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Key Sites and TOD assessments
Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy Street
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26th June 2026

Dear Brent,

Modification 5 Five Ways – Design Modifications - SSD-66826207-Mod-5

Thank you for providing your response to the submissions dated June 12, 2026. This letter addresses the issues raised during the public notification period and the comments from relevant stakeholders regarding the modifications submitted to DPHI for assessment.

The proposed modifications stem from design development and refinements aimed at improving operational efficiency and meeting customer expectations. These refinements are minimal and will not significantly impact the already approved development.

The responses below address all comments made by each stakeholder.

North Sydney Council letter dated 23 June 2026

Comments

Council has reviewed the application and concludes that the submitted supporting information adequately assesses the proposed modifications' impacts and satisfies statutory requirements for consent to be granted.

Approval of the application is accordingly supported.

Applicant Response

It is noted Council is in support of the proposed refinements, no further action is required.

DPHI letter dated 12 June 2026

Overshadowing

The shadow diagrams provided do not demonstrate the extent of overshadowing resulting from the proposed increase in building height under this modification application.

Revised shadow diagrams are required that must encompass surrounding areas, including any impacted residential properties, the Holtermann Estate, and North Sydney Girls High School.

Applicant Response

The shadow diagrams (drawings DA-790-001 to DA-790-008) created by TURNER Architects have been

updated to provide a clearer breakdown of the additional overshadowing resulting from this modification compared to previously approved version. This assessment concludes that the minor increase in height has a negligible impact on the adjoining properties including North Sydney Girls School. For further detailed explanation, please refer to the table below.

Additionally, please we have included in our submission amended sections (drawings DA-310-101 to DA-310-301) showing 5 levels of basement.

Response to Community Submissions during Notification Period – 29th May 2026 to 11 June 2026

A total of 7 submissions were received during the 29th of May 2026 – 11 June 2026 public exhibition period. Of the 7 submissions received:

- 6 submissions (86%) object to the proposal.
- 1 submission (14%) support the proposal.

Objection	
LGA	Number of
Crows Nest	4
Naremburn	1
Wollstonecraft	1
Total	6

Support	
LGA	Number of
Chatswood	1
Total	1

Community submissions predominantly focused on the perceived increase in built form resulting from the proposed minor increase in plant heights and the potential overshadowing and visual impacts on neighbouring properties.

A significant proportion of submissions raised concerns that the additional height may increase the duration and extent of overshadowing, potentially affecting residential amenity and occupant wellbeing. Submitters emphasised the importance of ensuring that any additional impacts remain negligible. In response, it is noted that the majority of the concerns raised relate to overshadowing effects associated with the approved SSD development, rather than the limited increase in plant heights proposed as part of this modification. The assessment of the modification demonstrates that the proposed changes would result in only minor and localised impacts, which do not materially alter the overshadowing outcomes previously approved under the consent.

Issue		Response
Height and Scale	The Developer has received multiple, significant height uplifts since its initial application for development. From historically a low-rise commercial building to 10 storeys (under the North Sydney LEP). Then to 16 storeys (under the St Leonards and Crows Nest 2036 Strategic Plan). Then to 22 storeys under State Significant Development including Affordable Housing. Another height uplift under Modification 2 of the Approved Development. Now, yet another request for height uplift. It is	<i>The overshadowing diagrams submitted have been meticulously prepared using the same methodology as the approved SSD application and Modification 2 (Hotel Modification), ensuring a robust and consistent basis for</i>



