

# FORMAL OBJECTION REGARDING STATE SIGNIFICANT DEVELOPMENT (SSD-96272465) – 11-23 RANGERS AVENUE, MOSMAN

## EXECUTIVE SUMMARY

This submission confirms that the proposed Residential Flat Building (RFB) (SSD-96272465) fails both the statutory legal test and the planning merit test of the New South Wales planning framework. The cumulative impact of the procedural, technical, and safety failures warrants the immediate refusal or deferral of the application.

My review confirms the project is unsupportable due to the following critical and measurable non-compliance points:

1. **Fundamental Design Failure (Deep Soil Zones):** The proposal fails to meet the **Apartment Design Guide (ADG)** requirement for Deep Soil Zones (**DSZ**), rendering the promised privacy screening unviable and exposing a fatal design flaw in the proponent's amenity mitigation strategy. This is confirmed by basement car parking extending to the boundaries of 25 Rangers Ave and hardstand paving and swimming pools found in the alleged DSZ strip.
2. **Unlawful Scale & Statutory Ineligibility:** The project's massive 6–7 storey scale is statutorily ineligible for the **Housing SEPP** bonus due to the presence of a Local Heritage Item exclusion (**I438 Divided Road**) on the boundary, which will be excavated and substantially modified. Furthermore, the entire height and FSR bonus is invalid because the "Accessible Area" claim fails the legal test for safe pedestrian routes.
3. **Undocumented Boundary Access and Privacy Contradiction:** The insertion of an undocumented, structural opening at the base of the western façade, fundamentally invalidates the **Proponent's** entire strategy for managing the sensitive interface with 25 Rangers Avenue.
4. **Cumulative Failures and Public Interest Test:**
  - a) **Unlawful Scale:** The proposal's height (7 storeys) relies on the **IAH bonus** despite being located in the **Scenic Protection Area (SPA)**, where the **Mosman LEP 2012** requires variations to **minimise visual impact** and **share views** from the harbour. The extreme variation requested (20.7m wall height vs. 7.2m local standard) is contrary to the SPA's core objectives.
  - b) **Setback and Visual Bulk Failure:** 25 Rangers Ave is a Federation House situated 30cm from the boundary of 23 Rangers Ave. It is probable that it will be occupied as a residential house for the foreseeable future under the **Mosman Masterplan** and should be assessed accordingly.
  - c) **Failure of Upfront and Ongoing Community Engagement:** Deliberate failure to adhere to the mandatory requirements for **upfront and ongoing engagement** as stipulated by the **DPHI's** guidelines. The setback to 25 Rangers was not advised until after final Architectural drawings were

finalised, thereby compromising the integrity of the Environmental Impact Statement (EIS).

- d) **Unorderly Development and Site Isolation:** The scale is incompatible with the existing neighbourhood and the Mosman Masterplan process, prejudicing the **orderly and progressive development of land** in the locality.
- e) **Pedestrian Safety:** There is **no marked crossing** on Spofforth St which is a **Regional Road** and cannot be deemed a safe route. Neither can Bloxsome Lane which requires garbage trucks to reverse down it with no room for a footpath.
- f) **Unacceptable Structural Risk:** The required deep excavation (~10m) is physically unfeasible near the existing **unreinforced** 1900s structure located **30 centimetres** from the boundary, creating an unacceptable safety liability under **EP&A Regulation Clause 28**.

We require the **DPHI** to seek refusal or postponement of the application until such time as the Mosman Masterplan is unveiled.

### **1) Fundamental Design Failure (Deep Soil Zones):**

The proponent's allocation of Deep Soil Zone (DSZ) demonstrates a clear attempt to achieve numerical compliance while fundamentally undermining the functional objectives of the **Apartment Design Guide (ADG)**. The proponent states that the required 397sqm of DSZ compliance is achieved by concentrating the **larger proportion of the area along the Southern boundary** (Rangers Avenue) to maintain the site's natural landform. However, this location is the **premium view frontage** where the development's primary living areas are oriented to capture views of the harbour and city skyline. This placement creates a non-functional DSZ: the proponent will inevitably refrain from planting the **"large trees"** necessary for DSZ compliance in this location, as doing so would directly obstruct the highly valuable south-facing residential views, thereby confirming that the area is not, and will never be, used for the ADG's purpose of supporting mature canopy growth (ADG Objective 3E-1). The proponent has engaged in a form of DSZ displacement, allocating the required soil area to a location where planting would be economically prohibited, while simultaneously failing to provide the **6.0-metre mandatory minimum DSZ dimension** along the North, East and **Western transition boundary** where privacy screening and environmental mitigation are actually needed to protect adjoining neighbours (ADG Objective 2H). This makes the **Proponent's** claim of DSZ compliance entirely illusory and demonstrates that the amenity benefits the standard is designed to secure are not achieved.

