

## 10.6. NSW Government’s Crows Nest Transport Oriented Development Rezoning - Finalised

|             |  |
|-------------|--|
| AUTHOR      | Stephanie Lum, Team Leader Policy  |
| ENDORSED BY | Marcelo Occhiuzzi, Director Planning and Environment   |
| ATTACHMENTS | Nil  |
| CSP LINK    | 2. Our Built Infrastructure<br>2.3 Prioritise sustainable and active transport<br><br>5. Our Civic Leadership<br>5.3 Community is engaged in what Council does |

### PURPOSE:

The purpose of this report is to provide an overview of the NSW Department of Planning, Housing and Infrastructure’s (DPHI) Crows Nest Transport Oriented Development (TOD) rezoning that was finalised on 27 November 2024, and to discuss the key issues and implications for North Sydney Council.

### EXECUTIVE SUMMARY:

- The Crows Nest TOD rezoning came into effect on 27 November 2024.
- The TOD rezoning introduces significant changes to the future built form of Crows Nest, St Leonards, and Wollstonecraft. The rezoning will enable the development of high-density mixed use and residential towers ranging from six to 62 storeys, fundamentally altering the character and function of the precinct.
- Significant post-exhibition changes were made to the Crows Nest TOD which have resulted in the expansion of the precinct. The exhibited ‘area of change’ has been extended to the west and south towards Lithgow Street, River Road, and Gillies Street. A number of sites across the precinct have also had their maximum building height and density increased following public exhibition.
- This report outlines key elements of the proposal, impacts of the high-density built form, and implementation implications on Council and the community. It recommends Council note the contents and implications of the Crows Nest TOD and write to the DPHI recommending amendments to the North Sydney Local Environmental Plan (NSLEP) 2013 and Crows Nest TOD Precinct Design Guide (Design Guide) to address some of the impacts of the high-density built form.

### RECOMMENDATION:

- 1. THAT** Council note the contents and implications of the Crows Nest Transport Oriented Development (TOD).
- 2. THAT** Council write to the NSW Department of Planning, Housing, and Infrastructure (DPHI) recommending amendments be made to the North Sydney Local Environmental Plan (LEP)

2013 and Crows Nest TOD Precinct Design Guide to provide greater solar access, improved landscape character, human scale, and walkability through incorporating adequate tower separation distances, setbacks, and lot sizes.

**3. THAT** Council call on the State Government to provide details of the Housing and Productivity Contribution for the Crows Nest Accelerated TOD Precinct to fund and deliver essential community infrastructure for the existing and additional planned population including open space, road upgrades, community facilities, and upgrades to essential services.

**4. THAT** Council continue to collaborate with the DPHI to investigate alternative options to deliver an optimal public open space outcome for the Lithgow Street block.

## Background

In July 2016, the State Government announced that it would undertake a strategic planning investigation and strategy for Crows Nest, St Leonards, and the Artarmon industrial precinct. That investigation went by many names – it began as a Priority Precinct, then morphed into an Urban Activation Precinct, and finally the Planned Precinct – St Leonards and Crows Nest 2036 Plan (the 2036 Plan).

The 2036 Plan was adopted and made by the State Government in August 2020 and stated that it will facilitate the urban renewal of St Leonards and Crows Nest for an expanding employment centre and growing residential community in the suburbs of St Leonards, Greenwich, Naremburn, Wollstonecraft, Crows Nest, and Artarmon.

The 2036 Plan required the precinct to absorb significant additional residential and commercial density, include built form and land-use parameters, and the provision of regional open space and facilities. Whilst it did not have the effect of rezoning land, the finalisation of the 2036 Plan was accompanied by a Ministerial Direction requiring any rezoning to be consistent with the Plan.

On 7 December 2023, the NSW Government announced the TOD Program. The program aims to increase housing supply close to public transport, jobs, and services in Metropolitan Sydney, and extending to Wollongong and Newcastle.

The area earmarked for growth and renewal in the St Leonards and Crows Nest 2036 Plan was identified as one of eight 'TOD Tier 1 precincts' for accelerated, State-led rezoning under the program. It forms part of a much larger tranche of State planning reforms which aim to increase residential densities in the region, fast track development assessment, and deliver more affordable housing.

The rezoning proposal was publicly exhibited from 16 July to 30 August 2024. Council made a detailed submission, which was endorsed by Council at its meeting on 26 August 2024, calling for the NSW Government to consider the area's economic future and deliver community infrastructure that would support the planned growth of our population.

After consideration of submissions received, the rezoning came into effect on 27 November 2024 and development applications are able to be lodged in response.

The process of the development of the Crows Nest TOD is outlined in Figure 1 on the next page. The Figure also shows an example of a site at 402-420 Pacific Highway, St Leonards in the TOD precinct that has seen height increased significantly from the 2036 Plan to the final TOD compared to the current controls in the NSLEP 2013.

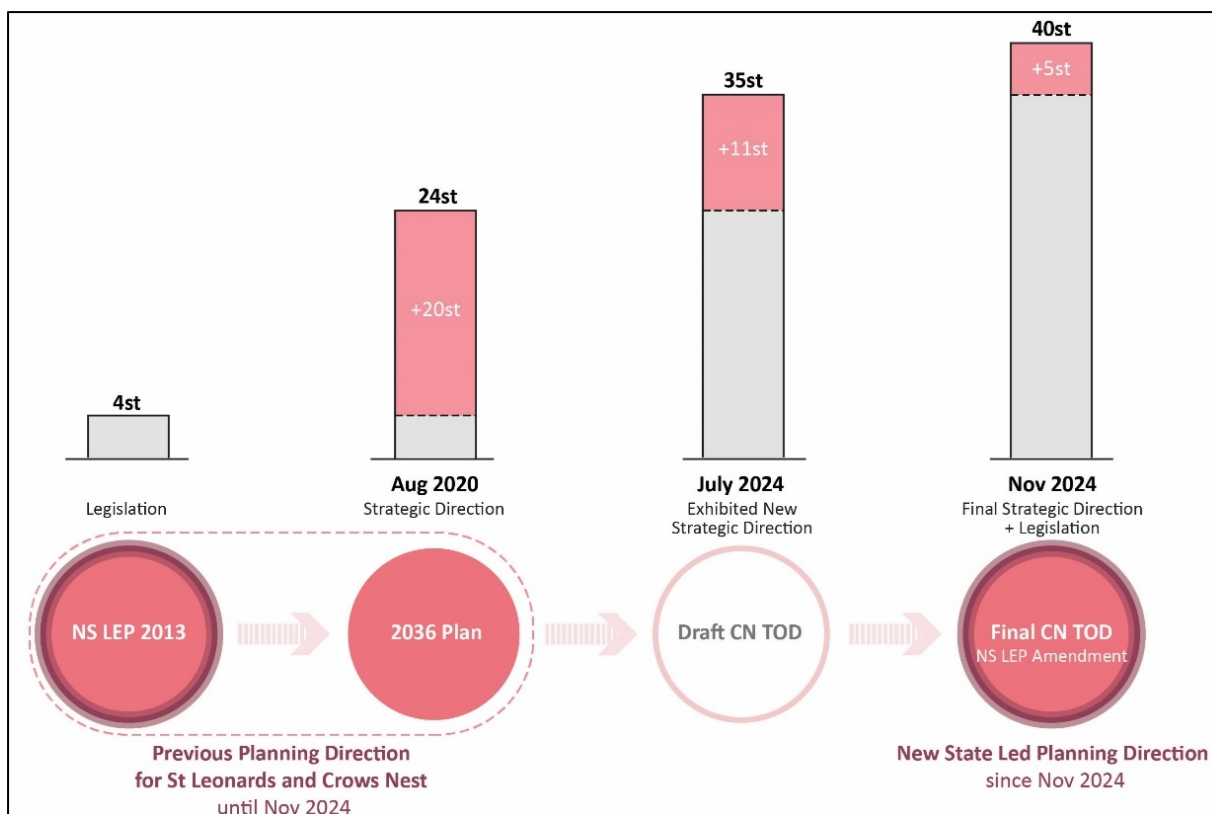


Figure 1 – Development of the Crows Nest TOD (Source: North Sydney Council (NSC)).

Post-exhibition changes have resulted in the expansion of the Crows Nest TOD precinct. The publicly exhibited area of change has been extended to the west and south towards Lithgow Street, River Road, and Gillies Street. A number of sites across the precinct have also had their maximum building height and density increased following public exhibition.

The Crows Nest TOD precinct will enable the future delivery of:

- approximately 5,900 new homes;
- capacity for approximately 2,500 new jobs;
- a minimum of 3% affordable housing in all new residential development, and between 5% and 18% for several key sites;
- floor space ratios (FSRs) of up to 20:1; and
- a range of building heights from six up to 62 storeys (note: a maximum of 50 storeys in the North Sydney local government area (LGA) under the Crows Nest TOD is proposed).

### Purpose of report

The purpose of this report is to provide more detail on the changes to the planning controls under the Crows Nest TOD and discuss the key issues and implications on Council and the community. This report is divided into four parts.

Part 1 provides a high-level summary of the nature of amendments made under the Crows Nest TOD and outlines the changes between the exhibited proposal and the post-exhibition finalised amendments.



Part 2 discusses the implications of the TOD on built form, including bulk and scale, solar access, tree canopy, and streetscape amenity.

- Part 3 discusses the implications of the TOD on infrastructure, such as traffic and transport, the loss of employment generating commercial floor space, capacity, and infrastructure provision.
- Part 4 discusses the implementation of the Crows Nest TOD, including the planning approval pathway, switching-off of the infill affordable housing reforms, and low-mid rise housing reforms.

### **Part 1 – Summary of the Crows Nest Tod**

This part provides a high-level summary of the nature of amendments made under the Crows Nest TOD and outlines the changes between the exhibited proposal and the post-exhibition finalised amendments.

The stated aim of the Crows Nest TOD rezoning is to:

- increase housing supply in the Crows Nest TOD precinct;
- enable a variety of land uses within walking distance of the St Leonards Train and Crows Nest Metro Stations;
- deliver housing supported by public spaces, vibrancy, and community amenity;
- increase the amount of affordable housing in the TOD precincts; and
- review and implement the recommendations of the 2036 Plan.

The Crows Nest TOD rezoning proposal comprises:

- a Finalisation Report that outlines the proposed planning control amendments;
- an updated Design Guide that prevails over the North Sydney Development Control Plan (NSDCP) (2013);
- a suite of technical documents that have informed the Finalisation Report and Design Guide; and
- Amendments to the NSLEP 2013 planning controls (clauses and maps).

This suite of technical documents includes:

- Updated Urban Design Report: This report models the provisions, and outlines frameworks for the environment, movement, land use, and built form that inform the Design Guide. It contains indicative 3D images of the potential resultant built form;
- Supplementary Transport Technical Note: Summarises all recommended transport related projects under modelling work for the 2036 Plan with responsible agency and indicative priority and concludes no additional transport infrastructure is needed in the precinct above that identified in the 2036 Plan;
- Review of Affordable Housing Contributions: Assesses the feasibility of development in the TOD precinct and the capacity to provide affordable housing;

- Updated Economic Impact Assessment: Estimates a net increase of \$200 million contribution to GRP and provides justification of the 28,900sqm gross floor area (GFA) reduction in employment capacity due to increased work from home practices following COVID-19;
- Updated Utilities Report: Identifies servicing constraints to potable water, sewer, stormwater, and electrical infrastructure. Recommends consideration be given to a 'zero gas' precinct. No servicing constraints are identified for telecommunication infrastructure; and
- Updated Flood and Stormwater Report: Shows much of the density on the western side of the Pacific Highway is located in the catchment that drains to a low point near Russell Street and River Road. It concludes proposed intensification of the precinct is suitable from a flood risk perspective.

### **1.1 Applicable Land**

The exhibited Crows Nest TOD precinct boundary aligned with the 2036 Plan, encompassing land within the North Sydney, Lane Cove, and Willoughby LGAs. The focus area for accelerated rezoning is primarily situated within the North Sydney LGA, with portions extending into the Lane Cove and Willoughby LGAs. It covers the area between St Leonards Train Station and Crows Nest Metro Station, extending south along the Pacific Highway.

Upon finalisation of the Crows Nest TOD, the rezoning area was extended further southwest of the Crows Nest Metro Station, including areas bounded by Oxley Street, Nicholson Street, Shirley Road, Gillies Street, River Road, and Lithgow Street. Furthermore, the focus area for accelerated rezoning now reaches southwest towards Wollstonecraft Train Station while remaining within the originally identified investigation area boundary.

Figure 2 on the next page identifies the exhibited Crows Nest TOD precinct, and the additional area included in the final TOD rezoning.



Figure 2 – Crows Nest TOD Precinct (Source: NSC – adapted from the Crows Nest TOD Finalisation Report, DPH)

## 1.2 LEP Controls

The NSLEP 2013 has been amended through a self-repealing State Environmental Planning Policy (SEPP) Amendment (Crows Nest Transport Oriented Development Precinct) 2024 to give effect to the TOD precinct’s zoning and development controls.

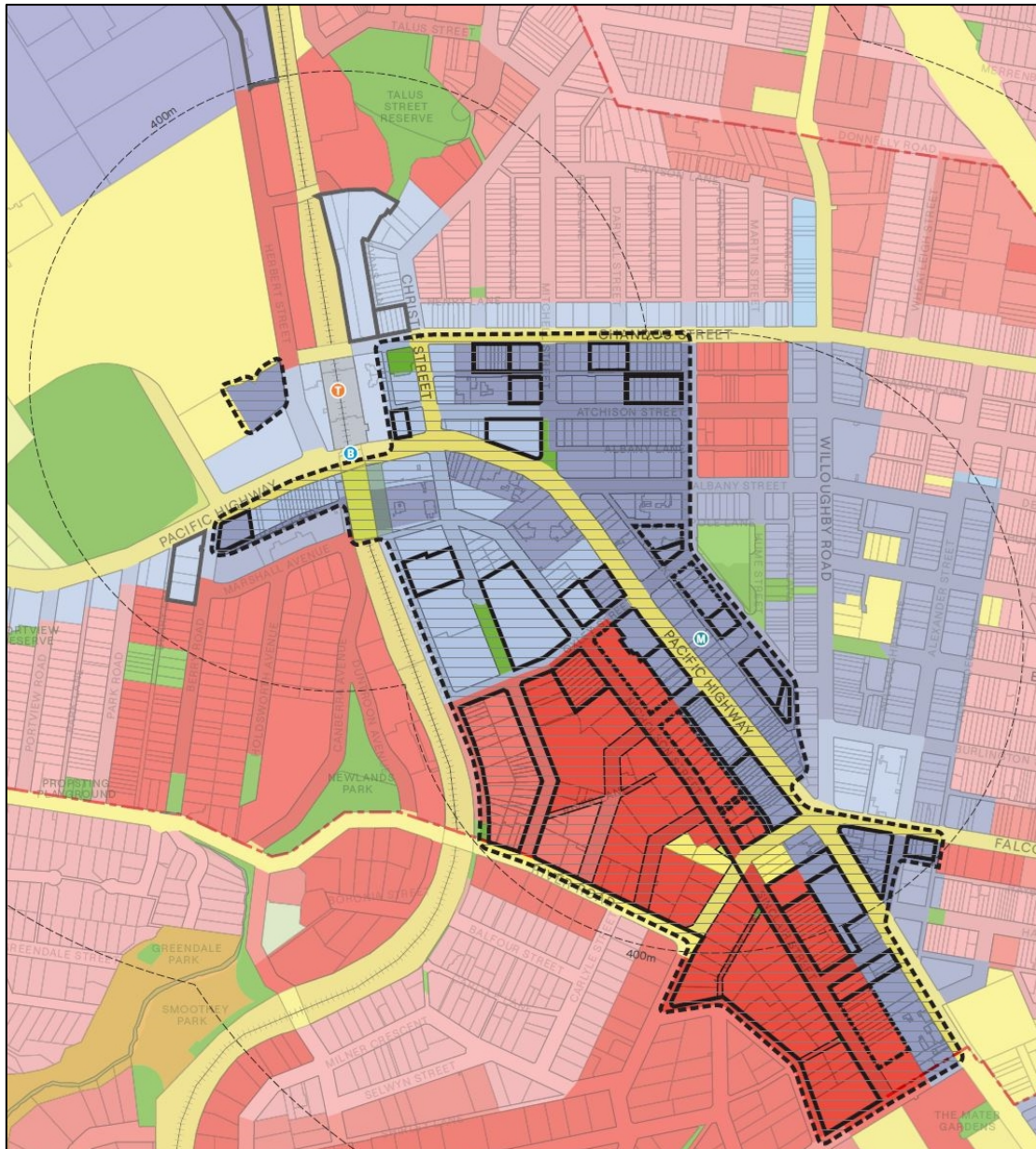
Part 7 (Crows Nest Transport Oriented Development Precinct) was added to Council’s LEP to include new provisions for design excellence, affordable housing, development of a key site, and to give effect to the Crows Nest TOD Precinct Design Guide.

A number of maps in the LEP were also replaced to give effect to the planning controls in the TOD precinct, including the Land Zoning Map, Floor Space Ratio Map, Height of Buildings Map, Lot Size Map, and Non-Residential Floor Space Ratio Map.

The following sections provide details on the amendments to the LEP and outline the changes between the exhibited proposal and the post-exhibition proposal.

### 1.2.1 Zoning

Land within the Crows Nest TOD has been rezoned in the NSLEP 2013 from R2 Low Density Residential, R3 Medium Density Residential, and E1 Local Centre to R4 High Density Residential to facilitate the development of apartments. An extract of the final zoning map is provided in Figure 3 on the next page.



| KEY |  |  |                                  |
|-----|--|--|----------------------------------|
|     | Precinct Boundary                                    |  |                                  |
|     | St Leonards South                                    |  | R2 - Low Density Residential     |
|     | Accelerated Rezoning Area                            |  | R3 - Medium Density Residential  |
|     | Submission Site Considered                           |  | R4 - High Density Residential    |
|     | Additional Site For Change to Align With Submissions |  | RE1 - Public Recreation          |
|     | MU1 - Mixed Use                                      |  | RE2 - Private Recreation         |
|     | E1 - Local Centre                                    |  | SP1 - Special Activities         |
|     | E2 - Commercial Centre                               |  | SP2 - Infrastructure             |
|     | E3 - Productivity Support                            |  | C2 - Environmental Consideration |
|     | E4 - General Industrial                              |  |                                  |

Figure 3 – Land Zoning Map (Source: Crows Nest TOD Updated Urban Design Report, DPHI)



### 1.2.2 Floor Space Ratios

The FSR map in the NSLEP 2013 has been amended, with the maximum FSRs ranging from approximately 1.8:1 to 20:1.