	unacceptable that the developer continues to come back to the Department of Planning for further height uplifts. The Development Plan approved by the Minister in December 2023 allowed for a Building Height of 58.2m with an additional 2m overrun for lift and rooftop plant bringing the approved height to 60.5m. This should be an absolute red line that the developer should not be allowed to cross. Since that approval, which was strongly objected to by the community, the Developer has requested further increases in building height, with the latest request (Modification 5) for another 1.32m in height. This effectively adds another storey to this development when combined with prior “minor” increases. This development breaches the arguments put to the Crows Nest community that Transport Oriented Development would be centred around the Crows Nest metro station and stepped down into residential areas and that development would provide community benefits. Through multiple modification applications this developer has undermined the community consultation process and flouted ministerial directions with a substantially modified proposal that has removed virtually all community benefit. To give a single example, communal open space has effectively been removed with the purported public space on the roof now only for residents, not the wider community. Please listen to the voice of the community with respect to this development and take into consideration the cumulative impact of changes to this development including multiple height increases. There has been no revised assessment of the impact of the overshadowing of this building on the surrounding residential area, including the historic low rise Holtermann estate / Hayberry Precinct located within the area overshadowed by this development. At a minimum, revised shadow diagrams for this building should be provided for assessment. From a personal perspective, my property will be directly overshadowed by this building with access to sunlight restricted during winter hours. The proposed increase in height will add 2 further to this overshadowing. I would highlight that that the original shadow diagrams provided by Turner Architects in 2023 did not accurately represent the impact of overshadowing of my property. They were drawn incorrectly to show overshadowing of the public street area when in fact the overshadowing was on my land. The proposed height increase will add to the overshadowing of my property and residential properties in the larger Holtermann estate community including the North Sydney Girls School open play area during winter. I would respectfully request that new shadow diagrams are obtained for the purposes of accurately assessing the impact of this development on the surrounding community, particularly the Holtermann estate area The proposed development is fundamentally inconsistent with the established character and scale of the surrounding area.	<i>assessment. The proposed increase in plant height reflects our commitment to ongoing design development and refinement of the building services essential for supporting the approved development. The additional 1.32-meter increase in the lift overrun results in only a minor increase in overshadowing, which is confined to brief periods in the early morning to adjoining properties.</i> <i>Importantly, any additional shadow generated is limited to public areas, including streets, landscaping, and existing vegetation, and does not materially impact nearby residential properties.</i> <i>Moreover, any overshadow affecting North Sydney Girls High School is restricted to the car park north of the school and the landscaped area adjoining Emmett Street. Consequently, the proposed changes do not pose any significant adverse impacts on the school’s operational or recreational areas. Our thorough shadow analysis shows that the school experiences minimal impact during most operational hours, with only minor effects on the car park around 3:00 PM.</i> <i>The proposed modification does not seek any substantive</i>
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Assertions within the application and accompanying consultant reports that the proposal is “commensurate” with nearby development are misleading. Attempting to justify a 39-storey tower by referencing building heights along the Pacific Highway (within the TOD Corridor) is inappropriate, given the subject site’s location on the edge of a low-density residential street (Ella Street) and among existing multi-residential buildings that do not exceed 14 storeys. The site sits approximately 570 metres from the Pacific Highway, and neither the prevailing land use nor the existing built form supports a structure of this magnitude. Not one of the developments listed on pages 27–28 of the Environmental Impact & Rezoning Statement is situated as far from the highway as the subject property, and therefore none can reasonably be considered comparable. The Visual Impact Assessment further illustrates the incompatibility of the proposal. The rendered images depict a building that is overwhelmingly dominant in scale, overshadowing Naremburn Park and casting extensive shadows across neighbouring homes and public open space throughout the year. The Assessment’s reliance on hypothetical “future proposed developments” to argue contextual consistency is speculative and does not reflect the current or approved built environment. The application also attempts to justify its scale by emphasising its contribution to affordable housing, yet the commitment of only 11% (46 dwellings) is inadequate—particularly in an area heavily populated by nurses and frontline hospital