

Submissions Report

Infill Affordable Housing

138 Maroubra Road, Maroubra

SSD-81426710

7 July 2026

240128

planning&co

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1.0 INTRODUCTION

This submissions report has been prepared on behalf of Maroubra Property Developments Pty Limited (**the Applicant**) to address the matters raised during the Public Re-Exhibition of the State Significant Development Application SSD-81426710 at 138 Maroubra Road, Maroubra (**the site**). The SSDA seeks approval for a mixed-use development, comprising a residential flat building including affordable rental housing and ground floor retail use.

The proposed development is State significant pursuant to s26A of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* (**Planning Systems SEPP**), as it is residential development that includes in-fill affordable housing per Chapter 2 of *State Environmental Planning Policy (Housing) 2021* (**Housing SEPP**), is in the Eastern Harbour City per Schedule 9 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) and has an estimated development cost (**EDC**) of more than \$75 million.

The SSDA, Environmental Impact Statement (**EIS**) and accompanying documents were originally exhibited between Wednesday 26 November 2025 and Tuesday 9 December 2025. A submissions and amendment report was prepared in response to this exhibition period which included a number of design changes to the proposed development.

The proposal was re-exhibited between Tuesday 2 June 2026 and Monday 15 June 2026. This submissions report provides a response to the submissions received during this re-exhibition period. The DPHI issued a *Request for Response to Submissions* letter on the 16 June 2026 pursuant to s59(2) of the *Environmental Planning and Assessment Regulation 2021* (**EP&A Regulation**).

This submissions report has been prepared in accordance with *Appendix C – Preparing a submissions report* and *Appendix D – Preparing an amendment report* of DPHI's *State Significant Development Guidelines* (**the Guidelines**).

2.0 ANALYSIS OF SUBMISSIONS

This section provides a breakdown of submissions and categorises them to identify the issues raised.

2.1 Breakdown of Submissions

There were 72 submissions received during the exhibition period. All of the submissions received objected to the proposed development.

2.1.1 Randwick City Council

Randwick City Council (**Council**) submitted a letter dated 15 June 2026 objecting to the proposed development on the following grounds:

- Failure to Respond to Land and Environment Court Findings
- Building Height – Methodology Disputed
- Unacceptable View Loss and Amenity Impacts
- Review of Changes Made
- Inadequate Retail and Commercial Floor Space
- Non-Compliance with E2 – Commercial Centre Zone Objectives
- Ground Floor Activation and Design Deficiencies
- Building Separation and Amenity

A response to Council’s key issues is provided in **Section 3.1**.

2.2 Categorising Issues

A summary of the issues raised in the submissions received is provided in **Table 1** in accordance with the Guidelines.

Table 1: Summary of categorised issues

Category	Issue	Stakeholder
The project	Architecture and Urban Design • Development widely considered excessively large, over-scaled and incompatible with site constraints • Inappropriate height, bulk and density • Poor response to narrow / constrained or unamalgamated sites • Visual dominance, “high wall” and intrusive built form • Out of character with surrounding area and neighbourhood scale	Public, Council
	Affordable Housing • Perception that affordable housing provisions are used to justify excessive height and density • Concerns provisions are tokenistic or short-term • Questions regarding genuine affordability and delivery • Limited support noting need for more housing and worker accommodation	Public
	Landscaping & Deep Soil • No deep soil provision • Limited landscaping opportunities due to full site coverage • Loss of existing greenery and environmental quality	Public, Council

Category	Issue	Stakeholder
Procedural matters	Height & Compliance - Height compliance disputed due to differing methodologies - Excavation complicates ground level definition - Concerns regarding exceeding LEP/DCP controls - Perceived manipulation of planning controls and bonuses	Public, Council
	Site Planning / Amalgamation - Failure to amalgamate site as recommended by DCP - Overdevelopment of narrow or constrained allotments - Poor site layout and inefficient land use - Impacts on future development potential of Police site	Public, Council
	Precedent & Character - Concerns development sets precedent - Loss of neighbourhood character and scale	Public
	Past DA History / LEC Ruling - Repetition of issues from refused schemes - Failure to address Land and Environment Court findings	Public, Council
	Use of Planning Controls / SEPP - Reliance on Housing SEPP incentives to override local controls - Perception of “gaming” planning system to maximise yield - Concerns bonuses increase impacts	Public, Council
	Assessment Process & Documentation - Over-reliance on post-consent management plans - Key issues (traffic, noise, construction) not resolved in design stage - Insufficient or incomplete impact assessments	Public, Council
Economic, environmental and social impacts of the project	Community Consultation & Engagement - Concerns regarding limited engagement with affected residents and stakeholders - Perceived lack of transparency in process - Concerns exhibition period insufficient for review	Public
	Governance / Developer Conduct - Concerns regarding developer track record and political donation breaches - Perceived lack of trust in proponent intentions	Public
	Traffic & Access - Severe congestion expected on Piccadilly Place, Bruce Bennetts Place and surrounding roads - Rear laneway unsuitable for full vehicular access - Conflict between pedestrians, residents, service vehicles and emergency services - Pressure on already congested transport network and parking - Methodological issues in traffic modelling	Public, Organisation, Council
	Construction Impacts & Interface - Significant impacts from excavation, staging and construction activity - Conflict with Pacific Square remediation works and concurrent developments - Risks relating to access, safety, vibration, dust and staging	Public, Organisation, Council

Category	Issue	Stakeholder
	Impacts on residents, businesses and infrastructure not adequately assessed	
	Overshadowing & Solar Access	Public, Organisation
	- Loss of solar access to neighbouring properties - Significant overshadowing of apartments and childcare facilities - Impacts on health, wellbeing and amenity	
	Privacy & Visual Impacts	Public, Organisation
	- Overlooking into residential units, childcare spaces and outdoor areas - Loss of views and outlook - Visual intrusion, enclosure and reduced amenity	
	Noise, Air & Environmental Impact	Public, Organisation
	- Increased noise from traffic and construction - Air quality impacts during construction - Acoustic impacts from operations and servicing	
	Community & Social Impact	Public, Organisation
	- Safety risks for families, elderly residents and pedestrians - Impacts on childcare centre operations - Loss of amenity and quality of life for residents	
	Childcare Impact	Public, Organisation
	- Direct impacts on adjacent early education centre - Risks to child wellbeing and regulatory compliance - Concerns from parents and operators regarding safety and exposure	
	Economic Impact (Local & Property)	Public, Organisation
	- Negative impacts on local businesses during construction - Reduced accessibility for customers - Concerns regarding property value and rental impacts	
	Infrastructure Capacity	Public
	- Existing local infrastructure already strained - Development likely to exacerbate pressure on facilities and services	
	Public Interest	Public, Organisation, Council
	- Broad view that proposal is not in the public interest - Repetition of previously rejected scheme - Unresolved risks and cumulative impacts	

3.0 RESPONSE TO SUBMISSIONS

This section provides a detailed summary of the Applicant's response to the matters raised in submissions received. The Applicant's responses are provided in the following sections and have been structured as follows:

- Randwick Council (**Section 3.1**)
- Organisations (**Section 3.2**)
- Public Submissions (**Section 3.3**)

3.1 Randwick Council

The Applicant's response to Randwick Council's submission letter is outlined in **Table 2** below.

Table 2: Response to Randwick Council

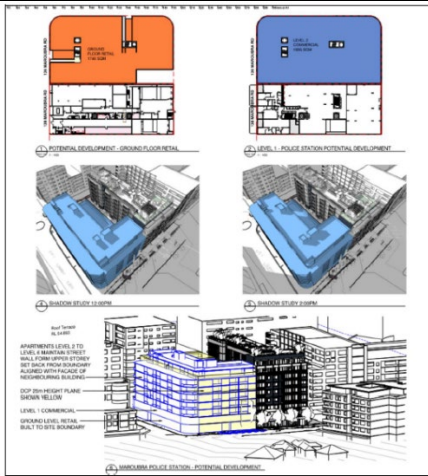
Item	Issue/ Comment	Proponent Response
Key Issues and areas of non-compliance		
Failure to Respond to Land and Environment Court Findings		
	Council is not satisfied that the amended scheme demonstrates that the previously identified impacts have been avoided or materially reduced. Instead, the increased height and scale indicate a strong likelihood that: • View loss will be equal or greater than previously identified; • Bulk and scale impacts will be intensified; and • The same unacceptable amenity outcomes will persist Accordingly, the proposal fails to meaningfully respond to the Court's findings and seeks to effectively reintroduce a development outcome that has already been found unacceptable on its merits.	• The proposed development complies with the height permitted under the Housing SEPP Chapter 2. The bulk and scale of the proposed development is compatible with the future desired character of the area as established by all of the relevant planning controls that apply to the site and surrounding area including the Low and Mid Rise Housing policy which applies to the residential zoned land in the surrounding area. Bulk, scale and desired future character is addressed in Section 8.2 of the EIS. • With regard to view loss, a View and Visual Impact Assessment (VVIA) was prepared with the EIS (Appendix P). The VVIA demonstrated that some surrounding residential dwellings will experience low or moderate view loss, however these views are inherently susceptible to change as they are obtained across common boundaries within a dense urban centre, and the proposed development is compliant with the maximum building height permitted at the site. The view impacts of the proposed development are therefore acceptable in a dense urban area where some level of change is anticipated by the planning controls that apply to the land. • With regard to amenity outcomes, the proposal provides reasonable amenity to existing neighbours and enables a future equitable development at the police station site. The proposed development is reasonably setback from existing neighbours, will facilitate future development of the police site and achieves reasonable amenity outcomes in a dense urban area undergoing change.

