

30 October 2025

Our ref: RJC: 25-135

Ms Kiersten Fishburn
Secretary Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Attn: Amy Watson, Director, Affordable Housing Assessments

Dear Amy,

Re: Request for industry-specific (Housing) Secretary's Environmental Assessment Requirements for housing at 65 Muston Street, Mosman

1. Introduction

This letter has been prepared to request industry-specific Secretary's Environmental Assessment Requirements ("**SEARs**") for a proposed residential flat building, including infill affordable housing at 65 Muston Street, Mosman ("**the site**"). The site is within 400 metres walking distance of the Mosman Town Centre and is therefore within a low and mid-rise housing inner area.

The proposal is for the demolition of the existing strata-titled residential flat building and associated structures on the site, tree removal and the construction of a new residential flat building containing 13 x 3 bedroom units and basement car parking and associated works. At least 10% of the gross floor area will be used for affordable housing (affordable housing component).

The proposed development is State significant development ("**SSD**") as referred to in clause 26A of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* being development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 1 applies and:

- (a) the part of the development that is residential development has an Estimated Development Cost ("EDC") of more than \$75 million for development on land in the Eastern Harbour City, or
- (b) the development does not involve development prohibited under an environmental planning instrument applying to the land.

A **scoping meeting** was held with DPHI officers on 22 October 2025 at this the scheme contained in Appendix 2. Comments were received from the Department on 23 October 2025. The comments are welcomed and will be taken into consideration in preparing the development application.

Accompanying this request is:

- A site survey (**Appendix 1**);

- Preliminary architectural drawings prepared by Studio Johnston (**Appendix 2**). It is noted that these drawings were presented to the scoping meeting on 22 October 2025 and the design will continue to be developed having regard to matters raised by DPHI at the scoping meeting and in subsequent comments from the Department;
- A report on the EDC of the scheme in Appendix 2 confirming it is more than \$75 million (**Appendix 3**).

The proponent for the development is Prosker Property Pty Ltd, ABN 87 687 137 391.

2. The Site

The site is located on the eastern side of Muston Street in Mosman (see **Figure 1**). The site boundaries are shown on **Figure 2**. The immediate, surrounding and wider contexts of the site are illustrated on the aerial photographs in **Figures 3A, 3B and 3C** respectively.

The site comprises Strata Plan SP32953 and has an area of approximately 1,342m² (by survey), with a frontage of around 24 metres to Muston Street and 36.5 metres to Redan Lane. Erected on the site is a strata-titled residential flat building. A site survey is contained in **Appendix 1**.

The site is located within 400 metres walking distance of Mosman Town Centre as shown in the Town Centres Map accompanying *State Environmental Planning Policy (Housing) 2021*.

The site is also within 400 metres of bus stops on Military Road, eastbound near the corner of Almora Street and westbound opposite Almora Street.

Characteristics of the site include:

- a pronounced slope from west (approximately RL70mAHD) to east (approximately RL62mAHD), consistent with the general topographic form of the area;
- the residential flat building on the site is not identified as a heritage item nor is the site located within a heritage conservation area, however, as shown on **Figure 4E**, the site is located close to a heritage item: No's.36 – 38 Redan Street (Item reference: I262), a pair of semi-detached houses which is opposite the site on the eastern side of Redan Lane;
- the site is not mapped as having biodiversity values;
- the site is not in a flood planning area; and
- the site is not bush fire prone land.

3. Site Context

The site is within the established residential area of Mosman on the Balmoral slopes in a locality characterised by a mix of residential types including dwelling houses, semi-detached and duplex dwellings, town houses and residential flat buildings. To the east of the site is Redan Lane on the opposite side of which are the garages and rear yards of a pair of heritage-listed, semi-detached dwellings, being No's 36 – 38 Redan Street. To the south of the site is No. 63 Muston Street, a two storey duplex which extends through to Redan Lane. To the west of the site, on the opposite side of Muston Street, are semi-detached and detached dwellings and to the north of the site is No.67 Muston Street, a duplex located on a relatively narrow lot with vehicular access from Redan Lane.

