

24082

20 November 2024

Kiersten Fishburn
Secretary
Department of Planning, Housing, and Infrastructure
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Attention: Michelle Niles

Dear Kiersten,

Request for Project Specific SEARs for Infill Affordable Housing 79-85 Queens Road and 2-8 Spencer Street, Five Dock

This letter has been prepared for the purpose of requesting the Department of Planning, Housing and Infrastructure (**DPHI**) to issue Project Specific Secretary's Environmental Assessment Requirements (**SEARs**) for a State Significant Development Application (**SSDA**) for infill affordable housing at 79-85 Queens Road and 2-8 Spencer Street, Five Dock (**the site**) on behalf of DPG Project 37 Pty Ltd (Develotek).

Specifically, the proposed development will comprise the construction of a mixed-use development, comprising 15% affordable housing across two separate part 5 and part 25 storey buildings with a shared basement and podium.

The proposed development is categorised as an SSDA because it is located within the Eastern City District and the residential component of the development will have an estimated development cost (**EDC**) greater than \$75 million, which is the criteria for infill affordable housing development outlined under Schedule 1, Section 26A of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).

In accordance with the Rapid Assessment Framework adopted by DPHI in July 2021, the SSDA qualifies for Industry Specific SEARs because it is not partly or wholly prohibited, is not a designated development and is not a concept development application.

To assist DPHI in issuing Industry Specific SEARs for the project, this letter provides an overview of the proposal, sets out the statutory context and identifies the key likely environmental and planning issues that will be considered and assessed as part of the detailed SSDA.

1.0 Key Project Information

The following provides a summary of the key project information

Applicant	DPG Project 37 Pty Ltd
Proposal	Mixed used development, comprising ground level retail and residential land uses above, including 15% infill affordable housing.

2.0 Background to the Project

2.1 Parramatta Road Corridor Urban Transformation Strategy

In December 2022, the City of Canada Bay Council finalised Stage 1 of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) planning proposal, which sought to amend the planning controls under the Canada Bay Local Environmental Plan 2013 (Canada Bay LEP) and implement a Site-Specific Development Control Plan.

This planning proposal rezoned parts of Five Dock, including the Kings Bay Precinct, which the site is located within. The key planning controls for the precinct, include building height and floor space incentives for residential development that can be sought subject to other development outcomes being delivered, particularly relating to site amalgamation, setback controls and the provision of public domain.

The site is located within Area 17 of the Kings Bay Precinct, which includes the site and the adjoining land at 10-12 Spencer Street. While the specific planning controls relating to the site are detailed in **Section 5.0** of this letter, it is important to note that in order for the proposed development to meet the minimum site area established under Clause 8.4 of the Canada Bay LEP, the site must be amalgamated with 10-12 Spencer Street.

However, after multiple attempts of negotiation over a 2+ year period, the Applicant is unable to acquire the adjoining land at 10-12 Spencer Street, therefore resulting in a non-compliance with the minimum site area requirement.

2.2 Planning Pathway

Despite the non-compliance with the minimum site area, the site can still be appropriately redeveloped in accordance with the objectives and provisions of Area 17 established under Part 8 of the Canada Bay LEP and Part K20 of the Canada Bay Development Control Plan (DCP).

To facilitate the proposed development, a concurrent Planning Proposal will be lodged with Council seeking amendments to the Canada Bay LEP. The specific amendments are yet to be confirmed, however, the intent of the planning proposal will be to provide an alternative minimum site area for Area 17 to enable the area to be redeveloped in two stages, while ensuring the objectives of the area can still be achieved, particularly in relation to building envelopes, vehicular access and basement consolidation, and the provision of public domain. Engagement with Council has commenced and will be ongoing on this planning process.

Should the planning proposal not proceed for some reason, the proposed development will justify the non-compliance and will seek to rely on the ability to vary development standards by way of Clause 4.6 of the Canada Bay LEP. This approach is available for the site and is discussed in greater detail in **Section 5.0** of this letter.

3.0 The Site

The site is located at 79-85 Queens Road and 2-8 Spencer Street, Five Dock within the Canada Bay Local Government Area (LGA). The site comprises five separate allotments, which are legally described as Lot 17, 20, 21 and 22 in Section 3 of Lot DP1117, Lot 18 in DP651570 and Lot 1 in DP540151. The consolidated site has a total site area of 3,151m².

The site has an 'L' shaped configuration and is bound by Queens Road to the north, Williams Street to the east, and Spencer Street to the south. Currently, it is occupied by 1-2 storey buildings that are used for light industrial purposes, including vehicle workshops and warehouses.

It is located within Area 17 of the Kings Bay Precinct and is subject to specific controls governed by the Canada Bay LEP and the DCP. It comprises the majority of Area 17 but excludes 10-12 Spencer Street at the south-western corner of the block because the owner of this land does not wish to sell or redevelop their land at this current point in time.

This Project Specific SEARs Request relates only to a detailed SSDA over the Develotek site. However, it is emphasised that the development application will have regard to the future redevelopment of 10-12 Spencer Street and provide for future basement vehicular access and servicing to minimise impacts of site isolation.

