



Novus on Albert - 763-769 Pacific Highway, Chatswood - Build-to-Rent SSD-59805958

Statement of Reasons for Decision

Dr Bronwyn Evans AM (Chair)
Michael Wright

17 July 2025

1. Introduction

1. On 2 June 2025, the NSW Department of Planning, Housing and Infrastructure (**Department**) referred the State significant development (**SSD**) application SSD-59805958 (the **Application**) from The Trustee for Albert Avenue Sub Trust (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the demolition of existing buildings and the construction of a shop-top housing development (the **Project**) in the Willoughby City Council Local Government Area (**LGA**) under section 4.38 of the *Environmental Planning and Assessment Act* (**EP&A Act**).
3. In accordance with section 4.5(a) of the EP&A Act and section 2.7(1)(c) of the *State Environmental Planning Policy (Planning Systems) 2021* (**SEPP Planning Systems**), the Commission is the consent authority as Willoughby City Council (**Council**) made an objection to the Application.
4. Andrew Mills, Chair of the Commission, determined that Dr Bronwyn Evans AM and Mr Michael Wright would constitute the Commission for the purpose of exercising its functions with respect to the Application.
5. The Department concluded in its Assessment Report (**AR**) that the Application is approvable, subject to its recommended conditions.

2. The Application

6. The Application seeks approval to demolish the existing buildings on the Site and construct a shop-top housing development (the **Project**) comprising of:
 - 198 build-to-rent units;
 - retail premises;
 - car parking across 3 basement levels; and
 - residential amenities, co-working spaces and communal spaces.
7. The complete description of each component of the Project is set out in the Department's AR at **Appendix D**.
8. The Project Site (**Site**) is known as 763-769 Pacific Highway, Chatswood. It is bounded by the Pacific Highway to the south-west, Albert Street to the south-east and Albert Lane to the north-east (**Figure 1**). The Site in its broader locality context is illustrated in **Figure 2**.
9. The Project has an estimated development cost of \$117,224,908 (of which \$91,874,669 is attributed to the tenanted residential component, comprising 78% of the total) and is expected to generate 194 construction jobs and 70 operational jobs (AR, Table 2).

Figure 1 – Local context map (Source: Department's AR, Figure 2)



Figure 2 – Regional context map (Source: Department's AR, Figure 1)



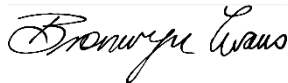
3. Public Consultation

10. The Commission has given careful consideration to the matters raised in the written submissions made to the Commission. Five (5) submissions received by the Commission objecting to the Project reflect a range of views, including suggestions that the Project will impact existing businesses, create adverse traffic impacts, has not appropriately considered contamination issues and does not demonstrate a good design outcome. One (1) submission of support for the Project was also received by the Commission.
11. These matters are considered in the Public Consultation Report (**Appendix A**) and have been built into the Commission's decision-making process.

4. Reasons for the Decision

12. The Project will deliver 198 dedicated rental dwellings in proximity to excellent public transport links, employment opportunities and social services. The Project will contribute to the NSW Government's housing target of 377,000 well-located homes over the next 5 years whilst also providing additional employment floor space within the Chatwood Central Business District (CBD). The Project will also contribute to the diversity of housing typologies available within the Willoughby LGA.
13. A whole-of-government assessment of the Project has been undertaken, including consultation with Council and 10 Government agencies including Heritage NSW, Transport for NSW (TfNSW), the NSW Department of Climate Change, Energy the Environment and Water (DCCEEW) Water Group and Ausgrid. None of the Government agencies consulted objected to the Project. Council's submission to the Commission reiterated the reasons for its objection to the Project, specifically concerns relating to heritage impacts, bulk and scale, setbacks and waste management.
14. The Commission acknowledges the Project will impact an existing heritage item with local significance to the local area. The façade of the existing 'old fire station' is located within an area of the Site which is subject to future road widening and is proposed to be demolished as part of the Project. The Commission has considered the potential heritage impacts of the Project and the Applicant's proposed mitigation measures through the implementation of a detailed heritage interpretation plan. Noting that the Applicant investigated several options to address the Project's heritage impacts, the heritage interpretation strategy proposed has been supported by Heritage NSW. Given the management of heritage impacts required under the Commission's conditions, the Commission does not find that the residual impacts on heritage warrant refusal of the Application.
15. The built form of the Project has been considered by the Commission, including height and density, design excellence, setbacks, residential amenity issues (including solar access, overshadowing and privacy), views and visual impacts. The Commission finds the design of the Project to achieve design excellence and considers its bulk and scale appropriate for the high density CBD environment in which it is to be located. The Applicant has demonstrated the Project will not create significant residential amenity impacts, nor adversely impact views within the locality. The Project's setbacks will facilitate an economic and orderly use of the Site whilst ensuring adjoining land can also be appropriately re-developed.
16. The Commission agrees with the Department's findings regarding waste servicing for the Project. In the context of the Site's constraints and opportunities, the proposed waste servicing arrangements from Albert Lane will adequately service the development with minimal impacts.
17. The Site is suitable for the Project in consideration of its minimal impacts on the natural and built environment and minimal adverse social-economic impacts. The Site has excellent connectivity to transport links, retail outlets social services and employment opportunities. Further, the built form and scale of the Project is compatible with the established character of the locality and provides an appropriate built form relationship to existing and future adjoining developments.
18. Positive socio-economic impacts arising from the Project include employment opportunities both during and post-construction and the provision of built-for-purpose rental housing to meet the changing housing needs of the Willoughby LGA and the NSW Government housing targets.