Item	Issue/ Comment	Proponent Response
	It should be also noted that the Submissions and Amendment Report prepared by the Applicant demonstrates that the amendments made to the scheme are incremental and peripheral, including: • Minor increases in retail frontage; • Façade articulation adjustments; and • Relocation of vehicle access.	Noted.
	These changes do not constitute a fundamental redesign of the built form, nor do they address the central issues identified by the Court, namely: • excessive height and bulk; • unacceptable view loss; and • poor relationship to adjoining development.	The previous development application and LEC matter is addressed in detail in the EIS. Potential amenity impacts and view loss are addressed in the EIS and supporting technical documents, as well as the Submissions and Amendment Report prepared by Planning & Co dated 19 May 2026.
Building Height – Methodology Disputed		
	In this case: • the site is fully built out with basement excavation extending to boundaries. • the proposal seeks to rely on an interpolated ground level that abstracts from the actual physical condition of the site. Council finds that applying the ‘Bettar’ approach in these circumstances risks understating the true height and bulk of the building and does not appropriately reflect the built form outcome experienced from surrounding land and the public domain.	In the assessment of the previous development application (DA80/2023) the height of the development was calculated consistently with the principles in Bettar. This approach was accepted by Council in the assessment before the Sydney Eastern City Planning Panel and during the subsequent LEC proceedings. Council now instead suggest that the building height should be measured in accordance with the methodology established in <i>Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582 (Merman)</i>. Refer to the legal advice prepared by KL Gates as to the proposed methodology for measuring building height. The legal advice notes that (in particular): • Its appropriate to measure building height consistent with the principles in Bettar v Council of the City of Sydney [2014] NSWLEC 1070 (Bettar) <u>because adopting the methodology in Merman is not appropriate and would artificially exaggerate the height of the development when compared with height measured from an interpolated level which is consistent with that of the adjoining properties</u> – and does not place the building in it’s surrounding context. This is the approach taken in the SSDA. Regarding the previous LEC matter, the appropriateness of the Clause 4.6 variation request ultimately turned on the impact of height above the LEP control. The Housing SEPP Chapter 2 provision for 30% additional height is statute based on the strategic objective of delivering housing and affordable housing in well located areas.
	The Housing SEPP does not override the requirement to assess these impacts under section 4.15(1), nor does it justify built form outcomes that result in unacceptable planning consequences.	• The EIS has considered the matters under 4.15(1). • The proposed development does not result in unacceptable planning consequences.
Unacceptable View Loss and Amenity Impacts		
	The amended proposal: • increases the height beyond the previously refused scheme;	The proposed development complies with the height permitted under the provisions in Chapter 2 of the Housing SEPP.

Item	Issue/ Comment	Proponent Response
	- introduces additional bulk and massing; and - does not demonstrate any material reduction in view impacts.	The bulk and massing of the proposal is compatible with the future desired character of the area and is addressed in the EIS.
	Accordingly, the issue of view loss remains unresolved and represents a fundamental flaw in the proposal. This alone provides sufficient basis to refuse the application on planning merits.	The VVIA demonstrates that some surrounding residential dwellings will experience low or moderate view loss, however these views are inherently susceptible to change as they are obtained across common boundaries within a dense urban centre, and the proposed development is compliant with the maximum building height permitted at the site. The EIS and Design Report demonstrates that the proposed development results in a view impact that is the same or improved from a development that delivered the DCP envelope (which does not apply to SSD) that included affordable housing as allowed by the Housing SEPP.
Review of Changes Made		
	Council notes these changes and finds that they address some of the concerns raised in our previous submission dated 24 December 2025. However, Council finds that the proposal continues to represent an overdevelopment of the site, characterised by: - excessive height relative to the planning controls; - increased bulk and massing; and - development on a site that has not been amalgamated as anticipated under the DCP framework.	- Refer to EIS and the department comments - The proposed development is compliant with the maximum height permitted on the site under the Housing SEPP. - The bulk and scale of the proposal is consistent with the desired future character of the area. - The DCP does not apply to the proposed SSD per s2.10 of the Planning Systems SEPP. - The proposed setback to the NSW Police Site to the west is a reasonable response to the constraints of the site and will allow the Police site – should it ever be redeveloped – to deliver zero-boundary setbacks to its three street frontages to maximise GFA. The Applicant has demonstrated reasonable attempts to purchase the NSW Police Site, which have been refused. The subject site and the police site cannot be developed together at this time.
	The resulting built form: - is inconsistent with the desired urban structure for the Maroubra Junction centre; - fails to achieve an appropriate transition in scale; and - reinforces the same deficiencies identified by the Court.	- The proposed built form is consistent with the desired future character of the area as defined by the relevant planning controls which apply to the proposal. - As established in the design report, the proposal is compatible with the future desired character of the area and is of a height that is consistent with the neighbouring development along Maroubra Road.

Item	Issue/ Comment	Proponent Response
		
Randwick Statutory and Policy requirements		
	The DCP is considered relevant in assessing the current application as these are the established design controls applicable to all development within the town centre and remains a relevant and important planning consideration under Section 4.15 of the EP&A Act. The Applicant's repeated dismissal of the DCP is misconceived.	• The DCP does not apply to the SSD per s2.10 of the Planning Systems SEPP. • Section 3.42 of the EP&A Act clarifies that the role of the DCP is to give effect to the aims of any environmental planning instrument that applies to the development, to facilitate development that is permissible under any such instrument, and to achieve the objectives of land zones. The proposed development is on land zoned E2 Commercial Centre under the Randwick LEP. Residential flat buildings and retail premises are permitted with consent in the E2 Zone. The proposed development satisfies the objectives of the E2 Zone as addressed in the EIS. • In Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 at [47] the Court found <i>'The fact that the principal purpose of a development control plan is to provide guidance on certain matters referred to in s 3.42(1) of the EPA Act does not make it permissible to construe the provisions of a local environmental plan by reference to a development control plan.'</i> • Section 4.15 of the EP&A Act states that a DCP cannot require a more onerous standard where a proposed development complies with relevant statutory provisions. In this case, the proposed development is permitted with consent in the zone and complies with the height of building standard in Clause 4.3. In any case, s4.15(3A)(b) requires that a consent authority apply any provision of a DCP flexibly. • As noted in the EIS, the DCP envelope was considered as a design alternative for the proposal and has informed the final design of the proposed development. The EIS and Design Report has demonstrated why the DCP envelope cannot be delivered on the site – most relevantly: the DCP anticipates amalgamation with the neighbouring land, being the operational Maroubra Police Station, which cannot be acquired.
	The DCP establishes the intended urban structure and built form for the Maroubra Junction centre and provides guidance on appropriate scale, setbacks, and land use distribution.	• The DCP does not apply to the SSD per s2.10 of the Planning Systems SEPP. • The proposal's urban structure and built form response to the controls of the DCP has been addressed within the EIS.

