

Ref: SSD-94765473

16 April 2026

James Groundwater
Department of Planning, Housing and Infrastructure
4 Parramatta Square
PARRAMATTA NSW 2150

Dear Mr Groundwater

State Significant Development Application

Mixed Use Development 32-42 Cooper Street, Strathfield

The City of Canada Bay has undertaken a detailed review of the State Significant Development Application (SSDA) for 32–42 Cooper Street, Strathfield and raises concerns regarding the proposal's consistency with the adopted Homebush TOD planning framework, compliance with statutory controls, delivery of community infrastructure, and the quality of the built form and residential amenity outcomes.

While appropriate high-density development within the Homebush TOD Precinct is supported, this application departs from the recently established planning controls and fails to demonstrate a coordinated, infrastructure-led development response consistent with the strategic intent for the Precinct. For the reasons outlined in this submission, the application is not supported.

Background

The Homebush Transport Oriented Development (TOD) Precinct is a State-led NSW Government initiative aimed at delivering new housing, jobs, public open space and affordable housing around major transport infrastructure. The precinct was finalised and rezoned on 27 November 2024 as part of the Government's accelerated TOD program. It establishes a clear planning framework through updated zoning, height, floor space and design controls to guide orderly development and provide certainty for councils, landowners and developers.

Site Isolation

- The development is inconsistent with the 'Block Configuration, Site Planning and Amalgamation' requirements of the Homebush TOD Design Guide as the properties known as 2 and 4 Clarence Street have been excluded from the site.
- The Homebush TOD Design Guide references the Land and Environment Court principle outlined in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 and states:
 10. *Where the lot amalgamation pattern is not met, the proponent must provide appropriate documentary evidence that demonstrates a genuine and reasonable attempt has been made to purchase an isolated site based on a fair market value. At least two (2) independent valuations (reports and valuations) must be undertaken within 3 months of the date of the development application lodgement which are to be submitted as part of that evidence and these are to account for reasonable expenses likely to be incurred by the owner of the isolated site in the sale of the property.*
 11. *The documentation must include copies of correspondence between parties and any formal financial offers and responses to offers.*

While the Environmental Impact Statement (EIS) asserts that the proponent has attempted to acquire adjoining land and that such offers were rejected, no documentary evidence has been provided to substantiate these claims. Specifically, the valuation material contained in Appendix 1G does not relate to the isolated lots or provide evidence that a formal offer was made, the terms of any such offer, or that an offer was rejected by adjoining owners.

As a result, the Department of Planning, Housing and Infrastructure cannot conclude, on the material before it, that reasonable steps to acquire the adjoining land have been demonstrated.

Recommendations

- Defer determination of the application and require the proponent to provide further information demonstrating compliance with the 'Block Configuration, Site Planning and Amalgamation' requirements of the Homebush TOD Design Guide, including:
 - documentary evidence of a genuine and reasonable attempt to acquire the adjoining properties at 2 and 4 Clarence Street, Strathfield
 - at least two independent valuation reports for each isolated lot, prepared within three months of the application lodgement and based on fair market value
 - copies of all correspondence between the parties, including formal purchase offers, terms of those offers, and any responses or rejections by adjoining landowners.

Determination should not proceed until the Department of Planning, Housing and Infrastructure is satisfied, on the basis of this material, that the principles established in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 and the

requirements of the Homebush TOD Design Guide have been adequately addressed.

Key Site Provisions

Height of Building and Floor Space Ratio

- Part 9, Division 2 of the Canada Bay LEP includes bonus height and floor space ratio (FSR) provisions that are expressly linked to a defined site amalgamation pattern and the delivery of community infrastructure, as set out in the Homebush Transport Oriented Development (TOD) Precinct Design Guide. The objectives of these bonus provisions are to ensure orderly lot consolidation, avoid isolated development outcomes, and secure new public infrastructure to support increased density.
- The subject site forms part of Key Site Area 61, where the bonus height and FSR were specifically calibrated to deliver approximately 3,785 m² of community infrastructure, including 3,084 m² of new public open space, 112 m² of road widening, and 589 m² of new pedestrian links. This proposal would deliver only a limited component of that infrastructure, namely the road widening and part of the pedestrian link.
- The proponent has not achieved the required amalgamation of Area 61 and expressly states that the proposal does not seek the TOD Incentive FSR or Height provisions. As a result, the Incentive Height of Building (75 m) and Incentive FSR (4:1) under Part 9, Division 2 of the Canada Bay LEP are not available to this application. The proposal must therefore be assessed against the base LEP controls, which establish maximum building heights of 59 m and 25 m, with no maximum FSR.
- Despite this, the development seeks a building height of approximately 74–75 m, depending on the document referenced, representing a variation of up to 25.7% above the 59 m standard and up to 30.4% above the 25 m standard. These proposed heights closely align with the TOD incentive height of 75 m, which is only intended to be available where full amalgamation and comprehensive infrastructure delivery are achieved. In addition, the proposal seeks an FSR of 6.95:1, which substantially exceeds both the base envelope controls and the maximum TOD bonus FSR of 4:1.
- The EIS and Clause 4.6 request rely in part on a potential State-led rezoning proposing substantially higher heights and FSRs. However, this planning proposal has only recently commenced and has not been exhibited. As such, it has no weight and cannot be relied upon to justify departures from the current LEP controls.
- The distribution of density proposed by the application would also consume a disproportionate share of development potential intended to be spread across the western consolidated Area 61. Material submitted with the EIS demonstrates that adjoining lots within the key site would be left with significantly reduced FSRs, undermining the equitable and coordinated development envisaged by the TOD framework.
- Given the limited delivery of additional community infrastructure, the absence of the required amalgamation, and the scale of the proposed departures, the development

should comply with the base LEP height standards of 59 m and 25 m, with a standalone, site-appropriate FSR. To achieve compliance, the tower height should be reduced by at least four storeys, the podium by at least two storeys, and both ground-level and upper-level setbacks increased to better reflect the desired future character of the Precinct. In this context, the resultant FSR would be expected to be substantially lower than that available under the TOD Incentive provisions.

- The extent of non-compliance is inconsistent with the objectives of the Height of Building development standard. The proposal does not demonstrate compatibility with the bulk, scale or desired future character established by the LEP, nor does it adequately protect residential amenity or public space solar access. The Clause 4.6 request relies on broad considerations such as housing supply, proximity to transport and general TOD objectives, rather than site-specific environmental planning grounds demonstrating why the additional height is necessary on this site.
- Accordingly, the applicant has not demonstrated that compliance with the height standard is unreasonable or unnecessary, nor provided sufficient site-specific justification to support the contravention. The proposal therefore fails to satisfy Clause 4.6(3)(a) and (b) of the Canada Bay LEP 2013 and is inconsistent with the strategic intent of the Homebush TOD planning controls.

Infrastructure Contributions

- If Part 9, Division 2 were applied, Key Site 61 would be required to dedicate approximately 3,750m² of land for pedestrian connections, public open space and roads. Of this, approximately 3,084m² would be provided as open space on the eastern portion of the site, with the balance accommodated through road widening (Cooper Street) and through-site pedestrian links on the western portion of the site.
- The SSDA proposes the dedication of a 3.0m wide strip of land along the Cooper Street frontage to Council, which is supported in principle.
- Notwithstanding this, the SSDA seeks to offset the value of the land dedication against local infrastructure contributions, relying on the Strathfield Triangle Development Contributions Plan, which predates the Homebush TOD and the introduction of Part 9, Division 2 into the Canada Bay LEP.
- The SSDA adopts an internally inconsistent position by delivering a built form consistent with, or exceeding, the Incentive Height of Building and Floor Space Ratio standards, while simultaneously asserting that Part 9, Division 2 does not apply and that local infrastructure provision should therefore not be required. In effect, the SSDA seeks to provide land that would be mandated under the incentive framework, but only on the basis that its value is offset against contributions, thereby undermining the intent of the incentive provisions.