Greater FSRs are proposed on certain sites where different percentages of affordable housing are required in accordance with the new affordable housing clause and the Affordable Housing Map. More information is provided below under the Affordable Housing Provisions section.

Figures 4 and 5 below provide a comparison of the exhibited FSR controls and the final FSR controls under the Crows Nest TOD. Sites outlined with a black solid line are subject to an increase in the maximum FSR. In contrast, for land without a black solid outline, the proposed maximum FSR controls remain unchanged from those exhibited. The main change is an increase in FSRs along Pacific Highway, directly opposite the Crows Nest Metro Station.

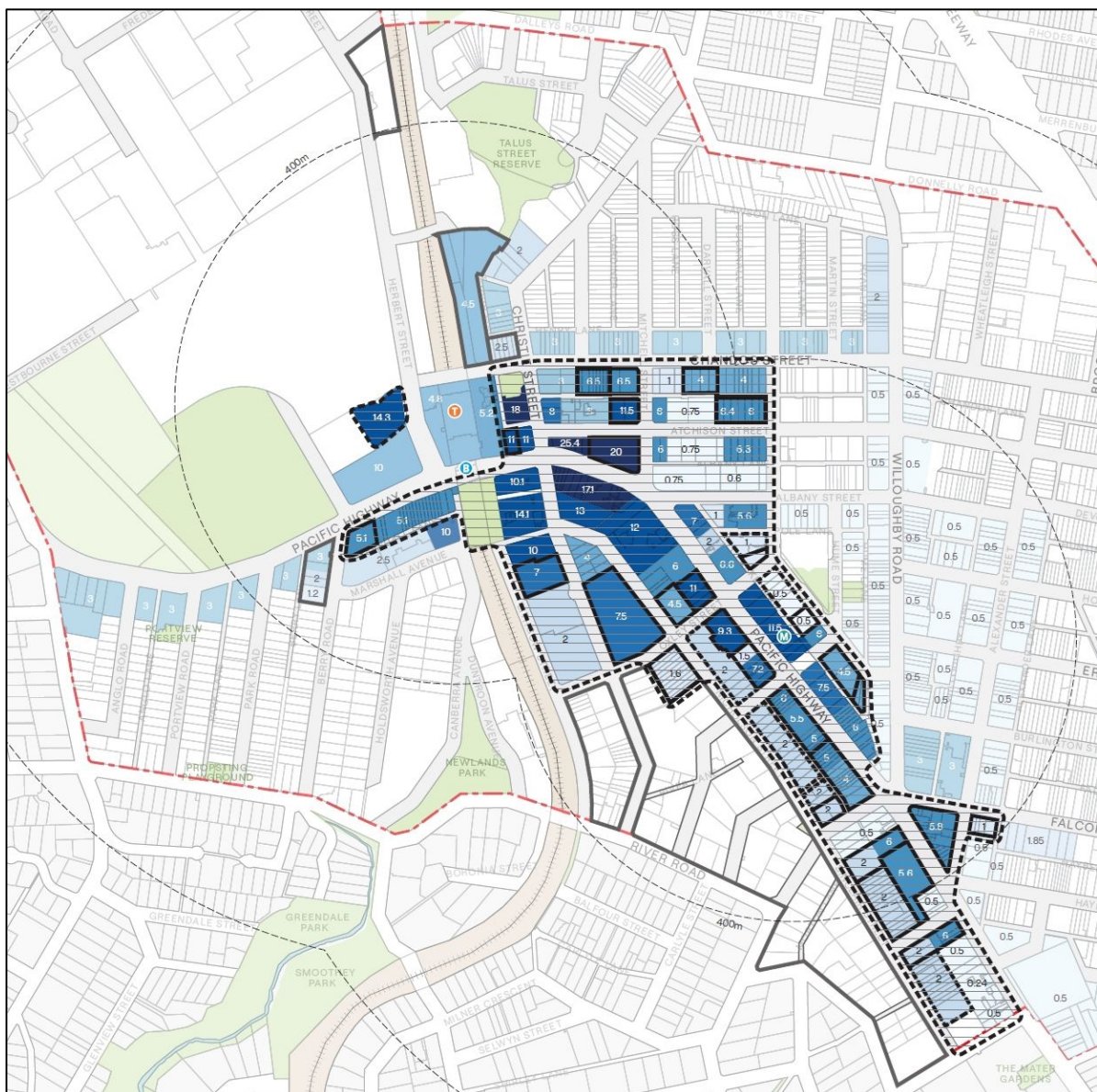
















Figure 4 – Exhibited FSR Map (Source: Crows Nest TOD Updated Urban Design Report, DPHI)

| KEY   |  |   |                 |
|---|--|---|-----------------|
|  | Precinct Boundary                                    |   |                 |
|  | St Leonards South                                    |   |                 |
|  | Accelerated Rezoning Area                            |   |                 |
|  | Submission Site Considered                           |   |                 |
|  | Additional Site For Change to Align With Submissions |   |                 |
|  | 0.5:1  |  | 5:1             |
|  | 1:1  |  | 7:1             |
|  | 2:1  |  | 9:1             |
|  | 3:1  |  | 15:1 or greater |
|  | 4:1  |   |                 |

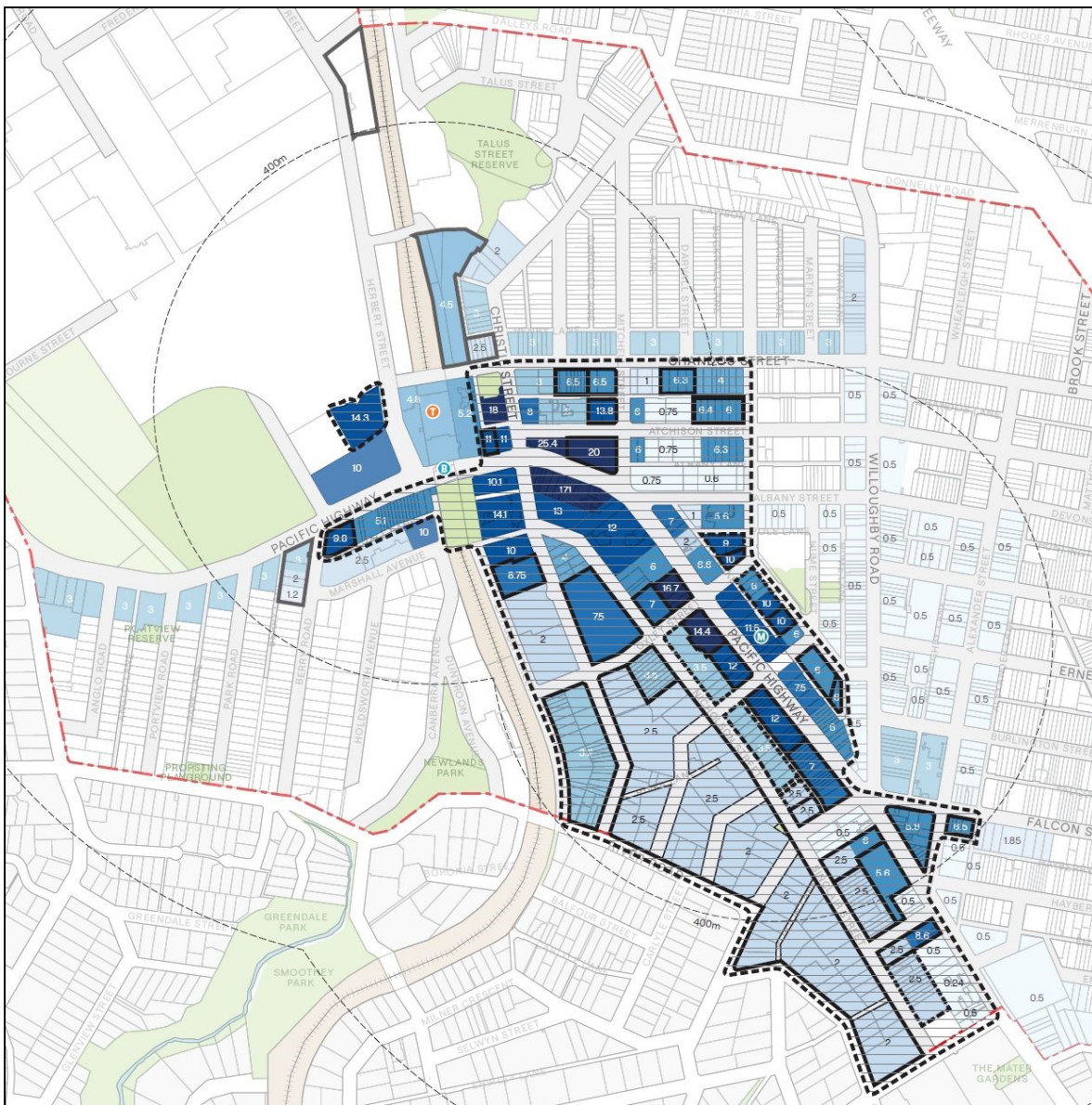


Figure 5 – Adopted FSR Map (Source: Crows Nest TOD Updated Urban Design Report, DPHI)



### 1.2.3 Building Heights

The Height of Buildings Map in the NSLEP 2013 has been amended with the maximum heights ranging from approximately three storeys to 42 storeys.

Figures 6 and 7 below and on the next page provide a comparison of the exhibited height controls to the final height controls under the Crows Nest TOD. Sites outlined with a black solid line were subject to an increase in the maximum height following public exhibition. In contrast, for land without a black solid outline, the proposed maximum height controls were implemented as per those exhibited.

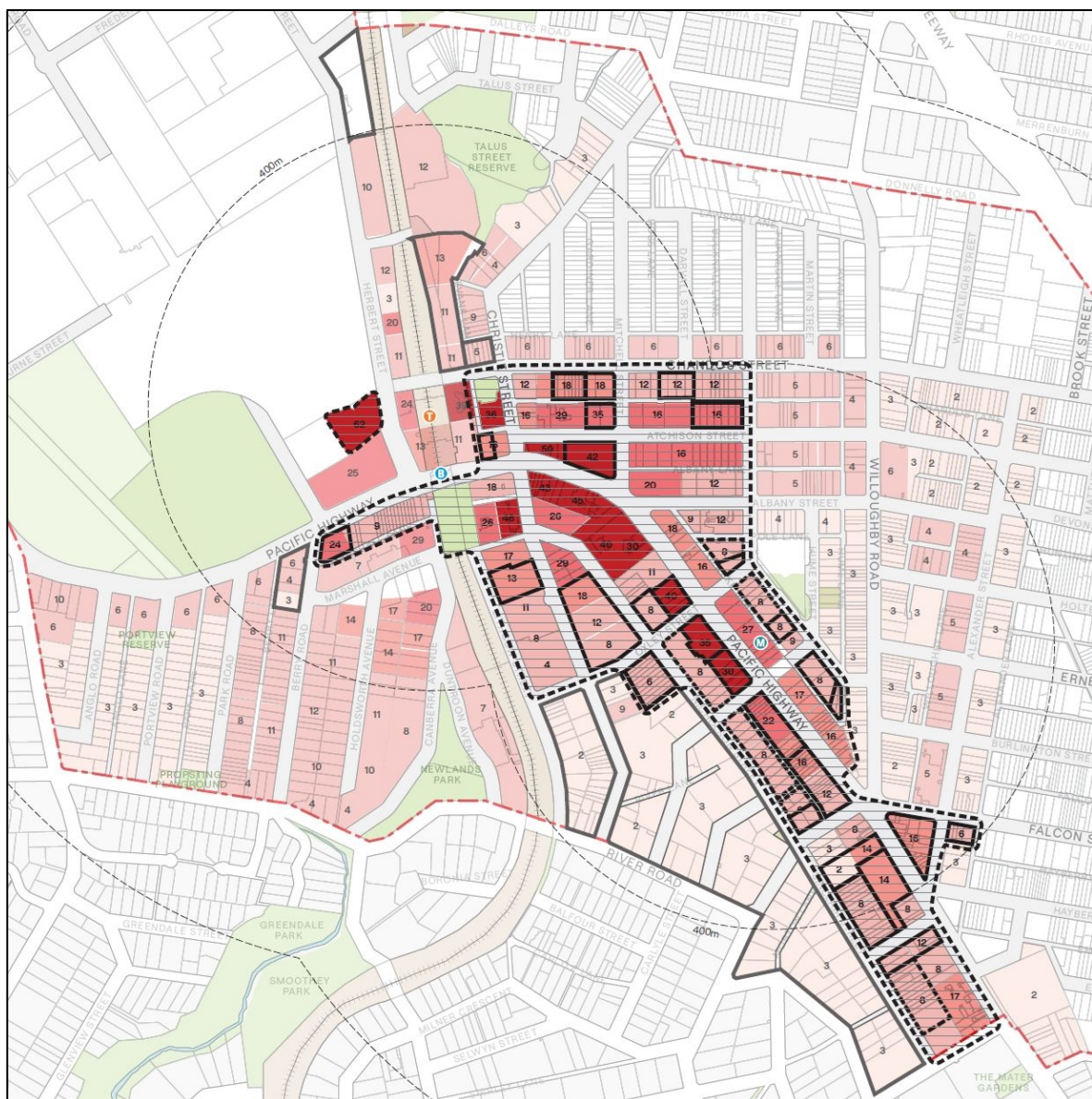












Figure 6 – Exhibited Height of Buildings Map (Source: Crows Nest TOD Updated Urban Design Report, DPHI)

| KEY   |  |
|---|--|
|  | Precinct Boundary                                    |
|  | St Leonards South                                    |
|  | Accelerated Rezoning Area                            |
|  | Submission Site Considered                           |
|  | Additional Site For Change to Align With Submissions |
|  | 2-3 Storeys  |
|  | 4-12 Storeys   |
|  | 13-19 Storeys  |
|  | 20-29 Storeys  |
|  | 30+ Storeys  |

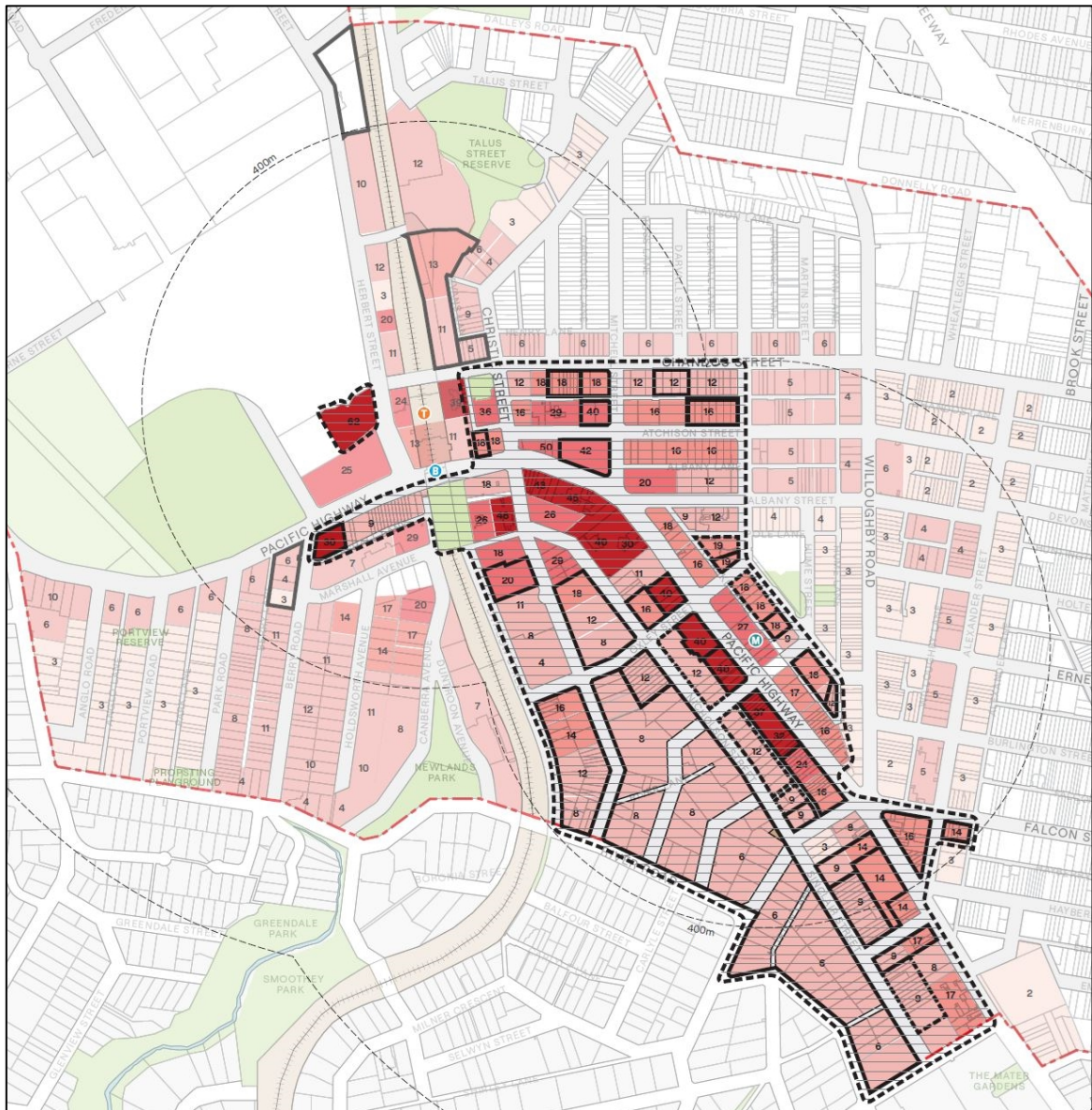


Figure 7 – Adopted Height of Buildings Map (Source: Crows Nest TOD Updated Urban Design Report, DPHI)

The post-exhibition height increases in the final Crows Nest TOD are significant. According to the DPHI, a substantial number of submissions were received from landowners during the exhibition period, many requesting additional height allowances.



Many requests have been incorporated into the final plan, with some modifications. The sites where submissions were considered are outlined in black in Figure 8 below, including areas in Wollstonecraft, where some landowners sought the inclusion of their sites beyond the previous TOD boundary.

