

Department of Planning, Housing and Infrastructure

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Novus on Victoria, Chatswood - Build-to-Rent

State Significant Development Assessment Report (SSD-63324208)

November 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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Novus on Victoria – 410-416 Victoria Avenue, Chatswood – Build-to-Rent (SSD-63324208) Assessment Report

Published: November 2025

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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 Victoria, Chatswood - Build-to-Rent (BtR) development located at 410-416 Victoria Avenue, Chatswood, lodged by Novus Management Pty Ltd. 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's assessment of the State significant development (SSD) application for the Novus on Victoria, Chatswood – Build-to Rent development (SSD-63324208).

Novus Management Pty Ltd (the Applicant) proposes to construct a 46 storey build-to-rent (BtR) development, located at 410-416 Victoria Avenue, Chatswood in the Willoughby City local government area (LGA).

The proposal has an estimated development cost (EDC) of \$163,290,082 and is expected to generate 221 construction jobs and 131 operational jobs. If approved, construction of the project is proposed to commence in 2026 and be completed by 2029.

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 6 May 2025 until 2 June 2025. During the exhibition period, the Department received:

- 97 public submissions (92 objections, two support and three comments)
- a submission from Willoughby City Council (Council) objecting to the proposal
- advice from eight government agencies.

The Minister for Planning and Public Spaces is the consent authority for the project under section 4.5(a) of the EP&A Act. However, the application is referred to Independent Planning Commission (IPC) for determination as the Minister's delegate, as there are at least 50 public submissions objecting to the proposal prior to amendments to section 2.7 of the Planning Systems SEPP.

Key concerns raised by the community and Council related to view loss, built form and insufficient setbacks, traffic and parking, overshadowing, construction impacts (including to Victoria Avenue markets) and waste management.

The Applicant submitted a Response to Submissions (RtS) and Amendment Report on 8 August 2025 and additional information in response to the issues raised by the Department, Council, government agencies and public submissions (see **Appendix A**). Key refinements to the proposal included relocating the vehicular access from Post Office Lane to Victor Street, reducing the basement from three to two levels and associated reduction in parking and substation location.

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 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 260 BtR apartments in a highly accessible location
- it is permissible with consent and complies with the maximum building height development standard in the Willoughby Local Environmental Plan 2012 (WLEP 2012)
- it achieves design excellence, as it has been subject to a competitive design process in accordance with the Department's Design Competition Guidelines and 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
- it does not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
- it provides active frontages and minimises vehicular movements within the highly pedestrianised immediate locality
- it provides commercially managed residential accommodation, together with 1,101m² of retail floor space that would generate up to 221 construction jobs and 131 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.

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1 Introduction

1.1 The proposal

1. Novus Management Pty Ltd (the Applicant) proposes demolition of existing buildings and construction of 260 BtR units within a 46 storey shop-top housing development, with retail on the ground and first level, two basement levels and communal open space on the podium at 410-416 Victoria Avenue, Chatswood.
2. The project description and mitigation measures provided in the environmental impact statement (EIS) and amendment report (at **Appendix A**) 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 in the amendment report, is provided in **Section 2**.

1.2 Project location

4. The site is located at 410-416 Victoria Avenue, Chatswood in the Willoughby local government area (LGA) (see **Figure 1** to **Figure 3**).

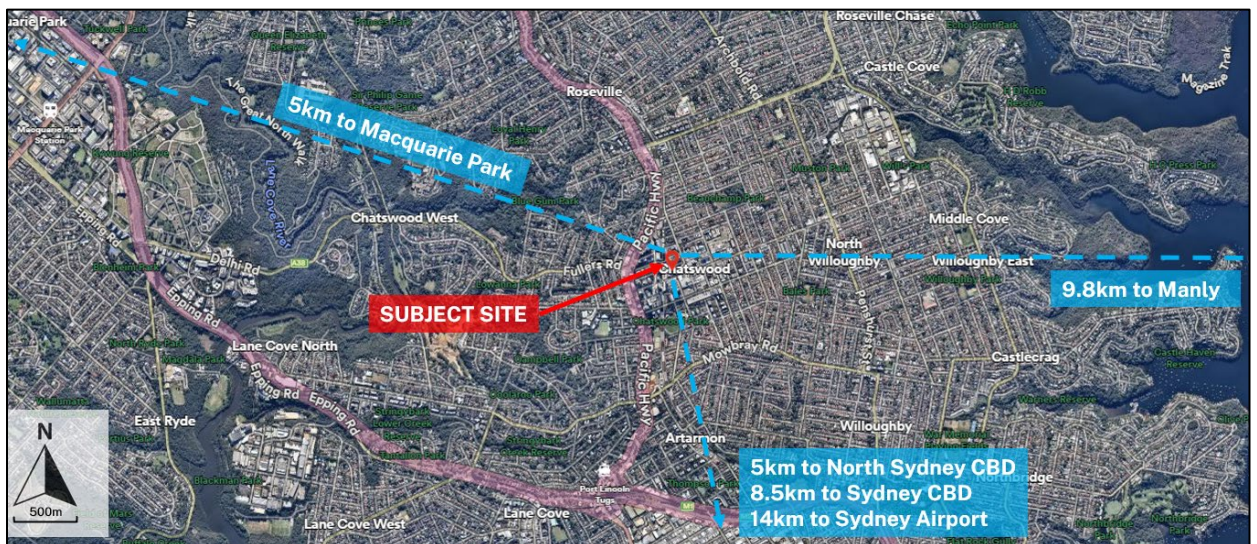


Figure 1 | Regional context map (source: Nearmap)

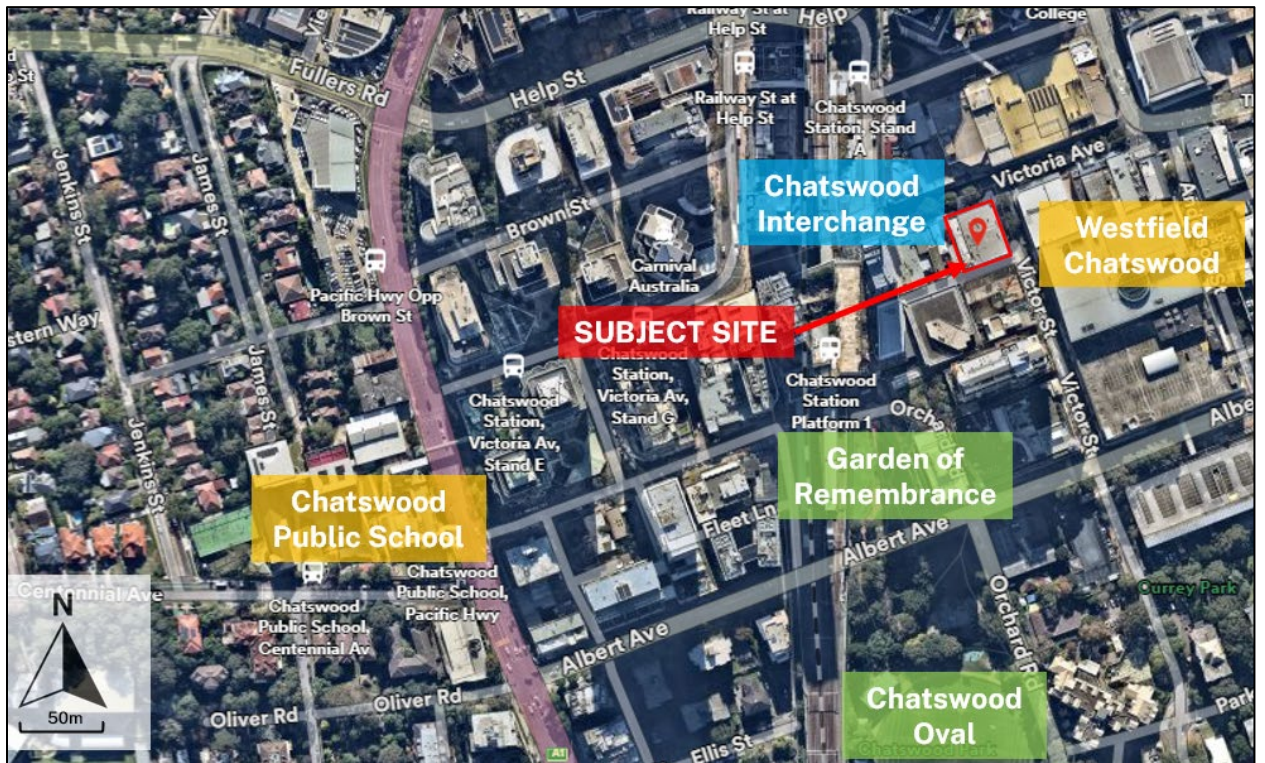


Figure 2 | Local context map (source: NearMap)



Figure 3 | Site and surrounding streets (source: NearMap)

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

Table 1 | Key aspects of the project site

| Aspect | Description |
|-----------------------------|---|
| Address | 410-416 Victoria Avenue, Chatswood |
| Local government area (LGA) | Willoughby City |
| Legal description | Lot A and B in DP406105 & Lot 4 in DP82303 |
| Site area | 1,050m ² |
| Existing development | The site contains two storey retail/commercial buildings with ground floor shopfronts fronting Victoria Avenue and Victor Street. |
| Surrounding development | <ul style="list-style-type: none">• North (across Victoria Avenue): mix of small to medium-scale commercial and retail buildings generally ranging from two to four storeys. Further north on Help Street is the Regency residences, being 28 and 21 storeys.• East (across Victor Street): Chatswood Westfield shopping centre of approximately seven storeys, with ground floor retail frontage to Victoria Avenue and Victor Street.• South (across Post Office Lane): A mix of residential, commercial and retail buildings, with the existing Sebel residences up to 28 storeys (at 31 Victor Street). Further south is the Garden of Remembrance and Chatswood Oval.• West (fronting Victoria Avenue): A mix of small to medium-scale commercial and retail buildings, as well as high-rise residential towers ranging from approximately 27 to 40 storeys above 5-storey podiums located above Chatswood station. |
| Surrounding Roads | The site has street frontages to Victoria Avenue (north), Victor Street (east) and Post Office Lane (south). In this location Victoria Avenue (and part of Victor Street) is pedestrianised, providing a main thoroughfare to the station and used for markets every Thursday to Saturday. Victor Street and Post Office Lane are cul-de-sacs that terminate at or near to the site. |

| Aspect | Description |
|------------------|---|
| Public Transport | The site is within Chatswood CBD. It is approximately 50m from an entrance to the Chatswood Interchange, which comprises rail, metro and bus services connecting to the local and regional network. |
| Topography | The site has an approximate slope of 1.5m from the northwest corner to the southeast corner. |
| Existing access | <ul style="list-style-type: none"> Existing pedestrian access is from Victoria Avenue and Victor Street. Existing vehicular access for loading and servicing is from Post Office Lane. |
| Heritage | The site does not contain a heritage item nor in a heritage conservation area. |
| Flooding | The site is not mapped as flood prone land. |
| Soil and water | <ul style="list-style-type: none"> Groundwater is anticipated at a depth of approximately 4.6-5.6m below ground level (RL90m AHD), within the shale bedrock. Acid Sulfate Soils are not mapped within the vicinity of the site. |

2 Project

2.1 Project overview

6. This SSD application seeks demolition of existing buildings on the site and construction of a 46-storey shop-top housing development with 260 BtR units, two basement levels for storage and services and commercial premises on the ground and first floor of the podium.
7. The key aspects of the project are provided in detail in the Project Description chapter of the EIS and Amendment Report (see **Appendix A**) and are outlined in **Table 2** and shown in **Figure 4**.

Table 2 | Key aspects of the project

| Aspect | Description |
|--|--|
| Demolition and site preparation | <ul style="list-style-type: none">• Demolition of existing buildings, including ancillary structures• Bulk earthworks and excavation |
| Land uses | Construction and operation of a shop top housing development providing: <ul style="list-style-type: none">• 260 BtR units, resident amenities and communal space• commercial (retail) premises on the ground and first floor |
| Building height | <ul style="list-style-type: none">• Tower: RL 246.8m (152m height) / 46 storeys• Podium to Victoria Avenue: RL 103.9m (9.46m height) / 2 storeys• Podium to Victor Street / Post Office Lane: RL 118.9m (24.46m) / 6 storeys |
| Gross floor area (GFA) | <ul style="list-style-type: none">• Residential GFA: 17,409m²• Retail GFA: 1,101m² Total: 18,510m² |
| Basement | Construction of two basement levels, comprising: <ul style="list-style-type: none">• building services, storage (retail, commercial, residential), waste storage, laundry service, prayer room• one car share space and 84 bicycle spaces |
| Access | <ul style="list-style-type: none">• Pedestrian access to the residential lobby from Victor Street• Retail tenancies accessed from Victoria Avenue and Victor Street |

| Aspect | Description |
|-----------------|--|
| | <ul style="list-style-type: none"> Vehicle loading and waste access from Victor Street |
| Dwelling mix | <ul style="list-style-type: none"> Studios: 115 (44.2%) 1 bedroom: 79 (30.4%) 2 bedroom: 63 (24.2%) 3 bedroom: 3 (1.2%) <p>Total: 260 BtR units</p> |
| Communal spaces | <ul style="list-style-type: none"> Internal: 1,065m² (101% of the site area) External: 561m² (53% of the site area) <p>Total: 1,626 (155% of the site area)</p> |
| Landscaping | <ul style="list-style-type: none"> Landscaped podiums on Level 2, Level 5 and Level 23 Landscaping to the pedestrianised portion of Victor Street (following temporary use of this area during construction) |
| Staging | Single stage construction commencing in 2026 and completing in 2029 |
| EDC | \$163,290,082 |
| Employment | <ul style="list-style-type: none"> 221 construction jobs 131 operational jobs |