Item	Issue/ Comment	Proponent Response
	The proposal's substantial departure from these controls is not justified by a superior planning outcome, but rather reflects an overdevelopment driven by yield maximisation.	- The building footprint is not inconsistent with Council's DCP and is essentially a 'rotation' of the C-shaped building envelope prescribed in the DCP. - The proposed development is consistent with the built form as anticipated under Chapter 2 of the Housing SEPP for the delivery of affordable housing. The height of the proposed development is largely consistent with the existing built form along that part of Maroubra Road.
Outstanding Concerns		
Inadequate Retail and Commercial Floor Space		
	The proposed development provides insufficient retail and commercial floor space. - Required: 30% of Gross Floor Area (GFA) = 1,867.8m² - Proposed: 269.7m² This is inconsistent with the strategic intent for the site.	- The provision of retail floor space has been maximised in response to the constraints of the site, specifically, the following considerations: - The substation must be provided to Maroubra Road as required by Ausgrid. - A single level of basement is proposed to minimise potential contamination and in response to concerns raised by neighbours during the LEC process. - The design of the building must contend with the constraints of the site including a narrow primary frontage with planning requirements such as active uses, end-of-trip facilities and staff amenities, services, storage, waste facilities. It is considered that there is no feasible alternative to the proposed building entrance from Maroubra Road provided all of these competing constraints. - The 'required' retail floor space Council notes is a DCP provision – which does not apply to the proposed State significant development (s2.10 of Planning Systems SEPP) and in any case, residential flat buildings and retail premises are permitted uses on the site and a DCP must facilitate development that is permitted under the LEP (s3.42 of the EP&A Act).
	Council does not support the extent of ground floor space allocated to services and storage. The "police potential development study" (below) shows that the Police site should have ground floor retail and level 1 commercial. Council finds that the retail and commercial spaces should be shared more equitably between 136 and 138 Maroubra Road.	- The proposed provision of non-residential floor space on the site is consistent with surrounding development along Maroubra Road and will improve and activate the street frontage to that section of Maroubra Road. - The EIS and the Submissions and Amendments Report have identified the reasons as to why the whole of the Maroubra Road Frontage cannot be provided as active retail. These are reasonable and required spatial allowances for necessary points of access and services. - The police potential developments study is to demonstrate that the police site can be reasonably developed in the future. Any provision of retail or commercial floor space in a future redevelopment of that site would be subject to assessment.

Item	Issue/ Comment	Proponent Response
		
	Council also notes it is currently undertaking a strategic review of the Maroubra Junction Town Centre, with a focus on strengthening its commercial role and ensuring new development delivers active ground floor uses and sufficient employment-generating floor space. In this context, the proposal's limited provision of retail and commercial space, and the dominance of non-active uses at ground level, raises concern that it will contribute to the incremental erosion of commercial capacity within the centre.	• The proposal is consistent with the desired future character of the locality as defined by the planning controls which apply to the site. • Active uses are proposed at ground level.
Non-Compliance with E2 – Commercial Centre Zone Objectives		
	The proposal fails to achieve the objectives of the E2 – Commercial Centre zone. In particular, it: • does not strengthen the role of the centre as a focus for business, retail and employment; • does not deliver sufficient employment-generating floor space; • fails to provide a diverse, active and functional street frontage; • does not achieve a high standard of urban design; and • does not adequately minimise impacts on residential amenity. The scheme prioritises residential yield at the expense of commercial function, resulting in a net erosion of the centre's economic and employment capacity.	• The proposed development is consistent with the zone objectives as addressed in Section 9.6 of the EIS and is in the public interest as addressed in Section 9.7 of the EIS. • The proposed will strengthen the role of the commercial centre by providing retail use on the ground floor alongside necessary services and pedestrian access for residents in upper levels. It is wholly permitted development in the E2 Zone. The substation must be provided to Maroubra Road as required by Ausgrid. • The proposed development meets the objective of Chapter 2 Part 2 of the Housing SEPP to facilitate the delivery of new in-fill affordable housing and is development in an accessible area per Schedule 10 of the SEPP, capable of greater density to meet the needs of future residents. • The DCP does not apply and is not relevant to the strategic planning framework. The proposed development is consistent with the strategic planning framework as set out in Section 2 of the EIS. The proposal delivers infill affordable housing within an existing centre, close to transport, jobs and services – aligned with State government priorities and the National Housing Accord.

Item	Issue/ Comment	Proponent Response
Ground Floor Activation and Design Deficiencies		
	The increased width of the retail frontage and removal of vehicle egress to Maroubra Road is noted. However, Council does not accept the justification that the site's existing and surrounding inactive frontage reduces the need for active frontages. Relevant planning controls clearly require new development to deliver active street edges and improve upon current site conditions.	• The EIS and the Submissions and Amendments Report have identified the reasons as to why the whole of the Maroubra Road Frontage cannot be provided as active retail. • The Submissions and Amendments Report identifies that the existing condition along Maroubra Road is generally inactive (8% of the street frontage is active). The proposed development will replace a vacant building and will improve upon the current site conditions with regard to active frontages.
	Overall, the layout prioritises servicing and internal circulation at the expense of active uses, reflecting a lack of design efficiency and integration. A fundamental re-planning is required to consolidate services, rationalise vertical circulation, and deliver continuous and flexible floorplates capable of accommodating retail at ground level and commercial uses at Level 1, consistent with the expectations of development within an E2 –Commercial Centre zone. Accordingly, Council finds that a comprehensive redesign is required to: • Prioritise and expand retail tenancies at ground level with a continuous and active street frontage; • Consolidate and relocate service, storage and plant areas to minimise their impact on active uses; • Provide a functional and adaptable commercial floor at Level 1; and • Deliver a legible, efficient and integrated internal layout consistent with the expectations of a mixed-use development within an E2 – Commercial Centre zone.	• The EIS and the Submissions and Amendments Report have identified the reasons as to why the whole of the Maroubra Road Frontage cannot be provided as active retail. • The provided internal configuration, including servicing, has been developed as a result of consultation with stakeholders over a long period of time. Specifically, the proposed layout has been informed by the following: – The substation must be provided to Maroubra Road as required by Ausgrid. – A single level of basement is proposed to minimise potential contamination from further excavation and in response to concerns raised by neighbours during the LEC process. – The design of the building must manage the constraints of the site including a narrow primary frontage with planning requirements such as active uses, end-of-trip facilities and staff amenities, services, storage, waste facilities. It is considered that there is no feasible alternative to the proposed building entrance from Maroubra Road provided all of these competing constraints. – There is no requirement to provide commercial floor at Level 1. The DCP does not apply to State significant development.
Building Separation and Amenity		
	Council objects to the proposed western setback due to non-compliance with Apartment Design Guide (ADG) separation principles. Proposed setbacks (Levels 3–8): • 3.468m to external walls • 3.0m to balconies	• The proposed building separation is consistent with the objectives of Part 3F Visual Privacy of the ADG, being: – Adequate building separation distances are <u>shared equitably</u> between neighbouring sites, <u>to achieve reasonable levels of external and internal visual privacy</u>. – Site and building design elements (such as louvres and screening) increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private space. • The design guidance in Part 3F-1 notes that “new development should be located and oriented to <u>maximise visual privacy between buildings on site and for neighbouring buildings</u>.” • The proposed setback to the NSW Police Site to the west is a reasonable response to the constraints of the site and will allow the Police site – should it ever be redeveloped – to deliver zero-boundary setbacks to its three street frontages to maximise GFA.
	The applicant assumes an 18m separation, which would require any future development at the NSW Police site to provide a setback exceeding 14m. This is not considered an equitable or reasonable development outcome in terms of building separation (see Figure 2 below). It is also noted that separation continues to remain constrained with the neighbouring Pacific Square Development site, and that suitable separation has not been demonstrated to fully address environmental impacts to neighbouring properties in terms of privacy, visual bulk and overshadowing.	

Item	Issue/ Comment	Proponent Response
		- Council's DCP (which does not apply to the SSD) seeks an inequitable distribution of GFA across the development site and the police site as shown in the below figure, and as outlined in the Design Report prepared by DJRD and the EIS. - The proposed side setbacks meet ADG habitable to non-habitable building separation requirements and utilises 'pop-out' windows as per the ADG 'Hutchison' case-study. - Overall, the proposed development provides adequate building separation in the specific circumstances of the development and achieves appropriate privacy and solar access for existing and future development per the objectives of the ADG.
Other Design and Functional Concerns		
	Council also raises concerns regarding: south-facing residential units at Level 1. These spaces would be more appropriately used for commercial purposes, consistent with the site's strategic intent.	Commercial uses on the second level are not considered for the proposal. Residential flat buildings are permitted with consent in the E2 Zone.
	the viability and functionality of basement parking, including tandem arrangements;	The proposed car parking arrangements are supported by the Traffic Impact Assessment and are appropriate given the site-specific constraints and parking requirements for the proposal.
	the extent and impact of excavation; and	Excavation has been limited to a single level of basement car parking, 're-using' the existing single basement level. Only minor excavation is proposed to facilitate the single basement level.
	the visual impact of plant, substations and fire infrastructure on the streetscape.	- The EIS and the Submissions and Amendments Report have identified the reasons as to why certain plant, substations and fire infrastructure are required to be located to the Maroubra Road frontage. - The plant and infrastructure are located within the building footprint and do not result in any unreasonable visual impact.

3.2 Organisations

The Applicant's response to the received organisation submissions are outlined in **Table 3** below.

