



30 March 2026

Our Ref: 0394A

Your Ref: SSD - 93020230

The Secretary
New South Wales Department of Planning, Housing and Infrastructure
Locked Bag 5022,
PARRAMATTA NSW 2124

Attention: **Ms Edwina Ross**
majorprojects.planningportal.nsw.gov.au

Dear Sir/Madam,

**OBJECTION TO SSD 93020230 40-48 REDAN STREET, MOSMAN
PROPOSED DEMOLITION WORKS AND CONSTRUCTION OF A PART 10-STOREY AND
PART 5-STOREY PROPOSED RESIDENTIAL FLAT BUILDING CONTAINING 53
RESIDENTIAL DWELLINGS (INCLUDING 11 AFFORDABLE HOUSING UNITS) WITH 2
LEVELS OF BASEMENT PARKING CONTAINING 106 RESIDENT PARKING SPACES
APPLICANT: MOSMAN LAND NO. 1 PTY LTD**

State Planning Services Pty Limited (**SPS**) has been commissioned by Hamid and Mastaneh Daghighi, owners of No. 77C Redan Lane, Mosman (**our clients**) to provide an independent town planning assessment of SSD 93020230 (**the proposal**) at Nos. 40-48 Redan Street, Mosman (**the site**).

An assessment having regard to the relevant matters for consideration under section 4.15(1) (**s.4.15(1)**) of the *Environmental Planning and Assessment Act 1979* (**EPA Act**) indicates that the proposal will create significant adverse environmental impacts on our clients' property at 77C Redan Lane, Mosman which is located opposite the site in Redan Lane.

SSD 93020230 could be perceived as the direct and foreseeable consequence of a series of compounding errors and omissions arising from the Applicant's failure to implement any thorough or adequate quality-assurance (**QA**) review of the documentation prepared for submission as part of the Environmental Impact Statement (**EIS**) lodged with NSW Department of Planning, Housing and Infrastructure (**DPHI**) in response to the Secretary's Environmental Assessment Requirements (**SEARs**) for determination by the NSW Minister for Planning and Public Spaces (**the Minister**).

This absence of proper QA scrutiny appears to have materially compromised the integrity, accuracy, and reliability of the material placed before the consent authority, resulting in a fundamentally flawed application that ought never to have been advanced in its submitted form.

On behalf of our clients, SPS respectfully requests that:

- DPHI not support any recommendation of approval for SSD 93020230; and
- SSD 93020230 be **REFUSED** by the Minister.

SUBJECT SITE

The site is a regular-shaped lot with a combined area of 3,233m², a main frontage of 89.6m to Redan Street (the site's eastern boundary) and a secondary frontage of 89.6m to Redan Lane (the site's western boundary) together with a depth of 36.575m. The site is located within the Mosman Municipal Council (**Council**) Local Government Area (**LGA**).

The site is zoned R3 - Medium Density Residential under *Mosman Local Environmental Plan 2012 (MLEP)*, as is land to the north, south and west. However, land to the east is zoned lower density, C4 – Environmental Living. Approximately half of the site is located within a scenic protection area.

Figures 1 and 2 indicates the relationship between our clients' property and Redan Lane at the rear of the site.



Figure 1 Subject Site and 77C Redan Lane, Mosman

The site slopes down generally from west to east (Redan Lane to Redan Street) with a northwest/south east crossfall. The contour of RL64.50 (being close to the north-western corner of No. 48 Redan Street) and the RL58.00 contour (located towards the south-east corner of No. 40 Redan Street) indicate a fall of approximately 6.5m.

In addition, a key distinguishing feature of Redan Street is the significant further change in level between the road carriageway and the footpath area of approximately 3m-4m where there are numerous older sandstone retaining structures and ramps together with established vegetation along the frontage of the site. Vehicular access to the site is currently via Redan Lane at the rear with the main pedestrian access from Redan Street (**Figure 3**).

Adjoining/surrounding development is generally categorised as single and attached dwellings 1-2 storeys in height. The site itself is not listed as a heritage item, or within a heritage conservation area, but there are numerous individually-listed heritage items in Redan Street and a nearby 'House' at 52 Almora Street (corner of Redan Lane) listed as an item of 'local' heritage significance in Schedule 5 of MLEP. In addition, Redan Street itself is listed as a heritage item in recognition of its unique character and streetscape features.

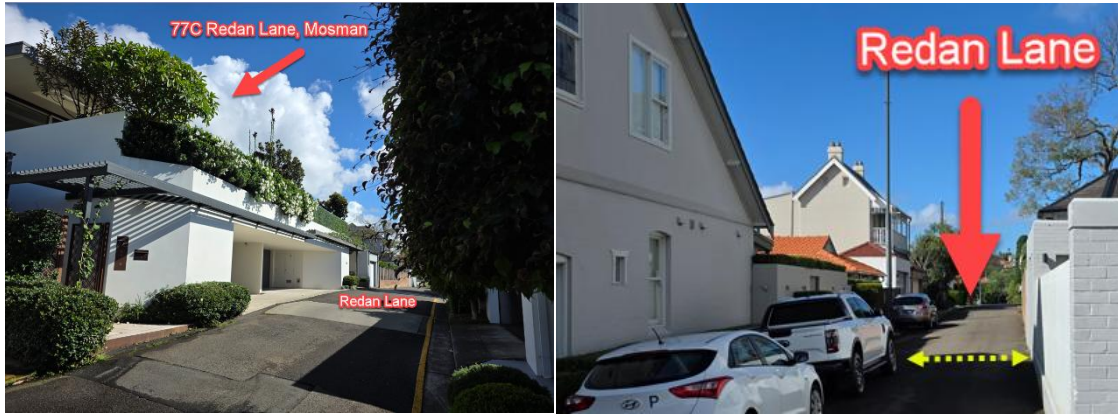


Figure 2 77C Redan Lane (Left) and Narrow Redan Lane (Looking South) with No Pedestrian Footpath (Right)



Figure 3 Established Pedestrian Access in Redan Street

PROPOSED DEVELOPMENT

The proposal includes demolition works and construction of a part 10-storey and part 5-storey residential flat building containing 53 residential dwellings (including 11 affordable housing units); with 2 levels of basement parking containing 106 resident parking spaces on the site.



Figure 4 'Rendered View of the Proposal' (Source: Applicants Architectural Design Report- fjcstudio)



Figure 5 Photomontage showing low density development in Redan Lane dwarfed by the development (Source: Applicants 'Visual Impact Analysis' prepared by Urbis).

OBJECTION TO SSD 93020230

SSD - 93020230 should be **REFUSED** by the Minister for the following reasons:

1. Section 4.15(1) of the EPA Act – Evaluation

The proposal is unsatisfactory having regard to Section 4.15(1) of the EPA Act as the site is not suitable for the development and will create significant adverse impacts on the built environment. In particular, SSD 93020230 is accompanied by an EIS that appears to be based on an incorrect assumption that the site is within a '*low and mid rise housing inner area*' under *State Environmental Planning Policy (Housing) 2021 (the Housing SEPP)*.

Hence, the relevant height/floor space ratio (**FSR**) and clause 4.6 requests within the EIS are also incorrect and potentially misleading as the site exceeds 400m safe 'walking distance' (as defined under Schedule 10 of the Housing SEPP) from the Spit Junction Town Centre. Neither the SEARs, nor the EIS itself properly identify that the site is located within a '*low and mid rise housing outer area*' (as per Sections 163, 176 and Schedule 10 of the Housing SEPP).

Specifically, the EIS appears to rely upon an incorrect calculation of 'walking distance' that can be safely walked by a pedestrian. SPS makes the important distinction between Redan Street and Redan Lane (emphasis in underline), having regard to Sections 163, 176 and Schedule 10 of the Housing SEPP together with the provisions of *Ritchie v Hills Shire Council* [2018] NSWLEC 1376).

The Applicant's Traffic Impact Assessment (**TIA**) prepared by JMT Consulting outlines the 'Walking route to Mosman Town Centre' (Figure 13/Page 16) which shows the route relied upon marked in green (**Figure 6**):

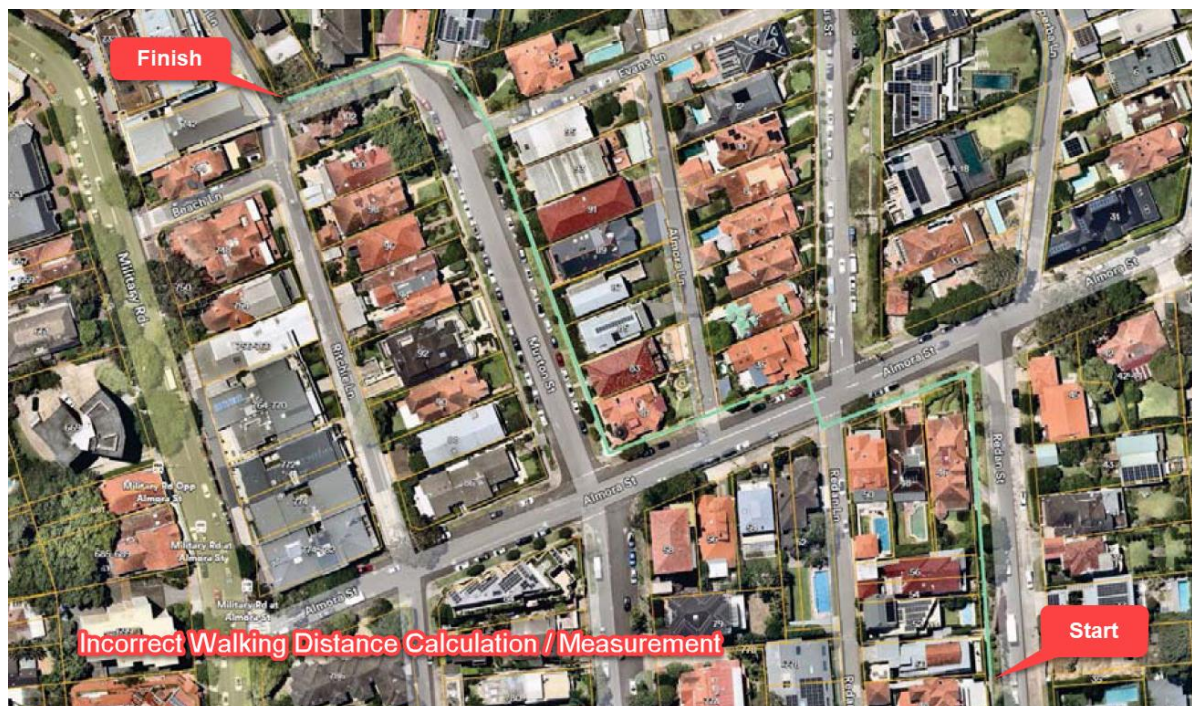


Figure 6 Base Extract from JMT Consulting TIA with Walking Route to Mosman Town Centre – Incorrectly Calculated

JMT Consulting describes the route in the TIA and states '*As advised by LTS Surveyors this walking route has a total distance of 394.7m to the nearest 0.1m.*' Although the walking route assessment in the TIA does not rely upon Redan Lane, the measurement of 394.7m is incorrect as the correct measurement of the green line in Figure 13 of the TIA is 404m (**Figure 7**).

