable impacts to view corridors or adverse environmental impacts with regards to overshadowing, wind or reflectivity (see Section 5.6 and Appendix B)

46. The Department is satisfied that the design excellence competition was carried out in accordance with the GANSW Design Competition Guidelines and was overseen by GANSW. The building setbacks and other aspects of the proposal have been assessed in detail in this report.
47. Subject to implementing the DES, including the ongoing involvement of the DIP, the Department is satisfied the development will maintain the design integrity of the proposed scheme and achieve a design excellence outcome.
48. The Department recommends **Condition C3** requiring the DIP to be maintained throughout the design development and construction of the proposal to review and provide independent oversight of the project should any changes occur to the architectural plans.

## 5.2 Built Form

49. The Department considers the following aspects are key in determining the suitability of the built form for the proposal:
  - building height
  - density
  - setbacks.

### 5.2.1 Building Height

50. The Willoughby Local Environment Plan 2012 (WLEP 2012) provides a maximum building height for the site of 90m. WLEP 2012 also applies sun access height restrictions prohibiting additional overshadowing to the Chatswood Croquet Club at mid-winter between 12pm and 2pm (see Figure 4).



**Figure 4 | 2PM winter solstice overshadowing diagram showing shadows cast by the proposal to the Chatswood Croquet Club (Source: Applicant's EIS).**

51. Council raised concerns regarding the height indicating that the Chatswood CBD Strategy did not expect every site to achieve maximum height and that the development proposed should be appropriate having regard to the site context and controls.
52. Two public submissions raised concerns with built form and design.
53. The Department acknowledges the scale of the proposed building and considers the height, bulk and scale of the podium and tower design is appropriate for the site because the:
- proposal seeks a maximum building height of 90m (RL 193.877AHD) which complies with the building height development standard for the site.



- proposal complies with sun access controls for the site and does not result in any additional overshadowing to the Chatswood Croquet Club during mid-winter between 12pm and 2pm as shadows cast by the development fall within existing shadows from other developments (see Figure 4).
- built form was endorsed by the Design Excellence Competition Jury which specifically commended the vertical modulation of the tower form in selecting the proposed scheme as the Design Excellence Competition winner.

### 5.2.2 Density

54. A maximum floor space ratio (FSR) or density control does not apply to the site under the WLEP 2012 however, the development proposes a total GFA of 15,413m<sup>2</sup>, equating to an FSR of 11.44:1.
55. Four public submissions raised concerns about the increased density as a result of the proposal, arguing that the density represents an overdevelopment and would lead to residential amenity impacts, increased traffic and greater pressure on existing infrastructure and services.
56. In the absence of an FSR control for the site, the Department considers that the density of the development should be informed by an assessment of the building form (e.g. height, setbacks, design quality), traffic, infrastructure capacity and amenity impacts.
57. In this regard, the Department has assessed the density of the proposed development and considers it acceptable because:
  - the proposal has strategic merit and the bulk and scale of the development is compatible with the other residential and commercial developments in the locality, the desired future character of the Chatswood CBD and proximity to public transport.
  - the proposed building height, massing and setbacks have been refined through a design excellence competition process (as described in Section 5.1) which adopted a maximum of eight apartments per floor and included façade and rooftop treatments to reduce perceived bulk and scale.
  - the proposal supports a good level of residential amenity for future occupants as well as maintains residential amenity for neighbouring buildings with regards to overshadowing, solar access, privacy and views as discussed in Section 5.4 and Appendix B of this report.
  - the proposal would not result in adverse traffic impacts as traffic generated by the proposal is readily accommodated within the existing road network (see Section 5.6).

58. The Department concludes that the density of the proposal is appropriate for the site in its urban context and can support the desired future character considering the existing E2: Commercial Centre planning controls that apply to the land.

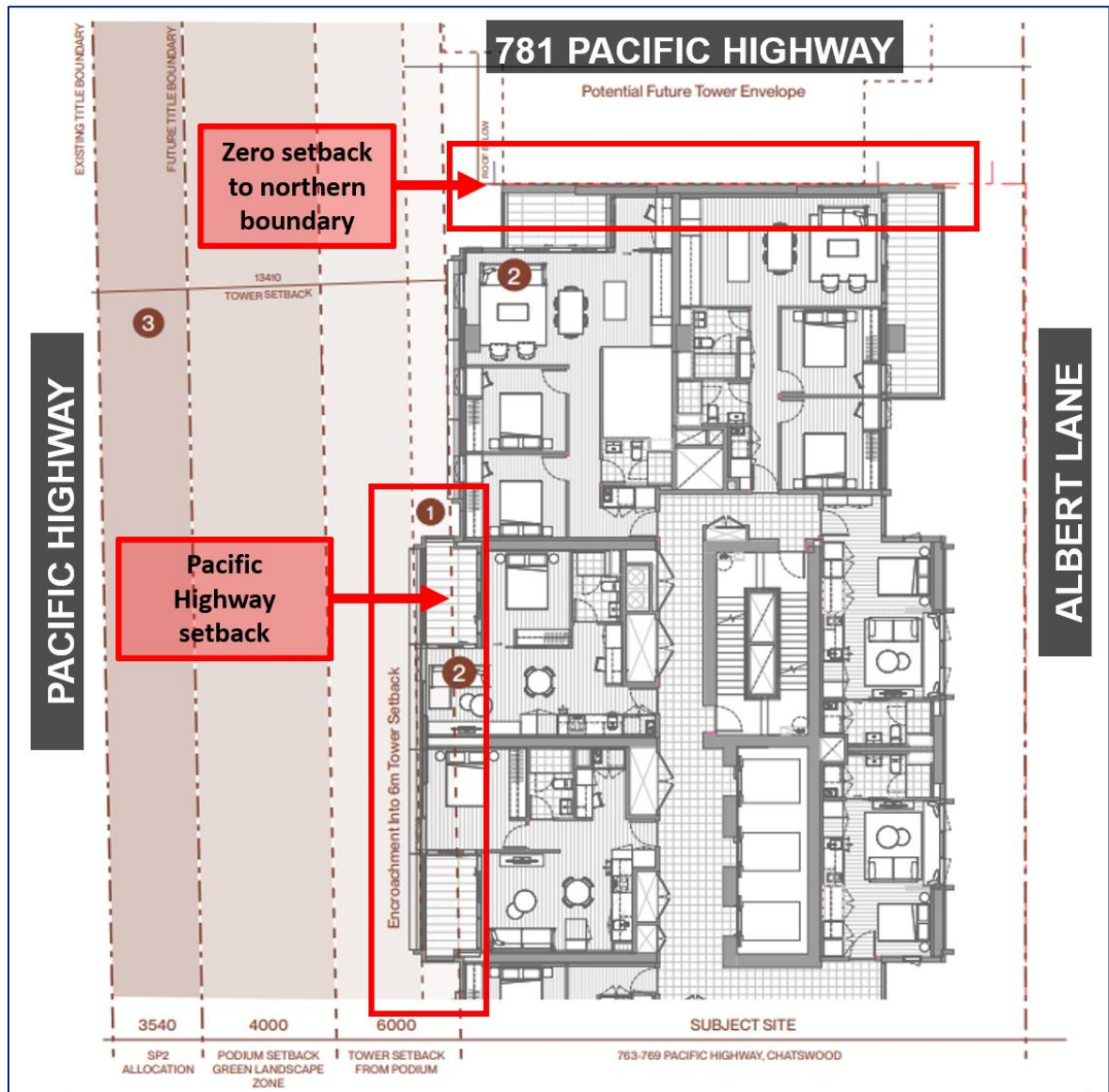
### 5.2.3 Setbacks

59. The proposed setbacks have been informed by the design excellence process and are described in Table 6 below.

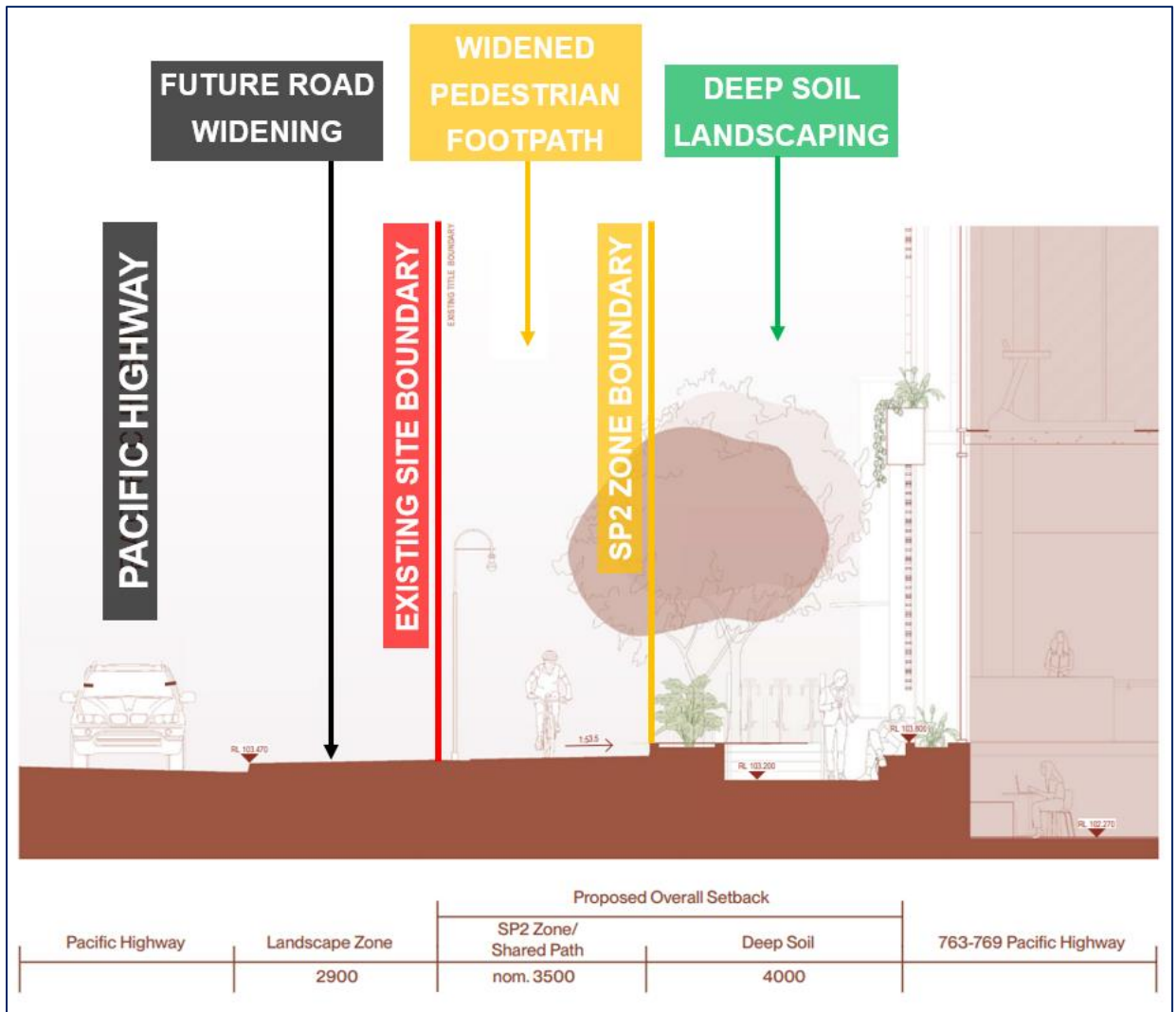
**Table 6 | Summary of proposed setbacks**

Boundary	Setback to Podium	Setback to Tower
North (781 Pacific Highway)	nil	nil
East (Albert Lane)	1.2m	3m
South (Albert Avenue)	nil	3m
West (Pacific Highway)	4m	8.14m-11.75m

60. Council raised concerns regarding compliance with the WDCP 2023. In particular, Council objected to the nil setback proposed to the north adjoining 781 Pacific Highway and recommended these be increased to 4.5m to provide separation to the neighbouring site and avoid the appearance of a continuous uninterrupted wall along the Pacific Highway from Albert Avenue to Thomas Street.
61. Council also stated that the western setbacks are not consistent with the WDCP 2023 which requires a 10m tower setback from the boundary but could be supported if the setbacks to the north were compliant.
62. The northern and western setbacks are shown in Figure 5 and Figure 6 below.



**Figure 5 |** Proposed tower setbacks to the northern (781 Pacific Highway) and western (Pacific Highway) boundaries. (Source: Applicant's RtS)



**Figure 6 |** Proposed tower setbacks to the western (Pacific Highway) boundary – section view  
(Source: Applicant's RtS)

63. As described in Table 6 and shown in Figure 6, the proposed development provides for the future road corridor widening to the Pacific Highway with a 7.5m setback from the existing property boundary to the ground podium. The tower is setback from the podium at 11.68m to 15.25m from the existing property boundary.
64. The applicant discussed setbacks with the GANSW and Council and recognised the proposed future road widening within the Design Competition Brief. Consequently, the proposed setbacks were endorsed by the Competition Jury in their selection of the winning scheme which recognised the integration of the proposal with the surrounding streetscape, neighbouring alignments and ground plane levels.
65. The Department has considered the proposed setbacks below and in Appendix B.

### Northern Setback (781 Pacific Highway)

66. The applicant proposes a nil setback on the northern boundary to enable both the development and the neighbouring site to fully utilise its development capacity in a reasonable manner. The applicant considers that the nil setback supports design excellence and is necessary to ensure the feasibility of the development.
67. The Department has carefully considered the concerns raised by Council and considers the proposed nil setback to the northern boundary is acceptable because:
- adopting a solid wall on the northern boundary is a deliberate design solution that:
    - allows the northern adjoining site to also be developed to the boundary in the future
    - protects residential amenity and visual privacy for future residents of the development as well as residents of any future development on the adjoining site.
  - it is generally consistent with the setbacks presented in the design competition winning scheme which provides for articulation and avoids the appearance of a continuous wall (subject to the future development to the north being appropriately articulated).
  - a compliant scheme would substantially impede the feasibility of future development and create new challenges with impacts between adjoining developments in future while providing limited improvements to residential amenity.
  - the eastern units still achieve a minimum of two hours solar access during mid-winter and the overall solar access performance of the building is considered reasonable in these circumstances (see Section 5.4).
68. Therefore, the Department finds the proposed nil setback to the northern boundary results in an appropriate outcome which responds to the site limitations and existing development to the north.

### Western Setback (Pacific Highway)

69. The Department considers the proposed western setback acceptable because:
- the design provides sufficient architectural articulation and modulation which contributes to design excellence.
  - the proposed setbacks improve solar access to the western facing units, which would otherwise not be achieved with a compliant flat façade design, noting that solar access is constrained in the CBD context.

- the proposed 7.5m setback from the property boundary to the podium is substantial and complies with the requirements of TfNSW and WLEP 2012 to provide a 3.5m setback from the existing western boundary to the Pacific Highway to allow for future road widening works within the SP2 zone.
- the proposal maintains a 4m landscaped setback (containing the heritage reinterpretation mesh structure – see Section 5.3), which aligns with Council’s vision set out in the Chatswood CBD Strategy and guidance under WDCP 2023.

70. Therefore, the Department finds that the proposed tower setback to the Pacific Highway is acceptable in the site context.

### 5.3 Heritage

71. The site contains a locally listed heritage item under WLEP 2012 being the Old Fire Station at 767 Pacific Highway.

72. As noted in the Applicant’s Heritage Impact Statement (HIS), the Old Fire Station was constructed in 1899. The former fire station is a single storey brick building with a flat roof in the federation classical freestyle. The interior of the station has been heavily modified although some original features remain intact. The Old Fire Station is currently used as a retail premises.

73. The HIS notes that the front façade of the fire station building:

- sits on land zoned SP2 Infrastructure for the purposes of future Transport for NSW road widening works to the Pacific Highway nominated under clauses 5.1 and 5.1A of WLEP 2012
- will be required to be demolished for the purpose of the future road widening works
- cannot be retained as part of the redevelopment of the site.

74. Prior to lodgement and during the competitive design process, the Competition Jury acknowledged the façade of the existing fire station cannot be retained in its current location due to the relevant planning controls for road widening and setbacks (see Figure 6).

75. The Applicant’s revised Heritage Interpretation Strategy proposes the construction of a mesh structure relocated within the landscaped area of the site, replicating the form of the heritage façade, with the following key features:

- salvaged materials to be used wherever possible, particularly in the columns



- specific decorative elements in the podium which reference the former heritage, including arches, colour, fenestration, materiality and texture
  - information plaques within the mesh structure which highlight the site's significance and former use as a fire station.
76. Council objected to the revised heritage re-interpretation strategy, stating that the proposed strategy was not a suitable alternative to retaining and relocating the façade and seeks for the Applicant to incorporate the existing façade into the podium design.
77. Eight public submissions were received raising concerns on heritage and the demolition of the Old Fire Station.

### Applicant's Assessment of Heritage Impacts

78. The Applicant further investigated Council's preference for dismantling and incorporating the fire station façade into the podium and note the following:
- the successful removal and reconstruction of original brickwork that is over a century old is unlikely to retain more than 50% of the original fabric.
  - rebuilding the façade to its existing condition or reconstructing it to its original configuration would require the installation of new materials.
  - previous option studies and renders for the project demonstrated that incorporating the original façade into the new podium façade diminishes the prominence and legibility of the reconstructed façade and therefore does not meet Council's original advice seeking visual prominence.
79. The Applicant provided the following schematic comparison of Council's preferred strategy of relocation and the Applicant's proposed re-interpretation of the façade (Figure 7).



