



Mr Max Tran
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Our Ref: GMC:LY:37315

17 April 2026

Via: NSW Planning Portal

Dear Sir,

**Letter of Objection to proposed State Significant Development
Property: 65 Muston Street, Mosman (SSD-98068713)**

We act on behalf of the immediate affected neighbours to the subject site at 65 Muston Street Mosman including those in the 2 units at number 67 Muston Street, the 2 units at 69 Muston Street, the one unit at 61 Muston Street and the residents of the two units at 63 Muston Street who we note will be significantly impacted should this development proceed.

We provide this submission as an objection to the proposed development application, referred to as SSD 98068713. An addendum to this submission will be provided once further analysis on solar access is available.

The proposal seeks consent for a part 8 / part 10 storey residential development including demolition, construction of a residential flat building comprising 13 dwellings (including 3 affordable housing apartments), basement car parking for 29 vehicles with access from Redan Lane, communal facilities, landscaping at 65 Muston Street, Mosman.

The site has an area of 1,342m², a width of 24m with a proposed height of 31.7m plus 12.5m of excavation.

We note that Chapter 6 of the State Environmental Planning Policy (Housing) 2021 (“SEPP Housing”) can permit this type of development where certain site criteria are met and then provides development standards which apply to this proposal.

Importantly Council’s development controls provided in the Mosman Local Environmental Plan 2021 (“MLEP”) and the Mosman Residential Development Control Plan 2012 (“MDCP”) continue to apply where they are not inconsistent with the SEPP Housing controls, pursuant to s8 of the SEPP. The LMR provisions are drafted to operate in conjunction with Council’s controls and provide development that is suitable to specific sites and environments.

Following our review of the proposal, we raise the following critical issues to assist the Department in the assessment of the development application:

1) Economic cost of development

The proposal has not satisfactorily demonstrated that the economic cost of development exceeds the \$75m threshold for 'state significant development'.

The Estimated Development Cost (EDC) assessment by Napier and Blakeley refers to a calculation of Gross Floor Area of 8,494 square metres to come to their conclusion that the EDC is \$83,993,610. This significantly exceeds the permissible Gross Floor Area sought for this proposal under the State Environmental Planning Policy (Housing) of 3,471m². The basis for the Gross Floor Area used to calculate the cost of development needs to be interrogated by the Department.

The assessment by Napier & Blakeley also provides only one line for 'construction cost' totalling \$57,709,427. No breakdown is provided on what that constitutes. The addition of professional fees, 'contingency' and 'escalation costs' amount to a total of over \$83 million.

That assessment is gravely inconsistent with the independent assessment undertaken for our clients on the proposed development (pre EIS being finalised) prepared by Mr Angelo Antidormi of Property Building Assessments dated 19 January 2026 which concluded an EDC of approximately \$48 million.



Property & Building Assessments Pty Ltd
Level 4, 29 Kiora Road MIRANDA, NSW 2228
Phone: (02) 9522 6407
E-mail: info@pbags.com.au
ABN 53 099 018 470

19 January 2026

PURPOSE OF REPORT:	PRELIMINARY BUDGET FEASIBILITY ESTIMATE
PROJECT DESCRIPTION:	MULTI-UNIT RESIDENTIAL DEVELOPMENT
PROPERTY ADDRESS:	65 MUSTON STREET, MOSMAN NSW
CUSTOMER:	[REDACTED]

Further to your instructions, please find the following Preliminary Feasibility Budget Estimate pertaining to the proposed "residential multi-unit development" at the above subject address.

Our construction budget estimate based on current market rates, inclusive of GST, Professional Fees and Builder's Margin is in the order of: **\$47,475,177.75.**

Also, one prepared for another resident in the local area by Archi-QS Pty Limited, provided to the Department as an attachment to their submission, which came to an assessment total of nearly \$29 million.

EDC SUMMARY

The EDC is calculated in accordance with PS-25-004 Changes to how development costs are calculated for planning purposes (The Planning Circular) and is summarised below.