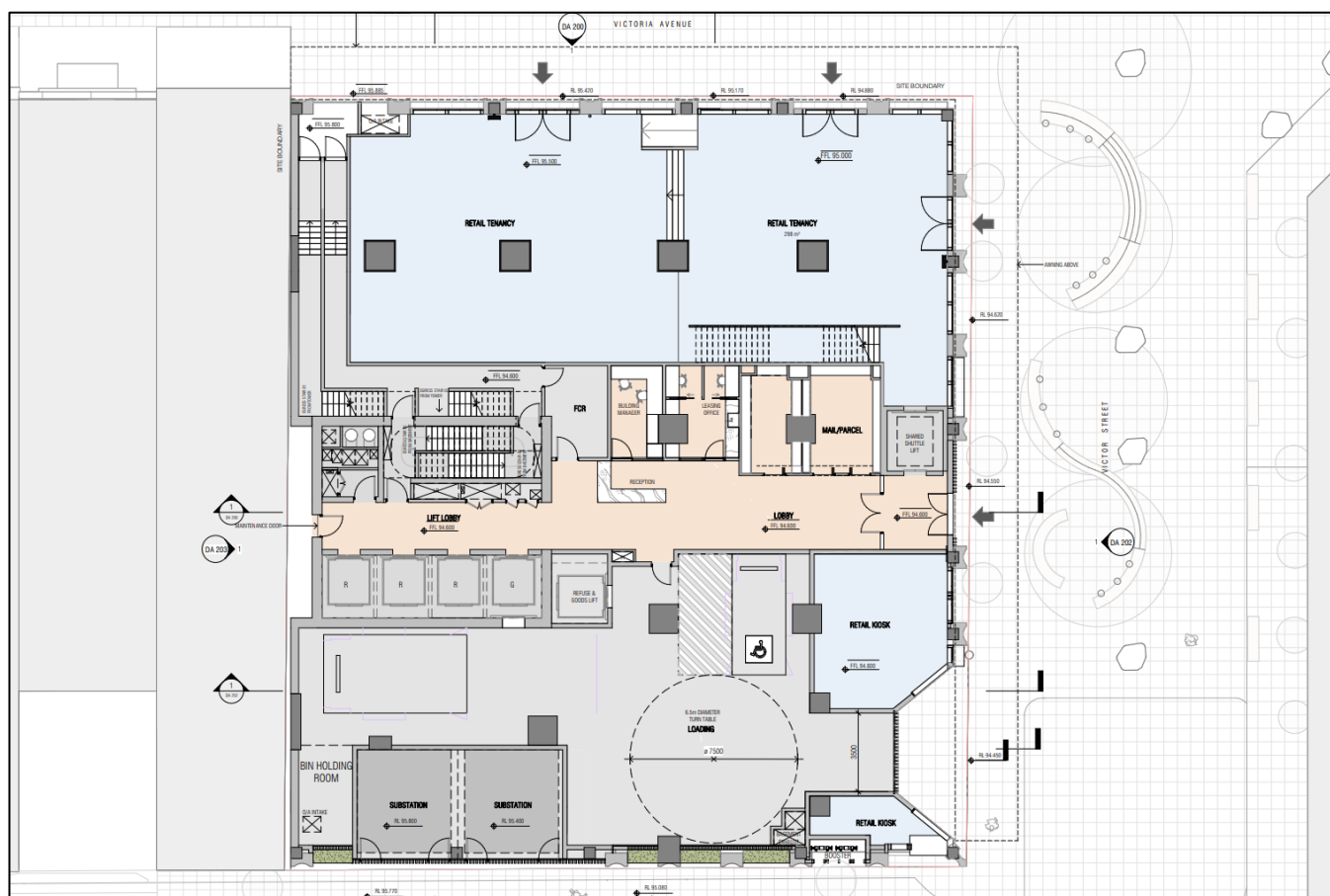
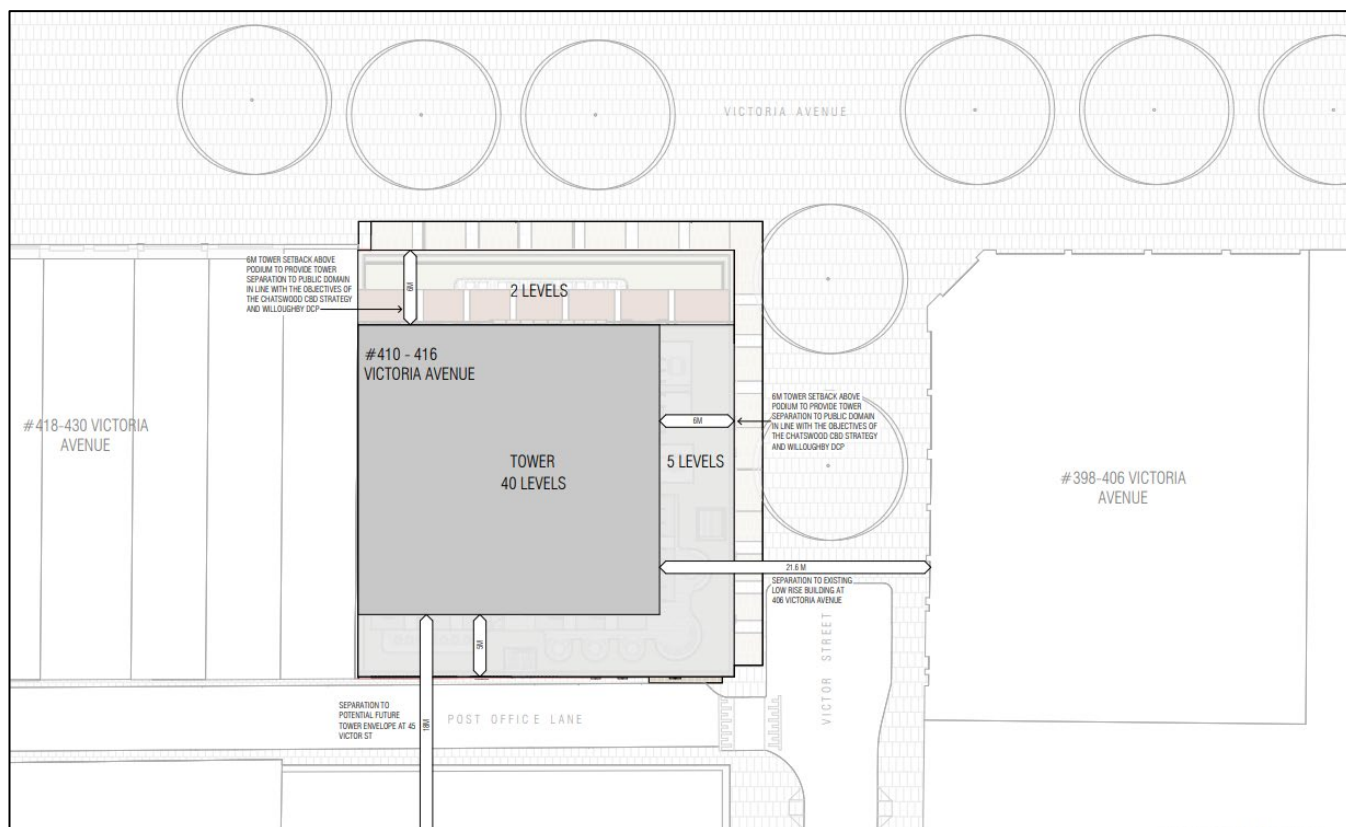


Figure 4 | Proposed site plan (top), ground floor layout (above) and photomontages of Victor Street / Victoria Avenue and Victor Street / Post Office Lane facades (over the page) (source: Applicant's RtS)



3 Policy and statutory context

3.1 Housing supply

8. 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.
9. In February 2021, BtR housing was introduced into the NSW planning system to recognise and support this emergent development type. This included introducing new provisions in the Housing SEPP to make BTR housing permissible in the E2 commercial centre zone across NSW, including Willoughby.
10. An SSD pathway for BtR 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 |
|---------------------------|---|
| Assessment pathway | <ul style="list-style-type: none">• The project is declared SSD under section 4.36 of the EP&A Act as it satisfies the criteria under section 2.6(1) and section 27 of Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP), being BtR housing.• The project is SSD under section 27 of Schedule 1 of the Planning Systems SEPP as:<ul style="list-style-type: none">– it proposes BtR housing with an EDC in the Greater Sydney Region of more than \$50 million– the tenanted component represents more than 60% of the estimated EDC– the development does not involve development that is prohibited under an EPI applying to the land. |
| Consent authority | The Minister is the declared consent authority under section 4.5(a) of the EP&A Act. However, the application is referred to Independent Planning Commission (IPC) for determination as the Minister's delegate (under delegation dated 14 |

| Consideration | Description |
|-----------------------|---|
| | September 2011), as there are at least 50 public submissions objecting to the proposal prior to amendments to section 2.7 of the Planning Systems SEPP. |
| Permissibility | <ul style="list-style-type: none"> The site is zoned E2 Commercial Centre pursuant to the WLEP 2012. Shop top housing, for use as BtR, is permissible with consent within the E2 Commercial Centre zone pursuant to section 72 of the Housing SEPP. |

3.3 Other approvals and authorisations

12. Under section 4.41 of the EP&A Act, several 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 F**).

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 February 2025 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 6 May 2025 until 2 June 2025 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 97 public submissions (92 objections, two support and three comments), advice from eight government agencies and an objection from Council.
20. Department officers conducted a site visit on 26 May 2025 and 27 August 2025 to understand the site context and the issues raised in submissions.
21. The Department also met with Council staff to discuss Council's concerns about the project on 16 July 2025.
22. The Department requested the Applicant to respond to the issues raised in submissions and comments received from government agencies. The Applicant provided a RtS and Amendment Report (see **Appendix A**).
23. The Department made the RtS and Amendment Report publicly available on the NSW Planning Portal and notified the relevant government agencies and Council. In response, the Department received further submissions from Council, the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Water Group and a member of the public, which have been provided to the Applicant for its consideration.
24. A summary of the key issues raised is provided below.

4.1.2 Summary of advice received from government agencies

25. A summary of the agency advice is provided in **Table 4**. A link to the advice is provided in **Appendix A**.

Table 4 | Summary of agency advice

| Agency | Advice summary |
|---|--|
| NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Water Group | <ul style="list-style-type: none"> • DCCEEW requested the Applicant provide further information on the maximum annual volume of water take due to potential aquifer interference activities. • DCCEEW required assurance that the correct licensees and approvals are obtained under the Water Management Act. |
| Heritage NSW – Heritage Council | <ul style="list-style-type: none"> • Heritage NSW agreed with the recommendations of the Applicant's Statement of Heritage Impact (SoHI) and recommended conditions regarding the preparation of an unanticipated finds procedure. |
| Heritage NSW - Aboriginal Cultural Heritage | <ul style="list-style-type: none"> • Heritage NSW agreed with the recommendations of the Applicant's Aboriginal Cultural Heritage Assessment Report (ACHAR) and recommended conditions regarding ongoing consultation with the registered Aboriginal stakeholders and preparation of an unanticipated finds procedure. |
| Transport for NSW - Sydney Trains | <ul style="list-style-type: none"> • Sydney Trains raised no concerns with the proposal and recommended conditions to protect rail land, assets, operations and to ensure a safe and reliable rail service. |
| Ausgrid | <ul style="list-style-type: none"> • Ausgrid provided advice on electrical infrastructure, including adjacent to the site, underground and an on-site substation. • Ausgrid recommended conditions to protect existing underground cables and in relation to the design of the new chamber substation. |
| Sydney Water | <ul style="list-style-type: none"> • Sydney Water raised no concerns with the proposal and recommended conditions regarding section 73 compliance, tree planting and building plan approval. |

26. Fire and Rescue NSW and Transport for NSW provided no comment.

4.1.3 Summary of Council submissions

27. Council made a submission by way of objection during the public exhibition of the EIS. Council provided a further submission in response to the RtS and Amendment Report, noting that it maintains its objection to the proposal and reiterating key issues. A link to all submissions is provided in **Appendix A**.

28. A summary of the outstanding issues raised by Council is provided below:

- **Built form and urban design issues** – Council raised concern with the significant building height and floor space (density), reduced tower setbacks, inadequate basement for waste servicing, insufficient space for landscaped frontages and lack of non-residential floor space.
- **Design excellence** – Council raised concern with use of the design excellence process to support the proposed setbacks and massing. Council requested redesign to address its built form and urban design issues, and for the revised scheme to be subsequently reviewed by the Design Integrity Panel.
- **Lot size** – Council raised concern that the site area (1,050m²) does not comply with Clause 6.16 of the WLEP 2012, which states that the minimum lot size for commercial development premises on land in E2 Commercial Centre is 1,800m².
- **Commercial floor space** – Council raised concern that the amount of commercial floor space does not align with their planned land use mix, requesting the Applicant to increase the non-residential floor space from 6% to 17%.
- **Construction management** – Council raised concern that the proposed construction compound on Victor Street will compromise the pedestrianised portion of Victoria Avenue, especially pedestrian access and trader access during the Victoria Avenue market and pedestrian activity on surrounding streets.
- **Landscaping of adjacent public domain** – Council seeks refinement of the concept plans for the public domain upgrades to provide increased landscaping and greening.
- **Affordable housing and public art** – Council seeks provision of affordable housing and a public art contribution.
- **Sustainability** – Council seeks a clear commitment to a 6 star Green Building Council of Australia (GBCA) rating or equivalent.
- **Waste Management** – Council do not support the arrangements for waste disposal and does not support private operators collecting residential waste.

29. Council recommended conditions (if approved) addressing affordable housing, contributions, engineering and landscaping.

4.1.4 Summary of public submissions

30. The Department received 97 submissions during the public exhibition of the EIS. Ninety-two submissions objected to the project, two supported the project and three provided comment.

31. The key issues raised in the public submissions are provided in **Table 5** and a link to all submissions is provided in **Appendix A**.

Table 5 | Key issues raised in submissions on the EIS

| Issue | % of submissions |
|-------------------------------------|------------------|
| Traffic impact | 65 (71%) |
| Overshadowing impact | 50 (54%) |
| View loss and privacy impact | 44 (48%) |
| Height and density | 39 (42%) |
| Construction impact | 35 (38%) |
| Impact to the character of the area | 34 (37%) |
| Lack of infrastructure | 29 (32%) |
| Social amenity | 19 (21%) |
| Housing typology (BtR) | 16 (17%) |
| Community safety | 16 (17%) |
| Wind impact | 9 (10%) |
| Ecological impact | 5 (5%) |
| Loss of commercial floor space | 4 (4%) |
| Lack of deep soil | 4 (4%) |

5 Assessment

32. 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.
33. The Department considers the key assessment issues associated with the proposal are:
- design excellence
 - built form
 - residential amenity
 - waste management, loading and servicing
 - traffic, parking and access.
34. The Department's consideration of other issues is described in **Section 5.5** and the appendices of this report.

5.1 Design excellence

35. The WLEP 2012 requires the development to exhibit design excellence through a design competition process. A competitive design process is a design competition held in accordance with the Department's Design Competition Guidelines, September 2023.
36. A design competition was held on 22 November 2023, which included:
- a Design Excellence Strategy (DES) and competition brief endorsed by the Government Architect NSW (GANSW)
 - a three member Competition Jury nominated by GANSW, Council and the Applicant
 - three design teams that prepared schemes responding to the brief.
37. The Competition Jury considered the schemes and confirmed the design by Fender Katsalidis (see **Figure 5**) as the competition winner.



Figure 5 | Competition winning design (top) and proposed design (bottom). (Source: Applicant's Design Excellence Competition Report and RtS)

38. In accordance with the DES, a Design Integrity Panel (DIP) was appointed to maintain the integrity of the winning scheme during all stages of the proposal. The DIP comprised members of the Competition Jury.
39. In its submission, Council raised concerns that the Applicant has used the design excellence process to justify non-compliance with the planning controls, including tower setbacks. Council requested a redesigned proposal as the design excellence process does not constitute a detailed assessment against the planning controls.
40. The Department's assessment considers the proposed departures from planning controls, including setbacks, in **Section 5.2.3** and at **Appendix B**.
41. On 24 July 2025, the DIP reviewed changes to the proposal in response to submissions made during the public exhibition, including the revised vehicle entry location and other design refinements, and indicated its support, noting that the revised scheme continues to exhibit design excellence.
42. In addition to requirements for a competitive design process, clause 6.23 of the WLEP 2012 sets out various matters that the consent authority must consider when determining whether a proposal exhibits design excellence.
43. The Department has considered these matters and is satisfied that the proposal achieves the highest standard of architectural and urban design as it:
- incorporates well considered modulation and articulation to break up the bulk and massing of the building by emphasising separate architectural elements and enhancing the vertical appearance of the tower design
 - contains a variety of high quality materials with a well considered approach to the overall quantity of glazed façades versus solid and permeable material finishes, contributing to a high quality ground, podium and tower design, enhancing the quality and amenity of the public domain and pedestrian environment
 - provides a street wall height that responds to its CBD context, achieves functional floor to ceiling clearances and provides a comfortable human scale for pedestrians, notwithstanding the minor height exceedance of the podium
 - provides setbacks to the tower on three sides (with nil setback to the west) that achieves an appropriate modulation of the tower and podium form, while providing reasonable amenity to neighbouring uses in terms of solar access, views and wind mitigation (refer **Section 5.2.3**)
 - achieves ESD principles and provides safe and suitable pedestrian, cycling and vehicular access

- provides a highly activated ground floor, which enables passive surveillance and connections between the public and private domains
 - provides a highly resolved landscape design throughout the building and within the adjacent public domain (which will be refined in consultation with Council).
44. The Department is satisfied that the competitive design process was carried out in accordance with the Department's Design Competition Guidelines, as overseen by GANSW. The Department is also satisfied that the proposal adequately addresses the matters for consideration relating to design excellence in the WLEP 2012.
45. Subject to the ongoing involvement of the DIP, the Department is satisfied the development will maintain the integrity of the competition winning scheme and therefore achieve design excellence.
46. The Department recommends a condition requiring the DIP be involved throughout the design development and construction of the proposal, including to review and provide independent oversight should any changes occur to the architectural plans. The Department also recommends a condition to retain Fender Katsalidis as the lead architectural design team for future design documentation.

