

## Detailed Grounds of Objection

### State Significant Development Application SSD-90134958

#### Mixed Use Development, 100 Edinburgh Road, Castlecrag

This attachment summarises the legal and planning grounds for objection to SSD-90134958. Each ground is anchored to the mandatory considerations in section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (NSW) and supported by a quotation from the applicant's own documents with a PDF page reference.

I respectfully request that the application be **refused**.

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#### The proposal in summary

| Element           | Proposed  |
|-------------------|---|
| Built form        | Two 11-storey residential towers above a 4-storey podium (13 storeys, RL 130.7)                                   |
| Maximum height    | 48.96 m   |
| Floor space ratio | 4.2:1   |
| Total GFA         | 21,026 m <sup>2</sup>   |
| Apartments        | 150 (10 affordable for 10 years)  |
| Car parking       | 376 spaces  |
| Site              | Lot 11 DP611594 + Lot 1 DP43691, 5,099 m <sup>2</sup> , zoned E1 Local Centre and (in part) RE1 Public Recreation |

#### Quantum of non-compliance with the operative WLEP 2012

WLEP 2012 standard

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Cl. 4.3 Maximum height

Cl. 4.4 Maximum FSR

Council's endorsed 2023 PP

The applicant has not lodged a clause 4.6 written request to vary either standard.

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## Ground 1 — The proposal does not comply with WLEP 2012 (s4.15(1)(a)(i))

The applicant relies on a “Concurrent Planning Proposal” (Appendix I) which has not been made, has not been gazetted, and has not been subject to a Gateway determination under section 3.33 of the EP&A Act.

**“LEP standards are superseded by concurrent rezoning.”** (Appendix D, p.8)  
**“Existing development standards would be exceeded by more than 20 per cent in some instances.”** (Appendix D, p.8)

A consent decision that grants approval to a non-complying envelope in reliance on an un-made rezoning is not a proper exercise of the SSD power. It bypasses the Gateway process, which exists to ensure community consultation and strategic merit review of changes to environmental planning instruments.

WLEP cl 6.8 (affordable housing) requires 4 per cent of GFA on this site. The applicant’s response silently switches the metric from GFA to a unit count (“7 per cent of total units”, Appendix D p.11) and never discloses the affordable GFA. The cl 6.8 numeric test is not demonstrated.

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## Ground 2 — Council’s endorsed strategic position is exceeded by more than double (s4.15(1)(a)(ii))

Willoughby City Council adopted a modified Planning Proposal for this site on 26 April 2023, supporting FSR 1.8:1 and AHD 97.49. The current SSD exceeds the Council-endorsed position by more than double on both height and FSR.

The third objective of the E1 Local Centre zone requires residential development to be “consistent with the Council’s strategic planning for residential development in the area”. The proposal is not consistent with that strategic position.

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## Ground 3 — The Housing SEPP bonus pathways do not apply to the site (s4.15(1)(a)(i))

The applicant suggests the Low and Mid-Rise Housing (LMR) provisions and the Infill Housing 30 per cent provisions of SEPP (Housing) 2021 contextualise the proposal. They do not.

The site is **850 to 900 m from Northbridge** town centre (EIS, p.47). The LMR threshold is 800 m walking distance.

**“Land surrounding the subject site, as well as land between the subject site and Northbridge Town Centre are subject to the Housing SEPP’s ‘Infill Housing 30 per cent’ provisions as well as the ‘LMR’ provisions.”** (Appendix I, p.4)

That is an admission that these pathways apply to surrounding land, not to the subject site. The applicant also concedes the Infill Affordable Housing pathway was deliberately rejected:

**“Option 3 — An option was to lodge an application for Infill Affordable housing. This option was discounted as a requirement for 15 per cent of the total GFA to be offered for affordable housing purposes is not feasible.”** (EIS Table 15, p.51) **“Option 4 — Proceed with HDA scheme which includes greater density than that which would have been allowed under Infill Affordable housing provisions, as well as a lower affordable housing component.”** (EIS Table 15, p.51)

Even if the LMR provisions did apply (they do not), the maximum LMR height for shop-top housing is **24 m** and the maximum FSR is **2.2:1**. The proposal exceeds both by approximately double.

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## **Ground 4 — Heritage impact on the Griffin HCA and item I253 (s4.15(1)(a)(i), (b), (c))**

The site adjoins the Griffin Heritage Conservation Area (Schedule 5 Part 2, ref C4 of WLEP 2012) on its eastern and part of its southern boundary, and abuts heritage item I253 (the Griffin Centre, 120 Edinburgh Road).