ELEMENT	TOTAL	
Demolition and Remediation	\$	83,420
Construction (item A)	\$	21,956,698
Mitigation of Impact Items	\$	-
Consultant Fees	\$	767,562
Authorities Fees (LSLL)	\$	63,964
Plant & Equipment (item B)	\$	1,017,175
Furniture, Fittings & Equipment	\$	2,528,112
Contingency	\$	1,320,847
Escalation	\$	1,119,082
ESTIMATED DEVELOPMENT COST (excl. GST)	\$	28,856,859

GROSS FLOOR AREA	UNIT	TOTAL	
GFA	m2		6763
Construction Cost (A) + Plant and Equipment (B)	\$	\$	22,973,873
TOTAL COST PER SQUARE METER	\$/m2	\$	3,397

2) Safe Walking distance

Safe walking distance has not been demonstrated. The Housing SEPP defines eligibility criteria for certain low- to mid-rise housing developments, one of which is proximity to a “Town Centre” within a 400-metre walking distance (measured along a safe, accessible pedestrian route).

Under Clause 4A.11 and related provisions of the Housing SEPP, a site is considered eligible if it is located:

- Within 400 metres walking distance of the boundary of a Town Centre, as measured along a continuous, publicly accessible pedestrian pathway.

Further, the walking route must be safe and accessible, with kerb ramps and crossings that comply with mobility and disability standards (AS 1428 series) according to Schedule 10.

The application is supported by a Surveyors Report and accompanying ‘Plan showing route of pedestrian travel distance from 65 Muston Street’. The walking route to the South-East corner of the ‘Spit Junction Town Centre’ shows the subject site to be within 400m walking distance to the Town Centre, however the accompanying report does not confirmed this is via a safe and accessible route.

The distance to the site from the Town Centre is required to be verified to have been correctly applied in line with the legislative requirements outlined in the State Environmental Planning Policy.

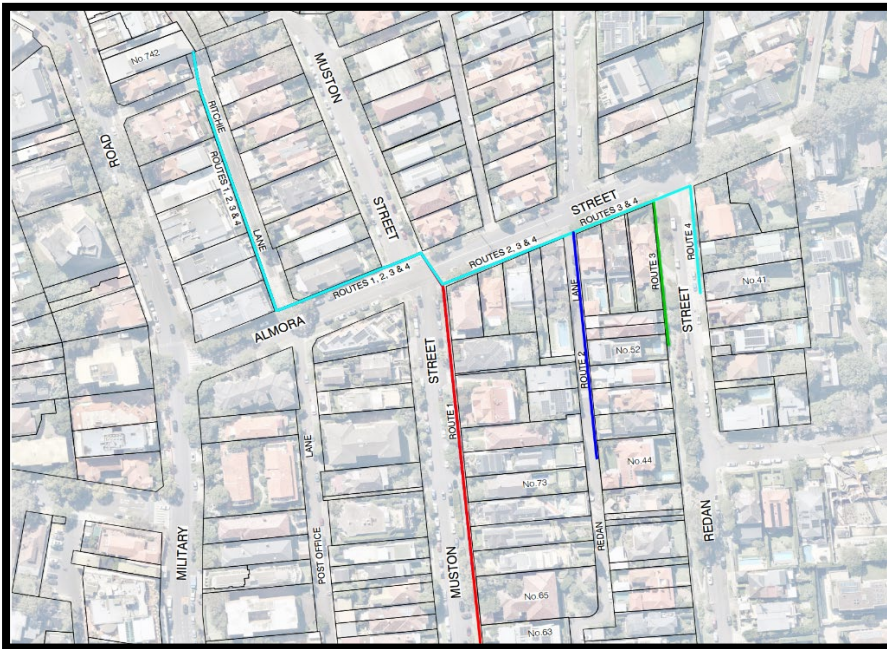


Image 1 – Walking distance of 400m by Applicant



Image 2 – Registered Surveyor assessment of walking distance (418.3m)

The walking distance along a safe path identified by Survey provided in support of this submission is 418.3m.

The consequence of this measurement is significant given the legislation specifies applicable floor space ratio based on the sites distance to the Town Centre. From our assessment, the site is located in an outer area, being within 400m- 800mm safe walking distance.

3) Floor space ratio

Chapter 6 Clause 163 of State Environmental Planning Policy (Housing) 2021 defines that the low and mid-rise housing area is land within 800m walking distance of the relevant town centre including:

- (a) the low and mid rise housing inner area; and
- (b) the low and mid rise housing outer area.

