SUBMISSION ON STATE SIGNIFICANT DEVELOPMENT APPLICATION

Field	Detail
Application	SSD-84322496
Project Name	Mixed Use Development — Green Square Town Centre, Sites 8 and 19
Applicant	Mirvac Green Square Pty Limited (ABN 81 131 815 079)
Address	411 Botany Road and 6 Geddes Avenue, Zetland NSW
Submitted to	Department of Planning, Housing and Infrastructure
Date of submission	19 March 2026

Addressing and Purpose

This submission is made to the Department of Planning, Housing and Infrastructure (DPHI) in relation to State Significant Development Application SSD-84322496, currently on public exhibition. It is directed to the Minister for Planning and Public Spaces, the Hon. Paul Scully MP, as consent authority under EP&A Act s.4.36, and to the Housing Delivery Authority as the Minister's delegate, as the body that must be satisfied of the statutory matters raised herein before development consent can lawfully be granted.

The submission raises four grounds, each identified by reference to the applicant's own lodged documents. The grounds are presented in order of legal priority. Each ground identifies: the statutory requirement the consent authority must satisfy; the specific deficiency in the application documents; and the legal consequence — what the Minister cannot lawfully do unless and until that deficiency is resolved.

This submission does not challenge the HDA pathway. It engages the applicant's own documents on their merits and identifies deficiencies that must be resolved within that pathway before consent can be granted.

Ground A — Design Excellence: The Statutory Compliance Table Misrepresents the Design Review Panel's Finding

A.1 Statutory requirement

Clause 6.9(3) of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 (GSLEP) requires that development consent must not be granted unless, in the opinion of the consent authority, the proposed development exhibits design excellence. The consent authority's opinion must be formed on the basis of the matters set out in Clause 6.9(4).

For development of this scale and cost, Clause 6.9(5) of the GSLEP requires a competitive design process. That requirement was waived by an Alternative Design Excellence Strategy (ADES) endorsed by the Government Architect NSW on 23 September 2025 and replaced

with review by a Project-Specific Design Review Panel (DRP). Under the ADES, and as stated in the ADES disclaimer lodged as Appendix J:

> *When determining any future SSDA or State-assessed rezoning applications, the consent authority will consider the advice of the Project-specific Design Review Panel (DRP) to ensure the proposed development exhibits design excellence in accordance with clause 6.9(3) of the SLEP 2013.*

The DRP's advice is therefore the instrument through which the consent authority must form its opinion under Clause 6.9(3). What the DRP found is, accordingly, the central factual question for this ground.

A.2 What the DRP found

The DRP's advice letter for DRP Meeting 2.4, dated 9 December 2025 and signed by Elizabeth Carpenter (GANSW Nominee, Chair) on behalf of all five panel members, is lodged as Appendix Z2 of this application. Its concluding finding is stated in terms:

> *"It is the Panel's view that the proposal as presented does not yet achieve design excellence. All the items raised in this advice must be satisfactorily addressed for Stages 4 and 5 of the project to have the potential to exhibit design excellence."*

The letter identifies 21 specific outstanding items across the scheme and individual sites before closing with:

> *"...the above recommendations should be addressed in any future SSD Application in order for the proposal to be considered as achieving design excellence."*

This is an unequivocal finding. The DRP did not positively find design excellence. It found the opposite, identified the conditions that must be met, and specifically contemplated that a future SSD application — that is, this application — would need to address all 21 items before design excellence could be considered achieved.

A.3 What the Statutory Compliance Table claims the DRP found

The Statutory Compliance Table (Appendix C) is the applicant's own mandatory characterisation of compliance with every applicable statutory requirement. Its entry for Clause 6.9 (Design Excellence) of the GSLEP states:

> *"The Alternative Design Excellence Strategy comprised of the review of the scheme by a project specific design review panel, which have demonstrated that the proposed development achieves design excellence."*

This statement is directly and verifiably false. The DRP did not demonstrate that the proposed development achieves design excellence. The DRP found that the proposal does not yet achieve design excellence and listed conditions that must be satisfied for it to have the potential to do so. The DRP's own letter, which says precisely this, is lodged in the same application package as Appendix Z2.