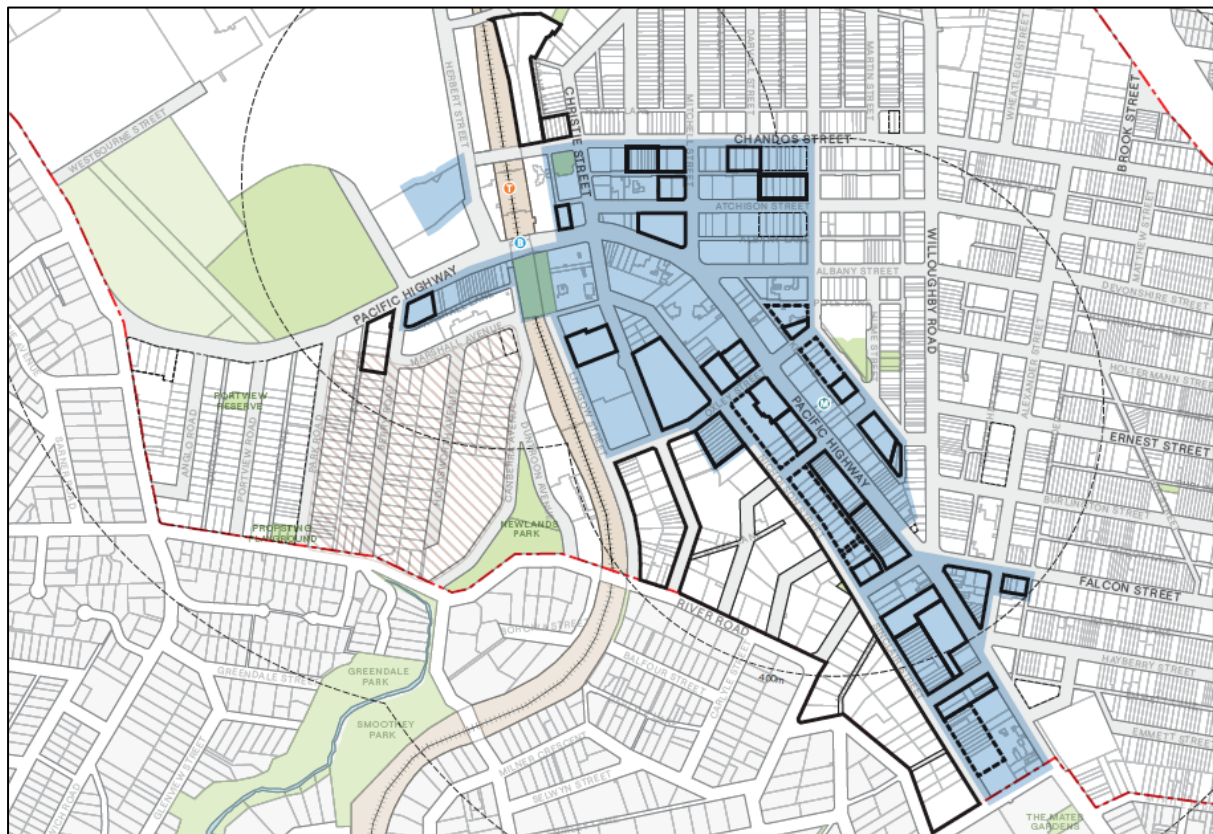


Figure 8 – Location of submitters (black outline) (Source: Crows Nest TOD Updated Urban Design Report, DPHI)

Predominantly, the tallest building heights are concentrated around St Leonards Train Station. Significant heights are also distributed along Pacific Highway, with height concentrated between St Leonards Train Station and the Crows Nest Metro Station.

Figure 9 on the next page illustrates these changes, with lighter pink indicating the exhibited heights and darker pink representing the finalised heights (inclusive of incentive controls). The key height changes are concentrated in the following areas:

1. Pacific Highway – Up to 40 storeys (exhibited TOD: up to 27 storeys without incentives, up to 35 storeys with incentives)
2. Clarke Street and Oxley Street – 12-19 storeys (exhibited TOD: 8-9 storeys)
3. Wollstonecraft Residential
  - Near Pacific Highway – nine-12 storeys (exhibited TOD: three-eight storeys)
  - Western side to Nicholson Street – six-16 storeys (exhibited TOD: two-three storeys)
4. Falcon Street – 14 storeys (exhibited TOD: six storeys)
5. Atchison Street – 40 storeys (exhibited TOD: 35 storeys)



Figure 9 – Adopted building heights (storeys) (Source: NSC – adapted from the Crows Nest TOD Updated Urban Design Report, DPHI)

#### 1.2.4 Non-Residential FSR

The purpose of requiring a minimum non-residential FSR is to support employment generating uses and the precinct’s importance as a Strategic Centre. Non-residential floor space encourages activation of the streetscape and support for the local and regional economy.

The St Leonards/Crows Nest precinct is Sydney’s fifth-most important employment centre, currently supporting approximately 43,500 workers (2021 ABS Census) and containing around 350,000sqm of commercial floor space. The 2036 Plan aimed to increase employment capacity by approximately 120,000sqm, accommodating an additional 16,500 workers, in line with the Sydney Region and North District Plans. The precinct’s exceptional connectivity, served by two heavy rail lines and an extensive district bus network, further underscores its significance as a key employment node.

However, the Crows Nest TOD planning framework prepared by the DPHI indicates a reduction in future employment capacity compared to the 2036 Plan. Council’s submission to the exhibited Crows Nest TOD recommended modifications to ensure no net reduction in employment floorspace capacity within the precinct. Additionally, it advocated for amendments to the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) to

exclude build-to-rent (BTR) provisions from applying to land zoned E2 Commercial Core within the precinct.

Despite these representations, Council’s concerns about reductions in employment floor space capacity for St Leonards and Crows Nest were not addressed. The final Crows Nest TOD confirms reduced non-residential FSRs, with some sites experiencing further reductions compared to the exhibited proposal (Figure 10, below).

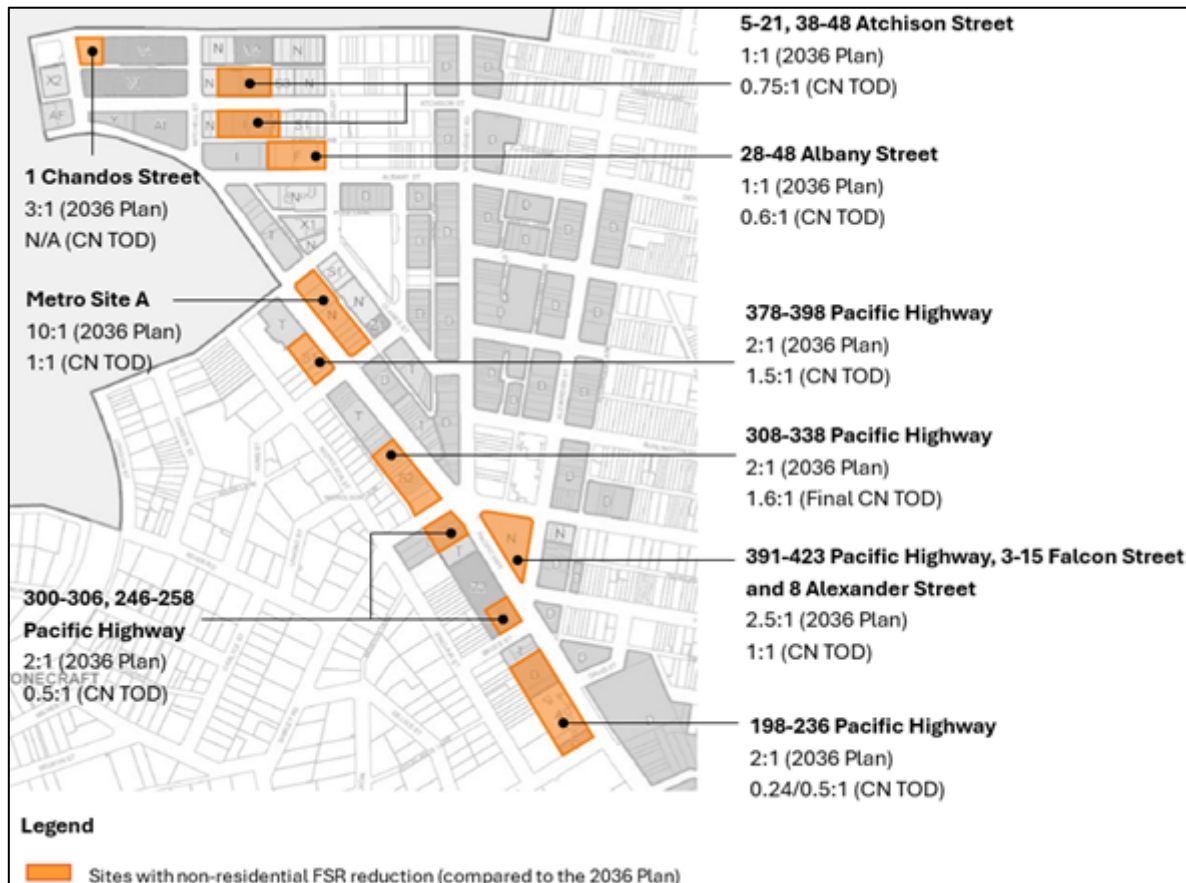


Figure 10 – Sites with non-residential FSR reduction (compared to the 2036 Plan) (Source: NSC)

The non-residential FSR map in the NSLEP 2013 has been amended with the minimum non-residential FSRs ranging from 0.24:1 to 20:1.

Overall, the precinct would result in a net reduction in the required minimum non-residential FSR compared to the 2036 Plan, prioritising housing over employment. It is also noted that the site at 601 Pacific Highway, which was identified as an employment zone, has been the subject of an approval by the Housing Delivery Authority (HDA) to progress as a DA for residential dwellings.

### 1.3 Open Space Incentive Block (Lithgow Street)

Whilst not the subject of public exhibition, the Crows Nest TOD amendments include the block of land bounded by Oxley Street, Christie Street, Lithgow Streets, and River Road as a key site (Figure 11), granting additional height and FSR to developments if the development provides for a single public open space area of at least 2,000sqm.



The NSLEP 2013 contains a clause providing controls for the key site, including the permissibility of residential flat buildings along with an incentive height map, allowing heights of 30-55m, and a maximum overall FSR of 3.2:1 for this block.

Furthermore, the Design Guide requires the open space to:

- be located to the north of the site, corner of Oxley and Christie Streets;
- have a minimum frontage to Oxley Street of 30m and Christie Street of 60m;
- be visible and with clear lines of sight from the street, with level access for all people (with a transition no greater than +/- 1m elevation);
- be publicly accessible 24 hours a day and 365 days of the year;
- receive at least three hours of direct sunlight between 10am-3pm to 50% of the area in mid-winter (on 21 June each year);
- be dedicated to Council or the State Government; and
- integrate stormwater and floodwater management in accordance with Section 3.13 of the Design Guide.

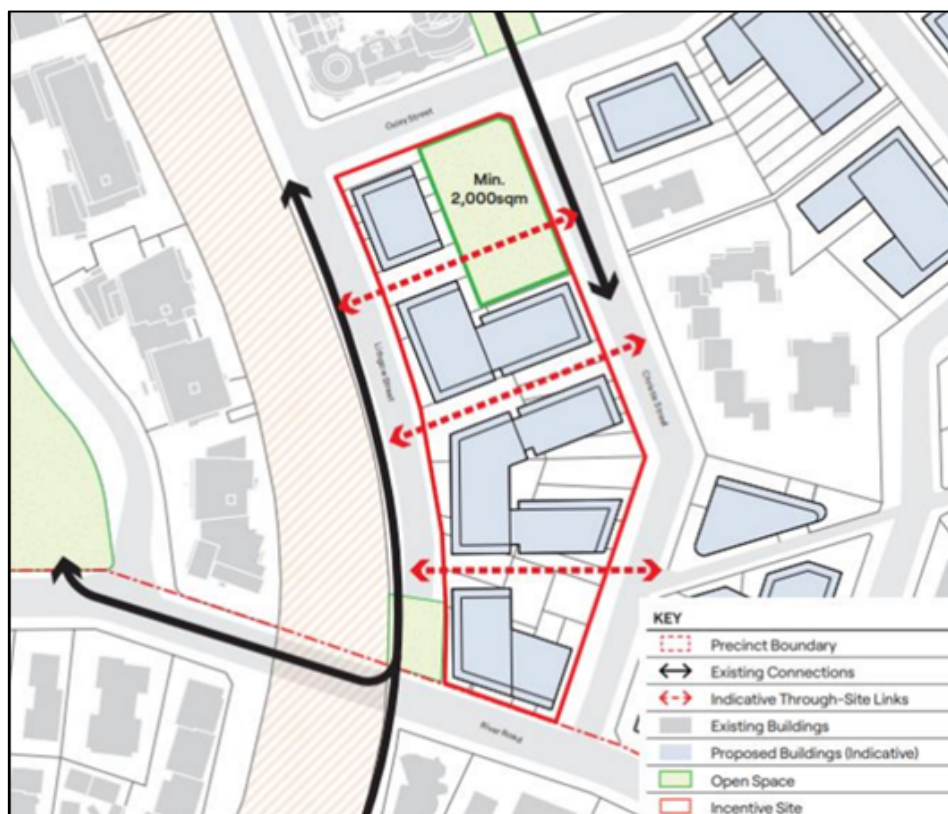


Figure 11: Open space incentive block (Lithgow Street) (Source: Crows Nest TOD Updated Design Guide, DPHI)

#### 1.4 Design Excellence

The NSLEP 2013 also includes a new provision for design excellence to help ensure that developments deliver a high standard of architectural, urban and landscape design. The clause contains a number of matters for consideration to ensure developments exhibit design

excellence, such as built form, design, view corridors, heritage, streetscape, environmental impacts, and public domain.

### **1.5 Application of the Design Guide**

In addition to Council's LEP controls, development in the precinct is also required to be consistent with the Crows Nest TOD Precinct Design Guide. The Design Guide contains a vision, a set of principles and objectives, and design guidance for the precinct, providing more detailed planning controls, such as setbacks, minimum lot sizes for redevelopment, podium heights, landscaping, and solar access requirements.

The purpose of the Design Guide is to help ensure that future developments achieve a high quality of architecture, urban, landscape, and amenity design.

The Design Guide prevails over the NSDCP 2013 in the extent of any inconsistency. Where provisions are not included in the Design Guide, such as waste management, the provisions of the NSDCP will still continue to apply.

### **1.6 Affordable Housing**

The aim of the Crows Nest TOD is to increase housing supply, including affordable housing, near public transport, jobs, and services. The exhibited TOD suggested a mandatory affordable housing contribution of 10-15% on all new residential development in the precinct, with the affordable housing component to be held in perpetuity. Additional 'bonus provisions' were also proposed on six key sites in the precinct, where additional height and floor space was granted in exchange for affordable housing. Five of these six sites were contained in the North Sydney LGA.

The finalised Crows Nest TOD introduced an affordable housing provision, along with an Affordable Housing Map in the NSLEP 2013 for the precinct. A minimum 3% affordable housing contribution is required across the precinct for the erection of a new building with more than 200sqm of GFA used for residential or alterations to an existing building that will result in at least 200sqm of additional GFA used for residential purposes.

Some key bonus sites, primarily along and around Pacific Highway, are given additional uplift through greater FSR and height if they provide 5%-16% affordable housing. For example, 17-25 Falcon Street has a 15% affordable housing requirement, and a maximum building height limit of 50m and FSR of 6.5:1 has been applied to enable this.

Any affordable housing is to be physically delivered on site and either dedicated to Council or managed by a community housing provider, and comprise one or more dwellings, each having a gross floor area of at least 50sqm and a monetary contribution for any remainder (i.e., residual obligation due to rounding), or a monetary contribution paid to Council of equivalent value to the GFA of affordable housing.

The distribution of affordable housing bonus sites across the Precinct is illustrated in Figure 12 on the next page.

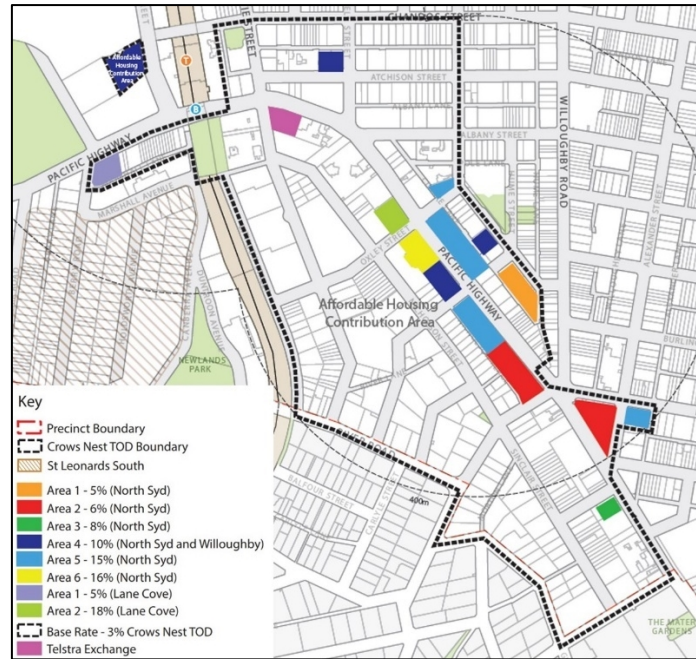


Figure 12 – Distribution of affordable housing bonus sites (Source: Crows Nest TOD Finalisation Report, DPHI)

The base affordable housing contribution of 3% is a significant reduction from the 10-15% proposed under the exhibited draft TOD. However, the retention of affordable housing in perpetuity better aligns with Council’s advocacy of affordable housing.

### 1.7 Solar Access

The Design Guide includes controls that seek to minimise overshadowing and maintain solar access to existing and proposed public open space and lower density residential areas to maximise useability and amenity.

The Design Guide specifies the following solar access requirements for key areas within and around the TOD precinct:

|                                      | Space  | DPHI Design Guide Shadow Requirement   |
|--------------------------------------|--|--|
| Existing & planned public open space | Hume St Park   | No additional overshadowing.<br>Ensure 50% of the park receives solar access from 10am-3pm on 21 June. |
|                                      | Ernest Place   | No additional overshadowing between 10am-3pm on 21 June.   |
|                                      | Newlands Park  |  |
| Other open space                     | New open space - corner Oxley Street & Christie Street | Minimum 3 hours to 50% of area 10am-3pm 21 June<br>Consideration to 21 March and September             |
| Streetscapes                         | Mitchell Street  | No additional overshadowing between 11.30am-2.30pm on 21 June  |
|                                      | Oxley Street   |  |
|                                      | Willoughby Road  |  |
| Other                                | Low-density residential areas (outside area boundary)  | No additional overshadowing between 9am-3pm on 21 June   |

Table 1: Solar access requirements for key areas within and around the TOD precinct (Source: Crows Nest TOD Updated Design Guide, DPHI)

The main change to the solar access provisions between the exhibited TOD and the final TOD amendments is that 50% of the Hume Street Park is now also required to receive solar access from 10am to 3pm during the winter solstice. The exhibited TOD did not specify this percentage requirement, only stating that no additional overshadowing is to occur from 10am to 3pm on 21 June.