5.2 Built form

47. The Department considers the following aspects are key to determining the suitability of the proposed built form:
- building height
 - density
 - bulk and scale (including setbacks).

5.2.1 Building Height

48. The WLEP 2012 provides a maximum building height for the site of RL 246.8m and applies the following additional height restrictions:
1. no additional overshadowing of the Chatswood Garden of Remembrance between 12-2pm and Chatswood Oval between 11am-2pm at the winter solstice (see **Figure 8**)
 2. a maximum height of 7m fronting Victoria Avenue, for a depth of 6m, to limit the height of the podium (see **Figure 6**).
49. The proposal seeks approval for a maximum building height of RL 246.8m (152m height / 46 storeys) and a maximum podium height of 12.49m. The Applicant's overshadowing analysis

also demonstrates that the proposal does not overshadow the Chatswood Garden of Remembrance between 12-2pm and Chatswood Oval between 11am-2pm at the winter solstice.

50. The more substantive podium wall fronting Victoria Avenue has a maximum height of 9.46m, and elements above and behind the podium wall (but also subject to a maximum 7m height limit) are at maximum height of 12.49m (see **Figure 7**).



Figure 6 | Mapped WLEP 2012 maximum building heights (source: WLEP 2012)



Figure 7 | Height exceedance street elevation diagram (source: Applicant's 4.6 Variation Request)

51. A clause 4.6 variation request has been submitted with the EIS in support of the additional height within the 7m mapped height area, which concludes that strict compliance with the

development standard is unreasonable and unnecessary in the circumstances, which the Department supports (as discussed in **Appendix D**).

52. Council does not support the proposed building height without adequate resolution of its concerns relating to bulk and scale (setbacks) and the proposed density (which Council had envisaged could only be achieved following amalgamation with the adjacent site). Public submissions raised concerns with the building height.
53. The Department is satisfied that the proposed height of the tower and podium are appropriate for the site, because the:
 - proposed maximum building height (of RL 246.8m) complies with the building height development standard
 - proposal complies with sun access controls, as it does not overshadow Chatswood Garden of Remembrance between 12-2pm and Chatswood Oval between 11am-2pm at the winter solstice (see **Figure 8**)
 - proposed tower height integrates with the existing and future character of the Chatswood CBD, including the cluster of tall buildings located around Chatswood Station
 - proposed podium height fronting Victoria Avenue, with minor height exceedance, reflects the two-storey character of the street frontage, with light weight elements above the street wall height being set back
 - proposed height is articulated by setbacks and supported by detailed overshadowing and view impact analysis, discussed in **Section 5.2.3** and **Section 5.3.2**.



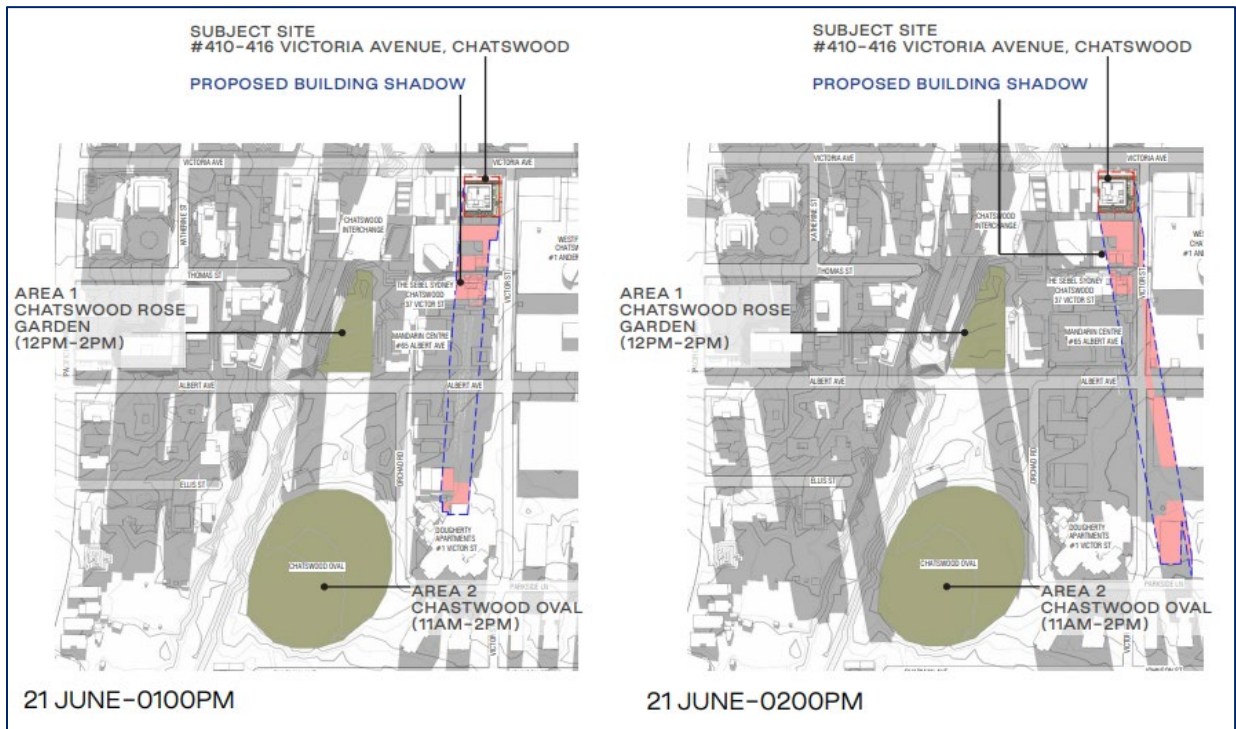


Figure 8 | Winter solstice shadow diagram showing shadows cast by the proposal to the Garden of Remembrance and Chatswood Oval. (Source: Applicant's EIS)

5.2.2 Density

54. The development proposes a total gross floor area (GFA) of 18,510m². The WLEP 2012 does not provide a maximum FSR or other density control for the site.
55. Public submissions raised concerns with the density of the proposal, noting that it represents overdevelopment of the site and leads to residential amenity impacts, increased traffic and greater pressure on infrastructure and services.
56. Council raises a similar concern of overdevelopment. It notes that as the site has not been amalgamated with adjacent sites, as envisaged when establishing the controls, the proposal contains more floorspace than Council anticipated for the area.
57. In the absence of a FSR control for the site, the Department considers that density is informed by an assessment of building form (e.g. height, bulk and scale, design quality), traffic, infrastructure capacity and amenity impacts.
58. The Department has considered height at **Section 5.2.1**, bulk and scale at **Section 5.2.3**, design excellence at **Section 5.1**, residential amenity at **Section 5.3** and traffic and infrastructure impacts at **Section 5.5** and **Appendix B**.
59. The Department has considered the density of the proposed development and considers it appropriate, because:

- the proposal has strategic merit as it delivers homes in a highly accessible area
- the height, bulk and scale of the development is appropriate for the site and compatible with the current and future character of the Chatswood CBD
- the proposal exhibits design excellence as it was informed by a competitive design process (as described in **Section 5.1**)
- the proposal supports a good level of residential amenity for future occupants, as well as maintains residential amenity for neighbouring buildings with regards to solar access, privacy and views (as discussed in **Section 5.3.2** and **Appendix B**)
- the proposal does not result in adverse traffic impacts (as discussed in **Section 5.5**)
- the site is highly accessible to employment opportunities, services, amenities and social infrastructure in and around the Chatswood CBD and beyond via the Chatswood Station, and supported by communal amenities for residents within the building.

5.2.3 Bulk and Scale (including setbacks)

60. Council does not support the proposed building bulk and scale, and in particular the tower footprint and setbacks, associated impacts to neighbouring amenity and amount of space for landscaping and greening of the public realm.
61. Public submissions raised concerns with the building bulk and scale.
62. The Department has considered neighbouring amenity at **Section 5.3.2** and provision of landscaping on the site and public domain at **Section 5.5** and **Appendix B**.
63. Noting that the proposal complies with the maximum building height control, the bulk and scale of the proposed tower results from the proposed tower setbacks. The Department's assessment of bulk and scale therefore focusses on the proposed setbacks.
64. The proposed setbacks (as described in **Table 6** and shown on **Figure 9**) are informed by the Applicant's urban design analysis and the design excellence process.

Table 6 | Summary of proposed setbacks

| Boundary | Setback to Podium | Setback to Tower |
|--------------------------|-------------------|------------------|
| North (Victoria Avenue) | nil | 6m |
| East (Victor Street) | nil | 6m |
| South (Post Office Lane) | nil | 5m |

| Boundary | Setback to Podium | Setback to Tower |
|----------------------------|-------------------|------------------|
| West (418 Victoria Avenue) | nil | 0m |

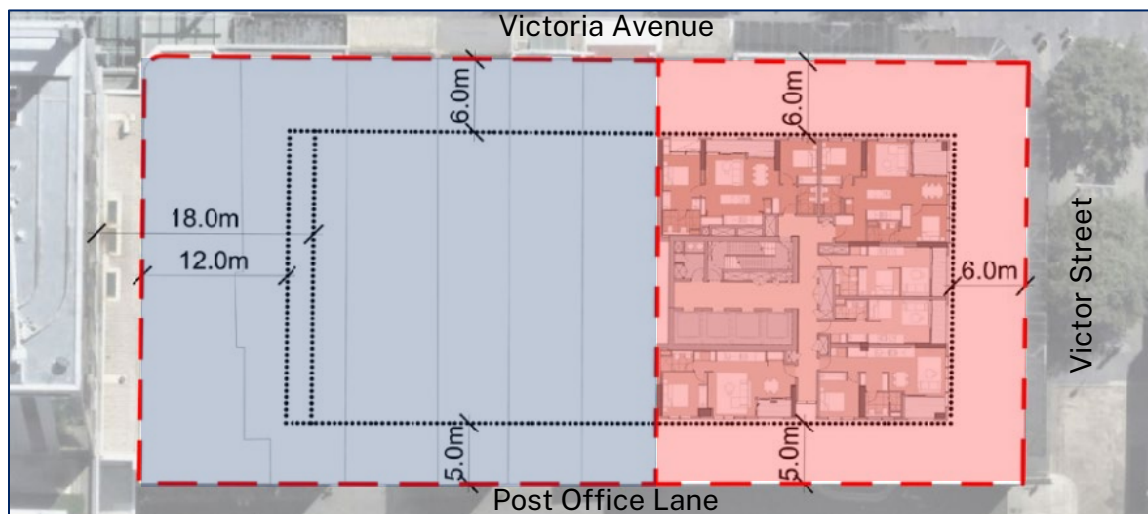


Figure 9 | Proposed tower setbacks (shaded red) and indicative setbacks for adjacent future development to west (shaded blue). (Source: Applicant's RtS)

65. Council raised concerns regarding compliance with the Willoughby Development Control Plan 2023 (WDCP 2023) although it is noted DCPs do not apply to SSD applications. In particular, Council objected to the reduced setbacks outlined in WDCP 2023 in proportion to the proposal's height and recommended setbacks be increased to 7.6m on all sides (as shown in **Figure 10**) to provide separation to neighbouring sites and to avoid the appearance of a continuous uninterrupted built form presenting to Victoria Avenue.

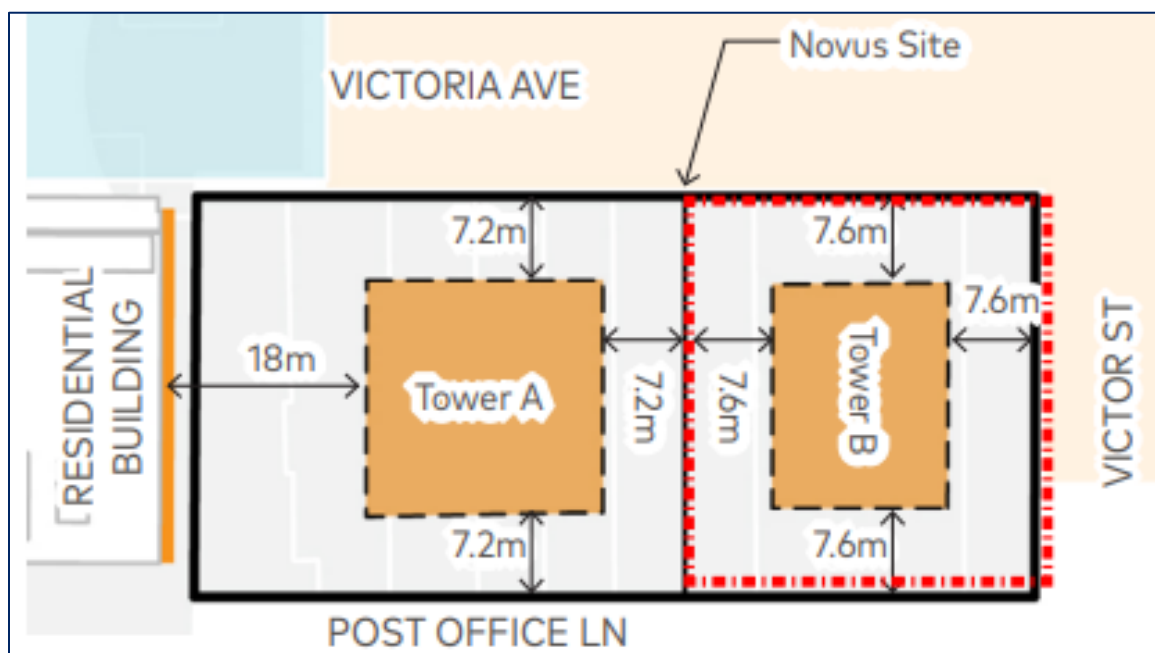


Figure 10 | Alternate setback arrangement that aligns with the WDCP 2023 (source: Applicant's RtS)

66. In December 2023, following discussion with GANSW and Council, the Applicant prepared an Urban Design Study. The Study included an assessment of the site's strategic and statutory planning framework, and its relationship with surrounding development. The Study recommended building envelope parameters, including setbacks, that informed the competitive design process. Consequently, the proposed setbacks were endorsed by the Competition Jury in their selection of the winning scheme, which recognised the envelope in its context.
67. In response to submissions objecting to the proposed setbacks (including Council's), the Applicant prepared an Urban Design Study Addendum that identifies the objective of the setback controls are to achieve a slender tower, which the Applicant contends has been achieved. The Study identifies that the proposed floorplate is well below the maximum prescribed for a residential tower in the WDCP 2023 (390m² compared to 700m² maximum), and is consistent with the Chatswood CBD Strategy, expressing a clear podium and tower form. The Study identifies that provision of a setback to the western boundary prejudices development capacity on the neighbouring site, and results in an unviable floorplate on the site.
68. The Department has considered the proposed setbacks below and in **Appendix B**.

[Western setback \(418 Victoria Avenue\)](#)

69. The Applicant proposes a nil setback on the western boundary to enable both the development and adjacent site to maximise development capacity in a reasonable manner. The Applicant considers that the nil setback supports design excellence and is necessary to ensure feasibility of the development, without adversely impacting on surrounding residential amenity.
70. The Department has carefully considered the concerns raised by Council and considers the proposed nil setback to the western boundary to be acceptable because:
- it is consistent with the setbacks contemplated in the Urban Design Study, prepared in consultation with Council and the GANSW, which informed the competitive design process and subsequently the winning scheme
 - it is consistent with the bulk and scale for a commercial scheme on the site, consistent with the built form character of a major CBD and provides a well articulated façade that avoids the appearance of a continuous wall
 - adopting a solid wall with nil setback on the western boundary is a deliberate design solution that:

- allows the western 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 a future development on the adjoining site
 - is articulated to create visual interest in the interim prior to development of the adjacent site
- the proposed bulk and scale results in minimal adverse impacts on surrounding residential buildings in terms of view impacts and loss of solar access (see **Section 5.3.2**)
 - imposing the WDCP 2023 setbacks results in a compromised residential floorplate, substantially impeding the feasibility of the development and creating new challenges with privacy impacts between adjoining developments in the future while providing limited benefits to residential amenity
 - the overall solar access performance of the proposed building (with 83% of apartments receiving at least two hours direct solar access in mid-winter) exceeds the minimum requirements in the ADG (see **Section 5.4**).

