

COUNCIL SUPPLEMENTARY ASSESSMENT REPORT

Panel Reference	PPSSNH-449
DA Number	297/23
LGA	North Sydney Council
Proposed Development	Redevelopment of the site at 617-621 Christie Street, St Leonards for a 50-storey mixed-use development comprising retail and commercial uses within the podium, residential apartments above as well as basement car parking and loading and servicing areas.
Street Address	617-621 Pacific Highway, St Leonards
Applicant/Owner	Applicant – Mr. Edmand Lee Owners – Anson City Developments 1
Date of DA lodgement	20 October 2023 Amended 6 September 2024
Total number of Submissions Number of Unique Objections	One hundred and seventeen (117) submissions received.
Recommendation	Refusal
Regional Development Criteria Schedule 6 of the SEPP (Planning Systems) 2021	Regional Development is defined in Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 Development with a capital investment value (CIV) over \$30 million is classified as “Regional”. The CIV of this development as outlined in the application is \$187,179,158.00 excluding GST.
List of all relevant s4.15(1)(a) matters	• Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021. • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • North Sydney Local Environmental Plan 2013 • North Sydney Development Control Plan 2013 • North Sydney Local Infrastructure Contributions Plan 2020 • An executed Voluntary Planning Agreement has been entered into under Section 7.4 of the Environmental Planning and Assessment Act 1979
List all documents submitted with this report for the	Survey Architectural Plans Design Report

Panel's consideration	Quantity Surveyor Report Landscape Plans and report Arborist Report ESD Report BCA Statement Access Statement Traffic Impact Assessment Waste Management Plan Civil Engineering Plans Structural Engineering Statement Wind Impact Assessment BASIX Certificate Stormwater Drainage Concept Plan Geotechnical Report Acoustic Report Environmental (Contamination) Site Investigation	
Clause 4.6 requests	Yes – Clause 4.4A – Non-residential floor space ratios	
Report prepared by	Damon Kenny Executive Assessment Planner	
Report date	16 September 2025	
Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?		Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report?		Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?		Yes – Non-residential floor space ratio less than the minimum
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>		Not applicable
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>		Yes

Executive Summary

Background

1. The North Sydney Planning Panel resolved to defer the matter on 15 May 2025. The reasons for the deferral are provided below:

'The Panel considered the matters listed at item 6, the material listed at item 7

and the material presented at the meetings listed at item 8 in Schedule 1.

At the public meeting on 14 May 2025, the Panel heard from members of the public, the Applicant and the Council. The Council's Draft reasons for refusal were discussed extensively and it became apparent to the Panel that further communication with Sydney Metro and discussion between Council and the Applicant may resolve four main points of concern (Sydney Metro concurrence, waste management, collar impact, amenity and the eastern setback.

Consequently, the Panel resolved to defer the determination of the matter to allow additional time to seek concurrence from Sydney Metro and for the provision of additional information listed below.

The decision to defer the matter was unanimous.

ACTIONS

To allow progression of the Development Application to determination, The Panel requested applicant and Council urgently meet in the next week to:

- 1. Resolve waste management arrangements;*
- 1. Clarify solar impact on surrounding properties and solar access to the proposed development, particularly on the eastern elevation. In this respect, consideration of the impact of the future development on the IMB site should be considered;*
- 2. Consider viable alternatives to increase the eastern boundary/setback;*
- 3. Determine the status and anticipated date of Sydney Metro's concurrence.*

By Friday 30 May, the applicant should provide Council with any additional information required to resolve the above points. Council is requested to provide a Supplementary Assessment Report and Draft Conditions as quickly as possible thereafter.'