Clause 163 continues to define these as;

- (a) low and mid rise housing inner area means land within 400m walking distance of—
 - (i) land identified as “Town Centre” on the Town Centres Map, or
 - (ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or
 - (iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.
- (b) low and mid rise housing outer area means land between 400m and 800m walking distance of—
 - (i) land identified as “Town Centre” on the Town Centres Map, or
 - (ii) a public entrance to a railway, metro or light rail station listed in Schedule 11, or (iii) for a light rail station listed in Schedule 11 with no public entrance—a platform of the light rail station.

The applicable base floor space ratio development standard is therefore a maximum of 1.5: applies, not 2.2:1 as has been sought. The proposal demonstrates an overdevelopment of the site and is inconsistent with the relevant development standards.

4) Gross Floor Area

According to the State Environmental Planning Policy (Housing) 2021, where a basement protrudes 1 metre or more above the existing ground level it is generally included in the calculation of Gross Floor Area (GFA). According to the section image below, the basement extends more than a metre from existing ground level to the south, and is therefore to be included in the GFA calculation.

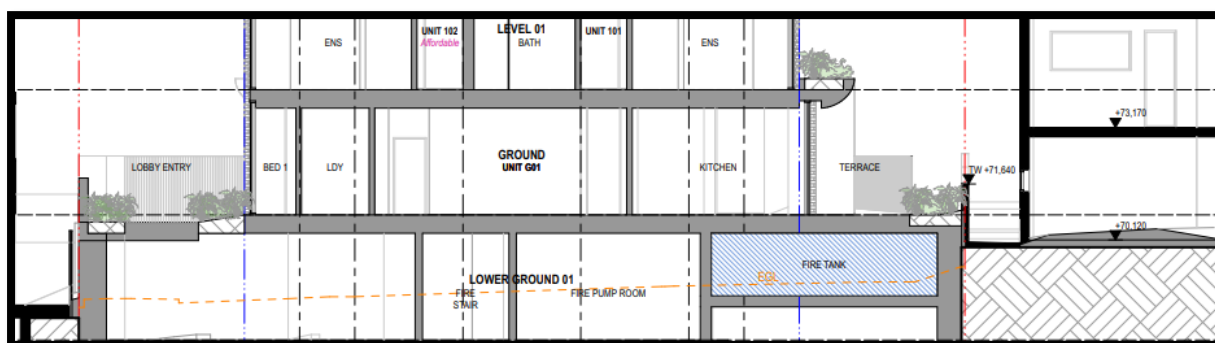


Image 3 – section showing basement protruding above ‘existing ground level’

5) Solar Access and Overshadowing

The SEE confirms that the development will impact north facing living room windows and east facing balconies of the neighbouring dwellings at 63 Muston Street to the south of the site.

The proposal is inconsistent with the objective provided at Part 5.8 of the MDCP in relation to solar access as follows:

02 - To have the degree of overshadowing of neighbouring properties minimised. The development will remove the majority of solar access from the neighbouring property

The shadow diagrams confirm the extent of solar access reduction. This is significant to the adjoining owners to the south, for every hour shown on the plans, for a development to either 22m or 28m in height.

The impact of the built form to 28.6m is shown below for the winter solstice when sunlight is most needed.