A.4 No further DRP review was conducted before lodgment

The application was lodged on 19 February 2026 — ten weeks after the DRP2.4 finding of 9 December 2025. The DRP's advice contemplated further review before lodgment. The application documents contain Appendix Z1, the applicant's own written responses to each of the 21 DRP items. No further DRP advice letter — no DRP2.5 or DRP3 — is included in the lodged documents. The applicant has unilaterally self-assessed its responses as adequate without returning to the DRP for independent confirmation.

A self-assessment by the applicant's own consultant of the adequacy of the applicant's own responses to the DRP is not a substitute for a further independent DRP review. The ADES process to which the applicant committed — and which replaced the competitive design

process that Clause 6.9(5) would otherwise require — included a commitment to address DRP recommendations. That commitment has not been fulfilled.

A.5 The structural integrity of the DRP process

Two additional features of the DRP process compound the concern:

- Two of the five DRP members — Matthew Pullinger and Tai Ropiha — were nominated by the applicant. A body with two applicant-nominated members out of five is not structurally equivalent to the competitive design process that Clause 6.9(5) otherwise requires for development exceeding RL75 or $100 million in cost. This application exceeds both thresholds by a wide margin.
- The DRP2.4 advice letter itself states it was "compiled with the assistance of Colliers Urban Planning as the applicant's independent consultant." Colliers Urban Planning is the same firm that prepared the Statutory Compliance Table (Appendix C), the SEARs compliance table (Appendix A), and the Response to DRP Comments (Appendix Z1). A panel advice letter drafted by the applicant's own planning consultant and then cited in the applicant's compliance table as demonstrating design excellence raises an obvious question of circular process integrity.

A.6 Legal consequence

The Minister cannot be satisfied that Clause 6.9(3) of the GSLEP has been complied with on the basis of a Statutory Compliance Table that states the DRP has demonstrated design excellence when the DRP's own advice letter, lodged in the same application, states the opposite. The contradiction between Appendix C and Appendix Z2 is not a matter of interpretation — it is a direct factual conflict between two documents prepared and lodged by the same applicant.

The provision of a false statement in the Statutory Compliance Table about what the DRP found also engages EP&A Act s.10.6, which makes it an offence to provide false or misleading information in or in connection with a development application. It further engages the REAP certification obligation: Timothy Ward (REAP R80023) has declared the EIS to be neither false nor misleading, but the Clause 6.9 entry in Appendix C is demonstrably false on the face of Appendix Z2.

Development consent cannot lawfully be granted under Clause 6.9(3) of the GSLEP unless a further, independent DRP review is conducted following the applicant's design revisions, and that review positively finds that the proposal exhibits design excellence. The current application documents do not support that finding.

Ground B — Concurrent Rezoning: No Independent Planning Rationale

B.1 Statutory requirement

A concurrent rezoning under EP&A Act s.3.39 permanently amends the applicable local environmental plan for all time and all future owners of the land. The LEP-Making Guideline (DPHI) requires that a planning proposal demonstrate independent strategic merit — the proposed controls must make strategic planning sense in their own right, not merely serve to accommodate a specific development proposal.

The concurrent rezoning in this application seeks to: (a) increase the maximum FSR across the site; (b) increase the maximum height of buildings on Sites 8A, 8C and 19A; (c) extinguish Clause 4.4A of the GSLEP; and (d) exclude Clause 6.5 (addressed under Ground

C below). The strategic merit of each of these permanent amendments must be independently justifiable.

B.2 What the rezoning actually does: FSR and height

Section 4.2 of the EIS (Table 12) sets out the proposed amendments. The existing and proposed controls are reproduced below.

Area / Site	Existing Control	Proposed Control
Stage 4 (Sites 8A–8D) — FSR	5.36:1	5.9:1
Stage 5 (Sites 19A–19B) — FSR	0.3:1 (plus Cl.4.4A non-residential bonus)	8.67:1
Whole site — FSR (blanket)	—	6.78:1
Site 8A — Height	RL53–RL115 (range)	Blanket 101m / RL115
Site 8C — Height	RL38–RL102 (range)	Blanket 101m / RL116
Site 19A — Height	RL38–RL93.5 (range)	Blanket 98m / RL115

The applicant's own statement of purpose for these amendments is found in Section 4.1 of the EIS:

> *"The key objective of this Chapter is to amend the GSLEP to allow additional height and FSR on the site to accommodate the mixed-use development described in Section 3.0."*

Section 3.0 is the description of the applicant's own proposed buildings. By its own account, the rezoning's purpose is to accommodate this specific development. No independent strategic planning rationale is offered. The proposed FSR ceiling of 6.78:1 (site-wide blanket) and 8.67:1 (Stage 5) are calibrated to what the applicant's scheme requires, not to any independently assessed optimal intensity for the land.