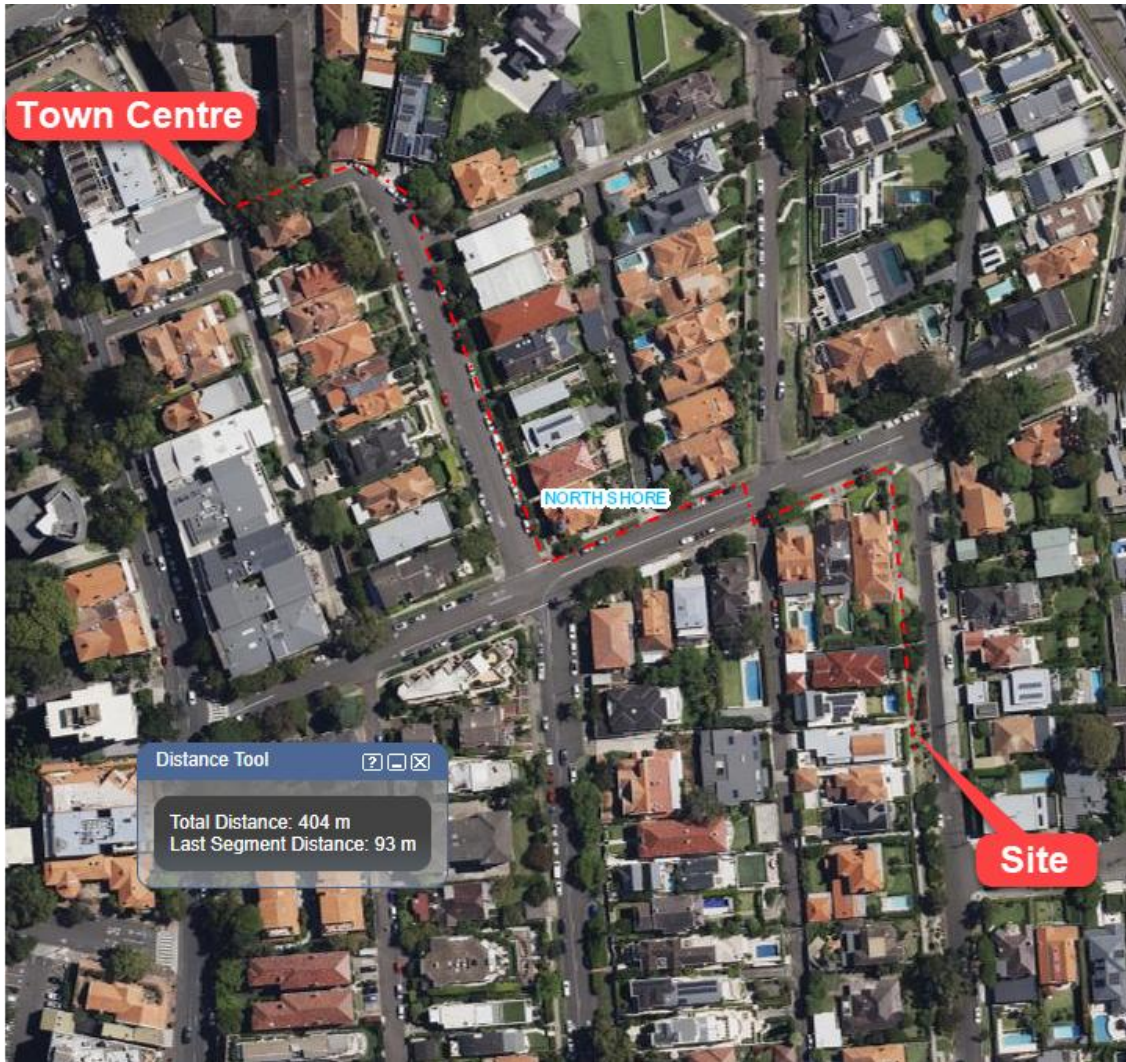


Figure 7 Correct Measurement of Green Line in Figure 13 of TIA relied upon by the EIS

The LTS Surveyors walking route is not provided with the EIS, but in any event, an actual walk of the green line route adopted by the application reveals that this route is neither conducive to being safely walked (including stairs and other obstacles such as parked cars), nor compliant with the definition of 'walking distance in schedule 10 of the Housing SEPP.

Furthermore, the TIA states:

'the walking route utilises established and formal pathways and footpaths on public land which are suitable for a pedestrian to walk. This includes formal footpaths along Redan Street, Almora Street and Muston Street. Whilst it is acknowledged that the walking route utilises Melaleuca Lane which does not provide for a formal footpath facility, this is still considered to represent a pathway that may be safely walked by a pedestrian.'

Although the TIA does not purport to rely upon Redan Lane as part of any walking route, the EIS nevertheless appears to rely upon an incorrect measurement of 394.7 metres, which has been used to falsely characterise the site as falling within a 'low and mid rise housing inner area' (as defined).

This misrepresentation is material and goes directly to the proper classification of the site under the applicable planning controls. The deployment of such an erroneous distance measurement constitutes a serious defect in the EIS, undermining the integrity of the assessment process and the reliability of the conclusions drawn in support of SSD 93020230.

In our view, it is important to clarify, that, Redan Lane cannot be relied upon by the Applicant for the purposes of calculating walking distance in the EIS for the following reasons:

- (a) no existing pedestrian footpath exists (refer **Figure 2**);
- (b) no pedestrian footpath is able to be provided due to the narrow width;
- (c) the narrow width of Redan Lane (approximately 4m – 5m) is exacerbated by vehicles legally parked in the lane which restricts its function to a single-lane/dual-direction operation with most drivers needing to give way to oncoming traffic - and even then, at a significantly reduced speed;
- (d) unable to be 'safely walked by a pedestrian' when combined with traffic usage as there is no margin for error and it would be inappropriate with the proposed intensification of development on the site to rely upon this lane as a shared pedestrian/traffic zone – particularly for parents with prams and elderly residents;
- (e) vehicles are already unable to drive in Redan Lane against oncoming traffic up to the legal speed limit due to its existing constraints which include an "S"-bend and narrow width that is not conducive to a safe shared pedestrian/traffic environment;
- (f) 'public footpaths are available to the main Redan Street frontage and therefore it would be 'reasonably practical' and far safer for the Redan Street frontage to be relied upon instead as it reduces risk to loss of life and injury associated with inevitable pedestrian/traffic conflict that could occur in Redan Lane;
- (g) When Redan Street is relied upon for walking distance from the Spit Junction Town Centre, it exceeds 400m which pushes this site into the category of an outer area instead of an inner area under the Housing SEPP. In doing so, this has a profound impact on the height and FSR controls that apply to the site;
- (h) Council in its *Notes of Prelodgement Meeting* for Nos. 52-56 Redan Street, Mosman dated 16 April 2025 stated very clearly that 'Redan Lane was not considered to provide for a safe walking route'; and
- (i) The Applicant's own Urban Design Report prepared by Tzannes (Appendix I) shows 'pedestrian routes' which, appropriately, does not include Redan Lane (**Figure 8**);



Figure 8 Urban Design Report, Tzannes – Extract showing Pedestrian Routes Not Inclusive of Redan Lane

The Applicant's proposal to include vehicular access from heritage-listed Redan Street and to propose construction access from Redan Lane is fundamentally untenable and must be rejected. In the case of vehicular access from Redan Street, this design inclusion is inconsistent with clause 5.10 of MLEP with respect to heritage conservation.

In the opinion of SPS, the application constitutes an ambit claim that far exceeds what could reasonably be approved on the site. Even a merit-based assessment without regard to the relevant minimum prescriptive controls indicates that the proposal contains excessive bulk and scale with associated adverse visual impacts and is inconsistent with the character of the surrounding locality with minimal (if any) regard to the scenic protection area, R3/C4 zoning transitions, or heritage items within the locality.

Section 163 of the Housing SEPP provides the following definitions that are relevant to this site:

low and mid rise housing area means—

(a) land within 800m walking distance of—

- (i) land identified as “Town Centre” on the Town Centres Map, or*
 - (ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or*
 - (iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station, and*
- (b) if a site area contains land identified in paragraph (a)—the site area.*

low and mid rise housing inner area means—

(a) land within 400m walking distance of—

- (i) land identified as “Town Centre” on the Town Centres Map, or*
 - (ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or*
 - (iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station, and*
- (b) if a site area contains land identified in paragraph (a)—the site area.*

low and mid rise housing outer area means—

(a) land between 400m and 800m walking distance of—

- (i) land identified as “Town Centre” on the Town Centres Map, or*
 - (ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or*
 - (iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station, and*
- (b) if a site area contains land identified in paragraph (a)—the site area, unless the site area is also in the low and mid rise housing inner area.*

Town Centres Map means the *State Environmental Planning Policy (Housing) 2021 Town Centres Map*.

Furthermore, Schedule 10 of the Housing SEPP provides the following definition that is also relevant to this site:

walking distance means *the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.*

Figure 9 indicates an extract from the ‘town centres map’ which identifies Spit Junction Town Centre relative to the location of the subject site.

