

OBJECTION SUBMISSION

SSD-93020230

40–48 Redan Street, Mosman

Prepared for NSW Department of Planning

Prepared by:

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1. INTRODUCTION

This submission objects to the proposed development on the basis that it represents a substantial, unjustified and excessive overdevelopment of the site.

The proposal materially exceeds applicable development standards, misapplies the State planning framework, and results in significant and unacceptable impacts on surrounding properties, the Redan Street streetscape, and the broader Mosman locality.

The development is not a legitimate or natural outcome of the Low & Mid-Rise Housing Policy. Rather, it is a maximised building envelope achieved through the stacking of multiple planning concessions, resulting in a scale of development that is fundamentally inconsistent with both local and State planning intent.

The proposal has a complete disregard for heritage impacts, particularly to Redan Street itself and adjoining heritage-listed properties at 36 and 38 Redan Street, where the proposal would overwhelm their setting and erode the existing character of the street. The proposed 10-storey will be of such excessive bulk and scale as to completely dominate and overwhelm the streetscape of low rise one and two-storey residential homes.

The Balmoral slopes offer iconic views to and from Sydney Harbour protected by the Scenic Protection Zone from the waterline to the 60-metre contour. A 10-storey building situated below the natural ridgeline is impossible to reconcile with these objectives.

The proposal is misleading and deficient in that:

- Fails to address the devastating impact on loss of privacy for surrounding homes,
- Deliberately downplays the bulk and scale of a 10-storey building that exceeds the most generous permissible development under the Low & Mid-Rise Housing Policy,
- Misrepresented mailouts to “*neighbours*” when numerous residents located adjacent to the proposed development never received any correspondence from the developer, and
- Cynical grab to maximize profits with a complete disregard for the impact on neighbouring properties.

2. THE PROPOSAL MATERIALLY EXCEEDS THE LOW & MID-RISE POLICY ENVELOPE

The applicant's planning case depends heavily on the proposition that the development is a legitimate outcome of the Low & Mid-Rise Housing Policy and associated in-fill affordable housing provisions. That proposition should be rejected.

The Low & Mid-Rise Housing Policy is directed toward the delivery of "missing middle" housing and moderate density uplift. It is not a policy intended to facilitate high-rise development outcomes. The Department's own material consistently frames mid-rise development as being in the order of 2–6 storeys.

A 10-storey building cannot reasonably be characterised as low or mid-rise development in any accepted planning sense. The proposal therefore falls well outside the intended scope of the policy.

Importantly, the proposal is not simply relying on the Low & Mid-Rise provisions. It is a stacked uplift proposal, combining:

- Low & Mid-Rise permissibility
- In-fill affordable housing incentives
- Clause 4.6 height variation
- The SSD pathway

This is not policy compliance. It is discretionary escalation beyond policy limits.

The proposal is also described within the application material as "compliant". This characterisation is misleading.

The need to rely on Clause 4.6 variation to exceed the applicable height standard, even after invoking State policy incentives demonstrates that the proposal exceeds the planning framework even at its most generous. A development that requires variation to a key development standard cannot properly be characterised as compliant. Rather, it is a non-compliant development seeking to justify an exception.

This raises one of several fundamental credibility issues in the applicant's planning assessment.

3. BEYOND POLICY AND COMPARABLE APPROVALS + LEC PRINCIPLES

While a number of recent State Significant Development applications have been approved under the Housing SEPP in-fill affordable housing provisions, those approvals do not support the present proposal. They generally involve development within a mid-rise scale consistent with the Department's stated policy intent.

The present proposal, at up to 10 storeys on land subject to an 8.5 metre height control, is materially more intensive and represents a substantial escalation beyond the envelope observed in comparable projects. This is not a minor or technical variation. It is a wholesale departure from the planning framework, and one which must be justified by compelling site-specific merit. No such justification is provided.

In any event, the determination of this application must be guided by established planning principles rather than by reference to other approvals.

The Land & Environment Court has consistently emphasised that development standards—particularly height—reflect strategic planning intent and are not to be casually disregarded (*Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118; *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90).

Further, the Court has repeatedly held that development must remain compatible with the scale and character of its surroundings (*Project Venture Developments v Pittwater Council* [2005] NSWLEC 191), and that excessive bulk, scale and visual impact may warrant refusal notwithstanding technical compliance pathways (*Veloshin v Randwick City Council* [2015] NSWLEC 1085).

