

31 July 2026

Liam Spinks
Department of Planning, Housing and Infrastructure

Via Major Projects Portal

Dear Liam

Submission

Application No. SSD-119133490

Property Address 40-56 Ourimbah Road, Mosman

Council supports residential development that contributes to housing supply, provided it is consistent with the desired future local character.

Council has commenced a master planning process across the LGA to support the delivery of additional dwellings in line with the Government's housing expectations. The master plan seeks to achieve this in a way that better reflects community expectations and the LGA's desired future character.

Council objects to the exhibited proposal because it is inconsistent with that desired future character. Its concerns primarily relate to:

- Contravention of development standards and planning controls that regulate building envelope and inform the desired future character of an area including building height and gross floor area (SEPP Housing, non-discretionary development standards), wall height (MLEP, development standard), and spatial separation requirements (ADG);
- Adverse amenity impacts due to the excessive bulk and scale of the building envelope;
- Inappropriate urban design response to the site's context including the adjacent heritage listed item;
- The distribution of landscaped area; and
- An excessive quantum of development for the site resulting in an over-development that is not in keeping with the desired future character of the area.

Contravention of development standards

Building height and floorspace

Council's preferred masterplan option establishes a building height of six storeys for this site. Under Chapter 6 of State Environmental Planning Policy (Housing) 2021, a building height of up to 22 metres and no more than six storeys are permitted. Under Chapter 2 of the SEPP, a building height of up to 28.6 metres, equivalent to an additional two storeys, is said to be permitted by the applicant based on its calculation of floor space attributed to affordable in-fill housing. The proposal seeks a building height of up to 31.6 metres and a built form of up to nine storeys.

Council does not agree with the applicant's calculation of the floor space attributed to in-fill affordable housing and consequently the permissible gross floor area and building height standards referred to in the submission and upon which the development is based are incorrect.

The applicant's GFA calculation sheets, specifically that part relating to Level 1, show all the common area circulation space to be included in the in-fill affordable housing gross floor area calculation. This area is not exclusive to the affordable dwelling component of the development. It provides access to "market apartments" as referred to by the applicant, as well as to "affordable units." Furthermore, the circulation area is common to all residents of the development and it therefore does not constitute gross floor area used for affordable housing which is a necessary pre-requisite for the attainment of the additional floor space in excess of 2.2:1 and height in excess of 22 metres and no more than six storeys under the SEPP.

Consequently, the FSR and height standards are exceeded by including 86m² in the calculation of affordable housing floorspace when it should have been excluded. Notionally, the equivalent of one affordable two-bedroom unit is lost to the community, and the development exceeds already generous floor space and height provisions, constituting an over-development of the site in circumstances where compliance with the standards would yield a development better articulated to the site topography, the broader locality and desired future character.

Wall height

The proposal seeks to contravene the maximum 7.2m wall height development standard under Clause 4.3A of the MLEP 2012. While it is accepted that the contravention arises from the misalignment between the wall height standard under MLEP 2012 and the applicable LMR housing and IAH provisions under the Housing SEPP, in this instance the development adjoins the local heritage item "shops and flats", 60 Ourimbah Road, located on the corner of Ourimbah Road and Rosebery Street, which has a two-storey street façade.

Articulation of the proposed base of the building commensurate with the wall height standard to better relate to the height, street alignment and opacity of the heritage item would achieve a better relationship to the heritage item and the streetscape. On this street and in this location building entrances are near street level and not isolated from it by the elevation of their entrances from the street. Reinforcement of a two-storey street-wall in the design would achieve a better relationship with the heritage item.

Spatial separation requirements (ADG)

It is not agreed that the ADG spatial separation requirements need not be met on the southern side of the building. While the applicant submits that the variations are localised and attributable to topography, the variations in fact apply across the greater part of the southern setback area. From Level 3 upwards, 80% of the southern façade comprises nine levels, with a consequent required setback under the ADG of 12m, rather than the proposed 10.1m to 10.5m.

As an aside, those parts of the three rooftop access stairs that constitute floor space also constitute an additional storey at those points, such that the development should properly be described as nine to ten storeys. Furthermore, access to the rooftop for private use by a limited number of dwellings contributes to unreasonable height contravention when; those dwellings have already generous and ADG compliant balcony areas without need for rooftop use.