**Figure 7** | Council's Relocation Response (left) and Applicant's Proposed Re-interpretation Strategy to the Pacific Highway frontage (Source: Applicant's RtS Design Report).

## Assessment by Heritage NSW

80. The Department requested advice from Heritage NSW as part of its assessment. Heritage NSW considered the Applicant's revised heritage re-interpretation strategy and Council's position. Heritage NSW agreed with the Applicant's approach to re-interpretation, subject to conditions, noting the following:
- relocating the facade as a single whole unit is not feasible and not all bricks would be salvageable if the facade was dismantled as the bricks are fragile.
  - a relocated façade would comprise a mix of new and old bricks with new mortar, new render detailing and a new door and window. This, together with its new location 'embedded' into the new building facade, would result in the fire station facade having an inauthentic appearance.
  - the fire station facade would be visually overwhelmed by its integration into the podium of the new, much larger building and would sit awkwardly in the streetscape.
  - embedding the fire station into the new building façade may distort the history and significance of the fire station and there would be a lack of clarity regarding its original location and whether it is a historic facade or a replica. There is a risk it would confuse rather than help convey the significance of the fire station.
81. Heritage NSW raised concerns that the Applicant's proposed wire mesh structure has the potential to become unsightly over time if not maintained.

## Department's Consideration

82. The Department has considered the concerns raised by Council and the public as well as the Applicant's revised heritage re-interpretation strategy and advice provided by Heritage NSW as part of its assessment.
83. The Department notes the thorough analysis and significant engagement with various stakeholders during the design and assessment process. The Department considers that, on balance, the Applicant's proposed heritage re-interpretation strategy provides an appropriate response to direct impacts to the heritage item from demolition, subject to conditions, because:
- the DIP supports the overall response to the former fire station's heritage facade and acknowledged that its retention is not possible due to the future road widening of the Pacific Highway. Furthermore, the DIP was satisfied that the revised heritage re-interpretation strategy maintains design integrity of the development and the project is still capable of achieving design excellence.



- it provides the most feasible response while best interpreting the item's heritage significance in the local context as:
  - it relocates the item from within the SP2 zoned road reserve to the 4m landscaped setback to the Pacific Highway frontage (see Figure 6) located within the site where it can be feasibly preserved.
  - the prominence of the reinterpreted free-standing façade would enhance awareness and provide engaging opportunities for the public to appreciate the significance of the former fire station in a meaningful, purposely dedicated space.
  - the preferred option delivers a unique and high-quality heritage outcome for the site and locality that exhibits design excellence.
- it has considered and is compatible with the Burra Charter considering the necessity of relocating the façade, the compatibility of the proposed future use and salvage of material.
- the re-interpreted façade would be supported by complementary design choices referencing the former heritage values through the use of columns, arch spacing and dimensions, the use of brick cladding, information plaques and the prominent display of exposed fire mains pipework on Albert Avenue.
- it is made necessary by both the future road widening and the proposed development and, in this context, would provide a public benefit to the community.
- residual concerns regarding the exact design and maintenance of the structure can be appropriately managed through conditions.

84. The Department's assessment therefore concludes that the demolition of the item and the proposed heritage re-interpretation strategy is acceptable, subject to recommended conditions requiring:

- photographic archival recording prior to any works commencing in relation to the Old Fire Station.
- the interpretive design to be further developed, post-dismantling of the façade, as part of a Heritage Interpretation Plan once the quantity and quality of original material is known.

## 5.4 Residential Amenity

85. The Apartment Design Guide (ADG) provides planning guidance to ensure acceptable levels of amenity are provided to BTR units within the development and to surrounding developments.
86. The Department has considered and assessed the proposal against the ADG at **Appendix B**, and concludes the proposal has been designed to provide a high level of amenity for future residents in accordance with the objectives and design guidance of these guidelines while maintaining a reasonable level of amenity to existing adjacent residents.

### 5.4.1 Internal Amenity

87. The Department is satisfied that the design of the proposed BTR units are generally consistent with the key ADG design criteria, with the exception of solar access.
88. Ninety five units (48%) would receive a minimum of 2 hours of solar access between 9am to 3pm during the winter solstice. This falls short of the 70% objective under the ADG.
89. The Applicant proposes flexible application of the ADG and seeks consideration be given to extend the solar access timeframe to 9am to 4pm during the winter solstice. The proposal results in 141 (71%) of units receiving a minimum of two hours solar access between 9am to 4pm during the winter solstice.
90. The Department considers flexible application of the solar access guidelines acceptable in the circumstance and finds the proposed duration of solar access acceptable because:
- the Department supports providing a zero setback to the northern boundary to enable the adjoining site at 781 Pacific Highway to be suitably redeveloped in the future (see **Section 5.2.3**). A minimum of two hours solar access is received during mid-winter by the eastern units at the northern interface throughout the tower form, due to the orientation of the proposed balcony to these units.
  - the overall solar performance of the building is reasonable considering the site is in a densely populated CBD context and is surrounded by high-density buildings to the north and east where solar access is generally relied upon. The design also provides high quality communal open spaces throughout the building which generally exceed the ADG solar access objective.
  - all habitable areas throughout the building have been oriented to capture maximum solar access and is consistent with the qualitative objective of Objective 4A-1 of the ADG.

- the proposal does not contain any single aspect south facing units and there are no units that would receive no solar access which demonstrates positive solar performance when compared to the maximum recommended 15% in Objective 4A of the ADG.

91. Therefore, the Department finds the proposed solar access acceptable in the context of the site and considers that the proposal would maintain a high level of amenity for future residents within the broader CBD context.

#### 5.4.2 External Amenity Impacts

92. The Department is satisfied that the design of the proposed development maintains a reasonable level of amenity to adjacent residents with regards to overshadowing, visual privacy, view loss and visual impact as discussed below.

##### Overshadowing

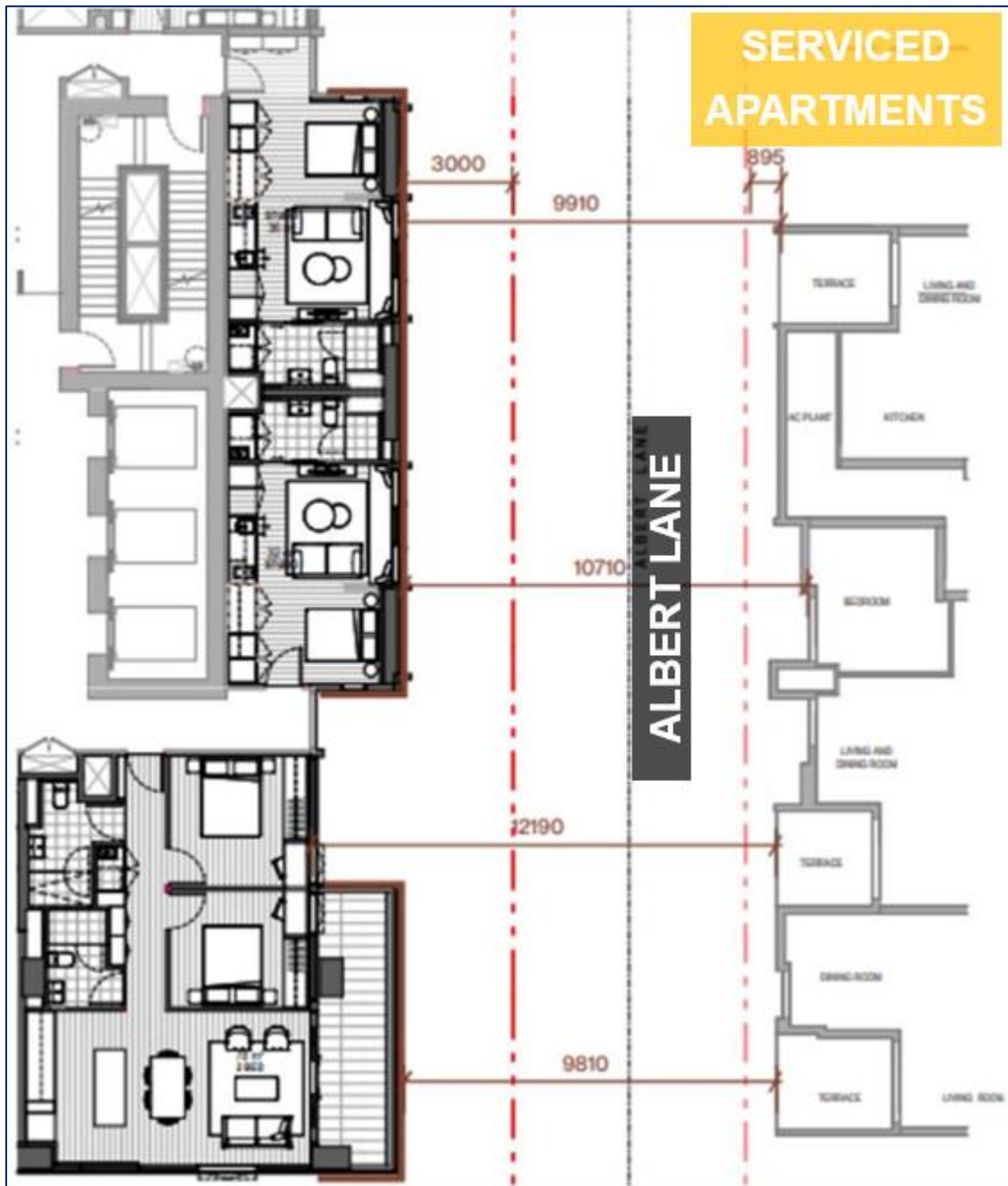
93. Three public submissions raised concerns regarding overshadowing impacts to their properties.
94. The ADG objective recommends apartments to have a minimum of two hours solar access between 9am and 3pm at the winter solstice.
95. The Applicant provided analysis of overshadowing impacts to properties in the vicinity during the winter solstice, including overshadowing diagrams, eye of the sun and elevational shadow diagrams.
96. The Department has assessed overshadowing and solar access impacts to properties to the south of the site in **Appendix C**. Generally, the majority of properties are already overshadowed by existing development in the Chatswood CBD. Additional overshadowing impacts are typically limited to a minor number of apartments for each building and are often less than one hour in duration.
97. However, at 747-753 and 755 Pacific Highway the development would result in a respective 28% and 25% reduction to the number of apartments achieving the 2 hour solar access ADG objective.
98. The Department acknowledges the likely solar access impacts to the buildings at 747-753 and 755 Pacific Highway during the winter solstice due to the proposed development, but considers the impacts acceptable because:
- the proposal is fully compliant with the maximum building height development standard of 90m under Clause 4.3 of the WLEP 2012.

- the proposal aligns with the Chatswood CBD Strategy’s emphasis on high-density growth and integration of new developments with the established urban landscape.
- the impacted buildings are already overshadowed by existing development in the Chatswood CBD and the proposed development would not result in any unreasonable impacts in this context.
- the impacted buildings are located directly south of the proposal and are therefore always likely to be impacted by any compliant development to the north.
- the impacted units across each building continue to receive solar access in the order of 1-1.7 hours. While this does not strictly accord with ADG Objective 4A-1, they still maintain a degree of solar access that is considered appropriate in the surrounding urban context.

99. The Department is therefore satisfied that the proposal maintains reasonable solar access to surrounding development in the Chatswood CBD context.

### Visual Privacy

100. The proposal has considered the recommended building separation distances in the ADG of 12m from the boundary to habitable rooms and balconies for buildings over 9 storeys in height and has proposed a setback strategy that is consistent with the approach supported at the design competition phase and endorsed by the DIP prior to lodgement of the EIS.
101. One submission raised concerns regarding visual privacy impacts of the development to the serviced apartments at 77-79 Albert Avenue, to the east of the site.
102. The proposed tower is setback 4.2m (including 3m from the podium) to the eastern boundary of Albert Lane, adjacent to 77-79 Albert Avenue. A total building separation distance ranging from 9.81m to 12.19m is provided to the western façade of 77-79 Albert Avenue as shown in Figure 8 below.



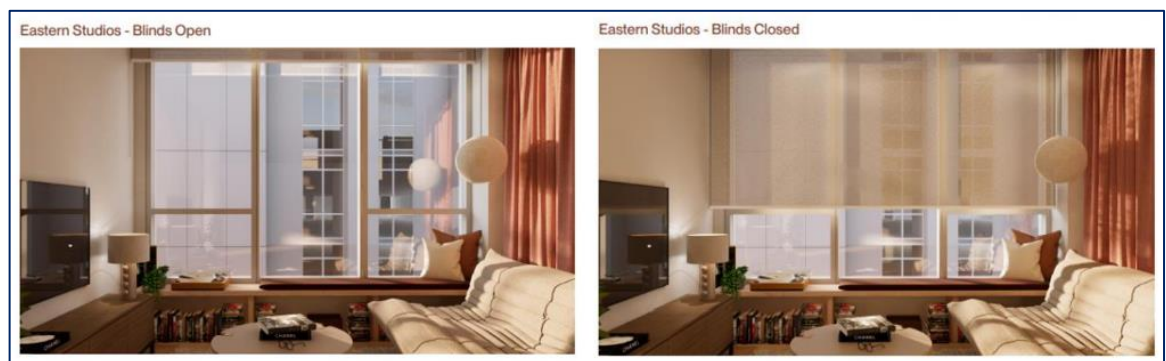
**Figure 8 |** Proposed tower setbacks to the east, adjacent to the western façade of the serviced apartments at 77-79 Albert Avenue. (Source: Applicant's RtS)

103. The Department has considered the concerns raised in the submission and the Applicant's proposed building separation distance to the eastern boundary and finds the proposal maintains reasonable visual privacy, subject to conditions, because:
- the proposed 3m tower setback has been designed to align with WDCP 2023 controls.
  - it is reasonably expected that adjoining developments share setbacks and the existing neighbouring building adopts a minimal setback at the Albert Lane interface, with the majority of serviced apartment units being set back only 895mm from the

boundary. To satisfy the relevant ADG objective the development would need to adopt a 21m setback between towers. In these circumstances the Department considers it would be difficult and unreasonable to require the development to make up for the shortfall in building separation resulting from the minimal setback provided to the serviced apartments and given the width of Albert Lane.

- the proposal has offset habitable room windows from the adjacent serviced apartments, generally preventing direct lines of sight between most apartments. Only the studio units and balconies are directly visible from the serviced apartments. The Applicant notes the interior space of these studio units have been designed with inbuilt window seating to improve privacy and that blinds will be installed.

Despite this and given the relative proximity of habitable spaces and balconies (see **Figure 8** and **Figure 9**), the Department considers a design solution is necessary to manage potential privacy impacts and recommends conditions requiring implementation of appropriate privacy measures.



**Figure 9 |** Privacy mitigation measures applied to the eastern studio units with an interface to the serviced apartment development. (Source: Applicant's RtS)

104. Therefore, the proposal is considered capable of maintaining reasonable visual privacy for occupants of the neighbouring development to the east as well as occupants of the proposed development, subject to **Condition C4**.