Sites at 378-398 and 340-376 Pacific Highway utilising the affordable housing incentives are also now required to maintain a minimum of three hours of solar access from 9am to 3pm during the winter solstice (21 June) to low-density residential areas outside the TOD boundary.

### 1.8 Minimum Lot Size

The Design Guide also provides minimum lot size controls. The purpose of the controls is to require the amalgamation of lots to achieve the height and FSRs under the LEP, whilst ensuring suitable amenity and separation distances between residential development and avoiding site isolation.

The minimum lot size requirements are provided in Table 2 below and apply to the development of towers along Pacific Highway which have affordable housing rates above the base rate of 3% and have been given considerable height and FSR uplifts.

It should be noted that through the amendment to the NSLEP 2013, the site at 378-398 Pacific Highway, Crows Nest was incorrectly identified on the LEP Lot Size Map as having a minimum lot size of 1,500sqm. However, the Lot Size Map in the LEP refers to the minimum lot size required for subdivision, rather than the minimum lot size for development. Council raised the error with the DPPI who have indicated that they will be progressing an amendment to the LEP map to rectify the error.

| Site Description                                      | Minimum Lot Size |
|---|------------------|
| 20-22 Atchison Street, St Leonards                    | 1,200 sqm        |
| 448 -456 Pacific Highway, St Leonards (Lane Cove LGA) | 1,500 sqm        |
| 340-376 Pacific Highway, Crows Nest                   | 1,500 sqm        |
| 378-398 Pacific Highway, Crows Nest                   | 1,500 sqm        |
| 308a-338 Pacific Highway, Crows Nest                  | 1,500 sqm        |

Table 2 – Minimum lot size requirements in the Design Guide  
(Source: Crows Nest TOD Updated Design Guide, DPPI)

### Part 2 – Impact of the Crows Nest Tod on the Built Form

This part outlines the key impacts of the high-density built form, resulting from the TOD rezoning, on the character, solar access, public open spaces, and streetscapes - focussing on areas within the North Sydney LGA. Potential approaches to managing some of these impacts are also discussed.

## 2.1 Impact of building height and density increases

Council’s previous submission to the DHPI on the draft TOD called for ‘density done well.’ This means enabling more dwellings close to the Crows Nest Metro Station whilst ensuring a high quality of life through good urban design and placemaking principles.

The TOD rezoning enables the construction of development with indicative building envelopes as shown in Figures 13 and 14 on the next page. To provide a sense of scale, these figures also identify the previous heights envisaged by the NSW Government under the 2036 Plan with a dotted line.

To give a sense of what these towers will look like from the ground, Figures 15 (a and b) and 16 show indicative street view perspectives from key streets and public open spaces.

From east to west, the TOD rezoning has enabled a significant increase in scale to Crows Nest village to 18+ storeys along Clarke Street and Oxley Street, up to 40 storeys along the Pacific Highway, and then sharply transitioning down to a mix of six-16 storeys in Wollstonecraft. The over-station development (OSD) of the Crows Nest Metro Sites A and B, which were originally planned to be a focal point on the Pacific Highway, will no longer have that prominence.

From Ernest Place and Hume Street Park, the skyline will dramatically change. The highest residential densities will be located directly along the Pacific Highway in a series of tall towers.

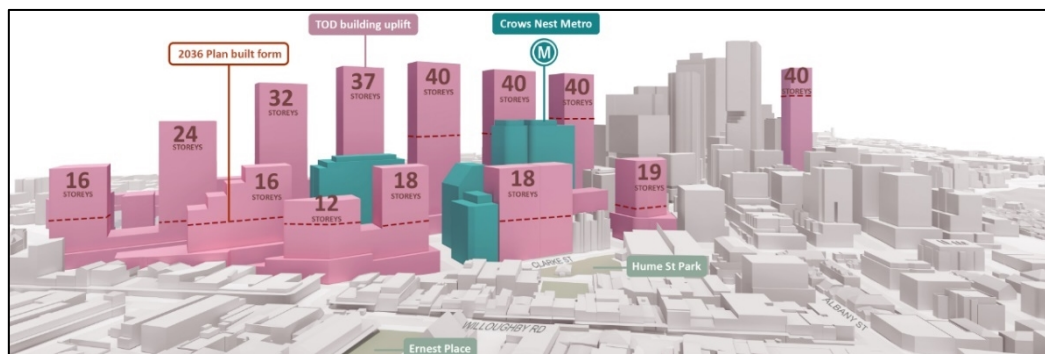


Figure 13 – Indicative building envelopes for future development enabled under the Crows Nest TOD (looking north-west with Ernest Place and Willoughby Road in the foreground) (Source: NSC)

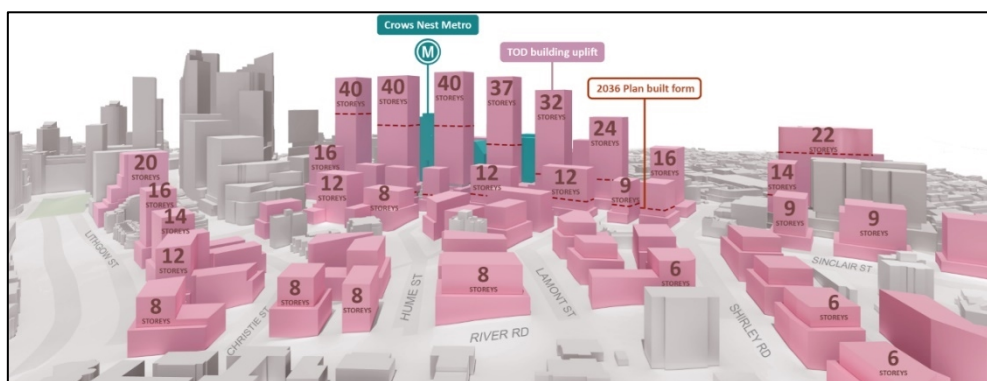


Figure 14 – Indicative building envelopes for future development enabled under the Crows Nest TOD (looking north-east with River Road in the foreground and the T1 train line left of frame) (Source: NSC)





**View A: looking west from Ernest Place, across Willoughby Road.**

The constructed Crows Nest Metro Site C shown centre of frame; the planned over station developments are in green.

The 40-storey towers along the Pacific Highway can be seen in the background.

*Figure 15a – Indicative street View A perspective illustrating the scale of the TOD rezoning (Source: NSC using the indicative built form shown in the Urban Design Report)*



**View B: looking west from Hume Street Park.**

The constructed Crows Nest Metro Site C shown left of frame. The planned 18-storey 'perimeter block' apartments are centre of frame (in pink)

*Figure 15b – Indicative street View B perspective illustrating the scale of the TOD rezoning (Source: NSC using the indicative built form shown in the Urban Design Report)*



**View C: looking north-west up the Pacific Highway from the Five Ways intersection.**

The towers increase in height from 16 storeys at the Five Ways up to 24, 32, 37 and 40 storeys creating a series of tall towers along the Pacific Highway.

Towers along the eastern side of the highway are hidden in this view by the proposed ziggurat form.

*Figure 16a – Indicative street view perspectives illustrating the scale of the TOD rezoning (Source: NSC using the indicative built form shown in the Urban Design Report)*



**View D: looking south-west from the intersection of Willoughby Road and Albany Street.**

The tall towers along the Pacific Highway are shown with 24-32.5m separation distances, as per the indicative form in the Urban Design Report.



**View E: looking north up Lithgow Street towards St Leonards.**

From foreground to background, apartments in this view are 12, 14 and 16-storeys in height.

*Figure 16b – Indicative street view perspectives illustrating the scale of the TOD rezoning (Source: NSC using the indicative built form shown in the Urban Design Report)*

### 2.1.1 Change in character from village to high-density suburb

The rezoning will change the future character of Crows Nest and Wollstonecraft, and to a lesser degree, St Leonards.

The existing, fine-grained mix of two-storey heritage shopfronts and three-five-storey commercial and mixed-use apartments along the Pacific Highway in Crows Nest have been upzoned to support 32-40 storey towers, transitioning down to 14-16-storeys near the Five Ways intersection. The Five Ways ‘Triangle site’ at 391-423 Pacific Highway, 3-15 Falcon Street, and 8 Alexander Street, Crows Nest received separate approval for a State Significant Development (SSD) for a 22-storey mixed use development triangular tower via the Independent Planning Commission (IPC) on 23 December 2024. The tallest towers are similar in scale to those already constructed in St Leonards, Darling Square, and the Metro Residences at Chatswood (Figure 17). The podiums will support a mix of ground level retail and businesses on the upper floors.

The tall towers will be located side by side along the ridgeline of the Pacific Highway, for which there is no comparable precedent or comparison.



*Figure 17 – 40 storey apartment tower in Darling Square (left) and 27-40-storey apartment towers in Chatswood (right) are similar in scale to future development opposite the Crows Nest Metro Station (Sources: Google Street View, Cox Architecture)*



To the east, along Clarke Street, fronting Hume Street Park, the existing five-six-storey apartments, plus the heritage-listed St Leonards Centre has been rezoned to allow 18-19 storey 'perimeter block' apartments with commercial/retail on lower levels. This is effectively an 18+ storey wall with little to no separation, creating a challenging interface to Crows Nest village that will require careful architectural treatment to manage. It will be similar in scale and form to the 16-20-storey apartments along the Pacific Highway south of McLaren Street, North Sydney (Figure 18, on the next page).

It is worth noting that Council's earlier submission to the DHPI on the draft TOD recommended the exhibited 8, 12, and 16 storey towers proposed for the southern end of Clarke Street and the Pacific Highway near Willoughby Road be reduced in scale to better protect afternoon sunlight to Crows Nest village and respond to the heritage value of the Five Ways intersection. The final TOD rezoning, however, increased the building heights to 12, 16, and 18 storeys.



Figure 18 – The 16-20-storey wall of mixed-use towers south of McLaren Street, North Sydney is similar in scale to future development on Clarke Street, next to Hume Street Park (Source: Google Street View)

To the west, the portion of Wollstonecraft closest to the Crows Nest Metro Station, along with the Lithgow Street block further west, are set to transform from the existing predominantly two-five-storey 'gentle density' residential area into a high-density suburb that, as a comparison, is closer in scale to the 12 storey apartment towers in North Ryde and mixed use six-12-storey complexes in Zetland (Figure 19, below). Towards River Road and Gillies Street the scale is closer to the six-eight- storey apartments in Harold Park (Figure 20, on the next page).



Figure 19 – 12 storey apartment towers in Ryde are similar in scale to what is proposed along the eastern side of Nicholson Street (left). The 6 and 10-storey apartment complexes in Zetland are similar in scale to the future of Sinclair Street (right) (Source: Google Street View)



*Figure 20 – The six-eight-storey apartments in Harold Park that are similar in scale to what is proposed along the western side of Nicholson and Sinclair Streets (Source: Google Street View)*

Changes to St Leonards will be less marked given its existing high-density character, although additional sites will now be able to support tower apartments of between 40-62 storeys outside the LGA. Within the LGA, 20-22 Atchison Street and 601 Pacific Highway have been rezoned to support 40-storey mixed use and 42-storey commercial towers, respectively. Also within the LGA, landholdings along Chandos Street and Sergeants Lane close to St Leonards station have been rezoned to 18 storeys.

In Crows Nest, the existing two-three storey local shops and fruit market on the south-eastern corner of Alexander Street and Falcon Street (17-25 Falcon Street) were previously earmarked for six storeys but can now be redeveloped to 14 storeys.

### **2.1.2 Reduced solar access within the precinct and surrounding neighbourhoods**

The dense cluster of 18-40 storey towers along the ridgeline of the Pacific Highway will cast longer shadows across the surrounding neighbourhoods, Crows Nest village, and public open spaces. This may pose problems with assessing individual DAs which do not account for collective, cumulative impact.

In winter, shadows are longer and sweep south-west to south-east over the day. The extent of morning mid-winter shadows has effectively doubled under the TOD rezoning in comparison to the 2036 Plan (Figure 21, on the next page). Shadows will now reach residential land on the southern side of River Road and Gillies Street, Wollstonecraft.

A high proportion of apartments west of the Pacific Highway are likely to receive limited sunlight in winter. The lower residential levels of towers along the Pacific Highway – including the Crows Nest Metro OSD, and the 12-storey apartments planned for Nicholson Street - will be in shadow most of the day during the winter months. This includes Council's landholdings on Nicholson Street that currently support affordable housing.



Figure 21 – Shadow diagram at 10am 21 June winter solstice shows the significant overshadowing extent of the final TOD compared to the 2036 Plan (Source: NSC)

Shadows cast during the March and September equinoxes represent a greater proportion of the year. Shadows are shorter in length compared to winter; however, they reach further towards the west in the morning and sweep up further east in the afternoon. This is a significant issue for Crows Nest village as the taller towers will overshadow the cafes and restaurants along Willoughby Road and the popular community hub at Ernest Place earlier in the day, and for greater periods of the year (Figure 22, on the next page).

The cumulative impact of tall towers overshadowing key public spaces is discussed further in Section 2.1.3.

During the warmer months, the natural fall of the land towards River Road will enable better afternoon sunlight to the apartment complexes in Wollstonecraft.





Figure 22 – Shadow diagram at 4.15pm September 21 spring equinox shows the significant increase in lost solar amenity to Crows Nest village under the TOD rezoning compared to the 2036 Plan (Source: NSC)

### 2.1.3 Reduced solar access to Ernest Place, Willoughby Road, and Hume Street Park

Council has made repeated representations to the DPHI to better protect year-round sunlight to Ernest Place, Willoughby Road, and Hume Street Park, including after school hours, to preserve the vibrancy, amenity, and character of Crows Nest village.

Unfortunately, solar amenity and overshadowing provisions in the DPHI’s Design Guide continue to provide limited protection for the open spaces. The provisions only apply between 10am and 3pm at the Winter Solstice, not during the spring and autumn equinoxes when Council has contended that they are also needed. The requirement to ‘consider’ overshadowing impacts at equinox under the 2036 Plan has been removed. Under these limited protections, the rezoning has increased building heights that will further overshadow public spaces.

A high-level review suggests the height uplift is likely to be able to meet the Design Guide solar amenity controls for open space (Table 2, on the next page). However, some towers, if built to the maximum LEP heights, may not meet the streetscape overshadowing requirements along Willoughby Road, Mitchell Street, and Oxley Street without significant sculpting of the built form.

|  | Space  | DPHI Design Guide Shadow Requirement   | Complies |
|--|--|--|----------|
| Existing and planned public open space | Hume St Park   | No additional overshadowing.<br>Ensure 50% of the park receives solar access from 10am-3pm on 21 June. | Y        |
|  | Ernest Place   | No additional overshadowing between 10am-3pm on 21 June.   | Y        |
|  | Newlands Park  |  | Y        |
| Other open space                       | New open space - corner Oxley St and Christie St       | Minimum of 3 hours to 50% of area 10am-3pm 21 June<br>Consideration to 21 Mar & Sep                    | Y        |
| Streetscapes                           | Mitchell St  | No additional overshadowing between 11.30am-2.30pm on 21 June.   | N        |
|  | Oxley St   |  | N        |
|  | Willoughby Rd  |  | N        |
| Other                                  | Low-density residential areas (outside area boundary)* | No additional overshadowing between 9am-3pm on 21 June.  | N        |

Table 2 – High-level review of building heights against the Crows Nest TOD solar provisions

\*Note: The Design Guide modifies the 2036 Plan to limit solar protections to apply only to low-density residential areas instead of all residential areas outside the TOD precinct boundary.

Notwithstanding the above, the year-round cumulative shadow impact of future development is worth considering. Successive decisions by the NSW Government on the Crows Nest Metro OSD building envelopes, the 2036 Plan, and the TOD rezoning will cumulatively reduce the amount of daily sunlight that will reach Ernest Place, Hume Street Park, and Willoughby Road by as much as 110 minutes during spring and autumn equinoxes compared to today (Table 3, below and Figure 23, on the next page).

| Open space  | Mid-winter (21 June) |                   | Spring equinox (21 September) |                    | Autumn equinox (21 March) |                    |
|---|----------------------|-------------------|-------------------------------|--------------------|---------------------------|--------------------|
|   | Current              | TOD               | Current                       | TOD                | Current                   | TOD                |
| Ernest Place  | 4:05pm               | 3:45pm<br>-20mins | 5:00pm                        | 4:15pm<br>-45mins  | 5:15pm                    | 4:25pm<br>-50mins  |
| Hume Street Park  | 3:35pm               | 3:05pm<br>-30mins | 4:00pm                        | 3:20pm<br>-40mins  | 4:15pm                    | 3:35pm<br>-40mins  |
| Willoughby Road (between Pacific Hwy and Albany St)                           | 4:00pm               | 3:45pm<br>-15mins | 5:10pm                        | 3:20pm<br>-110mins | 5:20pm                    | 3:35pm<br>-105mins |
| Willoughby Road (southern portion only between Pacific Highway and Ernest St) | 3:30pm               | 3:10pm<br>-20mins | 4:40pm                        | 3:20pm<br>-80mins  | 4:55pm                    | 3:35pm<br>-80mins  |

Table 3 – Comparison of full overshadowing start times of key public spaces today compared to the future development scenario under the proposed Crows Nest Over Station Development and TOD rezoning (Source: NSC)

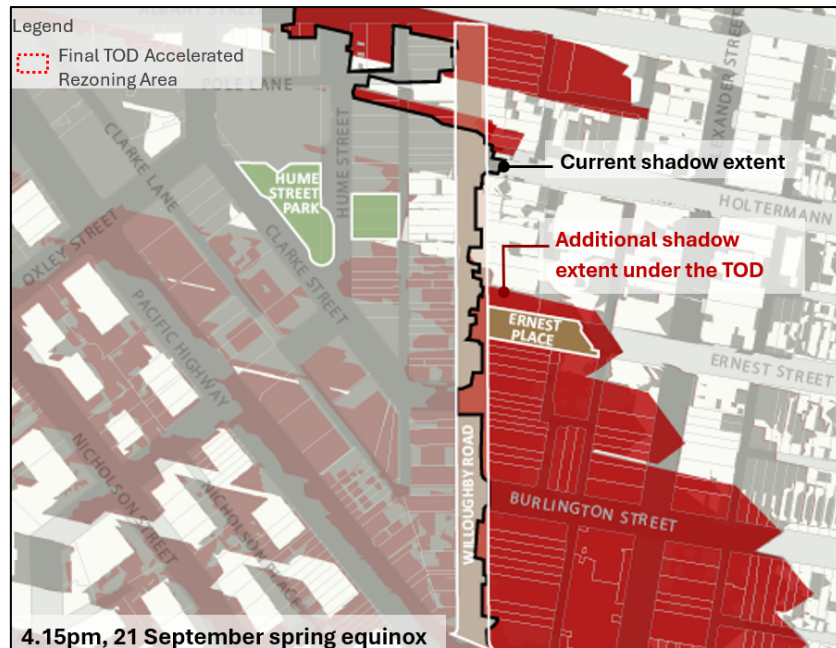


Figure 23 – Shadow diagram at 4.15pm 21 September spring equinox shows the significant increase in loss of solar amenity to key public spaces compared to the current context (Source: NSC)

### Ernest Place

Ernest Place is a vibrant and popular urban plaza, bordered by cafes and retail spaces that link to the Crows Nest Community Centre. Its lawn area currently receives ample sunlight, attracting a wide cross-section of the community throughout the day and into the late afternoon and early evening during the spring and autumn equinox.