The proposal's core amenity mitigation strategy—which relies on **"large trees"** for privacy screening—is demonstrably unsupportable. The proponent's design fails to provide physically viable Deep Soil Zones (DSZ) where they are most critically needed to mitigate amenity impacts on adjoining properties.

a) **The Purpose and Mandatory Location of Deep Soil Zones (ADG 3E)**

The **Apartment Design Guide (ADG)** mandates DSZs to achieve measurable environmental and amenity benefits, and explicitly links them to boundary setbacks.

ADG Policy and Requirement	Strategic Implication for This Site
<p><b>Objective 3E-1: Support Healthy Plant and Tree Growth.</b> DSZs have "important environmental benefits, such as... promoting healthy growth of large trees with large canopies".</p>	<p><b>Contradicts Privacy Promise:</b> Without viable deep soil, the proponent cannot sustain the "large trees" promised for long-term visual screening of 25 Rangers Avenue. It is not clear in any plans how large trees are planted on the Eastern or Western boundary.</p>
<p><b>ADG Objective 2H &amp; 2F: Setbacks Must Maximise DSZ.</b> The ADG requires setbacks to be tested with the requirement for "deep soil zone requirements" and aim to "<b>achieve setbacks that maximise deep soil areas</b>".</p>	<p><b>No DSZ on North, east or western boundaries – failed.</b>  <b>Transition Zone Failure:</b> In a sensitive transition zone (low-rise to 6–7 storey structure), the setback must function as a green buffer. By placing basements/hardstand to the boundary, the proponent fails to maximize this buffer where it is most needed for adjacent amenity and visual separation (ADG Objective 2H).            3E of the ADG (pictured below): "<b>Opportunities for deep soil zones are increased when parking levels are contained within the building footprint</b>" – objective not met.</p>