### View Loss & Visual Impact

105. The Applicant submitted a detailed visual analysis of the application in the Architectural Design Report which provides a set of photomontages from various key vantage points within the public domain surrounding the site and also identifies key buildings with regards to views in the vicinity as shown in **Figure 10** below:





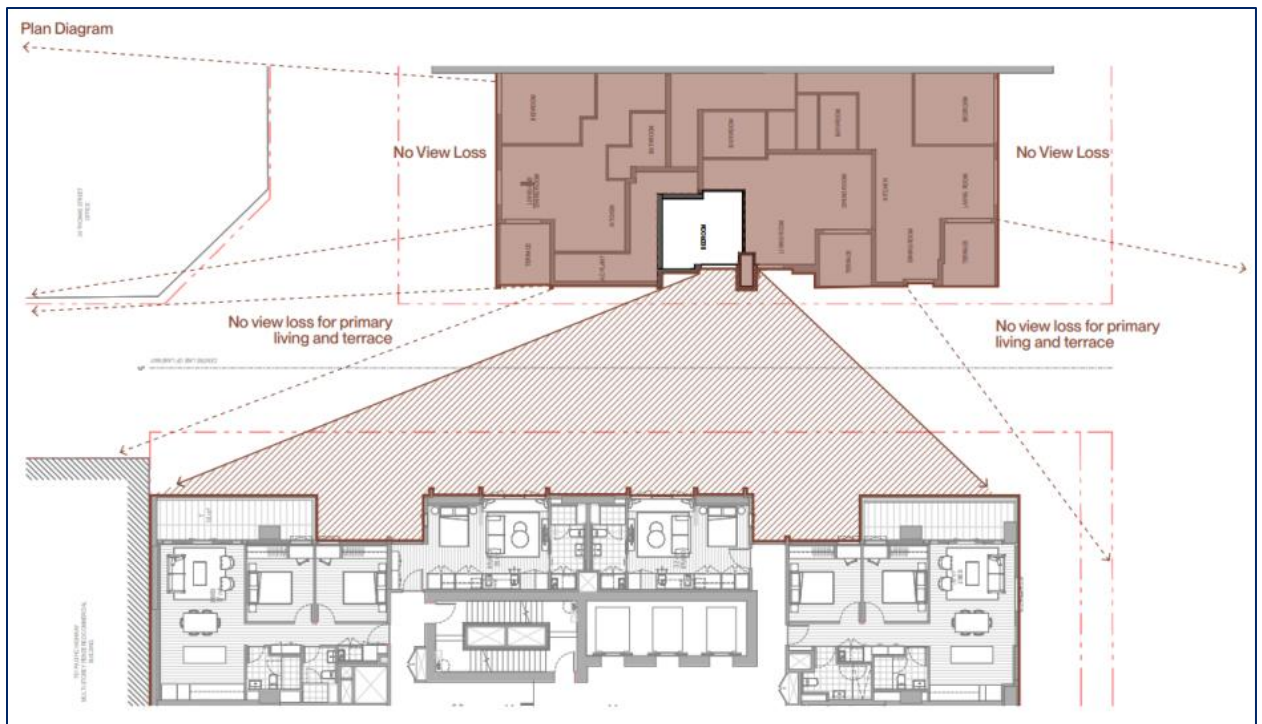
**Figure 10 |** Key buildings surrounding the site with regards to views. (Source: Applicant's EIS)

106. One public submission was received which raised concerns regarding view loss from the neighbouring property, 77-79 Albert Avenue located to the east of the site.
107. The Department has given consideration to the concerns raised by the public and the views likely to be present from surrounding buildings identified in **Figure 10** and in detail in **Appendix D**.
108. The Department notes that due to the location and topography of the site, any significant views that may be enjoyed by occupants of surrounding buildings towards the North Sydney CBD, Sydney CBD and Sydney Harbour would be obtained towards the southeast of the site. The Department also notes that there is potential for an outlook to district views to be present in all directions from the site, given its location on the fringe of the Chatswood CBD area.
109. With the exception of 77-79 Albert Avenue (shown as Building 7 in **Figure 10**) the Department considers that views from surrounding properties are, on the whole, either:
  - unaffected due to their distance from the site
  - already obscured by existing development

- already naturally limited in the case of buildings that are substantially lower in height than the proposed development

110. A detailed analysis of each potentially affected property is provided in **Appendix D**.

111. 77-79 Albert Avenue is located directly opposite the development to the east and district views over Chatswood West, Lane Cove National Park and beyond towards Sydney Olympic Park would be obstructed by the development as shown in **Figure 11**.



**Figure 11 |** Extent of view loss to the west for 77 Albert Avenue

112. However, of the 11 apartments on each floor, only one apartment is a single aspect apartment with its primary outlook to the west. Therefore, all other apartments would retain alternate views which in most cases includes their primary orientation to the north or south.

113. On balance, the Department considers the development enables reasonable view sharing as:

- views from potentially affected properties are generally already obstructed by existing development, with district views remaining unaffected in some instances.
- where the development is likely to impact on views, these impacts are reasonable in the context of an urban environment and the Chatswood CBD which is continuing to grow in line with strategic planning objectives.
- potentially affected properties are less sensitive to these impacts due to their land use, such as commercial buildings and the serviced apartments at 77-79 Albert Avenue which would be categorised as tourist and visitor accommodation.



- the development enables view sharing and is suitable in the context as it complies with the building height development standard and exhibits design excellence.

114. Therefore, the proposal retains suitable views from existing development in the context of the Chatswood CBD.

## 5.5 Waste Management, Loading & Servicing

115. Albert Lane is a narrow laneway which constrains the available site access and poses challenges in terms of the safe use of a Heavy Rigid Vehicle (HRV). The proposal details loading and serving arrangements including waste collection from Albert Lane that is to be serviced by a private waste contractor via an on-street pull-in bay, utilising a Small Rigid Vehicle (SRV) or Medium Rigid Vehicle (MRV).

116. Council raised concerns regarding the ground floor level waste management and collection proposed from Albert Lane. Council also objected to private waste collection for the development and expressed that the proposal should be designed so that Council's waste collection HRV can be accommodated. Council also considers that HRV's must be able to stop fully within the site and not partially block the laneway.

117. The Department acknowledges Council's concerns, however, considers the proposed arrangements to be appropriate for the development, because:

- on-street waste collection with a HRV is not feasible without encroaching into oncoming traffic lanes on Albert Avenue and Albert Lane resulting in an unsafe road environment.
- the proposed private waste collection arrangements are required due to the geometry of the local road network and the lack of appropriate vehicles in Council's fleet to service Albert Lane.
- a dedicated loading bay has been provided at the ground level adjacent to Albert Lane (to be used by vehicles larger than an SRV).
- bulky waste collection can feasibly occur directly within the basement using a private SRV contractor
- the Housing SEPP requires the BTR development to remain under single ownership and management (who would maintain responsibility for private waste collection) in perpetuity.

118. The Department is therefore satisfied the proposal has adequate provisions for loading and servicing and has recommended Conditions F28, F30, G5 requiring on-going provisions for loading, unloading and private waste collection.

## 5.6 Other issues

119. The Department's consideration of other issues is summarised in below.

**Table 7 | Assessment of other issues**

Issue	Findings and conclusions	Recommended conditions
<b>Road Widening &amp; Public Domain</b>	<p>A portion of the site beyond the deep soil landscaped setback fronting the Pacific Highway and Albert Avenue is zoned 'SP2- Classified Road' and is to be dedicated to TfNSW as part of future road widening works (see Figure 6).</p> <p>The Applicant's TIA details engagement with TfNSW and TfNSW has provided recommended conditions.</p> <p>Council commended the embellishment of the public domain at the ground floor level and supports the TfNSW road widening on the Pacific Highway and Albert Avenue frontages. Council requested that the full areas identified in WLEP 2012 (being approximately 1.2m on the Pacific Highway and 1.5m on Albert Avenue) be provided as dedicated road reserve to ensure an appropriate public domain outcome. Council also requested the required setbacks outside of the TfNSW road widening and dedicated road reserve be subject to public rights of way, with maintenance the responsibility of site owner/entity.</p> <p>The Applicant confirms the development does not involve the construction of any structures or built form in the SP2 zone and agrees to dedicate the whole of the SP2 zone, being approximately 3.5m along Pacific Highway and 1.5m along Albert Avenue to Council prior to the issue of the final Occupation Certificate. This will enable interim use by Council as an expanded public domain area before any future works are undertaken by TfNSW. The Applicant also agreed with Council that the Albert Lane setback is to be subject to public rights of way.</p> <p>This arrangement will ensure that any unused portion of the SP2 zone (post-completion of the road widening</p>	<p>The Department has considered comments made by Council and the Applicant and recommends <b>Conditions A10 and D28</b> be imposed as recommended by TfNSW, <b>Condition F36</b> for dedicating the SP2 zone to Council prior to the issue of an Occupation Certificate and <b>Condition F37</b> for the dedication of setbacks within the public domain to be subject to public rights of way.</p>

Issue	Findings and conclusions	Recommended conditions
	<p>works) will remain in Council's ownership for use as expanded public domain in perpetuity.</p> <p>The Department supports this approach to managing the SP2 zone and the public domain and recommends conditions of consent to be satisfied prior to the issue of an Occupation Certificate.</p>	
<b>Construction Impacts</b>	<p>The EIS and RtS describes:</p> <ul style="list-style-type: none"> <li>– construction noise impacts, with predicted construction noise levels between 65-75 dBA<sub>L<sub>Aeq</sub>15 mins</sub> at nearby sensitive receivers during all construction phases. This indicates that some activities are likely to reach the 'highly noise affected' management level.</li> <li>– mitigation measures including increasing the distance between noise sources and sensitive receivers, reducing line-of-sight noise transmission through temporary barriers</li> </ul> <p>Two public submissions raised concerns with construction traffic impacts and one submission raised concerns regarding construction noise and vibration impacts.</p> <p>The Department has carefully considered the Applicant's reports and the concerns raised in public submissions.</p> <p>The Department is satisfied that the development can be constructed to appropriate standards, without causing damage to nearby buildings or resulting in any unreasonable amenity impacts.</p> <p>The Department is satisfied that construction impacts associated with the proposal can be appropriately managed, subject to conditions of consent.</p>	<p>Conditions D1-D7, E1 and E8-E15 sets out the requirements for mitigating any construction impacts, including respite periods.</p>
<b>Operational Noise</b>	<p>The Applicant submitted the following:</p>	<p>Condition F14 sets out the requirements for</p>

Issue	Findings and conclusions	Recommended conditions
	<p>Noise and Vibration Impact Assessment and Addendum Letter which included consideration of operational noise impacts.</p> <p>Mechanical Advice Note which included consideration of operational noise impacts of mechanical plant.</p> <p>One public submission raised concerns regarding operational noise impacts from mechanical ventilation.</p> <p>The Department has considered the Applicant's reports and the concerns raised in the public submission and concludes that the proposed rooftop mechanical plant is capable of complying with relevant noise criteria.</p> <p>The Department is satisfied that the development can comply with operational noise criteria, subject to conditions of consent.</p>	<p>mitigating and managing any operational noise impacts.</p>
<b>Parking</b>	<p>Five public submissions raised concerns regarding the proposed limited car parking and that it would overburden the public parking capacity.</p> <p>The Housing SEPP includes a non-discretionary development standard (NDDS) which provides that a consent authority cannot refuse an application for BTR if 0.2 car parking spaces per dwelling is provided. This is equivalent to 40 spaces for the development.</p> <p>The proposal provides 53 car parking spaces which is a rate of 0.27 spaces per dwelling which exceeds the NDDS.</p> <p>The WDCP 2023 specifies parking rates which require a minimum of 30 and a maximum of 129 car spaces for the development.</p> <p>The applicant has stated that the NDDS does not specify whether the parking rate is a minimum or maximum. For the abundance of caution the Applicant has submitted a written request under clause 4.6 of the WLEP 2012 to justify the variation to the parking space NDDS.</p>	<p>The Department recommends <b>Condition F34</b> requiring the Applicant to prepare a Green Travel Plan, which will detail specific actions and incentives to manage travel demand and encourage the use of more sustainable transport methods.</p>

Issue	Findings and conclusions	Recommended conditions
	<p>The terms of the Housing SEPP are that the objective of the NDDS is to prevent the consent authority from requiring more onerous standards or refusing an application if the development complies with the NDDS, which is distinct from the operation of other development standards. Noting this, the Department is of the view that NDDS is not required to be varied under clause 4.6 in order to grant consent.</p> <p>The Department considers the proposed resident car, motorcycle and bicycle parking spaces are reasonable in the circumstances, because:</p> <ul style="list-style-type: none"> <li>the proposed 53 car parking spaces reflects a limited but reasonable supply which aligns with Council's objectives of reducing car reliance within highly accessible areas to promote the use of alternative means of transport.</li> <li>the proposed four motorcycle spaces and 121 bicycle spaces for residents is consistent with the WDCP 2023. An additional 24 bicycle spaces are proposed for visitors on the Pacific Highway and Albert Avenue frontages. the proposal includes EV charging car parking bays for vehicles at basement level 1.</li> </ul>	
<b>Traffic Generation</b>	<p>The application is accompanied by a Traffic Impact Assessment, which identifies the proposal would generate approximately 30 vehicles per hour trips during the AM and 25 vehicles per hour trips during the PM commuter peak periods.</p> <p>Nine public submissions raised concerns regarding traffic impacts to the vicinity and four submissions raised concerns regarding pedestrian safety at the Pacific Highway, Albert Avenue and Albert Lane.</p> <p>The Department acknowledges concerns raised by Council and the public and finds the proposal provides acceptable traffic generation because the:</p>	<p>The Department recommends <b>Condition F34</b> requiring the Applicant to prepare a Green Travel Plan, which will detail specific actions and incentives to manage travel demand and encourage the use</p>

Issue	Findings and conclusions	Recommended conditions
	<ul style="list-style-type: none"> <li>• site is well connected with walkways, shared paths and bounded by a State road (Pacific Highway) and a regional road (Albert Avenue) and is in close proximity to the Chatswood Transport Interchange which provides excellent public transport access.</li> <li>• additional net trip generation and vehicular movements are minimal and can be readily accommodated by the existing road network.</li> <li>• the Applicant has provided a preliminary Green Travel Plan aimed at promoting sustainable travel and reducing reliance on private cars.</li> </ul>	of more sustainable transport methods.
<b>Wind</b>	<p>The Applicant submitted a Pedestrian Wind Environmental Assessment and Addendum Letter.</p> <p>One public submission raised concerns with wind impacts to Albert Lane and Fleet Lane and the installation of wind barriers at the ground floor level.</p> <p>The proposal was amended to address impacts as follows:</p> <p>landscaping at the ground floor level along the western aspect of the redevelopment</p> <p>retaining porous breeze block on the south-western corner of the redevelopment, along Ground Level to Level 2</p> <p>modifying of the apertures to the south and west of the corner terraces on Levels 2-3 to ameliorate any wind impacts to Albert Avenue</p> <p>removing solid walls on the western aspect of the south-western corner balcony on Level 2 and Level 3.</p> <p>The Department is satisfied that the amended proposal incorporates suitable wind mitigation measures and is capable of satisfying relevant wind comfort requirements, subject to conditions.</p>	<b>Condition C13</b> sets out the requirements for complying with the wind mitigation measures in the Applicant's wind report.



Issue	Findings and conclusions	Recommended conditions
<b>Landscaping</b>	<p>The proposal includes landscaping at the ground floor, levels 1, 2, 4 and 26 throughout the building.</p> <p>Council identified outstanding areas for additional landscaping opportunities to green the Chatswood CBD . In response the Applicant agreed to implement alternate paving treatment to the substation access area on the Pacific Highway frontage, subject to any relevant Ausgrid requirements.</p> <p>The Department supports the proposed landscaping strategy for the site and is satisfied that sufficient soil depth is provided to accommodate the proposed landscaping.</p>	<p>The Department recommends a condition to provide alternative paving to the Pacific Highway frontage for the substation access in accordance with Council's comments.</p> <p><b>Condition C6</b> sets out the requirements alternative paving treatment to the substation access area on the Pacific Highway frontage.</p>
<b>Aboriginal Cultural Heritage</b>	<p>The EIS was accompanied by an Aboriginal Cultural Heritage Assessment Report (ACHAR).</p> <p>The EIS was reviewed by Heritage NSW who requested additional information to demonstrate that consultation regarding the project has been ongoing.</p> <p>The additional information was provided with the RtS and Heritage NSW raised no concerns regarding the proposal and recommended conditions to be imposed.</p> <p>The Department has considered the Applicant's ACHAR and recommends conditions as recommended by Heritage NSW be implemented on the consent.</p>	<p><b>Condition D2</b> requires the Applicant to implement Aboriginal heritage management procedures in the Construction Environmental Management Plan</p> <p><b>Conditions E23-E28</b> sets out the requirements for uncovering Aboriginal objects.</p>

Issue	Findings and conclusions	Recommended conditions
<b>Crime Prevention Through Environmental Design (CPTED)</b>	<p>The EIS was accompanied by a CPTED assessment, which considered how the proposal meets the CPTED principles of territorial reinforcement, surveillance, access control and space/activity management.</p> <p>The CPTED assessment undertook a review of the proposal and did not identify any major crime or safety concerns.</p> <p>The Department is satisfied that the development will not result in unacceptable safety or security impacts.</p>	Nil
<b>Stormwater</b>	<p>Council raised concerns regarding stormwater management on the site and recommended conditions of consent.</p> <p>One public submission raised concerns regarding weather risk and structural damage to 781 Pacific Highway as a result of potential rainwater and drainage downwash from the proposed development.</p> <p>The Applicant amended their proposal to extend the Level 1 slab to the east as a canopy projection of the proposed Albert Lane footpath.</p> <p>The Department considers that the Applicant has addressed Council's concerns with the amended proposal and recommends conditions in relation to ongoing stormwater management on site as recommended by Council and to ensure structural feasibility is maintained at all times.</p>	Conditions C10, C19-C21, D1, E18-E20, F31-F32, F39, F41-F45, F48 and G1 sets out the requirements for stormwater design and management.
<b>Dewatering</b>	<p>The EIS was accompanied by a Surface and Groundwater Impact Assessment which determined relatively low inflow levels that were below 3 ML/year.</p> <p>NSW DCCEEW recommended that should dewatering exceed 3ML/year, a Water Access License with sufficient entitlement in the correct water source to account for the groundwater take must be obtained.</p>	Condition D1 set out standard conditions for construction.