19. The Commission's considerations are set out in detail in the following appendices:
- Appendix A – Public Consultation;
 - Appendix B – Commission's Considerations;
 - Appendix C – Instrument of Consent; and
 - Appendix D – the Department's Assessment Report.
20. On balance, the Commission finds that the Project meets legal requirements, is consistent with NSW Government policies and that approval of the Application is in the public interest. The Commission has therefore determined to approve the Project subject to conditions of consent which include (but are not limited to) requiring the Applicant to:
- complete a photographic archival recording of the heritage item on the Site prior to any demolition works;
 - prepare and implement a detailed heritage interpretation plan and an operational waste management plan in consultation with Council;
 - retain the Project's architect and design integrity panel to ensure design excellence is maintained throughout construction; and
 - undertake relevant contamination surveys, investigations and if required, remediation works.
21. The reasons for the decision are given in this Statement of Reasons for Decision.



Dr Bronwyn Evans AM (Chair)
Member of the Commission



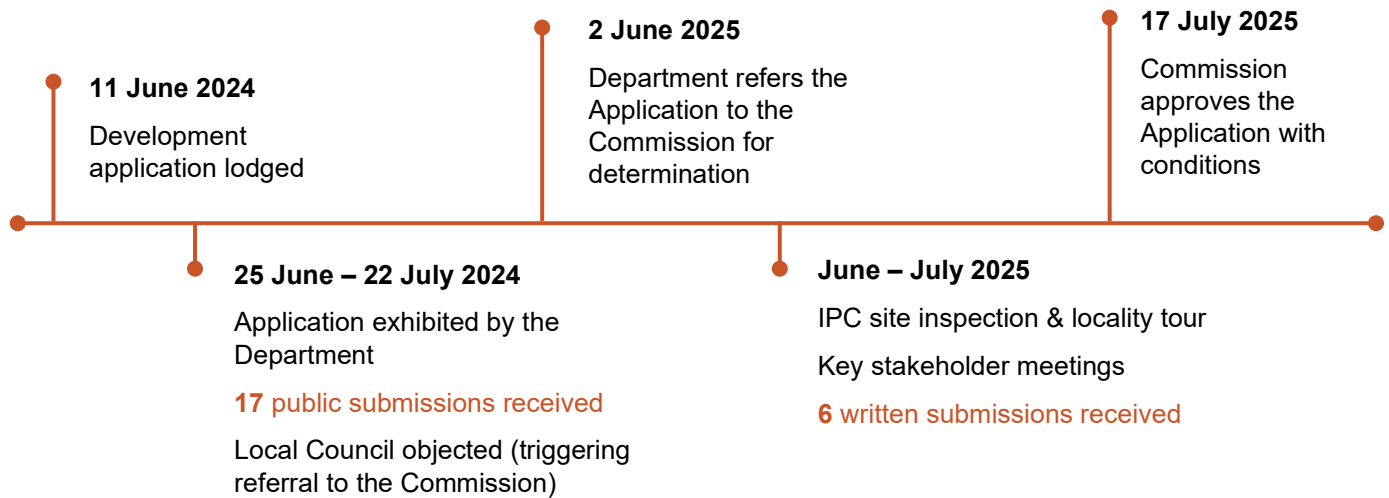
Michael Wright
Member of the Commission

Appendix A – Public Consultation

Public engagement overview

A summary of the Project timeline and key engagement milestones is outlined below.

Appendix A - Figure 1: Project and engagement timeline



Department's public exhibition of the Project

The Department consulted with the relevant Council, government agencies and members of the public during its assessment of the Project. Of the 17 public submissions received by the Department, 15 were objections and two were comments. Council also objected to the Project. Consideration of the submissions to the Department is provided at Chapter 4 of the Department's AR.

The Commission's public consultation

The Commission's meetings

The Commission met with the Department, the Applicant and Council (refer to *Appendix B – Table 1*).

Site inspection and locality tour

The Commission undertook a site inspection and locality tour on 17 June 2025. In accordance with the Commission's *Site Inspection and Locality Tour Guidelines* and *Transparency Policy*, the Commission Panel may exercise its discretion to invite observers to attend a site inspection. In this instance, the Commission Panel chose to invite a representative from Council. Council accepted the offer and a representative attended as an observer. Five of the Applicant's representatives also attended.

Written submissions

The public was offered the opportunity to make written submissions to the Commission from 4 June - 23 June 2025. The Commission received a total of 6 unique written submissions. Of these submissions, 1 indicated support for the Project and 5 indicated their objection.

Consideration of submissions

Key matters raised by the public and the Commission's consideration of these matters is provided in the table below. This is not an exhaustive report of the submissions considered by the Commission but is reflective of key issues that emerge from the submissions.