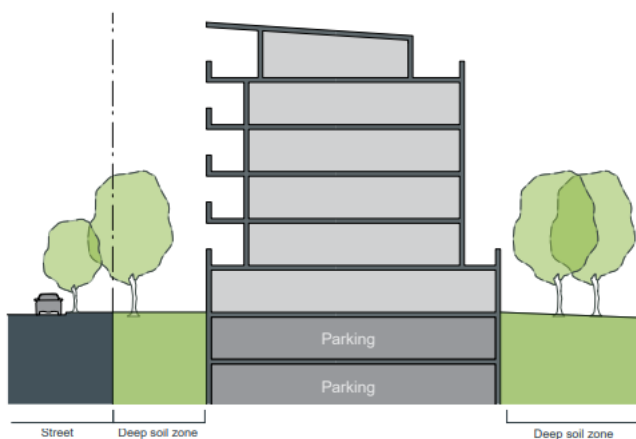
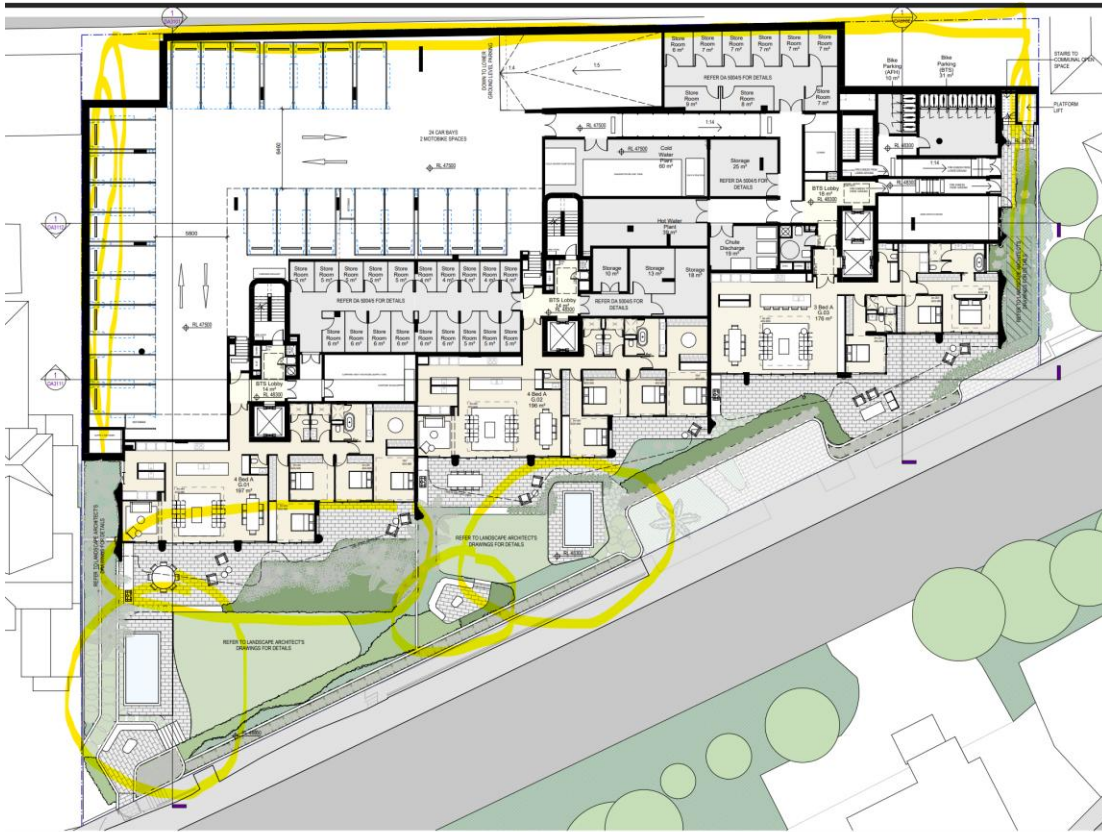
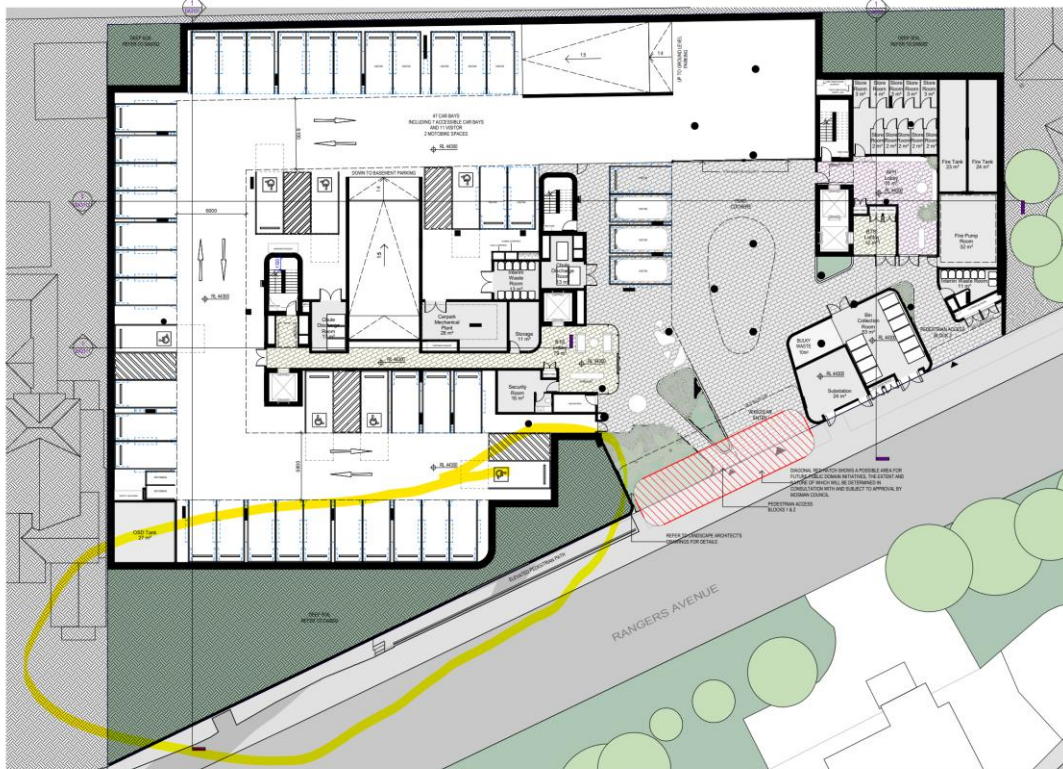