4. The Proposal

The proposal is for the demolition of existing buildings and associated structures on the site, preparatory site works, excavation and the erection of a new residential flat building containing 13 x 3 bedroom units all but one of which is oriented to the view (i.e. to the east). On Levels 1 – 3 there will be two units per floor each aligned east-west. On Levels 4 – 6, there will be one unit per floor. Parking will be provided for residents and visitors over three basement levels with access off Redan Lane at the site's north eastern corner (utilising an existing double width kerb crossing).

Other information on the proposal includes:

GFA	3,461m ²
FSR	2.65:1
Building height	25.5 metres
AHC	18.8%
AH units	101, 102 and 202
Parking	27

A Community Housing Provider, Link Wentworth, will manage the affordable housing component. Details will be confirmed and submitted with the SSDA. The units identified as affordable housing on the preliminary drawings contained in **Appendix 2** are Units 101, 102 and 202 which are all three bedroom units.

Affordable housing is defined in the EP&A Act to mean *housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument*. S13 of the Housing SEPP identifies households that are low income households, low income households or moderate income households as follows:

13 Affordable housing—the Act, s 1.4(1)

(1) In this Policy, a household is taken to be a very low income household, low income household or moderate income household if—

(a) the household—

(i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW—

(A) very low income household—less than 50%,

(B) low income household—50–less than 80%,

(C) moderate income household—80–120%, and

(ii) pays no more than 30% of the gross income in rent, or

(b) the household—

(i) is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and

(ii) *pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme.*

Rents would be set in accordance with the EP&A Act and the Housing SEPP for a duration of 15 years with the units rented to very low income households, low income households or moderate income households at a maximum rent being no more than 30% of the gross income of the households.

5. Statutory Planning Context

5.1 Power to grant approval

The proposal is State significant development. Residential development that includes infill affordable housing that meets the requirements of S2.6(1)(b) and clause 26A of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* is Stage significant development. The site is located in the Eastern Harbour City with an estimated development cost of more than \$75 million and is permissible with consent.

Division 4.7 of Part 4 of the EP&A Act 1979 sets out provisions relating to Stage Significant Development including declaring development as State Significant Development.

5.2 Pre-conditions to the granting of consent and relevant matters for consideration

The following table outlines the pre-conditions to the grant of a development consent and relevant statutory planning matters for consideration.

Table 2: Key Legislation and Environmental Planning Instruments

Act or Instrument	Comment or Response
Biodiversity Conservation Act 2016	S7.9 of this Act requires SSDAs to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values. The site contains no biodiversity values as shown on the biodiversity values map. A determination to this affect will be requested prior to lodgement (BDAR waiver).
State Environmental Planning Policy (Biodiversity and Conservation) 2021	The site is within a regulated catchment under the provisions of Chapter 6 of this SEPP. The EIS will address the matters for consideration in S6.5 to S6.10 (as relevant). The site is not within the Foreshores and Waterways Area and is not a strategic foreshore site.
State Environmental Planning Policy (Sustainable Buildings) 2022	This SEPP sets standards for the erection of BASIX buildings.
State Environmental Planning Policy (Resilience and Hazards) 2021	Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 deals with the remediation of land and provides that a consent authority must not consent to the

Act or Instrument	Comment or Response
	carrying out of any development on land unless— (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose. A preliminary site investigation will be prepared to accompany the development application. However, the site has had no prior known use than for residential purposes. The risk of contamination is very low.
State Environmental Planning Policy (Transport and Infrastructure) 2021	Based on the number of units proposed, a referral under S2.122 of this SEPP is not required.
Environmental Planning and Assessment Act 1979 S1.3 Objects of the Act S4.12 Applications S4.15 Matters for consideration	The EIS will address the objects of the Act. The development application will be accompanied by an EIS and other information as required by the EP&A Act and Regulation. All matters for consideration, including prescribed matters and matters identified in relevant environmental planning instruments, will be addressed in detail in the EIS.
Environmental Planning and Assessment Regulation 2021	Pursuant to S26 of the Environmental Planning and Assessment Regulation 2021, the development application will specify the name of the registered housing provider who will arrange the affordable housing component. The development application will meet the requirements of Division 1 of Part 3 of the Environmental Planning and Assessment Regulation 2021 concerning the making of a development application.
State Environmental Planning Policy (Housing) 2021	
Part 2 Development for affordable housing	
Division 1 In-fill affordable housing	
13 Affordable housing—the Act, s 1.4(1)	Affordable housing is defined in the EP&A Act to mean <i>housing for very low income households, low income households or</i>