71. Therefore, the Department considers the proposed nil setback to the western boundary results in an appropriate outcome for the street block which responds to the site limitations and existing and future development to the west.

Street setbacks (Victoria Avenue, Victor Street, Post Office Lane)

72. The Department considers the proposed street setbacks to Victoria Avenue, Victor Street and Post Office Lane (see **Table 6** and **Figure 9**) to be acceptable because:
- the design provides architectural articulation and modulation which contributes to design excellence
 - the proposed 6m setback to Victoria Avenue and Victor Street generally aligns with the minimum setback in the WDCP (see **Appendix D**)
 - the proposal provides a setback to the centre of Post Office Lane of approximately 9m, which provides the opportunity for a setback to a future development to the south of the site of at least 18m. While this is less than the ADG design criteria of 24m between habitable rooms (discussed at **Section 5.3.1**), future development will be able to achieve adequate visual privacy as the southern façade includes elements that obscure direct viewing, including fritted glass, angled palisade balustrades and solid spandrel panels

- a minor additional setback to achieve 7.61m from the street boundaries as required by Council is unlikely to be noticed in the context of the Chatswood CBD, and only a minor difference to amenity impacts including overshadowing and visual impact.

73. Therefore, the Department considers that the proposed tower setback to Victoria Avenue, Victor Street and Post Office Lane to be acceptable in the site context.
74. The Department considers that the proposed bulk and scale of the tower and podium to be appropriate for the site, because the:

- proposal complies with the primary building height development standard for the site, and does not overshadow the Chatswood Garden of Remembrance and the Chatswood Oval for each specified period
- proposed height integrates with the existing and future character of the Chatswood CBD, including the cluster of tall buildings located around Chatswood Station
- proposed setbacks achieve an appropriate modulation of the tower and podium form, and do not result in adverse amenity impact to neighbouring uses or the public domain
- proposed landscaped levels (on podium and above), together with the upgrade to the Victor Street public domain serve to mitigate the massing
- alternate use of the site for a commercial tower would present as a commensurate bulk and scale
- proposed massing is supported by detailed overshadowing and view impact analysis, discussed in **Section 5.3.2, Appendix C.**

5.2.4 Lot size and proportion of commercial floor space

75. Clause 6.16 of WLEP 2012 specifies a minimum lot size of 1,800m² for commercial development in the Chatswood CBD's E2 Commercial Centre zone. This clause is not applicable to the application as the development is for BtR and not commercial development.
76. Notwithstanding, Council raised concern that WDCP 2023 and the Chatswood CBD Strategy envisage that meeting the minimum development lot size is necessary to achieve an appropriate built form outcome.
77. The Department has considered the concerns raised by Council and considers the proposal achieves an acceptable built form outcome and relationship with the adjoining lot at 418 Victoria Avenue as:

- BtR is permissible in the E2 Commercial Centre zone under the Housing SEPP
- the Department supports the proposed setbacks to the adjoining sites, as assessed in

Section 5.2.3

78. As the Housing SEPP requires that BtR be delivered on one lot, a condition is recommended to ensure the lots that will accommodate the BtR are amalgamated, noting that the retail tenancies may be subdivided in the future.
79. Council also raise concern with the proposed mix of residential and non-residential floor space, stating that there should be an increase to the non-residential GFA.
80. Noting that the Housing SEPP specifically requires an active ground floor, the Department considers the proposed 1,101m² of commercial floorspace at the ground and first floor provides activation and employment opportunities.
81. The Department has considered Council's concern and supports proposed active ground floor frontage, with additional non-residential provided to the first floor.

5.3 Residential amenity

82. The ADG sets out guidelines (through objectives, design criteria and design guidance) for residential flat development to ensure proposed and existing adjacent apartments are provided with an appropriate level of residential amenity.
83. The Department's assessment of the proposal in terms of internal amenity to be provided within the future development and external amenity impacts as a result of the proposed development, is considered below.
84. The Department concludes the proposal has been designed to provide a high level of amenity for future residents in accordance with the objectives and design guidance while maintaining a reasonable level of amenity to existing adjacent residents.

5.3.1 Internal amenity

85. For BtR development, the Housing SEPP identifies three areas where consent authorities must apply flexibility with respect to the ADG design criteria. These areas are private open space, storage and apartment mix. The Department's *Build-to-rent housing and flexible design* factsheet also supports flexibility within the limits of the ADG for BtR development in relation to solar access, apartment size and common circulation spaces.
86. The Department has assessed the proposal against the ADG, including any requests for flexible application of the ADG criteria, in **Table 13** of **Appendix B**. Of the 27 criteria relevant to the proposal, the Department's assessment notes that the proposal meets 17

criteria and seeks flexible application of six criteria, as allowed under the Housing SEPP and Department factsheet. The Department's assessment concludes that the proposal does not technically meet the remaining four criteria, discussed further below.

Deep soil

87. The site is located within the Chatswood CBD, in a high-density area. The proposed building covers 100% of the site. In lieu of the required 74m² of deep soil, alternative on-structure planting is proposed, equivalent to 310m² (approximately 30% of the site area). Soil depth in planters is sufficient to accommodate a variety of plant species. The Department supports the proposed approach to deep soil zones.

Visual Privacy

88. The development has a height of 46 storeys and proposes a building separation of 0m to the adjacent site to the west and 18m to a future development south of the site at 45 Victor Street, Chatswood (rather than 24m as per the ADG design criteria). As noted above, the Department is satisfied that the proposed 0m setback to the west is reasonable. While there is currently no development application for this site to the south (and it may continue to be commercial), the proposed setback to the south is considered acceptable as privacy is appropriately mitigated as discussed in **Section 5.2.3**.

Car parking

89. The proposed development provides one off-street accessible parking space, for a car share vehicle. This is supported as the site is in a highly accessible location, as discussed at **Section 5.5**.

Universal design

90. The ADG recommends that adaptable housing should be provided in accordance with the relevant council policy. The WDCP 2023 is the relevant policy in the case (notwithstanding that a DCP does not apply to SSD) and requires 50% of dwellings in shop top housing developments to be adaptable. The proposal includes three adaptable apartments (1%). The Department considers the provision of adaptable apartments to be acceptable, in the context of a centrally managed BtR development, where tenants have opportunity to request an adaptable unit, or relocate to an adaptable unit should their housing needs change over time.

5.3.2 External amenity impacts

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

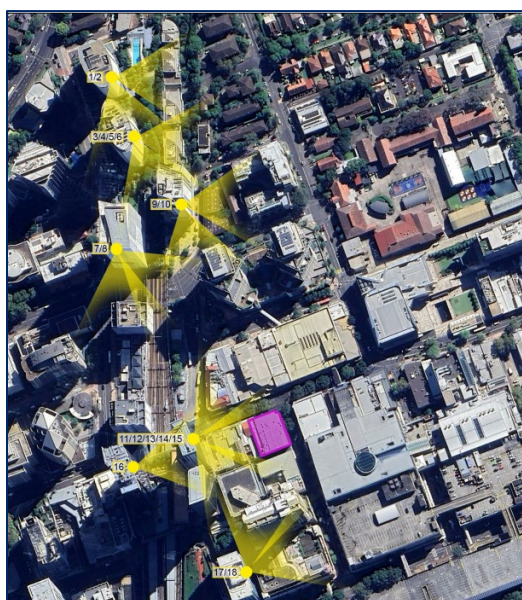
Overshadowing

92. Public objections raised concerns regarding overshadowing impacts to their properties.
93. The ADG recommends apartments have a minimum of two hours solar access to 70% of apartments between 9am and 3pm at the winter solstice.
94. The Applicant has provided an analysis of overshadowing impacts to potentially affected properties during the winter solstice, including overshadowing diagrams, eye of the sun and elevational shadow diagrams (**Appendix A**).
95. The Department has assessed overshadowing and solar access impacts to potentially affected properties, being to the south of the site, in detail in **Appendix C**.
96. Generally, the majority of properties are already overshadowed by existing development in the Chatswood CBD. However, there are two properties that will be adversely affected by the proposal, being 69 and 84-86 Albert Avenue (see **Figure 12**), as considered below:
97. **69 Albert Avenue** comprises 147 apartments, of which 123 (or 84%) apartments currently receive at least two hours of solar access between 9am and 3pm at the winter solstice. The proposal results in 57 of these apartments no longer receiving two hours of solar access, reducing the total percentage of apartments receiving at least two hours solar access to 45%. These affected apartments face east and will continue to receive 1.8 hours of solar access, between approximately 10am to midday.
98. **84-86 Albert Avenue** comprises 22 apartments, of which 5 (or 23%) apartments currently receive at least two hours of solar access between 9am and 3pm at the winter solstice. The proposal results in 3 of these apartments no longer receiving two hours of solar access, reducing the total percentage of apartments receiving at least two hours solar access to 9%. These affected apartments face north and will continue to receive 1.6 hours of solar access between approximately 9am to 11am.
99. The Department notes the likely solar access impacts to these apartments during the winter solstice due to the proposed development, however the proposal is reasonable as:
- the proposal complies with the maximum building height development standard in the WLEP 2012 and there is no floor space ratio for the site

- the proposal aligns with the Chatswood CBD Strategy emphasis on high-density growth and integration of new developments with the established urban landscape
- the majority of impacted buildings are already overshadowed by existing buildings in the Chatswood CBD
- the two most affected residential buildings are 69 and 84-86 Albert Avenue, which would continue to receive approximately 1.6 to 1.8 hours of sunlight in mid-winter and would still be impacted by an envelope that is consistent with the WDCP 2023 setbacks on the site.

View loss and visual impact

100. Public objections raised concerns regarding view impacts of the proposal from neighbouring properties.
101. The Applicant submitted a View Impact Assessment (VIA) which assesses view impacts via photomontages from several properties surrounding the site (**Figure 11**). It considers view impacts using the four-step assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah [2004]* NSWLEC 140. A link to the VIA is provided in **Appendix A**, with the Department's consideration of specific views likely to be impacted by the proposal (see **Figure 12**) is summarised in **Table 7**.



| |
|---|
| Viewpoint 01 - Altura - 11 Railway Street (RL172.96m) looking South East |
| Viewpoint 02 - Altura - 11 Railway Street (RL172.96m) looking East |
| Viewpoint 03 - Epica - 9 Railway Street (RL185.06m) looking South East |
| Viewpoint 04 - Epica - 9 Railway Street (RL185.06m) looking East |
| Viewpoint 05 - Epica - 9 Railway Street (RL191.06m) looking South East |
| Viewpoint 06 - Epica - 9 Railway Street (RL191.06m) looking East |
| Viewpoint 07 - Era - 7 Railway Street (RL223.88m) looking South |
| Viewpoint 08 - Era - 7 Railway Street (RL223.88m) looking South East |
| Viewpoint 09 - Cambridge - 1 Cambridge Lane (RL162.38m) looking South |
| Viewpoint 10 - Cambridge - 1 Cambridge Lane (RL162.38m) looking East |
| Viewpoint 11 - Metro Spire at 1 Post Office Lane (RL121.11m) looking East |
| Viewpoint 12 - Metro Spire at 1 Post Office Lane (RL174.46m) looking East |
| Viewpoint 13 - Metro Spire at 1 Post Office Lane (RL225.05m) looking North East |
| Viewpoint 14 - Metro Spire at 1 Post Office Lane (RL225.05m) looking East |
| Viewpoint 15 - Metro Spire at 1 Post Office Lane (RL225.05m) looking South East |
| Viewpoint 16 - Metro Grand - 438 Victoria Avenue (RL238.08m) looking East |
| Viewpoint 17 - Metro View - 69 Albert Avenue (RL192.10m) looking East |
| Viewpoint 18 - Metro View - 69 Albert Avenue (RL192.10m) looking North East |

Figure 11 | Key buildings surrounding the site with views from apartments. (Source: Applicant's RTS)

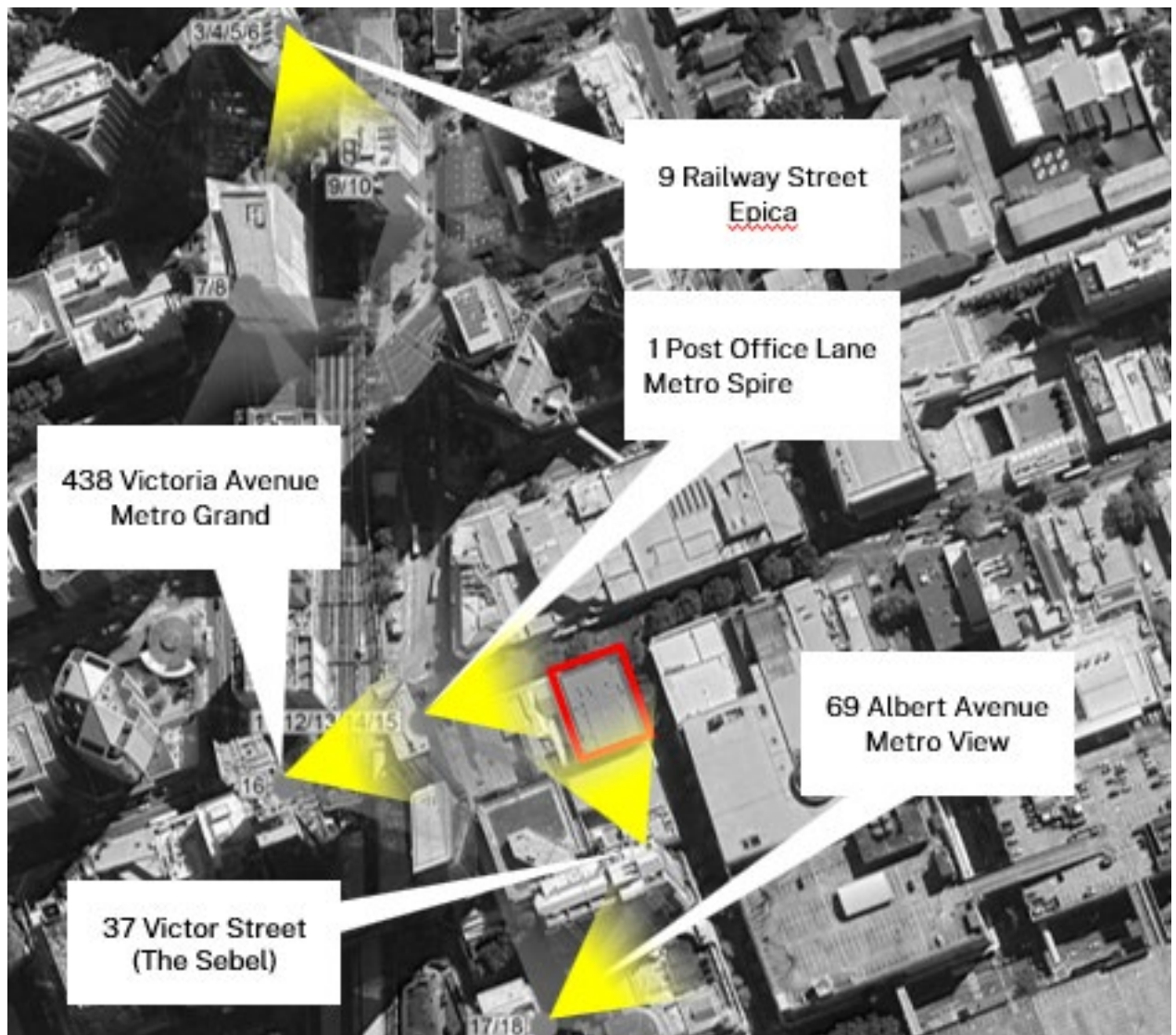
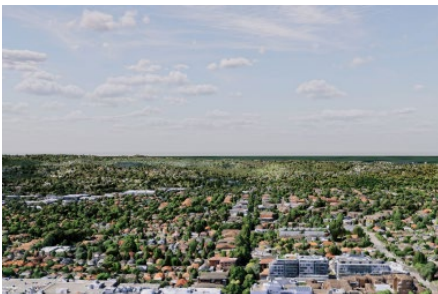
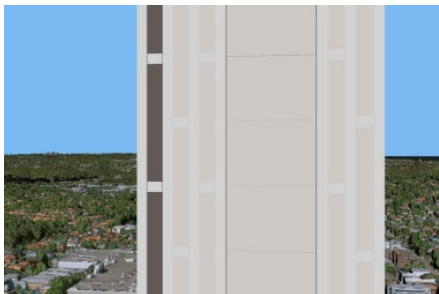

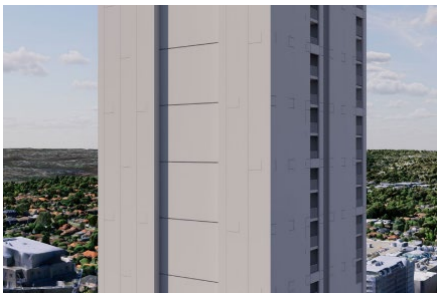



Figure 12 | Focus buildings for the Department's assessment. (Source: DPHI)

102. The Department considers that the properties most affected by view impacts are those located to the northwest of the site with views southeast to the North Sydney CBD, Sydney CBD and Sydney Harbour, being the Metro Spire, Metro View and Pacific Place complex. There is also potential for district views to be present in all directions from the site, given its location on the fringe of the Chatswood CBD area.