The applicant’s Statement of Heritage Impact (Appendix W) makes the following admissions:

**“Adjoins the Griffin Heritage Conservation Area (C4) on its eastern and part of its southern boundary.”** (p.25) **“A gateway into the Conservation Area.”** (pp.40, 42, 45) **“There will be some visual contrast due to the scale disparity between the new building and the lower-scale heritage dwellings.”** (p.42) Heritage-appropriate roof forms **“would be inappropriate at this scale.”** (p.43) Overshadowing of HCA dwellings to the east is admitted. (p.43)

The HCA’s own Statement of Significance (quoted in the SoHI at p.39) describes **“the suburban ideal subordinated to the landscape”**. The Willoughby DCP 2023 character description of the area (quoted at SoHI p.31) is **“single storey, or in rare cases two storey”, “subordinate to and harmonious with the landscape”**. A 48.96 m, 13-storey tower defeats that significance. Clause 5.10(4) of WLEP 2012 cannot be satisfied.

### **Methodological deficiencies in the SoHI:**

- No photomontages anywhere in the document.
- Site visit dates from October 2023, two and a half years stale and predating demolition.
- Observation scope was “public domain only” (p.2); no assessment from inside HCA dwellings.

- No harbour view assessment despite admitting “**significant views into the Conservation Area from Middle Harbour and significant views out of the Conservation Area across Middle Harbour**” (p.36).
- Heritage impact reduced to effects on individual heritage “fabric”; effect on setting, curtilage, skyline and landscape integration not assessed.

**Aboriginal heritage failure:** Appendix LL admits “**the study area is located along a ridgeline which is a sensitive landform feature that would indicate the likely presence of Aboriginal objects**” (p.17), then dismisses that sensitivity by reference to the applicant’s own earlier demolition. No site visit (p.23). No Metropolitan Local Aboriginal Land Council consultation. The SEARs Compliance Table records “**retrospectively including further aboriginal consideration was not considered essential**” (Appendix A, pp.10–11), in non-compliance with a mandatory SEARs requirement.

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### Ground 5 — The Apartment Design Guide solar access criterion is failed by double (s4.15(1)(a)(i), (b))

ADG Objective 4A-1 caps at **15 per cent** the proportion of apartments receiving no direct sunlight at the winter solstice. The applicant’s own ADG Compliance table:

**“30 per cent of apartments in a building receive no direct sunlight between 9 am to 3 pm at mid-winter.”** Marked “No” compliance. (Appendix H, p.8)

The justification offered (3.4 m floor-to-ceiling heights and a landscaped outlook) is not an ADG-recognised offset. Clause 147(2) of SEPP (Housing) 2021 does not save this non-compliance for SSD.

Cross-ventilation figures are internally inconsistent: 60 per cent claimed cross-ventilated against 55 per cent dual-aspect (Appendix H, p.9). Dual aspect is the physical prerequisite for cross-ventilation; the figures cannot be reconciled.

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### Ground 6 — The intersection is failing and the impact is not measurable (s4.15(1)(b))

The Edinburgh Road / Eastern Valley Way intersection is the single, narrow signalised access used by the entire Castlecrag community.

Intersection at **Level of Service F** with **degree of saturation 1.122** in the morning peak. Right-turn traffic already overflowing into through-lanes. (Appendix Q, Table 16, p.23) The SIDRA model output “**is not representative**” at LoS F. (Appendix Q, p.24)

In plain terms, the applicant cannot quantify the impact of 150 new dwellings and 376 car spaces on an already-failing intersection. The applicant has admitted, in writing, that their model cannot do it. The Department is being asked to approve a major development on the

basis of a traffic assessment that the applicant has admitted cannot measure its own impact.

Other defects in the Traffic Impact Assessment:

- Trip generation rates drawn from the **superseded 2002 RTA Guide** (p.26).
  - “Level 6 very high accessibility” premise (p.14) is contradicted by the EIS’s own figures: 2.56 to 2.93 km from rail; not within 800 m of any rail station.
  - **No cumulative impact assessment** against the approved developments at 3 The Postern, 16–18 Warners Avenue, 1, 3, 5 Warners Avenue, and 82, 84, 86 Eastern Valley Way (EIS Table 14, p.50).
  - Sight distance for the driveway onto a state-classified road at a failing signal is dealt with in one sentence (p.34).
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### Ground 7 — Wind, acoustic and visual amenity are admitted to be exceeded (s4.15(1)(b))