Table 3: Organisations Response to Submissions Table

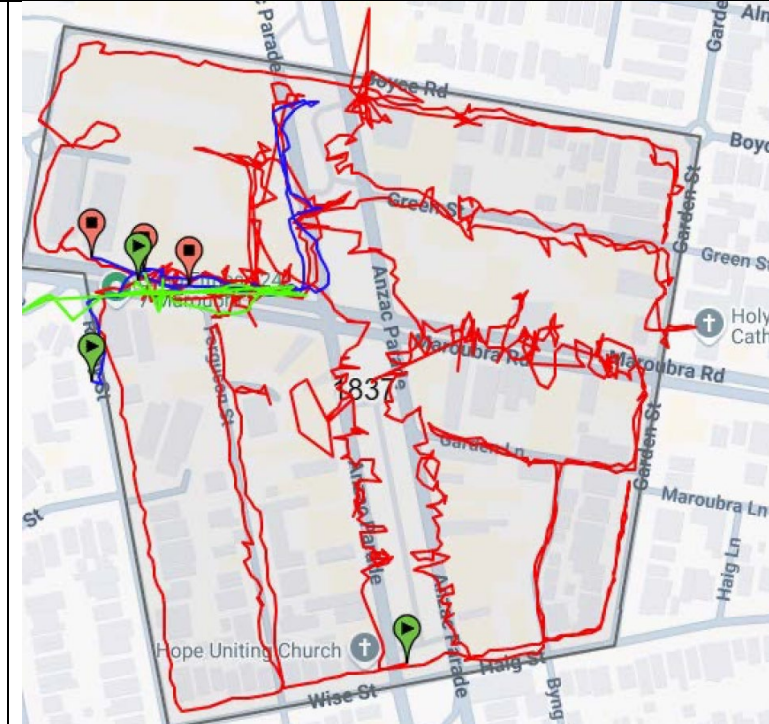
Issue/ Comment	Proponent Response
The Owners Corporation SP 81311 - 140 Maroubra Rd Maroubra	

Issue/ Comment	Proponent Response
The proposed building exceeds local planning expectations for the area.	The proposed development complies with the permitted height under the Housing SEPP and is of a similar height, bulk and scale as other existing development along Maroubra Road and in the surrounding area.
There are insufficient setbacks and separation distances	The EIS and supporting documents have demonstrated that the objectives of the ADG setback controls relating to visual privacy and solar access have been met and that neighbouring dwellings are provided an adequate level of amenity. The proposed setbacks are an appropriate response on a narrow site and minimises impacts on neighbours.
The rooftop garden—with trees, structures and regular use— effectively adds another occupiable level	The rooftop communal open space is not an additional storey of the building and is open to the air.
The close proposal will result in severe loss of privacy, significantly affecting the amenity and liveability of dozens of homes.	- The proposed building separation is consistent with the objectives of Part 3F Visual Privacy of the ADG, being: - Adequate building separation distances are <u>shared equitably</u> between neighbouring sites, <u>to achieve reasonable levels of external and internal visual privacy</u>. - Site and building design elements (such as louvres and screening) increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private space. - The design guidance in Part 3F-1 notes that “new development should be located and oriented to <u>maximise visual privacy between buildings on site and for neighbouring buildings</u>.”
The proposal will have unacceptable overshadowing impacts.	Overshadowing has been addressed in the EIS. The ADG provides relevant design guidance for residential apartment development. The proposed development will result in a minor reducing in required solar access in mid winter between the hours of 9am and 3pm for 6 (out of 67) dwellings, from 2 hours to 1.5 hours. It is considered that this is a reasonable outcome in a dense urban area, and that some level of overshadowing is anticipated by the planning controls applying to the site under the Housing SEPP.
The proposed pop-out windows are not adequate at mitigating privacy impacts.	Privacy treatments including the proposed pop-out windows are an accepted response to residential development on narrow in-fill sites such as 138 Maroubra Road.
The proposal will overlook the childcare centre.	- Trafficable areas of the rooftop COS are setback from the building façade with screen planting provided to prevent casual overlooking. - Privacy screens are proposed to the Level 2 COS to prevent casual overlooking of the childcare centre. - Privacy screens are proposed to all private open space that may have views to the childcare centre. 'Pop out' windows to the eastern boundary is an appropriate design solution and mitigation measure to maintain privacy to that setback, and face away from the primary outdoor areas of the childcare.
The proposal will overshadow the childcare centre.	The solar access report (Appendix BB to EIS) determines: “it is expected that the elevated childcare open space areas will receive 1.5 hours of direct sunlight to 50% of the principal

Issue/ Comment	Proponent Response
	usable portion of the childcare open space on June 21, between 9:00 am and 3:00 pm. SLR has also assessed the impact of the building on the childcare open space on September 21. While the building will affect the solar access, the childcare open space areas will receive 2 hours of direct sunlight to 50% of the principal usable portion of the space between 9:00 am and 3:00 pm.” • The location of the child care centre, at the lower level of the neighbouring building and adjacent the boundary means it is inherently susceptible to some shadow impacts from any development on the subject site. The proposed development has been designed with reasonable building separation to allow for a reasonable level of solar access to the childcare centre mindful of the sites constraints, the dense urban nature of the surrounds and the location of the childcare centre at the interface between the two buildings.
This development will exacerbate congestion issues without any corresponding upgrades or mitigation strategies.	• The TIA recognises the context of the site proximate to the Pacific Square shopping centre. Regardless, the proposal is expected to have a traffic generation of less than 20 peak hour traffic movements – equivalent to fewer than one vehicle every three minutes.
Flooding, traffic and congestion risks have not been meaningfully addressed despite well-known existing pressures in the area.	• Traffic and congestion risks have been addressed in the EIS and the TIA. • Flooding risks have been addressed in the EIS, stating “<i>Council advised that the site is not burdened by the 1% AEP flood event and no flood water is stored on site for all storms up to the 1% AEP flood.</i>”
Concerns regarding congestion of Picadilly Place and Bruce Bennetts Place considering the significant vehicle traffic already experienced.	• The TIA indicates the roundabout between Bruce Bennetts Place and Picadilly Lane will continue to operate at a level of service A post-development. Regardless, less than 20 peak hour traffic movements are expected to result from the proposal– equivalent to fewer than one vehicle every three minutes.
There is no clarity around the integration, quality, or long-term management of affordable housing dwellings.	• The units will be measured by a registered tier 1 community housing provider for a period of at least 15-years. The affordable housing units are identified on the architectural plans and will be provided reasonable amenity commensurate to dwellings not used for affordable housing.
All Botanica residents (arguably the most directly impacted by this developed) were not notified of the proposal during the community consultation period.	• A community information flyer was distributed to 1,837 nearby residences. The distribution map is shown below.

Issue/ Comment

Proponent Response



We have only been given 2 weeks opportunity to make a submission on this SSD via the planning portal when the NSW Government's own guidelines state that the exhibition period should be 4 weeks (see Section 6.1 of the State Significant Development Guidelines).

- The proposed development was exhibited and re-exhibited in accordance with DPHI's Community Participation Plan.
- Schedule 1, Section 9 of the EP&A Act requires that an SSDA is exhibited for a period of time specified by a relevant community participation plan prepared by the Planning Secretary.
- Table 1 of the DPHI Community Participation Plan provides that SSDA for the purposes of in-fill affordable housing must be exhibited for a period of 14 days.