Sunlight to Ernest Place is already affected by the Crows Nest Metro Site C. Additional shadows will be cast by the 40-storey buildings along the Pacific Highway, and from 20-22 Atchison, which each gained further post-exhibition height increases under the TOD. Overall, Ernest Place will be further overshadowed by up to 50 minutes at equinox.

### Hume Street Park

Hume Street Park provides a central, large open space for residents, workers, and visitors. The staged upgrade of the park is planned to be delivered as endorsed by Council in its Open Space and Recreational Strategy and in more detail at its meeting on 10 March 2025. Once completed, it will become the primary open space for the precinct given its strategic location.

Solar amenity protections under the Design Guide will ensure 50% of the park area receives solar access from 10am to 3pm in mid-winter. Post exhibition changes to the maximum height of 34-38 Oxley Street and 22-34 Clarke Street under the TOD rezoning will reduce direct sunlight to the park by 40 minutes at the equinox.

### Willoughby Road

Willoughby Road is the vibrant heart of Crows Nest Village, known for its fine-grained built form, specialty shops, cafés, and restaurants. Recognising its importance, the DPHI’s Urban



Design Report (p.45) states that it is treated as a special area to be protected, requiring developments to minimise overshadowing on the public domain.

Post-exhibition changes to height limits of sites along Clarke Street and the Pacific Highway have created significant overshadowing impacts, with the southern portion of Willoughby Road estimated to lose as much as 80 minutes of afternoon sunlight at the equinox. Indeed, the heights have been increased to such an extent that some buildings, if built to the maximum height, are likely to require sculpting to meet the mid-winter solar amenity and overshadowing provisions under the Design Guide.

#### 2.1.4 Potential overshadowing of low-density residential area (outside investigation area boundary)

Council’s modelling also suggests the increased building heights along the Pacific Highway will create shadows that reach the residential area outside the TOD boundary (Figure 24).

It is worth noting the Design Guide has been amended to allow more overshadowing of these residential areas than provided for in the 2036 Plan. Protections now only apply to the low-density residential areas rather than all residential areas. The change affects blocks of land immediately south of River Road and Gillies Street.

It still appears that the additional heights will affect some low-density residential areas. Towers along Pacific Highway may need to be sculpted to ensure they meet the solar amenity and overshadowing provisions of the Design Guide, particularly within the low-density residential area in Wollstonecraft (Figure 24, on the next page). A 14-storey tower at 17-25 Falcon Street may result in substantial additional shadowing of low-density residential areas south of Hayberry Lane from 12pm at mid-winter.

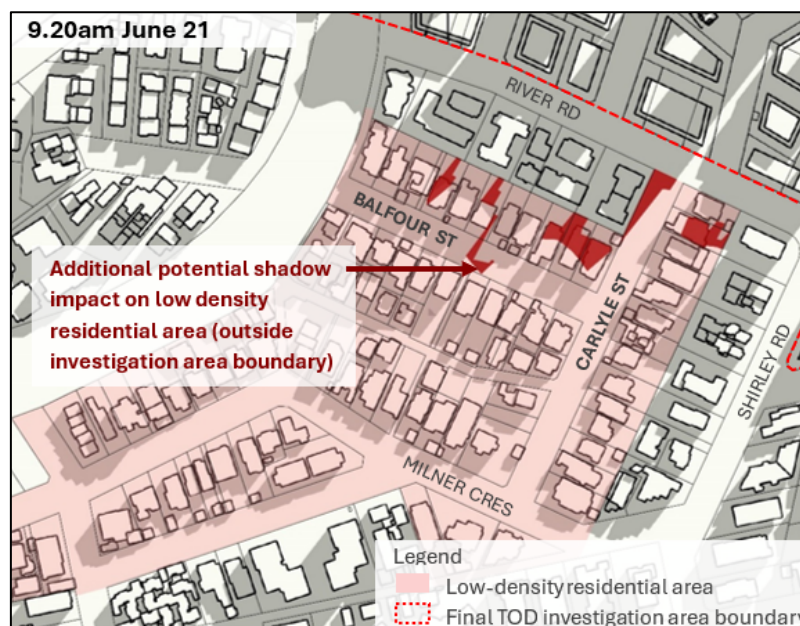


Figure 24 – Shadow diagram – Low-density residential area (outside investigation area boundary) at 9.20am on June 21 suggests tall towers may need sculpting to adhere to the overshadowing provisions under the Design Guide (Source: NSC)

### **2.1.5 Discussion/Recommendations**

Sunlight is important to the community's health and wellbeing, and to the vibrancy and economic function of Crows Nest Village. The inclusion of stronger solar provisions in the Design Guide would improve the amenity of both public and private land:

1. To allow filtered morning and afternoon sunlight to reach Wollstonecraft and Crows Nest village between the tall towers along the Pacific Highway, adequate tower separation distances are needed. This is further discussed in Section 2.2.
2. To address the poor sunlight reaching apartments on lower levels within the cluster of tall towers, particularly in mid-winter, there should be a requirement to deliver rooftop gardens and other common areas for the use of all residents, eliminating the current practice of providing private cabanas to a select few top-floor dwellings.
3. To improve sunlight access to key public open spaces in Crows Nest village, stronger solar amenity and overshadowing provisions are still needed. The DPHI is unlikely to include any new provisions that materially affect the anticipated dwelling yield, however at a minimum, this could involve reinstating the 2036 Plan requirement for 'consideration' to be given to potential overshadowing of key open spaces and Willoughby Road at spring and autumn equinoxes. This may lead to sculpting of the buildings which will improve sunlight to important public open spaces for the community.

## **2.2 Impact of a lack of tower separation, reduced setback controls and transition interfaces**

### **2.2.1 Potential for a 'wall of towers' along Pacific Highway**

With proposed building heights reaching up to 40 storeys, and rows of high-rise towers planned on both sides of Pacific Highway, adequate tower separation distances are needed to improve sunlight, wind downdraft mitigation, views, and privacy.

The Design Guide and LEP amendment do not include tower separation provisions. This may potentially lead to a "wall of towers" along the Pacific Highway if buildings are approved without adequate consideration of equitable above podium side setbacks. There is a significant risk that this may happen given the excessive FSRs awarded to some sites (Section 2.3).

The Apartment Design Guide (2015) suggests building separation distances need to be increased proportionally to the building height to achieve a desirable built form. The guide does not, however, specify appropriate separation distances for buildings of this scale. The Crows Nest TOD Urban Design Report (p.91) recommends maximising tower separation and notionally indicates 40m would be desirable, whilst the preliminary built form designs in the report range from 24m to 32.5m (Figure 25, on the next page).

As these towers are likely to be assessed through the State Significant Development pathway, Council will need to advocate for appropriate separation of the towers and other design excellence measures to protect the amenity and solar access to the surrounding area.

Council’s analysis indicates that in order to remain within the maximum height limits, tower separation distances will likely be sought to be reduced where proponents inevitably seek to achieve the maximum allocated FSRs on a number of development sites.

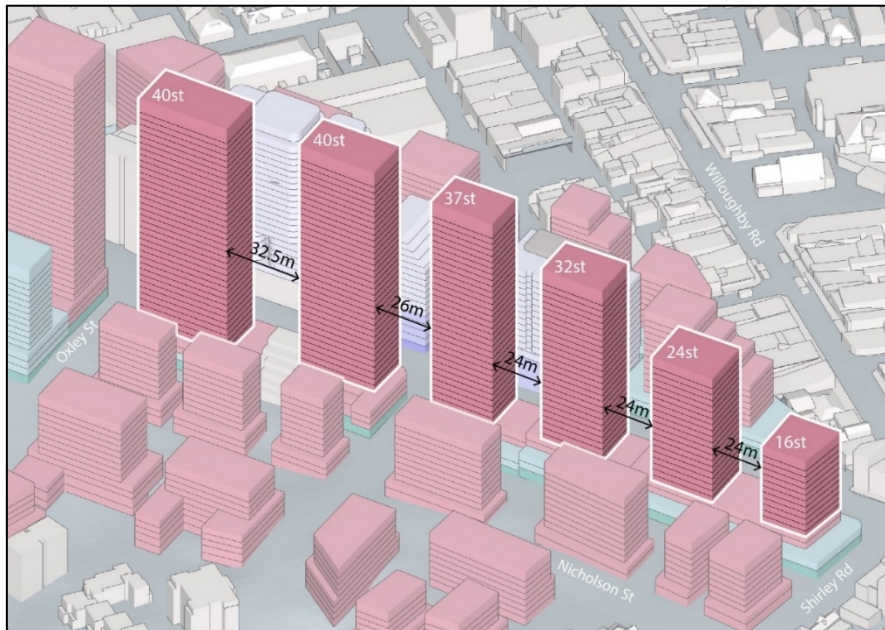


Figure 25 – Tower separations range from 24-32.5m in the Urban Design Report but there are no provisions in the Design Guide to ensure these separation distances are required to be delivered (SJB 2024) (Source: NSC)

### 2.2.2 Reduced tree canopy and green links

Whole of building setbacks provide an opportunity to increase tree cover, thereby increasing biodiversity and amenity, and reducing the urban heat-island effect. Other setbacks enable the provision of outdoor dining, improved walkability, and create a consistent street frontage.

#### Missing green links diagram in the Design Guide

The green links diagram and associated recommendations from the original Green Plan, that supported the 2036 Plan and exhibited Crows Nest TOD Urban Design Report, have not been included in the Design Guide, raising concerns about how the setback controls will be considered in the development assessment process to align with the Precinct’s stated environmental objectives.

#### Removed or reduced building setbacks

Of further concern, the Design Guide also reduces or removes several setback provisions that were previously set under the 2036 Plan. For example, both Oxley Street and Clarke Street were intended to support a secondary green link at the centre of the Precinct, connecting to a major green link west of the Pacific Highway (Figure 26). However, the final Design Guide

has removed the setbacks along Oxley and Clarke Streets, preventing the establishment of a new, landscaped green link with increased tree canopy in front of the planned 18+ storey towers. Despite the extent of uplift provided, these setbacks could have readily been incorporated without affecting development viability.

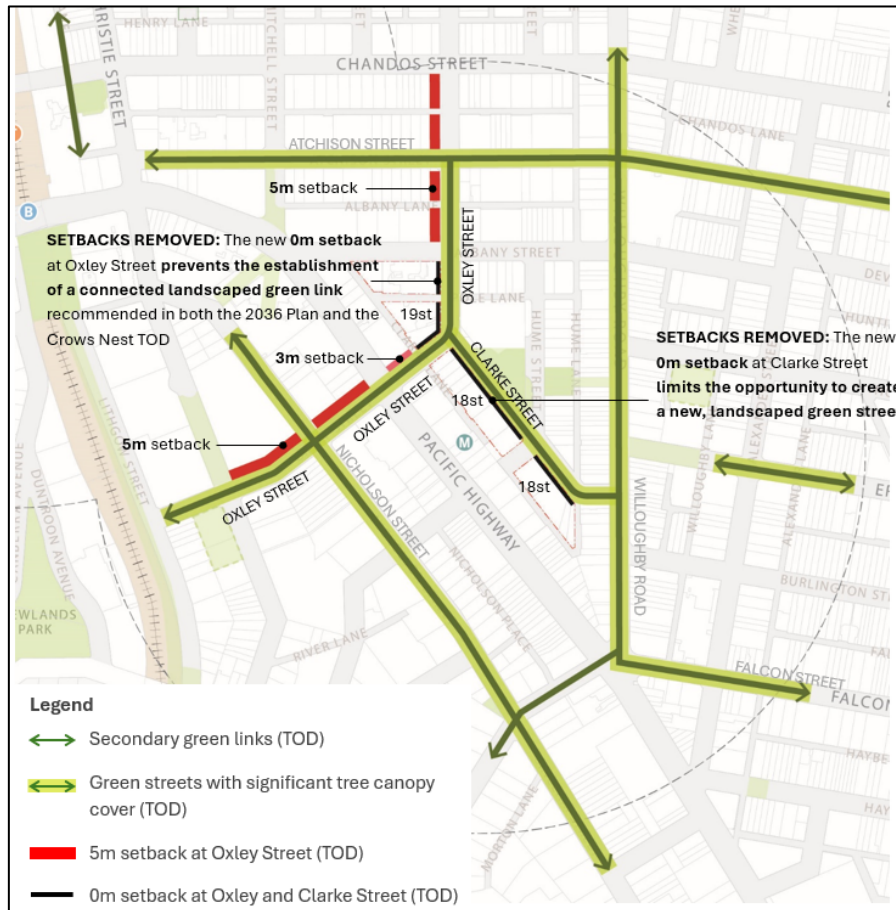


Figure 26: Green links – information sourced from Green Links diagram in the draft Crows Nest TOD Urban Design Report (Source: NSC)

Setbacks have also been reduced along a number of key street frontages where height and density have significantly increased under the Crows Nest TOD. The key street frontages 1a, 1b, 1, 2, and 3 are referenced in Figure 27 below.

### 1a. Oxley Street (east of Pacific Highway)

A 0m setback is now proposed between Albany Street and Clarke Lane despite a height increase from eight storeys (2036 Plan) to 19 storeys (Crows Nest TOD). The previously identified setback has been achieved (built) on a newer development at the corner of Oxley and Albany Streets (No.11-19). The new 0m setback identified in the Design Guide results in:

- poor height transitions to the lower density Crows Nest Village to the east; and
- a lost opportunity to continue the linear park south down Oxley Street.

## **1b. Oxley Street (west of Pacific Highway)**

The random mix of setbacks to Oxley Street, west of the Pacific Highway (1.5m, 3m, 4m, 5m, and 6m) is a major missed opportunity to establish greater landscaping that works with the fall of the streetscape. A green link here – as identified in the Green Plan, would provide much-needed, and well-located, greenspace, and tree canopy in this high-density precinct. It would link Hume Street Park to a future open space on the Lithgow Street block (Section 1.4).

### **1. Clarke Street**

A 0m setback is introduced between Oxley Street and Hume Street, alongside a height increase from eight storeys (2036 Plan) to 18 storeys (Crows Nest TOD). This leads to:

- reduced walkability near the Crows Nest Metro Station entrance;
- loss of the existing 3m setback currently used for outdoor dining;
- limited space for new outdoor dining areas near the Metro Station’s northern entry facing Hume Street Park;
- a challenging height interface to Hume Street Park; and
- insufficient room for additional street trees.

### **2. Chandos Street**

A ‘reversed’ (ground level only) setback is proposed between Christie Street and Mitchell Street, deviating from the consistent 3m setback applied elsewhere on Chandos Street. This results in:

- reduced street trees and landscaping in front of 18 storey towers; and
- an inconsistent street frontage along Chandos Street, affecting the visual and spatial coherence of the streetscape.

### **3. Pacific Highway**

A 0m setback is introduced on the western side of the Pacific Highway between Oxley Street and Hume Street, alongside a height increase from 24 storeys (2036 Plan) to 40 storeys (Crows Nest TOD), deviating from the 3m setback control in the 2036 Plan and NSDCP 2013. This location, directly opposite the Crows Nest Metro Station entrance, is expected to experience high pedestrian traffic. The reduced setback would:

- compromise walkability along a key section of the Pacific Highway; and
- limit opportunities for additional street trees.



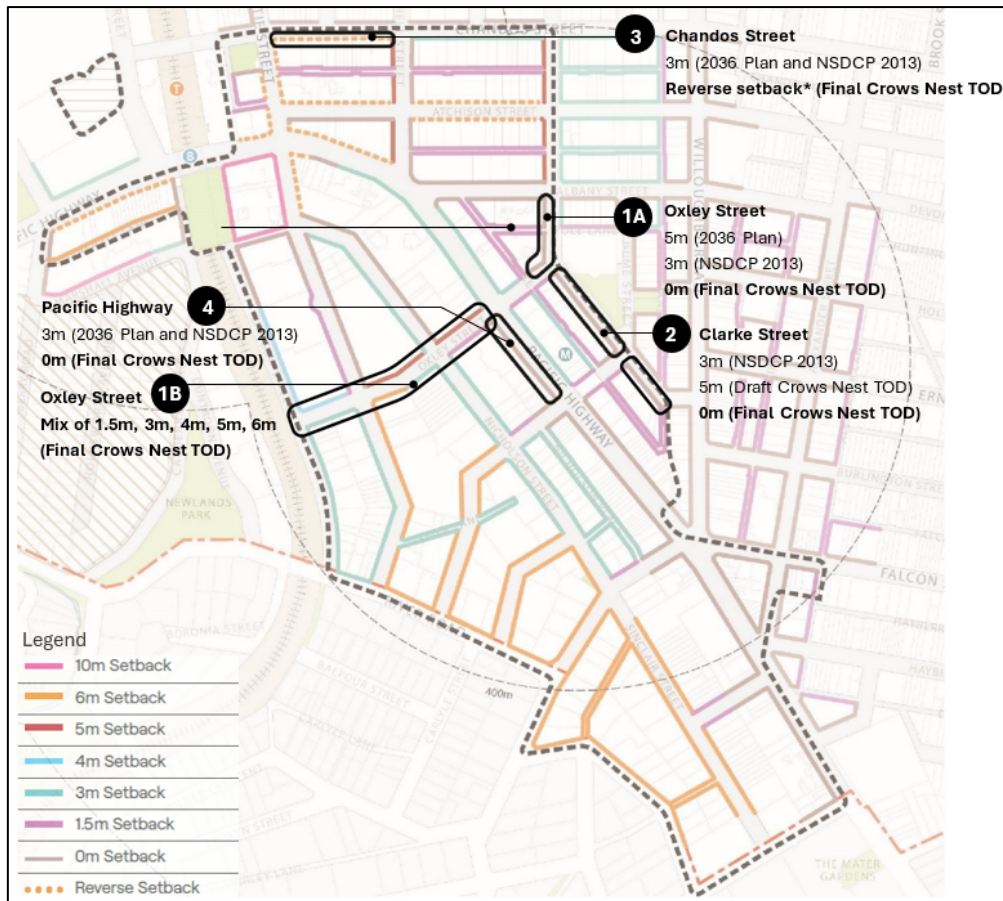


Figure 27 Comparison of the final building setbacks in the Design Guide with controls identified in the 2036 Plan and the draft Crows Nest TOD (Source: NSC)

\* A 'reverse setback' is a 1-storey, ground level setback to the street that generally provides wider footpaths for pedestrians or under cover café seating

### The need to retain high quality landscape character in Wollstonecraft

The affected residential area of Wollstonecraft currently supports a 20-30% tree canopy cover, which is significantly higher than the rest of the Crows Nest TOD area (Figure 28). This area consists of small lot subdivisions with single dwellings, townhouses, and small-sized apartments, characterised by mature trees and large private gardens.