staff who are most in need of such housing. Should a revised, more contextually appropriate development form be considered, the planning authority should require a substantially higher proportion of affordable dwellings. Additionally, the proposed 15-year availability period falls below industry norms. In a high-demand locality where essential workers are increasingly priced out, any approval should mandate significantly longer affordability terms and a more meaningful allocation than the 11% currently offered. Traffic impacts have also been understated. The intersection of Ella and Herbert Streets already experiences significant congestion during weekday peak periods. Construction-related road closures and increased traffic volumes associated with a completed development accommodating up to 377 additional vehicles will exacerbate existing bottlenecks and further strain local transport infrastructure. In summary, the proposal is excessive in height and scale, incompatible with its context, inadequately justified, and likely to	<i>amendments to the approved development. The approved building scale, form, and overall design intent remain unchanged. GFA is consistent to the approved development are proposed as part of this application and, accordingly, the approved affordable housing provision remains unchanged.</i> <i>The proposed increase in height is limited to a maximum of 1.32 metres associated with the lift overrun, which is centrally located within the development and setback from the building edges. Given its limited extent and location, the additional height will have a negligible visual impact, if any, when viewed from the public domain, including by pedestrians and vehicular traffic within the surrounding road network.</i> <i>The modification does not seek any changes to the approved vehicular access, parking provision, or traffic arrangements, all of which remain consistent with the approved development consent. As such, the proposal will not generate any additional traffic impacts beyond those already assessed and approved. Detailed solar access analysis has been undertaken and demonstrates that the resulting impacts are generally consistent with those anticipated under the approved development. The extent of additional</i>
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	impose substantial visual, social, and transport impacts. A significantly reduced and more contextually sensitive development form is essential to ensure appropriate planning outcomes for the community.	<i>overshadowing has been assessed against the relevant planning controls and is limited in nature, not giving rise to any unreasonable impacts on neighbouring properties, public open space, or surrounding development.</i>
	Appendix 1 - Amended Architectural Plans - Page 48 (Image 2) and Page 49 (Image 1) Does not recognise that 2 David Street is a residential property. All of the balconies situated on Emmett Lane will be impacted by the shadow. It is recognized that the private houses and backyards on the same lane will be impacted but not the balconies of 2 David Street. I want the plans to be updated to reflect that private residential balconies of 2 David Street will be impacted by overshadowing of this project.	<i>The minor height variance results in an insignificant expansion of the approved shadow profile. At the critical 2:00 pm winter solstice interval, the additional shadow is fleeting and does not materially diminish the solar access or internal amenity of the adjacent properties. The proposal remains contextually appropriate and achieves compliance with relevant solar preservation objectives.</i>
	These comments relate to the Section 4.55 (1A) modifications requested for the proposal. 1) The proposed increase in building height for the lift overrun and mechanical components are elements that were readily foreseeable during the design and design development phases. The request for additional height over the approved height should be rejected as there are many reasonable alternatives to maintain the building within the approved height. These include: A) reducing the height of the residential floors by 70 mm. B) Reducing the thickness of the floor slabs by the use of higher strength concrete. C) Reducing the height of the podium floors by 440 mm per floor. D) A combination of the above. 2) No comment. 3) What is the proposed function of the amalgamated tenancies? Will this detract or add to the local retail environment which is already under considerable strain. 4) The request for an additional hotel room should be refused as it will add to the scale of the development and the congestion caused by vehicles. 5) No comment. 6) No comment. 7) If the increase in corridor width relates to the reduction in the atrium, or it adds bulk to the exterior of the building, then permission should be refused. 8) The atrium should not be reduced in size. This is clearly an attempt to add more floor area beyond that already approved.	<i>The proposed increase in height is limited to building services infrastructure, including the lift overrun and associated mechanical plant, and has arisen through the detailed design development process following the grant of consent. The modification does not seek any increase to the approved habitable floor space, residential yield, or approved building envelope below the roof level.</i> <i>Alternative design solutions were considered during the ongoing design development process; however, the proposed approach represents the most practical and efficient means of accommodating the required building services while maintaining compliance with relevant operational, building,</i>