Appendix A – Table 1: Key matters raised in submissions

Themes raised in submissions	Panel consideration
Traffic <ul style="list-style-type: none"> The junction of Albert Avenue, Albert Lane and Pacific Highway becomes gridlocked during peak hours and weekends – additional traffic from the proposed development will exacerbate the existing congestion. 	<p>The Commission has considered potential traffic impacts at Appendix B – Table 5.</p> <p>The Commission agrees with the Department's assessment of the traffic impacts of the proposal and finds the traffic generation does not warrant refusal of the Application as the Site is well located with good access to public transport and the additional trip generation and vehicle movements are minimal and can be accommodated by the existing road network.</p>
Construction <ul style="list-style-type: none"> The construction work will negatively impact the viability of nearby businesses. 	<p>The Commission has considered potential impacts to existing businesses at Appendix B – Table 5.</p> <p>The Commission agrees with the Department's assessment of physical impacts to existing businesses and that the development can be constructed to appropriate standards without damage to nearby buildings or causing unreasonable amenity impacts. Conditions of development consent have been imposed by the Commission to mitigate or manage any potential amenity impacts during construction.</p> <p>There is no material evidence to suggest construction works proposed would adversely impact the viability of nearby businesses.</p>
Housing typology <ul style="list-style-type: none"> Projects like this are needed – they provide more housing options, with professionally managed rental homes that are well located with good transport and amenities. 	<p>The Commission has considered housing typologies at Appendix B – Table 2 and Appendix B – Table 4.</p> <p>The Commission finds that that the build-to-rent Project will increase the diversity of housing within the Willoughby LGA and that the Project is well located by being close to public transport, jobs, services and retail outlets.</p>
Other <ul style="list-style-type: none"> The preliminary site investigation and targeted site investigation both specify that a Hazardous Materials Survey must be completed prior to any demolition works, in order to safely handle any hazardous building materials. 	<p>The Commission has imposed a condition of consent requiring a Hazardous Materials Survey to be completed prior to the commencement of any demolition works.</p>

Appendix B – the Commission’s Considerations

Material considered by the Commission

Appendix B – Table 1: Material considered by the Commission

Document	Date
The Planning Secretary’s Environmental Assessment Requirements (SEARs)	4 July 2023
Applicant’s EIS and its accompanying appendices	6 June 2024
Government agency advice to the Department	Various
Public submissions made to the Department during exhibition	Various
Applicant’s Response to Submissions Report and its accompanying appendices	4 November 2024
Applicant’s responses to the Department’s requests for further information	7 November 2024 6 December 2024 16 January 2025 3 February 2025 5 February 2025 11 February 2025
Department’s AR and recommended conditions of consent	June 2025
Comments and presentation material from meetings with: <ul style="list-style-type: none"> Applicant Council Department 	12 June 2025 13 June 2025 17 June 2025
Observations made at the Site Inspection	17 June 2025
All written submissions made to the Commission during the public submissions period	Various
Department’s response to the Commission’s Request for Information	24 June 2025 and 4 July 2025
Correspondence from the Applicant	16 June 2025
Department’s advice to the Commission regarding the imposition of conditions	9 July 2025 and 16 July 2025

Planning framework

Strategic Context

The Commission notes the NSW Government has a target of 377,000 well-located homes over the next 5 years. This policy is in support of the National Housing Accord that provides a national target of delivering 1.2 million new, well-located homes over 5 years (AR, para 9). The Project will assist in the delivery of the NSW Government’s target and Council’s own housing target of 3,400 dwellings by 2029.

It is also acknowledged that build-to-rent housing and an SSD pathway for build-to-rent housing was introduced into the NSW planning system to recognise and support the delivery of well-located housing (AR, para 10).

The Commission has considered the NSW Government's strategic framework, policies and guidelines as they apply to the Site and Application and is satisfied that the Application is consistent with those documents. The Project would deliver critically needed housing in a well serviced location, contribute to delivery of the NSW Government's and Council's housing targets and respond to the housing needs of the Willoughby LGA. The Application's strategic context is further outlined below in **Appendix B – Table 2**.

Appendix B – Table 2: Strategic content

Strategic context	Commission's consideration
Greater Sydney Regional Plan (GSRP) and North District Plan (NDP)	<p>The GSRP guides and informs planning across five districts including the North District. The NDP is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney. It is a guide for implementing the GSRP at a district level and is a bridge between regional and local planning.</p> <p>The build-to-rent housing Project aligns with the NDP's Planning Priority N5: <i>"Providing housing supply, choice and affordability, with access to jobs, services and public transport"</i>. In this regard the NDP states:</p> <p>"New housing must be in the right places to meet demand for different housing types, tenure, price points, preferred locations and design."</p> <p>"[t]he number of single-person households is expected to increase by 31,750 to 2036. The number of single parent and couple-only households in particular, is also expected to increase by 2036."</p> <p>Accordingly, the Commission finds the delivery of a build-to-rent housing Project to be support the GSRP and NDP.</p>
Willoughby City Local Strategic Statement (LSPS)	<p>Between 2016-2036 it is estimated that the Willoughby LGA will need to accommodate 6,000 – 6,700 new dwellings, a 20-22% increase on the current number of dwellings (LSPS, p.38). New housing must be planned to meet the needs of Willoughby's future community, particularly as Willoughby's demographics change. Between 2016-2036, the average household size in Willoughby is forecast to decrease from 2.65 to 2.53 persons per household. This decrease corresponds with the population aging and increased proportions of older people in the population (see figure 14). Partly as a result, the number of smaller households such as single people and couples without children will increase (LSPS, p.39).</p> <p>The Commission finds that the Project supports the LSPS, in particular, Priority 1 <i>Increasing housing diversity to cater to families, the aging population, diverse household types and key workers</i>, as it:</p> <ul style="list-style-type: none"> • will increase the diversity of housing within the Willoughby LGA; • meets the changing housing needs of the Willoughby LGA; and • is located on a transport corridor (Pacific Highway, train/metro station), near jobs, services and retail outlets.
Chatswood CBD Planning and Urban Design Strategy (CBD Strategy)	<p>The Commission notes that Council has undertaken master planning of the Chatwood CBD and in 2023 implemented controls arising from the strategy within the <i>Willoughby Local Environmental Plan 2012</i> (WLEP) and Willoughby Development Control Plan 2012 (DCP). The Commission finds the Project supports the aims of the CBD Strategy by assisting to achieve a city form and scale to accommodate future growth, a compact and walkable CBD and additional employment floor space to provide for future employment.</p>

Statutory Context

The Commission has considered the statutory context applicable to the Project, as detailed in **Appendix B – Table 3** below.