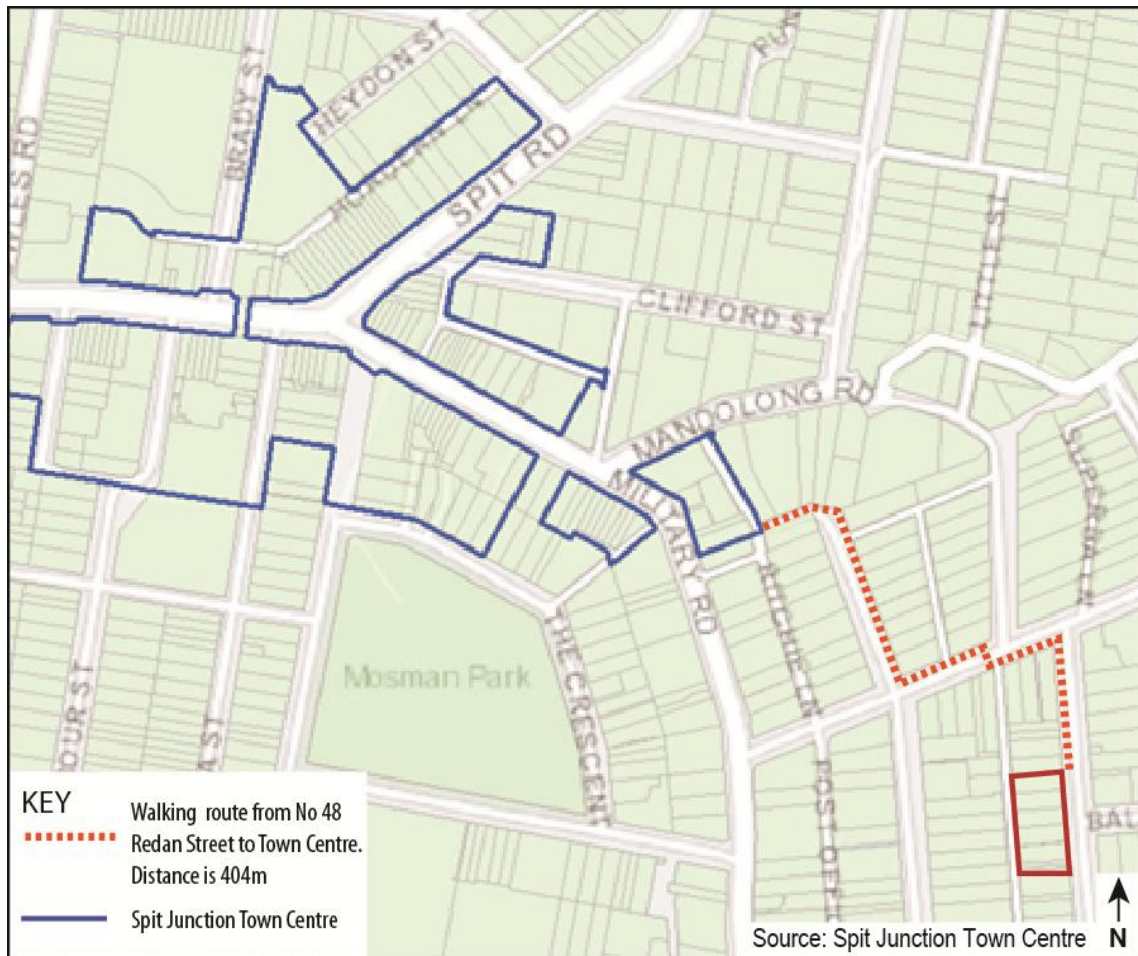


Figure 9 Spit Junction Town Centres map – Extract with SPS Mark-up in Red

Whilst the site is within a low and mid rise housing area, it exceeds 400m 'walking distance' of the Spit Junction Town Centre and therefore is appropriately categorised as a low and mid rise housing outer area.

Even without using the available pedestrian crossing and by disregarding slope, the site is measured well in excess of 400m from the edge of the nominated Spit Junction Town Centre via the footpaths that can be safely walked by a pedestrian to the Redan Street frontage.

If the route above is amended to include use of the pedestrian crossing and the slope of the footpaths is also factored in to the calculation, the distance measured increases considerably. Given that Section 163 of the Housing SEPP is directed to “walking distance”, there is at least scope to argue that the measurement should not be taken from the closest part of the site to the closest part of a Spit Junction Town Centre, but from the pedestrian entry and exit location of the proposed development on the site to the entry point of the Spit Junction Town Centre itself (as distinct from the boundary of the Spit Junction Town Centre).

Furthermore, in having regard to Schedule 10 of the Housing SEPP directing itself to “*a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings*” it is noted that a **pedestrian crossing is available** on Military Road and it would be reasonably practicable for prospective future residents to use this in accessing the Spit Junction Town Centre – in which case the distance would further increase well beyond the 400m ‘low and mid rise housing inner area’.

Under the Housing SEPP, development within the R3 zone that is within 400m of a nominated centre is permitted to have a maximum height of 22m, plus the 30% bonus height permitted under the Housing SEPP. In the case of SSD 93020230, the Applicant is proposing a further 16.8% above this. Based on the above calculations, the JMT Consulting/LTS Surveyors’ potentially erroneous measurement and the inappropriateness of relying upon Redan Lane for the purposes of safe walking distance, SPS contends that Applicant’s assumption that the site is within a low and mid rise inner area is incorrect.

Section 176 of the Housing SEPP is the correct provision that applies to the site given that it is located within a low and mid rise housing outer area and sets a maximum building height of 17.5m as follows:

176 Development standards—low and mid rise housing outer area

- (1) *This section applies to land in a low and mid rise housing outer area in Zone R3 Medium Density Residential or R4 High Density Residential.*
- (2) *Development consent must not be granted for development for the following purposes if a resulting building will have a building height of up to 17.5m unless the consent authority is satisfied that the building will have 4 storeys or fewer—*
 - (a) *residential flat buildings,*
 - (b) *buildings containing shop top housing.*
- (3) *In this section, a storey does not include a basement within the meaning of the standard instrument.*

In the opinion of SPS, the Applicant’s incorrect reliance upon Section 175 of the Housing SEPP instead of Section 176 of the Housing SEPP is both significant and potentially fatal to the application. The extent of amendments required would normally prompt withdrawal of SSD 93020230 and submission of a new application for assessment, or at the very least, re-notification of any amended design that varies significantly from the original.

Whilst the site is within the LMR area, the LMR has different provisions that apply for development within 400m of the nominated town centre and for development between 400-800m from the nominated town centre. The closest point of the nominated Spit Junction Town Centre is at the Melaleuca / Ritchie Lane intersection (i.e. not the E1 zone at the Almora Street / Military Road intersection), which exceeds 400m from the site.

SPS contends that the LMR provisions of 1.5:1 FSR and 17.5m height apply to this site with any subsequent bonus provision for affordable housing being in the order of 1.95:1 FSR and 22.75m

height. The EIS assumes that the FSR is 2.2:1 and height is 22m, which only applies if the development site is less than 400m from the Spit Junction Town Centre.

For clarity, the permitted height under the LMR provisions within Chapter 6 of the Housing SEPP is therefore 17.5m, not 22m. Similarly, the maximum FSR is only 1.5:1, not 2.1:1. The development proposes a significant increase over these controls, and then some – by proposing a further 16.8% above the incorrect provisions and attempting to formalise this in the absence of environmental planning grounds as part of a clause 4.6 request.

The proposed development significantly exceeds the LMR provisions as it has been assessed as being within 400m of the nominated centre, whereas it is more than 400m from the nominated centre.

In the opinion of SPS, the site is unsuitable for the proposed development (which has relied upon a potentially erroneous walking distance measurement and hence, has not been properly categorised as being within a 'low and mid rise housing outer area' under the Housing SEPP). The additional bulk and scale stemming from the proposal exceeding the relevant FSR/height controls – especially for a site that is partly located within a scenic protection area, is unsatisfactory having regard to s 4.15(1) of the EPA Act and therefore SSD 93020230 should be refused.

2. Inadequate R3 Medium Density Residential / C4 Environmental Living Zone Transition and Adverse Impact on Scenic Protection Area

The site is located at the interface with the C4 Environmental Living Zone located immediately opposite the site to the east in Redan Street. This C4 Environmental Living Zone extends a significant distance to the north and south of the Site, in recognition of the significant environmentally-sensitive land with high local amenity and aesthetic values in this location.

The C4 Environmental Living Zone has the following Zone Objectives:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To retain the single dwelling character of the environmentally sensitive residential areas of Mosman.*
- *To maintain the general dominance of landscape over built form, particularly on harbour foreshores.*
- *To ensure that sites are of sufficient size to provide for buildings, vehicular and pedestrian access and landscaping and to retain natural topographical features.*
- *To ensure that development is of a height and scale that achieves the desired future character of the area.*
- *To encourage residential development that maintains or enhances local amenity and, in particular, public and private views.*
- *To minimise the adverse effects of bulk and scale of buildings.*

The subject site is located on the interface between the lower density C4 – Environmental Living Zone, and, the R3 – Medium Density Residential Zone. It is universally accepted as good planning practice that urban design should incorporate a transition between lower density and higher density zones (also areas where lower height and/or density controls meet higher height/density areas).

Whilst Redan Street separates the two zones, this is insufficient to soften the visual impact of the proposal. The street block layout exacerbates this effect as generally street blocks are two properties in depth, the Redan Street/Redan Lane street block is only one residential block deep (36.575m). The shallow depth of the street block (and development site) does not permit the development to respect the slope of the land and 'step up' the site.

The proposal would directly conflict with almost all of the C4 Environmental Living zone objectives and does not offer a satisfactory 'transition'. In general, it proposes a building of significant visual bulk and scale, which will be out of character with the environmentally sensitive residential areas of Mosman.

The zoning of the subject sites is to provide housing that is compatible with the desired future character of the area in terms of bulk, height and scale. The proposed development would not have regard to the future character of the area given that any development in the C4 adjoining sites would not be to a height or scale of the proposed development.

There would be no cohesion from one side of the street to the other given that the subject sites already sit higher and would have 10 storey buildings. The height difference between the eastern side of Redan Street and the eastern side of Redan Lane would be totally unacceptable.

In addition to the site being at the interface between the two zones with the need to be considered as a transitional site, the eastern part of the site is also within the MLEP Scenic Protection Area (**Figure 10**).