2. Following the determination briefing held 3 September 2025 for PPSSNH-449, the Panel's decision was deferred subject to the following:
 - *The Applicant is to upload to the Portal and provide to Council revised indicative plans demonstrating option 4 by Wednesday 10 September*
 - *Council is to provide a covering Memo to the Panel together with revised conditions by cob Tuesday 16 September*
 - *The Panel will then finalise its decision by circulation of papers on Wednesday 17 September*

Further, additional correspondence was received from the Senior Case Manager requesting the following:

- 1. Urgently contact Sydney Metro seeking amended recommended conditions within 7 days of Council's request; and*
- 2. If you don't receive a response from Sydney Metro within 7 days, Council is to amend the recommended conditions provided by Sydney Metro as it deems appropriate; and*

Provide an updated set of conditions by Tues 16 September that delete the previous conditions provided by Sydney Metro and include either their revised conditions or your rewording of their conditions

Report in full

Reasons for deferral

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Revised indicative plans

29. The applicant uploaded revised plans on 9 September 2025 to the NSW Planning Portal consistent with Option 4 contained within the package presented to the Panel on 3 September 2025. The draft conditions of consent have been updated to reflect option 4.

30. As the result of the reduced tower floorplate and changes to column locations of the entire building (including podium), the non-residential GFA has been reduced further by approx. 35sqm. The further reduction of non-residential GFA would reduce the current non-residential GFA from 4,942.01sqm to 4,907.01sqm. The total shortfall of non-residential GFA would be 84.39sqm, which represents a variation of 1.69%, This is minor and will not change the assessment outcome of the submitted clause 4.6 variation which was supported. Noting the applicant has submitted a revised cl. 4.6 with the assessment resulting in the same supportable outcome.

31. Additionally, the deferred commencement condition for the detailed design of the St Leonards Arts Centre has been relocated to prior to the issue of a construction certificate.

Sydney Metro

32. A response was received for Sydney Metro on 15 September 2025 advising the following:

"I refer to my letter dated 2 July 2025, under which concurrence was given by Sydney Metro to Development Application DA297/2023 (DA) subject to a suite of conditions set out in that letter.

Subsequently, on 10 September 2025, Sydney Metro received an email from you forwarding an email from Ms Lillian Charlesworth, Senior Case Manager, Planning Panels, Panels Housing Delivery, at the Department of Planning, Housing and Infrastructure, dated 3 September 2025.

Ms Charlesworth stated in that email that "the Panel has noted that various conditions provided by Sydney Metro are unable to be enforced." For Council's information, Sydney Metro adopts a standard form of conditions as appropriate when determining concurrence for development applications. The enforceability of Sydney

Metro's concurrence conditions has not to date been the subject of any legal challenge.

The examples provided by Ms Charlesworth as to why the Panel considers Sydney Metro's conditions are unenforceable include that they purport to bind the Applicant and to the extent that they contain the phrase "If required by Sydney Metro...", create uncertainty. Again, Sydney Metro has not previously had these matters raised in response to its standard form of wording, but addresses them as follows:

- 1. The Applicant is named in the Council's standard terms of consent. To the extent that the Applicant as named is not carrying out the development but someone else is, that person will need to comply with the conditions of consent under the Environmental Planning and Assessment Act 1979, as development consents run with the land and are not granted in a personal capacity. Sydney Metro's requirement for the Applicant to take certain steps as set out in the conditions is consistent with this and does not cause such conditions to be unenforceable; and*
- 2. Although Sydney Metro disagrees that the phrase "if required" impacts on the enforceability of the conditions, we have nevertheless made some amendments to the conditions and issue updated conditions set out in attachment A below.*

Sydney Metro is willing to discuss these matters further with the Panel if it continues to have concerns with regard to the enforceability of Sydney Metro's conditions of concurrence.

Sydney Metro refers to Development Application DA297/2023 (DA) submitted by Anson City Development 1(Australia) Pty Ltd (Applicant) that has been referred to Sydney Metro via the NSW Planning Portal on 22 December 2023, in accordance with section 2.99 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&ISEPP).

Transport for NSW (TfNSW) has delegated its rail authority functions in relation to the Sydney Metro City & Southwest rail corridor to Sydney Metro. Therefore, Sydney Metro is the relevant rail authority for the Sydney Metro City & Southwest rail corridor for the purpose of the T&ISEPP.

Assessment requirements under the T&ISEPP

Sydney Metro has reviewed the DA documents that were received by Sydney Metro on 13 June 2025.

Sydney Metro has assessed the development proposed by the DA in accordance with the requirements of section 2.99(4) of the T&ISEPP.