Figure 3E.1 Opportunities for deep soil zones are increased when parking levels are contained within the building footprint



**Woods Bagot** Client: **Grand Noble Project 1 Pty Ltd** Project: **11-23 Rangers Avenue Mosman NSW 2088** Sheet title: **GROUND LEVEL** Project no.: **122117** Scale: **1:125** Sheet size: **A1** © Woods Bagot  
 Sheet no.: **DA2010** Revision: **A** Date: **05.11.2025**



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**The above drawings clearly show a failure to;**

- i. Contain parking levels within the building footprint;
- ii. Adhere to the definition of Deep soil zones per 3E of the ADG: Deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude **basement car parks**, services, **swimming pools**, tennis courts and **impervious surfaces** including car parks, driveways and roof areas.

**b) Direct Contradictions: Hardstand, Car Parking, and Non-Viable Planters**

The submitted plans and briefing material expose the proponent's claim of DSZ compliance as either contradictory or physically impossible:

- i. **Encroachment by Car Parking (Eastern, Northern, and Western Boundaries):**
  - o The DA Drawing Set (DA2008, DA2009, DA2010) confirms that the basement car parking structure extends right up to the boundaries on the Eastern, Northern, and Western sides of the property.
  - o **The Defect:** A "Deep Soil Zone" is legally defined as an area of soil "**not covered by buildings or structures within a development... above and below ground**". The basement and car parking directly beneath the boundary strips mean this land is **not deep soil** and cannot support the large trees proposed for privacy mitigation.
- ii. **Paving on western and eastern boundaries:**
  - o The plan shows the 3.0-metre setback strip along the western boundary (adjoining 25 Rangers Avenue, where bedrooms/bathrooms are located) contains **paving and a structural opening** (as detailed in item 3 below).
  - o **The Defect:** Hardstand is incompatible with deep soil and immediately invalidates the proponent's commitment to planting trees for privacy. This reveals that the setback strip is intended for circulation or maintenance, not for ecological support.
- iii. **Pools and hardstand in Deep Soil Zone – failure of ADG;**
  - o The Proponent has two swimming pools and hardstand (as highlighted in the above pictures from their plans) in the Deep Soil Zone.

**Conclusion:** The **Proponent** has misrepresented the viability of its privacy mitigation strategy. The DSZ is either structurally compromised by the basement and hardstand, but most importantly, undermines the functional objectives of the ADG, by isolating it to the Southern Boundary where the Harbour and City views are, rather than the ADG intent of mitigating amenity impacts on adjoining properties. The **DPHI** must reject the proposed landscape strategy as being unreliable and non-compliant with the **ADG**.

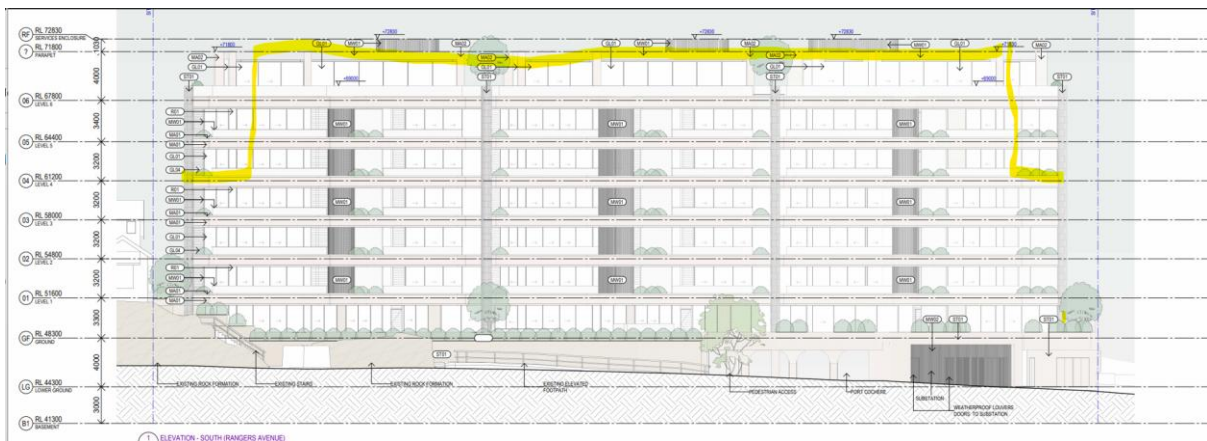
## 2) Unlawful Scale & Statutory Ineligibility: (ADG Objectives 2F, 2G & 2H)