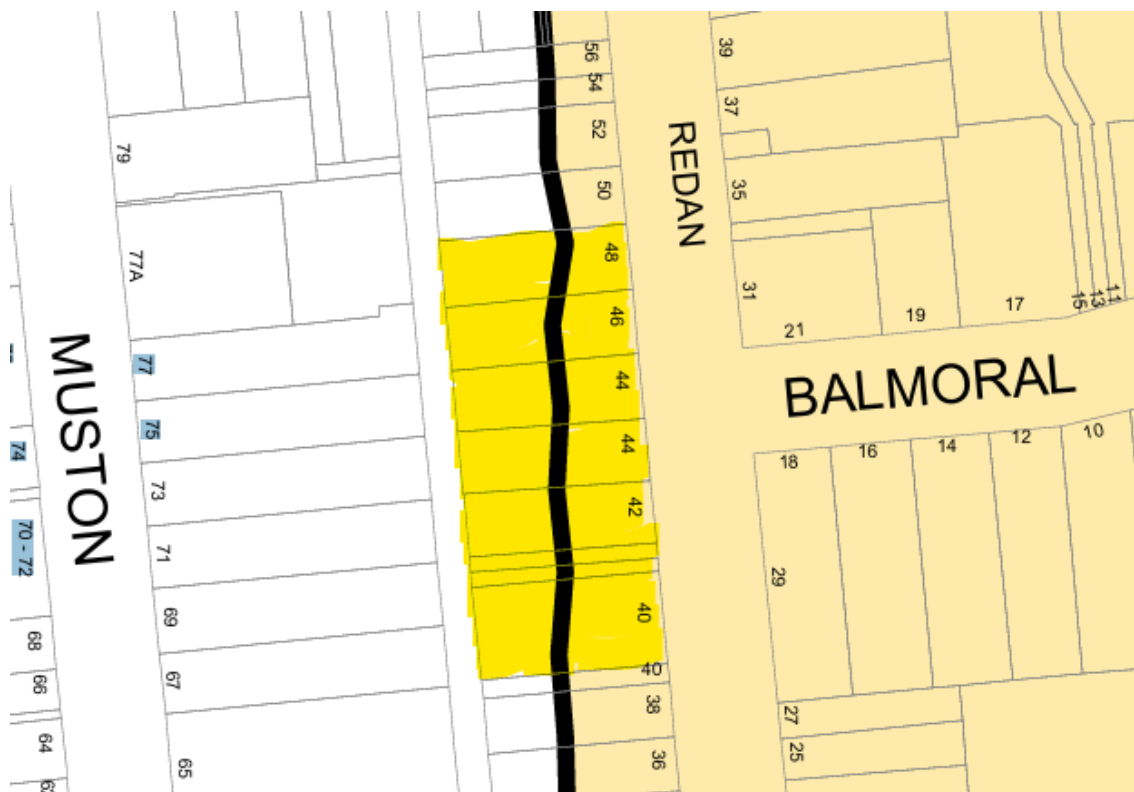


Figure 10 – The Mosman LEP 'Scenic Protection Area' bisects the site. (Source: MLEP 2012)

The objectives of the clause 6.4 Scenic Protection under MLEP are:-

- (a) to recognise and protect the natural and visual environment of Mosman and Sydney Harbour,*
- (b) to reinforce the dominance of landscape over built form,*
- (c) to ensure development on land to which this clause applies is located and designed to minimise its visual impact on those environments.*

Further, the clause states that:-

- (3) Development consent must not be granted to any development on land to which this clause applies unless the consent authority is satisfied that—*
 - (a) measures will be taken, including in relation to the location and design of the proposed development, to minimise the visual impact of the development to and from Sydney Harbour, and*
 - (b) the development will maintain the existing natural landscape and landform.*

The proposed 10 storey development, with building height and number of storey non-compliances does not protect the natural and visual environment, but rather reinforces the dominance of built form over landscape (the opposite of the objectives). The development also does not maintain the existing natural landscape and more particularly, the landform.

A major constraint of the site is its shallow depth, one house block deep, or just over 36m. This depth may be suitable for dwelling houses and low-density residential development, but is insufficient for a mid-rise flat building such as that proposed. The narrow depth does not allow the design to 'step up' the site and respect the natural contours of the land.

A linear, 'wall like' streetscape presentation is the result and although some attempt has been made to mitigate this with stepping of the development from south to north, this is an attempt to reduce the impact on the adjoining Heritage Item and reduce overshadowing and the east-west stepping that the development should exhibit is non-existent.

The gap between the two residential tower elements also seeks to mitigate the visual impact, but it is not sufficient to overcome the dominant visual impact of the development.

The design proposed also creates other impacts such as devastating impacts on views enjoyed from properties at No 73 Muston Street and No. 77C Redan Lane located to the west. These properties contain low density residential dwellings and will incur overbearing visual impacts and for these reasons the site is not considered suitable for the proposed development.

3. Incorrect / Misleading Information on Plans and Supporting Documentation

The architectural plans submitted with SSD 93020230 do not demonstrate the true representation of the proposal relative to the adjoining sites.

When viewed from the front of the site in Redan Street, the East Elevation drawing in the Architectural Plan set prepared by FJC Studio incorrectly shows a taller building to the left side of the site (i.e. to the south), yet there has been no approval granted for any such building (**Figure 11**).

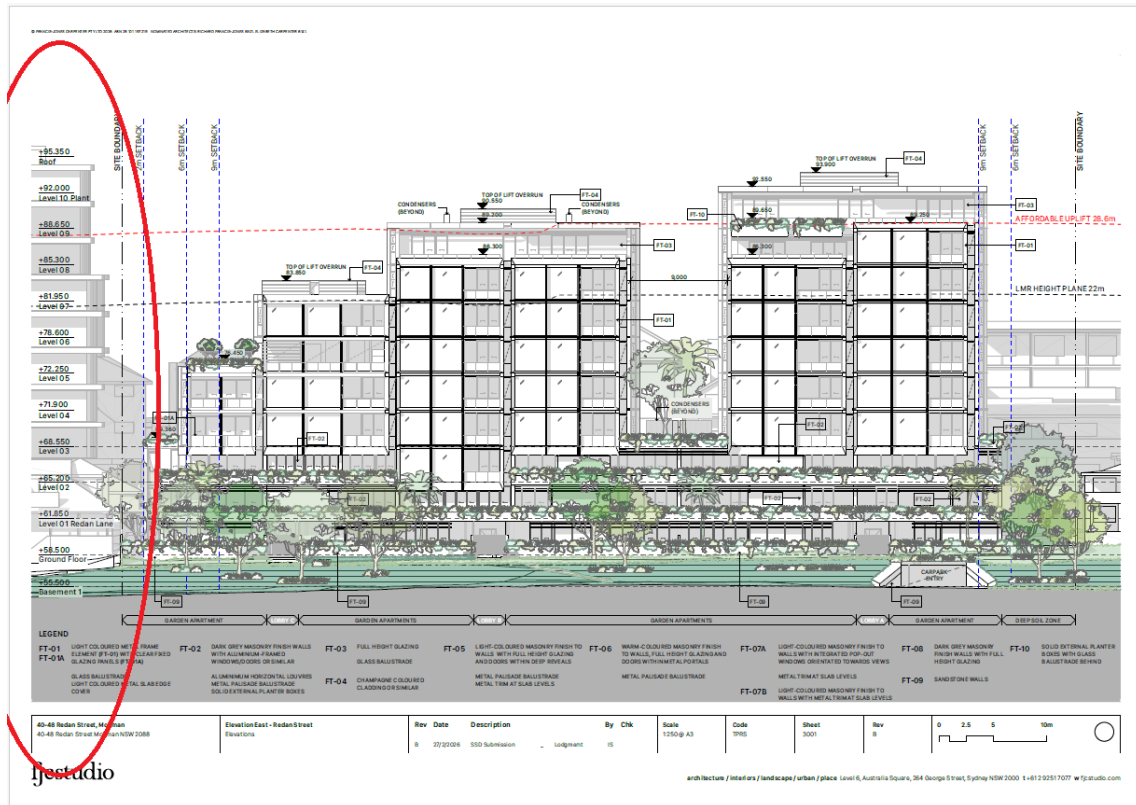


Figure 11 Mark-up of East Elevation from Architectural Plan set – FJC Studio

SPS is aware of another proposal for a considerably lower building (i.e. 4 storeys) as part of DA8.2025.235.1 which was refused on 18 February 2026. **Figure 11** shows buildings of comparable height surrounding the proposal when neither such building exists, nor has been approved.

Information on the Architectural Plan elevations is misleading, as it attempts to incorrectly portray the development as being consistent with the existing character of residential development in this location of Mosman (or with recently-approved development) – which it is not. The architectural plans incorrectly label Redan Lane when it should be Muston Street.

The Level 1 Plan prepared fjstudio submitted with the EIS includes notations that the 6m setbacks have been measured from the centre of Redan Lane. This is inappropriate and results in excessive bulk alongside Redan Lane. In our view, for a building of this scale, a 6m setback should be provided from the boundary of the site in Redan Lane in order to avoid the inferior outcome whereby the building dominates the laneway shown in **Figure 12**.



Figure 12 Rendered view from Redan Lane (Extract: Architectural Design Report- fjcstudio)

The Tzannes Built Form / Envelope Study refers to '*rear setback at ground level is 0m to allow for non-habitable use similar to neighbouring properties*', yet the effect of having a 33.4m-high structure so close to a narrow laneway is significant and overbearing.

Landscaping used in the Applicant's rendered views masks the true impact of the development and it is noted that these 'views' do not show the full height of the building which is misleading as the full height of the building is a lot higher than what is shown in the images.

Digital Commerce has prepared a photomontage from Redan Lane with the full height of the building shown and no reliance upon landscaping (**Figure 13**).



Figure 13 Photomontage Extract prepared by Digital Commerce of view from Redan Lane (77C Redan Lane Opposite)

The impact from the 10-storey building on Redan Lane includes excessive bulk and scale, excessive visual impact and the proposal is inconsistent with both the existing and desired future character of the locality.

4. Unsatisfactory Impact on Heritage Conservation

The site has a number heritage items located within the surrounding locality as recognised under Schedule 5 of MLEP, including (Figure 14):

- House', 52 Almora Street (Item I3) – adjoining Redan Lane;
- Electrical Substation 205 - Redan Street, Mosman (Item I263);
- Nos 36-38 Redan St Mosman – the immediately adjoining site to the south containing a 'pair of semi-detached houses (Item I262);
- "House', 29 Redan Street (Item I261) opposite the site; and
- "Divided Road" in Redan Street' (Item I440).