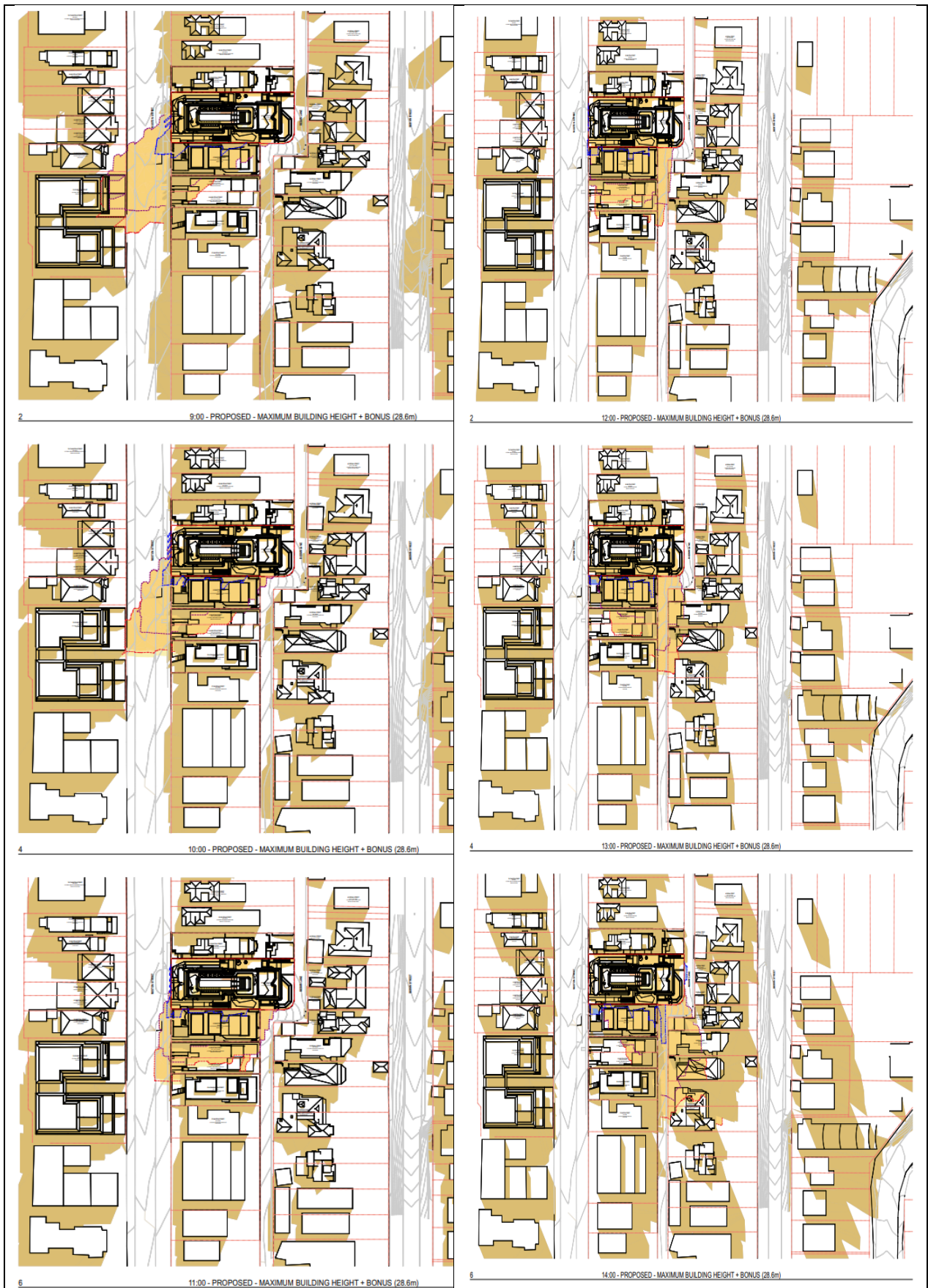




Image 6 – solar plans for 28m building each hour from 9am – 3pm

Our client currently enjoys solar access for all hours of the day, including to a north facing courtyard. The loss of amenity this proposal will result in is immeasurable should this building proceed.

The application relies on compliance with the LMR height and FSR provisions and broader planning framework to justify the significant breach. Notably, the planning control P6 under Part 5.8 of the MDCP foreshadows that east-west orientated lots may require increased side setbacks to facilitate appropriate solar access. The proposal has only provided the minimum setbacks and has not been amended in response to these impacts being identified.

The proposed reduction in solar access is not appropriate, in direct contravention of well established and fundamental planning controls and devastating to the amenity of impacted residents.

A building placed forward of the line is physically closer to the northern boundaries of properties to the south (and the southern boundaries of properties to the north). This tightens the angular relationship between buildings and increases the potential for overshadowing of front yards, north-facing rooms and private open space areas at the front of neighbouring lots. The forward position of the building will shadow areas that would otherwise receive winter sunlight.

Setbacks are in place to provide space between boundaries and to limit amenity impacts such as overshadowing. The front setback contributes to the overall envelope of separation between the new building and its neighbours, and reducing it, by building forward, tightens that envelope in ways that can directly affect solar access.

According to the Land and Environment Courts Planning Principle on sunlight, overshadowing arising out of poor design is not acceptable. The principle makes clear that complying with numerical development controls is not sufficient on its own — the quality of design matters, both how much sunlight is lost and how much is retained must be weighed.