Appendix B – Table 3: Statutory context

Statutory context	Commission's consideration
Objects of the EP&A Act and Ecologically Sustainable Development (ESD)	The Commission has considered the Objects of the EP&A Act and is satisfied that the Application is consistent with those Objects. The Commission finds that the Application is consistent with ESD principles and would achieve an acceptable balance between environment, economic and social considerations.
Permissibility	<ul style="list-style-type: none"> The Site is located with Zone E2 Commercial Core (E2 zone) under the WLEP. A small portion of the site is within Zone SP2 Infrastructure (Classified Roads) (SP2 zone). Shop top housing is a prohibited land use within the E2 zone and SP2 zone. Commercial premises (including office and retail premises) are permissible with consent in the E2 zone and prohibited in the SP2 zone. No part of the shop top housing or commercial land uses proposed will be located within the SP2 zone. Development for the purposes of shop top housing on land within the E2 zone may, however, be granted development consent pursuant to section 72 <i>Development for the purposes of build-to-rent housing permitted with consent</i>, of SEPP Housing if: <ul style="list-style-type: none"> the development will result in at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and all buildings containing the dwellings are located on the same lot of land. The Project is permitted with development consent and to ensure that the Project's dwellings are located on the same lot of land, the Commission has imposed a condition of consent requiring all lots subject of the Application to be consolidated prior to the issue of any Construction Certificate for above ground works.
State significant development (SSD)	The Project is SSD pursuant to section 4.36 of the EP&A Act as it satisfies criteria pursuant to section 2.6(1) and item 27 build-to-rent housing of Schedule 1 of SEPP Planning Systems. The Project is for build-to-rent housing with an EDC of more than \$50 million, the tenanted component of the Project has a value of at least 60% of the EDC of the proposed development and does not involve development that is prohibited under an environmental planning instrument applying to the land.
Consent authority	The Commission is the declared consent authority under section 4.5(a) of the EP&A Act and section 2.7(1) of SEPP Planning Systems as Council objected to the Project.
Integrated development and other approvals	Pursuant to section 4.41 of the EP&A Act, several approvals are integrated into the SSD process and therefore are not required to be separately obtained for the Application. Pursuant to section 4.42 of the EP&A Act, further approvals are required but must be substantially consistent with any development consent for the Project.

Mandatory considerations – EP&A Act	
<i>Relevant environmental planning instruments (EPIs)</i>	<p>Appendix B of the Department's AR identifies the relevant EPIs for consideration. The Commission has considered the following EPIs as part of its determination:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Transport and Infrastructure) 2021; • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Sustainable Buildings) 2022; • State Environmental Planning Policy (Housing) 2021; and • Willoughby Local Environmental Plan 2012.
<i>Relevant development control plans (DCPs)</i>	In accordance with section 2.10 of the Systems SEPP, DCPs do not apply to SSD.
<i>Any planning agreement or draft planning agreement</i>	Not applicable to the Project.
<i>Likely impacts of the development</i>	The likely impacts of the Application have been considered in Appendix B of this Statement of Reasons. The Commission finds the Project – subject to the imposed conditions of consent – will not create any significant impacts on the natural and built environment, or significant social and economic impacts that outweigh the positive benefits that would be realised with the grant of development consent.
<i>Suitability of the site for development</i>	<p>The Commission has considered the suitability of the Site for the Project and finds it to be suitable for the following reasons:</p> <ul style="list-style-type: none"> • the Site is able to physically accommodate the Project without significant impacts arising on the natural and built environment, or the creation of adverse social-economic impacts; • the Project provides well-located, built-for-purpose housing to meet the changing housing needs of the Willoughby LGA in close proximity to excellent public transport links, employment lands, retail outlets and social services; • the Project is generally consistent with the objectives of the E2 zone; • the built form and scale of the Project is compatible with the established character of the locality and provides an appropriate built form relationship to existing and future adjoining developments; and • the Project is an orderly and economic use of land.
<i>The public interest</i>	The Commission has considered the public interest in deciding to grant conditional development consent to the Application. In doing so, the Commission has evaluated the likely impacts of the Application and considered the relevant ESD principles.

Key issues

Key issues considered by the Commission in its determination are outlined below in **Appendix B: Table 4**. The Commission notes this is not an exhaustive report of all issues pertaining to the Project or as raised in written submissions, however, is illustrative of what the Commission regards as key issues in the determination of the Application.

