

# FORMAL OBJECTION

State Significant Development Application No. SSD-96505456 • 19–23 Rosalind Street,  
Camberay NSW 2062

## 1 STATEMENT OF OBJECTION AND PROFESSIONAL CONTEXT

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I have lived for decades on the lower North Shore. I have family members and close friends who live in Cammeray, so I visit the area frequently.

I write to formally object to the proposed State Significant Development at 19–23 Rosalind Street, Cammeray (SSD-96505456), described by the applicant as 'Camberay Seniors Living'.

This proposal warrants serious scrutiny. In structure, mechanism and outcome, it bears a troubling resemblance to patterns of developer behaviour that I have examined professionally across a number of recent State Significant Development applications. The common thread is the systematic identification and simultaneous stacking of every available State-level planning incentive – using each as a stepping stone to the next – to extract a building of exceptional scale from a site where the underlying planning controls would permit nothing remotely approaching it. The 'purpose' invoked to unlock these mechanisms – here, Seniors Living; elsewhere, affordable housing – is, upon examination, a pretext of minimal genuine community benefit.

In the case of this proposal, the applicant has accessed the State Significant Development pathway – bypassing North Sydney Council entirely – by invoking the Seniors Housing SEPP and engineering a project cost just above the \$30 million threshold for SSD eligibility. The cost estimate supplied in the SEARs request was \$31 million. The EIS now claims \$68 million. This discrepancy alone demands scrutiny.

The substantive planning concerns arising from this proposal are serious and interconnected. They are addressed in turn below.

***The core of this objection is this: planning provisions designed to support dignified ageing in place and genuine seniors housing are being exploited to justify two luxury residential towers – eight storeys in height, non-compliant with applicable planning controls – in a low-scale residential street. The so-called 'care' component consists of two beds located in the basement. Genuine aged care provision was not the purpose of this application. It was the key that unlocked the door.***

## 2 HOW THIS PROPOSAL REACHES EIGHT STOREYS: THE STACKED INCENTIVE PROBLEM

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The Panel will be familiar with each of the planning mechanisms invoked by this applicant individually. What requires careful examination is their simultaneous application on a single site in a low-scale residential neighbourhood:

- The Seniors Housing SEPP (Housing SEPP Part 5 – Housing for Seniors and People with a Disability), which unlocks additional floor space ratio bonuses for development incorporating independent living units and/or residential care facilities
- An FSR bonus of up to 25% available under clause 87 of the Seniors Housing provisions, triggered here by the combination of independent living units and the two basement 'care beds'
- A height allowance of up to 3.8 metres above the maximum permissible building height, also available under clause 87

- The State Significant Development pathway, which removes assessment from North Sydney Council entirely, accessed by engineering a project cost just over the \$30 million SSD threshold

Each of these mechanisms exists for a legitimate purpose. None was designed to operate in combination with all the others on a site in a low-density residential street. The cumulative effect is a proposed building height that exceeds local planning controls by more than 50%.

The most revealing detail in this application is the treatment of the ‘care’ component. Two care beds – located underground, in the basement – are included not to deliver genuine residential care outcomes, but to qualify for the residential care FSR bonus under clause 87(2)(a)(ii) of the SEPP. This is not a legitimate use of the seniors housing provisions. It is the identification of the minimum input required to unlock the maximum planning bonus. That the care beds are located in a basement tells the Panel everything it needs to know about whether ‘dignified ageing in place’ is a genuine purpose of this application.

The FSR bonus and height bonus, once triggered, push the development above the level at which it qualifies for the SSD pathway – which in turn removes it from Council assessment. The stacking is not incidental. It is the architecture of the application.

### **3 THE SENIORS HOUSING PROVISIONS: A PRETEXT, NOT A PURPOSE**

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#### **3.1 What is actually being delivered**

The proposed development comprises 48 independent living units (ILUs) and two residential care beds. The ILUs are predominantly three- and four-bedroom configurations – large dwellings targeted at high-net-worth downsizers who will occupy them as single- or two-person households. There are no one-bedroom units.

The existing buildings on the site comprise 54 affordable one- and two-bedroom apartments. Their replacement with 48 predominantly large ILUs aimed at the luxury downsizer market does not increase housing supply, does not improve housing diversity, and does not advance any legitimate housing policy objective. It reduces the number of dwellings on the site, reduces household diversity, removes genuinely affordable housing stock, and delivers a development whose primary purpose is the extraction of development profit through the creative use of planning bonuses.