The project's massive 6–7 storey scale is statutorily ineligible for the **Housing SEPP** bonus due to the presence of a Local Heritage Item exclusion (**I438 Divided Road**) on the boundary, which will be excavated and substantially modified. Furthermore, the entire height and FSR bonus is invalid because the "Accessible Area" claim fails the legal test for safe pedestrian routes.

The proponent's reliance on multiple planning exemptions and variations further compounds the unlawful scale and inadequate design of this proposal. The application seeks two distinct and highly material variations, which are inherently undermined by the project's unarticulated bulk:

- a) Unlawful Building Height: A variation for the maximum Building Height under the Housing SEPP (up to 25.59m) and,
- b) Unlawful Wall Height: A variation for the resulting Wall Height under the Mosman LEP 2012 (up to 20.7m, against a 7.2m local standard).

This double reliance on variances is highly unstable, especially since the site is located within the Scenic Protection Area (SPA), where the core planning objective is to minimise visual impact and share views from the harbour and surrounding foreshores.



The continuous vertical massing of the building critically fails the Apartment Design Guide (ADG) objectives designed to manage this bulk:

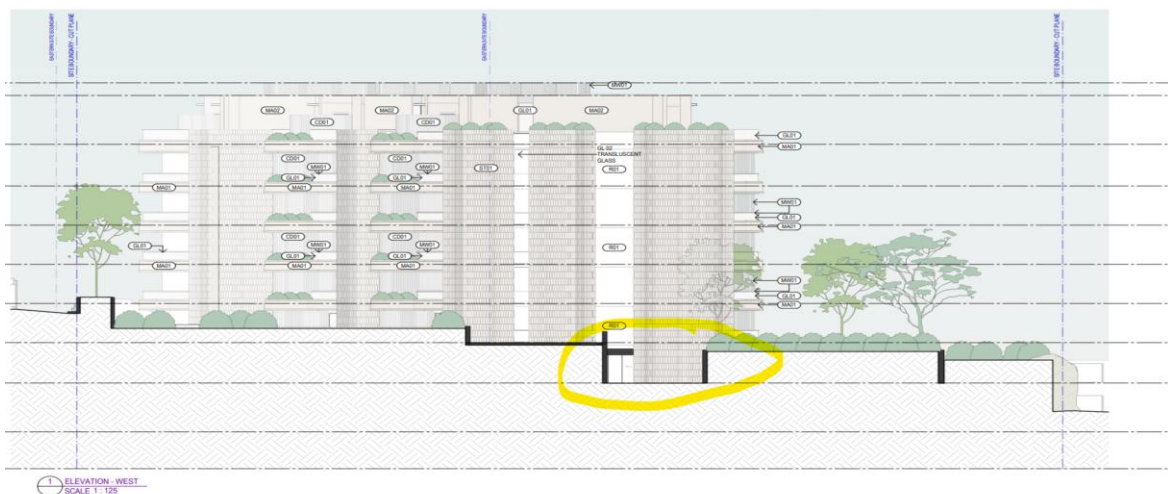
- c) Failure of Proportional Setback (ADG 2F & 2G): The General Elevations - South (DA3002) confirms the massing presents as a continuous, sheer wall running vertically from the Ground Floor up to Level 6 (Level 7 in the floor system). This design violates ADG Objective 2F (Building Separation) and Objective 2G (Street Setbacks) which require building separation to be increased proportionally to the building height and the upper levels to be recessed to achieve better amenity and privacy.
- d) Unmitigated Visual Bulk: The failure to introduce a substantial step-back at the mid-levels (such as Level 4) maximizes the visible bulk, creating an

unacceptable, monolithic structure that is contrary to the urban design principles of articulation and scale management in a sensitive transition zone.