Recommendations

Height of Building and Floor Space Ratio

- The SSDA be amended to reduce height and floor space ratio consistent with the Canada Bay LEP 2013, such that:

- Part 9, Division 2 is not engaged (this would reduce the tower by at least 4 storeys and the podium by at least 2 storeys); and
- Any land dedication (including the 3.0m Cooper Street widening) may legitimately be considered for offset against contributions under the applicable contributions plan.

OR

The SSDA be refused as the proposal delivers a height and floor space outcome equivalent to, or exceeding, the Incentive Development Standards under Part 9, Division 2 of the Canada Bay LEP, without complying with the accompanying requirement to consolidate land and provide the required community infrastructure.

- Reduce the Floor Space Ratio to a level commensurate with the site's standalone area, ensuring the Floor Space Ratio allocation on this parcel does not prejudice the development capacity of the remaining lots within the amalgamation pattern, including 2-4 Clarence Street.

Design Excellence

- Clause 9.4 (Design Excellence) of the *Canada Bay Local Environmental Plan 2013* applies to the subject site and expressly requires that development consent must not be granted unless the consent authority is satisfied that the proposal exhibits design excellence.
- The clause sets a high and mandatory threshold, with the stated objective of delivering the highest standard of architectural and urban design, and requires consideration of the Homebush TOD Precinct Design Guide, built form, bulk and massing, setbacks, public domain interfaces, landscape integration and overall urban design quality.
- Having regard to the extensive non-compliance with height, setbacks, massing, public domain and amenity outcomes identified elsewhere in this submission, the Department of Planning, Housing and Infrastructure cannot reasonably be satisfied that the proposal achieves design excellence as required by Clause 9.4(3).

Recommendation:

- DPHI require a design excellence process (i.e. referral to a Design Review Panel) as the proposal has not demonstrated design excellence as required by Clause 9.4 of the *Canada Bay Local Environmental Plan 2013*, particularly in circumstances where the proposal seeks significant departures from the development standards and key built form, public domain, landscape and amenity requirements.

OR

The SSDA be refused due to non-compliance with design excellence provisions of Canada Bay LEP 2013 and significant departures from the Homebush Design Guide.

Context and Streetscape Character

- The southern tip of the site, located at the bend in Cooper Street where it adjoins the railway line, occupies a highly prominent and strategically important position within the streetscape and the wider precinct. A corner building in this location acts as a key visual marker, assisting with legibility and orientation for pedestrians, motorists and rail users. Its exposure from Cooper Street and the T9 Northern Rail Line means it will be viewed by a wide audience and will play a defining role in shaping perceptions of the precinct. As such, this part of the development warrants a high-quality and innovative architectural response that is commensurate with its gateway function and prominence.
- The current design does not adequately respond to this role, with the southern tip reading as an unresolved continuation of the tower mass rather than a deliberately articulated corner element. The form lacks sufficient articulation, variation and architectural emphasis to address the bend in the street or mitigate the perceived bulk and scale when viewed from the public domain and the rail corridor. A redesign of this highly visible corner is therefore considered essential to improve visual quality, reinforce the podium–tower hierarchy, and ensure the development contributes positively to the emerging character of Cooper Street, particularly in circumstances where the anticipated adjacent public open space may not be delivered.
- The commercial and residential tenancies are accessed off a shared ramp with limited awning cover (which appears to be approximately 1m deep) reducing their legibility, accessibility and amenity. An increased setback would allow for increased landscaping and activities such as outdoor dining to spill out onto the street which would increase their legibility and amenity. An increased street setback could also accommodate residential uses facing the street which may provide opportunities for greater surveillance than the non-residential uses proposed.
- The Clarence Street frontage, which functions as a secondary street address, is dominated by the loading dock, fire escapes and substations. This creates a blank, inactive edge and eliminates the opportunity for passive surveillance and pedestrian engagement along this frontage. A greater proportion of this façade should be activated to increase safety, surveillance and amenity along this street. To enable the above outcomes, the loading dock should be relocated or more effectively screened.
- Homebush TOD Precinct Design Guide requires 92% of the adjoining public open space to have a minimum of 2 hours of sunlight between 9am to 3pm on 21 June. While the application does not identify that this has been achieved, the drawing Shadow Diagrams 21 June Future Context (DA 501) appears to show that if the expanded open space identified in the Homebush TOD Precinct Design Guide were to be delivered this control might be achieved between 10am and 12pm but this would need to be confirmed by more detailed testing. As the provision of this expanded open space was dependant on this site amalgamating with other sites (to form Area 61) it may not occur. If the area of open space is not increased, it does not appear that the remaining smaller area of open space between Hilts Road and Baker Lane would receive 2 hours of sunlight between 9am to 3pm on 21 June for 92% of its area.



Prominent view of the corner building at the southern tip of the site at the bend in Cooper Street where it adjoins the railway line. This view of the building will be highly prominent from Cooper Street and from the railway line and requires a high quality and innovative design response. It should be noted that, as this site does not propose amalgamations that are in line with the Homebush TOD Precinct planning controls the delivery of the park shown in the foreground may not be possible.

Recommendations

- Redesign the highly prominent southern tip of the corner building at the bend in Cooper Street where it adjoins the railway line so that it provides an appropriate physical and visual gateway response and high quality and innovative design response.
- Increase the ground floor setback to 6.0m (consistent with the Homebush TOD Design Guide) to accommodate better connections between the street and the ground floor tenancies and to enable greater landscape amenity.
- Introduce increased glazing to the Clarence Street commercial tenancies to improve legibility and street activation and relocate or screen the loading dock from the Clarence Street frontage.
- Provide evidence that the proposed design ensures that 92% of the adjoining public open space achieves a minimum of 2 hours of sunlight between 9am to 3pm on 21 June. This should be done for both the existing open space and potential future expanded open space. This should be done for both a complying envelope (which is within the current LEP maximum building heights) and the proposed envelope which has heights that are above the current LEP standards.

Setbacks

- The Homebush TOD Precinct Design Guide envisages a 6m setback along all site boundaries with an additional 2m setback above a streetscape podium that is to be a minimum of two storeys and a maximum of 4 storeys. At 8.13.1 the Guide also notes that:

“All building setbacks are to be measured from the relocated boundary and the laneway dedication is to be clearly identified on the plans lodged with the development application.”

Appendix 1C Compliance Table for the City of Canada Bay LEP states that “the proposed development has been designed in accordance with the Homebush TOD where relevant.” However, the application provides no justification for treating the prescribed setbacks as “not relevant,” despite their clear and direct application to the site. This unsupported approach undermines the orderly and coordinated development outcomes envisaged by the Homebush TOD Precinct Design Guide, particularly in an area undergoing substantial change. The failure to adhere to these controls compromises the objective of achieving consistent building heights along streets and establishing a strong, continuous horizontal datum at the podium level.



Extract from Figure 14: Primary building setbacks in the Homebush TOD Precinct Design Guide



Extract from Figure 15: Secondary building setbacks (additional setback from the primary building setback line) in the Homebush TOD Precinct Design Guide

- Another impact of a development not complying with the Homebush TOD Precinct Design Guide is that Clarence Street, which is a very narrow street, only approximately 13m wide, would have a nine storey building with no upper level setbacks located only 3m from the site boundary. Future development to the west along Clarence Street would be likely to follow the built precedent created by this development and this is confirmed by the setbacks and building envelope pattern shown in Appendix 1H Feasibility Study for development on adjoining sites.
- In addition, the proposed front setback to Cooper Street is only 2m behind the 3m road widening. The proposed 2m setback beyond the road widening is insufficient for street tree planting or a meaningful landscape interface. This is clearly indicated in the plans which show almost all the 2m setback as ramps and steps with trees and landscaping located within the area allocated for road widening. Along Cooper Street the 21-storey building proposed only has 2m upper-level setback above the 9th storey.
- Appendix 10 Pedestrian Wind Assessment identifies that most of ground level around the building are “*recommended to meet criterion for walking*” however the majority does not meet the criteria for standing or sitting. It is generally accepted that four storey podiums are the most effective way of mitigating wind at ground level.
- The setback along Cooper Street should be increased to 6m beyond the road widening to provide an effective separation from the site boundary to the building face and areas for landscape, consistent with the public domain objectives for

Cooper Street. The Clarence Street setback, currently less than 6m in parts, should also be increased to a minimum 6m to improve separation, privacy and internal amenity for apartments on this frontage. Along both streets there should be an upper level setback of 2m above the 2-4 storey high podium.