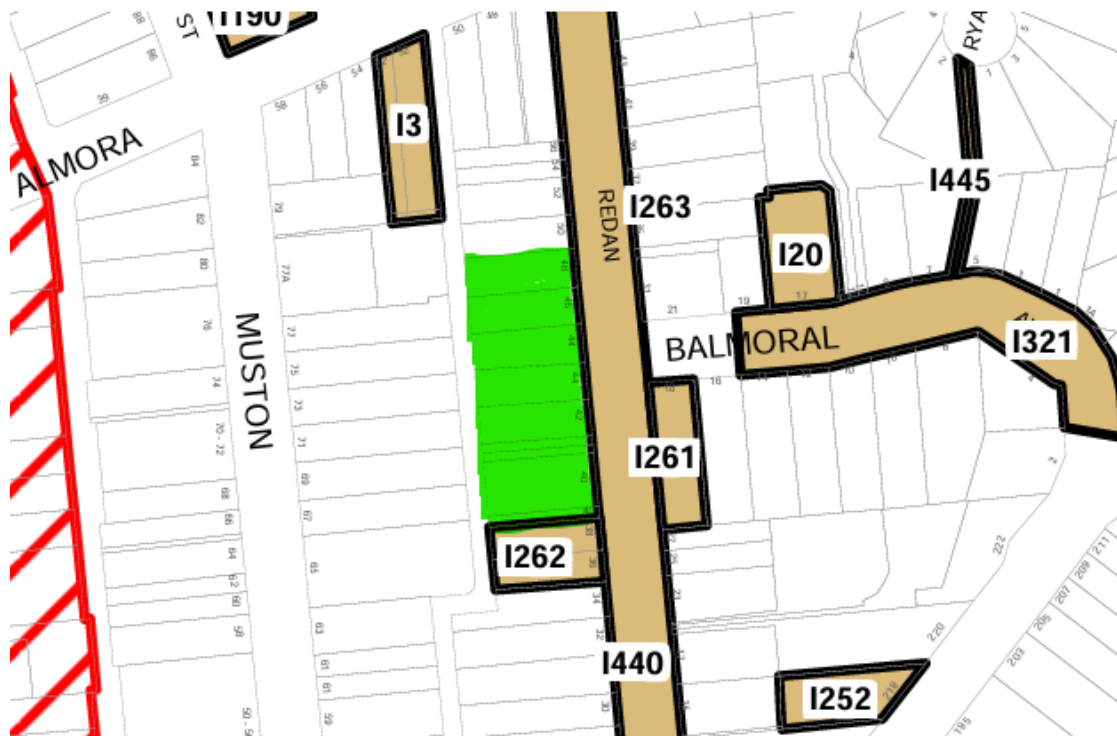


Figure 14 Development site (green) and its relationship to surrounding heritage items (Source MLEP)

Clause 5.10 of MLEP pertains to 'heritage conservation' and provides the following objectives (emphasis in **bold**):

- to conserve the environmental heritage of Mosman,*
- to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,**
- to conserve archaeological sites,*
- to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Clause 5.10(4) of MLEP pertains to the effect of proposed development on heritage significance as follows:

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

The consent authority is required to consider the development in terms of clause 5.10 of MLEP, which includes consideration in terms of impacts on adjoining heritage items.

The following are the Statements of Significance for these Heritage Items, as obtained from the NSW State Heritage Inventory:

Property	NSW State Inventory Statement of Significance
Nos. 36-38 Redan St Mosman – pair of semi-detached houses	<i>A rare and elegant pair of semi-detached residences that employs a number of innovative features in its design that help to visually unite its separate parts.</i>
No. 29 Redan St (AKA No 18 Balmoral Ave) Mosman – House	<i>A good intact example of a large Federation style residence. Its location on a prominent corner site and its garden setting and fence, contributes to its significance.</i>
Redan St Mosman – Divided Road	<i>Mosman's divided roads are integral to the Municipality's visual character and sense of place. Built as a utilitarian response to the steep harbourside topography, they reflect, in their fabric and construction technology, the development of Mosman's suburban structure. The large collection of these features makes Mosman instantly and uniquely recognisable.</i>

The relationship between the existing two storey dwellings on the site (Nos. 40-48 Redan) and the adjoining nearby heritage items (Nos. 36-38 Redan; and No. 29 Redan) is presently a harmonious relationship in terms of built form and visual bulk and scale.

If the proposal is constructed in its current form there will be insufficient distance separation between the heritage items to allow for a part 5-storey part 10 storey building and appropriate transition heights between the sites. The proposal includes a 10-storey residential flat building element that is considerably higher than the existing development on the site and also considerably higher than any other development in this location which consists of buildings up to 2 storeys in height.

Redan Street has a carriageway that has a significant rock wall and landscaped embankment. The road narrows to the south where the character of the road is more evident with the significant rock wall and pedestrian pathway being at a different level from the carriageway. The proposal to include access to 106 car parking spaces from Redan Street disregards the heritage significance of this road reserve and indicates that the site is unsuitable for the development (**Figure 15**).

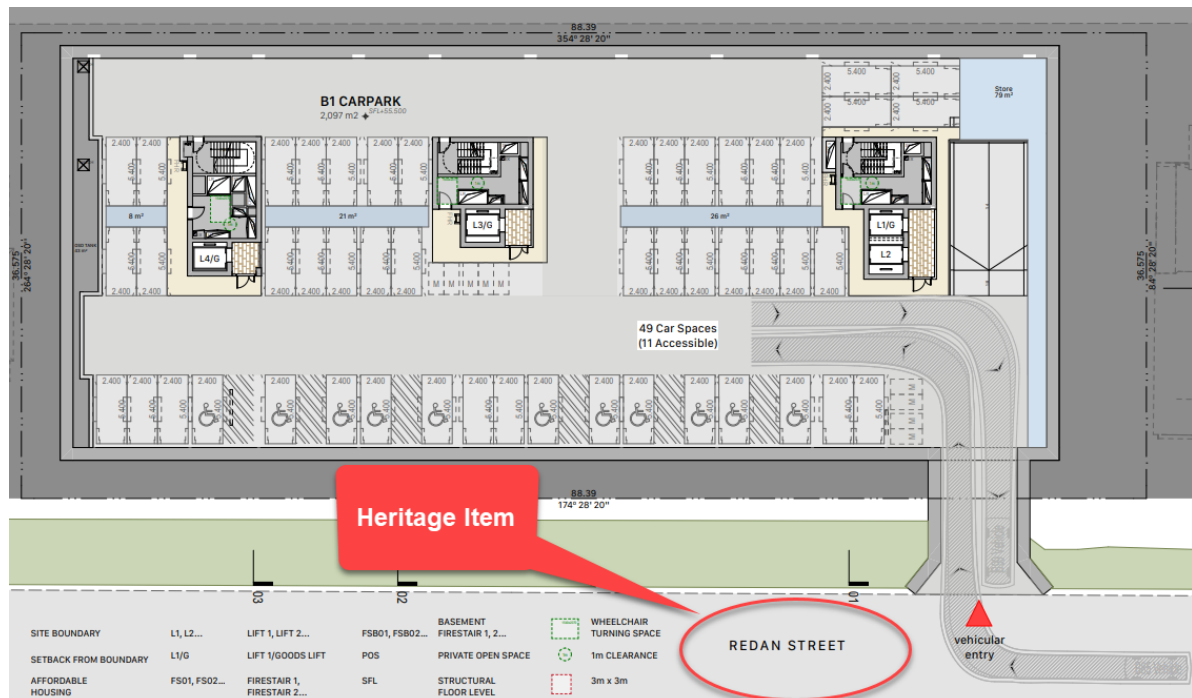


Figure 15 Proposed Vehicular Access onto Heritage-listed Road Reserve (Redan Street)

No. 29 Redan Street contains a two-storey Federation Queen Anne style house constructed of face brick walls, slate hip roof, render and brick chimneys. Large two storey verandas are located to the north and west elevations comprising of timber brackets and timber shingles. The proposal will **visually overpower the heritage items adjoining and adjacent the site**, the excessive visual bulk and scale of the proposed development would create a poor relationship between the subject site and the adjoining properties.

The sense of visual dominance from the proposed development will be felt whenever entering/leaving or visiting these adjoining heritage items.

The built form, and building typology of the proposed development will also be inconsistent with the overall character of this location which will also be unacceptable. The 5- and 10-storey height of the proposal will dominate the streetscape, as it will be considerably higher than both existing development and the development intended under the LMR housing controls given the proposed clause 4.6 request for variation its location amplifying this aspect.

The proposed height of the building will also **adversely impact the 'setting' of the nearby heritage items, diminishing their significance**. The semi-detached houses at Nos.36-38 Redan Street, Mosman are single storey Federation Arts & Crafts style residences constructed of face brickwork on a sandstone base with a single terracotta tile hip roof.

There is insufficient distance separation between the proposed building and the adjoining heritage items at Nos.36-38 Redan Street given that there is only 2m on the subject site for the first three levels and that the dwelling is located quite close to the side boundary.

This is also inconsistent with the Apartment Design Guide (**ADG**). In addition, the Heritage Impact Assessment report does not provide any assessment of the actual architectural design elements and external finishes and colours in relation to how they correlate with the heritage items.

The current impact on the immediately adjoining and adjacent heritage items is unsatisfactory and it is considered that the heritage impact assessment submitted with SSD93020230 should consider a reduction in height (together with the number of storeys) to at the northern side (i.e. the 10-storey component) in order to reduce the impact of the proposal on the site.

The topography of this location generally slopes down from west to east (i.e. towards Middle Harbour) – therefore the subject site is at a naturally higher level than the sites to the east across the street (particularly No. 29 Redan Street, Mosman in this instance). The difference in level ranges from 5-10m and this exacerbates the impacts associated with visual dominance and excessive visual bulk and scale.

The proposed development site is wide, but lacking in depth and with sloping sites, the usual planning/architectural practice is to step a development up the site following the topography. The current design does not follow the topography of the site and despite some attempt on the southern side, presents as a “wall” to the adjoining and nearby heritage items (**Figure 16**).



Figure 16 Applicant's Photomontage Extract

This appears to have been done to maximise views to the proposal at the expense of neighbours to the west and also at the expense of recreational users of Middle Harbour and the adjacent Balmoral foreshore where the proposal will create a significant and obvious interruption to the Mosman ridgeline and associated horizon/skyline/district views. This impact will be reminiscent of a previous and long-forgotten 1960's era when urban planning along foreshore locations was not prioritised in order to ensure minimal impact on the public domain from private developments.

In particular, the proposal will dominate No. 29 Redan Street as an improved urban design outcome would involve the reduction in height/bulk/scale of the building (and therefore associated adverse visual impact) in line with the topography of the site.

Our clients' property at 77C Redan Lane is located directly opposite the site. The current dwelling enjoys views of Sydney Harbour, North Head, the headlands towards Manly and Middle Head, but the current proposal at Nos. 40 – 48 Redan Street would create an adverse impact on the amenity of this site – particularly as it benefits from most of its views to the east and is one of very few properties with an exclusive frontage to Redan Lane as most properties that have a frontage to Redan Lane either have a primary frontage to Redan Street, or Muston Street.

A development application (**DA**) has been lodged for Nos. 48-50 Almora Street, Mosman which is currently subject to an Appeal in the NSW Land and Environment Court. If approved, this building would block additional views of the harbour and the cumulative view loss impact of the two developments (if both approved) would be severe to devastating.

The proposed 10 storey development, with non-compliant height/number of storeys would diminish the heritage significance including the 'setting and views' of the property at No. 52 Almora Street adjacent to Redan Lane (in addition to the other heritage items at No. 29 and Nos. 36-38 Redan Street) and the development would present as an overbearing structure on 77C Redan Lane with the 20m-plus 'property separation' doing little to mitigate the overbearing 10-storey height proposed.

Redan Street itself will also be adversely affected due to the proposed vehicular access creating significant disturbance to unique attributes of the elevated heritage-listed road reserve. Vehicular access via Redan Street disrespects this heritage item as there are significant changes in grade associated with the unique character of the road reserve when considered in terms of clause 5.10 of MLEP.