Act or Instrument	Comment or Response
(1) In this Policy, a household is taken to be a very low income household, low income household or moderate income household if— (a) the household— (i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW— (A) very low income household—less than 50%, (B) low income household—50—less than 80%, (C) moderate income household—80—120%, and (ii) pays no more than 30% of the gross income in rent, or (b) the household— (i) is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and (ii) pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme. (2) In this section— Greater Sydney means the area that the Australian Bureau of Statistics determines from time to time to be the Greater Sydney—Greater Capital City Statistical Area. National Rental Affordability Scheme has the same meaning as in the National Rental Affordability Scheme Act 2008 of the Commonwealth. Rest of NSW means the area that the Australian Bureau of Statistics determines from time to time to be the Rest of NSW—Greater Capital City Statistical Area.	<i>moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.</i> S13 identifies households that are low income households, low income households or moderate income households and identifies the maximum rent that those households would pay (being no more than 30% of the gross income).
15C Development to which division applies	
(1) This division applies to development that includes residential development if—	
(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5, Chapter 6 or another environmental planning instrument, and	Development is permitted with consent under MLEP 2012 and Chapter 6.
(b) the affordable housing component is at least 10%, and	The affordable housing component is proposed to be at least 15%.
(c) all or part of the development is carried out—	The site is in the Six Cities Region and is in an accessible area because it is within 400m walking distance of a bus stop on Military Road used by a regular bus service.
(i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or	
(2) Affordable housing provided as part of development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division.	Noted and no other requirement known.
16 Affordable housing requirements for additional floor space ratio	

Act or Instrument	Comment or Response
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	Maximum permissible FSR under Chapter 6 is 2.2:1. A 30% increase gives a maximum FSR of 2.86:1. Complies.
(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—	The proposal will have an affordable housing component over 15%.
(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	Maximum permissible building height under Chapter 6 is 22 metres. A 30% increase gives a maximum building height of 28.6 metres. Complies.
(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	A maximum permissible FSR applies
19 Non-discretionary development standards—the Act, s 4.15	
(1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.	
(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—	
(a) a minimum site area of 450m ² ,	Complies – site area is 1,342m ² .
(b) a minimum landscaped area that is the lesser of— (i) 35m ² per dwelling, or (ii) 30% of the site area,	Subject to final design and is expected to comply.
(c) a deep soil zone on at least 15% of the site area, where— (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	Subject to final design and is expected to comply.
(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,	Subject to final design and is expected to comply.

Act or Instrument	Comment or Response
(e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space,	Complies.
(f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	Complies.
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Subject to final design and is expected to comply.
(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,	N/A
(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m ² , (ii) for each dwelling containing 2 bedrooms—90m ² , (iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms.	Paragraph (g) applies.
(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Chapter 4 applies.
20 Design requirements	
(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.	
(2) Subsection (1) does not apply to development to which Chapter 4 applies.	Chapter 4 applies
(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with— (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	This will be addressed in detail in the EIS.
21 Must be used for affordable housing for at least 15 years	

Act or Instrument	Comment or Response
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	This will be achieved by condition of consent. Details of the community housing provider will be provided with the EIS.
(2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	N/A
22 Subdivision permitted with consent	
Land on which development has been carried out under this division may be subdivided with development consent.	Noted.
Chapter 4 Design of residential apartment development	
147 Determination of development applications and modification applications for residential apartment development (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following— (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9, (b) the Apartment Design Guide, (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel. (2) The 14-day period referred to in subsection (1)(c) does not increase or otherwise affect the period in which a development application or modification application must be determined by the consent authority. (3) To avoid doubt, subsection (1)(b) does not require a consent authority to require compliance with design criteria specified in the Apartment Design Guide. (4) Subsection (1)(c) does not apply to State significant development.	These matters will be addressed in the EIS.
148 Non-discretionary development standards for residential apartment development—the Act, s 4.15	These matters will be addressed in the EIS.
149 Apartment Design Guide prevails over development control plans	Noted.