Issue/ Comment	Proponent Response								
	<table> <tr> <th colspan="2" data-bbox="1093 169 2058 217">Assessments</th></tr> <tr> <th data-bbox="1093 225 1776 264">Planning function</th><th data-bbox="1787 225 2058 264">Exhibition timeframe*</th></tr> <tr> <td data-bbox="1093 272 1776 376">Application for development consent (other than for complying development certificate, for designated development, State significant development or a development type listed in Appendix 1)</td><td data-bbox="1787 272 2058 376">14 days</td></tr> <tr> <td data-bbox="1093 384 1776 655"> Application for development consent for certain residential State significant development ** including: - Housing development carried out by certain public authorities (Planning Systems SEPP Schedule 1, Section 26) - In-fill affordable housing (Planning Systems SEPP Schedule 1, Section 26A) - Build-to-rent housing (Planning Systems SEPP Schedule 1, Section 27) - Seniors housing (Planning Systems SEPP Schedule 1, Section 28) </td><td data-bbox="1787 384 2058 655">14 days</td></tr> </table>	Assessments		Planning function	Exhibition timeframe*	Application for development consent (other than for complying development certificate, for designated development, State significant development or a development type listed in Appendix 1)	14 days	Application for development consent for certain residential State significant development ** including: - Housing development carried out by certain public authorities (Planning Systems SEPP Schedule 1, Section 26) - In-fill affordable housing (Planning Systems SEPP Schedule 1, Section 26A) - Build-to-rent housing (Planning Systems SEPP Schedule 1, Section 27) - Seniors housing (Planning Systems SEPP Schedule 1, Section 28)	14 days
Assessments									
Planning function	Exhibition timeframe*								
Application for development consent (other than for complying development certificate, for designated development, State significant development or a development type listed in Appendix 1)	14 days								
Application for development consent for certain residential State significant development ** including: - Housing development carried out by certain public authorities (Planning Systems SEPP Schedule 1, Section 26) - In-fill affordable housing (Planning Systems SEPP Schedule 1, Section 26A) - Build-to-rent housing (Planning Systems SEPP Schedule 1, Section 27) - Seniors housing (Planning Systems SEPP Schedule 1, Section 28)	14 days								
The submitted shadow analysis fails to properly account for existing built form, seasonal sun paths and overshadowing patterns.	A Solar Access Statement (Appendix BB to the EIS) was prepared by SLR which assessed solar access with respect to existing built form in line with the requirements of the ADG. Shadow Diagrams were provided with the Architectural Drawings, which identify shadow impacts of the proposed development at mid-winter (21 June).								
Comprehensive acoustic modelling has also not been provided, despite foreseeable impacts from rooftop use, minimal setbacks and proximity to the childcare centre.	A Noise and Vibration Impact Assessment (Appendix T to the EIS) was prepared by SLR which detailed potential construction and operational noise and vibration impacts that may be caused by the proposed development.								
The Council's DCP explicitly notes that maximum height and building depth cannot be achieved on small allotments.	- The DCP does not apply to the SSD per s2.10 of the Planning Systems SEPP. - In any case, residential flat buildings and retail premises are permitted with consent in the E2 Zone under the Randwick LEP. The role of a DCP per s3.42 of the EP&A Act is to facilitate development that is permitted under an environmental planning instrument such as the LEP.								
Approval would also compromise the future planning potential of the adjoining Maroubra Police site, likely forcing further non-compliant development.	The EIS, Design Report and Architectural Drawings demonstrate that the police site can be developed independently and achieve a commensurate height and gross floor space with appropriate building separation.								
The proposed demolition, excavation and construction immediately adjacent to sensitive works at Pacific Square poses vibration impacts on curing membranes and concrete repairs, dust and debris contamination, overlapping exclusion zones, constrained access for contractors, and compromised pedestrian and emergency egress in a high-traffic mixed-use precinct.	The proponent has engaged with Pacific Square and DPHI regarding works being undertaken concurrently at Pacific Square. Correspondence between the proponent and Pacific Square has been provided to DPHI.								
As per the NSW Planning System SEPP (Schedule 1, Clause 26), I respectfully draw your attention to the relevant thresholds for automatic referral to the Independent Planning Commission (IPC), namely:	Recent NSW reforms have removed the Independent Planning Commission (IPC) trigger for State Significant Development (SSD) infill affordable housing projects, even if local councils object or there are over 50 public submissions.								

Issue/ Comment	Proponent Response
- Where the local council has objected, - Where 50 or more public objections are received (with petitions and similar submissions counted as one), or - Where the applicant has made a reportable political donation.	- Schedule 1, Clause 26 of the Planning Systems SEPP relates to housing development carried out by certain public authorities, being the Aboriginal Housing Office or the Land and Housing Corporation, and is not relevant to the proposed development. - The applicable Part 2.2, Division 1, Section 2.7 of the Planning Systems SEPP provides provisions for Designation of Independent Planning Commission as consent authority for certain State significant development. As per Section 2.7 (7), the IPC is not declared to be the consent authority for this SSDA as it is development specified in Schedule 1, Section 26A, In-fill affordable housing.
Strata Plan 74378, 'Boulevard', Pacific Square, 717 Anzac Parade Maroubra	
The development will severely impact the amenity of the site, leading to increased traffic congestion, and restricted access to emergency services to access the site.	The proposed development will not result in any unreasonable or disproportionate traffic impact and will not restrict access to emergency services accessing the site or other residential development in the surrounding area.
Disregarding Rear Laneway Constraints. In a major design pivot to address state road limitations on Maroubra Road, the developer has modified the layout to consolidate 100% of residential, visitor, loading dock, and car-share vehicle movements to the rear via Piccadilly Place.	- The TIA identifies that the proposal will generate an acceptable number of vehicle movements per day during peak times and that the proposed development will have a negligible impact on the surrounding road network, which includes vehicle movement to and from the loading areas of Pacific Square. - Vehicle entry to and from Maroubra Road was amended in response to submissions from neighbouring residents and Council.
Maroubra Junction Early Education Centre	
The proposal does not clearly demonstrate compliance with the maximum building height.	The proposal is compliant with the maximum permitted height on the site under the LEP and Housing SEPP.
The height calculation relies on a disputed methodology and may exceed the permitted limit.	- Legal advice prepared by KL Gates was provided with the Submissions and Amendments Report, which concluded: <i>Its appropriate to measure building height consistent with the principles in Bettar v Council of the City of Sydney [2014] NSWLEC 1070 (Bettar) because adopting the methodology in Merman is not appropriate and would artificially exaggerate the height of the development when compared with height measured from an interpolated level which is consistent with that of the adjoining properties – and does not place the building in it's surrounding context. This is the approach taken in the SSDA.</i> - This approach was accepted in the previous LEC and SECPP proceedings.
The building footprint is fully excavated with basements across the site, indicating overdevelopment.	The proposal complies with the planning controls on the site. The proposal seeks to 're-use' the single existing basement level.
Setbacks to adjoining properties are minimal and separation distances are insufficient.	The EIS and supporting documents have demonstrated that the objectives of the ADG setback controls relating to visual privacy and solar access have been met and that neighbouring dwellings are provided an adequate level of amenity. The proposed setbacks are an appropriate response on a narrow site and minimise impacts on neighbours.

Issue/ Comment	Proponent Response
Deep soil planting provision is negligible.	The proposed development provides sufficient soil depths suitable for tree planting to the Level 2 and rooftop communal open spaces. The existing development on the site does not include any deep soil area and the site is located in an existing urban centre.
The overall bulk and scale of the building is excessive for the site.	The bulk and scale of the proposed development is compatible with the future desired character of the area as established by the applicable planning controls.
Privacy impacts remain unresolved, with direct overlooking into neighbouring properties.	- The proposed building separation is consistent with the objectives of Part 3F Visual Privacy of the ADG, being: - Adequate building separation distances are <u>shared equitably</u> between neighbouring sites, <u>to achieve reasonable levels of external and internal visual privacy</u>. - Site and building design elements (such as louvres and screening) increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private space. - The design guidance in Part 3F-1 notes that “new development should be located and oriented to <u>maximise visual privacy between buildings on site and for neighbouring buildings</u>.”
Screening and design devices do not adequately mitigate privacy impacts.	- Privacy treatments including the proposed pop-out windows are an accepted response to residential development on narrow in-fill sites such as 138 Maroubra Road. 'Pop out' windows to the eastern boundary is an appropriate design solution and mitigation measure to maintain privacy to that setback, and face away from the primary outdoor areas of the childcare.
The proposal will overlook the childcare centre, including sensitive areas.	- Trafficable areas of the rooftop COS are setback from the building façade with screen planting provided to prevent casual overlooking. - Privacy screens are proposed to the Level 2 COS and private open space that may have sightlines to the child care centre, to prevent casual overlooking of the childcare centre. 'Pop out' windows to the eastern boundary is an appropriate design solution and mitigation measure to maintain privacy to that setback, and face away from the primary outdoor areas of the childcare.
The proposal will result in overshadowing of the childcare centre. Reduced sunlight may cause non-compliance with childcare regulations for natural light and ventilation.	- The solar access report (Appendix BB to EIS) determines: “it is expected that the elevated childcare open space areas will receive 1.5 hours of direct sunlight to 50% of the principal usable portion of the childcare open space on June 21, between 9:00 am and 3:00 pm. SLR has also assessed the impact of the building on the childcare open space on September 21. While the building will affect the solar access, the childcare open space areas will receive 2 hours of direct sunlight to 50% of the principal usable portion of the space between 9:00 am and 3:00 pm.” - The location of the child care centre, at the lower level of the neighbouring building and adjacent the boundary means it is inherently susceptible to some shadow impacts from any development on the subject site. The proposed development has been designed with reasonable building separation to allow for a reasonable level of solar access to the childcare