Council supports the greater separation from the southern boundary required by the ADG. This separation would improve the amenity of both existing and future adjoining development. From an urban design perspective, Council also considers that the development should be located closer to the street boundary.

Amenity impacts due to excessive bulk and scale

Resident submissions have included concern with view impacts, overshadowing, and loss of privacy.

Council shares these concerns as follows:

Any redevelopment of properties to the south of this proposed development under the same or similar controls would experience loss of solar access and water and district views if height non-compliance in this scheme were to be approved. The site has sufficient length on its east/west axis for the building form to step-down in line with the site and street topography.

The proposed building height, including the exceedance of bonus non-discretionary provisions, will result in additional overshadowing of already disadvantaged adjoining southern properties. Upon redevelopment, those properties and their future residents will be further disadvantaged by the height exceedance and the building's proximity to the southern boundary.

The proximity and height of the development in relation to adjoining southern properties, together with the building's plan form and the orientation of openings to the south, will be harmful to the future amenity of any redeveloped building to the south. Under the ADG, those buildings will be required to orientate to the north and, conversely, to implement privacy measures to protect visual privacy between developments.

The proposal has scant regard for preventable amenity impacts that are likely to arise when southern properties are redeveloped. The development would be better configured to be longer, lower, and orientated to the north compared to the current design.

This is a fundamental and strategic flaw in the design that forces unreasonable adverse amenity impacts on current and future property owners to the south.

Inappropriate urban design response to context including adjacent heritage item

The buildings in this street block step down with the slope of the street and vary in setback from the street. The street block is bookended by buildings built to the street boundary. At the western end of the street block, the heritage item will continue to bookend the street block.

The proposed building should step down the site from east to west. It does not.

If, at the eastern end of the street block, the proposed building is intended to be set back from Ourimbah Road, then at its western end the building should be staggered between the proposed eastern alignment and the nil setback of the heritage item.

The form of the building should be stepped from east to west and its street alignment to Ourimbah Rd should be staggered.

The elevated podium form of the building harms the streetscape and the setting of the heritage item. The placement of a sub-station adjacent to the heritage item shows scant regard for its streetscape setting.

The design of the building is self-referential when it should instead have proper regard for the character of the street and the relationship of the site with the adjacent heritage item.

Distribution of landscaped area

The main area of soft landscaping is proposed on the western side of the building, next to the heritage item. It includes a swimming pool and surrounding paved area. Given the extent of basement parking across the site, this area appears to offer one of the few opportunities for deep

soil planting. If the current design is retained, this area should not be occupied by built landscape elements.

Earlier in this submission, it was suggested that the design is flawed by inadequate consideration of local topography, streetscape, and the heritage item, and that the development would be better configured to be longer, lower, staggered to the street, and orientated to the north.

A better outcome would provide greater separation of the development from its southern boundary and better placement of deep soil planting and other landscaping in this zone. This would better meet ADG requirements and provide greater amenity value to surrounding development than the current scheme, which achieves ineffective separation and contextually inappropriate landscape separation from the adjoining heritage item.

Over-development, not in keeping with desired future character

Council accepts that the character of the locality will change because of development such as this under the SSD pathway, the LMR provisions in the Housing SEPP or under our developing masterplan.

Council does not agree however, that there is sufficient reason to contravene the applicable height and FSR development standards. The height contraventions in this application arise because the proposed built form is not sufficiently responsive to the site constraints. The FSR contravention is not accounted for by the applicant. These contraventions will undermine the desired future character of the locality by generating a built form that is excessive in scale and bulk, poorly sited having regard to site topography, with insufficient regard for the amenity of current and future surrounding development and with insufficient delivery of affordable housing to achieve the bonuses sought in this application.

Concluding remarks

Council does not support approval of this development in its current form. The development requires further review and redesign to address the issues raised in this and neighbour submissions.

The contravention of development standards in this application constitutes an over-development of the site which will result in loss of amenity for current and future development in the locality and which reduces proportional provision of affordable housing; neither being in the public interest.

The siting of the development and its form is not responsive to the site topography, the street setback pattern, and the relationship of this development with future surrounding development and the adjoining heritage item.

Council does not support this development in its current form. In event amendments are made, Council requests it be notified and consulted. In event the Department considers that the development should be approved, Council requests that it be consulted prior to determination to ensure the consent is functional and meets Council's usual requirements and public domain specifications.

Yours sincerely



Angelo Falato
Manager Development Services