	9) The Green Travel Plan is inherent to the DA and CC process and intended to take pressure off the impact of the building on traffic in Alexander St in particular. Permission should be refused. 10) If the area of the stratum plans sum to an area greater than the existing stratum plans, then permission should be refused. This building is in an area where the tallest building is five storeys high. It was originally proposed at 16 storeys, then 18 and is now 22 storeys, completely at odds with the scale of the surrounding development. The architecture has little merit and the ground floor retail faces onto two busy streets, Falcon St and the Pacific Hwy, which have historically been problematic for retail due to noise and fumes. The parking garage with 231 cars discharges onto a short section of Alexander St bounded by traffic lights to the Pacific Hwy and Falcon St, guaranteeing high levels of congestion to this street. The community, which has always opposed this project, have been reduced to being observers as the approval process has added height and bulk to the development. No further concessions that add to height or bulk should be allowed. How can the community have any confidence in an approval process where the chair of the planning panel, Mr Peter Debnam, is an associate of Mr John Ajaka who is one of the Directors of the developer Deicorp? (Debnam was the leader of the Parliamentary Liberal Party in 2006-2007 when Ajaka was selected as a candidate for the Upper House of the NSW Parliament) We cannot determine whether this conflict has been noted, or what measures have been put in place to manage it, as declarations of conflicts of interest by the planning panel are not public.	<i>and safety requirements. The additional height is limited in extent, centrally located on the roof, and results in negligible visual and amenity impacts.</i> <i>The proposed amalgamation of ground-floor retail tenancies is intended to improve the functionality, flexibility, and market viability of the hotel and retail offering for the site to maximize activation for the local precinct.</i> <i>The modification does not reduce the overall quantum of approved non-residential floor space and is not expected to adversely affect the operation or diversity of the local retail environment.</i> <i>The proposed minor increase in corridor width and associated reduction in the atrium area are minor internal design refinements intended to improve circulation, functionality, and operational efficiency within the building. These amendments do not result in any discernible increase in building bulk, scale, or external building dimensions. The overall design intent and environmental performance of the approved development are maintained.</i> <i>The proposed amendment to the Green Travel Plan reflects updated operational arrangements and does not alter the approved transport strategy or parking provision. The development will continue</i>
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		<i>to promote sustainable transport outcomes and minimize reliance on private vehicle use in accordance with the objectives of the approved consent.</i> <i>The proposed updates to the stratum subdivision plans are administrative in nature and are required to accurately reflect the proposed changes for the purpose of this modification. The amendments do not facilitate additional floor space, building bulk, or development beyond that already approved.</i> <i>Broader concerns regarding the height, scale, land use suitability, architectural design, and traffic impacts of the development relate to matters that were comprehensively assessed as part of the original development application and subsequent approval process.</i> <i>The current modification application does not seek any substantive changes to the approved building height, built form, land use mix, parking provision, or traffic arrangements. Accordingly, these matters fall outside the scope of the proposed modification. Overall, the proposed modifications are minor in nature and do not result in any material increase in the environmental impacts of the approved development. The proposal remains substantially the same development as originally</i>
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		<i>approved and continues to satisfy the relevant planning objectives and assessment criteria.</i>
	I object to the proposed increase in the approved building height for the Five Ways development. The approved development is already an exceptionally large and dominant building within the local area. The proposal seeks to further increase the approved maximum building height by 1.32 metres to accommodate lift overruns and plant requirements. While this may be presented as a relatively small increase, the building is already more than substantial in scale, and I do not believe there is sufficient justification for any further increase in height. My primary concern is that lift overruns and plant requirements are fundamental design and engineering considerations that should have been identified, designed and resolved during the original planning, design and approval process. These are not unforeseen circumstances that have arisen since approval was granted. They are standard components of a high-rise development and should have been fully incorporated into the approved building envelope from the outset. The explanation provided raises concerns regarding the level of planning and design resolution achieved before approval was granted. If additional height is now required to accommodate essential building services, it suggests that key elements of the design were not adequately accounted for during the original assessment process and it is reasonable to question whether other design or engineering issues may also have been overlooked or underestimated... I note that the proposed modification also includes adjustments to sewer and stormwater infrastructure. These are similarly fundamental requirements for the development of this scale and would reasonably be expected to have been thoroughly assessed and designed as part of the original application. While I do not object to necessary refinements to internal layouts, materials, servicing arrangements or other operational aspects of the development, I do not believe such matters justify increasing the approved building height. The building is already of a scale that will have significant impacts on the surrounding area. Further increases in height, even if relatively modest in absolute terms, add to the cumulative visual bulk and scale of an already substantial development.	<i>The proposed increase in height is limited to a maximum of 1.32 metres and relates solely to essential building services infrastructure required to support the approved development. The need for these amendments has arisen through the detailed design development process, which occurs following the grant of development consent and involves the further refinement and coordination of architectural, structural, mechanical, hydraulic, and lift systems. It is not uncommon for minor adjustments to building services and rooftop plant areas to be identified during this stage as the design progresses to a higher level of technical resolution.</i> <i>Importantly, the modification does not seek any increase in the approved residential yield, gross floor area, or occupiable building space. The additional height is confined to the centrally located lift overrun and associated building services infrastructure and does not alter the approved architectural design intent or overall built form of the development.</i> <i>An assessment of the proposed amendment demonstrates that the increase in height will have negligible visual impacts due to its limited extent, rooftop</i>