Issue	Findings and conclusions	Recommended conditions
	The Department recommends standard conditions for construction be imposed only.	
<b>Land Use, Site amalgamation and relationship with 781 Pacific Highway, Chatswood</b>	<p>Clause 6.16 of WLEP 2012 specifies a minimum lot size of 1,800m<sup>2</sup> for commercial development in Chatswood CBD in the E2: Commercial Centre zone. This clause is not applicable to the application as the development is for BTR that is not classified as a commercial development.</p> <p>However, Council has raised concern that WDCP 2023 and the Chatswood CBD Strategy envisage the site would be amalgamated with the adjoining site at 781 Pacific Highway for commercial development. Council also raised concern regarding the residential land use within the E2 Commercial Centre zone.</p> <p>The Department has considered concerns raised by Council and considers the proposal achieves an acceptable relationship with the existing building and adjoining lot at 781 Pacific Highway as:</p> <ul style="list-style-type: none"> <li>• BTR is a permissible and desirable use in the E2 zone under the Housing SEPP and will positively contribute to the Chatswood CBD context</li> <li>• the future redevelopment of 781 Pacific Highway would likely be on the basis that it accommodates a BTR tower, similar to the proposal, or an alternate non-office use which is permissible in the E2 zone</li> <li>• to unlock the development potential of the adjoining site, enabling a zero lot setback is essential as it provides sufficient GFA to support a viable redevelopment outcome as well as an amalgamated sale of the site in future</li> </ul>	Nil
<b>Air rights</b>	One public submission raised concerns regarding an infringement of air rights on the illuminated signage present on the southern façade of the building at 781 Pacific Highway.	Nil

Issue	Findings and conclusions	Recommended conditions
	<p>The Applicant has advised that the existing signage structure and lights occupy the airspace above 781 Pacific Highway under a license agreement, which expired on 31 December 2024. The Department considers that there are no other arrangements for the signboard which would prevent the proposed redevelopment from taking place.</p>	
<b>Contributions</b>	<p>Council raised concerns regarding infrastructure contributions, specifying intersection upgrades are required in full and should be provided with the development.</p> <p>The Department has reviewed the applicant's Traffic Impact Assessment which concludes that the proposal will generate up to 30 vehicles per hour which can be readily accommodated by the existing road network. No intersection upgrades are required to accommodate the proposal.</p> <p>The development is subject to the following contribution requirements:</p> <ul style="list-style-type: none"> <li>• section 7.11 contributions under Willoughby Local Infrastructure Contributions Policy and Plan 2019; and</li> <li>• Housing Productivity Contribution.</li> </ul> <p>The Department has recommended conditions requiring the payment of contributions prior to the issue of a Construction Certificate for the development.</p>	<p>Conditions A7 &amp; A8 set out the requirements for contributions.</p>
<b>Engagement</b>	<p>The EIS was accompanied by a Stakeholder Engagement Report which describes the engagement undertaken by the Applicant prior to lodging the application.</p> <p>Two public submissions raised concerns regarding a lack of effective engagement with the community and stakeholders.</p> <p>The Department considers that the engagement was conducted in a manner consistent with the relevant</p>	<p>Nil</p>

Issue	Findings and conclusions	Recommended conditions
	<p>guidelines contained in <i>Undertaking Engagement Guidelines for State Significant Projects (October 2022)</i>.</p>	
<p><b>Impacts to businesses</b></p>	<p>Two public submissions, (including one from an existing commercial tenant whose business would be demolished), raised concerns regarding impacts to nearby businesses during investigative works, demolition and from construction traffic. One public submission raised concerns regarding loss of revenue.</p> <p>The Department is satisfied that the development can be constructed to appropriate standards, without causing damage to nearby buildings or resulting in any unreasonable amenity impacts. Construction impacts associated with the proposal can be appropriately managed, subject to conditions of consent.</p> <p>The Department notes the development proposes a retail use on the ground floor and considers that the operation of existing businesses on site are subject to existing commercial agreements which fall beyond the scope of this development application.</p> <p>The Department has assessed the merits of the proposal in detail within <b>Section 5</b> of this report and concludes, subject to conditions the development has acceptable impacts. The Department is therefore satisfied the proposal is unlikely to result in any significant adverse amenity impacts.</p>	<p>Conditions D1-D7, E1 and E8-E15 sets out the requirements for mitigating any construction impacts, including respite periods.</p>

## 6 Evaluation

120. The Department's assessment has considered the relevant matters and objects of the EP&A Act, including the principles of ESD, advice from government agencies, Council and public submissions, and government policies and plans.
121. The Department's assessment concludes that the proposal is acceptable as:
- it supports State government priorities to deliver well-located housing by delivering 198 BTR apartments in a highly accessible location
  - it provides commercially managed residential accommodation, together with 167m<sup>2</sup> of retail floor space at the ground floor level, which would collectively generate 70 on-going employment opportunities
  - it achieves design excellence in its architectural expression, use of high-quality materials, good residential amenity and positive contribution to the public domain
  - it provides a bulk and scale which is compatible with the character of the area and an appropriate built-form relationship to adjoining development in the Chatswood CBD
  - the proposed heritage re-interpretation strategy of the Old Fire Station provides the most appropriate response for the site
  - it does not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
  - it would deliver public benefits by delivering active street frontages and generate up to 194 construction jobs and 70 operational jobs.
122. The Department has recommended a range of conditions to manage any residual environmental impacts and for a more detailed heritage interpretive design to be developed in consultation with Council following dismantling of the façade. See the recommended conditions of consent at **Appendix E**.
123. The Department considers the impacts of the development are acceptable and can be appropriately managed or mitigated through the implementation of recommended conditions of consent. Consequently, the Department considers the proposal is in the public interest and is approvable, subject to conditions.



# Appendices

## Appendix A – List of referenced documents, submissions and advice

The following documents can be accessed at <https://www.planningportal.nsw.gov.au/major-projects/projects/novus-albert-763-769-pacific-highway-chatswood-build-rent>.

- Environmental Impact Statement.
- Response to submission report.
- Applicant's additional information.
- Submissions (pubic and Council).
- Government agency advice.

## Appendix B – Statutory considerations

### Matters of consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is shown in Table 8 below.

**Table 8 |** Matters for consideration

Matter for consideration	Department's assessment
<b>Environmental planning instruments, proposed instruments, development control plans &amp; planning agreements</b>	<ul style="list-style-type: none"> <li>• Appendix B – Statutory considerations</li> </ul>
<b>EP&amp;A Regulation</b>	<ul style="list-style-type: none"> <li>• Appendix B – Statutory considerations</li> </ul>
<b>Likely impacts</b>	<ul style="list-style-type: none"> <li>• Section 5 - Assessment</li> <li>• Appendix B – Statutory considerations</li> <li>• Appendix C – Assessment of Overshadowing Impacts</li> <li>• Appendix D – Assessment of View Loss and Visual Impacts</li> </ul>
<b>Suitability of the site</b>	<ul style="list-style-type: none"> <li>• Section 1 - Introduction</li> <li>• Section 3 - Policy and statutory context</li> <li>• Section 5 - Assessment</li> <li>• Appendix B – Statutory considerations</li> <li>• Appendix C – Assessment of Overshadowing Impacts</li> <li>• Appendix D – Assessment of View Loss and Visual Impacts</li> </ul>
<b>Public submissions</b>	<ul style="list-style-type: none"> <li>• Section 4 - Engagement</li> <li>• Section 5 - Assessment</li> <li>• Appendix B – Statutory considerations</li> <li>• Appendix C – Assessment of Overshadowing Impacts</li> <li>• Appendix D – Assessment of View Loss and Visual Impacts</li> </ul>

Matter for consideration	Department's assessment
Public interest	<ul style="list-style-type: none"> <li>• Section 4 - Engagement</li> <li>• Section 5 - Assessment</li> <li>• Section 6 - Evaluation</li> <li>• Appendix B – Statutory considerations</li> <li>• Appendix C – Assessment of Overshadowing Impacts</li> <li>• Appendix D – Assessment of View Loss and Visual Impacts</li> </ul>

## Objects of the EP&A Act

In determining the application, the consent authority should consider whether the project is consistent with the relevant objects of the EP&A Act (s 1.3) including the principles of ESD. Consideration of those factors is described in Table 9 below.

As a result of its analysis, the Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ESD.

**Table 9 |** Objects of the EP&A Act and how they have been considered

Object	Consideration
<b>(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,</b>	<ul style="list-style-type: none"> <li>• The proposal promotes the social and economic welfare of the community by providing additional housing and jobs at a highly accessible site, contributing to the achievement of State, regional and local planning objectives.</li> <li>• The proposed development does not have any impacts on the State's natural or other resources.</li> </ul>
<b>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</b>	<ul style="list-style-type: none"> <li>• The proposal includes ESD initiatives and sustainability measures, which aims to meet the ESD requirements via an equivalent outcome to a Green Star 5-star rating for a level Australian Excellence for its design and construction.</li> </ul>

Object	Consideration
(c) to promote the orderly and economic use and development of land,	<ul style="list-style-type: none"> <li>• The proposal represents the orderly and economic use of the land primarily as it will increase employment and housing opportunities near services and public transport.</li> <li>• The proposed land uses are permissible, and the form of the development has had regard to the planning controls that apply to the site, the character of the locality and the context of surrounding sites.</li> </ul>
(d) to promote the delivery and maintenance of affordable housing,	<ul style="list-style-type: none"> <li>• The proposal will result in the delivery of 198 BTR units which contributes to housing supply.</li> </ul>
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<ul style="list-style-type: none"> <li>• The proposal will not adversely affect the protection of the environment.</li> </ul>
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	<ul style="list-style-type: none"> <li>• The proposal will not have any unreasonable heritage impacts. Also see discussion in Section 5 and Appendix B.</li> </ul>
(g) to promote good design and amenity of the built environment,	<ul style="list-style-type: none"> <li>• The proposal demonstrates a good design approach to the relevant planning controls and local character. The building has been designed to minimise amenity impacts to neighbours and the surrounding environment and to provide good levels of internal amenity.</li> <li>• Other amenity impacts would be managed by either the form of the development or by the recommended conditions of consent for mitigation measures during the construction and operational phase of the development.</li> </ul>

Object	Consideration
<b>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</b>	<ul style="list-style-type: none"> <li>• The proposal demonstrates that construction work will be undertaken in accordance with national construction standards, relevant regulation and the site-specific construction management plan. Any impacts during this phase will be monitored and managed in keeping with the conditions of consent set out to mitigate any impacts. Ongoing management and maintenance of the development shall be managed by the building management.</li> </ul>
<b>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</b>	<ul style="list-style-type: none"> <li>• The Department publicly exhibited the proposal as outlined in Section 4. This included consultation with Council and other Government agencies, and consideration of their responses.</li> </ul>
<b>(j) to provide increased opportunity for community participation in environmental planning and assessment.</b>	<ul style="list-style-type: none"> <li>• The Department publicly exhibited the application, which included notifying adjoining landowners and displaying the application on the Department's website.</li> <li>• The Department placed the Applicant's RtS and additional information on its website, in addition to providing a copy to Council and other relevant Government agencies.</li> <li>• The engagement activities carried out by the Department are detailed in Section 4.</li> </ul>

## Ecologically Sustainable Development

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

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

The proposal includes ESD initiatives and sustainability measures, which aims to meet the ESD requirements via an equivalent outcome to a Green Star 5-star rating for a level Australian Excellence for its design and construction. The proposal also exceeds the minimum requirements under BASIX. A copy of the Applicant's ESD report can be viewed at **Appendix A**.

The Department has considered the proposal 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 proposal. Overall, the proposal is consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act.

### **Biodiversity development assessment report**

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

A BDAR waiver request was submitted to the Department on 28 September 2023. The Environment Agency Head and the Director Social & Affordable Housing Assessments, as delegate of the Planning Secretary, determined that the development is not likely to have any significant impact on biodiversity values. A BDAR waiver was granted on 17 October 2023.

### **EP&A Regulation**

The EP&A Regulation requires the applicant to have regard to the *State Significant Development Guidelines* when preparing their application. In addition, the SEARs require the applicant to have regard to the following:

- Social Impact Assessment Guideline for State Significant Projects
- Undertaking Engagement Guidelines for State Significant Projects

The Department considers the requirements of the EP&A Regulations have been complied with.

### **Environmental Planning Instruments (EPIs)**

#### **SEPP (Planning Systems) 2021 (Planning Systems SEPP)**

Refer to Section 3 Table 3.



## SEPP (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)

The Transport and 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. An assessment of the development against the relevant considerations of the Transport and Infrastructure SEPP is provided in Table 10.

**Table 10 | Transport and Infrastructure SEPP compliance table**

Transport and Infrastructure SEPP standard	Consideration
<b>Division 5 Electricity transmission or distribution</b>	
<b>Subdivision 2 Development likely to affect an electricity transmission or distribution network</b>	
<b>2.48 Determination of development applications – other development</b>	<ul style="list-style-type: none"><li>• The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP.</li><li>• Ausgrid noted that underground cables are located in the vicinity of the development as well as overhead powerlines.</li><li>• Ausgrid recommended that the applicant locate and record the depth of all known underground services prior to any excavation in the area.</li><li>• Ausgrid also recommends consideration be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.</li><li>• Ausgrid also recommended driveways maintain a clearance of 1.5m from the nearest face of the pole to any part of the driveway to allow room for future pole replacements.</li><li>• The Department recommends standard conditions relating to construction be applied and special <b>Condition A9</b> for new driveways to maintain a clearance of 1.5m from the nearest face of poles.</li></ul>
<b>Division 12A Pipelines and pipeline corridors</b>	
<b>Subdivision 2 Development adjacent to pipeline corridors</b>	

Transport and Infrastructure SEPP standard	Consideration
<b>2.77 Determination of development applications</b>	<ul style="list-style-type: none"> <li>• The application was referred to Jemena Gas Networks pursuant to clause 2.77 of the SEPP due to the presence of Jemena gas pipelines located to the east of the proposed development.</li> <li>• Jemena has concluded that there will be no impact deriving from the development, or the continued operation of the pipeline due to the physical separation of 15m between the development and the pipelines.</li> </ul>

## Division 17 Roads and Traffic

### Subdivision 2 Development in or adjacent to road corridors or road reserves

<b>2.118 Development on proposed classified road</b>	<ul style="list-style-type: none"> <li>• The site contains land zoned SP2: Classified Road at the Pacific Highway and Albert Street frontages that is land reserved for road widening purposes.</li> <li>• The application proposes to demolish the Old Fire Station heritage item currently contained within the SP2 zone on the Pacific Highway frontage.</li> <li>• The application was referred to TfNSW who recommended all buildings and structures together with any improvements integral to the future use of the site be wholly within the freehold property unlimited in height or depth along the Pacific Highway boundary and clear of the SP2 zone.</li> <li>• The Department recommends conditions to ensure no buildings and structures are located in the SP2 zone.</li> </ul>
<b>2.119 Development with frontage to classified road</b>	<ul style="list-style-type: none"> <li>• The Department referred the development to TfNSW who raised no objection to the proposal, subject to the imposition of conditions requiring a Road Occupancy Licence be obtained from Transport Management Centre for any works that may impact on traffic flows on the state road during construction activities.</li> </ul>
<b>2.120 Impact of road noise or vibration on non-road development</b>	<ul style="list-style-type: none"> <li>• The development has a frontage to the Pacific Highway which is a classified road. In accordance with the SEPP, an Acoustic Report was submitted with the EIS, which demonstrated the proposed design is capable of compliance with the provisions of</li> </ul>

Transport and Infrastructure SEPP standard	Consideration
	<p>the Development Near Rail Corridors and Busy Roads - Interim Guideline and acoustic requirements.</p> <ul style="list-style-type: none"> <li>• The Department has considered construction and operational noise at Section 5.6 and concludes noise impacts can be managed and/or mitigated.</li> <li>• The Department recommends standard conditions to manage the impacts.</li> </ul>
<b>2.122 Traffic-generating development</b>	<ul style="list-style-type: none"> <li>• The development constitutes traffic generating development in accordance with clause 2.122 of the SEPP as it as it involves more than 75 dwellings.</li> <li>• The Department consulted with TfNSW and Council as the relevant roads authority for the classified road network.</li> </ul>
<b>Division 15 Railways</b> <b>Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors – notification and other requirements</b>	
<b>2.98 Development adjacent to rail corridors</b>	<ul style="list-style-type: none"> <li>• The development is not adjacent to a rail corridor.</li> </ul>
<b>2.99 Excavation in, above, below or adjacent to rail corridors</b>	<ul style="list-style-type: none"> <li>• As the proposal is SSD, concurrence is not required from Sydney Metro however, the Department referred the development to Sydney Metro who concluded that the development would have negligible impacts on the Sydney Metro City and Southwest rail corridor as the development does not involve excavation occurring: <ul style="list-style-type: none"> <li>– within, below or above, the Sydney Metro City &amp; Southwest rail corridor;</li> <li>– within 25m (measured horizontally) of the Sydney Metro City &amp; Southwest rail corridor;</li> <li>– within 25m (measured horizontally) of the ground directly below Sydney Metro City &amp; Southwest rail corridor; or</li> <li>– within 25m (measured horizontally) of the ground directly above an underground rail corridor.</li> </ul> </li> </ul>

The Department considers the proposed development to be consistent with the SEPP given the consultation and consideration of transport, traffic and parking issues in Section 5.5 and 5.6 and recommended conditions of consent in Appendix E.

### SEPP (Resilience and Hazards) 2021

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

- The application was accompanied by a Preliminary Site Investigation (PSI) and a Targeted Site Investigation (TSI), prepared by EI Australia.

The PSI identified:

- Low potential for Polyfluoroalkyl Substances (PFAS) contamination as the operation of the fire station on site likely predated the use of PFAS firefighting foam.
- Low risk from the operation of two former service stations from the 1950s to 1980s in close proximity to the site at 656-658 Pacific Highway (40m south west of the site) and 676 Pacific Highway (30m west of the site) as these sites have been recently redeveloped.
- Low to moderate potential contamination risk on the site as a result of a conceptual site model (CSM) and qualitative risk assessment as a result of the importation of fill from an unknown origin, improper demolition of former building structures that may have occurred historically, potential contamination of site soils from previous pesticide use, historic commercial use of the site, leaks from vehicles in the garage and parking areas and hazardous building products contained in existing site structures.