The present proposal, which results in a 10-storey building presenting as a continuous and dominant built form, clearly exceeds the reasonable development capacity of the site and constitutes overdevelopment in the planning sense.

4. AFFORDABLE HOUSING – DISPROPORTIONATE AND MISUSED

The proposal includes approximately 15% affordable housing, provided for a limited duration of 15 years.

This is not permanent affordable housing. It is a time-limited rental product. The benefit is modest in scale and temporary in nature. In exchange, the proposal seeks a permanent and significant uplift in height, density and development yield.

The applicant has provided the absolute minimum “*second class*” units with separate or secondary access arrangements with reliance on laneway interfaces to justify significant height relaxations. The cost to the applicant of the token affordable housing will be recovered many times over if two additional floors are approved under the Low to Mid Rise Policy – there is no justification to push the height envelope further with two additional storeys.

The architectural plans confirm that the development is fundamentally a high-end residential project:

- Large apartments (typically 150–200m²+)
- Premium layouts and outlook
- Affordable housing clustered and secondary on the ground floor facing the rear lane.

This demonstrates that affordable housing is not driving the design. It is being used as a planning lever to justify an otherwise excessive outcome.

This represents a clear disproportion:

Temporary benefit for few → Permanent adverse impact on many

This is inconsistent with established planning principles requiring proportionality between benefit and uplift.

5. BULK AND SCALE – WALL OF DEVELOPMENT

A detailed review of the architectural plans reveals that the development is substantially bulkier than suggested in the EIS.

The building:

- Extends across almost the full site width
- Exhibits minimal meaningful articulation
- Aligns vertically across upper levels
- Will dominate Redan Street with its 10-storey height

Despite references to modulation, these measures do not materially reduce perceived bulk. The result is a building that reads as a continuous “wall of development” along Redan Street, overwhelming the existing fine-grain residential character.

This is a classic indicator of overdevelopment. No decision should be taken without an onsite inspection of Redan Street and the context of the proposed over-development.

6. EXCAVATION AND PODIUM AMPLIFICATION

The proposal includes two extensive basement levels across a large footprint.

This requires significant excavation and removes the natural ground plane. The building is then effectively placed on an artificial platform.

This has a critical planning consequence:

- It increases the apparent height and dominance of the building beyond its nominal storey count.
- This podium amplification effect is not properly acknowledged in the EIS and materially worsens visual and bulk impacts.

7. DEEP EXCAVATION AND STRUCTURAL RISK

The proposal involves excavation of up to approximately 10 metres into sandstone, extending close to site boundaries. This represents a high-risk construction scenario.

Excavation of this depth and proximity introduces well-established risks, including:

- Ground movement and settlement
- Vibration impacts during excavation
- Structural cracking or damage to adjoining properties

These risks are particularly acute within Mosman's sandstone geology, where excavation-induced movement is a recognised issue. Importantly, these impacts are not confined to the construction phase. Damage to adjoining properties may be permanent and irreversible.

The proposal therefore imposes a material and unreasonable risk burden on neighbouring landowners. This is a relevant planning consideration and weighs strongly against approval.

8. PRIVACY AND OVERLOOKING – SEVERE AND CUMULATIVE IMPACT

The proposal creates multiple levels of balconies and habitable rooms facing east toward existing residential properties.

This results in:

- Direct overlooking into private open space
- Direct overlooking into living areas and bedrooms
- Downward overlooking due to elevated position
- Stacked overlooking from multiple floors

This is not a single viewpoint. It is a repeated, cumulative overlooking condition across numerous dwellings. The EIS fails to properly assess this. It relies on generic separation distances and does not consider:

- Vertical overlooking
- Cumulative impacts
- Property-specific effects

The result is a substantial and irreversible loss of privacy for many residents. The scale of this impact is significantly greater than those typically found unacceptable in Land & Environment Court cases involving rooftop terraces and upper-level additions.

Accordingly, the privacy impacts are not merely non-compliant—they are fundamentally unacceptable.

9. VIEW LOSS – INTERNAL CONTRADICTION AND FAILURE

The Visual Impact Assessment contains a critical admission - Impacts range from “*severe to devastating*”.