The impacts of overshadowing on residential amenity includes

- i) Thermal Comfort and Heating Costs - Loss of sunlight to habitable rooms, particularly north-facing living areas, directly reduces the passive solar heating of a home. Sunlight striking thermal mass (concrete floors, brick walls) stores heat that moderates internal temperatures.

ii) Health & Wellbeing - Sunlight access has recognised physical and psychological health benefits. Reduced natural light in living areas and private open space affects occupants' sense of wellbeing, particularly for elderly residents or those who spend significant time at home.

iii) Loss of useable private open space - Overshadowing of a courtyard, as will be the case, reduces how much of the year and day that space is comfortable and usable. A garden that receives no sun on the winter solstice loses much of its value as outdoor living space.

iv) Impact on internal living areas - Overshadowing of windows to habitable rooms such as living rooms, dining areas and bedrooms reduces the quality of natural light indoors. Rooms that were once bright and sunny become darker for longer periods.

v) Degree of loss – The proposal will have a severe, if not catastrophic, impact in terms of loss of sunlight to the dwellings to the south. As established in the *Benevolent Society v Waverley* planning principle, both the amount of sunlight lost and the amount retained must be considered. A property that already receives limited sun and loses more is treated more seriously than one that loses the same hours but retains plenty.

In accordance with this Planning Principle, the Departments assessment must go beyond compliance with numerical standards and consider whether the proposal has been genuinely designed to protect neighbours' amenity.

This issue is so significant that the residents at 63 Muston Street have determined that an assessment by Scott Walsh & Associates to map sun angle change over the year. This is being prepared and will be provided shortly as an addendum to this submission.

6) Privacy and Overlooking

The proposal will have real, enduring and negative privacy impacts for neighbouring residents. Direct view lines, including from communal and circulation spaces, will be possible. This includes direct downward looking from upper floor windows and elevated balconies.

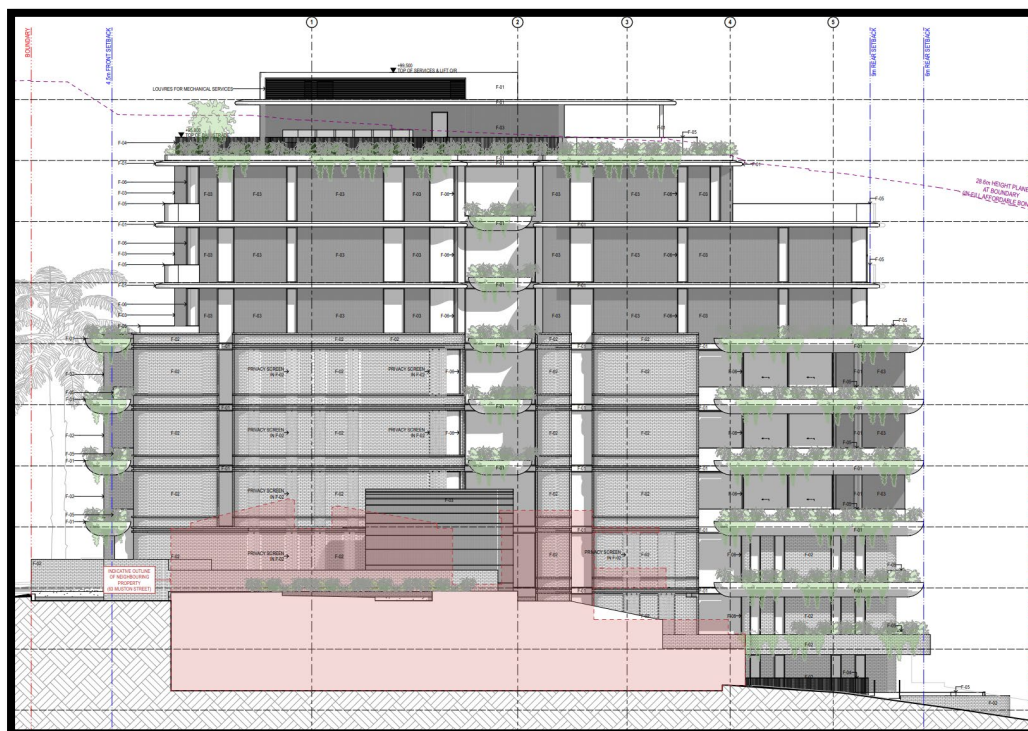


Image 7 – view of the proposed new building overlooking to the south

Proposed privacy screening will not defeat the perception of overlooking and loss of privacy, resulting in a loss of residential amenity and enjoyment of the private spaces of adjoining residents.