Figure 1 below provides an aerial image, highlighting the subject site in red and the adjoining land at 10-12 Spencer Street in blue.



Figure 1 Site Aerial

Source: Six Maps / Beam Planning

4.0 The Proposal

The proposal involves the construction of a new mixed-use development, which will include infill affordable housing. Specifically, the proposed works will include:

- Site preparation and excavation works, including demolition of all structures on the site.
- Construction of a new part 5, part 25 storey building, comprising 15% affordable housing.
- Basement carpark, which will be accessed via Spencer Street.
- Landscaping and associated public domain works, including:
 - 3m public domain setback to Queens Road and Spencer Street.
 - 8m public domain setback to Williams Street.
 - 6m setback to the western boundary to allow for the delivery of a through site link, which will connect Queens Road and Spencer Street in the future.
- Extension and augmentation of physical infrastructure and utilities as required.

The residential component of the development will have an EDC of more than \$75 million and the infill affordable housing units will be appropriately managed by a Community Housing Provider (CHP). A Cost Summary Report is provided under separate cover to confirm the EDC of the proposed development.

5.0 Statutory Context

This section provides an overview of the key statutory requirements for the project.

Matter	Comments
Power to Grant Consent	<p>The proposal is for the purpose of a mixed-use development, comprising ground level retail and residential uses above, including infill affordable housing.</p> <p>The residential component of the development has an EDC of more than \$75 million and therefore, it is State Significant Development pursuant to Section 26A of Schedule 1 of the Planning Systems SEPP. The Minister for Planning and Public Spaces (or the Minister's delegate) is the consent authority pursuant to Section 4.5(a) of the EP&A Act.</p> <p>The Independent Planning Commission is the consent authority if the proposal receives more than 50 unique public objections or is objected to by Council.</p>
Permissibility	<p>The proposal is located on land which is subject to the <i>Canada Bay Local Environmental Plan 2013</i> (Canada Bay LEP) and is zoned MU1 Mixed Use and RE1 Public Recreation (along the Williams Street frontage).</p> <p>In accordance with the provisions of Chapter 2, Part 2, Division 1 of the <i>State Environmental Planning Policy (Housing) 2021</i> (Housing SEPP), the proposed development is permissible for the following reasons:</p> <ul style="list-style-type: none"> • It is for the purpose of shop top housing, which is permitted with consent under the Canada Bay LEP. • It will contain an affordable housing component greater than 10%. • It is carried out on land that is identified as an accessible area within the Six Cities Region.
Key Development Standards	<p>The site is located within Area 17 of the Kings Bay Precinct and therefore, is subject to Part 8 of the Canada Bay LEP, which prescribes site specific development standards for the development, including the following:</p> <ul style="list-style-type: none"> • Height: Incentive height of building of part 67m for the MU1 portion of the site and part 2.5m along the street frontages. • FSR: Incentive FSR of up to 3:1, with access to a 5% bonus under Clause 8.9 if the proposal achieves certain sustainability requirements and the development will not adversely impact adjoining land or the amenity of the neighbourhood, considering visual bulk and overshadowing. If achieved, the maximum FSR on the site is 3.15:1. <p>To achieve the incentive height and FSR, the consent authority must be satisfied that the requirements in Clauses 8.4-8.8 are met. These clauses require a minimum site area of 4,069m² for Area 17, as well as the following setbacks:</p> <ul style="list-style-type: none"> • An 8m wide setback on land that fronts William Street • A 3m wide setback on land that fronts Queens Road and Spencer Street. <p>Due to the inability to acquire 10-12 Spencer Street at this current stage, the Develotek site has a site area of 3,151m² and therefore, is 918m² less than the required minimum site area, resulting in a 22.6% variation.</p> <p>Despite this variation in the minimum site area, the proposed development can still take advantage of the incentive height and floor space ratio. To do so, the intention is for the SSDA to be lodged and exhibited concurrently with a planning proposal as detailed in Section 2.2 of this letter.</p> <p>However, should this concurrent planning proposal not be supported, the SSDA will be accompanied by Clause 4.6 requests that will be prepared and submitted in parallel as follows:</p> <ul style="list-style-type: none"> • Firstly, two standalone Clause 4.6 requests seeking to contravene the base standards set out in clauses 4.3 and 4.4 of the Canada Bay LEP. It is emphasised that the proposed