The two residential care beds – placed in the basement – are the mechanism by which the highest available FSR bonus (25% rather than 15%) is accessed. Their location is inconsistent with any genuine conception of dignified residential care. A responsible assessment of this application should ask: would a person requiring residential care choose to live in a basement? The answer to that question reveals the purpose of their inclusion.

#### **3.2 Loss of genuine affordable housing**

The site currently accommodates 54 affordable one- and two-bedroom units. North Sydney faces a documented shortfall of approximately 8,000 one-bedroom and studio apartments. The removal of these units – 54 of them, genuinely affordable, genuinely diverse in configuration – to make way for 48 luxury ILUs targeted at wealthy downsizers is contrary to every genuine housing policy objective of State and local government. The applicant’s documentation does not seriously grapple with this loss. The Panel should.

#### **3.3 The planning trade-off being asked of this community**

**WHAT THE COMMUNITY LOSES – PERMANENTLY**

**WHAT THE COMMUNITY GAINS – IN THEORY**

<b>54 genuinely affordable 1–2 bedroom apartments removed from North Sydney’s tight rental market</b>	48 luxury ILUs, predominantly 3–4 bedrooms, aimed at high-net-worth downsizers
<b>Character and scale of a low-density residential street permanently altered by two 8-storey towers</b>	Two basement care beds – the mechanism for accessing a 25% FSR bonus
<b>Overshadowing, privacy loss and visual dominance for all neighbouring properties</b>	A project cost estimate that rose from \$31m to \$68m between the SEARs request and the EIS
<b>24 established trees removed to accommodate a deep full-site basement</b>	North Sydney Council bypassed; limited community scrutiny; 14-day EIS exhibition period
<b>Non-compliant setbacks producing building envelope inconsistent with Cammeray’s residential character</b>	Developer retains 100% of the economic upside from 48 luxury apartments

***This is not a reasonable planning outcome. It is the exploitation of seniors housing provisions to deliver a luxury residential project while bypassing the planning controls and community scrutiny that would otherwise apply.***

## 4 HEIGHT NON-COMPLIANCE AND PLANNING CONTROLS

The proposed development exceeds local planning controls by more than 50%. This is not a marginal exceedance. It is not the result of a carefully considered planning justification. It is the predictable consequence of a mechanism engineered to maximise height and density through the stacking of every available SEPP bonus.

The applicant’s own documentation acknowledges the height exceedance. The justification offered – that the Seniors Housing SEPP permits the additional height – is circular. The SEPP permits additional height because the development incorporates seniors housing components. The seniors housing components are included because they unlock the additional height. When the care component is two beds in a basement, this circularity is not a planning justification. It is an admission that the planning controls are being circumvented for a purpose they were not designed to serve.

Cammeray is not included in the Government’s Low and Mid-Rise or Transit Oriented Development zoning changes. There is no strategic planning basis for two eight-storey towers in this location. The height being proposed is not the product of strategic policy decisions about where density should be directed. It is the product of a developer’s identification of the combination of mechanisms that maximises building height on this particular site.

If this application is approved at its proposed height, it will create a planning precedent for Cammeray and for the Seniors Housing SEPP statewide. Every developer who wishes to build towers in low-density areas not identified for increased density will have a model to follow. The Panel should be acutely aware of the precedential implications of its decision.

## 5 IMPACT ON NEIGHBOURING RESIDENTS

### 5.1 Overshadowing

The proposed building configuration – two towers, non-compliant setbacks, deep full-site basement – will produce significant overshadowing of adjacent residential properties. The building’s height and setback non-compliance are the direct cause of this impact. The Panel should assess the overshadowing not by reference to what the applicant’s shadow diagrams present, but by reference to the building’s actual non-compliant envelope relative to the surrounding properties.

Properties along Rosalind Street and surrounding streets will experience material loss of solar access, particularly on 21 June (the winter solstice). Loss of direct sunlight to principal private open space and living areas is a serious residential amenity impact. The Land and Environment Court has consistently recognised that this impact warrants substantial weight in assessment:

- Parsons v Warringah Council [2002] NSWLEC 257
- Howe v Pittwater Council [2005] NSWLEC 95
- Tenacity Consulting v Warringah Council [2004] NSWLEC 140

## **5.2 Privacy**

Two eight-storey towers in a low-scale residential street will produce systematic overlooking of neighbouring properties. Multiple levels of balconies and habitable rooms will have direct outlooks across Rosalind Street and surrounding properties at close range. This overlooking is elevated and downward-facing; it cannot be mitigated by fencing or landscaping. Affected residents will be forced to close blinds, avoid outdoor spaces, and reorganise daily life around the permanent presence of elevated buildings watching over them. This is a material and irremediable loss of residential amenity.