The adjoining development to the south enjoys a communal ground floor courtyard. This provides the principal private open space for the residents enjoyment.

7) View Sharing

View sharing for residents and the protection of views is particularly significant in Mosman, being a harbourside suburb.

The aims of the MLEP at c11.2 include:

(e) to recognise, protect and enhance the natural, visual, environmental and heritage qualities of the scenic areas of Mosman and Sydney Harbour and to protect significant views to and from the Harbour,

(f) to retain views to and from water and foreshore reserves and public areas from streets and residential lots,

Further, the objectives of the R3 Medium Density zoning which apply to this site includes an objective:

To encourage residential development that has regard to local amenity and, in particular, public and private views.

The Statement of Environmental Impacts at page 46 confirms that the view impacts range from negligible to severe, arguing this is acceptable when assessed against the permissible building envelope for the site.

Currently the residents enjoy outstanding views stretching from Clontarf / Balgowlah to Balmoral. Severe view impacts will be caused by the proposed development, in particular its extension to the east.

For many decades Mosman Council has consistently required a rear building line zone so that all properties in this locality would enjoy effectively 180 degree views. The proposed development extends 11m beyond the rear building zone of the outermost projection of the adjoining property to the north, generally consistent with the existing dwelling on the subject site. The result being a large intrusion into the area which has typically been available for view sharing.

A significant encroachment into the setback can alter the visual outlook from front rooms or gardens of adjacent properties in ways that constitute an amenity loss.

Arguing a built form of this kind is inevitable and therefore acceptable is self-serving and fails to respond to the residential context. The proposal does not appear to have been responsive to or redesigned in light of the view impact assessment or seek to mitigate its findings.

Part 4.3 of the MDCP provides objectives and planning controls for view sharing which apply to the subject site:

01 - To have opportunities for public vistas and public views from streets and public places protected.

02 - To have the value of existing views from private dwellings recognised and encourage view sharing through building design, location and landscape design, whilst not restricting the reasonable development potential of a site.

The existing views from private dwellings have been identified however no effort has been made to maintain or share views in terms of building design to achieve a balance outcome and mitigation of impacts.

The proposal is inconsistent with the Part 4.3 MDCP planning controls as the proposal:

- *P4 – Is not designed to minimise view loss; and*
- *P5 – Significantly obstructs significant views;*

Despite the assessment characterising it as severe, the nature of the view impact in the photo below is catastrophic.

The severe view impacts are unreasonable, with the solid structure obscuring all the existing view as shown in light blue with red outline in the image below:



Image 8 – proposed view loss impact shown in blue to the property to the south

The Visual Impact Analysis at Appendices 7a and 7b use a possible future scenario for LMR development taking up the entirety of residential land in this area, which does not provide a realistic baseline position.

Based on the visual impact assessment finding of severe view loss, and the very real anticipated impacts, the proposal is not fit for approval.

A building placed forward of the line is physically closer to the northern boundaries of properties to the south (and the southern boundaries of properties to the north). This tightens the angular relationship between buildings and increases the potential for overshadowing of front yards, north-facing rooms and private open space areas at the front of neighbouring lots. The forward position of the building will shadow areas that would otherwise receive winter sunlight.

Setbacks are in place to provide space between boundaries and to limit amenity impacts such as overshadowing. The front setback contributes to the overall envelope of separation between the new building and its neighbours, and reducing it, by building forward, tightens that envelope in ways that can directly affect solar access.

The Department is encouraged to seek the Applicant amend the proposal to pull back the building to meet the current building line, to reduce the significant impacts from view loss and overshadowing that currently make it unacceptable.

8) Landscaping

The Landscape Plans prepared by Dangar Barin Smith provide for a deep soil area of 135.73m² or 10.1% mainly within the front and rear setbacks. Large trees, that require deep soil planting and assist in screening the development to adjoining owners is not provided to the side boundaries where they can be most effective.