Table 7 | Summary of Applicant's view analysis from surrounding buildings

| 1 Post Office Lane 'Metro Spire' | | |
|---|--|---|
| <p>About the building:</p> <ul style="list-style-type: none"> • 37 storeys in height • 141 apartments • located approximately 40m to the west of the site • 37 submissions received from residents, raising concerns about view loss. |  <p>CGI of existing view facing east from upper floor (source: Applicant's RTS)</p> |  <p>CGI of proposed view facing east from upper floor (source: Applicant's RTS)</p> |
| <p>Step 1: Views assessed:</p> <ul style="list-style-type: none"> • Views towards Chatswood CBD in the foreground, suburban residential areas of the Lower North Shore in the midground and background, and part of North Head and the Pacific Ocean in the far background (when viewed from upper levels). • Views to the Sydney CBD, including part of the Harbour Bridge, but not affected by the proposal. | <p>Step 2: Location of views:</p> <ul style="list-style-type: none"> • Approximately two of the five apartments on each typical floor have primary views to the east in the direction of the proposal. | <p>Step 3: Extent of impacts</p> <ul style="list-style-type: none"> • Moderate as the view does not contain visually prominent iconic elements or features. • Proposal appears as a prominent new feature in the foreground of the view, obstructing part of the views assessed. • All views largely retained to either side of the proposed building. |
| 69 Albert Avenue 'Metro View' | | |
| <p>About the building:</p> <ul style="list-style-type: none"> • 29 storeys in height • 147 apartments • located approximately 40m to the west of the site • 11 submissions received from residents, raising concerns about view loss. |  <p>CGI of existing view facing northeast from upper floor (source: Applicant's RTS)</p> |  <p>CGI of proposed view facing northeast from upper floor (source: Applicant's RTS)</p> |

| | | |
|---|--|--|
| <p>Step 1: Views assessed:</p> <ul style="list-style-type: none"> Views towards Chatswood CBD in the foreground, suburban residential areas of the Lower North Shore in the midground and background, and (from the upper levels) part of North Head and the Pacific Ocean in the far background. | <p>Step 2: Location of views:</p> <ul style="list-style-type: none"> Approximately 50% of apartments in this building have their primary viewing direction to the east in the general direction of the site. | <p>Step 3: Extent of impacts</p> <ul style="list-style-type: none"> Moderate as the view does not contain visually prominent iconic elements or features. Proposal appears as a prominent new feature in the foreground, obstructing part of the views assessed. An eastward view corridor is maintained between the site and The Sebel. Distant views are retained to either side of the proposed building. |
| <p>9 Railway Street ‘Epica’</p> | | |
| <p>About the building:</p> <ul style="list-style-type: none"> 33 storeys in height 221 apartments located approximately 260m to the north of the site 2 submissions received from residents, raising concerns about view loss. |  <p>CGI of existing view facing south from upper floor (source: Applicant’s RTS)</p> |  <p>CGI of proposed view facing south from upper floor (source: Applicant’s RTS)</p> |
| <p>Step 1: Views assessed:</p> <ul style="list-style-type: none"> Primary views east and west. Views south from balconies includes the Sydney CBD skyline from the upper levels, obscured at lower levels by The Sebel and Metro Spire building. | <p>Step 2: Location of views:</p> <ul style="list-style-type: none"> While apartments in this building have their primary viewing direction to the east, given the elliptical nature of the building, viewing to the south in the direction of the proposal can be obtained, primarily from balconies. | <p>Step 3: Extent of impacts</p> <ul style="list-style-type: none"> High as there are views from upper levels of the Sydney CBD skyline include the iconic and high value elements of the Sydney Harbour Bridge and Sydney buildings. The proposal appears as a prominent new feature in the midground of the view, |

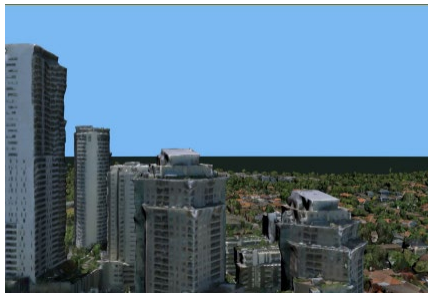
obstructing part of the views described above.

- Given the proposal is in the mid-ground of the view, and given its slenderness, the Sydney CBD visible from upper levels is not obscured entirely.
- Distant views are retained to either side of the proposed building and given the site's location south, primary views east are also retained.

37 Victor Street 'The Sebel'

About the building:

- 28 storeys in height
- 203 serviced apartments
- located approximately 50m to the south of the site.
- 38 submissions received from residents, raising concerns about view loss.



CGI of existing view facing north from upper floor (source: Applicant's RTS)



CGI of proposed view facing north from upper floor (source: Applicant's RTS)

Step 1: Views assessed:

- Primary views north and south.
- Views north, in the direction of the site, includes the Chatswood CBD in the foreground and midground.
- Where not obscured by existing buildings, district views of residential areas of the Lower / Upper North Shore and Northern Beaches to the northeast in the distance.

Step 2: location of views:

- Windows and balconies have views toward the site, with more expansive views obtained from upper levels.

Step 3: Extent of impacts

- **Moderate** as the view does not contain visually prominent iconic elements or features.
- The proposal appears as a prominent new feature in the midground of the view, obstructing part of the views assessed.
- Distant views are retained to either side of the proposed building.

438 Victoria Avenue 'Metro Grand'

About the building:

- 40 storeys in height
- 246 apartments
- located approximately 65m to the west of the site.
- 26 submissions received from residents, raising concerns about view loss.



CGI of existing view facing east from upper floors (source: Applicant's RTS)



CGI of proposed view facing east from upper floors (source: Applicant's RTS)

Step 1: Views assessed:

- Views to the east in the direction of the site are largely obscured by existing development, being the Metro View and Metro Spire.
- Where not obscured by buildings, district views to residential areas of the Lower North Shore. Upper levels that look over the adjacent Metro towers have views that include part of North Head and the Pacific Ocean in the distant background.

Step 2: location of views:

- Windows and balconies have views toward the site, with more expansive views obtained from upper levels.

Step 3: Extent of impacts

- **Moderate** as the view does not contain visually prominent iconic elements or features.
- The proposal appears in the midground of the views from uppermost levels only, obstructing part of the views described above.
- Distant views are retained to either side of the proposed tower, where the tower is visible (being from uppermost levels only).

103. Having considered the proposal against the principles established by Tenacity Consulting Vs Warringah [2004], the Department concludes that view impacts resulting from the proposal to be reasonable as:

- the proposal complies with the maximum building height development standard in the WLEP 2012 and assessment against an envelope consistent with the WDCP 2023 would result in similar view impacts,
- views from affected properties are already partially obstructed by existing development, with district views remaining unaffected in some instances and available either side of the proposal in other circumstances

- view 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
- the proposed tower has a slender form with setbacks provided on three sides to reduce the bulk and scale and was informed by a competitive design process, as such representing a skilful design (as described in Tenacity).

104. Further to the reasons listed above, the Department is satisfied that view impacts result from a development that is proposed in line with the State and local planning frameworks that have been developed to deliver on strategic planning objectives to deliver a diverse rental housing in highly accessible locations.

5.4 Waste management, loading & servicing

105. Loading, waste management and servicing is proposed on the ground level, accessible by a Small Rigid Vehicle (SRV) from Victor Street. An internal turntable allows the SRV to enter and exit in a forward direction. A private contractor is proposed to collect waste.
106. Council objects to private waste collection, instead requiring the proposal be redesigned to accommodate Council's waste collection vehicles (Heavy Rigid Vehicles (HRV)).
107. The Department acknowledges Council's concerns, however, considers the proposed arrangements to be appropriate for the development in this circumstance, as:
- access to the site is constrained (especially for HRV) due to narrow roads, limited vehicle access and through roads, and significant pedestrian movements on all roads
 - the ground floor waste collection area has been designed to accommodate off-street waste collection that does not impact on vehicular and pedestrian movement during collection or loading, and is more visually appealing than on-street collection
 - in response to Council's submission, the Applicant amended the proposal to relocate servicing from Post Office Lane to Victor Street, improving pedestrian amenity and preserving the pedestrian priority nature of Post Office Lane
 - redesign to accommodate a HRV would likely limit the area available for active frontage, given the limited site area and restriction of vehicular access to be from Victor Street (while maintaining a predominantly pedestrianised frontage)
 - the Housing SEPP requires the BtR development to remain under single ownership and management, which provides an opportunity to manage private waste collection in perpetuity.

108. Notwithstanding, the Department recommends a condition to ensure waste management does not impact surrounding pedestrian and vehicular movement through the preparation of an operational waste management plan, in consultation with Council.

5.5 Parking

109. The original proposal provided nine parking spaces for car share vehicles and 52 bicycle parking spaces. No motorcycle parking is proposed.
110. Public objections raised concern with the lack of car parking and possible reliance on on-street parking for residents and visitors.
111. Council raised concern with the original proposal, which proposed vehicle access from the predominantly pedestrianised Post Office Lane.
112. In response to Council's submission, the Applicant amended the proposal to relocate vehicle access from Post Office Lane to Victor Street, preserving Post Office Lane as a pedestrian priority thoroughfare. The number of basement storeys was also reduced from three to two, reducing on-site car parking from nine car share spaces to one accessible car share space, and increasing on-site bicycle parking from 52 spaces to 84 spaces.
113. The Housing SEPP provides a non-discretionary development standard (NDDS) for car parking which provides that a consent authority cannot refuse an application for BtR or require more onerous standards if 0.2 spaces per dwelling is provided (52 spaces equivalent to one space per five apartments).
114. The proposed single car share space for residents does not meet the NDDS. Rather than four out of five apartments being without a car space, all apartments are without a car space.
115. For the abundance of caution, the Applicant has submitted a clause 4.6 written request to vary the NDDS for resident parking, which concludes that strict compliance with the development standard is unreasonable and unnecessary in the circumstances. The Department is of a view that a NDDS is distinct from the operation of other development standards and is not required to be varied under clause 4.6 in order to grant consent. However, the Department has considered and supports the variation request (as discussed in **Appendix E**).
116. The Department has carefully considered the concerns raised in public submissions and considers the proposed car, motorcycle and bicycle parking strategy to be reasonable in the circumstances, as the:

- site is well-served by multiple modes of public transport (train, metro, bus) and the proposal encourages sustainable modes of travel over private vehicle use
- site is within the Chatswood CBD, with easy access to employment, services, a range of public amenities and retail opportunities
- site is located within a pedestrianised environment, with significant pedestrian movement along each frontage, which would support reduced vehicle trips and associated car parking to minimise potential pedestrian vehicle conflicts.
- BtR model, and the proposed apartment mix with greater proportion of studio and one bed apartments, is targeted to suit residents who do not own a vehicle
- arrangement aligns with Council’s objective set out in their Integrated Transport Strategy to reduce car reliance within highly accessible areas to promote the use of alternative means of transport
- development includes a supply of bicycle parking that exceeds the WDCP 2023 (which would require 52 bicycle parking spaces)
- the Housing SEPP NDDS supports four out of five apartments being without a parking space, and so the proposal is viewed as presenting an incremental reduction to the NDDS
- development is unlikely to adversely impact available on-street parking in the Chatswood CBD, as parking in the CBD and immediate surrounds is already subject to time restrictions.

117. The Department recommends a condition requiring the Applicant to prepare a green travel plan, to further support and facilitate the use of sustainable transport methods. Through the green travel plan the applicant will need to identify specific tools and actions to achieve mode share targets and objectives, such as exploring opportunities to offer car share membership for residents.