- The southwestern boundary adjoins the T9 Northern Heavy Rail corridor. The Homebush TOD Precinct Public Domain Strategy identifies a new 3m wide pedestrian and cycle path along the western railway boundary. The current proposal only provides a 4m setback to the railway boundary which is insufficient to support the active transport link and the required deep soil planting, landscape amenity and public domain activation. This should be increased to 6m as identified in the Homebush TOD Precinct Design Guide. Ideally the entire 6m should be deep soil planting with medium to large canopy trees as it is the primary opportunity for meaningful deep soil contribution on the site.



Extract from Figure 108 Strathfield Triangle in the Proof of Concept in the Homebush TOD Precinct Urban Design Report. The report stated that an amalgamated scheme that complied with the setbacks in the Homebush TOD Precinct Design Guide and accessed the incentive heights could achieve a FSR of 4:1.

- As this scheme is not proposing the amalgamated site it also needs to consider the building separation distances required by the Apartment Design Guide (ADG). Habitable rooms and balconies facing the western boundary need to be setback a minimum of 9m up to eight storeys in height and 12m above this height. Under Part 6.6.3. Visual Privacy the EIS states that the proposal's "*separation to adjoining sites that meets and exceeds minimum separation requirements of the ADG*". This is not correct as the Commercial Outdoor Terrace on Level 9 encroaches on the required minimum 12m setback to the western boundary as do bedrooms and balconies on Levels 10-21.

Recommendations:

- Provide a minimum 6m setback behind the Cooper Street road widening and increase the Clarence Street setback to a minimum 6m to improve privacy, amenity and the landscape interface to street frontages.
- Along both Cooper Street and Clarence Street Streets there should be an upper level setback of 2m above a 2-4 storey high podium.

- Provide a minimum 6m setback to the southwestern railway boundary, with the 3m additional to the pedestrian and cycle path allocated to deep soil and large tree canopy.
- If the site is not amalgamated, there should be a minimum 12m setback from the western boundary to all habitable rooms and balconies above the eighth storey.

Design & Built form

- The Design Report prepared by DKO Architecture identifies strategies to articulate the building mass, however it does not establish a base, middle and top to the development. The tower reads as a single box with insufficient differentiation across its facades. The current palette applies precast concrete panels across most of the tower, with limited tonal or material variation between levels, resulting in a building that presents as a large, undifferentiated mass when viewed from the street and the broader public domain. This is of particular concern given the site's prominent location adjacent to the T9 Northern Heavy Rail corridor, where the tower will be highly visible to passengers travelling past the precinct. A building of this scale, in such a visible location, warrants a façade treatment that is resolved and considered across all elevations, not only those facing the primary street frontage.
- The tower form, from Level 9 upward, reads as a largely monolithic composition with insufficient differentiation between the podium and tower, and limited articulation, especially when viewed from Cooper Street or the broader public domain. The articulation proposed along the southern and western facades of the tower are not sufficiently resolved to meaningfully reduce the perceived bulk and scale of a building of this height.
- The proposal does not provide a 2-4 storey podium as required by the Homebush TOD Precinct Design Guide. Provision of a podium along Cooper Street and Clarence Street, with consistent 2m upper-level setback, would create a more legible distinction between the podium and tower, help break down the scale of the development and assist in reducing wind effects along the street.
- The proposal does not comply with the ADG building separation requirement of 12m for habitable rooms and balconies in buildings over 8 storeys. The tower above Level 8 should be stepped back from the western boundary to achieve this separation, which would also help reduce the visual bulk of the tower when viewed from the railway line.
- The neighbouring buildings within the precinct demonstrate that articulation, material variation and tonal contrast can be effectively employed to reduce perceived bulk and contribute positively to the emerging character of the area. Breaking the facade through shifts in colour tone, material type or articulation depth at key intervals would reduce the perceived scale of the building and contribute to a more visually appropriate response to the emerging character of the Cooper Street precinct. It is recommended that the facade design be revisited to ensure the tower presents as a well-articulated composition rather than a single undifferentiated box when viewed from all directions, including from the rail corridor.

Tower Floor Plate Size

- The Homebush TOD Precinct Design Guide establishes a maximum tower floor plate of **750 m²** to ensure slender tower forms, adequate separation, improved solar access, enhanced natural ventilation and a reduction in perceived bulk and scale.
- The proposed development significantly exceeds this requirement, resulting in deep floor plates that materially contribute to the monolithic tower form identified in this submission. The excessive floor plate size directly undermines the Design Guide objectives by:
 - increasing building depth and limiting opportunities for cross-ventilation reducing solar penetration to internal apartments, contributing to the identified;
 - non-compliance with ADG solar access requirements;
 - exacerbating the visual bulk of the tower when viewed from Cooper Street and the T9 Northern Rail Line;
 - limiting the capacity to provide adequate upper-level setbacks, articulation and modulation of the tower mass.
- The excessive tower floor plate is a key driver of the proposal's failure to establish a legible base, middle and top composition and results in a singular, undifferentiated tower mass that is inconsistent with the desired future character of the Homebush TOD Precinct.
- In the absence of site amalgamation and the delivery of the public benefits associated with the TOD incentive framework, there is no strategic or planning justification for a tower form exceeding the 750 m² floor plate benchmark. A substantial reduction in tower floor plate area is required to achieve compliance with the Design Guide and to improve residential amenity outcomes.

Recommendations:

Design & Built form

- Provide a 2-4 storey podium along Cooper Street and Clarence Street with consistent 2m upper level setback to create a more legible distinction between the podium and tower, help break down the scale of the development and assist in reducing wind effects along the street.
- Redesign the tower form to ensure the tower presents as a well-articulated composition rather than a single undifferentiated box when viewed from all directions, including from the rail corridor and along Cooper Street.
- Redesign the tower form above Level 9 to step back from the western boundary achieving the ADG minimum 12m building separation for habitable rooms and balconies in buildings over 8 storeys. This would also improve the legibility of the base, middle and top composition.

- Introduce a more varied material and colour palette across the tower facade, with distinct changes in tone, material or articulation depth at key levels to reduce the perceived monotony and visual bulk of the tower.

Tower floorplate

- Reduce the tower floor plate to no more than 750 m², consistent with the Homebush TOD Precinct Design Guide, to achieve a more slender tower form, improved articulation and acceptable residential amenity outcomes.

Apartment Design Guide

Solar and Daylight access

- The ADG requires that living rooms and private open spaces of at least 70% of apartments receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June (mid-winter), and that no more than 15% of apartments should receive no direct sunlight during this period.
- The EIS states Solar access across the development is not significantly constrained, with 72% of apartments receiving a minimum of two hours of direct sunlight between **9:00am and 3:00pm** at mid-winter, thereby exceeding the Apartment Design Guide (ADG) minimum requirement of 70%. However, Appendix 1D ADG Compliance Table clearly states, "Broadly speaking the proposal meets with the design criteria where at least 70% of the units receives 2 Hours Solar Access between 8am and 3pm". This is confirmed by the Solar Access Diagram in Architectural drawings which calculates solar access from 8am to 3pm. This is not consistent with the ADG, which specifies 9am to 3pm as the assessment window. Any apartment receiving sunlight only between 8am and 9am cannot be counted as achieving the minimum 2 hours of direct sunlight required under the ADG.
- When assessed against the 9am to 3pm window, only 88 of 204 apartments (43%) appear to receive a minimum of 2 hours of direct sunlight at mid-winter. This falls significantly short of the ADG minimum threshold of 70%. While only 16 of 204 apartments (8%) receive no direct sunlight, which is within the ADG maximum threshold of 15%, this does not offset the fundamental failure to achieve the minimum 70% solar access requirement for all apartments.
- This is a large site, and the scale and location of built form is within the control of the applicant. The extent of solar non-compliance is related to the excessive FSR, the depth of the floor plate which exceeds the 750 m² tower floor plate benchmark in the Homebush TOD Design Guide and the insufficient setbacks described above. The proposal should be redesigned to achieve compliance with the ADG solar access criteria.