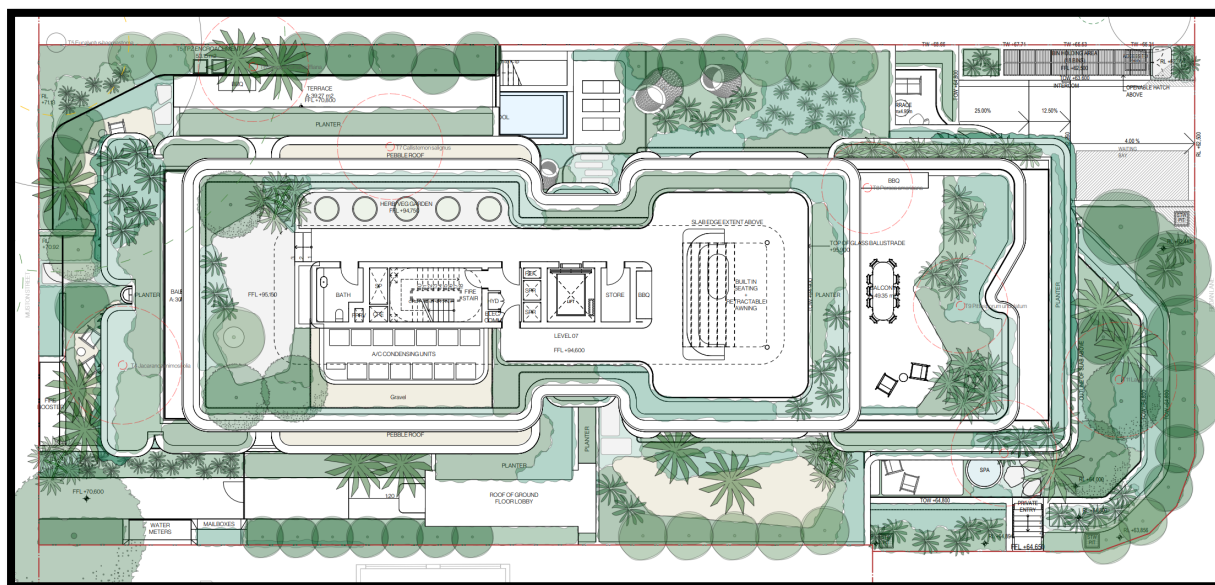


Image 9 – Landscaping plan with low planting to side boundaries

The proposal seeks to demonstrate compliance mainly through the use of planters which will only provide low level benefits and softening to this large built form.

9) Heritage

The subject site is in proximity to a number of heritage items, including their statement of heritage significance:

Description	Address	Statement of Heritage Significance
Pair of semi-detached houses	36-38 Redan Street	(I262) <i>A rare and elegant pair of semi-detached residences that employs a number of innovative features in its design that help to visually unite its separate parts..</i>
House	52 Almora Street	(I3) <i>It forms an impressive focal point at the intersection of Arbutus and Up</i>
House	29 Redan Street	(I261) <i>A good intact example of a large Federation style residence. Its location on a prominent corner site and its garden setting and fence, contributes to its significance</i>
House	28 Redan Street	(I260) <i>Federation Arts and Crafts style residence that in its massing and materials forms an arresting composition</i>
Divided road'	Redan Street	(I440) <i>integral to the Municipality's visual character and sense of place</i>

CI5.10 of the MLEP which relates to heritage provides the following objective:

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views

According to the Heritage Impact Statement prepared by PCN Urban, the proposal will:

The proposed development will not result in the removal of any heritage fabric and will not adversely affect the heritage significance, setting or appreciation of the nearby heritage items...

We suggest that the contemporary design of the proposed development and the uncharacteristic bulk and scale significantly detract from the fabric, settings and views associated with the heritage items and is inconsistent with the objectives of c15.10.

The general overdevelopment described above exacerbates the negative impacts on the heritage items and the streetscape generally. The proposed development is not appropriate in this context.

10) Traffic

The proposal seeks to provide basement parking for 29 cars accessed from Redan Lane. The Traffic Impact Assessment prepared by Traffix fails to take into account the cumulative impact of the new developments utilising Redan Lane for vehicle access. Development at 12 Redan Street, 65 Muston Street and 40-48 Redan Street and a proposed development at 34 Redan Street, if approved, would all use and impact Redan Lane.

Building Height

The maximum building height is 28.68m however the proposal does not comply at 31.68m. The Statement of Environmental Effects by BBC Consultant Planners seeks to justify the additional height, above that generously provided for, given the design includes communal open space on the rooftop.