In this regard, Sydney Metro has taken into account:

- (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
 - i. the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - ii. the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
- (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

Concurrence granted subject to conditions

Sydney Metro has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in the DA, subject to the consent authority imposing the conditions at Attachment A.

Should the consent authority determine not to impose the conditions provided in Attachment A in the form provided, then concurrence from Sydney Metro has not been granted to the DA.

The consent authority is also advised that Sydney Metro's concurrence is not to be amended, replaced or superseded by any concurrence which may be issued by any other authority, without further agreement from Sydney Metro.

Next steps

If, at any point, the DA is amended prior to the consent authority's determination, please ensure that the amended DA and any new or amended supporting documents are provided to Sydney Metro for further assessment. Any amendments to the DA may alter the impacts of the proposed development on the Sydney Metro City & Southwest rail corridor assessed by Sydney Metro, so Sydney Metro may need to amend (or refuse) its concurrence.

Sydney Metro would be grateful if a copy of the Notice of Determination and any conditions of consent for the DA are forwarded to Sydney Metro should the consent authority determine to grant consent to the DA.

In the event that the proposed development is the subject of a Land and Environment Court appeal, the consent authority's attention is also drawn to section 8.12 of the Environmental Planning and Assessment Act 1979 which requires the consent authority to give notice of that appeal to a concurrence authority."

33. The conditions provided in Attachment A issued by Sydney Metro have been reviewed and are imposed under Condition I2 of the consent.
34. Further, these conditions have been peer reviewed, and are considered enforceable conditions.

Covering Memo

35. A supplementary report has been prepared along with revised condition of consent and uploaded to the NSW Planning Portal by 16 August 2025.

Compliance and Assessment

36. No further assessment is required with respect to the additional information submitted and is report to be read in conjunction with the previous assessment report and supplementary assessment report.

Conclusion and Reasons

37. The proposal has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. The proposal is considered to be an unreasonable intensification of the site. It is considered that the proposal represents an unacceptable planning and design outcome for this site primarily due to the reduced tower setback from its eastern boundary. The proposal will adversely affect both the character of development in the street, the immediate locality and the residential amenity of the area which has significantly evolved since the commencement of the Planning Proposal process 7 years ago.
38. The proposal is inconsistent with various design quality principles of State Environmental Planning Policy (Housing) including context and neighbourhood character, built form and scale, and amenity.
39. The current proposal results in a 44 storey facade located 6 meters from its common boundary with 601 Pacific Highway. While that site is significantly larger than this site and is less constrained, this setback has the potential to impact on any future redevelopment of that site.

40. The amended scheme outlined in the applicants preferred option 4, does improve this setback to an average of 7.1 meters with a minimum of 6.9 meters. If the panel is of a view this revised scheme merits support, it will be necessary to impose a deferred commencement condition to that effect or alternatively, formally call for amended plans.
41. If the panel is of the view the original plans should be favored, then a deferred commencement consent is appropriate providing for activation upon the receipt of Metros formal concurrence.
42. The Council's notification of the proposal attracted a total of one hundred and seventeen (117) submissions. The concerns raised have been considered and addressed and do warrant refusal of the proposal.
43. In terms of setbacks the formally lodged plans remain those as lodged.
44. Following assessment of the development application, the development remains recommended for **refusal**.

DETERMINATION

45. THAT the Sydney North Planning Panel, as the consent authority, approve the written request for a variation under Clause 4.6 of North Sydney Local Environmental Plan 2013, in relation to the Non-residential floor space ratios (Clause 4.4A) as the variation sought is considered to be well founded.
46. THAT pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) the Sydney North Planning Panel refuse the development consent to DA297/23 for the redevelopment of the site at 617-621 Christie Street, St Leonards for a 50-storey mixed-use development comprising retail and commercial uses within the podium, residential apartments above as well as basement car parking and loading and servicing areas on Lot 1 DP DP1022881, Lot 1 DP577070, Lot 1 DP455937 and Lot 2 DP455937 and known as 617-621 Pacific Highway, St Leonards for the reasons set out in Attachment 1.