5. Location and Design of Affordable Housing Precludes Social Cohesion

The 'affordable housing' component of this development has been located on the western side of the development and not only will these future residents not benefit from water views, they will receive little to no morning sun.

Most of the affordable housing units facing Redan Lane will be below street level further impacting their amenity (**Figure 17**). This will not contribute to social cohesion and will have the opposite effect of creating an 'us' and 'them' adverse social impact within the site and inequitable access to site facilities.



Figure 17 Excerpt of Redan Lane elevation - (Source: DA Arch Plans Sheet 3003 Rev B fjcstudio)

If the proposal is to rely upon, and benefit from, any additional height and FSR based on the provision of affordable housing, the allocated affordable housing units should be integrated/distributed equitably throughout the development.

A strata subdivision plan was not submitted with the application even though the proposal includes strata subdivision. A thorough assessment of adverse social impacts is unable to be undertaken in this regard. Segregation of affordable housing is at the expense of social cohesion within the site. The 'us' and 'them' social housing approach that was largely dispensed with in the 1970's, and needs to be avoided.

This undesirable outcome should not go hand in hand with the proposed additional increase in height and the proposed non-compliance with the number of storeys. In our view, there are unsatisfactory environmental planning grounds associated with the clause 4.6 variation to the height and non-compliance with the number of storeys in which to support the proposal.

6. Regional / District / Visual Impacts and Loss of Views from 77C Redan Lane

Significant concerns are raised regarding the visual impact of this development when viewed from either close to the site, or from the broader regional district locality. In particular, this development is generally located on a ridge which slopes down to the east towards Sydney Harbour (Balmoral Bay, Middle Harbour). Therefore, the site is quite visually prominent and a development of 10-storey height will be visible from well beyond the immediate visual catchment of the site. This will include from Balmoral Beach and Middle Harbour (refer **Figure 16**).

The development will have a significant impact on the Mosman skyline and will have an abrupt 'wall effect' with corresponding streetscape impacts. The proposal will have on the streetscape and lower density C4 Environmental Living zone directly opposite to the east.

The applicant has made an effort to 'step' the building to respect the heritage items to the south (Nos. 36-38 Redan Street) and to reduce overshadowing, but this is not possible in an east/west direction due to the shallow depth of the site. The proposal has the effect of redefining an otherwise harmonious ridgeline in Mosman to higher density development that will present as being out of character.

The proposed development would be visually significant in the streetscape with the proposal relying exclusively on the premise that future development under the same controls would lessen the impact. This is not a sound planning approach and it also demonstrates that the main issue would be the bonus provision for the affordable housing component that pushes the proposed development even higher.

The visual assessment also does not provide any analysis on whether any of the severely impacted existing dwellings would be impacted by the proposed development in regard to the potential loss of views to Balmoral beach. This is particularly concerning in the case of No.73 Muston Street and No.77C Redan Lane where there will be loss of land/water interface views as a result of the development.

It is unreasonable for the applicant's submission to assume an almost 100% take-up of surrounding sites under the low and mid rise housing provisions under Chapter 6 of the Housing SEPP. No streetscape plan has been provided to address development opposite the site in Redan Street in order to demonstrate how the bulk and scale of the proposed development would integrate with the existing and future desired character of the dwellings on the eastern side of Redan Street in the C4 Environmental Living zone.

If approved in its current form, the proposed development has the potential to be iconic, but for all the wrong reasons – including the setting of a precedent to the absence of appropriate local strategic planning to support the higher intensity of development in this location and the associated impacts that extend well beyond the immediate visual catchment of the site.

The minimal site depth and extensive bulk and scale associated with pursuing bonus provisions under the Housing SEPP is likely to amount to a building form that could potentially become known as the 'Great Wall of Mosman' which not a desirable planning outcome. Mosman residents deserve better than to have to identify themselves as living either east or west of the Great Wall.

Our clients' property at 77C Redan Lane will incur significant view loss as a result of the proposal (**Figure 18**).



Figure 18 Significant View Loss and Visual Impacts from 77C Redan Lane

Our clients' main living area and outdoor deck is orientated towards east and with the presence of a 10-storey building on a 0m setback in Redan Lane, our clients' amenity will be significantly reduced. When combined with the cumulative impacts of surrounding developments that are currently under Appeal in the NSWLEC, the proposal will have an overbearing impact on the amenity of 77C Redan Lane – which could potentially be reduced if the proposal respected the applicable planning controls under the Housing SEPP.

7. Excessive Height/Bulk/Scale and Adverse Visual Impacts – Clause 4.6 Not Supported

Even if the site were located within a low and mid rise housing inner area, the development proposes a significant breach to the height controls permitted under the Housing SEPP. Chapter 6 of the Housing SEPP allows a maximum building height of 22m for development in a low and mid rise housing inner area. In addition, Chapter 2 of the Housing SEPP allows an additional 30% FSR and height incentive where 15% of the total GFA is provided as affordable housing – and the development seeks to utilise these provisions by providing an affordable housing component. These provisions would effectively increase the allowable height to 28.6m.

The development proposes to further breach the overall building height under the Housing SEPP (i.e. 28.6m as above) reaching heights up to 33.4m. The proposal also proposes a variation to the wall plate height found in clause 4.3A of MLEP which is 7.2m (and due to be effectively 'abandoned' for LMR developments). Separate *Requests for Variation* under clause 4.6 MLEP have been submitted in respect of these proposed height breaches.

In terms of the overall building height under the Housing SEPP, the clause 4.6 variation request sets out the proposed variation both in metres and as a percentage (**Figure 19**):

Building Height Standard (inc. +30%)	Maximum Height Proposed	Proposed Variation
28.6m	<p>Northern portion of the building: Top of the parapet to residential building: 32.2m Top of Lift overrun: 33.4m</p> <p>Central portion of the building: Top of Lift overrun: 30.2m</p> <p>Southern portion of the building: Top of the parapet to residential building: 23.5m Top of Lift overrun: 22.8m</p>	<p>Northern portion of the building: Top of the parapet to residential building: 3.6m = 12.59% Top of Lift overrun: 4.8m = 16.78%</p> <p>Central portion of the building: Top of Lift overrun: 1.6m = 5.59%</p> <p>Southern portion of the building: Compliant</p>

Figure 19 Table 3 Extract – Building Height

The proposed breach to the Housing SEPP height controls to the extent shown in Figure 18 is both excessive and unreasonable, even putting aside our opinion that the incorrect base height/FSR controls have been relied upon in the Housing SEPP.

Whilst the site can benefit from a significant uplift in height (compared to the previous planning controls) – and the height uplift will produce a significantly higher building than both the existing neighbouring development and what would be permitted under the current planning controls, by proposing a breach to the maximum height controls as outlined above, the development will also be significantly higher than anticipated/or intended for future developments in this location.

This is illustrated in the *Visual Impact Assessment* by Urbis and submitted as part of the SSD documents. It is considered that the resulting height of the development will be excessive, and this will cause significant visual impacts seen for a considerable distance away from the development/site. As indicated in the clause 4.6 Variation request – the development proposes to breach the height controls by up to 4.8m (or 16.78%).

A breach to this extent is not warranted, has not been sufficiently justified in the submitted clause 4.6 variation requests and should not be supported by DPHI.

The proposal will also have a significant visual impact on dwelling houses in Redan Lane and Muston Street which have Iconic Sydney Harbour views. Not only will their views be lost or severely reduced, but the proposed building up to 10 storeys in height will have an overbearing visual impact on living areas and private open spaces which are generally oriented to the east.

The applicant has made attempts to modulate the building with a gap between the two towers, and by providing the ground and first floors with a face brick finish and landscaping. However, the shallow depth of the site does not permit meaningful setbacks to be provided. **Figure 13** demonstrates how the proposed development will tower over the residential dwelling houses to the west which will be completely dominated by the proposed development.

Part 4, Section 175 of the Housing SEPP pertains to 'development standards – low and mid rise housing **inner area**' as follows (emphasis in **bold**):

- (1) *This section applies to land in a low and mid rise housing **inner area** in Zone **R3 Medium Density Residential** or **R4 High Density Residential**.*
- (2) *Development consent must not be granted for development for the purposes of **residential flat buildings** with a building height of up to **22m** unless the consent authority is satisfied the building will have **6 storeys or fewer**.*
- (3) *Development consent must not be granted for development for the purposes of a building containing shop top housing with a building height of up to 24m unless the consent authority is satisfied the building will have 6 storeys or fewer.*
- (4) *In this section, a storey does not include a basement within the meaning of the standard instrument.*

As previously stated, in the opinion of SPS, Section 176 (not Section 175) of the Housing SEPP is the applicable height control for a low and mid rise housing outer area site as follows (emphasis in **bold**):

- (1) *This section applies to land in a low and mid rise housing **outer area** in Zone **R3 Medium Density Residential** or **R4 High Density Residential**.*
- (2) *Development consent must not be granted for development for the following purposes if a resulting building will have a building height of up to **17.5m** unless the consent authority is satisfied that the building will have **4 storeys or fewer**—*
 - (a) **residential flat buildings,**
 - (b) *buildings containing shop top housing.*
- (3) *In this section, a storey does not include a basement within the meaning of the standard instrument.*

Section 16 of the Housing SEPP applies as follows, **yet it is silent on whether additional storeys are allowed.**

16 Affordable housing requirements for additional floor space ratio

- (1) *The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the development on the land **plus an additional floor space ratio of up to 30%**, based on the minimum affordable housing component calculated in accordance with subsection (2).*
- (2) *The minimum affordable housing component, which must be at least 10%, is calculated as follows—*

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$$

- (3) *If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).*

Example—

Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.

- (4) *This section does not apply to development on land for which there is no maximum permissible floor space ratio.*

Chapter 6 of the Housing SEPP allows a maximum FSR of 2.2:1 for a low and mid rise inner area and a maximum building height of 22m. In addition, Chapter 2 of the Housing SEPP allows an additional 30% FSR and height incentive where 15% of the total GFA is provided as affordable housing – and the development seeks to utilise these provisions by providing an affordable housing component. These provisions effectively increase the allowable FSR to 2.86:1 and the allowable height to 28.6m.

The current development proposes a height of 33.4m (top of lift overrun on northern portion). This results in a 16.78% variation to the *'height of buildings'* control. The height variation of 16.78% is a significant and unacceptable variation especially when considered the site has already utilised the 30% height (and FSR) bonus afforded by the Housing SEPP.

The applicant has lodged a request for an exception to a development standard under clause 4.6 of MLEP citing various reasons including the stepping of the development away from the heritage item to the south. However, it is considered the heritage item, like any constraint should be taken into consideration when designing the building and not justify an almost 17% variation to the development which is already 30% over the height control of MLEP.