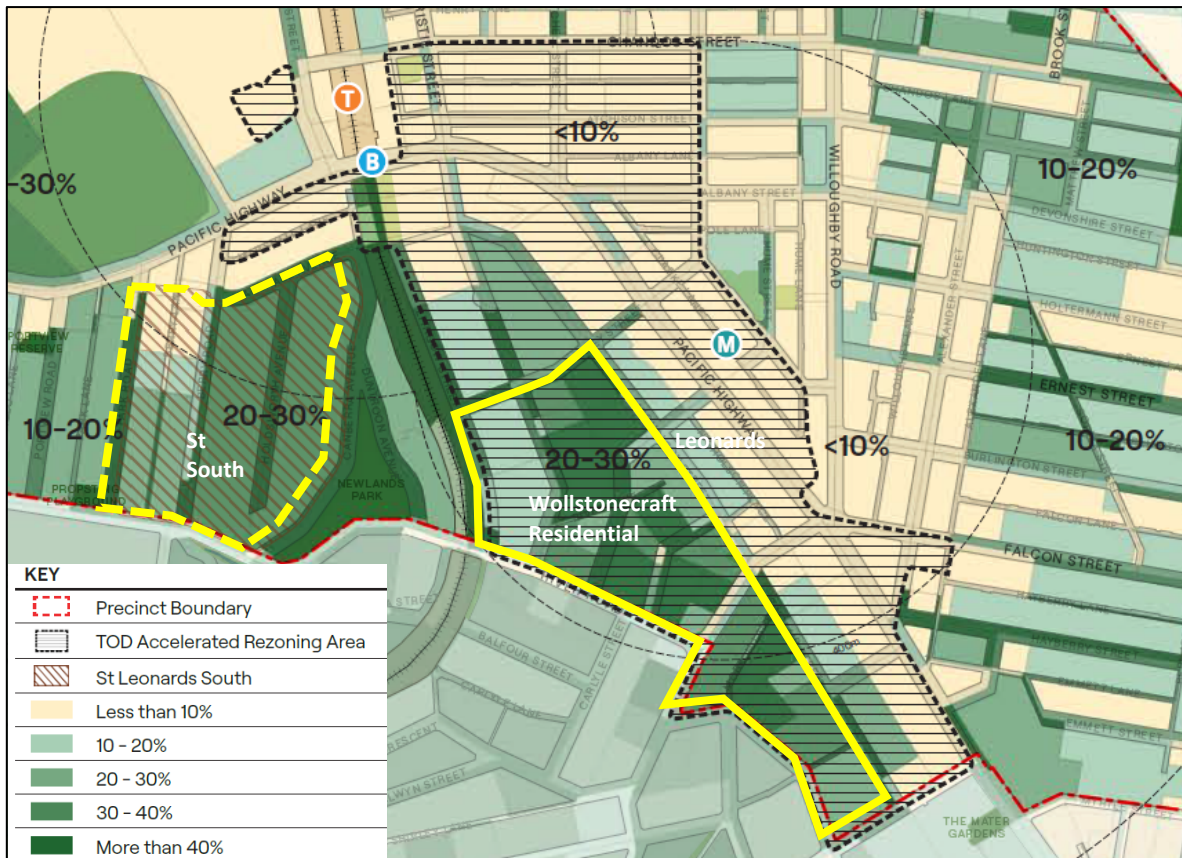


Figure 28: 2022 tree cover – NSW Tree Canopy Dataset 2022  
 (Source: Crows Nest TOD Urban Design Report, DPHI)

The Urban Design Study acknowledges Wollstonecraft’s high-quality landscaped character, defined by significant tree planting. It recommends medium to high-density residential development integrated within a landscaped setting. However, there is a high likelihood that increased development density will compromise this landscaped character, as seen in St Leonards South, where a significant number of mature trees (which contributed to a 20-30% tree canopy cover in 2022) have been removed for new developments.

Retaining existing trees and ensuring adequate setbacks for new landscaping is critical to preserving Wollstonecraft’s identity and providing high-quality amenity in a dense residential area with a significant uplift.

The Design Guide aims to maintain and enhance canopy cover by specifying minimum deep soil zones and including tree canopy benchmarks for public and private land. It recommends existing trees are maintained ‘where possible.’

### 2.2.3 Impact to the heritage and character of the Five Ways intersection

The Five Ways Intersection is an important junction with heritage buildings occupying four corners. The significant increase to height limits for buildings along the Pacific Highway enables the construction of tall apartment towers above the two-storey heritage shopfronts.

The Design Guide seeks to Preserve [the] high-quality heritage character around the Five Ways Intersection as a key gateway to the southern end of the precinct. The Design Guide includes a diagram from the Urban Design Report illustrating the desired outcomes for the intersection, however the diagram is blurred, and has been cropped – removing key heritage guidance to retain the heritage elements of the Five Ways (Figure 29).

The Design Guide recommends 'large above podium setbacks' for tower elements are needed to preserve the high-quality heritage character of the Five Ways intersection but does not specify any dimensions, suggesting instead that they be provided in accordance with the NSDCP 2013.

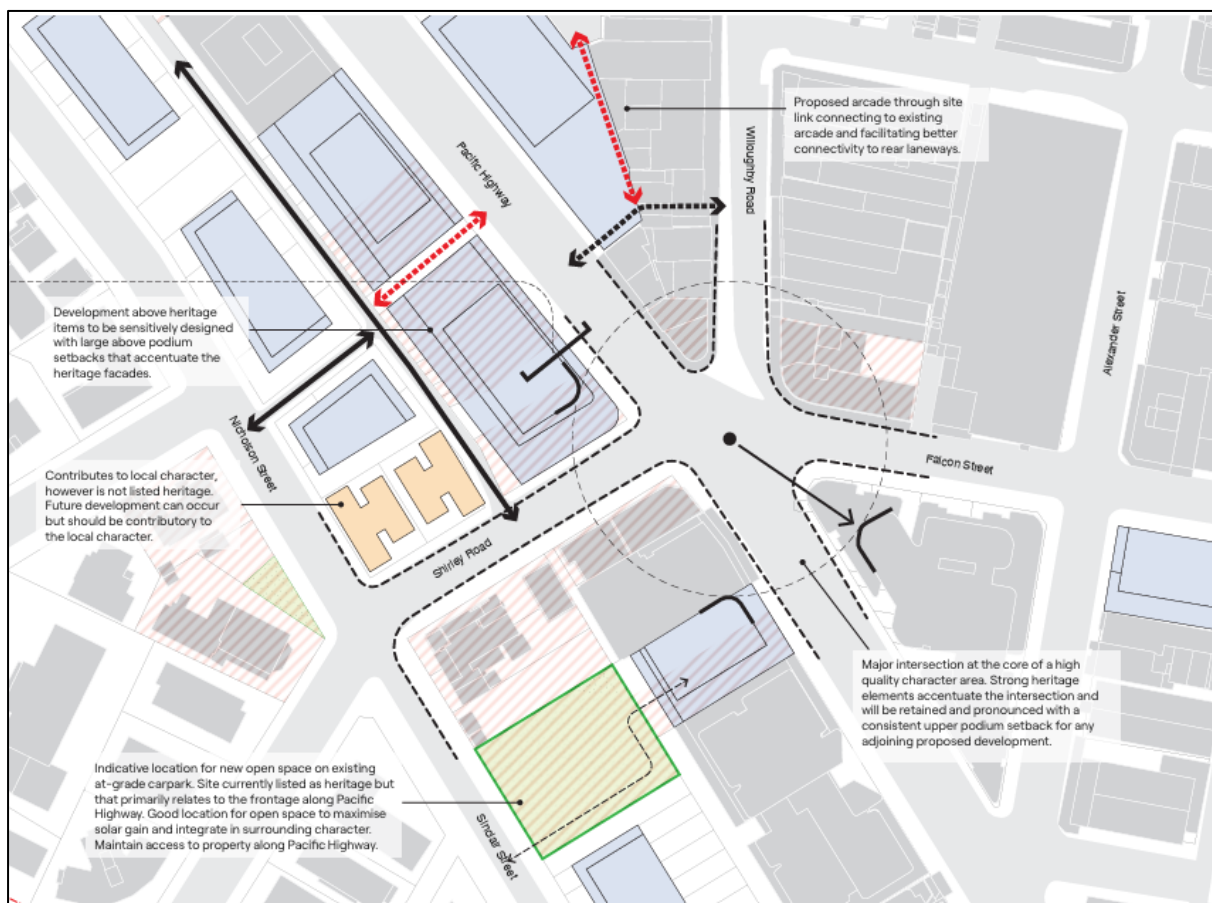


Figure 29: Recommended built form guidance at the Five Ways Intersection as outlined in the Urban Design Report but incompletely incorporated into the Design Guide (Source: Crows Nest TOD Urban Design Report, DPHI)

The NSDCP 2013 currently sets limited above podium setbacks around the Five Ways intersection that are based on the previous 10m height control (three storeys) under the NSLEP 2013. Council could potentially amend the NSDCP 2013 to identify larger setbacks that are more appropriate with the amended heights and indicative built form under the Urban Design Report. Any amendment, however, may be of lesser effect due to the FSRs now set in the NSLEP 2013 as a result of the Crows Nest TOD.

A possibly more effective approach would be to seek the DPHI's support to amend the Design Guide to reinstate the full Five Ways Intersection design guidance diagram and include additional dimensions for the above-podium setback controls (Figure 30, on the next page).



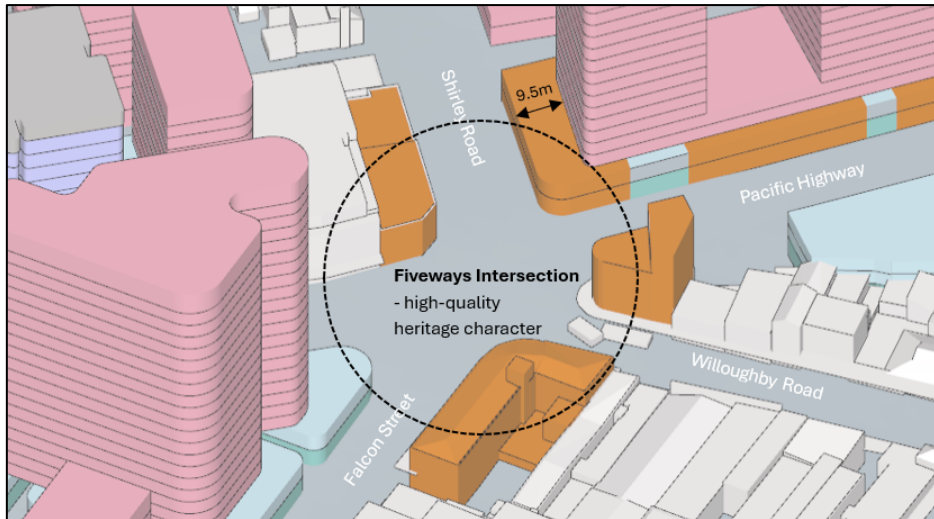


Figure 30: Recommended above podium setback to Shirley Road based on SJB's urban design advice that has been omitted from the Design Guide (Source: NSC)

### 2.2.4 High-density interfaces to Wollstonecraft and Crows Nest village

The TOD rezoning introduces challenging height interfaces to surrounding areas, raising privacy, amenity, and visual impact concerns. This is particularly the case along the Pacific Highway fronting Wollstonecraft, Clarke Street fronting Hume Street Park, and Falcon Street near the Holtermann Estate Heritage Conservation Area.

The 32-40-storey towers along the Pacific Highway will create a challenging interface to the 12-storey apartment towers in Wollstonecraft given the narrow blocks and limited separation distances that can be achieved, particularly on sites that are not separated by a laneway (Figure 31).

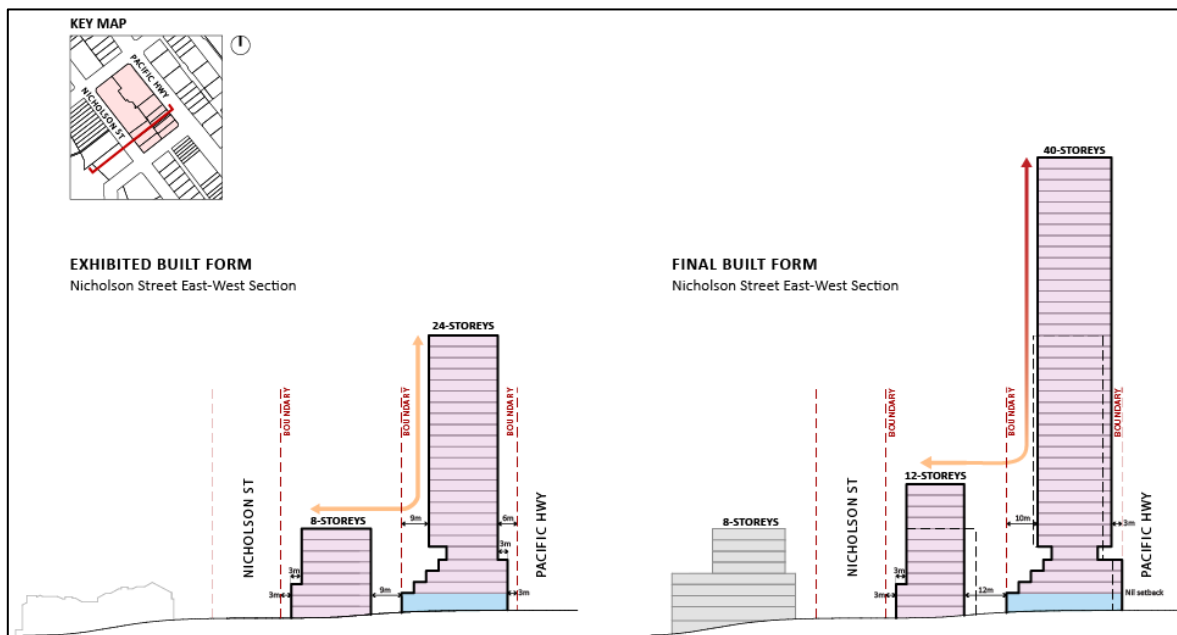


Figure 31 – Nicholson Street/Pacific Highway transition section diagrams showing major post exhibition changes to permissible built form and challenging interface issues due to the height and lack of laneway separation (Source: NSC)

Along the western side of Clarke Street, the post-exhibition increase to building heights and reduced setbacks will result in a more dominant built form. Building heights for 20-34 Clarke Street have increased from eight storeys to 18 storeys, while the building setback to Clarke Street has been reduced from the exhibited 5m to 0m (Figure 32). This creates a dominant street wall fronting Hume Street Park and Crows Nest Village with limited opportunities to landscape the street. It will also significantly reduce the views, sunlight, and privacy to the Crows Nest Metro OSD Site A.

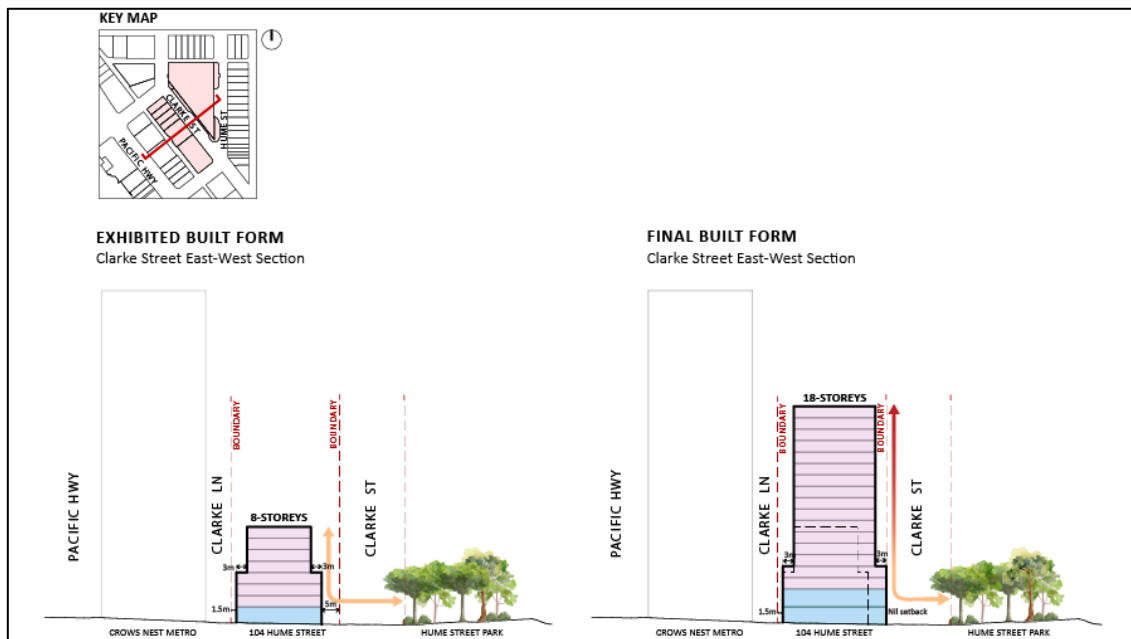


Figure 32 – Clarke Street transition section diagrams showing major exhibition changes to permissible built form (Source: NSC)

At 17-25 Falcon Street, the post-exhibition building height increase from six storeys to 14 storeys creates another challenging interface to the surrounding residential areas and Holtermann Estate Heritage Conservation Area. The contrast in scale is pronounced, as the site adjoins buildings with a three-storey height limit to the south within the same block (Figure 33).