Act or Instrument	Comment or Response
Chapter 6 Low and mid rise housing	
Part 1 Preliminary	
162 Aim of chapter	
The aim of this chapter is to encourage the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport.	Noted and complies as the development is well located with regard to goods, services and public transport.
163 Definitions	
In this chapter—	
Deferred Transport Oriented Development Areas Map means the State Environmental Planning Policy (Housing) 2021 Deferred Transport Oriented Development Areas Map.	
low and mid rise housing area means land within 800m walking distance of— (a) land identified as “Town Centre” on the Town Centres Map, or (b) a public entrance to a railway, metro or light rail station listed in Schedule 11, or (c) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.	Site is within 800 metres walking distance of a Town Centre.
low and mid rise housing inner area means land within 400m walking distance of— (a) land identified as “Town Centre” on the Town Centres Map, or (b) a public entrance to a railway, metro or light rail station listed in Schedule 11, or (c) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.	Site is within 400 metres walking distance of a Town Centre.
low and mid rise housing outer area means land between 400m and 800m walking distance of— (a) land identified as “Town Centre” on the Town Centres Map, or (b) a public entrance to a railway, metro or light rail station listed in Schedule 11, or (c) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.	Site is not in a low and mid rise housing outer area.
strata subdivision means subdivision by the following, within the meaning of the Strata Schemes Development Act 2015— (a) a strata plan, (b) a strata plan of consolidation, (c) a strata plan of subdivision.	
Town Centres Map means the State Environmental Planning Policy (Housing) 2021 Town Centres Map.	Noted.
164 Land to which chapter applies	
(1) This chapter applies to the whole of the State, other than the following—	
(a) bush fire prone land,	Site is not bushfire prone land.

Act or Instrument	Comment or Response
(b) land identified as a coastal vulnerability area or a coastal wetlands and littoral rainforests area within the meaning of State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2,	Site is not identified as a coastal vulnerability area or a coastal wetlands and littoral rainforests area within the meaning of State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2.
(c) land to which Chapter 5 applies,	Site is not in a TOD area
(d) land that is a heritage item or on which a heritage item is located,	Site is not, and does not contain, a heritage item.
(e) the following local government areas—	Site is not in these LGAs.
(i) Bathurst Regional,	
(ii) City of Blue Mountains,	
(iii) City of Hawkesbury,	
(iv) Wollondilly,	
(f) flood prone land in the Georges River Catchment and Hawkesbury-Nepean Catchment under State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6,	Site is not in the Georges River Catchment or the Hawkesbury-Nepean Catchment.
(g) land in a flood planning area in the following local government areas—	Site is not in any of the identified LGAs
(i) Armidale Regional, (ii) Ballina, (iii) Bellingen, (iv) Byron, (v) City of Cessnock, (vi) Clarence Valley, (vii) City of Coffs Harbour, (viii) Dungog, (ix) Goulburn Mulwaree, (x) Kempsey, (xi) Kyogle, (xii) City of Lismore, (xiii) City of Maitland, (xiv) Nambucca Valley, (xv) City of Newcastle, (xvi) Port Stephens, (xvii) Queanbeyan-Palerang Regional, (xviii) Richmond Valley, (xix) City of Shoalhaven, (xx) Singleton, (xxi) Tweed, (xxii) Upper Hunter Shire, (xxiii) Walcha,	
(h) land in an ANEF contour of 25 or greater or ANEC contour of 20 or greater,	Site is not in a ANEF contour of 25 or greater or ANEC contour of 20 or greater.
(i) land within 200m of a relevant pipeline within the meaning of State Environmental Planning Policy (Transport and Infrastructure) 2021, section 2.77,	The site is not known to be within 200m of a relevant pipeline.
(j) land identified as “Deferred Transport Oriented Development Areas” on the Deferred Transport Oriented Development Areas Map,	Site is not identified as “Deferred Transport Oriented Development Areas” on the Deferred Transport Oriented Development Areas Map.
(k) land within 800m of a public entrance to a railway, metro or light rail station listed in Schedule 12.	Site is not within 800m of a public entrance to a railway, metro or light rail station listed in Schedule 12.