The PSI recommended a staged approach to the characterisation works as access to the site is currently restricted given that the existing building will not be demolished in the immediate future. The objective of this TSI was to appraise the potential for site contamination by means of intrusive sampling and laboratory analysis for relevant contaminants of concern and as a result, three boreholes were made at the rear of 767 and 769 Pacific Highway, Chatswood only. The TSI comprises of the first stage that is to be followed by a Detailed Site Investigation (DSI) once the other areas of the site can be accessed.

The TSI identified:

- The general site geology was a fill layer (sandy/silty clay, with an average thickness of 0.5 m), overlying natural sandy/silty clay (down to 4.8 mBGL, at BH102), overlying thinly to very thinly bedded shale weathered bedrock (down to 15.12 mBGL, at BH103M).

- Contaminant concentrations in representative fill and natural soil samples were found to be below the adopted human health applicable to mixed use-residential and commercial settings.
- A groundwater monitoring event (GME) was conducted on 9 August 2023, with depth to water reading of 11.17 mBGL (92.43 metres Australian Height Datum - mAHD).
- Groundwater at the site is anticipated to flow in a south-westerly direction, towards Swaines Creek, located approximately 800 m south west of the site.
- Local groundwater conditions were found to be slightly acidic (pH: 6.33), brackish (EC 858~S/cm) and in oxidising (Redox 229 mY).
- The laboratory analytical results for one representative groundwater sample were found to comply with the adopted criteria, except for copper and zinc, which have exceeded their respective ecological criteria. However, these metals likely to represent local urban disturbed background conditions, as opposed to site-specific impacts.

The TSI recommended:

- a Hazardous Materials Survey of the existing building is to be completed by a suitably qualified consultant prior to commencement of any demolition works.
- an inspection is to be undertaken by a suitably qualified consultant to confirm there are no visible signs of contamination at the surface.
- further characterisation of the site (DSI) required once the demolition works are complete and the remaining areas of the site can be accessed. Once the DSI is complete, a conclusion regarding the suitability of the site for its proposed use must be provided.
- a Waste Management Plan should be implemented to guide any excavation and earthworks following (and including) the removal of the concrete pavement and include procedures for final waste classifications prior to any off-site disposal in accordance with the NSW EPA (2014) Waste Classification Guidelines.
- an unexpected finds protocol is to be prepared to ensure any potential contamination sources are identified and managed in accordance with NSW EPA legislation and guidelines.
- any groundwater discharges for the purpose of site construction (dewatering) must only be done once the appropriate permits from Water NSW and Council are obtained.
- The Department requested additional information to demonstrate how the site is suitable in its contaminated state, or will be suitable after remediation for the proposed use. The Applicant submitted this additional information on 7 November 2024 which noted the following:

- In accordance with Section 4.6 of Resilience and Hazards SEPP, and based on the recommendations of the PSI, the historical use of the site and the investigation campaigns undertaken to date, the site can be made suitable for the proposed land use.
- A TSI has been undertaken across the accessible areas of the site, noting that portions of the site are subject to existing operating retail tenancies and are not accessible for the purposes of intrusive investigations prior to demolition. As detailed in its Table 7-2, the TSI did not identify concentrations of any potential contaminants above the adopted acceptance criteria set out in Table 5-3 for the proposed mixed-use residential land use.
- A further DSI is proposed to be undertaken post-demolition of the site to confirm the findings to date. If the results vary from the findings to date and contamination is identified which may pose risks to human or ecological receptors on site, a Remedial Action Plan should be prepared describing the remediation and validation works necessary to render the site suitable for its proposed use. If no contamination is detected, no further action would be required.

The Department considers the site can be made suitable for the proposed development, subject to the remediation works and has recommended conditions to ensure the proposal addresses the requirements of the Resilience and Hazards SEPP.

#### **SEPP (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)**

Chapter 2 of the Biodiversity and Conservation SEPP aims to protect the biodiversity value of trees and other vegetation in non-rural areas. An application was received by the Department to waive the requirement to prepare a Biodiversity Development Assessment Report. BCS provided determination on 17 October 2023 that the proposed development is not likely to have any significant impact on biodiversity values and the application, did not require submission of a BDAR.

The Department considers the BDAR Waiver satisfies the applicable provisions of Chapter 2 of the Biodiversity and Conservation SEPP.

#### **SEPP (Sustainable Buildings) 2022 (Sustainable Buildings SEPP)**

The Sustainable Buildings SEPP encourages the design and construction of more sustainable buildings across to help meet climate change targets.

A BASIX certificate was submitted with the application demonstrating the proposal achieves compliance with the relevant standards under the SEPP. The Department recommends **Conditions C18, F12 and G12** requiring compliance with the BASIX certificate.

#### **SEPP (Housing) 2021 (Housing SEPP)**

A summary of the Department's consideration of the relevant standards contained in the State Environmental Planning Policy (Housing) 2021 are provided in **Table 11** below.



**Table 11 | Housing SEPP compliance table**

Housing SEPP standard	Consideration
<b>Chapter 3, Part 4 – Build-to-rent housing</b>	
<b>72. Development for the purposes of build-to-rent housing permitted with consent</b>	<ul style="list-style-type: none"> <li>• The Housing SEPP enables certain residential accommodation to be used as BTR housing.</li> <li>• The proposal comprises residential development for the purposes of Build to Rent (BTR) housing on land zoned E2: Commercial Centre in WLEP 2012.</li> <li>• The proposal will result in at least 50 dwellings occupied or intended to be occupied by individuals under residential tenancy agreements, and all buildings containing dwellings that will be located on the same lot.</li> <li>• The proposal demonstrates that a total of 198 resident dwellings can be provided and occupied by individuals under residential tenancy agreements.</li> </ul>
<b>73. Conditions of build-to-rent housing to apply for at least 15 years</b>	<ul style="list-style-type: none"> <li>• The Housing SEPP requires the tenanted component of the building to not be subdivided into separate lots and for the tenanted component of the building will be owned, controlled and operated by a managing agent who provides on-site management.</li> <li>• The applicant has stated that the tenanted component of the building will not be subdivided, and the building will be owned and controlled by the Applicant.</li> <li>• The Department is satisfied the proposal is consistent with the conditions of build-to-rent and <b>Condition G13</b> is recommended to enforce the requirements of ongoing BTR operations.</li> </ul>
<b>74 (2)(a) Non-discretionary (development standard - building height)</b>	<ul style="list-style-type: none"> <li>• The development has a building height of RL 193.877 which complies with the 90m height limit under WLEP 2012.</li> <li>• The Department is satisfied the proposal is consistent with the building height requirements.</li> </ul>
<b>74 (2)(b) Non-discretionary development standard - FSR</b>	<ul style="list-style-type: none"> <li>• The site has no prescribed maximum FSR under the provisions of WLEP 2012. The development proposes a total FSR of 11.44:1.</li> <li>• The Department is satisfied the proposal is consistent with the FSR requirements.</li> </ul>

Housing SEPP standard	Consideration
<b>74 (2)(d) Non-discretionary development standard -parking</b>	<ul style="list-style-type: none"> <li>The site is located within an accessible area and therefore is subject to the 0.2 parking spaces for each dwelling rate, equating to a total of 40 spaces. The proposal provides a total of 53 parking spaces. The Department supports the proposed parking on this site as discussed in Section 5.</li> </ul>
<b>75. Design requirements</b>	<ul style="list-style-type: none"> <li>The development seeks to utilise the flexible design criteria under this clause. More detail on this is provided in Table 12.</li> </ul>
<b>76. Active uses on ground floor of build-to-rent housing in business zones.</b>	<ul style="list-style-type: none"> <li>The Housing SEPP requires developments within business zones to have an active street frontage.</li> <li>The site is zoned 'E2 Commercial Centre' and the proposal will provide the following active uses at the ground floor level: <ul style="list-style-type: none"> <li>A retail use fronting both the Pacific Highway and Albert Avenue, accessible from both frontages.</li> <li>A BTR lobby accessible from Albert Avenue with frontages to both Albert Avenue and Albert Lane.</li> <li>Additional pedestrian access for residents from the Pacific Highway frontage.</li> </ul> </li> </ul>
<b>77. Contributions on Affordable Housing</b>	<ul style="list-style-type: none"> <li>The site is not required to deliver affordable housing and no affordable housing is proposed.</li> </ul>
<b>78. Subdivision</b>	<ul style="list-style-type: none"> <li>The proposal does not involve the subdivision of a residential flat building.</li> </ul>

## Chapter 6 – Low and Mid Rise Housing

Chapter 6 of the Housing SEPP, Low and mid-rise housing, was introduced on February 28, 2025. This chapter applies to residentially zoned land within 800 meters walking distance of 171 centres and stations, mandating the permissibility of certain developments and introducing new development standards. The provisions of Chapter 6 are not applicable to the development because the site is zoned E2: Commercial Centre and is not located within 800m of an identified centre or station and the site contains a heritage item.

## Schedule 9 Design Principles

Housing SEPP standard	Consideration
<b>1. Context and neighbourhood character</b>	<ul style="list-style-type: none"> <li>The Department finds the proposal responds appropriately to the desirable elements of Willoughby City's existing and future planned context as discussed in <b>Section 5</b> and is therefore consistent with Principle 1.</li> </ul>
<b>2. Built form and scale</b>	<ul style="list-style-type: none"> <li>The Department considers the scale, bulk and height of the proposed tower is appropriate to the existing and desired future character of Willoughby City as discussed in <b>Section 5</b>.</li> </ul>
<b>3. Density</b>	<ul style="list-style-type: none"> <li>The Department has assessed the density having regard to the built form and potential impact of the floorspace such as traffic generation, amenity impacts and demand on existing/future infrastructure in <b>Section 5</b>.</li> <li>The Department is satisfied the proposal has strategic merit would not have adverse built form, traffic, amenity or heritage impacts (<b>Section 5</b>).</li> <li>The proposal would revitalise the site and surrounds and includes significant public domain improvements resulting in substantial public benefits.</li> </ul>
<b>4. Sustainability</b>	<ul style="list-style-type: none"> <li>The Applicant submitted a ESD Report demonstrating a commitment to ESD principles and that minimum Green Star and NABERS ratings are achieved or exceeded.</li> </ul>
<b>5. Landscape</b>	<ul style="list-style-type: none"> <li>The Department is satisfied the proposed landscaping incorporates variable soil depths, diversity of plant species and improved ecology.</li> </ul>
<b>6. Amenity</b>	<ul style="list-style-type: none"> <li>The Department is satisfied the proposed development generally complies with the requirements of the Housing SEPP and is consistent with the ADG and has demonstrated that residential units are capable of achieving satisfactory residential amenity with regards to solar access, natural ventilation and privacy.</li> </ul>
<b>7. Safety</b>	<ul style="list-style-type: none"> <li>The Applicant has submitted a CPTED report and the Department is satisfied that the proposal provides an appropriate framework to ensure the site and public domain is safe.</li> </ul>

Housing SEPP standard	Consideration
<b>8. Housing diversity and social interaction</b>	<ul style="list-style-type: none"> <li>The Department is satisfied that the development will increase housing supply in the locality and will provide a mix of apartment types.</li> </ul>
<b>9. Aesthetics</b>	<ul style="list-style-type: none"> <li>The proposal has been subject to a design competition and the amended proposal was reviewed by the DIP prior to lodgement of the RTS. The Department is satisfied that the development demonstrates design excellence.</li> </ul>

### Apartment Design Guide

The ADG sets out a number of guidelines for residential flat development to ensure apartments are provided with an appropriate level of residential amenity. The Housing SEPP advises consent authorities to be flexible when they apply the ADG's criteria to applications to build a BTR development. The Housing SEPP specifies criteria and the approach it recommends for consent authorities.

BTR developers tend to focus on shared facilities and services and more communal space for each apartment. The Housing SEPP recognises that design flexibility can be beneficial for tenants, while also allowing developers to build a more attractive product for the market.

### Applying Flexibility

The Housing SEPP identifies three areas where consent authorities must apply flexibility when considering ADG criteria and the Applicant seeks to apply the ADG flexibly in the following areas:

- 4E: Balconies and private open space;
- 4G: Storage; and;
- 4K: Apartment mix.

### Considering Flexibility

There are different types of BTR housing, and each development needs to reflect the context of its location and neighbourhood. There are aspects of building design the Housing SEPP does not mention where flexible design could bring greater benefits. These may be supported within the limits of the ADG. In relation to these, the Applicant also seeks to flexibly apply the design criteria and guidance applicable to the following:

- 4A: Solar and Daylight Access
- 4D: Apartment size and layout.

A consistency assessment against the guidelines within the ADG, applying flexibility where sought, is provided in Table B5.

**Table 12 | ADG consistency assessment**

ADG Principle	Consistent	Department's Comments
<b>3A Site Analysis</b>	Yes	<ul style="list-style-type: none"> <li>The applicant has prepared detailed site analysis that demonstrates design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</li> </ul>
<b>3B Orientation</b>	Yes	<ul style="list-style-type: none"> <li>The building type and layout respond to the streetscape and site while optimising solar access within the development and minimise overshadowing to neighbouring properties during mid-winter.</li> </ul>
<b>3C Public Domain Interface</b>	Yes	<ul style="list-style-type: none"> <li>The transition between private and public domain would not compromise safety and security and would enhance the public domain.</li> </ul>
<b>3D Communal and Public Open Space</b> <ul style="list-style-type: none"> <li>Communal open space has a minimum area equal to 25% of the site area. <ul style="list-style-type: none"> <li>Site Area: 1347.7m<sup>2</sup> (excl. SP2 zone)</li> <li>Required: 336.925m<sup>2</sup></li> </ul> </li> </ul>	Yes	<ul style="list-style-type: none"> <li>The development provides for a total of 1,165m<sup>2</sup> (86%) of communal open space across the ground floor and levels 1 and 26 of the building that is consistent.</li> <li>The communal open space areas meet the minimum dimensions and are considered to provide equitable access from common circulation areas, entries and lobbies.</li> </ul>
<ul style="list-style-type: none"> <li>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9am and 3pm on 21 June (mid-winter).</li> </ul>	On Merit	<ul style="list-style-type: none"> <li>Generally consistent solar access is provided to the communal open space areas within the development.</li> <li>The equivalent of 50% of the principal useable parts of the communal spaces (internal and external) achieve a minimum of 2 hours direct sunlight between 10am and 4pm during the winter solstice.</li> <li>Due to the site constraints, the internal communal area has been included in the solar access calculations. The internal spaces on level 1 and rooftop utilise glazed roof lights to maximise solar access. The time of day for</li> </ul>

ADG Principle	Consistent	Department's Comments
		<p>assessment has been shifted from 10am to 4pm based on the site constraints.</p> <ul style="list-style-type: none"> <li>The Department considers the level of solar access received by the communal areas to be satisfactory in the site context and is acceptable.</li> </ul>
<p><b>3E Deep Soil Zones</b></p> <ul style="list-style-type: none"> <li>Deep soil zones are to meet the following minimum requirements: <u>Site area &gt;1,500m<sup>2</sup></u></li> <li>Minimum dimensions of 6m and 7% of site area.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The site has a total developable area of 1347.7m<sup>2</sup> which requires a minimum deep soil area of 94.339m<sup>2</sup> (7%). The development provides a total of 130m<sup>2</sup> (9.6%) of deep soil landscaping that is consistent.</li> </ul>
<p><b>3F Visual Privacy</b></p> <ul style="list-style-type: none"> <li>Separation distance between windows and balconies is provided to ensure visual privacy is achieved. Minimum requires separation distance from buildings to the side and rear boundaries are as follows: <u>Building up to 12m (4 storeys)</u></li> <li>6m between habitable rooms and balconies,</li> <li>3m between non-habitable rooms.</li> <li><u>Building up to 25m (5-8 storeys)</u></li> <li>9m between habitable rooms and balconies, 4.5m between non-habitable rooms.</li> <li><u>Building over 25m (9+ storeys)</u></li> </ul>	On Merit	<ul style="list-style-type: none"> <li>The development has a height of 27 storeys and adequate building separation is provided to maintain visual privacy within the development and/or to surrounding properties.</li> <li>A detailed assessment on setbacks and visual privacy is provided in <b>Section 5 and Appendix D</b> of this report.</li> </ul>



ADG Principle	Consistent	Department's Comments
<ul style="list-style-type: none"> <li>• 12m between habitable rooms and balconies, 6m between non-habitable rooms.</li> <li>• Increased separation of 3m where adjoins a lower density zone</li> </ul>		
<b>3G Pedestrian Access and Entries</b>	Yes	<ul style="list-style-type: none"> <li>• Pedestrian access and entries to the development are accessible and easy to identify.</li> </ul>
<b>3H Vehicle Access</b>	Yes	<ul style="list-style-type: none"> <li>• The vehicle access point is designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>3J Bicycle and Car Parking</b></li> <li>• For development in the following locations: <ul style="list-style-type: none"> <li>– on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area, or</li> <li>– on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.</li> </ul> </li> <li>• The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever less.</li> <li>• The car parking need for a development must be provided off-street.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>• The site is located in an accessible area and is to provide car parking with having regard to the Housing SEPP. See <b>Section 5</b> for discussion on bicycle and parking.</li> </ul>