Matter	Comments
	<p>development will be permissible with the incentive height and floor space ratio and the additional 30% bonus afforded under the Housing SEPP and therefore, these Clause 4.6s will be administrative only to explain and justify the variation on the base standards.</p> <ul style="list-style-type: none"> Secondly, a standalone request seeking to vary the minimum site area control established under clause 8.3(1) and clause 8.4, so as to permit the application of the floor space ratio and height permitted under clause 8.3(3)-(4). This Clause 4.6 request will explain and justify the 22.6% variation with the minimum site area control, which is a result of the inability to acquire the adjoining land at 10-12 Spencer Street. The Clause 4.6 Request will be accompanied by a detailed site isolation study to justify the non-compliance.
Other Approvals	<ul style="list-style-type: none"> <i>Biodiversity Conservation Act 2016</i>: A waiver or a Biodiversity Development Assessment Report will be prepared as part of the SSDA. <i>National Parks and Wildlife Act 1974</i>: An Aboriginal Cultural Heritage Assessment Report will be prepared as part of the SSDA. <i>Heritage Act 1977</i>: The site is not state heritage listed and therefore, approval under S68 or S139 will be required. <i>Roads Act 1993</i>: Consent under Section 138 of the Roads Act 1993 will likely be required.
Pre-conditions to exercising the power to grant consent	<ul style="list-style-type: none"> <i>State Environmental Planning Policy (Housing) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <i>State Environmental Planning Policy (Industry and Employment) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>Canada Bay Local Environmental Plan 2013</i>.
Mandatory matters for consideration	<ul style="list-style-type: none"> <i>Environmental Planning and Assessment Act 1979</i> <i>State Environmental Planning Policy (Housing) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <i>State Environmental Planning Policy (Industry and Employment) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> <i>Canada Bay Local Environmental Plan 2013</i>.

6.0 Community Engagement

The applicant will undertake future engagement to inform the EIS in accordance with the SEARs and DPE *Undertaking Engagement Guidelines for State Significant Projects (2021)*. Consultation is anticipated with the following government and industry stakeholders:

- Department of Planning, Housing and Infrastructure
- Transport for NSW, including Roads Maritime Services (RMS)
- City of Canada Bay Council
- Service providers, including Ausgrid, Jemena, Sydney Water
- Local community members.

7.0 Proposed Assessment of Impacts

This Section identifies the matters requiring further assessment in the EIS and the proposed approach to assessing each of these matters.

Assessment Matter	Proposed Approach
Built Form & Urban Design	<p>The proposal will be accompanied by an architecture and urban design report that supports the proposed built form and urban design outcomes. The report along with the EIS will assess the impacts of the proposed form and urban structure.</p> <p>Due to the inability to acquire the adjoining land at 10-12 Spencer Street, the proposed development will result in a variation to the minimum site area established under Clause 8.4 of the Canada Bay LEP. Notwithstanding this, the development will be designed accordingly to give regard to the adjoining land and ensure that it is future proofed to meet the key objectives of Area 17 of the Kings Bay Precinct, particularly around consolidated vehicular access and floor space ratio. The Design Report and EIS will include justification on the site isolation and will be accompanied by a detailed development analysis for 10-12 Spencer Street to ensure that it can be appropriately redeveloped in the future.</p> <p>To facilitate the proposed development, a concurrent planning proposal will be lodged allowing Area 17 to be developed in two stages, while ensuring that the relevant objectives of the precinct are being achieved.</p> <p>Should this planning proposal not be supported, the variation to the minimum site area will require the preparation and submission of three Clause 4.6s, including the following:</p> <ul style="list-style-type: none"> • Two standalone Clause 4.6s to the base height of building (Clause 4.3) and base floor space ratio (Clause 4.4) development standard • One standalone Clause 4.6 Request for the minimum site area under Clause 8.4.
Design Excellence	<p>A competitive design process will be held for the future application in accordance with Clause 6.14 of the LEP and the NSW Government Architect Design competition guidelines. Following the completion of the competitive design process, the detailed design of the proposal for the SSDA will be managed through a Design Integrity Process utilising the competition jury.</p>
Landscaping and Public Domain	<p>Landscape and Public Domain Drawings and Design Report will be produced and accompany the EIS to assess and demonstrate how the proposal will deliver a high-quality public domain along all three street frontages, in particular the RE1 zoned land on William Street, and the future through site link that will be delivered.</p>
Flooding	<p>The site is identified as being located within a flood planning area and therefore, a Flooding Report will be prepared and included with the EIS to assess the flood impacts of the proposed development.</p>
Traffic and Parking	<p>A Transport and Accessibility Impact Assessment will accompany the EIS, providing commentary an assessment on the proposed traffic and parking impacts of the use, as well as a construction traffic management plan and the green travel plan (or equivalent).</p>
Residential Amenity	<p>An Apartment Design Guide (ADG) Compliance Table and a Design Verification Statement will be prepared as part of the EIS to ensure that the proposed development achieves a high level of residential amenity and achieves the principles for residential apartment buildings established under Chapter 4 of the Housing SEPP.</p>
Other impacts	<p>The following impacts are matters that will be addressed within the EIS:</p> <ul style="list-style-type: none"> • Overshadowing • View Loss and Visual Impact • Wind Impact • Noise • Waste Management • Sustainability • Building Code of Australia (BCA) and Fire Safety • Fire Safety/ Engineering • Accessibility • Social and Economic Impacts • Geotechnical • Construction Impacts

8.0 Conclusion

We trust that the information provided is sufficient to enable the Secretary to issue Project Specific SEARs for the preparation of the Environmental Impact Statement (**EIS**). Should you have any questions about this matter, please do not hesitate to contact the undersigned.

Kind regards



Michael Rowe

Director

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