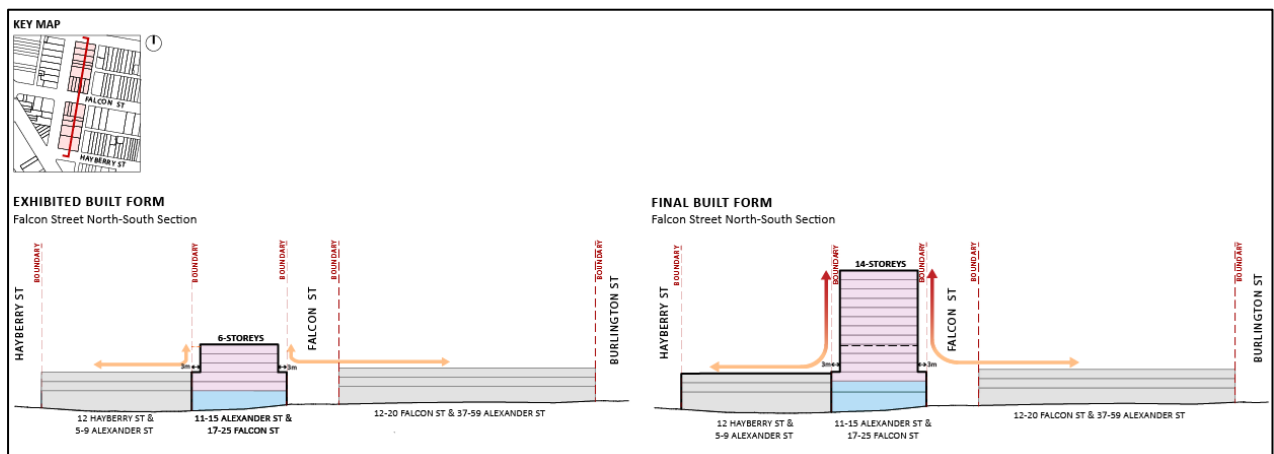


Figure 33 – Falcon Street transition section diagrams showing major post exhibition changes to permissible built form (Source: NSC)

## 2.2.5 Discussion/Recommendations

While building heights have significantly increased, it is unusual to concurrently remove or reduce whole of building and above-podium setbacks. Normally those setbacks would be increased (or at least maintained) to allow for the landscape character, solar access, human scale, and walkability of the high-density precinct. Amendments to the Design Guide would help address some of the key issues raised in this report by:

1. Setting clear and equitable above-podium side setbacks that ensure appropriate tower separation distances are achieved, in line with the Urban Design Guide.

As the towers along the Pacific Highway are likely to be assessed under the SSD pathway, Council will need to strongly advocate for appropriate separation of the towers and other design excellence measures to better protect the amenity and solar access to the surrounding area.

In the future, updated design guidance to the Apartment Design Guide that covers 12-40+ storey residential and mixed-use towers would be useful.

2. Reinstating the 2036 Plan whole of building setback controls for Oxley Street, Chandos Street, and Pacific Highway, the NSDCP 2013 whole of building setback control for Clarke Street, and incorporating the green links diagram in the Design Guide would help achieve the DPHI's own stated environmental objectives under the Green Plan and Urban Design Study.
3. Setting larger, more consistent whole of building setbacks on Oxley Street, west of the Pacific Highway, to enable a new, tree-lined green street to support the future community of this high-density precinct, as envisaged under the Green Plan and Urban Design Study.
4. Setting larger, specific above-podium setback controls to help retain the heritage character of the Five Ways intersection and heritage elements along the Pacific Highway.
5. Replacing the blurred, cropped Five Ways Intersection diagram to retain key heritage guidance, ensuring the strong heritage elements of the intersection are retained.
6. Encouraging a holistic, whole of block masterplan to better manage the significant transition between the 12-storey Nicholson Street and 40-storey towers along the Pacific Highway. Redistributing the floor space could achieve better separation between the towers and reduced shadow impacts to Wollstonecraft and Crows Nest Village.
7. Including stronger provisions to retain mature street trees, including stronger design guidance and requirements to preserve and enhance a green grid along Oxley Street and Nicholson Street.

## **2.3 Impact of misaligned FSR controls and varied non-residential FSR**

Built form testing undertaken by Council has identified discrepancies between the proposed maximum building height, building setbacks and the FSR controls.

These misalignments are likely to create challenges during the development assessment phase. Where the FSR has been set too high, there is likely to be pressure to support bulkier buildings with inadequate setbacks or potentially even taller towers, leading to greater overshadowing, wind impacts, loss of privacy and other amenity impacts.

The inconsistent non-residential FSRs that have been set for mixed use buildings will also create additional design issues that reduce the employment function of the podium.

### **2.3.1 Potential for out-of-scale mixed use towers with poor amenity**

Council's internal modelling suggests that at least eight mixed-use sites within the TOD precinct have been allocated maximum FSRs that cannot be achieved while complying with the maximum height controls and other recommended built form controls (Figure 34, on the next page). Key FSR misalignment issues are:

- The same FSR is applied to sites with varying building heights in one block  
Some sites with significantly different height limits have been allocated the same maximum FSR. For example, sites permitting 16 storeys and 24 storeys have been assigned a 7:1 FSR, despite an 8 storey height difference. On each occasion, the landholding with the lower height limit is unable to achieve the FSR without significantly reducing its separation distance to other buildings. It is unclear whether these misalignments, that are very likely to lead to challenges to separation distances, are intentional.  
Affected sites:
  - Site 1: 308-316 Pacific Highway
  - Site 2: 340-360 Pacific Highway
  - Site 3: 4-8 Clarke Street
- FSR has not been updated to reflect post-exhibition built form changes  
To ameliorate the impact of a 16 storey tower near Willoughby Road, the Urban Design Report proposes a stepped height transition for the site. However, the FSR was not reduced so that transition is unlikely to occur.  
Affected site:
  - Site 4: 437-475 Pacific Highway
- FSR is unable to be achieved within a compliant built form  
Other sites cannot achieve the FSR set without significant non compliances with the

setback guidance under the Design Guide, Apartment Design Guide (ADG), and/or NSDCP 2013. Again, this will likely lead to out-of-scale buildings with poor amenity.

Affected sites:

- Site 5: 238-242 Pacific Highway and 1 Bruce Street
- Site 6: 20-26 Clarke Street
- Site 7: 36 Oxley Street
- Site 8: 34 Oxley Street

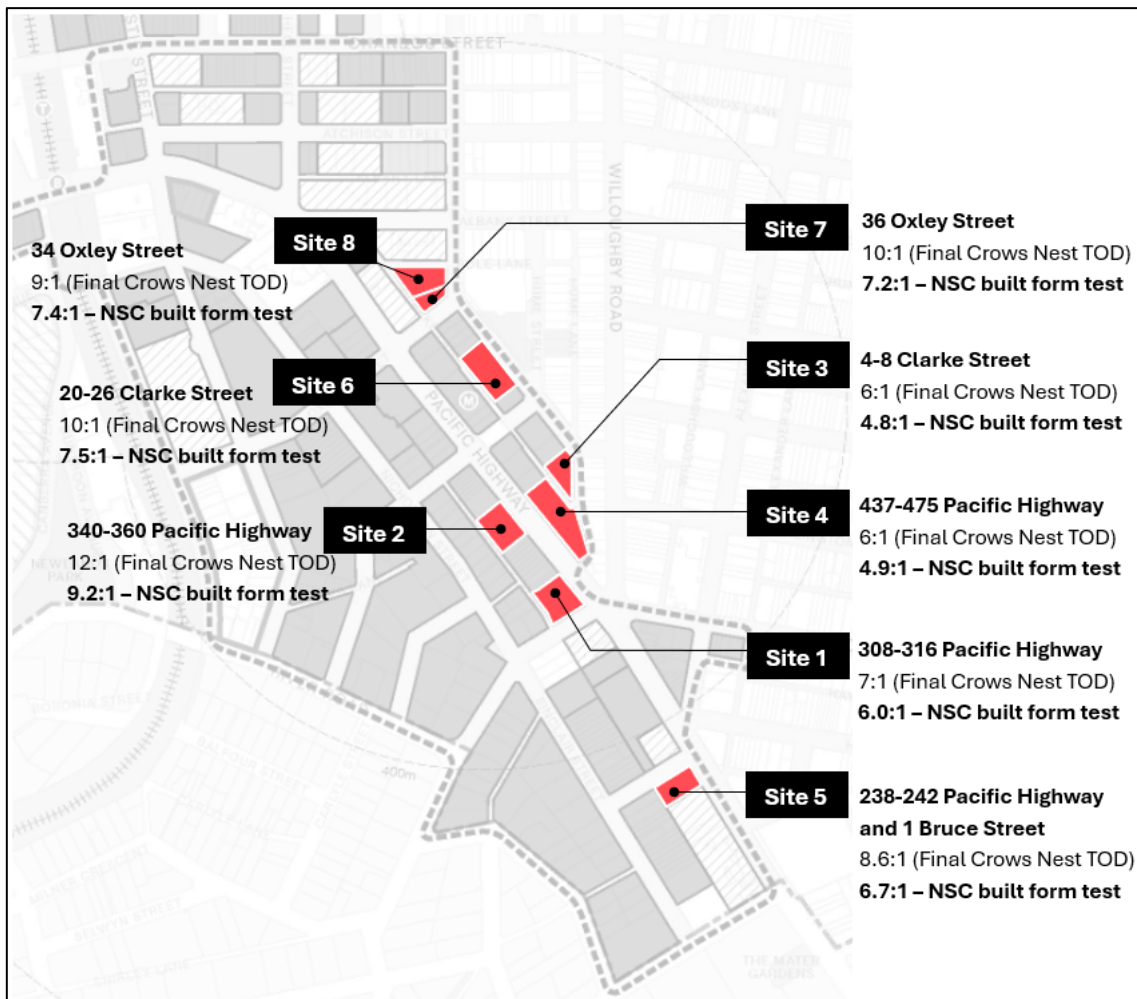


Figure 34 – Mixed use sites showing the FSR assigned under the TOD rezoning and Council’s built form test results (Source: NSC)

### 2.3.2 Fragmented approach to podium-level employment space

Most sites along Pacific Highway under the 2036 Plan were allocated a 2:1 non-residential FSR, aligning with a three-storey podium height. This approach ensured podium levels were dedicated exclusively to employment uses, resulting in a coherent built form, high-quality amenity, and a legible, well-integrated streetscape.

The Crows Nest TOD proposes a highly varied mix of non-residential FSRs along Pacific Highway, ranging from 0.24, 0.5, 1, 1.5, 1.6, to 2:1, combined with a three-four-storey podium height requirement. This fragmented approach introduces significant design challenges that



will ultimately result in less effective employment spaces. This is a lost opportunity, particularly being so proximate to the significant Government investment in the Crows Nest Metro Station.

The proposed changes could result in podium levels with varying heights - 0.5, 1, 2, 2.5, and 3 floors - dedicated to non-residential uses. This fragmented approach may lead to podiums incorporating a mix of employment and residential spaces, with potential split uses occurring within a single level. Such an arrangement would undermine amenity, complicate the delivery of efficient and high-quality podium designs, and contribute to an inconsistent streetscape.

### **2.3.3 Large, amalgamated sites needed to achieve the FSRs set for residential zones**

Council's high-level built form testing indicates that residential sites with a smaller site area (generally less than 1,600sqm) may be unable to achieve the assigned FSR under the Crows Nest TOD. This could lead to redevelopment of smaller residential sites with insufficient building setbacks and a lack of articulation, negatively impacting streetscape quality and overall amenity as applicants seek to maximise the achievement of the allocated FSR for this site.

The development of large, amalgamated sites to the identified maximum FSRs is likely to significantly reduce the established mature urban tree canopy in Wollstonecraft.

### **2.3.4 Discussion/Recommendations**

FSRs that are set too high can encourage bulky development proposals that are out-of-scale and yield poor design outcomes. It can also slow down the development approval process as the consent authority tries to reconcile developer expectations on what can be reasonably achieved on a site.

In the first instance, 'adjustments' should be sought to allocated FSRs to address the misalignment with the height control. In the event that this is not supported by the DPHI, an alternative approach would be to:

1. Seek further amendments to the Design Guide to ensure building heights, new building setbacks and new tower separation guidelines (as discussed in Sections 2.1 and 2.2), are the prime planning controls that determine a building envelope.  
To avoid any doubt, it may be worth considering the removal of maximum FSR controls.
2. Ensure all sites identified in the Design Guide that have a minimum 1,500sqm lot size control are also mapped on an applicable Minimum Lot Size Map in the NSLEP 2013.  
This reduces the likelihood of small sites trying to achieve the maximum FSR by reducing above podium setbacks.
3. Write to the DPHI and the NSW Government Architect to discuss the need for better guidance via a practice note or the like to ensure FSRs support better designed and well-separated high density apartment towers. This should be undertaken as a matter of priority before further development proposals are lodged under the new SSD pathway.

## 2.4 Council's alternative option for the Lithgow Street open space

There is already an acute need for new open space in St Leonards and Crows Nest (NSC 2025 Open Space and Recreation Strategy). Increasing the capacity of the area to support an additional 5,900 homes (over 11,000 new residents) should be supported by additional open space.

As discussed above, the Lithgow Street block is identified as a key site with additional height and FSR provided to developments if the development provides for a single public open space area of at least 2,000sqm (Figure 35, below). Additional through-site links are also identified to reduce block length and improve pedestrian permeability. This proposal was introduced at the post exhibition stage without consultation with Council.

Council has, however, identified two alternative options that, subject to further investigation, may offer a better outcome (Figures 36 and 37, on the next page).



Figure 35 – TOD proposed Lithgow Street open space (Source: adapted from the Crows Nest TOD Updated Design Guide, DPHI)



Figure 36 – Alternative Lithgow Street open space Option 1 – (subject to investigation) (Source: NSC)



Figure 37 – Alternative Lithgow Street open space Option 2 - (subject to investigation) (Source: NSC)

Option 1 maintains a minimum 2,000sqm open space requirement but changes its orientation to front Oxley Street. The benefits of this orientation are:

- better solar access throughout the day;
- better response to the site topography, enhancing accessibility and usability;

- increased public frontage, preventing the ‘privatisation’ of open space;
- better alignment with Oxley Street, supporting the proposed linear park; and
- maintaining the green connection to the open space north of Christie Street.

Subject to further access-related investigations, Option 2 presents an opportunity to further extend the space by closing Lithgow Street and using the underutilised existing landscaped RailCorp NSW land next to the railway corridor, linking it with the existing Lithgow Street Road Reserve to the south. This would create a larger, more versatile open space, supporting diverse uses for all ages and delivering additional public benefits, including:

- extending the green network by linking with Newlands Park;
- creating opportunities for open space expansion via the potential closure of Lithgow Street and integrating the railway corridor;
- better alignment with the NSW Government’s Green Plan;
- better alignment with the Design Guide’s recommendation to investigate opportunities for further active connections along Lithgow Street; and
- potential for a larger, more inclusive open space with playgrounds and active recreation opportunities, which is essential for a high-density precinct.

Further collaboration with the DPHI is needed to work through potential planning control amendments, implementation pathways and funding mechanisms to ensure the best and most useable open space is delivered.

### **PART 3 – IMPACT OF THE CROWS NEST TOD PROGRAM**

This part discusses the implications of the TOD program, such as traffic and transport, housing affordability, tree canopy loss, the loss of commercial floor space, and infrastructure provision.

#### **3.1 General Infrastructure**

As discussed above, significant post-exhibition changes have been made to the Crows Nest TOD which have resulted in the expansion of the precinct and a number of sites across the precinct having their maximum building height and density increased. These changes ultimately result in an even greater increase in dwelling and population density, placing further pressure on existing infrastructure, and a greater demand on, and need for, additional infrastructure.

The exhibition package included a Utilities Report which identifies and acknowledges service constraints in the categories of, but not limited to, existing potable water, sewer, and electrical infrastructure. Council’s previous submission raised concerns that the impacts to existing Council infrastructure must also be assessed and understood. Costs associated with works, service diversions or similar, pose a financial burden on Council and its rate payers, and have not been adequately considered or identified in the report. Council’s submission recommended that an analysis be undertaken to capture the full scope of the upgrade to infrastructure and services to support the increase in housing supply and examine how this financial burden is not borne solely by Council.

The finalisation package included an updated Utilities Report. However, no significant updates have been made to the Report to address Council's previous concerns or recommendations. Concerns regarding the need to upgrade infrastructure and services to support the increase in housing supply and the resulting financial burden on Council have only been accentuated by the final rezoning proposal, with the further increase in housing and population.

To support the population growth in the precinct, the NSW Government announced \$520 million from the Housing Productivity Contribution (HPC) Fund to be shared across the eight TOD Tier 1 precincts to fund active transport, road infrastructure, and new open spaces. The DPHI has still not released any guidelines for the allocation of these funds or process for application between the TOD precincts.

The North Sydney Local Infrastructure Contributions Plan (2020) currently allows Council to levy new development to help fund local infrastructure such as open space and recreation facilities, community facilities, public domain works, and active transport. These contributions will continue to be levied to help meet the increased demand created by new development and will continue to apply. It should be noted, however, that in an established area like North Sydney, a Contributions Plan can generally only fund a proportion of local infrastructure as the cost of new and upgraded facilities cannot usually be attributed entirely to the incoming population. As a result, Council needs to find alternate sources of funding such as grants or general revenue to deliver new and upgraded facilities.

An adequate infrastructure contributions framework is required to deliver essential supporting infrastructure and facilities, including open space, community facilities, access, and public domain improvements. Accordingly, it is recommended that Council call on the State Government to provide details of the HPC for the Crows Nest TOD precinct to fund and deliver essential community infrastructure for the existing, and additional planned population, including open space, road upgrades, community facilities, and upgrades to essential services.

## **2.2 Community and Cultural Spaces**

Council's submission to the DPHI identified the extensive gap in social infrastructure required to adequately service the population growth associated with the TOD, and the inability of Council to deliver further local infrastructure under planning agreements due to the imposition of a new State levy (HPC). As these resources are vital for fostering a healthy, vibrant, connected, and inclusive community, Council requested that an updated social impact assessment be undertaken as a matter of priority, and that the DPHI work with Council to address existing and future gaps that cannot be funded via the local contributions plan.

The finalisation package does not include a social impact assessment nor consideration of the provision of key social and cultural infrastructure and as discussed above, the DPHI has not released any guidelines for the process for allocation of the HPC between the TOD precincts. Accordingly, it is recommended that Council call on the State Government to provide details



of the HPC for the Crows Nest TOD precinct to fund and deliver essential community infrastructure.

### **2.3 Affordable Housing**

With the Crows Nest TOD rezoning, it is anticipated that with the significant uplift in height and FSR, there will be an inevitable loss of established older rental stock, which is generally more affordable compared to newer developments.

As landowners capitalise on the new TOD planning incentives, this will result in displacement of tenants in these more affordable dwellings, who may not be able to re-enter the rental market at the median weekly rent for the area (at June 2024 this was \$750 per week for the Crows-Nest St Leonards area).