ADG Principle	Consistent	Department's Comments
<b>4A Solar and Daylight Access</b> <ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of units in a building receive minimum of 2 hours direct sunlight</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>95/198 (48%) of units receive at least 2 hours mid-winter.</li> <li>The proposal is relying on ADG flexibility and solar access is discussed in detail in Section 5 and Appendix C of this report.</li> </ul>
<ul style="list-style-type: none"> <li>A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>All units receive direct sunlight.</li> <li>The application is consistent with the remaining objectives of this part of the ADG, ensuring that daylight access is satisfactory and incorporates shading in the warmer months.</li> </ul>
<b>4B Natural Ventilation</b> <ul style="list-style-type: none"> <li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be naturally ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>36/58 units (62%) achieve cross ventilation in accordance with the ADG.</li> <li>All habitable rooms are provided with at least one window for natural ventilation.</li> <li>The proposal uses a combination of sliding windows and doors to achieve appropriate cross ventilation within the building.</li> </ul>
<ul style="list-style-type: none"> <li>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The development comprises a mix of units that are dual aspect and corner units with limited depth.</li> </ul>
<b>4C Ceiling Heights</b> <ul style="list-style-type: none"> <li>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</li> <li>Habitable rooms</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The ceiling heights within all units is consistent with the minimum requirements.</li> </ul>

ADG Principle	Consistent	Department's Comments
<p>2.7m.</p> <ul style="list-style-type: none"> <li>Non-habitable rooms</li> </ul> <p>2.4m.</p>		
<p><b>4D-1 Apartment Size and Layout</b></p> <ul style="list-style-type: none"> <li>Apartments are required to have the following minimum internal areas:</li> <li>Studio 35m<sup>2</sup>.</li> <li>One bedroom 50m<sup>2</sup>.</li> <li>Two bedroom 70m<sup>2</sup>.</li> <li>Three bedroom 90m<sup>2</sup>.</li> <li>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</li> <li>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>All 1 bed, 2 bed and 3 bed units have internal areas that meet or are in excess of the minimum ADG guidelines. The proposed sizes and layouts of each unit is acceptable.</li> <li>Approximately 50% of the studio apartment types provided are less than the ADG guideline of 35m<sup>2</sup> for a studio unit. However, all the studios have been designed to maximise the useability of the internal areas, with detailed spatial planning undertaken, including furniture layout options, to ensure that resident amenity is maximised.</li> <li>62% of units including the BTR studios achieve consistency in functional dimensions for living rooms.</li> <li>83% of units meet the requirements in terms of bedroom dimensions and area.</li> <li>All kitchens are separate to the circulation spaces.</li> <li>The proposal is consistent with the objectives of this part of the ADG.</li> </ul>
<ul style="list-style-type: none"> <li>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The Applicant states the proposal achieves consistency with the minimum glazed area to each habitable room.</li> </ul>

ADG Principle	Consistent	Department's Comments
not be borrowed from other rooms.		
<ul style="list-style-type: none"> <li>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>Unit layouts and facades have been considered together to provide good distribution of natural light. Living and dining rooms and kitchens in open plan layouts, generally have a maximum depth of 8m, supported by 2.7m ceilings (apart from localised bulkheads). There are 4 instances in the southern end of the podium, where the 8m depth is measured to the front of the kitchen joinery backbench. This is a direct result of the solar strategy where the living room has been extended to capture sun on the east and west.</li> </ul>
<ul style="list-style-type: none"> <li>In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>See above.</li> </ul>
<ul style="list-style-type: none"> <li>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</li> </ul>	Yes	<ul style="list-style-type: none"> <li>83% of units achieve consistency in functional dimensions for bedrooms, meeting minimum dimensions.</li> </ul>
<ul style="list-style-type: none"> <li>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>See above.</li> </ul>
<ul style="list-style-type: none"> <li>Living rooms or combined living/dining rooms have a minimum width of:</li> <li>One bedroom apartments 3.6m.</li> <li>Two or three bedroom apartments 4m.</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>100% of 1 bed, 2 bed &amp; 3 bed units achieve consistency in functional dimensions for living rooms.</li> <li>62% of units including the BTR studios achieve consistency in functional dimensions for living rooms, meeting minimum dimensions.</li> </ul>

ADG Principle	Consistent	Department's Comments
<ul style="list-style-type: none"> <li>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>Cross-through apartments are appropriately sited in the building and meet the minimum dimensions.</li> </ul>
<b>4E Private Open Space and Balconies</b> <ul style="list-style-type: none"> <li>All apartments are required to have primary balconies as follows:</li> <li>Studio apartments 4m<sup>2</sup>.</li> <li>One bedroom apartments 8m<sup>2</sup> with a minimum depth of 2m.</li> <li>Two bedroom apartments 10m<sup>2</sup> with a minimum depth of 2m.</li> <li>Three+ bedroom apartments 12m<sup>2</sup> with a minimum depth of 2.4m.</li> <li>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>The Applicant seeks to apply flexibility to the provision of private open space on the basis that reduced private open space is offset by the quantum of and quality of external and internal communal open space throughout the building.</li> <li>Balcony sizes throughout the building have been maximised where possible, however a strong emphasis has been placed on ensuring the internal amenity such as living and bedroom sizes has been optimised.</li> <li>Balcony shape has been provided with usable space in mind.</li> <li>The design employs full glazing from living and bedrooms to the balcony in most cases, to maximise the sense of openness and visual connection.</li> <li>The east-facing studios do not have a balcony to facilitate an improved internal space rather than compromised internal space with a Juliette balcony. In addition, the eastern studios have a significant level of cross ventilation, with operable windows, including casement windows, representing approximately 75% of the glazing within the apartment. In addition, internal space is amplified with clever use of a built-in window storage seat to further optimise resident amenity within these apartments.</li> <li>When balcony areas are reduced, the average balcony reduction of 2.2m<sup>2</sup> per unit, is offset by approximately 5.2m<sup>2</sup> additional internal communal space per dwelling beyond the minimum stated in the ADG.</li> <li>The internal spaces of the pool on level 1 and the residents rooftop dining are designed with strong</li> </ul>

ADG Principle	Consistent	Department's Comments
		<p>connection to nature with landscape and glazed roof lights.</p> <ul style="list-style-type: none"> <li>Therefore, the Department finds the proposed scheme for balancing private open space and offsetting this with high amenity communal open space areas is acceptable.</li> </ul>
<b>4F Common Circulation and Spaces</b> <ul style="list-style-type: none"> <li>The maximum number of apartments off a circulation core on a single level is eight</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The maximum number of units proposed on a single level is 8 that is serviced by 3 lifts.</li> </ul>
<ul style="list-style-type: none"> <li>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</li> </ul>	On Merit	<ul style="list-style-type: none"> <li>3 lifts are provided to service the building, with a ratio of approximately 1 lift per 66 apartments.</li> <li>The Applicant has submitted a Vertical Transport strategy with all lifts forecast to operate within the required standards for wait times and level of service.</li> </ul>
<b>4G Storage</b> <ul style="list-style-type: none"> <li>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</li> <li>Studio apartments 4m<sup>3</sup>.</li> <li>One bedroom apartments 6m<sup>3</sup>.</li> <li>Two bedroom apartments 8m<sup>3</sup>.</li> <li>Three+ bedroom apartments 10m<sup>3</sup>.</li> <li>At least 50% of the required storage is to be located within the apartment.</li> </ul>	Flexibility	<ul style="list-style-type: none"> <li>75% of units achieve the minimum internal storage within the unit.</li> <li>This shortfall is supplemented by a large communal basement storage which will be allocated according to need of residents, due to the high level of building management provided in BTR.</li> <li>The storage cages are provided at a rate of 1 per 2 units.</li> </ul>



ADG Principle	Consistent	Department's Comments
<b>4H Acoustic Privacy</b>	Yes	<ul style="list-style-type: none"> <li>The development minimises the transfer of noise through the siting of buildings and building layout and noise impacts are to be mitigated through layout and acoustic treatments. A detailed assessment on acoustic privacy is provided in <b>Section 5</b> of this report.</li> </ul>
<b>4J Noise and Pollution</b>	Yes	<ul style="list-style-type: none"> <li>A detailed assessment on noise is provided in <b>Section 5</b> of this report.</li> </ul>
<b>4K Apartment Mix</b>	Yes	<ul style="list-style-type: none"> <li>The development proposes a total of 198 units in the following mix: <ul style="list-style-type: none"> <li>– Studio: 76 units (38.38%)</li> <li>– 1 bed: 24 units (12.12%)</li> <li>– 2 bed: 92 units (46.46%)</li> <li>– 3 bed: 6 units (3.03%)</li> </ul> </li> <li>Therefore, there are a range of apartment types and sizes to cater for different household types now and into the future.</li> </ul>
<b>4L Ground Floor Apartments</b>	N/A	<ul style="list-style-type: none"> <li>No units are proposed on the ground floor level.</li> </ul>
<b>4M Facades</b>	Yes	<ul style="list-style-type: none"> <li>Building facades provide visual interest along the street.</li> </ul>
<b>4N Roof Design</b>	Yes	<ul style="list-style-type: none"> <li>The treatments to the roof are integrated into the building design.</li> </ul>
<b>4O Landscape Design</b> <ul style="list-style-type: none"> <li>Recommended planting in deep soil zones:</li> <li>SA: between 850m<sup>2</sup>-1500m<sup>2</sup> = 1 large tree or 2 medium trees per 90m<sup>2</sup> of deep soil zone</li> </ul>	Yes	<ul style="list-style-type: none"> <li>A total of 128.9m<sup>2</sup> (9.6%) of deep soil is provided, excluding the SP2 zoned land.</li> <li>A detailed and thorough landscaping design is proposed that contributes to the streetscape and amenity and contains a variety of large and medium trees.</li> <li>A further assessment of landscaping is provided in <b>Section 5</b> and <b>Appendix B</b> of this report.</li> </ul>
<b>4P Planting on Structures</b> <ul style="list-style-type: none"> <li>Minimum soil standards for plant types and sizes.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The development proposes planting in the internal pool/spa area as well as the external communal spaces that are considered to be appropriately selected and</li> </ul>

ADG Principle	Consistent	Department's Comments
		<p>contribute to the quality and amenity of the development.</p> <ul style="list-style-type: none"> <li>Suitable soil depths are provided for the small, medium and large trees proposed upon the structures.</li> </ul>
<b>4Q Universal Design</b>	Yes	<ul style="list-style-type: none"> <li>A variety of apartments with adaptable designs and features are provided to promote flexible housing for all community members.</li> </ul>
<b>4R Adaptive Reuse</b>	Yes	<ul style="list-style-type: none"> <li>The application involves demolition of the existing structures and construction of a new BTR development therefore, adaptive reuse is not proposed. Heritage interpretation of the existing Willoughby Fire Station is proposed that will complement and enhance the identity of the area and sense of place.</li> </ul>
<b>4S Mixed Use</b>	Yes	<ul style="list-style-type: none"> <li>The development proposes a ground floor retail level for a café use. The incorporation of a café at the ground floor level would activate the Pacific Highway and Albert Street frontages and would enhance amenity for the residents. Separate entrances and lobbies are provided for residents and tenants of the retail space to provide safety for residents across the site.</li> <li>The Department recommends a condition be imposed for the Applicant to seek the fit-out and operation of the retail space under a separate development application to Council.</li> </ul>
<b>4T Awnings and Signage</b>	Yes	<ul style="list-style-type: none"> <li>No awnings are proposed however, the breezeblock façade screening on the corner of the glazed façade, acts as a wind mitigation device.</li> <li>The entry doorways are recessed in the articulated arched facades, providing weather protection.</li> <li>The Department recommends a condition be imposed for the Applicant to seek consent for any signage under a separate development application to Council.</li> </ul>
<b>4U Energy Efficiency</b>	Yes	<ul style="list-style-type: none"> <li>The development incorporates passive environmental design and solar design to optimise heat storage in</li> </ul>

ADG Principle	Consistent	Department's Comments
		winter and reduce heat transfer in summer. Adequate natural ventilation would minimise the need for mechanical ventilation.
<b>4V Water Management and Conservation</b>	Yes	<ul style="list-style-type: none"> <li>The development incorporates water sensitive urban design.</li> </ul>
<b>4W Waste Management</b>	Yes	<ul style="list-style-type: none"> <li>Adequate bin storage is provided and designed to minimise impacts on the streetscape. A detailed assessment on waste management is provided in Section 5 of this report.</li> </ul>
<b>4X Building Maintenance</b>	Yes	<ul style="list-style-type: none"> <li>The materials are considered to be appropriately selected to minimise long term maintenance obligations.</li> </ul>

### Willoughby Local Environmental Plan 2012 (WLEP 2012)

The Department has consulted with Council throughout the assessment process and has considered all relevant provisions of WLEP 2012 and those matters raised by Council in its assessment of the development application. The Department concludes that the development is consistent with the relevant provisions of WLEP 2012. Consideration of the relevant clauses of is provided in Table 13.

**Table 13 | WLEP 2012 compliance assessment**

LEP Clause/Requirement	Complies	Assessment/Comment
<b>PART 1 - PRELIMINARY</b>		
<b>1.2 Aims of the Plan</b>	Yes	<ul style="list-style-type: none"> <li>The proposal is consistent with the aims of the plan.</li> </ul>
<b>PART 2 – PERMITTED OR PROHIBITED DEVELOPMENT</b>		
<b>Zoning</b>	Yes	<ul style="list-style-type: none"> <li>The site is primarily zoned E2: Commercial Centre and development for the purpose of commercial premises is permitted with development consent.</li> <li>The application proposes BTR which is permissible in the E2 zone under the relevant provisions of the Housing SEPP.</li> <li>A portion of the site fronting Pacific Highway and Albert Avenue is zoned SP2: Classified and identified for acquisition by TfNSW for the purposes of road widening. No building works are proposed on this land.</li> </ul>

LEP Clause/Requirement	Complies	Assessment/Comment
<b>2.6 Subdivision – consent requirements</b>	N/A	<ul style="list-style-type: none"> <li>No subdivision is proposed.</li> </ul>
<b>2.7 Demolition</b>	Yes	<ul style="list-style-type: none"> <li>The proposal seeks demolition works that is permitted with development consent.</li> </ul>

#### PART 4 – PRINCIPAL DEVELOPMENT STANDARDS

<b>4.3 Height of Buildings</b> <ul style="list-style-type: none"> <li>90m</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The proposed development has a maximum height of 90m and does not exceed this control at any point.</li> <li>Further height restrictions are noted to be imposed by Clause 6.15 – Sun Access, which is discussed further below.</li> </ul>
<b>4.4 Floor Space Ratio</b>	N/A	<ul style="list-style-type: none"> <li>No FSR control applies to the site.</li> <li>The development proposes a total FSR of 11.44:1.</li> </ul>
<b>4.5 Calculation of floor space ratio and site area</b>	Yes	<ul style="list-style-type: none"> <li>Clause 4.5(3)(a) specifies land on which the proposed development is prohibited must be excluded from the calculation of site area. FSR has been calculated to exclude the land zoned SP2 of which the development is prohibited.</li> </ul>
<b>4.6 Exceptions to Development Standards</b>	N/A	<ul style="list-style-type: none"> <li>The application does not propose to vary a development standard.</li> </ul>

#### PART 5 – MISCELLANEOUS PROVISIONS

<b>5.1 Relevant acquisition authority</b>	Yes	<ul style="list-style-type: none"> <li>The site is partly zoned SP2: Classified Road and marked as ‘classified road’ that is the authority of TfNSW.</li> </ul>
<b>5.1A Development on land intended to be acquired for public purposes</b>	Yes	<ul style="list-style-type: none"> <li>No development is proposed on the land zoned SP2: Classified Road and the proposed development does not impede the area identified for acquisition.</li> </ul>
<b>5.10 Heritage Conservation</b>	Yes	<ul style="list-style-type: none"> <li>The site contains a local heritage item known as the Old Fire Station (I238) at 767 Pacific Highway.</li> <li>The following items are also within 250m area of the site: <ul style="list-style-type: none"> <li>Chatswood Public School (LEP #I106) 40m to the northwest</li> </ul> </li> </ul>

LEP Clause/Requirement	Complies	Assessment/Comment
		<ul style="list-style-type: none"> <li>– House (including original interiors) (LEP #I245) 227m to the northwest</li> <li>– Garden of Remembrance (LEP #I236) 181m to the northeast</li> <li>– South Chatswood Conservation Area (LEP C11) 167m to the east</li> <li>• As discussed in <b>Section 5</b> of this report, conditions are recommended for the heritage reinterpretation strategy of the Old Fire Station be revised following dismantling and demolition to appropriately quantify the salvageable material that can be re-interpreted in the design.</li> <li>• With regards to the other items of European Heritage in the vicinity, the Applicant's Heritage Impact Statement concludes the following: <ul style="list-style-type: none"> <li>– The proposed works would result in a minor adverse visual impact on the significance of the Chatswood Public School.</li> <li>– The proposed works would be visible from the heritage item, however, would blend into the existing dense urban backdrop, these would result in a neutral visual impact to the House.</li> <li>– The proposed works would be visible from the heritage item, however, would blend into the existing dense urban backdrop, these would result in a neutral visual impact to the Garden of Remembrance.</li> <li>– The proposed works would be visible from the heritage item, however, would blend into the existing dense urban backdrop, these would result in a neutral visual impact to the South Chatswood Conservation Area.</li> </ul> </li> <li>• The proposal was referred to Heritage NSW who made no comments on the additional items of European heritage in the vicinity as they are of local significance.</li> <li>• With regards to archaeological significance, the Applicant's Heritage Impact Statement identified the following:</li> </ul>