Natural Ventilation

- The ADG requires that a minimum of 60% of apartments in buildings up to 9 storeys achieve cross ventilation. The ADG compliance table in the design report claims compliance with this requirement, however a review of the architectural floor plans

identifies several apartments that have been incorrectly included in the cross-ventilation calculation.

- Unit types 106 to 806 are shown as achieving cross ventilation in the Cross-ventilation diagrams however a window opening is not shown on the southern bedroom wall on the architectural floor plans. Where a window is shown in the cross-ventilation diagram but is not shown on the floor plan, the applicant has not demonstrated that it is cross-ventilated. Similarly, Units 208 and 213 are included in the cross-ventilation calculation despite having no operable window openings that would facilitate cross ventilation as shown in the floor plans.
- When these units are removed from the total of compliant units only 48 of 120 apartments within the first 9 storeys (40%) genuinely achieve cross ventilation. This falls significantly short of the ADG minimum requirement of 60% and directly compromises the internal amenity, thermal comfort and air quality of a substantial proportion of apartments.

Residential Quality

- The ADG requires balconies to be located adjacent to the living room, dining room or kitchen to extend the living space and support solar access and natural ventilation to habitable rooms. Of the 204 apartments, 99 balconies, predominantly in two-bedroom units, do not comply with the minimum 2m balcony depth for balconies accessed off living rooms as required by the ADG. Where secondary balconies are accessed via a passage from the living room balcony, the transition width is less than 0.6m in several units, creating a narrow and effectively unusable connection that does not fulfil the function of primary open space. The presence of large structural columns within the balcony zones of several units further compromises the usability of these spaces, obstructs the passage of natural light into the living areas and undermines the objective of the balcony as a functional extension of the living room.
- The bedroom balconies in several units are larger and more prominently positioned than the primary living room balconies. These should be classified as secondary balconies and should not be relied upon to satisfy the primary private open space requirement. Their size and projection contribute unnecessarily to the bulk and scale of the building and reduce the solar access available to adjoining living rooms.
- Units 101, 105, 106 and 111, which are then repeated at each level, have entries that open directly onto a bathroom door. This is not consistent with standard apartment design practice and represents a poor amenity outcome that is at odds with the scale and prominence of a development of this nature. These units should be redesigned to provide a conventional entry sequence that does not expose bathroom facilities directly upon entry.

Landscape and Amenity

- The Homebush TOD Precinct Public Domain Strategy identifies a new Cooper Street Park adjacent to the site. Provision of this space relies on the bonus provisions for height and FSR for Key Site, Area 61. The large, amalgamated size of Area 61 was required to give the best chance that the additional community infrastructure would

be provided. The community infrastructure was identified as required to meet the needs of the planned future population. Allowing development of a similar or greater scale on this site to those permitted under the incentive provisions for the amalgamated Area 61 site could establish a precedent that would discourage future amalgamations and result in little or no provision of community infrastructure within the TOD Precinct.

- The ADG requires that communal open space (COS) be consolidated into a well-designed, easily identified and usable area, co-located with deep soil zones with access to sun in winter, shade in summer and shelter from strong winds. The ADG requires a minimum of 25% of the site area to be provided as communal open space, with 50% direct sunlight to the principal usable area for a minimum of 2 hours between 9am and 3pm on 21 June.

The proposal does not provide any communal open space (COS) co-located with deep soil at the ground level but instead provides it at the podium level with landscape provided in rooftop planters. Access to the COS is limited and requires residents to pass by commercial tenancies located at the same level, which raises questions of privacy and surveillance for residents accessing the communal space. The commercial tenancy adjacent to the COS also overlooks the space, further compromising the privacy and amenity of residents using this area. It is unclear from the application whether this commercial tenancy functions as a conventional commercial space or as a gym or clubhouse facility, given that it includes a shower and change room, storage and food preparation areas. The application should clarify the intended use and management of this space and demonstrate that its location and interface with the COS will not compromise residential privacy or amenity.

- The ADG compliance table identifies only the minimum deep soil provision. The 4m wide deep soil area proposed along the southwestern boundary is located within the pedestrian and cycle path easement, which cannot be considered as contributing to meaningful deep soil as the required 3m pathway precludes the opportunity to plant medium to large canopy trees. The ADG recommends a minimum 7% deep soil on all sites, with a minimum width of 6m on sites greater than 1,500m², and encourages a target of 15% on larger sites. The current proposal does not meet the 6m minimum width requirement and the area proposed provides very limited opportunity for canopy tree planting.
- Increasing the southwestern boundary setback to 6m, as recommended in the Setbacks section above, would provide a genuine deep soil zone of sufficient width to accommodate medium to large canopy trees, improve the quality and usability of the communal open space and contribute to the public domain.

Recommendations:

Solar and Daylight access

- Recalculate solar access for all apartments using the correct ADG assessment window of 9am to 3pm on 21 June. Apartments receiving sunlight between 8am and 9am should not be counted toward the 70% compliance threshold.

- Redesign the proposal to ensure that a minimum of 70% of apartments receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June, consistent with ADG requirements.

Natural Ventilation

- Revise the cross-ventilation diagrams and Design Verification Statement to remove units 106 through 806, 208 and 213 from the compliant total, as the window openings relied upon for cross ventilation are not shown on the architectural plans.
- Redesign the proposal to ensure a minimum of 60% of apartments within the first 9 storeys achieve genuine cross ventilation, consistent with ADG requirements, through the provision of operable windows confirmed on the architectural floor plans, sections and elevations.

Residential Quality

- Redesign all balconies to ensure minimum balcony depths are achieved for all units and are accessed from the living room, dining room or kitchen, consistent with ADG requirements.
- Relocate or reduce structural columns within balcony zones to ensure they do not obstruct the use of the space or compromise natural light access to living areas. Increase the transition passage width to no less than 1m to ensure the balcony is functional and accessible.
- Redesign any unit entry that has a direct exposure to the bathroom door upon entry, consistent with a standard of apartment design appropriate to a development of this scale.

Landscape and Amenity

- Ensure any increases in building height and FSR are commensurate with the size of the site and the scale of additional community infrastructure to be provided.
- Clarify the intended use of the commercial tenancy adjacent to the COS. If this space functions as a clubhouse or residents' facility, it should be classified and managed accordingly and its interface with the COS should be redesigned to protect the privacy and amenity of residents.
- Separate the commercial and COS access to ensure residential communal areas are not shared with commercial tenants or their visitors.
- Redesign the pedestrian and cycle path easement from the deep soil calculations, as this area cannot support the planting of medium to large canopy trees.
- Ensure the development meets the recommended ADG and Homebush TOD deep soil target of 15% on sites greater than 1,500m² with deep soil areas with a minimum width of 6m.
- Ensure the development meets the recommended ADG and Homebush TOD Tree Canopy target of 20%.

- Increase the southwestern boundary setback to 6m to provide a genuine deep soil zone of sufficient width to establish medium to large canopy trees along this boundary.