Appendix B – Table 4: Key issues in the Commission's determination

Issue	Commission's findings
Height of Building and Density	<p>The maximum height of building control applying to the Site is 90m pursuant to the WLEP. A sun access height restriction under the WLEP also applies to the Site which prohibits additional overshadowing of the existing 'Chatswood Croquet Club', located to the south of the Site. The Department's AR (para 53) confirms:</p> <ul style="list-style-type: none"> the Project's proposed height is 90m, which complies with the WLEP; and the Project does not increase overshadowing to the Chatswood Croquet Club and complies with the WLEP. <p>No floor space ratio (FSR) controls apply to the Site, however the Commission notes the Project has an FSR of 11.44:1. Without an FSR control, the Department has considered the Project's proposed density in the context of its built form, traffic, infrastructure capacity and amenity impacts (AR, 56). The Commission agrees this is an appropriate approach to assessing the density of the Project in the absence of any other FSR development standard.</p> <p>The Department considers the density of the Project to be appropriate as (AR, para 57):</p> <ul style="list-style-type: none"> its bulk and scale are compatible with established residential and commercial developments within the locality, the desired future character of the Chatswood CBD and proximity to public transport; refinements to the Project's bulk and scale have been made throughout the assessment process, noting the design includes façade and rooftop treatment to reduce perceptions of bulk and scale; future occupants of the Project will have good levels of amenity and surrounding developments will have minimal amenity impacts arising; and there will not be any adverse traffic impacts resulting from the Project. <p>The Commission agrees with the Department's assessment and finds the Project's height and density to be justified by the positive impacts of the Project. The Project is a suitable built form outcome for a high-density urban environment and will complement the height and density of developments in the Chatswood CBD.</p>
Setbacks	<p>The Project has the following building to boundary setbacks proposed (AR, Table 6):</p> <ul style="list-style-type: none"> North (781 Pacific Highway, Chatswood): 0m to podium and tower; West (Pacific Highway): 4m to podium and 8.14m-11.75m to tower; East (Albert Lane): 1.2m to podium and 3m to tower; and South (Albert Avenue): 0m to podium and 3m to tower. <p>A 0m setback is proposed to the northern boundary of the Site to facilitate utilising the development capacity of the Site while not impacting on the development capacity of the adjoining land (781 Pacific Highway, Chatswood). As such, the Project proposes a solid/blank wall on the northern boundary so that any future development to the north of the Site will be able to also build to its southern boundary (AR, para 66-67).</p> <p>The Commission finds the Project's northern setback to be appropriate for the Site and its context, agreeing with the Department's assessment that the 0m setback will create a feasible development outcome where the Site and adjoining land will be able to be effectively developed, whilst also protecting amenity for future residents (AR, para 67). The articulated façade of the Project which fronts the Pacific Highway has a generous setback of 4m to the podium (post road dedication) which includes deep soil landscaping areas and heritage interpretation material/features.</p>

Issue	Commission's findings
	<p>The Project's setbacks to Albert Avenue (south) and Albert Lane (east) are also considered to be appropriate and compatible with the streetscape of the locality. Post-dedication of land for road widening purposes, the 0m podium setback to Albert Avenue will create an articulated streetscape with landscaping elements and activation at street level. The tower setback of 3m is found to be generally consistent with the built form of Albert Avenue to the east. A 1.2m podium setback from Albert Lane will facilitate the construction of a covered walkway which will substantially improve public accessibility along the laneway. The 3m tower setback to Albert Lane also provides for separation from the serviced apartment development existing to the east.</p> <p>Although not in conformance with Council's setback controls prescribed in its DCP (which do not apply to SSD), the Project's setbacks are compatible with the established character of the Chatwood CBD and provide a design response which complements the high-density urban environment setting.</p>
Design Excellence	<p>The Project has been the subject of a design competition process pursuant to the design excellence provisions of the WLEP. The Applicant held a design competition in 2023 which included a design excellence strategy (DES) and competition brief endorsed by the Government Architect NSW (GANSW), a competition jury comprising of members nominated by Council, the Applicant and GANSW and three design teams. Rothelowman (the Project's Architect) was the competition winner (AR, para 38-40). A design integrity panel (DIP) was approved as required by the DES, and is charged with ensuring the winning design's integrity is maintained through all stages of the Project, including reviewing the design at various milestone stages and providing advice (AR, para 41-42).</p> <p>The Commission notes Council's concerns that the Applicant has utilised the design excellence process as justification for non-compliance with planning controls (such as DCP setback controls discussed above). However, the DIP has reviewed and supported the Project (subject to heritage interpretation strategy refinements) and the Department's assessment confirms the design competition was carried out in accordance with the GANSW Design Competition Guidelines, and that the Project exhibits design excellence pursuant to clause 6.32 of the WLEP (AR, para 43-46).</p> <p>Noting that DCPs do not apply to SSD and that the built form of the Project has been assessed on its merits, the Project's design still achieves design excellence. The Commission has imposed condition C3 to ensure the DIP is maintained throughout the detailed design and construction process to ensure design integrity.</p>

**Residential
Amenity****Internal (solar access):**

The Department's assessment of the Project states "the design of the proposed BTR units are generally consistent with the key ADG [Apartment Design Guideline] criteria, with the exception of solar access", as 48% of units (95 units) would receive 2 hours of solar access between 9am-3pm. This represents a 22% shortfall from 70% criteria in the ADGs objectives. The Department however has found the flexible application of the ADGs solar access objectives to be acceptable in this instance as 71% of units (141 units) would receive 2 hours of solar access in the winter solstice between 9am-4pm (AR, para 87-89). The Department's AR further notes (para 90):

- two hours of solar access will still be provided at the winter solstice to eastern units on the northern interface despite the 0m northern boundary setback;
- the Project's solar access is reasonable in the context of a high density CBD location, noting there are no single aspect south facing units and all units receive solar access to a degree – exceeding the ADG objectives which recommended a maximum 15% of units should receive no solar access; and
- the Project's community open spaces received sound levels of solar access generally above ADG requirements.