5.6 Other issues

118. The Department’s consideration of other issues is summarised in **Table 8** below.

Table 8 | Assessment of other issues

| Issue | Findings and conclusions | Recommended conditions |
|-----------------------------|--|--|
| Public domain | <p>The Applicant has prepared a concept public domain plan for improvements to part of the adjacent Victor Street pedestrian area, which the Applicant intends to use as a construction compound for the early stages of construction.</p> <p>Council seeks the redesign of the concept plan to ensure adequate landscaping, greening and functionality of the domain public, especially noting the high pedestrian movements and vehicle access for the Victoria Avenue market.</p> <p>The Department largely supports the emerging concept plan, which was revised in response to Council's comments, but recommends a condition of consent to consult with Council in finalising the final public domain design, for Department approval.</p> | Condition to finalise concept plan in consultation with Council. |
| Construction Impacts | <p>Council and public submissions raised concerns about construction impacts, particularly regarding pedestrian safety in Victoria Avenue and Post Office Lane, and the ongoing operation of the markets.</p> <p>The RTS includes a revised Transport and Accessibility Impact Assessment (TAIA), which includes a Construction Pedestrian Traffic Mitigation Plan. The TAIA identifies mitigation measures including hoardings and continued access from Victor Street to Victoria Avenue for pedestrians, emergency and market vehicles.</p> <p>The Applicant contends that noise generated during construction will be minimised where possible, such as by reducing line-of-sight noise transmission by temporary barriers.</p> <p>In addition, the RTS included an addendum to the Economic Impact Analysis that investigates impacts to the Victoria Avenue markets during the construction period. The investigation concludes that the gross value added during this construction phase will exceed what would be produced by existing uses on the site over the same 2.5-year period, and that construction workers on site are a source of local economic benefit.</p> | Conditions to mitigate any potential construction impacts, including hours, noise limits, vehicle movements and respite periods. |

| Issue | Findings and conclusions | Recommended conditions |
|-------------------|--|---|
| | <p>While noting concerns raised in objections and by Council, the Department is satisfied that, subject to the recommended standard conditions, construction will be carried out to appropriate standards, without causing unreasonable amenity impacts on surrounding residents, businesses and pedestrian movement.</p> | |
| Wind | <p>The Applicant submitted a Pedestrian Wind Environmental Assessment and Addendum Letter.</p> <p>Public submissions raised concerns about wind impacts on the public domain.</p> <p>The proposal was amended to mitigate wind impacts as follows:</p> <ul style="list-style-type: none"> the concept public domain design includes replacement of the existing deciduous trees in Victor Street with evergreen streets to provide year-round wind mitigation, subject to consultation with Council inclusion of a full-height impermeable screen to the western perimeter of the terrace at Level 01 inclusion of planter boxes with dense planting at Level 02 (outdoor pool area) and Level 06 (terrace area). <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> | <p>Condition to ensure development complies with the wind mitigation measures in the Applicant's wind report.</p> |
| Stormwater | <p>Council raised concerns regarding stormwater management on the site. In particular, Council raised concern with the location of the OSD tank below a habitable floor, highlighting issues relating to access, ventilation, the mixing of OSD with pool water and overflow.</p> <p>In response, the Applicant provided a stormwater management addendum letter that clarifies:</p> <ul style="list-style-type: none"> the onsite detention (OSD) is suspended below the Level 02 slab given the shallow depth of the existing stormwater infrastructure in Victoria Avenue | <p>Conditions setting out requirements for stormwater design and management.</p> |

| Issue | Findings and conclusions | Recommended conditions |
|----------------------|---|--|
| | <ul style="list-style-type: none"> the pool coping is at a higher elevation than the OSD lids, and therefore stormwater cannot enter the pool the design of the OSD tank demonstrates capacity to meet access and ventilation requirements, subject to detailed design <p>The Department is satisfied that stormwater impacts are adequately addressed and recommends conditions in relation to ongoing stormwater management on site.</p> | |
| Dewatering | <p>The EIS is accompanied by a Geotechnical Assessment, which identified that at the preliminary (desktop) stage, groundwater inflows are anticipated to be less than the 3 ML/year threshold for exemption from a Water Access Licence (WAL) for temporary dewatering during construction with any associated dewatering impacts expected to fall within the “minimal impact” criteria defined by the NSW Aquifer Interference Policy (AIP).</p> <p>Given present site conditions, investigation works required to confirm groundwater inflows are not feasible. The Department has recommended a condition to carry out these works following demolition of existing structures.</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> <p>In addition to the above, the Department recommends standard conditions for construction be imposed.</p> | Standard conditions for construction, condition to carry out groundwater inflow investigation prior to construction works. |
| Contributions | <p>Council contends that an affordable housing contribution is required, in addition to the Housing Productivity Contribution (HPC) and Council’s Local Infrastructure Contribution.</p> <p>While development on the site is not required to deliver affordable housing or make an affordable housing contribution, the Department has recommended conditions requiring the payment of the HPC and Council’s Local Infrastructure Contribution prior to the issue of a construction certificate.</p> | Conditions requiring the payment of the HDC and Council’s Local Infrastructure Contribution. |

6 Evaluation

119. 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.
120. The Department's assessment concludes that the proposal is acceptable as:
- it supports State government priorities to deliver well-located housing by delivering 260 BtR units in a highly accessible location
 - it is permissible with consent and complies with the maximum building height development standard in the WLEP 2012
 - it achieves design excellence, as it has been subject to a competitive design process in accordance with the Department's Design Competition Guidelines and 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
 - it does not result in unreasonable overshadowing, view or privacy impacts on adjoining development or the public domain
 - it provides active frontages and minimises vehicular movements within the highly pedestrianised immediate locality
 - it provides commercially managed residential accommodation, together with 1,101m² of retail floor space that would generate up to 221 construction jobs and 131 operational jobs.
121. The Department has recommended a range of conditions to manage any residual environmental impacts. See the recommended conditions of consent at Appendix D.
122. 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 [Novus on Victoria, Chatswood - Build-to-Rent | Planning Portal - Department of Planning and Environment](#).

- Environmental Impact Statement.
- Submissions and Amendment Report.
- Applicant’s additional information.
- Submissions (public 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 9** below.

Table 9 | Matters for consideration

| Matter for consideration | Department’s assessment |
|---|--|
| Environmental planning instruments, proposed instruments, development control plans & planning agreements | <ul style="list-style-type: none">• Appendix B – Statutory considerations |
| EP&A Regulation | <ul style="list-style-type: none">• Appendix B – Statutory considerations |
| Likely impacts | <ul style="list-style-type: none">• Section 5 – Assessment• Appendix B – Statutory considerations• Appendix C – Assessment of Overshadowing Impact• Appendix D – Clause 4.6 variation – Height• Appendix E – Clause 4.6 variation – Parking |
| Suitability of the site | <ul style="list-style-type: none">• Section 1 – Introduction• Section 3 – Policy and statutory context |

| Matter for consideration | Department's assessment |
|--------------------------|--|
| | <ul style="list-style-type: none"> • Section 5 – Assessment • Appendix B – Statutory considerations • Appendix C – Assessment of overshadowing Impact |
| Public submissions | <ul style="list-style-type: none"> • Section 4 – Engagement • Section 5 – Assessment • Appendix B – Statutory considerations • Appendix C – Assessment of overshadowing Impact • Appendix D – Clause 4.6 variation – Height • Appendix E – Clause 4.6 variation – Parking |
| Public interest | <ul style="list-style-type: none"> • Section 4 – Engagement • Section 5 – Assessment • Section 6 – Evaluation • Appendix B – Statutory considerations • Appendix C – Assessment of overshadowing Impact • Appendix D – Clause 4.6 variation – Height • Appendix E – Clause 4.6 variation – Parking |

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 10** 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 10 | Objects of the EP&A Act and how they have been considered

| Object | Consideration |
|---|--|
| (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, | <ul style="list-style-type: none"> • 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. |

| Object | Consideration |
|--|--|
| | <ul style="list-style-type: none"> The proposed development does not have any impacts on the State's natural or other resources. |
| (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, | <ul style="list-style-type: none"> The proposal includes ESD initiatives and sustainability measures, which includes designing the building to target a 5-star Green Star Buildings v1 rating. |
| (c) to promote the orderly and economic use and development of land, | <ul style="list-style-type: none"> 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. 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. |
| (d) to promote the delivery and maintenance of affordable housing, | <ul style="list-style-type: none"> The proposal will deliver 260 BtR units which contributes to housing supply. |
| (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"> The proposal will not adversely affect the protection of the environment. |
| (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), | <ul style="list-style-type: none"> The proposal will not impact cultural heritage, including Aboriginal cultural heritage. Also see discussion in Section 5 and Appendix B. |
| (g) to promote good design and amenity of the built environment, | <ul style="list-style-type: none"> The proposal demonstrates a good design approach to the relevant planning controls and local character (also see discussion in Section 5 and Appendix B). The proposal is informed by a competitive design process and has been designed to minimise amenity impacts to neighbours and the surrounding environment and to provide good levels of internal amenity. Other amenity impacts would be managed by the recommended conditions of consent, such as to |

| Object | Consideration |
|---|--|
| | mitigate impacts during the construction and operational phases of the development. |
| (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, | <ul style="list-style-type: none"> • 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. |
| (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, | <ul style="list-style-type: none"> • 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. |
| (j) to provide increased opportunity for community participation in environmental planning and assessment. | <ul style="list-style-type: none"> • The Department publicly exhibited the application, which included notifying adjoining landowners and displaying the application on the Department's website. • The Department placed the Applicant's RtS and Amendment Report, and additional information on its website, in addition to providing a copy to Council and relevant Government agencies. • The engagement activities carried out by the Department are detailed in Section 4. |

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 the targeted 5-star Green Star Buildings v1 rating for its design. The proposal also exceeds the minimum BASIX water target, and meets the remaining targets. 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

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 Conversation Regulation 2017*).

A BDAR waiver request was submitted to the Department on 17 January 2025. 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 4 February 2025.

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 11**.

Table 11 | Transport and Infrastructure SEPP compliance table

| Transport and Infrastructure SEPP standard | Consideration |
|---|--|
| Division 5 Electricity transmission or distribution | |
| Subdivision 2 Development likely to affect an electricity transmission or distribution network | |
| 2.48 Determination of development applications – other development | <ul style="list-style-type: none">• The application was referred to Ausgrid pursuant to clause 2.48 of the Transport and Infrastructure SEPP.• Ausgrid noted that underground cables are located in the vicinity of the development.• Ausgrid recommended that the Applicant locate and record the depth of all known underground services prior to any excavation in the area.• The Department recommends a pre-construction dilapidation report condition that includes identification and management of affected infrastructure. |

The Department considers the proposed development to be consistent with the Transport and Infrastructure SEPP given the consultation with Ausgrid and consideration of any impacts of the development on their infrastructure in recommended conditions of consent in **Appendix D**.

SEPP (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)

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.

As the site is currently entirely developed and tenanted, the application was accompanied by a desktop Preliminary Site Investigation (PSI), prepared by Douglas Partners. The PSI identified the following potential sources of contamination for further on-site investigation:

- fill associated with levelling and demolition of former buildings on the site
- previous and current site uses (commercial and possibly industrial)
- deterioration and demolition of existing buildings
- adjacent site uses (possible underground storage tank).

The PSI concluded that if contamination is present, it can likely be remediated / managed as required to render the site suitable for the proposed development. The PSI recommends a staged approach to the characterisation of potential contamination as access to the site is currently restricted given that the existing buildings will not be demolished until site preparation and excavation commences. The PSI recommended:

- A hazardous building materials survey be conducted prior to any demolition in accordance with regulatory requirements.
- A Detailed Site Investigation (DSI) to investigate potential contamination of soil, groundwater and vapour. This is to be undertaken 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 will be provided.
- If contamination requiring remediation is identified following the DSI, remediation and/or management may be required, and will trigger the need for a:
 - Remediation Action Plan (RAP).
 - Environmental Management Plan (EMP) (if contamination is to remain on site following remediation).
 - 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.
 - Waste classification in accordance with NSW EPA guidelines will be required for any fill, soil or rock to be disposed of off-site.

The Department considers the site can be made suitable for the proposed development, subject to undertaking a DSI and completing any required 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. As noted above, a BDAR waiver was granted on 4 February 2025, which 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 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 requiring compliance with the BASIX certificate.

Section 3.2(1) of the Sustainable Buildings SEPP requires a consent authority to consider sustainability matters for non-residential development. In response, the Applicant provided a section J Part J4 performance-based design brief (PBDB) prepared by JHA, which assesses the proposal against the performance requirements of NCC 2022 Volume One section J Energy Efficiency Part J4 Building Fabric, with respect to the non-residential component of the proposed development. The PBDB concludes that compliance with the section J deemed to satisfy pathway is achievable.

SEPP (Housing) 2021 (Housing SEPP)

A summary of the Department's consideration of the relevant standards contained in the Housing SEPP are provided in **Table 12** below.

Table 12 | Housing SEPP compliance table

| Housing SEPP standard | Consideration |
|--|---|
| Chapter 3, Part 4 – Build-to-rent housing | |
| 72. Development for the purposes of build-to-rent housing permitted with consent | <ul style="list-style-type: none">• The site is zoned E2 Commercial Centre in the WLEP 2012, which prohibits residential accommodation. However, the Housing SEPP permits shop top housing to be used as BtR housing in the E2 Commercial Centre zone.• The Housing SEPP requires at least 50 dwellings to be occupied under a residential tenancy agreement and all buildings containing these dwellings to be located on the same lot.• The proposal complies with this provision as it delivers 260 dwellings to be occupied under a residential tenancy agreement and these dwellings will be located on the same lot (subject to a condition of consent requiring lot amalgamation prior to first construction certificate). |
| 73. Conditions of build-to-rent housing to apply for at least 15 years | <ul style="list-style-type: none">• 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 to be owned, controlled and |

| Housing SEPP standard | Consideration |
|--|---|
| | <p>operated by a managing agent who provides on-site management (for perpetuity as the site is zoned E2: Commercial Centre).</p> <ul style="list-style-type: none"> • 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. • The Department is satisfied that the proposal is consistent with the required conditions of BtR and a condition is recommended to ensure the tenanted component will not be subdivided and will be owned, controlled and operated by a managing agent who provides on-site management (for perpetuity). |
| 74 (2)(a) Non-discretionary (development standard - building height) | <ul style="list-style-type: none"> • This non-discretionary development standard requires that the building proposed is not greater than the maximum building height permitted. The development has a maximum building height of RL 246.8m which does not exceed the maximum RL 246.8m height permitted under WLEP 2012. • The WLEP also requires a 7m street frontage height to Victoria Avenue. The development proposes to exceed this height by 5.49m. The Applicant has submitted a Clause 4.6 Variation Request in support of the proposed variation with the WLEP development standard. • The Department is satisfied the proposal is consistent with the maximum building height requirement and finds the request to vary the street frontage height development standard to be well-founded, as discussed in Section 5 and Appendix D. |
| 74 (2)(b) Non-discretionary development standard - FSR | <ul style="list-style-type: none"> • This non-discretionary development standard requires the proposed floor space ratio does not exceed the maximum permissible floor space ratio for a permitted use. The site has no prescribed maximum FSR under the WLEP 2012. • The Department is therefore satisfied the proposal is consistent with this non-discretionary standard. |
| 74 (2)(d) Non-discretionary development standard - parking | <ul style="list-style-type: none"> • The site is located within an accessible area and therefore the minimum 0.2 parking spaces for each dwelling rate applies. For 260 units, this equates to a minimum of 52 parking spaces in total. |

| Housing SEPP standard | Consideration |
|---|--|
| | <ul style="list-style-type: none"> • The proposal provides a total of one parking space for a car share vehicle. • The Applicant has prepared a clause 4.6 variation request in support of the proposal's non-compliance with this non-discretionary development standard. • The Department supports the proposed parking on this site, as discussed in Section 5 and Appendix E. |
| 75. Design requirements | <ul style="list-style-type: none"> • This provision allows a flexible approach to applying the design criteria set out in the ADG, including, in particular, the design criteria set out in Part 4, items 4E (private open space and balconies), 4G (storage) and 4K (apartment mix). • The development seeks to use these flexible design criteria under this clause. The Department supports this approach, as discussed in Table 13. |
| 76. Active uses on ground floor of build-to-rent housing in business zones. | <ul style="list-style-type: none"> • This provision requires developments within business zones to have an active street frontage. • 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"> - Retail uses activating the site on all three street frontages, - A BtR lobby accessible from Victor Street - Vehicular access from Victor Street, with building plant fronting Post Office Lane. |
| 77. Contributions on Affordable Housing | <ul style="list-style-type: none"> • The site is not required to provide affordable housing contributions and none are proposed. |
| 78. Subdivision | <ul style="list-style-type: none"> • The proposal does not involve subdivision. |

Chapter 4 – Design of residential apartment development

| | |
|--|---|
| 143. Application of chapter | <ul style="list-style-type: none"> • This chapter applies as the proposal is for shop top housing, is a new building and is at least three storeys with at least four units. |
| 147. Determination of development applications and modification applications for residential apartment development | <ul style="list-style-type: none"> • The Department has considered: <ul style="list-style-type: none"> – the quality of the design of the development with respect to the design principles set out in Schedule 9 (refer below). |

| Housing SEPP standard | Consideration |
|--|---|
| | <ul style="list-style-type: none"> – The ADG (refer hereunder). |
| 148 (2)(a) Non-discretionary development standards - parking | <ul style="list-style-type: none"> • As noted above, the proposal provides one parking space for a car share vehicle. The Applicant has prepared a clause 4.6 variation request in support of the proposal's non-compliance with 74(2)(d). • The Department supports the proposed parking on this site, as discussed in Section 5 and Appendix E. |
| 148 (2)(b) Non-discretionary development standards – internal area | <ul style="list-style-type: none"> • This non-discretionary development standard requires the internal area for each apartment to equal or be greater than the recommended minimum internal area in the ADG. The studio apartment types range in size, primarily less than the recommended minimum internal area of (35m²), with a minimum area of 27m². However, as noted above the proposal seeks to use the flexible design criteria under section 75, as discussed further in Table 13. |
| <ul style="list-style-type: none"> • 148 (2)(c) Non-discretionary development standards – ceiling heights | <ul style="list-style-type: none"> • Ceiling heights are proposed to comply with the recommended minimum ceiling heights in the ADG. |