Figure 20 indicates that the proposed development will benefit from an additional storey on the northern tower.

Figure 4 Proposed Section (area of non-compliance highlighted in red)

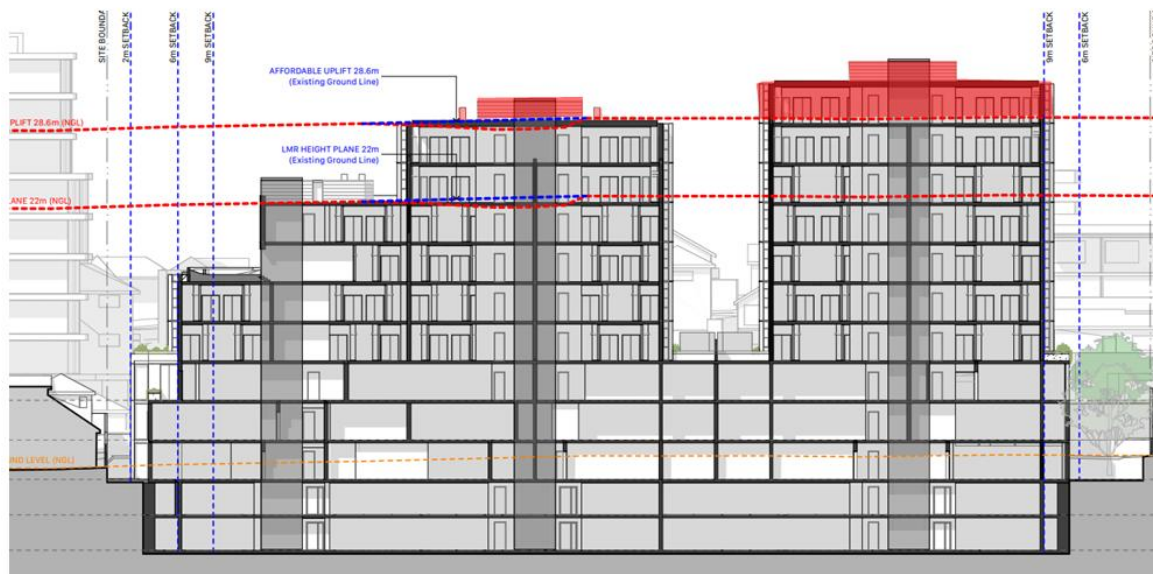


Figure 20 Section of the development (Source: Clause 4.6 Variation Request Building Height, prepared by Urbis)

The 'Height of Buildings' Development Standard is a 'maximum' control with the objectives set out in the MLEP being:-

- (i) *to share public and private views, and*
- (ii) *to minimise the visual impact of buildings particularly when viewed from the harbour and surrounding foreshores, and*
- (iii) *to ensure that buildings are compatible with the desired future character of the area in terms of building height and roof form, and*
- (iv) *to minimise the adverse effects of bulk and scale of buildings,*

The proposal does not adequately share views, or minimise the visual impact of the building when viewed from the harbour and/or foreshores. The development is incompatible with the desired future character of the area unless that character is for a precinct of densely crowded tall residential flat buildings that do not respect the applicable height provisions within the Housing SEPP based on safe walkable distance between a site and the nearest town centre. The proposal also fails to minimise the adverse effects of bulk and scale and seeks to further exacerbate the impacts via an additional height non-compliance. Hence, in our view this proposal is an ambit claim and should be rejected.

In addition to the above, Chapter 2 of the Housing SEPP does not specify a similar bonus regarding the number of storeys, hence the proposal for a ten (10) storey building is three to four (3-4) storeys in excess of the 6-storey maximum prescribed by section 175 of the Housing SEPP. The Applicant appears to have assumed that the height bonus also applies to the number of storeys of the proposal, but 'building height' (or height of building) means 'the height of a building in metres', not storeys.

'Storey' and 'Height of Building' are both separate terms and as such the building does not comply with the Housing SEPP requirements. The proposal should be refused in its current form as the submitted clause 4.6 application seeking an exception to the development standard has not addressed the proposed increase in the number of storeys. The proposal is up to 10 storeys in height, not 6, but the submitted clause 4.6 request does not adequately address this.

Whether it was the intent of the Housing SEPP to apply to additional storeys as well as FSR/height(m) is irrelevant. What is relevant is that the applicable environmental planning controls are ambiguous and the Applicant appears to have relied upon this in which to support an overbearing development within a scenic protection area that creates an unsatisfactory visual impact and adverse impacts on surrounding development and heritage items together with severe to devastating view loss.

The *Guide to Varying Development Standards* has a section on cumulative impact (s.4.2.2). This section states that the consent authority must consider the potential cumulative impacts of any potential variations. Given this is the one of the first round proposals in Mosman under the LMR provisions, any variations to any controls (such as the number of storeys) will potentially set a precedent where further variations approved incrementally over time may undermine the planning objectives relating to the site or the area.

8. Excessive Overshadowing, Restricted Solar Access and Privacy Impacts

The shadow diagram 'Sheet 6007' has no scale given and only one 'view from the sun' axonometric diagram is provided for the overall development (Sheet 6002). More detailed shadow diagrams are provided for the two adjacent heritage items No. 29 and Nos. 38 Redan Street and these diagrams appear to be restricted to the winter solstice only (30 June).

Whilst it is acknowledged that the 'minimum 3hrs of direct sunlight access' standard is generally accepted for the winter solstice, the 10-storey height of the building proposed and its orientation would create overshadowing impacts at other times.

The Applicant has provided elevational shadows which demonstrate that the adjoining dwelling at No. 38 would be adversely impacted upon by overshadowing and the proposal increases the overshadowing well above the existing levels. In addition, the private open space area of the adjoining dwelling does not receive satisfactory solar access.

These impacts could be ameliorated by the proposal being rejected in its current form, or amended to provide the required building separation distances, or at the very least, required to comply with the Housing SEPP in relation to the 6-storey height limit.

In order to make a proper assessment of such a tall development (which also exceeds height and number of storey standards) more comprehensive scaled shadow diagrams at other times would need to be submitted. On the basis of the overshadowing information provided, it is considered the current proposal is inadequate.

The proposed development would also have adverse impacts on the overlooking of the private open space areas for a number of dwellings that back onto Redan Lane. Swimming pools and private open space areas front Redan Lane and the proposed development would tower over these private open space areas with balconies along these elevations overlooking the private open space areas of these properties.

9. Inferior Design Outcome and Traffic / Parking Issues

The proposal includes the following design deficiencies which will require significant amendment to the proposal in order to improve amenity and reduce traffic/parking impacts: -

- (a) the proposed building separation does not comply with the ADG;
- (b) landscaping and deep soil planting is severely limited due to the basement levels and the large building envelope;
- (c) provision of stacked car parking spaces on the B1 carpark level demonstrates that the site cannot accommodate the proposed development and consideration should be given to reducing the number of units. These car parking spaces also require vehicles to reverse across six car parking spaces in order to be able to leave;
- (d) Council's DCP requires 5 car wash bays, yet none have been provided;
- (e) Vehicle counts have not been carried out to determine the true impact on both Redan Street and Redan Lane;
- (f) The plans do not show where EV charging units will be located. The TIA is silent on whether there will be any charging units at all. In addition, the TIA does not provide swept path plans demonstrating vehicles can enter and exit car parking spaces including the spaces adjacent to the ramp adjoining the disabled spaces; nor does it show where the visitor spaces are located (although the TIA indicates 10 have been provided);
- (g) Servicing and loading areas have not been provided for the development. The TIA states that light vehicles/small vans can utilise the visitor car parking spaces and/or on street parking. However, no other service or loading facilities have been provided and no information has been submitted to demonstrate that the on-street car parking is sufficient;

- (h) No plans have been submitted detailing the location of the bin collection points in Redan Lane and whether the lane can accommodate all the bins. The waste management plan states that the waste is already being collected in Redan Lane and therefore is suitable. However, no information has been submitted in relation to the fact that the number of dwellings currently having their bins collected from Redan Lane is significantly lower than the proposed number of units – which represents a significant intensification;
- (i) No information has been provided on how bulky waste will be collected and where it would be collected from and the TIA does not disclose if an intercom system is proposed for visitors to call in order to open the basement carpark door;
- (j) No adaptable units are provided on the ground floor. As part of a merit-based assessment, at least one adaptable (and ideally affordable) unit should be provided at the ground level to accommodate a person who is not able to use lifts or stairs; and
- (k) No plans have been submitted for the retaining walls proposed including heights, section plans, or construction materials. This places the integrity of any proposed landscaping in doubt and is indicative of an application that has been rushed in its preparation without due consideration of various important civil engineering matters.

The EIS submitted with the application should be amended in which to properly identify the above (and other non-disclosed) areas of non-compliance and where appropriate, provide written justification for any departures from Council (or Australian) standards.

8. Inadequate Consideration of Construction Impacts and Waste Management

Significant excavation is being proposed for the carparking levels which may impact the existing development to the north and south of the property at Nos. 36-38 Redan Street, together with surrounding properties which have a frontage to Redan Lane.

Rather than rely exclusively on the completion of a dilapidation report prior to excavation and construction, further engineering assessment should be undertaken by a qualified civil/geotechnical/structural engineer prior to determination in which to confirm that the proposed excavation can be undertaken without impacts extending beyond the boundary of the site.

The engineer should also identify those properties likely to be affected by the proposal, so that they can be included in any dilapidation report if the Minister is of the mind to support the application and condition this accordingly.

Construction access (inclusive of a truck wheel shaker/cattle grid as shown on page 4 of the civil engineering plans) is not supported from Redan Lane due to the narrow width and restricted operation of this lane. The architectural plans do not show the proposed bin collection point at the kerb and this is important given the narrow nature of Redan Lane and the elevated nature of Redan Street.

9. Inadequate Strategic Planning and Lack of Community Participation

The low and mid rise housing / affordable housing provisions within SEPP Housing have been implemented outside of the normal framework for strategic planning, rather than the regular process of preparing drafts, exhibiting, and then finalising draft local environmental planning instruments after considering public submissions.

The Chapter 6 Affordable Housing provisions in the Housing SEPP were introduced with minimal (if any) effective input/resistance from Mosman residents (or Council) and lacked a conventional strategic planning process, meaning that these controls are operating to the substantial detriment of balanced development outcomes. The impacts of the proposal extend to both surrounding developments and the public domain, such that its effects are not confined to Mosman residents, but may be realised as far afield as Middle Harbour and beyond.

The resulting process is an example of a state government creating the modern-day guide of how-to-force-feed-higher-density development into an established locality albeit without doing the prerequisite homework. Similar 'planning', or lack thereof, occurred decades ago with some legacy developments and their associated impacts still evident within the Sydney metropolitan area which stand as a reminder that indeed, history can often repeat itself.