Mix of dwelling sizes

- Objection is made to the Clause 4.6 variation to amend Clause 6.11 of the *Canada Bay Local Environmental Plan 2013* relating to a Mix of dwelling sizes in residential flat buildings and mixed-use development.
- The introduction of Clause 6.11 in the Canada Bay LEP was a key outcome of the *Canada Bay Local Housing Strategy* (LHS) that required apartment buildings to comprise sufficient dwelling diversity. Whilst 20% of apartments in Canada Bay are occupied by families with children, studio and 1 bedroom apartments address specific needs in relation to:
 - Responding to changing household composition - The LHS forecasts a significant rise in smaller households, especially couples without children, single residents, and ageing singles, who typically prefer one or two-bedroom homes. This matches demographic projections showing growth in the 25–34 age group and residents aged 55+, both of which commonly favour smaller units.
 - Alleviating rental and purchase stress - One-bedroom dwellings help address housing affordability by offering smaller, more affordable rental or purchase options. The LHS notes that 42% of renters face housing stress, and increasing supply of smaller dwellings is seen as a way to help ease this burden.
 - Supporting key workers, students, and low-income households - One-bedroom dwellings offer viable, affordable options for key workers, students, sole parents, and low-income individuals, groups particularly vulnerable to high housing costs.
- The request to vary Clause 6.11 is not based on a compelling argument, is contrary to the intent of the development standard and its consistent application is not unreasonable or unnecessary.

Recommendation

- The EIS and SSDA be revised to comply with Clause 6.11 of the *Canada Bay Local Environmental Plan 2013* to provide a mix of dwelling sizes.

Parking and Traffic

Parking arrangement and basement design

- As per AS2890.1:2004 Clause 3.4, a queuing area is to be provided between the vehicular control point and the property boundary to allow for a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road. In consideration of this specific development, a minimum of 42m is to be provided as the minimum queue length to the basement carpark as specified in Table 3.3.

- As per AS4299:1995, adaptable units are to provide a minimum of 1 car parking space per adaptable unit that complies with requirements as set out in Clause 3.7.3. This would result in a minimum requirement of 31 accessible parking spaces being provided for just the residential component only to be provided out of the proposed 186 Residential Parking spaces.
- Based on the provision of 20 Visitor Parking spaces provided, there should be a minimum of 1 Visitor Parking spaces made available as accessible parking spaces under the relevant BCA provisions.
- Based on the above and provisions required from the Commercial and Retail portions of the development, the subject development needs to provide a total of 34 accessible parking spaces are to be provided in accordance with AS2890.6:2009.
- AS/NZS 2890.6:2009 requires disabled spaces to be 2.4m wide beside a 2.4m wide shared area. A bollard must be installed in the shared area and the shared area diagonally line marked. The building plans shall demonstrate compliance with this requirement prior to the issue of development consent.
- The applicant is required to propose a system to manage the potential conflict of vehicles travelling along the driveway ramps. Due to the length, grade and curvature of the ramp, a conflict may occur between vehicles manoeuvring throughout the proposed carpark. A system of traffic lights and/or mirrors may be required to indicate traffic movement on the ramp. Any signal system must maintain a green signal to entering vehicles at the point of entry and must maintain a red signal when an exiting vehicle is detected. The applicant shall also take into consideration the conflict between vehicles reversing out of spaces and vehicles entering/exiting the carpark or utilising the ramps within the basement carparks.
- As per the Homebush TOD Design Guide section 7.5, the subject site is required to provide car share parking at a rate of 1 space per 100 dwellings.
- The provision of a combined waste collection/service bay does not meet the Homebush TOD Design Guide requirements that requires the HRV to enter and exit in a forward direction. This has future WHS and public safety considerations and should be amended by design or a mechanical alternative.
- The proposed provision of 25 visitor bicycle parking spaces (20 for residential and 5 for retail/commercial) is numerically satisfactory. The proposed location for this bicycle parking in the basement remote from all pedestrian access points is however not satisfactory. This does not align with the objectives of the Homebush TOD Design Guide which states “where bicycle parking is provided within the basement or above ground levels, it is to be located on the first level of basement or first level above ground and in proximity to entry or exit points”. Accordingly bicycle parking should be located on Ground level or Basement Level 01 near pedestrian access points to the subject development to/from the public domain. Building plans shall demonstrate compliance with this requirement prior to the issue of development consent.

Traffic modelling

- The Transport Impact assessment has quoted incorrect rates for the residential and retail components. As an example, the quoted residential rate in the AM is 0.1 whereas the specified rate in TfNSW's "Guide to Traffic Generating Developments" is 0.19 for the subject development.
- Further to the above, the application has not adequately considered the freight and servicing needs of the development. A quick calculation based on the above guidelines suggests an average rate of 0.317 (Neighbourhood centre Medium Term) would be applicable and result in approximately 65 additional vehicle trips per day. This needs to be considered in the broader context and does not excuse the development from implementing some kind of mitigation measure.

Recommendations

Provide compliant basement queuing length

- Revise the basement entry design to provide a minimum 42 m queuing length between the vehicular control point and property boundary, in accordance with AS2890.1:2004 Clause 3.4 and Table 3.3, to prevent impacts on frontage road traffic and pedestrian movements.

Increase accessible parking provision for residential use

- Amend the basement car park layout to provide a minimum of 31 accessible residential parking spaces, consistent with AS4299:1995 Clause 3.7.3, based on the number of adaptable units proposed.

Provide compliant accessible visitor parking

- Reallocate at least one (1) visitor parking space as an accessible parking space, in accordance with relevant BCA requirements, based on the proposed 20 visitor parking spaces.

Ensure total accessible parking compliance across all uses

- Provide a minimum of 34 accessible parking spaces across residential, retail and commercial components, in accordance with AS2890.6:2009, and demonstrate compliance on the amended plans.

Demonstrate compliant accessible parking dimensions and linemarking

- Update the building plans to confirm all accessible parking spaces are 2.4 m wide with a 2.4 m wide shared zone, including:
 - Installation of bollards in shared zones
 - Diagonal linemarking of shared areas
 - Compliance to be demonstrated prior to issue of development consent.

Introduce ramp traffic conflict management measures

- Provide a detailed traffic conflict management strategy for basement ramps, addressing:

- Ramp length, gradient, curvature and sightlines
- Potential conflicts between entering and exiting vehicles
- Conflicts with vehicles reversing from parking spaces
- Consider traffic lights and/or convex mirrors, noting any signal system must display green to entering vehicles unless an exiting vehicle is detected and display red when an exiting vehicle is on the ramp.

Provide car share parking in accordance with TOD requirements

- Allocate car share spaces at a rate of 1 space per 100 dwellings, in accordance with Homebush TOD Design Guide Section 7.5, and identify their location clearly on plans.

Amend waste collection and servicing arrangements

- Redesign the waste/service bay to enable HRVs to enter and exit in a forward direction, consistent with the Homebush TOD Design Guide, to address future WHS and public safety risks.
- Alternatively, provide a compliant mechanical solution demonstrating equivalent safety outcomes.

Relocate visitor bicycle parking to compliant locations

- Maintain the proposed 25 visitor bicycle spaces, but revise their location to:
 - Ground Level or Basement Level 01
 - In proximity to pedestrian entry/exit points
 - Ensure alignment with Homebush TOD Design Guide objectives.
 - Demonstrate compliance prior to issue of development consent.

Revise traffic modelling inputs and assumptions

- Prepare an amended Transport Impact Assessment using correct trip generation rates, including residential AM peak rate of 0.19, consistent with TfNSW's Guide to Traffic Generating Developments, rather than the incorrectly applied 0.1 rate.

Incorporate freight and servicing vehicle trips into modelling

- Update traffic modelling to include freight and servicing demand, applying an appropriate Neighbourhood Centre (Medium Term) rate of approximately 0.317, equating to an additional ~65 vehicle trips per day.
- Assess cumulative impacts on the surrounding road network.

Identify and implement mitigation measures

- Identify practical traffic and servicing mitigation measures to respond to the revised modelling outcomes, noting that incorrect or omitted modelling does not remove the obligation to mitigate traffic impacts.