Despite this, the report concludes the impacts are “*acceptable*” because more new residents in the multi-million-dollar ultra-luxury apartments will get to enjoy the view at the expense of the existing residents. This is not a valid planning justification. It represents a redistribution of amenities rather than an equitable outcome and fails in established view sharing principles.

This is a fundamental contradiction. A development that causes “*severe to devastating impacts*” cannot be characterised as acceptable without compelling, site-specific justification. None is provided.

10. MISCHARACTERISATION OF SITE TOPOGRAPHY

The applicant characterises the site as being on a ridge line. This is false and blatantly misleading.

The plans demonstrate a mid-slope location, with land falling toward the east.

This is critical because:

- It enables direct downward overlooking
- It amplifies perceived building height
- It increases visual dominance
- Blocks views from the true ridgeline further to the west

The mischaracterisation of topography materially understates the impacts of the proposal.

11. HERITAGE STREETSCAPE – REDAN STREET

Redan Street is a recognised heritage streetscape characterised by:

- Sandstone outcrops
- Landscaped verges
- Low-scale residential form

The proposal introduces:

- A building that peaks at 10-storeys and stretches over six standard residential properties.
- Urban scale completely inconsistent with context, and
- Visual dominance.

The result will be a fundamental transformation of Redan Street from a landscaped residential street to a built-form dominated corridor. In addition to the broader streetscape impacts, the proposal has direct implications for identified heritage properties, including adjoining 36 and 38 Redan Street.

Heritage significance is not limited to the physical structure of a building. It includes its setting and curtilage, and the ability for that building to be understood and appreciated within its historical context. The proposed development does not merely sit adjacent to these heritage items—it will overwhelm their setting.

The scale, height and bulk of the building would dominate the visual context of these properties, eroding their significance and diminishing their heritage value.

This represents an unacceptable heritage impact. This is incompatible with the established character and heritage significance of the street.

12. CONFLICT WITH SCENIC PROTECTION OBJECTIVES

The site is located within an area subject to harbour scenic protection controls extending from the waterline to the 60 metre contour. These controls are intended to preserve:

- Significant views to and from Sydney Harbour and Middle Harbour
- The visual prominence of natural landforms
- The integrity of the harbour skyline

The introduction of a 10-storey building within this context is fundamentally inconsistent with these objectives. The development would introduce a dominant vertical built form that:

- Interrupts established view corridors
- Competes with natural topography
- Diminishes the visual character of the harbour setting

A building of this scale cannot be reconciled with the purpose of the Scenic Protection Zone.

13. TRAFFIC AND ACCESS

The proposed development will effectively double the number of dwellings in Redan Street (before any other Low to Mid Rise Policy developments).

It provides a large basement car park served by a single driveway from Redan Street. While a single access point is proposed, it services a high-density development and will generate substantial traffic movements.

This introduces:

- Increased vehicle movements
- Noise and disturbance
- Conflict with residential character

The proposal relies on Redan Lane for service and operational access. Redan Lane is:

- Approximately 4 metres in width,
- Lacking pedestrian infrastructure, and
- Not designed for high-intensity servicing

It is unsuitable for accommodating:

- Waste collection vehicles,
- Service vehicles, and
- Emergency access

The increased reliance on this substandard laneway introduces safety risks and operational constraints that have not been adequately addressed.

There will be applications for other Low to Mid Rise Policy developments on the western side of Redan Street, all of which will need similar access to Redan Lane.

The intensity of use is inconsistent with the existing function of Redan Street. Any approval of increased density must have regard for the capacity of supporting infrastructure including roads.

13. DEFICIENT COMMUNITY CONSULTATION

Nearby properties, including ours across from the site, were not notified, contrary to the applicant's claim of wide community consultation. The first notice we received of the proposed development was the official DPHI notification to residents.

The consultation process relied on:

- Passive and selective engagement, and
- Limited participation

This is inadequate for the development of this scale and impact. The EIS therefore cannot rely on its consultation outcomes as an accurate reflection of community views.

14. MISCHARACTERISATION OF LOW AND MID-RISE HOUSING POLICY – NO GUARANTEED ENTITLEMENT TO UPLIFT

The Application is advanced as a State Significant Development (SSD) proposal which seeks to rely upon, and materially build upon, the Low and Mid-Rise Housing Policy framework as implemented through the Housing SEPP 2021. However, the manner in which the Applicant deploys that policy framework reflects a fundamental mischaracterisation of its role within the statutory assessment of an SSD application.