External (overshadowing):

An analysis of overshadowing and solar access impacts undertaken by the Applicant shows that largely, the Project will overshadow existing developments which are already affected by other existing development within the Chatwood CBD. Where there is additional overshadowing to existing developments, the impacts are generally confined to a small number of units for less than 1 hour. The Commission does, however, note that the Project creates an overshadowing impact to 747-753 and 755 Pacific Highway, Chatswood which would result in a 28% and 25% reduction respectively to units which currently received 2 hours of solar access (AR, para 93-97). Although acknowledging the potential impacts, the Department finds the Project's overshadowing to be acceptable as (AR, para 98):

the Project complies with WLEPs height controls and aligns with the Chatwood CBD strategy's intent for high density growth; and

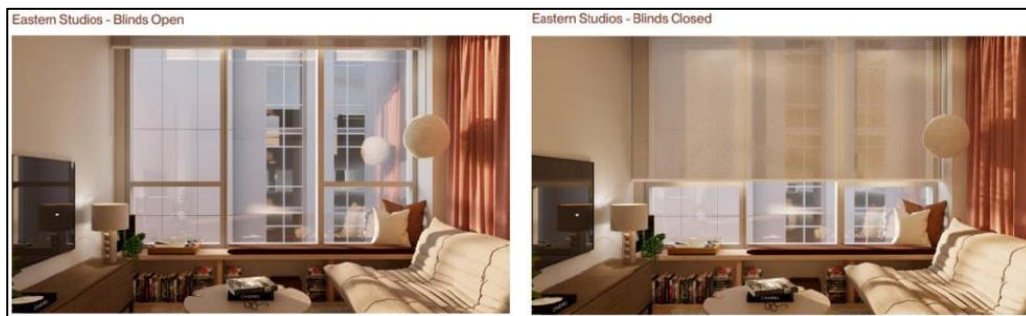
units within adversely impacted developments are located to the south of the Site where the protection of solar access is more difficult to achieve, noting that the impacted units will still receive 1-1.7 hours of solar access at winter solstice.

Privacy:

An existing serviced apartment development located to the east (77-79 Albert Avenue), will be separated from the Project by 9.81m to 12.19m. It should be noted that the serviced apartment development's units have a setback of only 895mm from its western (Albert Lane) boundary (AR, para 102-103).

The Department has determined the Project's building separation to be reasonable as adjoining developments are typically expected to share separation achieving visual privacy, and as the existing serviced apartment development has a minimal setback from its boundary, the Project would need to be designed to accommodate a 21m separation to align with ADG objective. Such separation would render the Project unfeasible (AR, para 103). To mitigate potential visual privacy impacts, the Project has been designed to offset windows of habitable room to those in the serviced apartment development. Studio interiors and balconies will however be visible from the serviced apartments. A further design response from the Applicant to mitigate visual privacy impacts is the inclusion of inbuilt window seating (Figure 3) (AR, 103).

Figure 3: Inbuilt window seating (Source: AR, Figure 9)



Commission's findings:

The design of the Project will result in occupants being afforded a good level of solar access whilst potential amenity impacts on surrounding developments are mitigated to acceptable levels. The Project is a high quality design response in the context of the Site's constraints and opportunities and the high density CBD locality in which it is located.

Views and visual impact

Due to the Site's topography and location, significant views from surrounding developments would be to the south-east towards the North Sydney and Sydney CBDs and Sydney Harbour. Potential district views are noted to be present in all directions from the Site by virtue of being located on the edge of the Chatswood CBD. Other than the serviced apartment development located at 77-79 Albert Avenue, the Department's assessment considers views from surrounding properties will either be unaffected, already obscured by existing development and/or limited in their available views due to their existing heights being lower than that of the Project (AR, para 108-109).

Of the 11 apartments on each floor of the serviced apartment development existing to the east of the Site, only one apartment per floor has a single view aspect to the west. All other apartments in that development have other views, notably with a northern or southern aspect (AR, para 112). Noting the Department's assessment of views and visual impacts, the potential impacts arising from the Project, particularly considering the locality and established urban environment, do not warrant refusal of the Application.

Heritage

The Site contains an item of environmental heritage of local significance, described as 'old fire station' within Schedule 5 of the WLEP. The Project seeks approval to demolish the old fire station.

The Applicant's Statement of Heritage Impact (SoHI) states construction of the old fire station (then known as the Willoughby Fire Station), was completed in 1899 and opened on 14 February 1900 (SoHI, p17). The old fire station is described as "*a single storey building of brick construction with a flat roof in the Federation Classical Freestyle[.]*" The building originally contained a brick lookout tower on its northwest corner, however this appears to have been demolished between 1964 and 1970. The interior of the building has been significantly modified from its original condition, however some original features remain. A fibre-cement sheet clad addition, likely from the 1970s, exists at the rear of the building (SoHI, p20-24). The building is currently used as a retail premises.

The front façade of the old fire station is situated within a portion of the Site zoned SP2 Infrastructure (Classified Roads) (SP2 zone) under the WLEP, zoned as such to facilitate the future widening of the Pacific Highway. Accordingly, the old fire station façade will be required to be demolished for future road widening works. The SoHI further acknowledges the front façade of the old fire station cannot be retained as part of the redevelopment of the Site (AR, para 73) and that accordingly there will be major adverse physical impact to the locally significant item (SoHI, piii).