Waste Management

The waste management component of the proposal is unsatisfactory and must be amended prior to consent being granted.

Non-compliance with Development Control Plan

- Waste Management Plan (WMP) and Architectural Plans (AP) do not comply with the City of Canada Bay DCP (effective 5 September 2025).
- Waste generation rates (residential and commercial) are outdated and incorrectly calculated, particularly for FOGO, garden organics, and commercial uses.

Inconsistencies Between Waste Management Plan and Architectural Plans

- Discrepancies in the location and sizing of bin holding areas, chute discharge points, bulky waste rooms, and loading dock.
- Inconsistent descriptions of how waste is transferred between basement levels and the ground floor loading dock.

Waste Collection and Vehicle Access Deficiencies

- No clear demonstration that a Heavy Rigid Vehicle (HRV) can access, service, and exit the site in a forward direction.
- Swept path analysis is missing.
- Loading dock location is unclear on architectural plans.

Inadequate Separation of Residential and Commercial Waste Systems

- Residential and commercial waste storage areas, chutes, and holding rooms are not clearly separated or secured.
- Risk of cross-access between residential and commercial waste systems.

Waste Chute Design and Documentation Issues

- Lack of clarity on chute locations, discharge points, and routing (particularly Core B).
- Chute arrangements described in the WMP are not physically achievable as shown on plans.
- Non-compliance with chute access, travel distance, and level servicing requirements.

Bin Storage and Handling Issues

- Bin holding areas are not clearly identified or adequately sized.
- Additional bins required under chutes on collection days are not accounted for.
- Bin carting routes exceed allowable distances or gradients and are not shown.

Bulky Waste Storage Non-compliance

- Bulky waste room not shown on plans.
- Storage area undersized when assessed against DCP requirements.
- No management procedures or access controls identified.

Mobile Bin Towing Device (MBT) Not Properly Addressed

- No storage space shown for MBT.
- No clear carting route or contingency manual handling plan provided.

Incomplete Definition of Roles and Responsibilities

- Operational responsibilities for residents, caretakers, building management, and commercial tenants are not clearly defined in the WMP.

Recommendations:

Revise Waste Management Plan and Architectural Plans

- Update both documents to ensure full alignment and consistency.
- Demonstrate compliance with the City of Canada Bay DCP (Effective 5 September 2025).

Recalculate Waste Generation Rates

- Recalculate residential and commercial waste streams in accordance with the Canada Bay DCP, including:
 - General waste, recycling, garden organics, and food organics.
 - Update bin numbers, bin sizes, and storage room capacities accordingly.

Clarify Waste Collection Strategy

- Clearly identify the loading dock and collection point(s) on architectural plans.
- Provide swept path diagrams demonstrating HRV access, manoeuvring, and forward entry/exit.
- Explain bin transfer mechanisms from basement levels to the loading dock.

Ensure Separation of Residential and Commercial Waste Systems

- Physically separate and secure all residential and commercial waste storage, chutes, and holding rooms.
- Prevent cross-access through access control and layout design.

Resolve Waste Chute Design Issues

- Clearly show all chute locations, routes, discharge points, and associated rooms on plans.
- Ensure chute systems comply with DCP requirements for height, fire rating, separation, compaction, and access.
- Correct inconsistencies between the WMP and architectural documentation.

Upgrade Bin Storage and Carting Arrangements

- Resize and clearly identify all bin holding areas.
- Show compliant carting routes for residents, caretakers, and bin towing devices.

- Include additional bins required during collection days.

Provide Compliant Bulky Waste Facilities

- Show bulky waste storage room on plans with minimum DCP-compliant floor area.
- Include access controls, management procedures, and revised bulky waste calculations.

Address Mobile Bin Towing Device Requirements

- Identify MBT storage location on plans.
- Show carting routes and provide a compliant manual handling contingency plan.

Clarify Waste Management Responsibilities

- Update the operational WMP to clearly define waste management responsibilities for:
 - Residents
 - Building management
 - Caretakers
 - Commercial tenants

Draft Conditions of Consent

- Should consent be granted, the conditions provided in Appendix A should be imposed.

Flooding and Stormwater

Flooding

- The submitted flood report (Ref: 250919, dated 17 February 2026) does not clearly demonstrate climate change impacts for the Year 2030 and Year 2100 scenarios under SSP3-7.0, for either the 1% AEP or PMF events, as required by the draft NSW DPHI Climate Change Scenario Guidelines (February 2026).
- As a result of the above, the adequacy of proposed finished floor levels (FFLs) under future climate conditions has not been demonstrated, raising concerns regarding compliance with:
 - Council's DCP Part B – Clause B8 (Flooding Control); and
 - Clause SW23 of Council's DCP Appendix 2 – Engineering Specification.
- The flood documentation indicates that a flood barrier is proposed at RL 12.41 m AHD for the PMF event; however:
 - Climate change impacts have not been incorporated into the PMF assessment.
 - No conceptual design details have been provided to demonstrate that the flood barrier can be constructed at the nominated location without adversely impacting the basement, including structural integrity and headroom clearance.
- The hydrological and hydraulic models used to inform the flood assessment have not been submitted to Council for review, verification or record purposes.

Stormwater

- The submitted stormwater documentation does not demonstrate compliance with Council's DCP, Appendix 2 – Engineering Specification, indicating that the proposed stormwater management system is undersized and/or incorrectly configured.
- Discrepancies exist between the stormwater plans, whereby:
 - The stormwater concept plan indicates the OSD system collects runoff from 2,874.76 m², excluding the 3 m Road Acquisition area;
 - The stormwater catchment plan indicates that approximately 9% of the developed area bypasses the OSD system, resulting in non-compliance with Clause OSD22.
- The proposed OSD system has not been designed to account for 1% AEP tailwater (tidal) conditions at the point of discharge, particularly in the context of an updated flood study and climate change impacts, contrary to Clauses OSD18, OSD19 and OSD20.
- The proposed stormwater boundary pit (including Ocean Guard) is located within the 3 m Road Acquisition area, which is unacceptable.
- The proposed kerb inlet pit on Cooper Street is not wholly located within the subject site frontage, contrary to Clause OSD77.
- The OSD system has not been designed as a High Early Discharge (HED) system, yet no allowance has been made for the additional storage volume required under Clause OSD17.
- The water sensitive urban design (WSUD) modelling referenced in the stormwater management plan has not been provided to Council for review.

Recommendation

Flooding

- Require the flood study be revised to clearly assess and present:
 - Year 2030 and Year 2100 climate change impacts;
 - SSP3-7.0 scenario;
 - Both 1% AEP and PMF events;

In accordance with the draft NSW DPHI Climate Change Scenario Guidelines (February 2026).
- Require a review and revision of all proposed finished floor levels, informed by the updated climate-adjusted flood modelling, to demonstrate compliance with:
 - Council's DCP Part B – Clause B8 (Flooding Control); and
 - Clause SW23 of Council's DCP Appendix 2 – Engineering Specification.
- Require the applicant to provide concept-level design details for the proposed flood barrier, demonstrating:
 - Feasibility of construction at RL 12.41 m AHD (or revised level);

- Integration with basement levels;
- No adverse impacts on basement headroom, access or structural performance;
- Consideration of future climate change conditions.
- Require submission of the hydrological and hydraulic models used in the flood assessment to Council for review, audit and record.
- Recommend that the application the above flood-related matters be resolved prior to any approval being granted.