At the outset, it is critical to recognise that the Low and Mid-Rise provisions do not establish a baseline or “as of right” development envelope upon which additional intensity can then be layered through the SSD pathway. Rather, those provisions merely identify circumstances in which consent *may* be granted for development exceeding standard controls, subject to a comprehensive merit assessment.

The SSD pathway does not convert those discretionary provisions into an entitlement. Nor does it elevate them into a default or assumed development outcome. To the contrary, an SSD application remains subject to rigorous evaluation under Environmental Planning and Assessment Act 1979, including a detailed assessment of built form, scale, character, amenity, heritage context, environmental constraints and overall site suitability.

In this case, the Applicant seeks to treat the Low and Mid-Rise policy settings as effectively establishing an “*approved build envelope*”, which is then used as the starting point for further intensification through the SSD mechanism. That approach is misconceived.

No such approved envelope exists. The policy does not pre-approve volumetric outcomes, nor does it create a planning benchmark that must be accepted or exceeded. It provides only a discretionary planning pathway, the outcome of which depends entirely on the merits of the specific proposal and its context.

The attempt to characterise the policy as conferring a de facto development envelope improperly reverses the statutory task. Instead of asking whether the proposed built form is appropriate having regard to all relevant considerations, the Application assumes an elevated envelope and seeks to justify it post hoc. This is inconsistent with both the structure of the Housing SEPP 2021 and the established principles of merit-based assessment under the Environmental Planning and Assessment Act 1979.

This issue is particularly acute in the SSD context. While SSD enables consideration of projects of a larger scale or strategic importance, it does not dispense with fundamental planning principles, nor does it sanction outcomes that are otherwise incompatible with

their surroundings. The SSD framework is not a mechanism to aggregate or amplify discretionary uplifts into a cumulative entitlement.

Properly understood, the question for the consent authority is whether the development — at the scale and intensity proposed — is appropriate for this site. In this instance, it is not.

The proposal, at up to 10 storeys on land otherwise subject to an 8.5 metre height control, represents a profound and unjustified escalation in built form. It is wholly inconsistent with the established low-rise character of Redan Street and the Balmoral locality, gives rise to significant and unacceptable amenity impacts including overlooking and loss of privacy, and adversely affects the setting of nearby heritage items. The extent of excavation and associated structural risks further reinforce the unsuitability of the proposal.

These impacts cannot be legitimised by reference to the Low and Mid-Rise policy framework, whether directly or indirectly. The policy does not authorise outcomes of this nature, nor does it diminish the obligation to refuse development that is excessive, incompatible or otherwise contrary to the public interest.

Accordingly, the Applicant's reliance on the Low and Mid-Rise provisions as a foundational justification for the scale of the SSD proposal should be given no weight. The policy provides, at most, an opportunity for consideration — not a platform for escalation and not a guarantee of approval.

If accepted, the Applicant's approach would effectively transform a discretionary housing policy into a mechanism for progressive intensification through the SSD pathway, a result that is neither contemplated nor supported by the statutory planning framework.

Approval of this proposal would establish an undesirable benchmark for similar developments. Put simply – a ten-storey building is not mid-rise – it is high rise. This would:

- Encourage further high-rise proposals that exceed the already very generous Low to Mid Rise Policy,
- Completely undermines the Mosman LEP, and
- Result in a significant and cumulative erosion of local character

This is a significant planning risk and weighs strongly against approval.

15. OVERALL CONCLUSION AND REFUSAL

The proposal:

- Exceeds the generous Low to Mid Rise Policy development standards,
- Misapplies State policy,
- Relies on stacked planning concessions,
- Causes severe privacy and visual impacts to existing residents,
- Will dominate the streetscape,
- Provides only limited and temporary public benefit, and
- When considered holistically, the development clearly exceeds the reasonable development capacity of the site.

Even if individual elements were considered acceptable in isolation, the cumulative impact renders the proposal unacceptable.

The development is not in the public interest.

Accordingly, it is respectfully submitted that the application should be refused.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'John Harvey', with a stylized, cursive script.

John Harvey