Predominately, those who privately rent in the Crows-Nest St Leonards area are broadly clustered within relative proximity of the Crows Nest Metro Station and St Leonards Railway Station (which is outside of the North Sydney LGA) where greater uplifts have occurred through the Crows Nest TOD rezoning.

In the North Sydney LGA, there is a high concentration of renters across the LGA, (50% compared to 35% of all households in Greater Sydney), at the 2021 Census. In the Crows Nest-St Leonards area, renters make up an even greater percentage than this benchmark, at 57.7% of all households, including 1% social housing renters.

In 2021, 9.6% of households in the Crows Nest-St Leonards area were low-income households, defined as generating income of less than \$800 per week before tax. Furthermore, 24.3% of households were spending more than 30% of their usual gross weekly income on rent, which for those on low/lower/moderate incomes can be an indicator of housing stress.

With a high number of renters in the Crows Nest-St Leonards area already experiencing housing stress, the loss of older, more affordable housing stock and replacement by newer, more expensive housing through the TOD rezoning, is likely to place greater housing stress on renters or result in their displacement.

Furthermore, while the TOD also proposes increased affordable housing, this diverse housing choice will not be immediately available for any current tenants in the LGA who may need it, with a lag between approval and completed development taking several years, resulting in their displacement.

It is also recognised that in recent years, there have been instances where older multi-unit residential buildings have been demolished and replaced with developments that provide fewer units, often prioritising larger, high-end apartments over affordable and diverse housing options. This trend contributes to a reduction in housing supply, exacerbates housing affordability challenges, and undermines efforts to accommodate a growing and diverse population. At its meeting on 10 February 2024, Council resolved to investigate the introduction of a policy or planning control to ensure that developers cannot redevelop properties with fewer residential units than were originally demolished.

## **2.4 Employment**

Council's previous submission to the DPHI raised concerns with the extensive, rapid rezoning of the precinct for predominantly residential purposes, and continued application of the NSW Government's BTR provisions in commercial centres, decreasing the amount of non-residential floor space and undermining the employment and economic function of St Leonards and Crows Nest.

The success of commercial centres is particularly influenced by its degree of accessibility for workers. The St Leonards / Crows Nest centre is now served by two heavy rail-based services and is also well connected by district bus services. The only other commercial centres to have such a high level of accessibility in NSW include Sydney City, Parramatta, North Sydney, and Chatswood. This demonstrates the importance of St Leonards / Crows Nest as an employment centre.

While increasing housing supply is a priority for NSW, this must not come at the expense of non-residential FSR critical to the precinct's commercial vitality. The anticipated increase in residential density will drive greater demand for retail and commercial services. To maintain the precinct's role as a key commercial hub, it is essential to retain the non-residential FSR targets set in the 2036 Plan.

In response to Council's submission, the DPHI noted that the sites zoned MU1 Mixed Use will need to provide a minimum amount of non-residential floor space and that the increase in housing will allow people to live close to employment and accessible transport. However, no amendments were made for the final Crows Nest TOD rezoning to support the retention of non-residential floorspace.

## **2.5 Tree Canopy Loss**

As discussed above in Section 2.2.2, concerns are raised that the density of development and limited setbacks proposed for the Crows Nest TOD precinct, in particular in Wollstonecraft, will result in canopy loss and a lack of open space for a growing population.

Tree canopy and open space provides environmental, social, psychological, and recreational benefits. Trees also help mitigate the impacts of climate change by reducing the urban heat-island effect, reducing air pollution, and helping manage stormwater runoff.

## **2.6 Traffic and Transport**

Council acknowledges that increasing density in an area well supported by excellent public transport and support services is sensible.

Whilst it is acknowledged that the Crows Nest TOD rezoning will result in an increase in vehicle trips with the increase in dwellings, the DPHI (in their Supplementary Transport Technical Note), forms the view that the additional 820 vehicle trips in the AM peak compared to the 2036 Plan will have limited impact on the operation of the traffic network.

Furthermore, the DPHI believe that, due to the additional housing being distributed across several blocks in the precinct, new vehicle trips will be distributed relatively evenly and are not concentrated on certain roads or intersections with the Pacific Highway. Accordingly, additional traffic demands are considered unlikely to have a material impact on the performance of the traffic network.

The DPHI acknowledge that there are few opportunities for more traffic network improvements in addition to those already identified within the constrained network environment to ease congestion. However, they believe that if the identified initiatives for traffic management changes and infrastructure upgrades are implemented, the network will continue to operate satisfactorily in the future.

Council, in its previous submission to the DPHI on the exhibited documents, made recommendations to apply the NSDCP 2013 maximum parking rates across the TOD precinct. The expansion of North Sydney Council's parking maximums within the precinct is a positive step towards better achieving the aims of a true TOD precinct. By limiting off-street parking supply, the precinct will encourage greater use of public and active transport while reducing traffic congestion.

Council also made recommendations to improve walking and cycling and enhance the aims of a TOD within the Crows Nest precinct. These included improving cycling connections to the only public school in the catchment area and enhancing pedestrian access to the Crows Nest Metro Station. It is noted that while some changes have been made in response to these recommendations, the majority have not been addressed, as discussed below, and there are very few transparent funding commitments to support them.

**1. Safe Cycling Connections to Schools (Not Addressed)**

Despite the precinct's location within a primary school catchment, the final documents fail to commit to delivering safe cycling connections for students travelling to school. Anzac Park Public School is located 1 km from the Crows Nest metro, and while another primary school is planned, it remains in the early stages with no confirmed location. There is an urgent need for dedicated cycling infrastructure to support active transport. Current school travel patterns indicate that many students are driven, and without safe cycling routes, this trend is likely to continue. The absence of clear cycling commitments undermines the precinct's goal of being a successful TOD precinct.

**2. NSW Government Prioritising Cycling (Partly Addressed)**

The TOD SEPP does not fully align with the NSW Government's strong policy focus on cycling, particularly the Eastern Harbour City Strategic Cycleway Corridor and the Active Transport Strategy. While the Supplementary Transport Technical Note mentions cycling infrastructure along the Pacific Highway, there is no firm commitment to delivering a separated cycleway. Given the



Government's stated aim to reduce car dependency and increase cycling, which is strongly supported, it is concerning that the final documents do not prioritise this critical infrastructure. Without dedicated funding and planning, the precinct risks failing to meet its transport and sustainability goals.

Council supports the inclusion of Action 24: Chatswood to St Leonards Cycling Route but further commitments to improving cycling connections in the North Sydney LGA are required.

**3. Funding North Sydney Council's Priority Routes (Not Addressed)**

Council has already developed designs for West Street Cycleway Stage 2, yet the final documents do not address funding nor support for its implementation. This cycleway would significantly enhance cycling access to schools and local destinations, aligning with broader transport and sustainability policies. The strong community support for this project further highlights its importance. The lack of commitment in the TOD SEPP undermines local efforts to improve active transport and integrate cycling infrastructure into the precinct.

**4. Poor Integration with the Metro and Density on the Western Side of Pacific Highway (Partly Addressed)**

While it is acknowledged that a potential underground pedestrian connection is identified as a transport initiative to improve access to the Crows Nest Metro, this should not come at the expense of the above-ground public domain and connectivity. The western side of the Pacific Highway is set for considerable density uplift, yet it remains poorly integrated with key transport hubs. Many pedestrians will still need to wait for two separate signals to cross the highway, making access to the metro and train stations less convenient. The final documents should have included a commitment to pedestrian signals at all approaches to major intersections, ensuring safe and direct walking routes above ground.

The Supplementary Transport Technical Note includes Action 12: Enhanced pedestrian crossing at the intersection of Nicholson Street and Oxley Street. Council supports the inclusion of this action to enhance pedestrian safety.

**5. Speed Limits (Not Addressed)**

The current 50 km/h speed limits across much of the Crows Nest precinct pose a significant safety risk to pedestrians. Research shows that reducing speed limits to 40 km/h or 30 km/h dramatically increases pedestrian survival rates in the event of a collision. Given the precinct's goal of encouraging walking and

reducing car dependency, it is concerning that no commitment has been made to at least investigate lower speed limits. A clear strategy for speed reduction is needed to ensure a safer and more pedestrian-friendly environment.

**6. Expansion of North Sydney Council's Parking Maximums (Addressed)**

The expansion of North Sydney Council's parking maximums within the precinct is a positive step towards achieving the aims of a true TOD precinct. By limiting off-street parking supply, the precinct will encourage greater use of public and active transport while reducing traffic congestion. Strong enforcement of these parking controls will be key to maintaining the benefits of this policy.

**7. Strong Objection to Reopening Nicholson Street at Oxley Street (Objection)**

The Supplementary Transport Technical Note includes Action 34: Provide right-hand only turn from Pacific Highway to Oxley Street for southbound traffic. Council supports this action as the alternative of not allowing a right-hand turn would have adverse consequences. Traffic would funnel through heavily pedestrianised areas near the Crows Nest Metro Station and other local streets in order to cross the Pacific Highway.

The Supplementary Transport Technical Note also includes Action 35: Reopening of Nicholson Street at Oxley Street (with a new right turn from Pacific Highway (southbound) into Oxley Street). Concerns are raised that this would result in the loss of open space and established canopy trees within a high-density area.

It is apparent from the above that Council has a number of traffic and transport concerns regarding the implementation of the TOD. It is recommended that Council write to the DPPI and Transport for NSW raising funding commitments to cycling, pedestrian, and road infrastructure. Council also needs to raise the reopening of Nicholson Street as a concern and discuss alternative arrangements that may be required to manage the likely impacts on local and wider street networks.

### **3.7 Voluntary Planning Agreements**

The NSLEP 2013 has been amended through a self-repealing State Environmental Planning Policy (SEPP) Amendment (Crows Nest Transport Oriented Development Precinct) 2024 to give effect to the TOD precinct's zoning and development controls.

Part 7 (Crows Nest Transport Oriented Development Precinct) was inserted into Council's LEP, and a number of maps were replaced, including the Land Zoning Map, Floor Space Ratio Map, Height of Buildings Map, Lot Size Map, and Non-Residential Floor Space Ratio Map. Accordingly, development applications can now be lodged utilising the development controls introduced by the SEPP amendment.

In the past Council has been successful in negotiating voluntary planning agreements as part of the re-zoning process to help deliver public benefits to support growth. This approach has offered a greater degree of flexibility in the delivery of infrastructure that would otherwise not be available and in some cases facilitated the delivery of infrastructure ahead of the incoming additional population. There will be limited opportunity for this to now occur.

The increase in dwelling and population density will place greater pressure on existing infrastructure, and a greater demand for additional infrastructure. An adequate infrastructure contributions framework is required to deliver essential supporting infrastructure and facilities, including open space, community facilities, access, and public domain improvements.

## **PART 4 - IMPLEMENTATION**

This final part discusses the implementation of the Crows Nest TOD, including the planning approval pathway, switching-off of the infill affordable housing reforms, and low-mid rise housing reforms.

### **4.1 Planning Approval Pathway**

On 27 November 2024, the DPHI introduced an SSD pathway for major residential development with a value of over \$60 million in the TOD accelerated precincts until 30 November 2027.

Applicants for major residential development with a value of over \$60 million in the TOD accelerated precincts can choose to lodge their development applications for assessment by a new body established by the State Government, being the Housing Delivery Authority (HDA). The reforms aim to ensure a consistent approach to both rezoning and assessment across the precincts.

The changes aim to streamline development assessment by removing processes and controls that cause delays, helping ensure housing is delivered quickly in these precincts. The State Government believes the HDA will provide a quicker development assessment process alternative to councils.

It is envisaged that applicants who meet this \$60 million value threshold will likely lodge an SSD application with the HDA based on the State Government's commitment to a quicker approval process than Council's DA process.

Accordingly, Council is only likely to be assessing smaller developments within the TOD precinct, with larger developments over \$60 million having the opportunity to be assessed by the State Government.

Given the TOD rezoning and SSD reform did not commence until late November, SSDs have only recently been lodged with the HDA for sites under the Crows Nest TOD. SSDs for sites at 601 Pacific Highway, St Leonards and 153-157 Walker Street, North Sydney, for 600 dwellings



and 520 dwellings respectively. The applicant for 378-398 Pacific Highway, Crows Nest has also indicated that they will soon be lodging their SSD with the HDA.

Based on previous and existing SSDs, Council's role is likely to be more of a referral agency, limited to providing a submission on the development for consideration by the State Government but with no assurance that Council's concerns will be meaningfully addressed. At the time of preparing this report an amendment bill was under consideration by Parliament. One of the proposed amendments includes a reduction in notification from 28 days to 14 days for SSD applications which presents a challenge to adequately assess and comment on proposals.

## **4.2 Affordable Housing**

As discussed above, development in the Crows Nest TOD is required to provide affordable housing or an equivalent monetary contribution. To facilitate the receipt and management of these affordable housing contributions, a draft Interim Distribution Plan, is currently under preparation which will be subject of a further report to Council in coming months.

North Sydney Council has an established arrangement with a Tier 1 Community Housing Provider - Link Wentworth, for the management of social and affordable housing dwellings in the LGA.

Council will also be preparing an Affordable Housing Contributions Scheme that will apply to the whole LGA, setting out how, where and at what rate development contributions can be collected by Council for affordable housing outside of the TOD area.

## **4.3 Switching Off Infill Affordable Housing**

On 14 December 2023, the NSW Government implemented in-fill affordable housing reforms to encourage private developers to boost affordable housing and deliver more market housing.

The reforms included:

- an FSR bonus of 20-30% and a height bonus of 20-30% for projects that include at least 10-15% of GFA as affordable housing. The height bonus only applies to residential flat building and shop-top housing. The FSR and height bonuses are proportional to the affordable housing component;
- requirements that the affordable housing portion of the development is to remain affordable and be managed by a registered community housing provider for a minimum of 15 years;
- non-discretionary development standards for lot size, dwelling sizes, deep soil zones, car parking, and others; and
- requirements for the consent authority to consider the character of the local area or the desired future character for areas under transition.

The in-fill affordable housing provisions:

- apply to land in Greater Sydney within an accessible area (i.e., 800m walking distance of a railway, metro, or light rail station or 400m of a bus stop with regular services); and
- other areas within 800m walking distance of land zoned E1 Local Centre, MU1 Mixed Use, B1 Neighbourhood Centre, B2 Local Centre, or B4 Mixed Use.

The DPHI has excluded the Housing SEPP in-fill affordable housing provisions for the TOD Accelerated Precincts. The DPHI has advised that the TOD Accelerated Precincts have been carefully planned to allow the appropriate maximum heights and FSRs. Allowing developments to further exceed these limits through the in-fill affordable housing bonus provisions could affect neighbouring sites and public amenity. Accordingly, height and floor space bonuses for in-fill affordable housing under the Housing SEPP have been ‘turned off’ to avoid conflict with planning controls and affordable housing requirements in TOD Accelerated Precincts. This is a position that Council staff lobbied for and is supported.

#### **4.4 Switching Off Low-Mid Rise Housing Changes**

In parallel with the TOD Program, the State Government also released the draft low and mid-rise housing reforms in November 2023.

The proposal seeks, depending on existing zoning, to increase development capacity on land located within proximity of a “station or town centre precinct.” These precincts are to encompass the following land:

- within 800m walking distance of a heavy rail, metro, or light rail station; or
- 800m walking distance of Commercial Centre (Zone E2) or Metropolitan Centre (Zone SP5); or
- 800m walking distance of the Local Centre (Zone E1) or Mixed use (Zone MU1), but only if the zone contains a wide range of frequently needed goods and services such as full-line supermarkets, shops, and restaurants.

Key implications arising from the reform include:

- height limits of up to six storeys and floor space ratios of more than 2.2:1 are being proposed, which would effectively enable increased height and density overriding Council’s local planning controls.
- within the station and town centre precincts, the proposal would permit residential flat buildings (up to six storeys) within the R3 Medium Density Residential zone (current height limit of 8.5m); and allow manor houses and multi-dwelling housing within the R2 Low Density Residential zone, which are currently prohibited under the NSLEP 2013.

Although a merit-based assessment will continue to apply to developments involving heritage items and Heritage Conservation Areas, it is understood that the proposed controls under the low and mid-rise reforms will effectively prevail over Council’s local controls. An assessment of the implications of the proposed reforms was considered by Council at its meeting of 12 February 2024.

The low and mid-rise housing policy commenced on 28 February 2025. The TOD Accelerated Precincts are excluded from the policy. The low and mid-rise housing reforms do, however, apply to some areas that are outside the TOD precinct but are still within 800m walking distance of the Crows Nest Metro Station. Council staff are currently reviewing the recently released detail of the reforms.

## **NEXT STEPS**

Since the NSLEP 2013 has been amended to give effect to the TOD precinct's zoning and development controls, Council is obliged to ensure development occurs consistent with the new legislative changes. This role includes, but is not limited to the assessment of DAs, review of SSDs, and administering affordable housing contributions and development contributions.

Developments resulting from the TOD rezoning will have significant impacts on the vibrancy, amenity and character of Crows Nest, St Leonards, and Wollstonecraft.

Amendments can be made to the NSLEP 2013 and Crows Nest TOD Precinct Design Guide to provide greater solar access, improved landscape character, human scale, and walkability to the precinct through incorporating adequate tower separation distances, setbacks, and lot sizes. Based on the analysis provided in this report, Council needs to advocate to the DPHI for these changes to be enacted.

Council is to also call on the State Government to provide details of the HPC for the Crows Nest Accelerated TOD Precinct to fund and deliver essential community infrastructure for the existing, and additional planned population including open space, road upgrades, community facilities, and upgrades to essential services.

## **Consultation requirements**

The Crows Nest TOD rezoning proposal was exhibited from 16 July to 30 August 2024. The TOD rezoning came into effect on 27 November 2024. Community engagement is not required.

## **Financial/Resource Implications**

The longer-term financial implications of the Crows Nest TOD rezoning proposal to North Sydney Council could be significant, as only a fraction of the funding to meet the increased demand for social, open space, and recreation infrastructure can be met under the North Sydney Local Infrastructure Contributions Plan (2020). Similarly, there is currently no certainty that transport, and utility upgrades have been adequately planned for and funded.

Council will strongly advocate for the adequate, fair, and transparent allocation of funds for State and local infrastructure in the Crows Nest precinct. As discussed above, Council will call on the State Government to provide details of the HPC for the Crows Nest Accelerated TOD Precinct to fund and deliver essential community infrastructure for the existing, and additional planned population including open space, road upgrades, community facilities, and upgrades to essential services.

## **Legislation**

The rezoning was implemented through a self-repealing State Environmental Planning Policy (SEPP) Amendment (Crows Nest Transport Oriented Development Precinct) 2024 that amended the NSLEP 2013.