Granting a variation that permits a Wall Height of 20.7 metres—an exceedance of approximately 13.5 metres above the local standard—in the SPA, while simultaneously failing to modulate the vertical bulk as required by ADG 2F, is inherently contrary to the public interest, the objectives of the Scenic Protection Area, and the principle of orderly development. The sheer, unarticulated mass introduced by these non-compliant heights establishes an unacceptable visual precedent that will permanently and adversely affect the scenic quality of the Mosman Bay townscape.

### 3) Undocumented Boundary Access and Privacy Contradiction

The insertion of an undocumented, structural opening—likely a utility access hatch, maintenance point, or basement ventilation light well—at the base of the western façade fundamentally invalidates the **Proponent's** entire strategy for managing the sensitive interface with 25 Rangers Avenue.



#### a) Contradiction of Privacy Mitigation Strategy (ADG Objective 3F):

- i. **The Promise:** The **Proponent** promised that visual screening would be enhanced by planting "**large trees**" and "**mature plants**" along the western boundary, and that the only architectural openings would be a single translucent window.

- ii. **The Breach:** The existence of a permanent **access point/hatch** at the boundary line directly next to sensitive areas (children's bedrooms, glass-roofed children's bathroom, and pool area) creates an unacceptable visual intrusion risk. This requires regular maintenance access, meaning workers will gain an unmitigated, direct line-of-sight into the highly private and vulnerable spaces of our home. This is a severe breach of **ADG Objective 3F (Visual Privacy)**.

b) **Acoustic and Environmental Intrusion (ADG Objective 4H):**

- i. If this opening is designed as a **basement ventilation system** (common on the lowest exposed levels of deep basement structures), it introduces a continuous acoustic threat.
- ii. **ADG Objective 4H (Acoustic Privacy)** guidance mandates that noise sources such as "**garage doors, driveways, service areas, plant rooms... should be located at least 3m away from bedrooms**". Since the proponent's setback is only 3.0 metres to the nearest building line, locating a service opening *on* the boundary line subjects our **Habitable Rooms** (children's bedrooms) to unacceptable and continuous mechanical noise.

c) **Compromise of the Deep Soil Zone (DSZ) (ADG Objective 3E):**

- i. The **Proponent's** promise of a green buffer is predicated on the 3.0-metre setback functioning as a Deep Soil Zone for planting.
- ii. The structural requirement of this access point—which extends to the Basement/Lower Ground structure (RL 44300)—means that this area is now a permanent hardstand or structural element, directly contradicting the need for soil and the long-term viability of any large, mature tree planting. This reinforces the finding that the design **fails to meet the ADG's 6.0-metre minimum dimension for Deep Soil Zones**, rendering the entire vegetative screening claim null and void.

**Demand:** No structural openings, service access points, or ventilation apertures are permissible on the western boundary where they compromise the ADG's visual privacy and acoustic amenity standards for adjoining **Habitable Rooms**.

#### 4) CUMULATIVE FAILURES AND THE PUBLIC INTEREST TEST

The scale and bulk of the proposal are fundamentally incompatible with the principles of **orderly development** and **site suitability**.

Failure Category	Argument Summary	Policy Standard Violated
<b>Unlawful Scale</b>	The proposal's height (7 storeys) relies on the <b>IAH bonus</b> despite being located in the <b>Scenic Protection Area (SPA)</b> , where the <b>Mosman LEP 2012</b> requires variations to <b>minimise visual impact</b> and <b>share views</b> from the harbour. The extreme variation requested (20.7m wall height vs. 7.2m local standard) is contrary to the SPA's core objectives.	<b>MLEP Clause 4.3A(4)</b> and <b>Scenic Protection Area Objectives</b>  <b>Failure of ADG 2F, 2G and 2H</b>
<b>Failure to Meet ADG Amenity Minimums</b>	25 Rangers Avenue has <b>3 children's Bedrooms, a Kitchen, Dining, and Living Room</b> adjoining this boundary along with two bathrooms (one with a glass roof), a swimming pool and Primary Private Open Space. Bedrooms (Habitable Rooms by definition) are located on all levels of the Proposed Development. Suggesting a <u>minimum</u> of <b>12.0m for lower levels (1-4), 18.0m for upper levels (5-7)</b> .	<b>Failure of ADG 2F &amp; 2H</b>
<b>Failure of Upfront and Ongoing Community Engagement:</b>	Deliberate failure to adhere to the mandatory requirements for <b>upfront and ongoing engagement</b> as stipulated by the <b>DPHI's</b> guidelines. The setback to 25 Rangers was not advised until 21 November, yet the Architectural drawings were finalised 5 November, thereby compromising the integrity of the Environmental Impact Statement (EIS). Clear failure to allow for a substantive response to material design non-compliance (specifically Habitable Setback / deep soil zones / Pedestrian access / site isolation) before lodging the EIS.	<b>DPHI's Undertaking Engagement Guidelines for State Significant Projects</b>
<b>Unorderly Development &amp; Isolation</b>	The minimal setback and massive bulk risk <b>sterilizing the development potential</b> of adjacent, smaller allotments (9 and 9A Rangers Avenue), leaving them as isolated, unviable sites. This is contrary to the principle of <b>orderly</b>	<b>EP&amp;A Act, s. 1.3</b>