The provision of communal open space is a fundamental requirement of this type of development. It is able to be provided for within the building envelope and there is no further justification for a building height exceedance simply because the design has included it on the roof.

We note the proposed location also makes the calculation of communal open space deficient. This suggests the proposal has utilised internal useable gross floor area to maintain unit numbers and yield, compromising residents' amenity for both those in the proposed unit and further impacting the amenity of existing neighbours.

11) Acoustic issues

The Acoustic Report by West & Associates notes the roof top communal open space and confirm they have 'We have no recommended time limitations for the roof top communal open space'.

These outdoor spaces can have significant impact on the residential amenity of adjoining owners and this omission is to be addressed.

12) Excavation

According to the Geotechnical Report prepared by Douglas Partners, up to 12.5m of excavation is required to achieve the basement level for parking. The subsurface is comprised of a layer of fill material and sandstone beneath.

The excavation proposed in in stark contrast to objective 09 of Part 4.2 of the MDCP which states:

To have buildings which are sited to relate to the topography with minimal cut and fill, preserve existing significant trees, vegetation, rock outcrops, water courses, natural features and promote new vegetation links.

The relevant planning controls of Part 4.2 of the MDCP require the development to be sited having regard to the topographical features and preserve existing rock outcrops.

To service the development and provide adequate car parking, the applicant has proposed a significant and unacceptable level of excavation directly in contradiction with Council's controls.

Should construction of any kind be required on adjoining sites, owner's consent will be required pursuant to EP&A Regulations s23(1).

Further, the proposed development will interfere with groundwater with basement excavation constructed below the groundwater level. The SEE suggests the ground water will be managed during construction and operation. However, the assessment by Douglas Partners (Revision 2, issued 12 February 2026) notes that inflow volumes will be *generally less than 3 ML/year*, with 3ML/year being the threshold for an approval and triggering Integrated Development

Development consent cannot be issued until an approval under the *Water Management Act 2000* is provided, if integrated development is triggered. This is a jurisdictional issue and significant to the assessment of this application, with any consent subject to judicial review and possibly being made invalid.

The proposal generates significant concern in relation to the excavation to a depth of 12.5m which would be complex, requiring heavy machinery and the removal of vast amounts of fill and sandstone.

Long term stability impacts are a significant concern where such extensive excavation and ground water alteration is proposed.

Conclusion

While the LMR provisions permit and to some extent facilitate the development of higher density dwellings in certain locations, the provisions are drafted in such a way as to have regard to the local development controls to provide for development that is suitable to the particular environment and context in which it is proposed.

The application has an absolute disregard for the Balmoral Townscape planning controls which are critical in the provision of development that is suitable to the area, whether facilitated by the LMR provisions or not.

The applicant has ostensibly taken the view that the LMR provisions provide a right to development consent that has regard only to the SEPP Housing development controls and facilitates the maximum density outcome.

The subject proposal is clearly not appropriate for this site, in this context, with these site constraints.

Significantly, the application has failed to demonstrate it meets jurisdictional requirements for the granting of consent, including:

Department of Planning, Housing & Infrastructure

17 April 2026

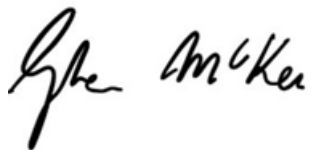
- Economic cost of development has not been demonstrated the proposal is State Significant Development
- Confirming the site can be identified as an inner housing area under *State Environmental Planning Policy (Housing) 2021*
- Confirming the appropriate floor space ratio has been applied under the *State Environmental Planning Policy (Housing) 2021*
- Confirming the calculation for gross floor area has been correctly applied
- That the objective of the *Environmental Planning and Assessment Act 1979* to *promote good design, amenity and the proper construction and maintenance of built environments* has been met
- Demonstrating that the application is not Integrated Development
- Satisfying the relevant controls and objectives of the *Mosman Local Environmental Plan* especially in terms of amenity and view loss impacts.

We trust the Department will consider the issues raised above and whether the application in its current form can proceed.

Also, that the Department will hold a public meeting to better understand the significant concerns of the local community in relation to this proposal.

Should you have any questions, please contact Graham McKee or Luceille Yeomans to discuss.

Yours faithfully
MCKEES LEGAL SOLUTIONS



Graham McKee
Principal

Encl.