A permanent LEP amendment with no stated purpose other than to accommodate a specific development proposal does not constitute the independent strategic merit the LEP-Making Guideline requires. The controls, once embedded in the GSLEP, will govern all future development on this land regardless of whether Mirvac proceeds with the current scheme.

B.3 The Clause 4.4A abolition — the most significant and least justified element

The proposed exclusion of Clause 4.4A of the GSLEP is the most consequential and least-reasoned element of this concurrent rezoning. Section 4.2.2 of the EIS describes it in these terms:

> *"Clause 4.4A currently allows development on land in Area 1 (Stage 5) to exceed the 0.3:1 mapped FSR control by up to 44,400sqm for a variety of non-residential uses. It is proposed that this clause be switched off for the purposes of the HDA rezoning, and the FSR required to accommodate the development of the HDA scheme is applied instead."*

Clause 4.4A is not a technical provision. It is the GSLEP's own instrument for ensuring that the Stage 5 land — which has a deliberately low base residential FSR of 0.3:1 — delivers genuine non-residential, employment-generating and commercial uses that fulfil the MU1 Mixed Use zone objectives and the town centre vision underlying the GSLEP. The clause

offers a generous bonus of up to 44,400 sqm above that low base, but that bonus is exclusively conditioned on non-residential use. It represents a considered planning policy judgment: high commercial intensity on Stage 5 is desirable; high residential intensity on Stage 5 is not, and the existing controls do not permit it.

The concurrent rezoning proposes to extinguish this mechanism permanently and replace it with an unconditioned FSR of 8.67:1 — a factor of approximately 29 times the current base residential control. In exchange for the permanent loss of 44,400 sqm of non-residential capacity incentive, the community receives an unconditional residential-dominated intensity with no mechanism to recover the commercial and employment-generating outcome the current LEP was designed to produce on this land.

The only justification offered in the EIS for extinguishing Clause 4.4A is that the applicant's HDA scheme requires a different FSR arrangement. There is no analysis of what planning purpose Clause 4.4A was designed to serve, no assessment of whether that purpose has been or will be achieved by other means, and no strategic basis for concluding that permanently removing it is consistent with the zone objectives or the town centre vision of the GSLEP.

This absence of justification is compounded by the DRP's own finding on the non-residential component of the scheme. The DRP2.4 advice (Appendix Z2) states as a Site Wide Expectation:

> *"There should be a more meaningful introduction of complementary non-residential uses at Level 1 and potentially in basement locations... This will allow the development to move away from what currently presents as a concentrated residential precinct towards a more engaging range of non-residential uses (not just retail), to meeting the LEP objective of a town centre."*

The DRP — a body that includes the applicant's own nominees — has found that the scheme in its current form does not meet the town centre objectives of the GSLEP. Clause 4.4A is the legislative instrument that was designed to incentivise the non-residential outcome the DRP says is still absent. Permanently extinguishing it on the basis of no independent planning rationale, while the scheme itself fails the zone objectives it was designed to serve, cannot be justified under any credible planning merit assessment.

B.4 Infrastructure capacity

Clause 4.4 of the GSLEP requires that development intensity be commensurate with the capacity of existing and planned infrastructure. The EIS addresses infrastructure capacity in Section 5.2.2 in a single paragraph asserting proximity to Green Square Station and Waterloo Metro. No quantified infrastructure capacity assessment is provided that tests the additional demand generated by the proposed intensification — particularly the Stage 5 FSR increase from 0.3:1 to 8.67:1 — against the planned infrastructure provision program.

Green Square is the precinct in metropolitan Sydney where the consequences of calibrating residential density without adequate infrastructure assessment are most documented. The consent authority cannot be satisfied that the proposed FSR increases are commensurate with infrastructure capacity on the basis of a proximity assertion.