The Applicant submitted a revised heritage interpretation strategy as part of the response to submissions process which proposes the construction of a mesh structure to replicate the old fire station façade within the landscaped western setback on the Site. The strategy includes the re-use of salvaged materials where possible, specific decorative elements in the Project's podium to reference the old fire station and information plaques within the mesh replica (AR, para 75).

In light of Council's objection to the revised heritage interpretation strategy, the Applicant undertook additional analysis regarding Council's preference for the old fire station façade to be incorporated into the Project's podium, finding that (AR, para 78):

- removal and reconstruction of the more than 100 year old brickwork is likely to result in less than 50% of the original fabric being retained;
- new materials would need to be incorporated into the rebuilding of the façade; and
- options developed for the Project show incorporating the old fire station façade into the podium of the Project diminishes its prominence and legibility (Figure 4).

Figure 4: Council's preference for incorporation of the facade into the podium (left) applicant's interpretation strategy (right) (Source: AR, Figure 7)



Heritage NSW considered the Applicant's revised heritage interpretation strategy and Council's position, agreeing with the Application's approach, noting (AR, para 80):

- the façade's relocation as a single unit is not feasible, noting that a relocated façade would result in the use of new materials and the façade 'embedded' into the podium, which would present as inauthentic and be overwhelmed by the Project;
- embedding the façade of the old fire station into the podium may distort its history and significance; and
- the mesh structure proposed by the Applicant has the potential to become unsightly if not maintained.

The Department's assessment (AR, para 83-84) has determined that the Applicant's proposed revised heritage interpretation strategy is an acceptable response to the heritage impacts of the Project and concludes the demolition of the old fire station to be acceptable. The Department notes the strategy provides a feasible response whilst best interpreting the heritage significance of the old fire station, also noting that it has considered the strategy's compatibility with the Burra Charter objectives.

The Commission is of the view that the retention of the old fire station is not required as:

- its façade is situated within the SP2 zoned portion of the Site which is required for the widening of the Pacific Highway;
- the fragile nature of the façade materials is not conducive to the structure being relocated;

	<ul style="list-style-type: none"> Heritage NSW agrees with the Applicant's heritage interpretation strategy; and incorporating the façade into the podium of the Project with new materials could create an adverse impact to the heritage interpretation of the old fire station and subsequently the streetscape. <p>Conditions have been imposed by the Commission to manage residual impacts on heritage values, which require:</p> <ul style="list-style-type: none"> a photographic archival recording of the old fire station prior to the commencement of any demolition works; and initial and final heritage interpretation plans to be prepared which detail the interpretive design which must be further developed once the quality and quantity of fabric which can be retained are known. Ongoing maintenance of the interpretation materials/elements must also be included in the final plan.
Waste management, loading and servicing	<p>A pull-in bay to be used by waste and servicing vehicles is proposed off Albert Lane on the eastern side (rear) of the Project. A private waste contractor will service the Project using a small or medium rigid vehicle.</p> <p>The Commission acknowledges Council raised concerns with the Department about the Project's waste management being at ground/street level and the proposed use of private waste contractors (AR, para 116). Council's preference for the Project to be designed to accommodate Council's waste vehicle (a heavy rigid vehicle) is noted, however the Commission also notes that the narrow dimensions of Albert Lane are not conducive to the safe manoeuvrability of heavy rigid vehicles (AR, para 115-116).</p> <p>The Project's waste management, loading and servicing is suitable. Private contractors will be able to effectively service the development via a dedicated loading bay that provides for a safer road network outcome when compared to collection by Council's waste collection vehicles. Conditions imposed by the Commission require the Applicant to prepare and implement an operational plan of management (conditions F28 and F29) and an operational waste management plan (condition F30) to ensure adequate waste management for the life of the development.</p>

Other issues

Other issues considered by the Commission in its determination are outlined below in **Appendix B: Table 5**.

Appendix B – Table 5: Other issues considered by the Commission in its determination

Issue	Commission's findings
Road widening and public domain	<p>The Project includes a portion of the Site fronting the Pacific Highway and Albert Avenue located within the SP2 zone pursuant to the WLEP, which is to be dedicated to Transport for NSW (TfNSW) as part of future road widening works (AR, Table 7).</p> <p>The Applicant confirmed that the development does not propose any construction of structures or built form on the SP2 zone and agreed to dedicate the whole of the SP2 zone (approximately 3.5m along the Pacific Highway and 1.5m along Albert Avenue) to Council prior to the issue of the final Occupation Certificate (AR, Table 7). This will allow any land not used for the road widening works within the SP2 zone to remain in Council ownership for use as expanded public domain in perpetuity (AR, Table 7).</p> <p>The Commission is supportive of this approach to the dedication and future use and management of the SP2 zoned land and has imposed conditions of consent requiring all buildings and structures to be wholly outside of the SP2 zone and the dedication of the SP2 zone land to Council prior to the issue of the Occupation Certificate.</p>