Failure Category	Argument Summary	Policy Standard Violated
	<p><b>and progressive development of land</b> (EP&amp;A Act, s. 1.3) and <b>ADG Objective 2H</b>, especially given the ongoing Mosman Masterplan process, which could render all of Rangers not developable.</p>	
<p><b>Pedestrian Safety</b></p>	<p>The proponent's route to the Cremorne Town Centre relies on crossing a <b>Regional Road (Spofforth Street)</b> via an <b>unmarked "pram ramp"</b> (not a statutory pedestrian crossing) and using <b>Bloxsome Lane</b> which lacks a public footpath. This is an unacceptable public safety risk that invalidates the "Accessible Area" claim.</p>	<p><b>Housing SEPP "Walking Distance" Definition &amp; Roads Act 1993, S. 138</b></p>
<p><b>Structural Risk</b></p>	<p>The deep basement excavation (~10m) within <b>30cm</b> of the footings of the unreinforced 1900s structure at 25 Rangers Avenue is an unacceptable liability. The EIS fails to provide the required certified engineering design to comply with the mandatory <b>EP&amp;A Regulation Clause 28 (formerly 98E)</b> to protect our home.</p>	<p><b>EP&amp;A Regulation 2021, Clause 28</b></p>

## DEMAND FOR REFUSAL OR DEFERRAL

The integrity of this application is critically undermined by the **Proponent's** compounding failures across procedural, statutory, and safety domains.

The **DPHI** is required to assess this submission against the principle of **orderly and progressive development of land**. We demonstrate that granting consent to this non-compliant EIS is contrary to the public interest, undermines procedural fairness, and exposes the **DPHI** to unacceptable liability.

Given the quantifiable amenity failures, and the unacceptable structural risk, we formally demand that the **Department of Planning, Housing and Infrastructure (DPHI)** take one of the following actions:

1. **Refuse the Application:** Based on the conclusive legal ineligibility for the Housing SEPP bonus and the failure to mitigate the measurable ADG amenity, structural, and pedestrian safety impacts.
2. **Deferral/Suspend Assessment:** Should the **DPHI** not refuse consent outright, we demand the immediate **suspension of the assessment and exhibition period** until the Mosman Masterplan is completed to ensure the development of the land is **orderly and progressive**.

To proceed with the assessment of this demonstrably non-compliant EIS is contrary to the public interest, undermines the principle of orderly development, and breaches the **DPHI's** commitment to procedural fairness for adjoining landowners.

**Statement of Intent and Reservation of Rights:**

This submission is made in good faith and solely to assist the **Department of Planning, Housing and Infrastructure (DPHI)** in its statutory assessment of State Significant Development Application SSD-96272465. Our concerns regarding the **Proponent's** conduct (concealment, misrepresentation) are based on factual contradictions found within the publicly available EIS documents and are necessary to ensure the integrity of the **SSD** process. We rely on the statutory protections afforded to submissions made to a consent authority in the course of its planning duties. Furthermore, while we confirm our immediate intention to retain 25 Rangers Avenue as our long-term residential home, we hereby **expressly reserve all future rights** to develop our property in accordance with any applicable planning controls, including the Low and Mid-Rise Housing Policy. This reservation is necessary to challenge the **Proponent's** claim that their non-compliant 3.0m setback is justified by the future development potential of our site.

Yours sincerely,

Sarah Roach