B.5 Legal consequence

The Minister cannot be satisfied that the concurrent rezoning demonstrates the independent strategic merit required by the LEP-Making Guideline when the applicant's own EIS states the rezoning's purpose is to accommodate the applicant's own development. The Minister cannot permanently amend the GSLEP to extinguish Clause 4.4A — the only mechanism in the current LEP incentivising non-residential use on Stage 5 land — without an independent planning rationale for that extinguishment, when the DRP has found the current scheme fails the town centre objectives that Clause 4.4A exists to serve.

Ground C — Affordable Housing: Simultaneous Surrender of Two Community Protections

C.1 Statutory requirement

One of the fundamental objects of the EP&A Act is stated at s.1.3(d): the promotion of the delivery and maintenance of affordable housing. In discharging its assessment obligations under s.4.15, the consent authority must have regard to the provisions of all applicable environmental planning instruments, including Clause 6.5 of the GSLEP.

Clause 6.5 of the GSLEP is the statutory affordable housing mechanism for development within the Green Square Town Centre. It requires that a proportion of residential floor space be provided and maintained as affordable housing, managed by a registered community housing provider.

C.2 What the concurrent rezoning does to Clause 6.5

The concurrent rezoning expressly seeks to exclude Clause 6.5 from applying to this development. Section 4.2.2 of the EIS states:

> *"Therefore, it is recommended that the GSLEP's percentage rates detailed in clause 6.5 do not apply to this proposal."*

The Statutory Compliance Table (Appendix C) entry for Clause 6.5 confirms: "an alternative and bespoke approach to affordable housing provision is proposed and it is sought to exclude clause 6.5 from applying to the development."

C.3 The dual surrender

This application simultaneously seeks to: (a) permanently increase the height and FSR controls applicable to the land — thereby increasing the development value and yield, and with it the scale of the affordable housing obligation that Clause 6.5 would otherwise generate; and (b) permanently exclude Clause 6.5 from applying to that increased yield.

The planning controls that the concurrent rezoning seeks to raise were established in a framework that included the Clause 6.5 obligation as a component of the overall package available to the community in exchange for permitting high-intensity development on this land. The community is being asked to surrender the height and FSR protections and the statutory affordable housing obligation simultaneously, on the basis of a substitute arrangement offered by the applicant.

This is in direct tension with s.1.3(d) of the EP&A Act. The consent authority must address that tension affirmatively under s.4.15. It cannot be resolved by reference to the applicant's characterisation of its own substitute arrangement as superior.

C.4 The substitute arrangement is not equivalent

The proposed substitute is 60 affordable dwellings across the entire GSTC precinct — shared between Stage 3 (SSD-83899206) and this Stage 4/5 application. This application alone proposes approximately 750 residential dwellings and 350 student accommodation rooms across six buildings with a GFA of 94,893 sqm and an EDC of $893 million.

The DRP itself — a body that includes two applicant-nominated members — recorded at DRP2.4 (Appendix Z2) that it:

> *"...would expect that the provision should meet or exceed the requirements of the City of Sydney's affordable housing program when measured on a reasonable comparative basis."*

The 60-dwelling figure shared across the entire precinct does not meet this standard on any reasonable comparative basis. Clause 6.5 would have required a statutory, in-perpetuity, LEP-secured obligation calibrated as a percentage of residential GFA. Whatever substitute commitment is proposed, it is secured by consent condition and a Section 88B instrument — instruments that are subject to future modification applications and do not carry the permanence and enforceability of a statutory LEP provision.

C.5 Legal consequence

The Minister cannot be satisfied that the concurrent rezoning is consistent with the objects of the EP&A Act, including s.1.3(d), where it simultaneously increases development yield and removes the statutory mechanism through which affordable housing obligations attach to development on this land, without demonstrating that the substitute arrangement is legally equivalent in quantum, tenure, duration and enforceability to what Clause 6.5 would otherwise have required. That demonstration has not been made.

Ground D — Zone Objectives: Density Increase for a Scheme That Fails the Zone

D.1 Statutory requirement

Under s.4.15(1)(a)(i) of the EP&A Act, the consent authority must take into consideration the provisions of applicable environmental planning instruments in determining a development application. The applicable zone is MU1 Mixed Use under the GSLEP. The zone objectives require a genuine integration of residential, commercial, retail and employment-generating uses — the zone framework presupposes mixed-use development, not predominantly residential development.