Issue/ Comment	Proponent Response
	centre mindful of the sites constraints, the dense urban nature of the surrounds and the location of the childcare centre at the interface between the two buildings.
Construction activities will introduce dust and air quality risks affecting children.	• Potential construction noise and dust will be managed by a detailed construction management plan which can be made a condition of consent. • Potential impacts from construction activity can be managed and mitigated in accordance with the requirements of a future detailed CMP in accordance with EPA guidelines and industry best practice.
Construction noise will impact childcare operations and surrounding uses.	
Demolition raises potential asbestos risks that have not been adequately addressed.	• Any asbestos found during demolition will be removed safely in line with the relevant requirements.
Construction will disrupt safe access for childcare drop-off and pick-up.	• The TIA includes a preliminary construction traffic management plan which outlines construction traffic activities around the site. A detailed construction traffic management plan will be prepared prior to construction.
Increased traffic congestion will occur on an already constrained local road network.	• The TIA identifies that the proposal will generate an acceptable number of vehicle movements per day during peak times and that the proposed development will have a negligible impact on the surrounding road network, which includes vehicle movement to and from the loading areas of Pacific Square.
Some proposed apartments will have no solar access.	• The proposed development complies with the requirements of the ADG with regard to solar access. 11% of proposed dwellings achieve no direct solar access at mid-winter, this complies with the ADG control of 15 %.
Communal open space provision is limited.	• 869sqm of communal open space is provided, equivalent to 57% of the site area. This exceeds the ADG requirement of 25% of the site area.
The design prioritises maximum yield over residential amenity.	• As outlined in the EIS, the proposed development provides a reasonable level of residential amenity and is of a height, bulk and scale that is compatible with the future desired character for the area and which complies with the maximum permitted height in Chapter 2 of the Housing SEPP.
Traffic, noise and environmental impacts are identified but deferred to future management plans.	• Appropriate conditions of consent will ensure traffic, noise and other environmental management plans are provided prior to the relevant construction stages.
There is no integrated assessment of cumulative impacts with nearby Pacific Square works.	• The potential significant cumulative impacts of the proposed development have been assessed in the EIS and the technical reports. The Applicant has engaged with DPHI and Pacific Square with regards to ongoing remediation works at Pacific Square.
Construction staging and access arrangements rely on uncertain assumptions.	• A detailed construction management plan will be prepared in accordance with any conditions of consent.
The affordable housing bonus is used to justify increased height and bulk without resolving impacts.	• The potential significant environmental impacts of the proposal have been assessed in the EIS which confirms the impacts are reasonable in a dense urban environment.

Issue/ Comment	Proponent Response
The proposal replicates a previously refused scheme with similar unresolved issues.	The previous development application and LEC matter is addressed in detail in the EIS. Potential amenity impacts and view loss are addressed in detail in the EIS and supporting technical documents.
Key risks and impacts are not resolved at the assessment stage.	Potential significant environmental impacts have been assessed in the EIS.
Pan Natal Performance	
The scale of excavation, construction activity, traffic disruption, noise, dust and access restrictions associated with this development will directly affect the ability of small businesses to operate effectively.	Construction works, traffic impacts, noise, dust and access have been assessed within the EIS and can be managed accordingly.
Extended construction works have the potential to reduce customer attendance and negatively impact business viability.	Construction works will be undertaken within the approved hours and be in accordance with conditions of consent.
I am also concerned that the application does not adequately address the cumulative impacts of concurrent construction activity occurring in the area.	The potential significant cumulative impacts of the proposed development have been assessed in the EIS and the technical reports. The Applicant has engaged with DPHI and Pacific Square with regards to ongoing remediation works at Pacific Square.

3.3 Public Submissions

The Applicant's response to key concerns raised in the public re-submissions are outlined in **Table 4** below.

Table 4: Public Submissions Response Table

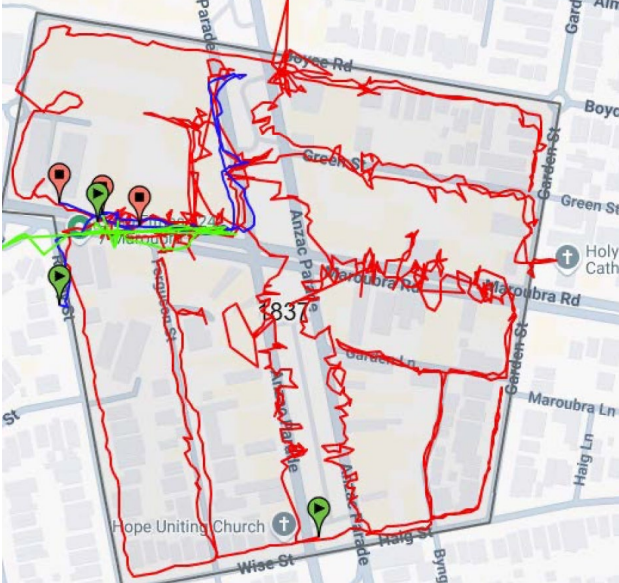
Number of submission mentions	Matter Raised	Response
42	Failure to Address LEC / SECPP Findings	
	The proponent has inadequately addressed the findings of the LEC and SECPP in relation to the previous DA.	The previous development application and LEC matter is addressed in detail in the EIS. Potential amenity impacts and view loss are addressed in detail in the EIS and supporting technical documents.
41	Contested Building Height / Height Non-Compliance	
	Concerns raised regarding the use of the 'Bettar' method to measure the height of building.	- The legal advice prepared by KL Gates concluded: – Its appropriate to measure building height consistent with the principles in Bettar v Council of the City of Sydney [2014] NSWLEC 1070 (Bettar) because adopting the methodology in Merman is not appropriate and would artificially exaggerate the height of the development when compared with height measured from an interpolated level which is consistent with that of the adjoining properties – and does not place the building in it's surrounding context. This is the approach taken in the SSDA. - This approach was accepted in the previous LEC and SECPP proceedings.
41	Overdevelopment / Excessive Bulk and Scale	

The proposal does not align with the maximum number of storeys envisaged under the DCP.	• The DCP does not apply to SSD per s2.10 of the Planning Systems SEPP. • The proposed development complies with the height permitted under Chapter 2 of the Housing SEPP.
The entire site is proposed to be excavated to three basement levels.	• A single basement level is proposed.
Inadequate setback to the west.	• The proposed setback to the NSW Police Site to the west is a reasonable response to the constraints of the site and will allow the Police site – should it ever be redeveloped – to deliver zero-boundary setbacks to its three street frontages to achieve a commensurate GFA.
No deep soil planting proposed.	• The proposed development provides sufficient soil depths suitable for tree planting to the Level 2 and rooftop communal open spaces. The existing site does not contain any deep soil planting and is located in an existing, developed urban centre.
Use of full 30% height bonus provided under the Housing SEPP constitutes overdevelopment.	• The provisions in Chapter 2 of the Housing SEPP are in order to incentivise development to deliver infill affordable housing in accessible areas, aligned with State housing priorities and the National Housing Accord.
The proposal represents an increase in yield from the previous application.	• The increase in yield is a response to the permitted height under the Housing SEPP for the delivery of 15% of the total GFA as affordable housing, which was not available at the time of the previous application due to the savings and transitional provisions in Schedule 7A of the SEPP.
The proposal does not align with the DCP vision for an amalgamated site with the neighbouring Police Station.	• The DCP does not apply to SSD per s2.10 of the Planning Systems SEPP. Regardless, the proposal allows for the future development of the adjoining site.
38 Misuse of Housing SEPP Bonus / Tokenistic Affordable Housing	
No detail has been provided regarding the quality, design integration, management, or long-term delivery of the affordable dwellings	• The affordable housing units are clearly identified on the architectural plans and will be provided commensurate amenity to dwellings not used for affordable housing. The affordable housing component of the development will be managed by a community housing provider for at least 15 years.
Concern regarding the affordable housing component being delivered for a period of only 15 years.	• Affordable housing pursuant to Chapter 2, part 2, Division 1 of the Housing SEPP is required to be affordable for a period of at least 15 years. The proposal will comply with this requirement.
Concerns regarding the proposals alignment with local character, which is a requirement for consideration under the Housing SEPP.	• Section 20 of the Housing SEPP provides that for precincts undergoing transition, development must be consistent with the desired future character of the precinct. The proposal is consistent with the desired future character of Maroubra Junction as addressed in the EIS.
The additional height provided by the in-fill affordable housing bonuses results in unacceptable environmental impacts.	• The potential significant environmental impacts of the proposal have been assessed in the EIS which confirms the impacts are reasonable in a dense urban environment.
The location of the site proximate to significant amenity including the beach will limit the affordability of the provided affordable housing.	• The affordable housing will be managed by Bridge Housing, a Tier 1 registered community housing provider and will be provided to very-low, low and moderate income households in line with s13 of the Housing SEPP and s1.4 of the EP&A Act.
The SSD pathway is being used to have a previously refused proposal re-assessed.	• The SSD pathway is not an 'opt-in' pathway, rather a trigger which is activated based on the estimated cost of the proposed development.