Stormwater

- Require the stormwater management design to be revised to ensure 100% of the developed catchment drains to the OSD system and to increase storage volume as required to achieve compliance with Clause OSD22.
- Require the OSD system to be redesigned to account for 1% AEP tailwater (tidal) conditions, consistent with:
 - An updated flood study incorporating climate change; and
 - Clauses OSD18, OSD19 and OSD20 of Council's DCP.
- Require relocation of the stormwater boundary pit (including Ocean Guard) so it is wholly contained within the subject site, outside the 3 m Road Acquisition area.
- Require relocation of the proposed stormwater kerb inlet pit on Cooper Street so it is wholly contained within the site frontage, in accordance with Clause OSD77.
- Require the OSD system to be designed as a High Early Discharge (HED) system, or alternatively, to include an additional 20% storage volume, in accordance with Clause OSD17.
- Require submission of the WSUD modelling used in the stormwater management plan to Council for review and record.
- Recommend that DPHI return the application to the applicant to address all outstanding stormwater matters prior to any approval.

Other Issues

Retail and Commercial space

- *Failure to separate access and servicing arrangements* - The ground floor retail, commercial and residential uses are comingled creating privacy, amenity and safety concerns. For example, retail tenancies along Cooper Street do not have direct access to toilet facilities and share access to the basement parking and bins via the residential lobby. The commercial tenancies located behind the loading dock on Clarence Street do not have a clearly identified and independent access point. The current arrangement requires users of these tenancies to navigate through a shared retail, residential and commercial lobby, which is an inadequate access solution for a commercial occupancy or residential amenity.

- *Use of semi-outdoor area* - The semi-outdoor area on the ground floor is located adjacent the commercial tenancies, however, it is not clear whether this is intended for residential or commercial use. The application should clarify the intended use, tenure and management of this space.
- *Positive activation of Clarence Street* - The Clarence Street frontage, as previously noted in the context and streetscape section above, does not engage meaningfully with the street. The commercial tenancies behind the loading dock present a blank wall to Clarence Street, with no active uses, entries or glazing provided to this frontage. As Clarence Street is anticipated to carry increased pedestrian movement as the TOD precinct matures, this street should be treated as an active frontage with commercial uses addressing and engaging the street, consistent with the public domain objectives of the Homebush TOD Design Guide.

Adaptable Housing floor to floor heights

- As per the Homebush TOD Design Guide section 5.2, adaptable housing must be a minimum of 3.7m in floor-to-floor height rather than the assumed 3.2m for each residential floor as depicted in the architectural plans. Noting that there are a minimum of 31 adaptable units to be provided in the whole development and there are approximately 3 adaptable units per level, this would equate to a missing 5.5m in overall building height that has not been accounted for.

Recommendations:

- Redesign the ground floor so that there is clear separation of access between retail, commercial and residential users and their visitors including access to basements, bins and facilities.
- Clarify the outdoor area on the ground floor, and the intended use of the commercial tenancies adjacent to the COS and ensure it does not impact the privacy and amenity of residents.
- Clarify the intended use, tenure and management of the semi outdoor area adjacent to the commercial tenancy.
- Adaptable Housing must have a floor to floor height of 3.7m in accordance with the requirements of the Homebush TOD Design Guide.

Tree Protection

Tree Removal

- While a significant amount of trees are proposed for removal, only 4 qualify as protected trees. Removal of trees 2, 6, and 19 can be supported, while Tree 8 *Eucalyptus saligna* (Sydney Blue Gum) is highly desirable for retention.
- Tree 8 is a large specimen, measured in the AIA as 18m tall, with a diameter at breast height (DBH) of 80cm, and a canopy spread of 20m. It is assessed as being in good condition and having good structure, and has been given the highest landscape significance and retention value ratings. This species is locally native and offers significant ecological value.

- Retention of Tree 8 would require a significant redesign. Redesign would involve reducing the basement excavation, and shifting the building footprint away from the tree to prevent conflict with the canopy. If tree 8 is to be removed, then replacement of this tree should be a focus of the landscaping.

Canopy cover

- At least 30% canopy cover is required as per the Tree Canopy Guide for Low and Mid Rise Housing, with 18 medium trees or 9 large trees (where a large tree is interchangeable with 2 medium trees) to be planted in deep soil.
- The Landscape Plan shows approximately 13% canopy cover from in-ground plantings, supplemented by rooftop plantings. The tree list in the Landscape Plan provides inaccurate estimations of mature dimensions. Assessing based on species, 3 large trees (trees with >12m spread at maturity) have been included (*Corymbia maculata*) and 2 medium trees (trees with >8m spread at maturity) have been included (*Waterhousea floribunda*, *Melaleuca linariifolia*). Other medium trees (*Betula nigra*, *Fraxinus oxycarpa* 'Raywoodii', *Lophostemon confertus*, *Ulmus parvifolia*) are on the species list, but these trees appear to be absent on the plans. Other trees proposed contribute significantly to canopy but are unlikely to reach the spread required to be considered medium trees.
- Rooftop planting has been proposed on a large portion of the building to increase overall cover. The depictions in the Landscape Plan shows unrealistically large canopy spreads for relatively small species - it is highly unlikely that the proposed rooftop planting will contribute as much to the canopy on site as indicated. Additionally, rooftop plantings often fail to reach sizes expected from in-ground plantings, so estimated mature sizes should be treated with scepticism. That being said, rooftop planting will contribute to canopy cover and amenity, and should be encouraged.

The proposal should include more planted space at ground level to meet canopy requirements.

Species

- In general, larger species should be selected to at least reach the required size of a medium tree, and some should reach the size of large trees. Many species specified are very small (such as Little Gem Magnolias) and are not worth consideration as canopy trees.
- Species proposed for the Cooper Street frontage are *Elaeocarpus reticulatus* (Blueberry Ash) and *Tristaniopsis laurina* 'Luscious' (Watergum). Both species are relatively small. *Elaeocarpus reticulatus* is often struggles to establish and is prone to rapid early decline at maturity. There have been problems recently with *Tristaniopsis laurina* being impacted by Jewel Beetle in the local area which will often kill young trees (CCBC is largely avoiding using the species for this reason). While both species can be used, using them this extensively is best avoided, and they should be substituted for alternate species.

- If Tree 8 (*Eucalyptus saligna*, Sydney Blue Gum) is to be removed, it should be considered in replacement planting. 3 *Corymbia maculata* (Spotted Gum) have been proposed, which will offer some similar benefits to tree 8. However, as these are proposed as street trees, they are unlikely to perform well enough to become as significant as Tree 8.
- The proposed 'Outdoor Area' offers a potential replacement site. Currently, 2 *Magnolia Little Gems* and 1 *Waterhousea floribunda* (Weeping Lilly Pilly) have been proposed, which will not offer a large amount of canopy. This space offers an opportunity for larger replacement planting. This should be a *Eucalyptus saligna* planted as mature stock (400L), with sufficient soil space to reach a healthy mature size. A minor redesign of this area may be needed to facilitate planting.

Recommendation

- Redesign the building to enable the retention of Tree 8.
- Assess the likely canopy cover at maturity of proposed plantings.
- Redesign landscaped areas and alter proposed species to comply with the Tree Canopy Guide for Low and Mid Rise Housing. In general, larger species must be used.
- Substitute *Elaeocarpus reticulatus* and *Tristaniaopsis laurina* 'Luscious' for larger species more likely to succeed.
- Should the Department of Planning, Housing and Infrastructure conclude that Tree 8 is not significant or worthy of retention, include specific replacement of this tree in an appropriate landscaped area.

Summary

The proposal is in a location well-suited to high-density growth within the Homebush TOD Precinct. However, the design as established by the supporting documentation presents fundamental issues that should preclude approval in its current form. These include, but are not limited to:

- The proposed FSR of 6.95:1 and building height of 74.6m significantly exceed the development standards applicable to this site, as the bonus provisions under the LEP are not available where the required amalgamation has not been achieved and a significant amount of the related additional community infrastructure is not provided. Isolation of the remainder of Key Site 61, and its resulting viability for redevelopment, is also of concern.
- The proposal fails to understand the link between achieving additional uplift and a requirement to deliver suitable public benefit in return. The infrastructure required to support the significant uplift and scale of this development is not fully provided for by the application, delivering significant gain to the developer without the expected accompanying public benefit (particularly open space). This approach contradicts expectations established within the recent Homebush TOD rezoning.