The height and FSR controls in the MU1 zone under the GSLEP were calibrated against an expected mixed-use outcome. A concurrent rezoning that increases those controls for a scheme that does not achieve the zone's mixed-use objectives is internally inconsistent with the zone framework within which the increased controls would sit.

D.2 The DRP's finding on zone objectives

The DRP's own advice at DRP2.4 (Appendix Z2) directly addresses the zone objectives question as a Site Wide Expectation — the first and highest-order category of recommendation. The DRP states:

> *"The overarching objectives of the Green Square LEP — to create a town centre — should be further amplified in these final stages given these buildings will form the centre of the Green Square precinct and define its key public space — the plaza... This will allow the development to move away from what currently presents as a concentrated residential precinct towards a more engaging range of non-residential uses (not just retail), to meeting the LEP objective of a town centre."*

The DRP describes the current scheme as "a concentrated residential precinct." The DRP finds it does not yet meet the LEP objective of creating a town centre. These are not minor design observations — they go directly to whether the development is consistent with the zone objectives that underpin the controls the concurrent rezoning seeks to increase.

D.3 The non-residential quantum

The EIS states (Section 7.1.1 of the Rezoning Statement strategic merit assessment) that the development will deliver "some 3,149sqm of non-residential floorspace" from a total GFA

of 94,893 sqm. Non-residential floor space represents approximately 3.3% of total GFA. The concurrent rezoning simultaneously extinguishes Clause 4.4A — the only mechanism that would have incentivised a substantially higher non-residential component on Stage 5 — and replaces it with an unconditional FSR that permits the current predominantly residential outcome.

D.4 Legal consequence

The Minister cannot be satisfied that increasing height and FSR controls within the MU1 Mixed Use zone is consistent with the zone objectives, or with the provisions of the GSLEP as required by s.4.15(1)(a)(i), when the DRP — the body the ADES substituted for the competitive design process — has found that the scheme does not meet the LEP objective of creating a town centre, and the non-residential component represents approximately 3.3% of total GFA. Increasing density controls for a development that fails its zone objectives is inconsistent with the zone framework those controls were designed to serve.

Conclusion

Each of the four grounds above is established by reference to documents lodged by the applicant in this application. No external evidence is required. The grounds are summarised as follows:

Ground	Deficiency	Legal consequence
A — Design Excellence	Statutory Compliance Table (Appendix C) states DRP demonstrated design excellence. DRP advice letter (Appendix Z2) states the opposite. No further DRP review conducted before lodgment.	Minister cannot be satisfied Cl.6.9(3) GSLEP is met. Further independent DRP review required before assessment proceeds.
B — Concurrent Rezoning	EIS states rezoning purpose is to accommodate the applicant's own development. Clause 4.4A extinguished with no independent planning rationale. DRP finds scheme fails town centre objectives.	Minister cannot be satisfied concurrent rezoning has independent strategic merit required by LEP-Making Guideline.
C — Affordable Housing	Concurrent rezoning simultaneously increases yield and excludes Cl.6.5. Substitute (60 dwellings shared across two SSDAs) not demonstrated to be legally equivalent to Cl.6.5 obligation.	Minister cannot be satisfied rezoning is consistent with s.1.3(d) EP&A Act without demonstrated equivalent substitute.
D — Zone Objectives	DRP finds scheme is 'a concentrated residential precinct' that does not meet LEP town centre objective. Non-residential GFA is ~3.3% of total.	Minister cannot be satisfied density increase is consistent with MU1 zone objectives or GSLEP provisions under s.4.15(1)(a)(i).

The applicant's own documents, taken together, reveal that: the design excellence compliance claim directly contradicts the DRP's written finding; the concurrent rezoning extinguishes a significant non-residential incentive mechanism with no independent justification; the affordable housing substitute is not demonstrated to be equivalent to the

statutory obligation it replaces; and the DRP itself finds the scheme fails the zone objectives within whose framework increased controls are sought.

These are not matters on which the Minister can accept the applicant's self-assessment. Each requires independent resolution before development consent can lawfully be granted.

Name and Address Withheld
19 March 2026