Schedule 9 Design Principles

| | |
|--|---|
| 1. Context and neighbourhood character | <ul style="list-style-type: none"> • The Department is satisfied that the proposal responds appropriately to the context and character of the Chatswood CBD, being a City centre with tall buildings and noting that the proposal complies with Council's height control for the site as discussed in Section 5. |
| 2. Built form and scale | <ul style="list-style-type: none"> • The Department is satisfied that the built form and scale of the proposal to be appropriate to the existing and desired future character of the Chatswood CBD, as discussed in Section 5. |
| 3. Density | <ul style="list-style-type: none"> • The Department has assessed density having regard to the built form and potential impacts of the floorspace, such as traffic generation, amenity impacts and demand on existing/future infrastructure in Section 5. • The Department is satisfied the proposal has strategic merit and does not have adverse built form, traffic or amenity impacts (Section 5). The proposal also revitalises the site and surrounds, |

| Housing SEPP standard | Consideration |
|---|--|
| | and includes public domain improvements resulting in public benefit. |
| 4. Sustainability | <ul style="list-style-type: none"> The Applicant submitted an ESD Report demonstrating a commitment to ESD principles and that the building has been designed to achieve a minimum 5-star Green Star rating. |
| 5. Landscape | <ul style="list-style-type: none"> The Department is satisfied the proposed podium landscaping incorporates adequate soil depths and a diversity of plant species. The proposal will also reinstate landscaping to Victor Street once a portion of this street is used for construction purposes. |
| 6. Amenity | <ul style="list-style-type: none"> The Department is satisfied that the proposal achieves satisfactory residential amenity in accordance with the ADG, as assessed below. Impacts of the built form on surrounding amenity, such as in relation to view and solar impacts, as considered in Section 5. |
| 7. Safety | <ul style="list-style-type: none"> The Applicant has submitted a CPTED report. The Department has reviewed the CPTED report and is satisfied that the proposal provides an appropriate framework to ensure the site and public domain is safe. |
| 8. Housing diversity and social interaction | <ul style="list-style-type: none"> The Department is satisfied that the provision of BtR will increase housing supply in the locality and provides a mix of apartment types and sizes under a tenancy agreement. |
| 9. Aesthetics | <ul style="list-style-type: none"> The proposal has been informed by a competitive design process and the amended proposal was reviewed by the DIP. The Department is satisfied that the development demonstrates design excellence, as discussed further in Section 5. |

Apartment Design Guide

The ADG sets out guidelines (through objectives, design criteria and design guidance) for residential flat development to ensure apartments are provided with an appropriate level of residential amenity.

Applying Flexibility for BtR Development

For BtR development, the Housing SEPP identifies three areas where consent authorities must apply flexibility when considering the following ADG design criteria:

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

In considering the objectives in Part 4 of the ADG, the Housing SEPP also specifies the consideration of the following for BtR development:

- proposed amenities for tenants through common spaces and shared facilities and services
- whether the configuration and variety of units will provide adequate options for tenants in terms of unit size and layout
- whether tenants will be able to relocate to other units that will better accommodate their housing needs should these change.

The Department factsheet, titled *Build-to-rent housing and flexible design*, notes that there are different types of BtR housing, and each development needs to reflect the context of its location and neighbourhood. While these aspects of building design are not mentioned in the Housing SEPP, flexible design within the limits of the ADG are also supported for:

- 4A: Solar and daylight access
- 4D: Apartment size and layout
- 4F: Common circulation spaces.

Assessment against ADG

The Department has assessed the proposal against the ADG, including the applicant's request for flexible application of relevant ADG criteria, in **Table 13** below. Of the 27 criteria relevant to the proposal, the Department's assessment notes that the proposal complies with 17 criteria and seeks flexible application of six criteria, as allowed under the Housing SEPP and Department factsheet.

The Department's assessment concludes that the proposal does not technically meet the remaining four criteria, as summarised below:

- 3E: Deep soil zones, due to the site being located in a commercial centre, offset by on-structure planting
- 3F: Visual Privacy, due to a zero metre side setback and reduced setback to a potential future development to the south (responding to site specific constraints), offset by suitable privacy measures
- 3J: Bicycle and car parking, due to a provision of one resident parking space only (for a car share vehicle), offset by increased provision of bicycle parking and the site's location, being close to the Chatswood Interchange

- 4Q: Universal design, due to a provision of three adaptable apartments only, offset by opportunity for tenants to relocate to an apartment that better suits their needs over time.

A consistency assessment against the guidelines within the ADG, applying flexibility where sought, is provided in **Table 13**.

Table 13 | ADG consistency assessment

| ADG Principle | Department's Comments | Consistent |
|--|--|----------------|
| 3A Site Analysis | The Applicant has prepared a 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. | Consistent |
| 3B Orientation | The building type and layout responds to the streetscape and site, while optimising solar access within the development and minimising overshadowing to neighbouring properties during mid-winter. | Consistent |
| 3C Public Domain Interface | The transition between private and public domain would not compromise safety and security and would enhance the public domain. | Consistent |
| 3D Communal and Public Open Space 25% of the site area = 262.5m ² 50% to receive minimum two hours on June 21 (9am-3pm) | The development provides 1,065m ² (101%) of communal open space across three podium levels. 343m ² of the communal open space (61%) receives a minimum of 2 hours of solar access between 9am and 3pm on 21 June (mid-winter). | Consistent |
| 3E Deep Soil Zones Minimum dimensions of 6m 7% of site area = 74m ² . | The site is located within the Chatswood CBD centre, in a high-density area. There is already 100% site covered by existing buildings at ground level. The proposal incorporates 310m ² (approximately 30% of the site area) of on-structure planting. This approach is considered an appropriate response to the site's urban context. | Not consistent |
| 3F Visual Privacy 24m between habitable rooms and balconies, 12m between non-habitable rooms. | To the north and east, the width of Victoria Avenue and Victor Street, result in separation that exceeds 24m. A 0m setback to the west, and the ability for the adjacent site to deliver a 0m setback, ensures that there is no privacy impact to future adjoining development. To the south, the proposal provides a setback to the centre of Post Office Lane of 9m, which | Not consistent |

| ADG Principle | Department's Comments | Consistent |
|--|---|-----------------------------------|
| | provides the opportunity for a minimum 18m setback to a future development to the south. While inconsistent with the required 24m, the applicant has demonstrated that there are suitable privacy measures to the southern façade to mitigate the difference of 6m from the recommended separation distance. | |
| 3G Pedestrian Access and Entries | Pedestrian access and entries to the development are accessible and easy to identify from the surrounding roads. | Consistent |
| 3H Vehicle Access | The vehicle access point is designed and located to achieve safety, minimise conflicts between pedestrians and vehicles, and create high quality streetscapes. | Consistent |
| 3J Bicycle and Car Parking | The site is located in an accessible area. Given the proximity to the Chatswood Interchange, only one car share space is provided. See Section 5 for detailed discussion on bicycle and car parking. | Not consistent |
| 4A Solar and Daylight Access | 215 of the 260 units (83%) receive at least 2 hours of sunlight to the living rooms and private open space in mid-winter. | Consistent (with BtR flexibility) |
| Minimum of 2 hours direct sunlight to at least 70% of units (living rooms and private open space) in mid-winter. | 45 of the 260 units (17%) receive no direct sunlight between 9am-3pm in mid-winter. The Department is satisfied with this minor increase, as it is mitigated by highly desirable district views, communal space with direct solar and greater than 70% of apartments achieving more than two hours direct solar. | |
| A maximum of 15% of units receive no direct sunlight. | | |
| 4B Natural Ventilation | 26 of the 42 units (62%) in the first nine storeys achieve natural cross ventilation in accordance with the ADG. The Applicant has submitted a statement from Windtech (dated 9 October 2025) confirming that natural cross ventilation is achieved by use of vertical voids, that expose openings to cross-ventilated units to significantly different pressure regions. | Consistent |
| At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. | | |
| 4C Ceiling Heights | Ceiling heights are in accordance with the ADG. | Consistent |
| 4D Apartment Size and Layout | All 1 bed, 2 bed and 3 bed units have internal areas that meet or exceed these minimum ADG guidelines. | Consistent (with BtR flexibility) |

| ADG Principle | Department's Comments | Consistent |
|--|--|-----------------------------------|
| Studio - 35m ² One bedroom - 50m ² Two bedroom - 75m ² Three bedroom - 95m ² (Including second bathroom in two and three bedroom units) | <p>81% of the studio apartments are less than the ADG guideline of 35m² (ranging from 27m² to 38m²) The average studio apartment area is 33m². The Department supports this minor reduction as all studios maximise functionality of the internal area, with detailed spatial planning undertaken, including furniture layout options, to ensure that resident amenity is maximised. Further, the reduced area is offset by provision of internal communal areas.</p> <p>Apartments satisfy the design criteria for windows, room depths, bedroom size and living room widths.</p> | |
| 4E Private Open Space and Balconies Studio - 4m ² / no min. depth One bedroom - 8m ² / 2m Two bedroom - 10m ² / 2m Three bedroom - 12m ² / 2.4m | <p>Flexible application as facilitated by the Housing SEPP for BtR:</p> <ul style="list-style-type: none"> – one bedroom: typically 4-5m² / 1.5m depth – Two bedroom: typically 7-8m² / 1.5m depth – Three bedroom: typically 9m² balcony / 2.4m depth <p>The Department supports the reduced balcony areas as it is offset by high quality external and internal communal space that well exceeds the ADG minimum area, balconies are highly functional (rectilinear with greater width than depth) and provided to all apartments, and full height glazing to balconies maximises the sense of openness.</p> | Consistent (with BtR flexibility) |
| 4F Common Circulation and Spaces The maximum number of apartments off a circulation core on a single level is eight For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40 | <p>The maximum number of units proposed on a single level is 8. Three lifts are provided with a ratio of approximately 1 lift per 87 units (with additional goods lift). The Applicant has submitted a Vertical Transport Strategy which confirms that the proposed four-lift design meets the requirements of ISO 8100-32:2020 and will provide an appropriate level of service for the proposed development.</p> | Consistent (with BtR flexibility) |
| 4G Storage Studio - 4m ³ . One bedroom - 6m ³ . Two bedroom - 8m ³ . | <p>Flexible application as facilitated by the Housing SEPP for BtR. All units include internal storage. However, the internal storage generally does not meet the recommended minimum volume.</p> | Consistent (with BtR flexibility) |

| ADG Principle | Department's Comments | Consistent |
|---|---|--------------------------------------|
| Three bedroom - 10m ³ . At least 50% of the required storage is to be located within the apartment. | This shortfall is supplemented by a significant number of basement storage cages, which will be allocated according to an individual resident's requirements given the centrally managed nature of BtR. | |
| 4H Acoustic Privacy and 4J Noise and Pollution | The development minimises the transfer of noise through layout and acoustic treatments. In accordance with the recommendations of the acoustic report, apartments will be appropriately insulated to ensure compliance from external noise sources. | Consistent |
| 4K Apartment Mix | <p>Flexible application as facilitated by the Housing SEPP for BtR. The proposal offers a variety of apartment types and sizes.</p> <ul style="list-style-type: none"> – Studios: 115 units (44.2%) – 1 bedroom: 79 units (30.4%) – 2 bedroom: 63 units (24.2%) – 3 bedroom: 3 units (1.2%) <p>A higher than typical proportion of studio and one bedroom units is proposed. The Department supports this mix as, in a centrally managed BtR development, residents can move to other apartments in the building should their housing needs change. Further, the Applicant has provided an Economic Impact Assessment prepared by HillPDA which finds that Chatswood has a larger proportion of lone and two-person (without children) households compared with Greater Sydney, and that this demographic is subject to increasing rental stress. This finding supports the provision of studio and one bed apartments.</p> | Consistent (with BtR flexibility) |
| 4M Facades | The proposed facade offers a positive contribution to the character of the development and streetscape. | Consistent |
| 4N Roof Design | Rooftop services are integrated into the building design. | Consistent |
| 4O Landscape Design and 4P Planting on Structures | A detailed landscape plan has been provided for the podium areas and public domain. The landscape design contributes to the streetscape | Consistent |

| ADG Principle | Department's Comments | Consistent |
|--|---|----------------|
| 4Q Universal Design 20% silver-level liveable. Reference to Council's DCP for recommended provision of adaptable apartments. | 29% of apartments incorporate the Livable Housing Guidelines' silver level universal design features. Three units are adaptable to promote flexible housing for all community members. The Department supports the reduced adaptable provision as, in a centrally managed BtR development, a tenant has opportunity to relocate to an adaptable unit should their housing needs change over time. | Not consistent |
| 4T Awnings and Signage | An awning is proposed to both the Victoria Avenue and Victor Street frontages, integrated with the building design. | Consistent |
| 4U Energy Efficiency | The development incorporates passive environmental design. The proposal includes designing the building to target a 5-star Green Star Buildings v1 rating. | Consistent |
| 4V Water Management and Conservation | Water efficient fittings and appliances will be installed. Plant selections are designed for the microclimate and will be typically low water use, per the landscape report. All stormwater management systems are integrated into the site design along with water treatment measures. | Consistent |
| 4W Waste Management | Adequate bin storage is provided and designed to minimise impacts on the streetscape. A private waste collection contractor will be engaged to service the residential and retail waste. | Consistent |
| 4X Building Maintenance | The materials are considered to be appropriately selected to minimise long term maintenance obligations. | Consistent |

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 14**.