LEP Clause/Requirement	Complies	Assessment/Comment
		<ul style="list-style-type: none"> <li>– Phase 1 (Early European colonisation – Willoughby region [1790s – 1850s]) – low potential</li> <li>– Phase 2 (Urban development – Chatswood [1860s – 1895]) – low-moderate potential</li> <li>– Phase 3 (Fire station and commercial establishments [1895 – 1940s]) – moderate potential</li> <li>• Heritage NSW made the following comments on archaeological significance: <ul style="list-style-type: none"> <li>– The proposal has the potential to result in a major adverse impact to any surviving archaeological resource.</li> <li>– The recommendations of the SOHI to undertake a program of test excavation, and possible monitoring and salvage excavation, to mitigate the loss of the archaeological resource (if identified) are supported.</li> <li>– An Archaeological Research Design (ARD) and methodology should be developed to investigate and record the archaeological resource and contribute to a heritage interpretation plan for the site.</li> </ul> </li> <li>• The Department considers that the proposal will have an acceptable heritage impact to the Old Fire Station, subject to <b>Conditions B1-B4</b>, and no adverse impacts to other items of European Heritage in the vicinity as the proposal will have no physical impacts to these items.</li> <li>• The development is to follow the recommendations of the HIS to mitigate the loss of archaeological resource.</li> </ul>
<b>5.21 Flood Planning</b>	N/A	<ul style="list-style-type: none"> <li>• The site is not flood prone.</li> </ul>

## PART 6 – LOCAL PROVISIONS

<b>6.1 Acid Sulphate Soils</b>	Yes	<ul style="list-style-type: none"> <li>• The site is classified as Class 5 Acid Sulphate Soils.</li> <li>• The Applicant's Salinity and Acid Sulphate Soils Assessment concludes that the site is not known to be at risk of acid sulphate soils and is not within an area of known salinity risk therefore, an Acid Sulphate Soils Management</li> </ul>
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LEP Clause/Requirement	Complies	Assessment/Comment
		Plan or Salinity Management Plan is not required for the development.
<b>6.2 Earthworks</b>	Yes	<ul style="list-style-type: none"> <li>The proposal includes excavation below the footprint of the building to construct three basement levels to accommodate car parking, storage and fire stair access.</li> <li>It is anticipated that basement excavation may extend to depths of approximately between 9m to 12m. The basement is shown to be setback a minimum of approximately 7m from the Pacific Highway, 1.5 m from Albert Street, 0.5 m from the northern site boundary shared with the property of 781 Pacific Highway, Chatswood, and on the eastern boundary shared with Albert Lane.</li> <li>The Applicant's Geotechnical Report submitted with the EIS includes recommendations to manage excavation and groundwater.</li> <li>The Department recommends standard conditions be imposed for excavation works.</li> </ul>
<b>6.3 Urban Heat</b>	Yes	<ul style="list-style-type: none"> <li>The proposal includes new tree planting throughout various areas which improves the existing site conditions that currently provides no landscaping amenity.</li> </ul>
<b>6.5 Signage</b>	N/A	<ul style="list-style-type: none"> <li>The Department recommends a condition be imposed for the Applicant to seek consent for any signage under a separate development application to Council.</li> </ul>
<b>6.6 Airspace Operations</b>	Yes	<ul style="list-style-type: none"> <li>An Aeronautical Impact Assessment has been submitted which confirms that a Controlled Activity Approval is not required under the Airports Act 1996, and that the proposed development will not affect the safety, efficiency or regularity of current or future airspace operations at Sydney Airport.</li> </ul>
<b>6.7 Active Street Frontages</b> <ul style="list-style-type: none"> <li>Pacific Highway</li> <li>Albert Street</li> <li>Albert Lane</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The site is situated on a corner and is required to provide active street frontages to Pacific Highway, Albert Street and Albert Lane.</li> <li>The proposed development provides activating uses, including a retail premises, along Pacific Highway (primary</li> </ul>



LEP Clause/Requirement	Complies	Assessment/Comment
		<p>frontage) and part of Albert Avenue (secondary frontage), noting that the residential lobby occupies part of both frontages.</p> <ul style="list-style-type: none"> <li>Albert Lane primarily comprises service areas, vehicular access and pedestrian entry points, which are necessary to support the proposed development's function and operations. These areas provided from Albert Lane also reinforce the importance of the site's Pacific Highway and Albert Avenue frontages, which are both activated.</li> <li>The Department recommends a condition be imposed requiring the fit-out and operation of the retail premises be subject to a separate development application to Council.</li> </ul>
<b>6.8 Affordable Housing</b>	N/A	<ul style="list-style-type: none"> <li>Council raised concern regarding the provision of no affordable housing.</li> <li>The proposal is for BTR and is not required to provide affordable housing.</li> </ul>
<b>6.15 Sun Access</b> <ul style="list-style-type: none"> <li>(1) Development consent must not be granted to development on land in Zone E2 Commercial Centre or Zone MU1 Mixed Use that results in additional overshadowing on land identified as "Area 1" on the Sun Access Protection Map at mid-winter between 12pm and 2pm.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The proposal will not result in any additional overshadowing to the Chatswood Croquet Club between 12-2pm at the winter solstice as the shadows cast by the proposed development fall wholly within the shadows of existing developments to the south of the site.</li> </ul>
<b>6.16 Minimum lot sizes for commercial and mixed use development in Chatswood CBD</b> <ul style="list-style-type: none"> <li>The minimum lot size for development for the</li> </ul>	N/A	<ul style="list-style-type: none"> <li>This clause is not applicable to the application as the development is for BTR that is not classified as a commercial development.</li> </ul>

LEP Clause/Requirement	Complies	Assessment/Comment
purposes of commercial premises on land to which this clause applies in Zone E2 Commercial Centre is 1,800m <sup>2</sup>		
<b>6.23 Design Excellence</b>	Yes	<ul style="list-style-type: none"> <li>• In accordance with the requirements of this clause, the development was subject to a Design Excellence Competition between September and November 2023.</li> <li>• A detailed discussion on design excellence is provided in Section 5 of this report.</li> <li>• The Department considers that the development exhibits design excellence on the following basis: <ul style="list-style-type: none"> <li>– The proposal achieves the highest standard of architectural, urban and landscape design.</li> <li>– The external appearance of the development enhances the quality of the public domain and improves pedestrian and cyclist access.</li> <li>– The proposal would not have an adverse impact on any view corridors that may be present from surrounding residential buildings.</li> <li>– The proposed BTR use with ground floor retail will deliver housing in a highly accessible location and positively contribute to the Chatswood CBD.</li> <li>– The proposal has been designed to reflect part of the local history of the site, being the Willoughby Fire Station, and this is further reflected in the presentation, materiality and elements of the design.</li> <li>– A generous and accessible public domain is provided in addition to road widening and green setback requirements.</li> <li>– The bulk, massing and modulation of the building has been well considered and is highly responsive to the surrounding context and desired future character of the Chatswood CBD area.</li> </ul> </li> </ul>

LEP Clause/Requirement	Complies	Assessment/Comment
		<ul style="list-style-type: none"> <li>– The street frontage heights have been designed to address and respond to their specific contexts, including the alignment with the podium heights of nearby development on Albert Avenue while providing a comfortable human scale for pedestrians.</li> <li>– The proposal will not result in adverse environmental impacts with regards to overshadowing, wind or reflectivity.</li> <li>– The proposal achieves ESD principles.</li> <li>– The proposal will provide safe and suitable pedestrian, cycling and vehicular access.</li> <li>– The proposal delivers public benefit through expansion of the public domain, delivering an active ground plane and incorporation of green elements including tree planting and landscaping.</li> <li>– The proposal will not adversely impact on any special character areas.</li> <li>– The proposal provides a highly activated ground floor, which enables passive surveillance and connections between the public and private domains.</li> <li>– The proposal provides a highly resolved landscape design throughout the building and within the public domain.</li> </ul>

## Other Considerations

### Willoughby Development Control Plan 2023 (WDCP 2023)

In accordance with clause 2.10 of the Planning Systems SEPP, DCPs do not apply to SSD.

Notwithstanding this, the Department notes the Willoughby Development Control Plan 2023 (WDCP 2023) includes specific controls relating to future development in the Chatswood CBD in line with the Chatswood CBD Planning and Urban Design Strategy 2036. An assessment against the relevant controls for the Chatswood CBD is provided in **Table 14** below.

**Table 14 | WDCP 2023 consistency assessment**

Control	Consistent	Assessment/Comment
<b>PART B RESIDENTIAL DEVELOPMENT</b>		
<b>5.0 – Controls for other residential land uses</b>		
<b>5.4 – Build-to-rent housing</b>	Yes	<ul style="list-style-type: none"> <li>The application is for BTR.</li> </ul>
<b>PART F TRANSPORT AND PARKING MANAGEMENT</b>		
<b>3.0 Parking Provisions</b>		
<b>3.1 – Car parking rates (maximum)</b> <ul style="list-style-type: none"> <li>0.5 space per studio and 1, 2, 3 or more bedroom units; 1 visitor space per 7 dwellings</li> <li>Office and business premises: 1 space/400m<sup>2</sup></li> <li>Retail premises (inc. supermarkets): 1 space/70m<sup>2</sup></li> </ul>	N/A	<ul style="list-style-type: none"> <li>The NDDS of the Housing SEPP specifies 0.2 cars per dwelling.</li> <li>The proposal would generate the following car parking rates in accordance with WDCP 2023: <ul style="list-style-type: none"> <li>Residential: 99 spaces</li> <li>Residential (Visitor): 28 spaces</li> <li>Retail: 2 spaces</li> <li>Total: 129 spaces</li> </ul> </li> <li>The proposal provides 53 residential car parking spaces that is less than the maximum rate in WDCP 2023 and is therefore acceptable.</li> <li>See discussion in <b>Section 5</b> of this report.</li> </ul>
<b>3.2 – Motorcycle parking rates (maximum)</b> <ul style="list-style-type: none"> <li>1 space per 20 car parking spaces;</li> <li>1 visitor space per 10 motorcycle spaces</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The development would require two motorcycle spaces to be provided for residents and no space for visitors.</li> <li>The development provides four motorcycle parking spaces.</li> </ul>
<b>3.3 – Bicycle parking rates</b> <ul style="list-style-type: none"> <li>1 Class A or B parking spaces per 10 units</li> <li>1 Class C (rails/racks) per 10 apartments for visitors</li> </ul>	Yes	<ul style="list-style-type: none"> <li>121 bicycle parking spaces are provided.</li> </ul>

Control	Consistent	Assessment/Comment
<b>4.5 – Electric vehicles</b>	Yes	<ul style="list-style-type: none"> <li>Electric vehicle charging stations have been provided at Basement Level 1.</li> </ul>
<b>5.0 Major Development</b>		
<b>5.3 – Visitor car parking</b>	N/A	<ul style="list-style-type: none"> <li>No visitor parking provided.</li> </ul>
<b>5.4 – Accessible car parking for people with a disability</b>	Yes	<ul style="list-style-type: none"> <li>Six accessible parking spaces have been provided.</li> </ul>
<b>5.6 – Electric vehicle charging</b>	Yes	<ul style="list-style-type: none"> <li><b>Condition C13</b> recommends electric vehicle charging infrastructure to be installed in accordance with the National Construction Code.</li> </ul>
<b>PART L PLACE BASED PLANS</b>		
<b>3.0 Public art and prominent corner sites</b>		
<b>3.0 Public art and prominent corner sites</b>	Yes	<ul style="list-style-type: none"> <li>The proposal provides an appropriate response to its key corner location in the Chatswood CBD.</li> </ul>
<b>4.3 Controls for Chatswood CBD</b>		
<b>Built Form</b>		
<b>a. Height of buildings</b>	Yes	<ul style="list-style-type: none"> <li>See discussion in Section 5 of this report.</li> </ul>
<b>b. Sun access protection to key public spaces and the South Chatswood Conservation Area</b>	Yes	<ul style="list-style-type: none"> <li>See discussion in Section 5 of this report.</li> </ul>
<b>c. Slender towers</b>	Yes	<ul style="list-style-type: none"> <li>The ‘slender towers’ objective for commercial development in Willoughby Development Control Plan 2023 (WDCP 2023) enables commercial floorplates of up to 2,000m<sup>2</sup>. These controls relate to a commercial land use which generally requires bulkier floor plates to accommodate future commercial fit outs. Therefore, the Department considers that a reduced residential floor plate is reasonable compared to the originally envisaged commercial use.</li> </ul>

Control	Consistent	Assessment/Comment
		<ul style="list-style-type: none"> <li>Section 4.3.1(d) in Part 7 of WDCP 2023 requires a maximum floor plate of 700m<sup>2</sup> for the tower component of residential developments. The proposal seeks floorplates ranging from 547m<sup>2</sup> to 641m<sup>2</sup> in levels above the podium. This achieves a slender tower built form that minimises bulk and scale impacts and is appropriate for the site and surrounds.</li> <li>The width of the tower form has been minimised using various design elements such as setbacks and stepped articulation on the facade of the Pacific Highway frontage to provide variation in the appearance of the visual bulk of the built form and provide increased residential amenity for occupants.</li> </ul>
<b>d. Vehicular access</b>	Yes	<ul style="list-style-type: none"> <li>Only one entry area into and exiting a site is proposed.</li> </ul>
<b>e. Loading/unloading facilities</b>	Yes	<ul style="list-style-type: none"> <li>See discussion in Section 5 of this report.</li> </ul>
<b>f. Substations</b>	Yes	<ul style="list-style-type: none"> <li>The substation is proposed on Pacific Highway, within the building envelope. Notwithstanding, a high-quality frontage is still achieved at this interface.</li> <li>The Department recommends <b>Condition C6</b> as recommended by Council and agreed by the Applicant to provide turf-pave grid or similar to the driveway areas outside of the shared path to the substation to provide greater linking and greening to the setback while still maintaining vehicle access.</li> </ul>

#### 4.3.2 Greening Chatswood CBD

<b>4.3.2 Greening Chatswood CBD</b>	Yes	<ul style="list-style-type: none"> <li>A variety of mostly endemic trees and plants supported by pockets of deep soil are provided along the site's Pacific Highway frontage, in order to contribute to Council's desire for a green Chatswood CBD.</li> <li>The proposal provides for the increased tree planting which is a significant improvement on the sites current condition, which provides for no landscaping amenity.</li> </ul>
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Control	Consistent	Assessment/Comment
		<ul style="list-style-type: none"> <li>The landscape retaining wall on the corner of Albert Avenue and Pacific Highway has been curved in response to Council's comments to follow the geometry of the kerb and improve the pedestrian experience in the public domain.</li> </ul>

#### 4.3.4 Setbacks and street frontage heights

<b>5. Pacific Highway frontage:</b> <ul style="list-style-type: none"> <li>minimum 4m setback at ground level from front boundary (with exception of heritage sites)</li> <li>maximum 7m street wall height</li> <li>minimum 6m setback above street wall to tower</li> </ul>	No	<ul style="list-style-type: none"> <li>See discussion in Section 5 of this report.</li> </ul>
<b>7. Office Core frontage:</b> <ul style="list-style-type: none"> <li>4m–12m maximum street wall height at front boundary</li> <li>minimum 6m setback above street wall to tower</li> </ul>	No	<ul style="list-style-type: none"> <li>The site is located in the E2 Commercial Core therefore the setback above the street wall to the tower form is required to be 4.5m.</li> <li>A 4.5m setback from the existing southern site boundary (including a 3m tower setback above the street wall) is proposed to respond to future surrounding context and align with the minimum setback requirements for mixed-use development. The setback would reduce to 0m at the ground floor and 3m at the tower, following land dedication within the SP2 corridor.</li> <li>The Department considers the proposed southern setbacks acceptable because: <ul style="list-style-type: none"> <li>the proposed ground level setback is an improvement from current conditions where the existing buildings are set against the footpath.</li> <li>the proposed setback increases progressively to reduce perceived bulk and overshadowing.</li> </ul> </li> </ul>



Control	Consistent	Assessment/Comment
		<ul style="list-style-type: none"> <li>• Council considered the proposed 4.5m setback to Albert Avenue was supportable considering the site context and recognised the need for flexible application of the DCP.</li> <li>• Therefore, the Department finds that the southern setback would provide adequate separation in the site context.</li> <li>• See <b>Section 5</b> of this report for discussion on the northern and western setbacks.</li> </ul>
On corner sites where different setbacks and street frontage height precincts meet, the greater setback and lower street wall height required on the primary frontage is to continue around the corner for a minimum distance of 6m. This is to provide a satisfactory transition between the setbacks and wall heights.	No	<ul style="list-style-type: none"> <li>• The site is located on a corner and has an interface with the mixed use frontage with commercial ground floor precinct which requires the following: <ul style="list-style-type: none"> <li>– 6m–14m maximum street wall height at front boundary</li> <li>– minimum 3m setback above street wall to tower</li> </ul> </li> <li>• See discussion above.</li> </ul>
Where a site adjoins a laneway and no footpath exists, a minimum ground level setback is to be provided to facilitate construction of a footpath.	Yes	<ul style="list-style-type: none"> <li>• The site has an eastern setback to Albert Lane and the development provides a setback of 1.2m at the ground floor level to facilitate a publicly accessible covered walkway.</li> <li>• A setback of 3m is provided from Albert Lane to the tower form and is acceptable as it maintains reasonable separation from the serviced apartments located adjacent to the site, which is set back only 895mm from the boundary.</li> <li>• Therefore, the Department considers the proposed eastern 1.2m ground setback and 3m tower setback is compatible with the streetscape character of the existing laneway.</li> </ul>
All towers above podiums in the E2 Commercial Core and MU1 Mixed Use zone are to be setback from all boundaries with a minimum	No	<ul style="list-style-type: none"> <li>• See discussion in <b>Section 5</b> of this report.</li> </ul>