Issue	Commission's findings
	<p>The Commission agrees with the Department's consideration of the Albert Avenue setback as outlined in AR Table 7 and has imposed a condition of consent requiring the registration of easements prior to the issue of the Occupation Certificate.</p>
Traffic and Parking	<p>Traffic:</p> <p>The Applicant's Traffic Impact Assessment (TIA) provides that the Project will generate 30 and 25 vehicle trips per hour in the AM and PM commuter peak periods respectively (AR, Table 11). The TIA also provides that the Project will generate 26 vehicle movements in Saturday peak (TIA dated 22 October 2024, page 23).</p> <p>The Commission agrees with the Department's assessment of the traffic impacts of the proposal and finds the traffic generation acceptable as the Site is well located with good access to public transport and the additional trip generation and vehicle movements are minimal and can be accommodated by the existing road network. Further, the Applicant has prepared a preliminary Green Travel Plan which the Commission has required as a condition of consent be updated prior to the commencement of operation to promote the use of active and sustainable transport models.</p> <p>The Commission notes the Site's access and egress on Albert Lane is located within a pedestrian environment and as such, to mitigate any potential pedestrian safety impacts, the Commission considers it appropriate for an auditory warning system, in conjunction with appropriate pedestrian advisory signage, to be provided at the egress from parking areas, which has been imposed as a condition of consent.</p> <p>Parking:</p> <p>The Project proposes 53 car parking spaces, which is a rate of 0.27 spaces per dwelling (AR, Table 7). SEPP Housing includes a non-discretionary development standard (NDDS) which provides that a consent authority cannot refuse an application for build-to-rent housing if 0.2 car parking spaces per dwelling is provided (equivalent to 40 spaces for this Project) (AR, Table 7).</p> <p>The Applicant noted that the SEPP Housing NDDS is not expressed as a minimum or maximum and therefore submitted a written request under clause 4.6 of the WLEP 2012 to justify the variation to the parking rate NDDS (AR, Table 7).</p> <p>The Commission agrees with the Department that a variation under clause 4.6 of the WLEP is not required in order to grant development consent. However, if a formal variation to the NDDS were required, the Commission would have agreed with the Applicant's clause 4.6 variation request, finding compliance with the development standard unreasonable or unnecessary in the circumstances of the Project, and that there would be sufficient environmental planning grounds to justify the contravention of the development standard, were it to be contravened.</p> <p>The proposed 53 car parking spaces provide a limited but appropriate supply of car parking spaces which aligns with Council's objectives of reducing reliance on cars in highly accessible areas to promote the use of other transport modes. The car parking will also not result in adverse environmental impacts.</p> <p>The Commission has imposed conditions of consent requiring the provision of 53 car parking spaces (including six accessible spaces), 121 bicycle spaces, four motorcycle spaces and electric vehicle charging infrastructure in accordance with the National Construction Code, as well as the preparation of a Car Parking, Loading and Servicing Management Plan to ensure any potential traffic and safety impacts associated with the car park and loading dock operation are mitigated.</p>

Issue	Commission's findings
Aboriginal Cultural Heritage	<p>An Aboriginal Cultural Heritage Report (ACHR) accompanied the Application. Heritage NSW reviewed the EIS and sought additional information regarding consultation for the Project, the Applicant providing the information as part of its response to submissions (RtS) package. Heritage NSW subsequently provided recommended conditions of development consent (AR, Table 7). The Commission has imposed the conditions as recommended by Heritage NSW.</p>
Contamination	<p>The Application included a Preliminary Site Investigation (PSI), a Targeted Site Investigation (TSI) and an Environmental Addendum Letter prepared by EI Australia which confirms the Site can be made suitable for the proposed development.</p> <p>Through the Commission's consultation with the Department regarding conditions of consent, the wording of conditions D17 to D19 was clarified to reference the PSI accurately. Additionally, the Commission has imposed condition D19 requiring a Stage 2 Detailed Site Investigation (DSI) to be undertaken post demolition in accordance with the Environmental Addendum Letter prepared by EI Australia dated 7 November 2024.</p> <p>One public submission noted that the PSI and TSI both specify that a Hazardous Materials Survey must be completed prior to any demolition works. The Commission agrees and the survey would be required to be undertaken via conditions of the Commission's development consent which requires compliance with the Project's documentation (including the PSI and TSI). However, to ensure the survey takes place, the Commission has imposed a condition of consent requiring it to be completed prior to the commencement of any demolition works.</p> <p>The Commission is satisfied that in accordance with the Environmental Addendum Letter, the Site can be made suitable for the proposed land use and any potential residual impacts will be mitigated through the completion of a DSI to confirm the findings to date, or if the results vary the preparation of a Remedial Action Plan, as imposed by conditions of consent.</p>
Impacts to existing businesses	<p>The Commission agrees with the Department's assessment of physical impacts to existing businesses and that the development can be constructed to appropriate standards without damage to nearby buildings or causing unreasonable amenity impacts. The Commission has imposed several conditions of consent to mitigate or manage any potential amenity impacts during construction including the preparation of a Construction Environmental Management Plan, hours of construction and construction noise limits and vibration criteria.</p> <p>The Commission notes that the operation of existing businesses on the Site are subject to existing commercial arrangements which fall beyond the scope of this development application and the Commission's remit.</p>
All other issues identified by the Department	<p>After consideration of all other issues identified by the Department in its AR, the Commission is satisfied that any potential land use planning impacts arising have been adequately addressed, and/or can be mitigated and managed through the imposed conditions of development consent.</p>

Appendix C – Instrument of Consent

[Link to Instrument of Consent, dated 17 July 2025](#)

Appendix D – Department's Assessment Report

[Link to Department's Assessment Report, dated June 2025](#)



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