	For these reasons, I request that the proposed increase in building height be refused and that the approved height of the development remain unchanged.	<i>location, and setback from the building edges. The proposal does not result in any material increase in perceived bulk or scale when viewed from the surrounding public domain or neighbouring properties. Furthermore, detailed overshadowing analysis confirms that any additional shadow impacts are limited to short periods during the early morning and are not considered significant.</i>
	I write to object to the proposed modifications re the increased height and changes to the Green Travel Plan. Proposed Height Increase I write to object to the proposed increase in height. The shadow diagrams included are insufficient as they exclude the impacts at 3pm on the heritage residential area to the south-west of the Triangle site. These diagrams need to be included. The erection of the construction crane on the site gives an indication of the height of the new building, which indicates there will be significant overshadowing impacts on the residential area. And the main playground at North Sydney Girls High school. An informed decision on the additional height cannot be taken without the shadow diagrams for 3pm on the winter solstice being provided and made public. And the shadow impacts on the residential area and North Sydney Girls High School being further considered. Green Travel Plan This responsibility should remain with the developer, as they are the instigators of the development and are profiting from the development.	<i>The shadow diagrams provided remain consistent with the approved SSD application and subsequent modification applications.</i> <i>Amended diagrams have been provided to clearly show the additional increase in overshadowing as a result of this proposed modification.</i> <i>The assessment demonstrates that the additional overshadowing resulting from the proposed height increase is limited in extent and duration, occurring primarily during the early morning period due to the location of the lift overrun. The additional shadow generated is largely confined to public domain areas, including road corridors, landscaping, and vegetation.</i> <i>It is noted that construction cranes are temporary structures that operate independently of the approved building envelope and are not representative of the final built form. As such, they do not provide an</i>



		<i>appropriate basis for assessing the visual or overshadowing impacts of the proposed modification.</i> <i>The proposed amendment to the Green Travel Plan reflects updated operational arrangements and does not alter the approved transport strategy or parking provision. The development will continue to promote sustainable transport outcomes and minimize reliance on private vehicle use in accordance with the objectives of the approved consent.</i>
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This detail response has been prepared by Deicorp to address submissions that were made to the amended Mod 5 for the Fiveways, Crows Nest SSD project (SSD-66826207).

Following the conclusion of the exhibition, we have addressed in detail the feedback (received as at the date of this report) from Department, Council, various State agencies and the local community. It has been demonstrated that no unacceptable adverse environmental, social or economic impacts will arise because of the development (as amended).

This response should suffice to facilitate Department's finalised assessment and timely determination of Mod 5. Draft conditions of consent are kindly requested for our review before Mod 2 is determined.

If you have any further queries, please do not hesitate to contact me on 0403 745 552.

Yours sincerely

Poonam Chauhan
Senior Development Manager