Control	Consistent	Assessment/Comment
<p>1:20 ratio of the setback to building height. This means if a building is:</p> <ul style="list-style-type: none"> <li>a total height of 90m, a minimum setback from the side boundary of 4.5m is required for the entire tower on any side</li> </ul>		

#### 4.4 Additional controls for specific locations

##### 4.4.2 Pacific Highway – green setback

<ul style="list-style-type: none"> <li>The eastern side of the Pacific Highway must provide a 4m wide deep soil zone setback and the western side must provide a 6m wide deep soil zone setback.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The proposal meets the minimum dimensions required for landscaped setbacks. See discussion in <b>Section 5</b> of this report.</li> </ul>
<ul style="list-style-type: none"> <li>Dimensions for the path are to be based on a 1.5m wide landscape verge and 3m wide shared path. The shared path may encroach on the 4m wide deep soil zone setback on a site, but if this is the case, a public right of way will be required.</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The proposal meets the minimum dimensions required for landscaped setbacks. See discussion in <b>Section 5</b> of this report.</li> </ul>

## Appendix C – Assessment of Overshadowing Impacts

**Table 15** | Overshadowing and solar access impacts to surrounding properties

Address	Overshadowing Analysis
<b>640-650 Pacific Highway</b>	<ul style="list-style-type: none"> <li>• This development is a 4-6 storey residential flat building containing 36 units located to the south-west of the site.</li> <li>• Currently, 24 of 36 units (67%) of apartments receive a minimum of 2hrs solar access between 9AM-3PM at the winter solstice.</li> <li>• 12 units within this building currently do not meet ADG Objective 4A-1, in that they receive less than the minimum recommended 2 hours of solar access to living rooms and private open spaces during the winter solstice.</li> <li>• The Department acknowledges that the proposal will result in an additional 3 units in this property receiving less than the minimum recommended 2 hours solar access under ADG Objective 4A-1 during the winter solstice.</li> <li>• However, the additionally impacted units will continue to receive between 1.1-1.7 hours of solar access between 9AM-3PM at the winter solstice.</li> <li>• The Department finds the impact upon solar access to this building acceptable as discussed in Section 5.4.2 of this report.</li> </ul>
<b>755 Pacific Highway</b>	<ul style="list-style-type: none"> <li>• This development is a residential flat building containing 32 units located to the south of the site.</li> <li>• 1 submission was received from this building which expressed concerns regarding overshadowing between 2PM-3PM during the winter solstice.</li> <li>• A summary of the solar access provisions in relation to ADG Objective 4A-1 is provided below: <ul style="list-style-type: none"> <li>– <b>Current:</b> 18/32 apartments = 56% of apartments receive 2hrs+ solar access between 9am-3pm at the June solstice.</li> <li>– <b>Proposed:</b> 9/32 apartments = 28% of apartments receive 2hrs+ solar access between 9AM-3PM at the June solstice.</li> <li>– The affected apartments will retain between 1-1.6 hours of solar access between 9AM-3PM at the June solstice.</li> </ul> </li> <li>• 14 units within this building currently do not meet ADG Objective 4A-1, in that they receive less than the minimum recommended 2 hours of solar access to living rooms and private open spaces during the winter solstice.</li> </ul>

Address	Overshadowing Analysis
	<ul style="list-style-type: none"> <li>• The Department acknowledges that the proposal will result in an additional 9 units in this property receiving less than the minimum recommended 2 hours solar access under ADG Objective 4A-1 during the winter solstice.</li> <li>• North facing living spaces in these units are unaffected with the proposal and will continue to receive between 1-1.6 hours of solar access.</li> <li>• Western facing living spaces are also unaffected by the proposal, which receive between 1-2 hours of solar access.</li> <li>• The impacted dwellings continue to receive some level of solar access at the winter solstice.</li> <li>• The Department finds the impact upon solar access to this building acceptable as discussed <b>Section 5.4.2</b> of this report.</li> </ul>
<b>747-753 Pacific Highway (under construction)</b>	<ul style="list-style-type: none"> <li>• This development is a residential flat building containing 48 units located to the south of the site that is currently under construction.</li> <li>• A summary of the solar access provisions in relation to ADG Objective 4A-1 is provided below: <ul style="list-style-type: none"> <li>– <b>Current:</b> 33/48 apartments = 69% of apartments receive 2hrs+ solar access between 9AM-3PM at the June solstice.</li> <li>– <b>Proposed:</b> 22/48 apartments = 46% of apartments receive 2hrs+ solar access between 9AM-3PM at the June solstice.</li> <li>– The affected apartments will retain approximately 1.5 hours of solar access between 9AM-3PM at the June solstice.</li> </ul> </li> <li>• 15 units within this building currently do not meet ADG Objective 4A-1, in that they receive less than the minimum recommended 2 hours of solar access to living rooms and private open spaces during the winter solstice.</li> <li>• The Department acknowledges that the proposal will result in an additional 11 units in this property receiving less than the minimum recommended 2 hours solar access under ADG Objective 4A-1 during the winter solstice.</li> <li>• Majority of the impacted units are located in the low to mid elevations of the building, while it is noted that the upper levels will maintain 2.2 hours solar access in compliance with the ADG objective during the winter solstice.</li> </ul>
<b>96-100 Albert Avenue</b>	<ul style="list-style-type: none"> <li>• This development is a residential flat building located to the south east of the site. Living rooms of units are positioned central on the northern elevation.</li> </ul>

Address	Overshadowing Analysis
	<ul style="list-style-type: none"> <li>• 1 submission was received from this building which expressed concerns regarding overshadowing during the winter solstice.</li> <li>• The building receives solar access in the morning, but is overshadowed by existing buildings from 10:30am onwards during the June solstice.</li> <li>• No change to solar access to the living rooms of this building results from the proposal therefore, the proposal is acceptable.</li> </ul>
<b>1-3 Eddy Road</b>	<ul style="list-style-type: none"> <li>• This development is a residential flat building located to the south west of the site.</li> <li>• 1 submission was received from this building which expressed concerns regarding overshadowing between 11AM and 1PM during the winter solstice.</li> <li>• This development experiences existing overshadowing cast by the serviced apartments at 77 Albert Avenue and the proposal between 9AM-11AM during the winter solstice.</li> <li>• The proposal is likely to cause some additional overshadowing to a small portion of the northern and eastern facades of this building between 10AM-11AM only during the winter solstice.</li> <li>• This development continues to be partially overshadowed during the remainder of the day during the winter solstice by the existing developments at 3 and 7 Freeman Road.</li> <li>• The Applicant has submitted detailed overshadowing analysis which concludes that no additional units within the building receive less than the required solar access in line with the ADG.</li> <li>• Therefore, the Department finds the additional overshadowing cast to this building is acceptable.</li> </ul>
<b>6-8 Freeman Road</b>	<ul style="list-style-type: none"> <li>• This development is a residential flat building located to the south west of the site.</li> <li>• This development experiences existing overshadowing cast by the serviced apartments at 77 Albert Avenue and the proposal between 9AM-10AM during the winter solstice.</li> <li>• The proposal is likely to cause some additional overshadowing to the northern and eastern facades of this building for a short time at between 10AM-10:30AM during the winter solstice.</li> </ul>

Address	Overshadowing Analysis
	<ul style="list-style-type: none"> <li>• The proposal is not expected to result in a substantial change to the number of units receiving solar access in this building as the façades retain solar access from 11AM due to its northern orientation.</li> </ul>
<b>10 Freeman Road</b>	<ul style="list-style-type: none"> <li>• This development is a residential flat building located to the south west of the site.</li> <li>• This development experiences existing overshadowing cast by the serviced apartments at 77 Albert Avenue between 9AM-9:30AM during the winter solstice.</li> <li>• The proposal is likely to cause some additional overshadowing to a minor portion of the northern and eastern facades of this building for a short time at 10AM during the winter solstice.</li> <li>• The proposal is not expected to result in change to the number of units receiving solar access in this building as the façades retain solar access from 10AM due to its northern orientation.</li> </ul>

## Appendix D – Assessment of View Loss and Visual Impacts

**Table 16** | View analysis from surrounding buildings

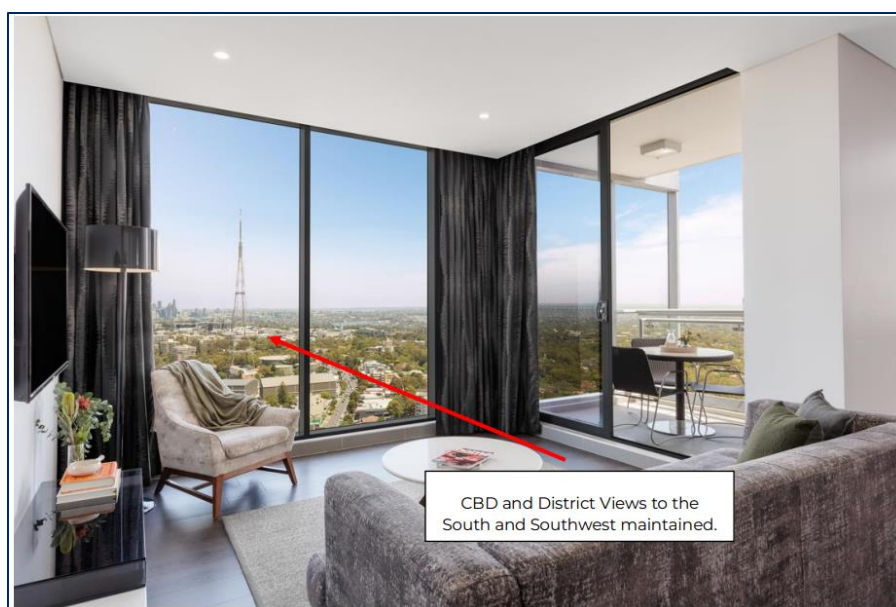
Address	View Analysis
<b>1. 809-811 Pacific Highway (Leura)</b>	<ul style="list-style-type: none"> <li>• This property is a residential flat building development located approximately 180m to the north of the site.</li> <li>• This building is generally the same height as the Citadel Towers commercial building at 799 Pacific Highway, and as such any view corridors obtained in a southerly direction would be already obstructed by existing development.</li> <li>• Any outlook to district views that may be present to the west from this building will remain unaffected by the proposal.</li> <li>• The proposal will therefore not contribute to any adverse view impact from this property.</li> </ul>
<b>2. 14 Brown Street (High Park Tower)</b>	<ul style="list-style-type: none"> <li>• This property is a residential flat building development located approximately 250m to the north of the site.</li> <li>• This building is generally the same height as Leura as well as the Citadel Towers at 799 Pacific Highway, and as such any view corridors obtained in a southerly direction would be already obstructed by existing development.</li> <li>• Any outlook to district views that may be present to the west from this building will remain unaffected by the proposal.</li> <li>• The proposal will therefore not contribute to any adverse view impact from this property.</li> </ul>
<b>3. 8 Brown Street (Chelsea Apartments)</b>	<ul style="list-style-type: none"> <li>• This property is a residential flat building development located approximately 300m to the north east of the site in the core of the Chatswood CBD.</li> <li>• This building is surrounded by existing commercial buildings of a similar height and scale therefore, any views oriented in the general direction of the proposal are already heavily obstructed by existing, intervening development.</li> <li>• The proposal is therefore unlikely to significantly contribute to any adverse view impact from this property.</li> </ul>



Address	View Analysis
<b>4.1 Katherine Street (The Bentleigh)</b>	<ul style="list-style-type: none"> <li>• This property is a residential flat building development located approximately 100m to the north east of the site.</li> <li>• This building would currently experience views to the west, south-west and south-east with varying degrees of value throughout the building.</li> <li>• Upper floors of the building are likely to experience district views to the south-west which would be partially obstructed by the Citadel Towers at 799 Pacific Highway.</li> <li>• View lines from the building are unlikely to be significantly obstructed, and the majority of the existing view will be retained due to the orientation of the site and location of the proposal adjacent to larger-scale existing development.</li> <li>• The existing view to the west is partially obstructed and is likely to include foreground views of Lane Cove National Park and more distant outlook towards Parramatta CBD that will not be impacted by the proposal.</li> <li>• The proposal is therefore unlikely to detrimentally impact upon views obtained as a whole from this property.</li> </ul>
<b>5. 755-759 Pacific Highway</b>	<ul style="list-style-type: none"> <li>• This property is a residential flat building development located approximately 40m to the south of the site.</li> <li>• Due to the lower scale of this building, views to the north across the site are limited and would not exhibit any significant value.</li> <li>• Any views obtained towards the north-west will not be impacted by the development.</li> <li>• The proposal will therefore not contribute to any adverse view impact from this property.</li> </ul>
<b>6.2 Oliver Road</b>	<ul style="list-style-type: none"> <li>• This property is a residential flat building development located approximately 50m to the south-west of the site.</li> <li>• Outlook obtained from this building towards the north east across the site that would not comprise any significant value.</li> <li>• The proposal will therefore not contribute to any adverse view impact from this property.</li> </ul>

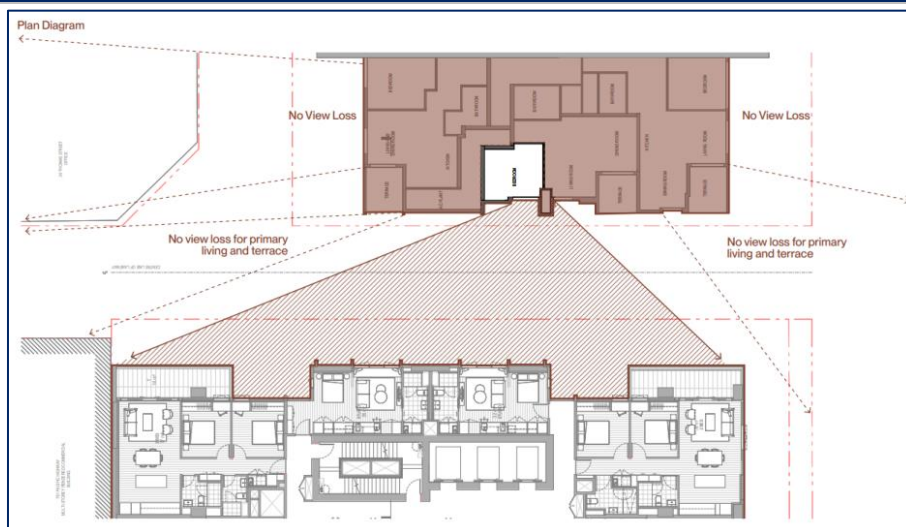
## 7. 77 Albert Avenue (Serviced Apartments)

- This property is a serviced apartment development located adjacent to the site to the east.
- The property would experience the following views:
  - **North:** Views of the Chatswood CBD, comprising high-density commercial and residential towers typical of an urbanised landscape.
  - **East:** Views of the civic area of the Chatswood CBD (centred around Victoria Avenue), as well as more distant district views of suburban Chatswood.
  - **South:** District views over Artarmon and St Leonards towards the North Sydney and Sydney CBD's, which are situated further to the South.
  - **West:** District views over Chatswood West, Lane Cove National Park and beyond towards Sydney Olympic Park.



**Figure 12 |** Significant views to the south not impacted by the proposal.  
(Source: Applicant's RtS)

- The Department notes that serviced apartments are classified as a non-residential purpose under the provisions of WLEP 2012 and is a type of tourist and visitor accommodation therefore, a View Loss Assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah [2004]* NSWLEC 140 is not required.
- Nevertheless, it is considered that western views will be the most obstructed by the proposal.



**Figure 13 |** Extent of view loss to the west for 77 Albert Avenue

- The Department acknowledges the impact to the single-aspect, west facing apartment stack at 77 Albert Avenue however, this is considered to be a reasonable impact in the circumstances of the site in the context of all the apartments in the building for the following reasons:
  - The serviced apartments are located in a highly urbanised, CBD context.
  - The Department notes that the typical floorplate in the serviced apartment building comprises of 11 apartments, only 1 of which is a single aspect apartment with its primary outlook to the west. Therefore, the affected rooms are limited to the west facing serviced apartment on each floor.
  - The apartments on the northwestern and southwestern corners have secondary outlooks to the west, however are primarily oriented towards the North and South respectively.
  - The views to the west are not considered to be 'iconic' in the same manner as significant views to the south.
  - The building consists of serviced apartments that are classified as a non-residential type of development and are therefore utilised in a less frequent manner compared to regular market apartments, reducing the likelihood of frequent visual exposure to the development.
- Therefore, the Department considers the view loss impacts to 77 Albert Avenue are reasonable and acceptable.

## Appendix E – Recommended instrument of consent

<https://www.planningportal.nsw.gov.au/major-projects/projects/novus-albert-763-769-pacific-highway-chatswood-build-rent>