Act or Instrument	Comment or Response
(2) This chapter does not apply to land identified as an “Accelerated TOD Precinct” on the Accelerated Transport Oriented Development Precincts Rezoning Areas Map.	Site is not identified as an “Accelerated TOD Precinct” on the Accelerated Transport Oriented Development Precincts Rezoning Areas Map.
(3) In this section— ANEC contour has the same meaning as in State Environmental Planning Policy (Precincts—Western Parkland City) 2021, section 4.17. ANEF contour has the same meaning as in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. flood planning area has the same meaning as in the Flood Risk Management Manual.	Noted.
165 Non-discretionary development standards—the Act, s 4.15 Sections 168, 169, 172, 173, 179, and 180 identify non-discretionary development standards for the Act, section 4.15(2).	Noted.
Part 4 Residential flat buildings and shop top housing	
Division 1 Preliminary	
174 Development permitted with development consent	
Development for the purposes of residential flat buildings is permitted with development consent on land to which this chapter applies in a low and mid rise housing area in Zone R2 Low Density Residential or R3 Medium Density Residential.	The site is zoned R3 Medium Density Residential
175 Development standards—low and mid rise housing inner area	
(1) This section applies to land in a low and mid rise housing inner area in Zone R3 Medium Density Residential or R4 High Density Residential.	This section applies.
(2) Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.	The residential flat building proposal will have a building height of more than 22m.
(3) Development consent must not be granted for development for the purposes of a building containing shop top housing with a building height of up to 24m unless the consent authority is satisfied the building will have 6 storeys or fewer.	The proposal does not include shop top housing.
(4) In this section, a storey does not include a basement within the meaning of the standard instrument.	Noted.
177 Landscaping—residential flat buildings or shop top housing	
(1) This section applies to land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	
(2) Development consent must not be granted for development for the purposes of residential flat	The EIS will address the Tree Canopy Guide for Low and Mid Rise Housing.

Act or Instrument	Comment or Response
buildings or shop top housing unless the consent authority has considered the Tree Canopy Guide for Low and Mid Rise Housing, published by the Department in February 2025.	
178 Minimum lot size for residential flat buildings or shop top housing	
(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	
(2) A requirement specified in another environmental planning instrument or development control plan in relation to the following does not apply to development that meets the standards in section 180(2) or (3)— (a) minimum lot size, (b) minimum lot width.	There is no requirement in the MLEP 2012 that sets a minimum lot size or lot width for strata subdivision.
Division 2 Non-discretionary development standards—the Act, s 4.15	
180 Non-discretionary development standards—residential flat buildings and shop top housing in Zone R3 or R4	
(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.	
(2) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area— (a) a maximum floor space ratio of 2.2:1, (b) for residential flat buildings—a maximum building height of 22m, (c) for a building containing shop top housing—a maximum building height of 24m.	Noted. As per earlier in this table, up to 30% height and FSR bonus has been applied to these low and mid rise housing inner area non-discretionary development standards.
Mosman Local Environmental Plan 2012 (	
2.2 Zoning of land to which Plan applies	The land is zoned R3 Medium Density Residential
2.3 Zone objectives and Land Use Table	
Zone R3 Medium Density Residential 1 Objectives of zone • To provide for the housing needs of the community within a medium density residential environment. • To provide a variety of housing types within a medium density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To provide for housing that is compatible with the desired future character of the area in terms of bulk, height and scale.	The objectives of the zone will be addressed in the EIS. Residential flat buildings are permitted with consent on land in the R3 zone.