38	Traffic Congestion / Piccadilly Place Access	
Semi-trailers already queue across the usable roadway when delivering to Pacific Square.	This matter outside the scope of the proposed development. Potential impacts on the surrounding road network are addressed in the TIA.	
The traffic study did not consider weekend peaks, which reflect the busiest times due to retail patronage.	- JMT consulting is a leading traffic expert in NSW. JMT have prepared a TIA which utilises TfNSW approved SIDRA traffic modelling and best industry practice to determine the existing road usage. - The modelling demonstrates that the two critical intersections adjacent to the site continue to perform at a strong level of service in both the AM and PM peak hours.	
The roundabout at Bruce Bennetts Place already locks up during retail peak periods.	The TIA indicates the roundabout between Bruce Bennetts Place and Picadilly Lane will continue to operate at a level of service A post-development.	
No joint Construction Traffic Management Plan addressing simultaneous operation of the development site and the existing Pacific Square environment has been provided.	The TIA recognises the context of the site proximate to the Pacific Square shopping centre. Regardless, the proposal is expected to have a traffic generation of less than 20 peak hour traffic movements – equivalent to fewer than one vehicle every three minutes.	
Emergency access to the fire infrastructure installed on the corner of Piccadilly Place and Bruce Bennetts Place has not been assessed.	Emergency access to fire infrastructure can be maintained.	
34	Privacy and overlooking	
The proposal results in unacceptable visual privacy impacts with direct overlooking into adjacent living areas.	- The proposed building separation is consistent with the objectives of Part 3F Visual Privacy of the ADG, being: - Adequate building separation distances are <u>shared equitably</u> between neighbouring sites, <u>to achieve reasonable levels of external and internal visual privacy</u>. - Site and building design elements (such as louvres and screening) increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private space. - The design guidance in Part 3F-1 notes that “new development should be located and oriented to <u>maximise visual privacy between buildings on site and for neighbouring buildings</u>.”	
The rooftop garden will allow for direct overlooking into living areas, private open spaces and the adjoining childcare centre.	- Trafficable areas of the rooftop COS are setback from the building façade with screen planting provided to prevent casual overlooking. - Privacy screens are proposed to the Level 2 COS to prevent casual overlooking of the childcare centre.	
The proposed privacy treatments are an indicator of the excessive scale of the proposal and do not adequately mitigate privacy impacts.	Privacy treatments including the proposed pop-out windows and screening are an accepted response to residential development on narrow in-fill sites such as 138 Maroubra Road.	
34	Overshadowing / Loss of Solar Access	
West facing units at the adjacent ‘Botanica’ development will incur unacceptable solar impacts.	The proposed development provides ADG building separation to the Botanica Building across Picadilly Lane, and is an acceptable approach given the infill nature of the development within a dense urban environment.	

A number of dwellings within the proposed development receive no solar access at mid-winter.	Only 11% of proposed dwellings achieve no direct solar access at mid-winter, this complies with the ADG control of 15 %.
It is unreasonable to not consider the overshadowing impacts of the proposal to the childcare centre open space solely due to there being an existing shaded awning.	- The sun eye diagrams submitted with the EIS considers the childcare centre. SLR prepared a solar access report (Appendix BB to EIS) that determined: <i>“it is expected that the elevated childcare open space areas will receive 1.5 hours of direct sunlight to 50% of the principal usable portion of the childcare open space on June 21, between 9:00 am and 3:00 pm. SLR has also assessed the impact of the building on the childcare open space on September 21. While the building will affect the solar access, the childcare open space areas will receive 2 hours of direct sunlight to 50% of the principal usable portion of the space between 9:00 am and 3:00 pm.”</i> - The location of the child care centre, at the lower level of the neighbouring building and adjacent the boundary means it is inherently susceptible to some shadow impacts from any development on the subject site. The proposed development has been designed with reasonable building separation to allow for a reasonable level of solar access to the childcare centre mindful of the sites constraints, the dense urban nature of the surrounds and the location of the childcare centre at the interface between the two buildings.
Rather than solely relying on the controls under the ADG, microclimate shadow analysis should be undertaken to analyse the impacts of the proposal on surrounding development.	The ADG provides relevant design guidance for residential apartment development in NSW.
Overshadowing will have additional impacts on elderly and less mobile residents of surrounding development.	Overshadowing and potential social impacts are addressed in the EIS.
28 Construction Interface with Pacific Square Remediation	
Concerns regarding vibration from demolition and excavation may interfere with waterproofing membrane curing and damage freshly applied concrete repairs to Pacific Square.	The proponent has engaged with Pacific Square and DPPI regarding works being undertaken concurrently at Pacific Square. Correspondence between the proponent and Pacific Square has been provided to DPPI.
Potential for dust from demolition to impact painting works at adjacent development.	A detailed construction management plan will be prepared in accordance with any relevant conditions of consent to mitigate potential impacts on adjacent development.
Potential WHS concerns associated with construction of the proposed development.	A detailed construction management plan will be prepared in accordance with any relevant conditions of consent to mitigate potential impacts on adjacent development, including work health safety matters.
The staging assumptions for the works to Pacific Square are outdated.	The proponent has engaged with Pacific Square and DPPI regarding works being undertaken concurrently at Pacific Square. Correspondence between the proponent and Pacific Square has been provided to DPPI.
There is no integrated assessment of concurrent construction, access constraints, construction safety, or cumulative impacts.	- The potential significant cumulative impacts of the proposed development have been assessed in the EIS and the technical reports. - The proponent has engaged with Pacific Square and DPPI regarding works being undertaken concurrently at Pacific Square. Correspondence between the proponent and Pacific Square has been provided to DPPI.

27	Failure of Site Amalgamation / Orderly Development	
The site has not been amalgamated for development as envisaged under the Randwick DCP for ‘Block 6’.		• The DCP does not apply to the SSD per s2.10 of the Planning Systems SEPP. • The proposed setback to the NSW Police Site to the west is a reasonable response to the constraints of the site and will allow the Police site – should it ever be redeveloped – to deliver zero-boundary setbacks to its three street frontages to maximise GFA. The Applicant has demonstrated reasonable attempts to purchase the NSW Police Site, which have been refused. The subject site and the police site cannot be developed together at this time.
The bulk and scale of the proposal is excessive as the developer has increased the scale of development to 9 storeys to achieve the same yield as an amalgamated site.		• The proposed development complies with the maximum height permitted under the Housing SEPP.
The proposed development borrows amenity from the police station site with inadequate setbacks and boundary to boundary construction at lower levels.		• The proposal provides reasonable amenity and enables a future equitable development at the police station site. The proposed development is reasonably setback from existing neighbours, will facilitate future development of the police site and achieves reasonable amenity outcomes in a dense urban area undergoing change.
Approving this proposal would severely constrain the future development potential of the Police site.		• The EIS and Design Report have demonstrated that the police site can be developed in the future.
16	Developer's Political Donation History / IPC Referral	
A previous breach to the NSW political donation laws should constitute a reportable political donation trigger for IPC referral purposes. The Planning System SEPP requires automatic referral to the IPC where: • The local council has objected • 50 or more public objections are received • The applicant has made a reportable political donation		• The Applicant has not made any reportable political donations in the 2-year statutory period. • Recent NSW reforms have removed the Independent Planning Commission (IPC) trigger for State Significant Development (SSD) infill affordable housing projects, even if local councils object or there are over 50 public submissions.
10	Inadequate Community Consultation / Exhibition Period	
It is identified that certain residents did not receive the flyers which were a key aspect of the community consultation.		• A community information flyer was distributed to 1,837 nearby residences. The distribution map is shown below. • The community has had the opportunity to make submissions during the exhibition and re-exhibition periods.

	
The amended SSD was placed on exhibition for 14 calendar days. Section 6.1 of the State Significant Development Guidelines prescribes a 4-week exhibition period.	• Schedule 1, Section 9 of the EP&A Act provides that an SSDA is to be exhibited for a period of time specified by a relevant community participation plan prepared by the Planning Secretary. • Table 1 of the DPHI community participation plan provides that SSDA for the purposes of in-fill affordable housing must be exhibited for a period of 14 days.
The information relied on to inform staging and cumulative impacts to remediation works in the surrounding precinct.	• The proponent was provided the information by the strata management.
10 Impacts on Childcare Centre	
The proposal has unacceptable overshadowing impacts on the adjoining childcare centre.	• The sun eye diagrams submitted with the EIS consider the childcare centre. SLR prepared a solar access report (Appendix BB to EIS) that determined: <i>“it is expected that the elevated childcare open space areas will receive 1.5 hours of direct sunlight to 50% of the principal usable portion of the childcare open space on June 21, between 9:00 am and 3:00 pm. SLR has also assessed the impact of the building on the childcare open space on September 21. While the building will affect the solar access, the childcare open space areas will receive 2 hours of direct sunlight to 50% of the principal usable portion of the space between 9:00 am and 3:00 pm.”</i> • The location of the child care centre, at the lower level of the neighbouring building and adjacent the boundary means it is inherently susceptible to some shadow impacts from any development on the subject site. The proposed development has been designed with reasonable building separation to allow for a reasonable level of solar access to the childcare