## **5.3 Bulk, scale and visual dominance**

Two towers of eight storeys in a low-scale residential street will be experienced as dominant, visually overwhelming and inconsistent with the residential character of Cammeray. The applicant’s non-compliant setbacks compound this impact: the building envelope will extend closer to neighbouring properties than the controls permit, intensifying the sense of enclosure and visual intrusion. Architectural modulation and facade articulation do not reduce height or mass. The real visual impact of this development, in this context, is manifestly unacceptable.

Under ‘Newcastle City Council v White’ [2019], bulk and scale must be assessed by reference to real visual impact, not design intent. The real visual impact of two eight-storey towers in Rosalind Street is not consistent with the residential character of Cammeray.

## **6 TREE LOSS AND ENVIRONMENTAL IMPACT**

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The proposal requires the removal of 24 established trees to accommodate a deep, full-site basement. This is a substantial environmental impact in an area that has already sustained significant canopy loss – more than 3,000 trees removed as a consequence of the nearby motorway project.

The scale of the basement – full-site, deep – is itself a consequence of the decision to develop at this scale and intensity. A development calibrated to the actual planning controls of the site would not require the removal of 24 trees. The tree loss is not incidental; it is a direct consequence of the applicant’s election to build at a scale that exceeds what the planning framework would otherwise permit.

The Panel should give significant weight to the cumulative environmental impact of 24 tree removals in a neighbourhood already diminished by canopy loss, and should not accept the proposition that this impact is adequately offset by proposed replacement planting.

## **7 CONSTRUCTION IMPACTS AND TRAFFIC**

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A full-site basement excavation for two eight-storey towers in a narrow residential street will require deep excavation into potential sandstone, sustained use of heavy machinery, continuous truck movements, and a construction period of substantial duration. Rosalind Street is a constrained residential environment. The geometry of the street and surrounding roads will concentrate noise and construction traffic in areas with no practical means of escape from it.

Residents will face persistent daytime noise, early morning construction activity, vibration from rock excavation, and disruption to on-street parking and local access for an extended period. The scale of the proposal – 48 apartments across two towers, full-site basement, 24 tree removals – makes this a project whose construction phase alone will fundamentally alter the experience of living in Rosalind Street for years.

Upon completion, the addition of 48 predominantly large apartments and their associated vehicles to the local road network will produce a permanent increase in vehicle movements on a street not designed to carry them. The Panel should require rigorous traffic impact analysis calibrated to the actual proposed building, not to a compliant envelope.

## **8 PROJECT COST ESCALATION AND THE SSD THRESHOLD**

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When the applicant sought a Secretary's Environmental Assessment Requirements (SEARs), the project was estimated to cost \$31 million – one million dollars above the \$30 million SSD threshold for seniors housing proposals. The EIS, which reflects what is actually being proposed, now claims a project cost of \$68 million.

This is not a minor revision. It is a doubling of the stated project cost between the SEARs request and the EIS. Two explanations present themselves: either the project was deliberately undercosted in the SEARs request to access the SSD pathway, or the project has materially changed in scope between the SEARs request and the EIS. Neither explanation is satisfactory.

If the former, the Panel is dealing with an application whose access to the SSD pathway was obtained on the basis of misleading cost information. If the latter, the Panel should require the applicant to demonstrate that the current proposal – at \$68 million – remains consistent with the parameters assessed in the SEARs.

The Panel should not treat the SSD threshold as having been validly cleared simply because the applicant asserts it. It should require the applicant to demonstrate, with current and accurate cost information, that the SSD pathway is properly engaged.

## **9 COMMUNITY CONSULTATION AND PROCEDURAL FAIRNESS**

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The EIS has been placed on public exhibition for 14 days – a period that residents and community advocates have repeatedly described as inadequate for a proposal of this complexity. Community groups have sought an extension; the Department has apparently declined.

A 14-day exhibition period for a State Significant Development involving two eight-storey towers, a full-site basement, 24 tree removals, and a proposal non-compliant with local planning controls by more than 50% is not consistent with the intent of the environmental impact assessment process. The community is entitled to meaningful participation in decisions that will permanently affect their neighbourhood. A fortnightly window to review and respond to a complex EIS does not meet that standard.