Evidence of the proposal not being the product of conventional strategic planning is noted as part of the following observations:

- (a) The highest order strategic plan for the region is the *Sydney Region Plan* and the supporting *North District Plan*, which was released by the now defunct Greater Sydney Commission in 2018. Spatially, these plans did not identify anything particular for Mosman apart from it being a local centre with a B-line bus service and a small amount of contribution to housing completions.

Council had a small 2016-2021 Housing Target of just 300 dwellings. (i.e. 300 dwellings over 5 years). Councils were to set their targets in line with the *Sydney Region Plan* through their housing strategies. In the opinion of SPS, the proposal is inconsistent with these plans and strategies.

- (b) The *Sydney Region Plan* and *North District Plan* are in the process of being replaced with the Sydney Plan (2026) which is currently in draft form. This Plan includes the LMR approach as part of its plan for housing growth. When this plan is formally adopted it will therefore include the strategic background to support the LMR approach.

This is back-to-front strategic planning, retrofitting the strategic plan with what has been legislated (via the Housing SEPP) outside of the strategic framework. However, it will very likely become part of the Sydney Plan which would then potentially dilute any argument that the development would not align with higher-order planning.

Rather than adopting a position and then adjusting everything else around it to suit (as the State government has done in this case), Mosman constituents should have been provided with greater input and consultation as part of a conventional strategic planning process, rather than at the statutory DA assessment stage where the proverbial 'horse has bolted the gate'.

- (c) Each Council in metropolitan Sydney has developed a Local Strategic Planning Statement, (**LSPS**), which is a 20-year vision for the Council area and implements the District Plan in greater detail.
- (d) The LSPS identifies the subject site partly within a scenic protection area and identifies the site within the area identified for "existing opportunities for additional housing as infill development" with Redan Street being the eastern boundary of that land (red shade in **Figure 21**). The LSPS refers to the Housing Strategy for more detailed information on housing growth within this area.

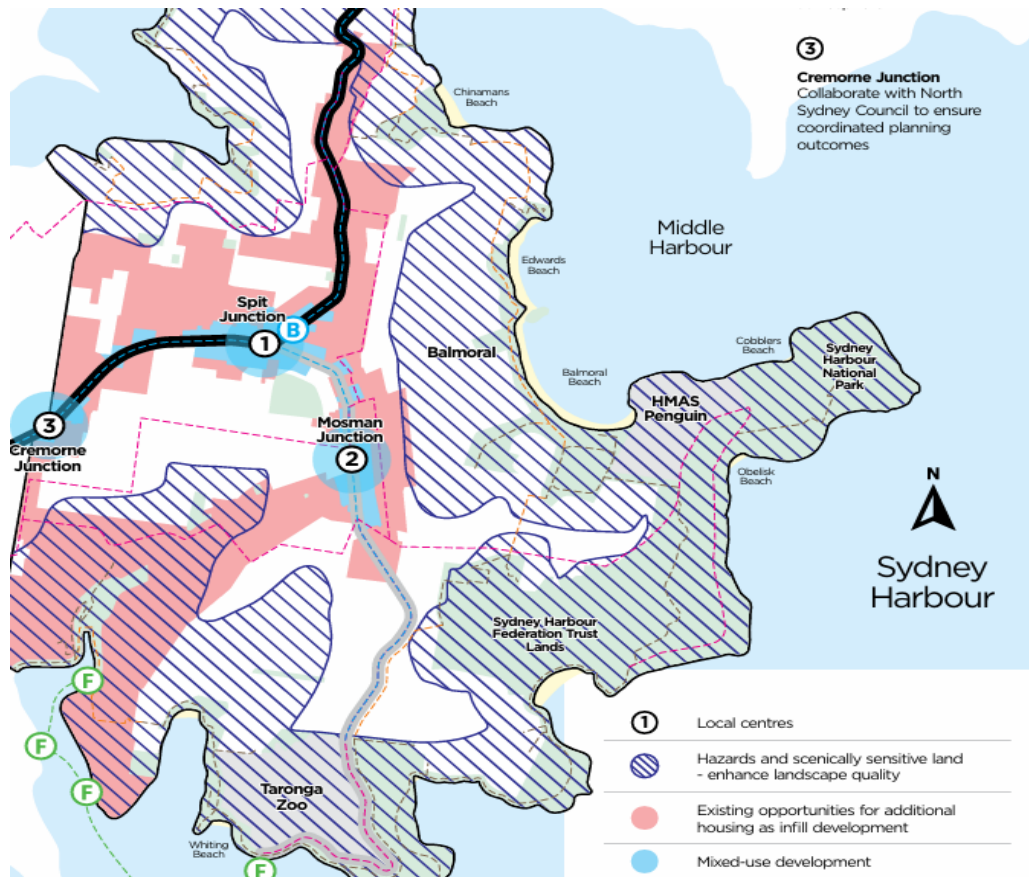


Figure 21 LSPS MAP Extract

- (e) In 2020, Council prepared the *Mosman Local Housing Strategy* to set out a clear plan for housing in Mosman over the next 20 years to meet anticipated demand. Mosman's population is projected to increase by 1,370 people to a population of 31,630 people by 2041.

It contains a strategy to “*identify the right locations for housing growth, appropriate to environmental and infrastructure constraints.*” The subject site is zoned R3 and the Housing Strategy maintains that this zone is suitable “*as a focus for housing growth*” as it provides access to the transport network, is close to shops, services, facilities and employment, and has a lack of environmental constraints.

The housing strategy simply repeats much of the existing planning controls in MLEP, rather than explaining a vision for how that housing growth may occur. In the opinion of SPS, the housing strategy simply articulated a “business as usual” approach where no change to planning controls is necessary to realise the population growth of 1,370 people to 2041.

Although the site is within the area identified as suitable for housing growth, the approach would be to develop within the existing controls. Arguably, the proposal is not in the spirit of the housing strategy for this reason as the Housing SEPP did not contain the Chapter 6 provisions when it was prepared by in 2020.

- (f) The Housing Strategy indicates a small population growth of 1370 people to 2031 (in line with the District Plan's 300 dwellings over 5 years). SPS contends that this locality does not require any increase to the overall yield of planning controls to realise this projection.

10. The Public Interest

SSD 93020230 warrants consideration by the Independent Planning Commission (**IPC**) and in our view, a Public Meeting should be held as the application lacks accuracy and consistency as required in which to properly address clause 24 of *Environmental Planning and Assessment Regulation 2021 (EPA Regulation)*.

In addition, for a development to be considered within the public interest, it should meet the 'Objects of Act' contained within s.1.3 of the EPA Act as follows (SPS emphasis in **bold**).

- (a) to promote the **social and economic welfare of the community** and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to promote the **supply, delivery and maintenance of housing, including affordable housing**,
- (c) to promote productivity through the development and management of the State and its resources,
- (d) to protect the environment, including the conservation of threatened species of native animals and plants and ecological communities and their habitats,
- (e) to promote resilience to climate change and natural disasters through adaptation, mitigation, preparedness and prevention,
- (f) to promote the **sustainable management of built and cultural heritage**, including Aboriginal cultural heritage,
- (g) to promote **good design, amenity and the proper construction and maintenance of built environments**, including the protection of the health and safety of the occupants of buildings,
- (h) to provide opportunities for participation in environmental planning and assessment,
- (i) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (j) to promote a proportionate and **risk-based approach** to environmental planning and assessment,
- (k) to promote the **orderly and economic use and development of land**.

For the reasons outlined in this submission, the proposed development does not represent "orderly and economic use and development of the land", nor does it "promote good design, amenity and the proper construction and maintenance of built environments".

The significant height variation proposed (including an excessive number of storeys) is neither necessary, nor reasonable in justifying the provision of affordable housing on the site and the location on the western side of the building partially below street level will not offer appropriate social cohesion that would otherwise be on offer with interspersed affordable housing lots.

Consequently, the proposed development fails to meet the 'Objects of Act' contained within s.1.3 of the EPA Act and has not submitted satisfactory information consistent with the requirements of clause 24 of the EPA Regulation. For these reasons, SSD 93020230 cannot be supported as being in the public interest.

CONCLUSION

SPS has been commissioned by Hamid and Mastaneh Daghighi, owners of No. 77C Redan Lane, Mosman to provide an independent town planning assessment of SSD 93020230 for proposed demolition works and construction of a part 10-storey and part 5-storey proposed residential flat building containing 53 residential dwellings (including 11 affordable housing units) with 2 levels of basement parking containing 106 resident parking spaces at Nos. 40-48 Redan Street, Mosman.

An assessment having regard to the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* indicates that the proposal will create significant adverse environmental impacts on our clients' property at 77C Redan Lane, Mosman which is located directly opposite the site and is one of very few properties with an exclusive frontage to Redan Lane (as most have primary street frontages to either Redan Street, or Muston Street).

SSD 93020230 represents a fundamentally flawed application that ought never to have been put forward in its submitted form and should not be favourably considered at the expense of our clients' amenity and to the detriment of the character/streetscape-presentation, heritage and visual impacts/loss of views within the broader Mosman locality. The Applicant's failure to implement any thorough or adequate quality-assurance review of the documentation prepared for submission as part of SSD 93020230 in not properly categorising the site within a 'low and mid rise housing outer area' (and relying on Section 175 of the Housing SEPP instead of Section 176 of the Housing SEPP) is both significant and potentially fatal to the application as the site exceeds 400m safe walking distance from Spit Junction Town Centre.

On behalf of our clients, SPS respectfully requests that:

- DPHI not support any recommendation of approval for SSD 93020230; and
- SSD 93020230 be **REFUSED** by the Minister as it is unsatisfactory having regard to s.4.15(1) of the EPA Act.

DPHI planners should undertake a site inspection of all affected properties (including, but not limited to, our clients' property at 77C Redan Lane) prior to drafting any assessment report, so that the site context and significant adverse impacts associated with the proposal can be fully appreciated. In the event that the application is not withdrawn prior to determination and amendments to the proposal are accepted by DPHI, SSD 93020230 should be re-notified in order to allow our clients to undertake a subsequent review of any amended plans and additional information and a Public Meeting should be held prior to consideration by the Independent Planning Commission ahead of any final sign-off on the application.

On behalf of our clients, we wish to thank the Minister for considering the above matters and we look forward to DPHI informing our office of progress associated with the assessment of SSD 93020230, so that SPS can make further representation on behalf of our clients if required. Should you require clarification of any matter, please do not hesitate to telephone the writer on 9552 1525.

Yours sincerely,

STATE PLANNING SERVICES PTY LIMITED



JOHN MCFADDEN
MANAGING DIRECTOR