		centre mindful of the sites constraints, the dense urban nature of the surrounds and the location of the childcare centre at the interface between the two buildings.
	The rooftop garden and upper-level balconies will have direct sightlines into the children's outdoor play area.	• Trafficable areas of the rooftop COS are setback from the building façade with screen planting provided to prevent casual overlooking. • Privacy screens are proposed to the Level 2 COS and private open space (balconies) to prevent casual overlooking of the childcare centre. • 'Pop out' windows to the eastern boundary is an appropriate design solution and mitigation measure to maintain privacy to that setback, and face away from the primary outdoor areas of the childcare.
	Prolonged demolition, excavation, and heavy construction works including noise, vibration, and dust will significantly impact the operation of the childcare centre.	• Potential construction noise and dust can be managed and a detailed construction management plan will be prepared in accordance with any relevant conditions of consent.
3	Drainage / Water Damage Risk	
	The applicant has not provided confirmation from a qualified engineer that the proposed basement can be constructed in a manner that preserves the structural integrity and waterproofing of the Pacific Square buildings Given the known water table conditions and the history of drainage failures in the immediate area, this is a foreseeable and serious risk that should be assessed and resolved before consent is granted.	• The proposed development includes one level of basement, 're-using' the existing single basement level to minimise impacts on the water table and the structural integrity of any nearby buildings.
1	Rooftop Garden Safety Hazards	
	Any ball, object, or item from the artificial grass area that passes over the rooftop parapet could land on a moving vehicle below, potentially causing a serious accident.	• This is not a planning matter relevant to the SSDA.
	Potential for rooftop umbrellas to cause significant safety risks through displacement due to wind.	• This is not a planning matter relevant to the SSDA.

4.0 UPDATED PROJECT JUSTIFICATION

The design, use and operation of the proposed development have not changed during the re-exhibition process. As such, the project remains justified for the reasons addressed in the previous submissions and amendment report.

For completeness, the relevant considerations for project justification are outlined in the below table.

Table 5: Project justification

Relevant Matter	Comment
Design of the proposed development	The design of the proposed development has not been changed during the exhibition period. The proposed design remains justified for the reasons outlined in the previous submissions report and the EIS.
Strategic context	The proposed development remains consistent with the strategic context to the same degree as previously assessed.
Statutory context	The proposed development remains consistent with the statutory context to the same degree as previously assessed.
Likely impacts of the development	Natural and Built Environment Impacts There is no change proposed to the built form or scope of works associated with the proposed development. The potential natural and built environmental impacts of the proposal remain acceptable as assessed previously. Social Impacts There are no proposed changes to the operation or built form of the proposed development. The potential social impacts of the proposal remain acceptable as assessed previously. Economic Impact There are no proposed changes to the operation or built form of the proposed development. The potential economic impacts of the proposal remain acceptable as assessed previously.
Suitability of the site	The design of the proposed development has not been changed during the exhibition period. The site remains suitable for the proposed development for the reasons identified previously.
Objectives of the zone	The built form and operation of the proposal have not been changed during the exhibition period. The proposal remains consistent with the objectives of the E2 zone for the reasons outlined previously.
Public interest	The proposed development as a shop-top housing development including affordable housing remains in the public interest for the reasons outlined previously.

4.1 Updated summary of development

A summary of the original exhibited and revised proposed development is provided in Table 6.

Table 6: Summary of development

Project Component	Original proposed development	Revised proposed development
Site Address	138 Maroubra Road, Maroubra NSW 2035	No change proposed
Site Area	1,518.5 sqm	No change proposed
Proposed Uses	Residential Flat Building Retail Premises	No change proposed
Gross Floor Area	- Infill Affordable Housing: 934sqm (15%) - Total GFA: 6,385sqm	- Infill Affordable Housing: 972sqm (15%) - Total GFA: 6,454sqm
Height of Building	32.5m from ground level (existing) RL 57.800	32.5m from ground level (existing) RL 57.800
Storeys	9-storeys	9-storeys
Basement	1 level of basement is proposed.	1 level of basement is proposed.

Setbacks	• South (Front setback, Maroubra Road): 0m (Ground to Level 6), 3.181m (Level 7 & 8) • East (Pacific Square, 140 Maroubra Road): 0m – 6.45m variable setback • North (Rear setback, Piccadilly Place): 0m (Ground & Level 1), 3m (Level 2 to Level 8) • West (Police Station, 136 Maroubra Road): 0m – 3m setback	• South (Front setback, Maroubra Road): 0m (Ground to Level 6), 3.181m (Level 7 & 8) • East (Pacific Square, 140 Maroubra Road): 0m – 6.35m variable setback • North (Rear setback, Piccadilly Place): 0m (Ground & Level 1), 3m (Level 2 to Level 8) • West (Police Station, 136 Maroubra Road): 0m – 4.882m setback
Total Dwellings	64	64
Affordable Dwellings	13	13
Apartment Mix	• Market Dwellings: 51 – 1 Bed: 20 – 2 Bed: 8 – 3 Bed: 23 • Affordable Dwellings: 13 – 1 Bed: 7 – 2 Bed: 6 – 3 Bed: 0	• Market Dwellings: 51 – 1 Bed: 20 – 2 Bed: 8 – 3 Bed: 23 • Affordable Dwellings: 13 – 1 Bed: 7 – 2 Bed: 6 – 3 Bed: 0
Retail NLA	263sqm	270sqm
Vehicular Access	Vehicle access from Piccadilly Place, egress to Maroubra Road	Vehicular access and egress to Piccadilly Place.
Car Parking	70 total, including: • 59 residential car parking spaces • 5 car share parking spaces • 3 visitor car parking spaces • 3 retail car parking spaces	70 total, including: • 59 residential car parking spaces, comprising: – 41 residential car parking spaces (for dwellings not used as affordable housing) – 6 residential affordable car parking spaces – 12 residential adaptable car parking spaces • 5 car share parking spaces • 3 visitor parking spaces, including 1 accessible visitor parking space • 3 retail parking spaces
Motorcycle Parking	3 total, including: • 2 residential motorcycle parking spaces • 1 retail car parking space	3 total, including: • 2 residential motorcycle parking spaces • 1 retail car parking space
Bicycle Parking	74 total, including: • 64 secure residential bicycle parking spaces • 10 retail, staff and visitor bicycle parking spaces on vertical bicycle rack	78 total, including: • 64 residential spaces • 6 residential visitor spaces • 8 retail and retail visitor spaces
Deep Soil Planting	0sqm.	No change proposed
Communal Open Space	• Level 2: 207sqm • Rooftop: 614sqm • Total COS: 821sqm (54% of site area)	• Level 2: 225sqm • Rooftop: 644sqm • Total COS: 869sqm (57% of site area)
Job Creation	• Approximately 40 construction jobs created • Approximately 10 operational jobs created	No change proposed

4.2 Updated supporting documentation

The following supporting documentation has been revised as part of this Submissions Report:

- Appendix E – Architectural Drawings:
 - DA1.104 Ground Floor Plan
 - DA1.105 Level 1 Plan
 - DA8.100 Schedules
 - DA1.103 Basement 1 Plan
 - DA0.154 Site Plan
- Appendix H – Traffic Impact Assessment, to confirm the number of car parking and bicycle parking spaces, including the allocation of 6 car parking spaces to dwellings used for affordable housing. The TIA confirms the following parking allocation:
 - A total of 70 car parking spaces;
 - 47 residential car parking spaces, including 12 adaptable spaces and 6 spaces allocated to affordable housing dwellings,
 - 3 residential visitor car parking spaces,
 - 3 retail car parking spaces,
 - 5 car share parking spaces,
 - 78 bicycle parking spaces;
 - 64 residential bicycle parking spaces,
 - 6 residential visitor bicycle parking spaces,
 - 4 retail staff bicycle parking spaces,
 - 4 retail customer bicycle parking spaces.
- Appendix BB – Solar Access Assessment, an addendum to the Solar Access Assessment dated 6 July has been prepared to confirm solar access is consistent with the Architectural Drawings. The addendum confirms that:
 - 71.9 % (46 of 64) of apartments are expected to achieve 2 hours solar access across the assessment window.
 - 10.9 % (7 of 64) of apartments are expected to receive no solar access across the assessment window.

5.0 CONCLUSION

This submissions report has been prepared on behalf of Maroubra Property Developments Pty Limited to address the matters raised during the Public Re-exhibition of the State Significant Development Application SSD-81426710 at 138 Maroubra Road, Maroubra. The SSDA seeks approval for a mixed-use development, comprising a residential flat building including affordable rental housing and ground floor retail use.

The SSDA was re-exhibited between Tuesday 2 June 2026 and Monday 15 June 2026. During the public exhibition period, 72 unique submissions were received from the public, organisations and Randwick Council.

The proposed development continues to comply with the key planning controls under the Randwick LEP and Chapter 2 of the Housing SEPP, and is consistent with NSW State Government priorities to deliver housing and affordable housing in well located areas close to public transport, jobs and amenity.