- The EIS and the Clause 4.6 request rely in part on a potential State led rezoning proposing substantially higher heights and FSRs. This planning proposal has only recently commenced and has not been exhibited. As such, it has no weight and cannot be relied on to justify departures from the current LEP controls for this application. The proposal must therefore be assessed against the underlying Canada Bay LEP 2013 controls of 59m and 25m maximum height and an FSR which reflects the TOD desired future character, landscape setbacks, deep soil and the ADG privacy and amenity standards.
- The concentration of bulk and scale on this standalone parcel is unreasonable and results in a tower that is monolithic in form, insufficiently articulated and highly visible from the T9 Northern Heavy Rail corridor. A review of design excellence is required.
- The proposal does not adequately comply with ADG requirements for solar access, cross ventilation, building separation, balcony design and communal open space, and does not provide a standard of residential amenity appropriate to a development of this scale.
- The Clarence Street frontage is largely inactive and poorly addressed, and the setbacks along all boundaries are insufficient to support meaningful landscape, deep soil and canopy planting.

Should you have any enquiries in relation to this letter, please contact Paul Dewar, Manager Strategic Planning on 9911 6402 or paul.dewar@canadabay.nsw.gov.au

Yours sincerely



Monica Cologna
Director, Environment & Planning

Appendix A – Recommended Conditions of Consent

Before Issue of a Construction Certificate

Amendments to Approved Plans – Principal Certifier

The following amendments and details must be submitted to the Principal Certifier for approval prior to the issue of a Construction Certificate:

- a) Waste Management Plan - Further details are to be provided regarding the waste management of the development. These details are to form an addendum to Waste Management Plan and must be submitted in accordance with the provisions of Council's Development Control Plan including:

This involves a change to the Development Application plans as submitted to and approved by Council. Any changes in this regard shall be reflected as amended plans to be submitted to the Principal Certifier prior to the issue of a Construction Certificate for the proposed development.

Waste Storage Room Construction

A design certificate and detailed plans are to be submitted with the Construction Certificate application which demonstrate that the waste storage room has been designed to be constructed in accordance with the Waste Management Plan and including the following requirements:

- a) The floor is to be constructed of concrete at least 75mm thick and adequately graded to drain to a Sydney Water approved drainage fitting;
- b) The floor must be finished so that it is non-slip and has a smooth and even surface covered at all intersections;
- c) The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned;
- d) The room is to be provided with artificial light controllable within the room and adequate ventilation; and
- e) The room is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.

Access for Waste Collection Vehicles

A design certificate and detailed plans are to be submitted with the Construction Certificate application that confirms that the development can be accessed and serviced by the nominated waste collection vehicle in accordance with the Waste Management Plan.

The plans are to specifically demonstrate that the path of travel for the waste collection vehicle to the nominated collection area (which includes all entrance/exit, internal driveways, vehicle ramps, loading docks and basement) has been designed in accordance with AS2890.2-2004.

The design certificate is also to confirm that the internal driveway, cross over, entry/egress points have been designed to meet the following loading requirements:

25 tonne waste collection vehicles

- a) Turning circle of 27.8 metres
- b) Length of 12.5 metres and width of 2.8m
- c) Clearance height of 4.5 metres

Direct waste collection from basement

A design certificate and detailed plans are to be submitted with the Construction Certificate application that confirms that the waste can be directly collected from the basement as detailed in the Waste Management Plan.

The design certificate is to be in accordance with the Waste Management Plan and specifically confirm that the:

- a) Waste collection vehicle is able to access the basement, adequately manoeuvre into position, load bins and exit the basement.
- b) Adequate vertical clearance is provided along the route of travel to/from external entry/exit points to collection area.
- c) The collection vehicle must be able to manoeuvre in the basement with limited need for reversing.
- d) The grades of entry/exit must not exceed the capabilities of waste collection vehicle
- e) The floor of the basement has been designed to carry the load of the vehicle.

Truck Turntables

Any development that is seeking to utilise turntables needs to demonstrate compliance with the required dimensions for a 12.5m HRV vehicle (provided for a standard heavy rigid vehicle as identified in Australian Standard 2890.2:2018): including the diameter for the turntable and required clearance heights and width.

In addition, the following needs to be addressed:

- a) If a vehicle turntable is used, it is to have a minimum 25 tonne capacity.
- b) The use of the turntable is always to be available to Council's waste collection vehicles.
- c) The installation, operation and on-going servicing is to be at no cost to Council.
- d) Establishment of a sinking fund contribution by the developer to ensure the turntable continues to work and property has funds up front to fund repairs once operational.
- e) A servicing, maintenance and inspection plan are to be prepared by the service provider, before the Occupation Certificate is issued.
- f) A Contingency plan is to be prepared by the service provider for submission to the Principal Certifier, before the Occupation Certificate is issued and to include the use of a manual system to be available in case of breakdown, Breakdown assistance is to be provided within 4 hours.

Waste Chute Design

Where the development incorporates a Waste Chute as part of the waste management system, a design certificate and detailed plans are to accompany any Construction Certificate application which confirms that the waste chute can be constructed to satisfy the Waste Management Guide and specifically the following requirements:

Chutes, service openings and charging devices are constructed of metal or a smooth faced surface which is fire resistant and of impervious material

- a) Chute is cylindrical in section, vertical and without bends as it passes through the floors.
- b) Chutes must terminate in the waste storage room and discharge into a waste bin.
- c) Comply with manufactures technical specifications and operational limitations.

During Building Works

Waste Management Plan

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works.

When implementing the Waste Management Plan the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the Protection of Environment Operations Act 1997
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- e) Records are retained regarding the details and location of the disposal of all demolition and construction waste (including excavated material) and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal and confirmation of the waste disposal facility
- f) All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the Protection of Environment Operations Act 1997 must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
- g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

Before Issue of an Occupation Certificate

Council Inspection – Waste Management Facilities

A final inspection of the waste storage area(s) and management facilities must be arranged by the Principal Certifying Authority to ensure compliance with the design Council's design specifications.

The time for the inspection must be arranged with Council at least 2 business days prior to the Principal Certifier suggested appointment time.

Internal Pavement Construction

Prior to an Occupation Certificate being issued, a Certified Practicing Engineer (CPEng) must submit a design certificate to Canada Bay Council confirming that the internal pavement has been designed to accommodate a loaded heavy rigid waste collection vehicle.

Waste Collection Agreement with Council

Prior to the issue of the Subdivision Certificate, a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service is to be entered into.

By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

The provision of Council's waste collection service will not commence until formalisation of the agreement.

Private Waste Collection Service (only where applicable e.g. commercial developments and approved by Council)

Prior to the issue of an Occupation Certificate, the developer is to enter into a formal agreement with a licenced private waste contractor to service the development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private waste collection service, the developer is to ensure that:

- a) The service is functional and meets the operational needs of the development
- b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- c) Council has been provided with indemnity against claims for loss or damage, should they take over the service at some point in the future.

Occupation and Ongoing Use

Waste Management Plan Implementation

The approved Waste Management Plan is to be implemented throughout the ongoing use of the development.

Commencement of a domestic waste service

Prior to the commencement of use, the property owner or agent acting for the owner must arrange an inspection of the waste storage area(s) and management facilities to arrange the commencement of a domestic waste service with Council.

The time for the inspection must be arranged by the owner or approved building manager at least 7 days prior to the occupancy of the development.

All requirements of Council's domestic collection service must be complied with at all times.

Waste Management Facilities

The Owner's Corporation is responsible for the ongoing maintenance, repair and replacement of all equipment related to waste management in the development including waste chutes, compaction equipment and turntables if applicable. This also includes ensuring that mobile garbage bins are kept clean.

Licenced Waste Collection

All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal.

Signage

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development.

All signage must comply with Council's specifications for waste collection.

Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.