Act or Instrument	Comment or Response
To encourage residential development that has regard to local amenity and, in particular, public and private views.	
4.3 Height of buildings	
(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	The applicable maximum building height is 8.5 metres. However, the height controls in SEPP (Housing) 2021 prevail.
4.3A Height of Buildings (Additional Provisions)	Under this clause, in addition to the maximum building height of 8.5m there is a maximum wall height limit of 7.2m and a maximum height in storeys limit of 2.
4.4 Floor space ratio	
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	The applicable FSR is 0.6:1.
5.10 Heritage conservation	
The site is not identified as a heritage item nor is it located within a heritage conservation area pursuant to MLEP 2012. The site is located close to a heritage item: No.36 – 38 Redan Street (Item reference: I262), a pair of semi-detached houses opposite the site on the western side of Redan Lane.	Clause 5.10(5)(c) of MLEP 2012 provides that before granting consent to any development on land in the vicinity of a heritage item, the consent authority may require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item. The type of "heritage management document" usually prepared is a heritage impact statement. The EIS will address heritage impacts.
6.6 Landscaped areas	
Clause 6.6(3) relevantly states: - "The consent authority may refuse to grant development consent to development involving the erection of a building unless at least the following minimum landscaped area of a site (as a percentage of the site area) is provided for the development— (b) for development resulting in more than one dwelling per lot— (i) 50%, for land identified on the Floor Space Ratio Map as having a maximum floor space ratio of 0.6:1 or less,"	As the maximum FSR, pursuant to the provisions of Clause 4.4 of MLEP 2012 is 0.6:1, the required minimum landscaped area is 50% of the site area. However, the relevant landscaped area controls are in SEPP (Housing) 2021.
6.7 Earthworks	
Clause 6.7(3) of the MLEP 2012 states:- "(3) In deciding whether to grant development consent for earthworks, the consent authority must consider the following matters— (a) the likely disruption of, or any detrimental effect on— (i) existing drainage patterns and soil stability in the locality, and	A preliminary geotechnical assessment which discusses the required excavation conditions will be required to be submitted with the DA.

Act or Instrument	Comment or Response
(ii) the natural features of, and vegetation on, the land and adjoining land, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of fill material and the destination of excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impact on, a watercourse, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.”	

5.3 Other approvals

Section 4.41 of the EP&A Act identifies certain authorisations that are not required for SSD and section 4.42 of the EP&A Act identifies certain authorisations that cannot be refused if they are necessary for carrying out SSD, see Table 2 below.

Table 2: Summary of other approvals

Act	Expected approval required
Heritage Act 1977	No
National Parks and Wildlife Act 1974	No
Rural Fires Act 1997	No
Water Management Act 2000	Not expected but to be confirmed by geotechnical investigations for EIS
Roads Act 1993	To be confirmed for EIS.
Fisheries Management Act 1994	No
Mine Subsidence Compensation Act 1961	No
Coal Mine Subsidence Compensation Act 2017	No
Mining Act 1992	No
Pipelines Act 1967	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No

6. Key SEARs Issues

On 20 December 2024, Industry-specific Secretary’s environmental assessment requirements (SEARs) have been introduced to improve clarity, consistency, and certainty of what is

required to prepare an EIS for housing SSDs. These apply to SSD applications other than those that would be designated development but for the Act, Section 4.10(2), or are partly prohibited by an environmental planning instrument (EPI), or are wholly prohibited by an EPI, to the extent permitted by the Act, section 4.38(5), or are a concept development application for State significant development. These do not apply in this case.

The EIS will be prepared in accordance with the SEARs and the legislative requirements of the EP&A Act and Regulation, the Biodiversity and Conservation Act 2016, relevant environmental planning instruments and relevant DPHI guidelines.

7. Engagement

Engagement will be undertaken with relevant stakeholders in accordance with the SEARs and DPHI's engagement guidelines. Consultation is being undertaken with the following stakeholders:

- DPHI;
- Mosman Council;
- Local residents;
- Service providers who will be contacted by subconsultants in the preparation of the design drawings and EIS reports.

8. Conclusion

The letter provides a brief description of the site and its context, provides a summary of the proposed development and outlines the statutory provisions relevant to the preparation and lodgement of a development application for SSD.

The proposal provides additional low to mid rise housing in an accessible area close to transport and the Mosman Town Centre and is consistent with the NSW government policies for additional housing, including affordable housing, in appropriate locations.

The information provided in this letter and its attachments will enable the Secretary of DPHI, or her delegate, to issue industry-specific SEARs. However if additional information is required please do not hesitate to contact the undersigned.

Yours sincerely,

BBC Consulting Planners



Bob Chambers
Director