Table 14 | WLEP 2012 compliance assessment

| LEP Clause/Requirement | Complies | Assessment/Comment |
|--|--|---|
| PART 1 - PRELIMINARY | | |
| 1.2 Aims of the Plan | Yes | <ul style="list-style-type: none"> The proposal is consistent with the aims of the plan. |
| PART 2 – PERMITTED OR PROHIBITED DEVELOPMENT | | |
| Zoning | Yes | <ul style="list-style-type: none"> The site is zoned E2: Commercial Centre and development for the purpose of commercial premises is permitted with development consent. The application proposes BtR which is permissible in the E2 zone under the relevant provisions of the Housing SEPP. |
| 2.6 Subdivision – consent requirements | N/A | <ul style="list-style-type: none"> No subdivision is proposed. The Department recommends a condition of consent requiring lot amalgamation prior to first construction certificate. |
| 2.7 Demolition | Yes | <ul style="list-style-type: none"> The proposal seeks demolition works that is permitted with development consent. |
| PART 4 – PRINCIPAL DEVELOPMENT STANDARDS | | |
| 4.3 Height of Buildings <ul style="list-style-type: none"> RL 246.8m RL 7m street frontage height (podium) | Yes, but variation required for podium | <ul style="list-style-type: none"> The proposed development has a maximum height of RL 246.8m and does not exceed this control at any point. The development proposes to exceed the 7m street frontage height by 5.49m (78%). The Applicant has submitted a Clause 4.6 Variation Request to support this exceedance. The Department is satisfied that the request to vary the street frontage height to be reasonable in the circumstances, as discussed in Section 5 and Appendix D. Further height restrictions are noted under Clause 6.15. |
| 4.4 Floor Space Ratio | N/A | <ul style="list-style-type: none"> No FSR control applies to the site. |
| 4.6 Exceptions to Development Standards | N/A | <ul style="list-style-type: none"> The application includes a clause 4.6 Variation request to vary the mapped street frontage height, as discussed in Section 5 and Appendix D and E. |
| PART 5 – MISCELLANEOUS PROVISIONS | | |

| LEP Clause/Requirement | Complies | Assessment/Comment |
|------------------------|----------|---|
| 5.21 Flood Planning | N/A | <ul style="list-style-type: none"> The Flood Risk Assessment submitted confirms that the site is not subject to inundation that requires any further assessment. |

PART 6 – LOCAL PROVISIONS

| | | |
|-------------------------|-----|--|
| 6.1 Acid Sulphate Soils | Yes | <ul style="list-style-type: none"> The site is classified as Class 5 Acid Sulphate Soils. The Applicant's Preliminary Site Investigation 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 Plan or Salinity Management Plan is not required for the development. |
| 6.2 Earthworks | Yes | <ul style="list-style-type: none"> The proposal includes excavation below the footprint of the building to construct two basement levels to accommodate plant, storage and fire stair access. It is anticipated that basement excavation may extend to depths of approximately between 8m to 10m. The basement is shown to extend to all site boundaries. The Applicant's Geotechnical Report submitted with the EIS includes recommendations to manage excavation and groundwater. The Department recommends standard conditions be imposed for excavation works. |
| 6.3 Urban Heat | Yes | <ul style="list-style-type: none"> The proposal includes new tree planting which is an improvement to the existing site condition, which does not comprise landscaping. |
| 6.5 Signage | N/A | <ul style="list-style-type: none"> The Department recommends a condition be imposed for the Applicant to seek consent for any signage under a separate development application to Council. |
| 6.6 Airspace Operations | Yes | <ul style="list-style-type: none"> The site is outside the Outer Horizontal Surface, and the proposed height (of RL246.8) is well below the Prescribed Airspace Protection Surface (of RL 340m) and the Radar Terrain Clearance Chart (of RL 335.28m). The Department is satisfied that the proposed development will not affect the safety, efficiency or |

| LEP Clause/Requirement | Complies | Assessment/Comment |
|---|----------|---|
| | | regularity of current or future airspace operations at Sydney Airport. |
| <p>6.7 Active Street Frontages</p> <ul style="list-style-type: none"> • Victoria Avenue • Victor Street • Post Office Lane | Yes | <ul style="list-style-type: none"> • The site is required to provide active street frontages to Victoria Avenue, Victor Street and Post Office Lane. • The proposed development provides retail premises to Victoria Avenue and Victor Street (with allowance for residential lobby, vehicular access and access for fire services). • On Post Office Lane, the proposal primarily comprises service areas, which are necessary to support the proposed development's function and operations. A retail kiosk is located at the corner of Post Office Lane and Victor Street. • The primarily services frontage to Post Office Lane reinforces the importance of the site's Victoria Avenue and Victor Street frontages, which are both activated. • To increase activation of the Post Office Lane frontage, the Department requested the Applicant investigate locating an additional retail kiosk to the southwest corner. The applicant found that this location is within 3m of the substation (Ausgrid prohibits openings within this zone), and that the area is required for waste management adjacent the loading dock. • The Department acknowledges that activation is achieved by the proposed kiosk to the corner of Victor Street and Post Office Lane, and that passive surveillance of the pedestrian thoroughfare to the Chatswood Interchange is provided by commercial space and apartments above. As such, the Department accepts the Applicant's response. • 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. |
| <p>6.15 Sun Access</p> <ul style="list-style-type: none"> • (1) Development consent must not be granted to | Yes | <ul style="list-style-type: none"> • The proposal will not result in any additional overshadowing to land identified as Area 1 (being the Chatswood Garden of Remembrance) between 12-2pm at mid-winter, nor to the land identified as Area 2 (being the |

| LEP Clause/Requirement | Complies | Assessment/Comment |
|---|----------|--|
| <p>development on land in Zone E2 Commercial Centre that results in additional overshadowing of the Chatswood Garden of Remembrance at mid-winter between 12pm and 2pm.</p> <ul style="list-style-type: none"> • (2) Development consent must not be granted to development that results in additional overshadowing on Chatswood Oval at mid-winter between 11am and 2pm. | | <p>Chatswood Oval between) 11am-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, or do not cast additional shadow during the prescribed period.</p> |
| 6.23 Design Excellence | Yes | <ul style="list-style-type: none"> • In accordance with the requirements of this clause, the development was subject to a competitive design process, as discussed in Section 5. |

Appendix C – Assessment of Overshadowing



Figure 13 | Properties assessed for overshadowing (Source: Applicant’s RtS)

Table 15 | Overshadowing and solar access impacts to surrounding properties

| Address | Overshadowing Analysis |
|----------------------------------|--|
| 69 Albert Avenue ‘Metro View’ | <ul style="list-style-type: none">• The development is 29 storeys in height, comprises 147 apartments and is located approximately 60m to the west of the site.• 22 submissions were received from residents in this building raising concern about overshadowing impacts.• This building is overshadowed by existing buildings from approximately 1pm at mid-winter to the eastern façade.• 24 of 147 apartments in this building currently receive less than two hours direct solar between 9am to 3pm at mid winter. |

| Address | Overshadowing Analysis |
|---------------------|--|
| | <ul style="list-style-type: none"> • The proposal results in additional overshadowing of this building from 9am to 10am, with 57 east facing apartments that currently receive at least two hours direct solar at mid winter receiving less than two hours as a result of the proposal. This increases the number of apartments receiving less than two hours to 81 at mid winter. • The Applicant has submitted overshadowing analysis showing that affected apartments will receive 1.8 hours of direct solar access at mid winter. • The Department acknowledges that these 57 apartments will receive slightly less than the recommended minimum of 2 hours solar access under ADG Objective 4A-1 during mid winter. • The Department finds the impact upon solar access to this building acceptable as discussed in Section 5.3.2 of this report. |
| 84-86 Albert Avenue | <ul style="list-style-type: none"> • The building is eight storeys in height, comprises 22 apartments and is located approximately 255m to the southwest of the site. • While no submissions were received from residents in this building, 54 submissions overall raised concerns about overshadowing. • 5 of 22 apartments receive at least two hours direct solar between 9am to 3pm at mid winter, with 17 apartments receiving less than two hours. • The proposal overshadows this building from 10am to 11am, with 3 north facing apartments that currently receive at least two hours direct solar at mid winter receiving less than two hours as a result of the proposal. This raises the total number of apartments receiving less than two hours to 20 (91%). • The Applicant's overshadowing analysis shows that these affected apartments will continue to receive 1.6 hours of direct solar access at mid winter. • The Department acknowledges that these 3 apartments will receive less than the recommended minimum of 2 hours solar access under ADG Objective 4A-1 during the winter solstice. • The Department finds the impact upon solar access to this building acceptable as discussed in Section 5.3.2 of this report. |

The following properties were assessed and found to not be subject to additional overshadowing that would result in an apartment that currently receives at least two hours direct solar on June 21, receiving less than two hours solar on that date.

| Address | Overshadowing Analysis |
|---|--|
| 1 Post Office Lane 'Metro Spire' | <ul style="list-style-type: none"> • The development comprises 145 apartments and is located to the west of the site. • Minor additional overshadowing occurs at 9am as a result of the proposal. However, this does not result in any apartment that currently receives more than two hours direct solar between 9am and 3pm at mid winter receiving less than two hours. |
| 37 Victor Street 'The Sebel' | <ul style="list-style-type: none"> • The development comprises 203 serviced apartments and is located to the south of the site. • Additional overshadowing occurs from 11am to 2pm as a result of the proposal. However, this does not result in any apartment that currently receives more than two hours direct solar between 9am and 3pm at mid winter receiving less than two hours. |
| 1 Victor Street | <ul style="list-style-type: none"> • The development comprises 84 apartments and is located approximately 250m to the south of the site. • Minor additional overshadowing occurs at 1pm as a result of the proposal, however, no additional living room windows are in shadow as a result of the proposal. |
| 2-14 Victor Street | <ul style="list-style-type: none"> • The development comprises 42 apartments and is located approximately 250m to the southeast of the site. • Minor additional overshadowing occurs at 2pm as a result of the proposal, however, no additional living room windows are in shadow as a result of the proposal. |
| 2 Parkside Lane | <ul style="list-style-type: none"> • The development comprises 39 apartments and is located approximately 270m to the southeast of the site. • Minor additional overshadowing occurs at 1pm as a result of the proposal, however, no additional living room windows are in shadow as a result of the proposal. |
| 16-22 Devonshire Street | <ul style="list-style-type: none"> • The development comprises 44 apartments and is located approximately 350m to the southeast of the site. • No additional overshadowing occurs as a result of the proposal. |
| 25-29 Johnson Street | <ul style="list-style-type: none"> • The development comprises 48 apartments and is located approximately 350m to the southeast of the site. • No additional overshadowing occurs as a result of the proposal. |

| Address | Overshadowing Analysis |
|------------------|--|
| 88 Albert Avenue | <ul style="list-style-type: none"> The development comprises 36 apartments and is located approximately 385m to the southwest of the site. No additional overshadowing occurs as a result of the proposal. |

Appendix D – Clause 4.6 variation - Height

Clause 4.6(2) of WLEP 2012 permits the consent authority to consider varying a development standard imposed by an EPI. The aim of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards, to achieve better development outcomes. In considering a proposed variation, clause 4.6 requires the following:

- 3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

In accordance with clause 4.6(3), the Applicant has prepared a written request to vary the height of buildings development standard as it applies to the site.

The Department's consideration of the Applicant's request is provided below with reference to the Guide to Varying Development Standards November 2023 and other relevant tests.

Nature of the variation

As shown on **Figure 6**, the mapped maximum height of building for the portion of the site within 6m from the Victoria Avenue boundary is 7m, for a width of 6m. The proposal complies with the remainder of the mapped maximum height of RL 246.8m.

The Applicant is seeking to vary the 7m street wall height control by up to 5.49m (although this varies as the site slopes compared to the RL of the podium). This variation represents up to 78% exceedance (see).

The components of the proposed building that exceed the 7m height control are the additional building by a maximum of 2.46m, podium balustrade to the communal open space by a maximum of 3.79m and the awning to the communal open space on the podium by a maximum of 5.49m.

The variation results from the proposed floor to floor height for the two-storey retail frontage (for non-residential use) and elements relating to the communal open space above (such as balustrade and awning) and the sloping topography across the frontage of the site from the western high point to the eastern low point.

The Applicant notes that isolated tower façade articulation elements (such as sun shading elements around windows) project into the 7m mapped zone by approximately 0.3m. The Applicant is of the view that, notwithstanding the technical non-compliance, these elements are physically separated at significant distance from the proposed street wall podium and clearly form part of the tower. As such, they are not read or perceived as a continuation of the street wall.

Has the applicant demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances

The Applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard to the first test outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*. The first test establishes that compliance with the development standard would be unreasonable or unnecessary where the proposed development achieves the objectives of the standard.

The objectives for the height of buildings development standard are as follows:

- (a) *to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*
- (b) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (c) *to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*
- (d) *to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*
- (e) *to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*
- (f) *to use maximum height limits to assist in responding to the current and desired future character of the locality,*
- (g) *to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*

(h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas

The Department has considered the Applicant's request and concludes the development achieves the objectives of the height of buildings development standard as:

- the podium meets the intent of the height control to limit the podium to two storeys, and the proposed floor to floor heights are suitable for the proposed retail use
- the podium height is lower than the street wall currently existing on site, and is generally consistent with the street wall height of adjacent development (which ranges from 8m to 11m)
- the additional height does not present adverse additional impact to views, visual privacy and overshadowing
- the podium height is consistent with the desired future character of the Victoria Avenue pedestrian thoroughfare established within the Chatswood CBD.

Has the applicant demonstrated there are sufficient environmental planning grounds to justify the contravention of the development standard

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- A coherent streetscape is established notwithstanding non-compliance with the standard - the proposed street wall height will also be perceived from the public domain as consistent with the adjacent property.
- The proposed development is broadly consistent with each object of the EP&A Act notwithstanding the variation to the development standard.
- The additional height results from a consolidation of existing separate retail tenancies to achieve a more functional tenancy (both in area and clear height).

The Department considers the Applicant has adequately demonstrated there are environmental planning grounds for the proposed minor variation to the development standard. The variation would result in supportable planning outcomes. In particular, the:

- proposal meets the objectives of the height of building control as it enables development of viable storey heights that are compatible with the existing Victoria Avenue streetscape
- proposed height does not present adverse additional bulk nor does it present adverse additional amenity (including overshadowing) impacts to the public domain

- proposal has been through a design excellence process and endorsed by the Design Integrity Panel (DIP) as achieving design excellence
- proposal remains compliant with the primary building height mapped for the site.

Appendix E – Clause 4.6 variation - Parking

Clause 4.6(2) of WLEP 2012 permits the consent authority to consider varying a development standard imposed by an EPI. The aim of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards, to achieve better development outcomes. In considering a proposed variation, clause 4.6 requires the following:

4) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*

(c) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(d) there are sufficient environmental planning grounds to justify the contravention of the development standard.

In accordance with clause 4.6(3), the Applicant has prepared a written request to vary the parking non-discretionary development standard as it applies to the site.

The Department's consideration of the Applicant's request is provided below with reference to the Guide to Varying Development Standards November 2023 and other relevant tests.

Nature of the variation

Section 74 of the Housing SEPP identifies non-discretionary development standards for BtR development. Section 74(2)(d)(i) requires at least 0.2 parking spaces per dwelling for development in an accessible area (applies to the site).

For 260 dwellings, this equates to 52 spaces. The proposed development provides 1 accessible car share space for use by the residents. This does not comply with the minimum car parking rate, equating to a 100% variation to this standard.

Has the applicant demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances

The Applicant demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard to the first test outlined in *Wehbe v Pittwater Council [2007]* NSWLEC 827. The first test establishes that compliance with the

development standard would be unreasonable or unnecessary where the proposed development achieves the objectives of the standard.

The objective of the non-discretionary development standards is stated in section 74(1):

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of build-to-rent housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

The Department has considered the Applicant's request and concludes that provision of at least 0.2 spaces per dwelling is unreasonable or unnecessary in the circumstances as:

- the development has excellent access to public transport, being located approximately 50 metres from an entrance to the Chatswood Interchange, which is a multimodal interchange comprising rail, metro and bus services, providing direct connection to destinations across Greater Sydney
- the development is located within the Chatswood CBD, which is a highly serviced precinct with services, retail, employment, local amenities and open space within walking distance of the site
- the proposal is supported by a Traffic and Accessibility Impact Assessment that concludes that the minimised parking provision is appropriate to the site and aligns with the objectives of the WDCP 2023 and Housing SEPP to reduce private vehicle reliance in well-located areas
- the development encourages sustainable modes of travel over private vehicle use, with a supply of bicycle parking that well exceeds the WDCP 2023 guideline
- the site is located within a pedestrianised environment, with significant pedestrian movement along each frontage, which would support reduced vehicle trips and associated car parking to minimise potential pedestrian vehicle conflicts
- the BtR model, and the proposed apartment mix with greater proportion of studio and one bed apartments, is targeted to suit residents who do not own a vehicle

[Has the applicant demonstrated there are sufficient environmental planning grounds to justify the contravention of the development standard](#)

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- the site is located within a highly pedestrianised environment. An assessment of the traffic generation concludes that one trip in both the AM and PM is anticipated. Minimal traffic

movement generated serves to enhance pedestrian safety and minimise impact to the road network

- the delivery of BtR in an employment zone, enabled through the Housing SEPP, locates residents in amenity rich areas, encourages active transport and utilisation of public transport. The Chatswood CBD is well-suited to support a BtR development that discourages car ownership, given access to a major transport interchange and services and amenities (including schools, community infrastructure, open space, and major retail) that can be reached on foot.
- the proposed development remains broadly consistent with the objects in section 1.3 of the EP&A Act, notwithstanding the proposed variation to the car parking non-discretionary development standard. In particular, the proposal will enhance ESD outcomes by reducing reliance on private car usage and encouraging residents and visitors to use public and active transport.

The Department considers the Applicant has adequately demonstrated there are environmental planning grounds for the proposed minor variation to the development standard. The variation would result in supportable planning outcomes.

Appendix F – Recommended instrument of consent

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