I note also that this application has generated significant community concern and organised opposition. The level of community engagement – which is high, in circumstances where the exhibition period is short and the documentation is voluminous – is itself evidence of the significance of the impacts the community perceives. The Panel should not mistake procedural compliance with adequate process.

## 10 THE PUBLIC INTEREST: SECTION 4.15(e)

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The applicant will argue that the planning framework permits this development, and that the Panel's role is therefore limited. That argument misunderstands the Act.

Section 4.15 of the Environmental Planning and Assessment Act 1979 requires the Panel to consider the public interest. Technical navigation of stacked incentive provisions does not establish public interest. It establishes that the applicant has successfully assembled a combination of mechanisms. Whether the outcome of that assembly is in the public interest is a separate question – and the one this Panel must answer.

The public interest is not served by:

- The removal of 54 genuinely affordable apartments from a tight rental market and their replacement with 48 luxury ILUs targeted at wealthy downsizers
- Two care beds in a basement, included for the purpose of accessing a planning bonus rather than delivering dignified residential aged care
- A proposal that is non-compliant with local planning controls by more than 50%, in a suburb not identified for increased density under any strategic planning instrument
- A project cost estimate that doubled between the SEARs request and the EIS, raising legitimate questions about whether the SSD pathway was properly engaged
- A 14-day exhibition period for a proposal of substantial complexity and significant community impact
- A precedent that will encourage similar applications across every low-density residential area where developers can identify a SEPP bonus mechanism to exploit

I have observed genuine development – development that responds to its context, delivers real community benefit, and treats planning incentives as a means to an end rather than an end in themselves. This proposal does not meet that standard. It is an exercise in mechanism identification and bonus extraction, dressed in the language of seniors housing and community benefit.

***Two care beds in a basement, included to access a 25% FSR bonus, do not justify two eight-storey towers in a low-scale residential street. They do not justify the removal of 54 affordable apartments. They do not justify a 50% height exceedance, 24 tree removals, or the bypassing of North Sydney Council. The public interest requires a more careful answer from this Panel than 'the SEPP permits it.'***

## 11 CONCLUSION AND FORMAL RECOMMENDATION

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This application is structurally opportunistic. It relies on the Seniors Housing SEPP to access floor space and height bonuses; on a project cost engineered to just exceed the SSD threshold; and on a 14-day exhibition period that limits meaningful community engagement. The 'seniors housing' outcome it delivers consists of 48 luxury ILUs for wealthy downsizers and two care beds in a basement. The planning outcome it produces is two eight-storey towers, non-compliant by more than 50% with height controls, in a suburb with no strategic basis for density of this kind.

Set against that, the impacts are:

- Removal of 54 genuinely affordable apartments from a constrained rental market
- Two non-compliant towers exceeding local height controls by more than 50%
- Significant overshadowing, privacy loss and visual dominance for neighbouring residents
- Removal of 24 established trees in a suburb already impacted by canopy loss
- Non-compliant setbacks producing a building envelope inconsistent with Cammeray's residential character
- A project cost that doubled between the SEARs request and the EIS, raising questions about the validity of the SSD pathway
- A precedent for the exploitation of the Seniors Housing SEPP that, if established, will apply statewide

Each of these impacts, considered in isolation, raises serious grounds for concern. Together, they describe a development that has been engineered to maximise financial return through the creative assembly of planning mechanisms, at the expense of an established residential community and the affordable housing stock it relied upon.

The Panel is not required to approve everything the planning framework technically permits. It is required to assess the merits, including the public interest. This proposal does not serve the public interest.

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### **THIS APPLICATION SHOULD BE REFUSED.**

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Having regard to section 4.15 of the Environmental Planning and Assessment Act 1979 in its entirety, and in particular to:

- Section 4.15(a) – the extent to which the proposal conflicts with applicable planning instruments, including the Seniors Housing SEPP provisions and North Sydney local planning controls
- Section 4.15(b) – the likely impacts of the proposal on the natural and built environment, including bulk and scale, overshadowing, privacy, tree loss and neighbourhood character
- Section 4.15(e) – the public interest, including the removal of affordable housing, the inadequacy of the genuine seniors living outcome, and the precedential risk of approving an application assembled through stacked SEPP bonus mechanisms

I submit that the proposal fails to achieve an acceptable planning outcome on multiple independent grounds, each of which weighs heavily against approval.

Yours sincerely

**Jane Watts**

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1 April 2026