- **Wind safety** criteria (not merely comfort) are exceeded un-mitigated at three locations: ground-floor SE corner, Level 1 between towers, Level 4 corner terraces. Residual non-compliance at the rooftop dining area and SE corner persists **after** mitigation (Appendix JJ).
  - **Construction noise** at the southern neighbour is **78 dB(A)** for five months of sandstone excavation, **26 dB above** the management level (Appendix AA). The lodged Construction Noise and Vibration Management Plan describes the earlier 16-unit DA-2024/13 scheme, not the current 150-unit proposal.
  - **Visual impact** ratings of **Severe** at viewpoints VP07 and VP08 (Appendix U, pp.17–18) are nonetheless concluded as “acceptable” at p.45. The 16 assessed viewpoints exclude the Griffin HCA reserves (Casement, Turret, Embrasure, Cortile, Lookout). No night-time view assessment.
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### Ground 8 — The affordable housing benefit is small and short-lived (s4.15(1)(e))

- **10 of 150 apartments** (6.67 per cent) are claimed as affordable.
- The unit mix is **3 one-bedroom apartments and 7 two-bedroom duplexes**. No family-sized affordable apartments. No binding allocation to a priority cohort (key workers, older downsizers, at-risk families).
- The affordable commitment is for **10 years only** (Appendix GG, p.11). The Housing SEPP minimum affordable term for the bonus pathways is **15 years**; the proposal falls 5 years short.
- Council’s submission to the earlier Planning Proposal asked for affordability **in perpetuity**.

A 5.4-fold height exceedance and 4.2-fold FSR exceedance of the LEP cannot, in the public interest, be justified by 10 small apartments locked in for 10 years.

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## Ground 9 – Community engagement was thin and the scheme grew between rounds (s4.15(1)(d), (e))

On the applicant’s own 66-respondent survey:

- **89 per cent** concerned about height and scale.
- **83 per cent** concerned about traffic.
- **83 per cent** concerned about local character.
- **77 per cent** concerned about overshadowing.
- **Only 2 of 66 (3 per cent)** had no major concerns.

The Social Impact Assessment (Appendix MM, p.51) rates “disenfranchisement” as “**Very high negative**” pre-mitigation, and rates six impacts as “High negative” after mitigation: built-form deviation, Griffin heritage, visual impact, overshadowing, dwelling sunlight, disenfranchisement.

Parking spaces grew from 204 to 376 between Round 1 (Nov 2025) and Round 2 (Mar 2026), implying material change to scheme scale that the community had no opportunity to respond to. Round 2 was held in Chatswood (about 2.8 km from the site) with no explanation for the venue change. The Castlecrag Progress Association is recorded on the distribution list with no response noted.

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## Ground 10 – The application is contrary to the public interest (s4.15(1)(e))

It is not in the public interest to grant consent to a building 5.4 times the LEP height and 4.2 times the LEP FSR on the basis of an un-gazetted concurrent rezoning, while the Gateway process under section 3.33 of the EP&A Act is bypassed and the strategic merit review and community consultation that process compels are avoided.

The minimum plausible quantum of public benefit (10 small apartments, 10 years) is being offered to justify the maximum density the applicant can secure, and the precedent risk for every other low-rise Sydney suburb is significant.

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## Relief sought

I respectfully request that the application be **refused**.

In the alternative, I ask the Minister to:

1. **Defer** the application pending a properly exhibited Planning Proposal progressed through Gateway determination under section 3.33 of the EP&A Act.
2. **Require substantial amendment** to conform to the Council-endorsed modified Planning Proposal (FSR 1.8:1; AHD 97.49).

3. **Require the affordable-housing commitment to be increased** to at least 20 per cent of GFA, in perpetuity, managed by a registered community housing provider.
  4. **Require independent heritage peer review** by a heritage practitioner with no existing commercial relationship to the applicant, including photomontages, in-HCA viewpoint assessment, and harbour-view assessment.
  5. **Require a full cumulative impact assessment** of traffic, wind, acoustic and social impact against the approved developments at EIS Table 14 (p.50).
  6. **Refer the application to the Independent Planning Commission** for determination.
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## Source documents

All page references are to the PDFs exhibited on the NSW Planning Portal for SSD-90134958 (Exhibition ID EXH-114902239), downloaded 24 April 2026.

Principal documents relied on: Environmental Impact Statement (27 March 2026); Appendices A (SEARs Compliance), D (Statutory Compliance Table), E (SSD Declaration Order), GG (Alternative Design Excellence Strategy), H (ADG Compliance), I (Concurrent Rezoning Report), K (Community Engagement Outcomes Report), LL (Aboriginal Heritage Due Diligence Assessment), MM (Social Impact Assessment), Q (Traffic Impact Assessment), U (Visual Impact Assessment), W (Statement of Heritage Impact), AA (Acoustic Assessment), JJ (Wind Report).

Statutory and policy references: *Environmental Planning and Assessment Act 1979* (NSW), ss 3.33, 4.15, 4.36, 4.40, 9.45; *Willoughby Local Environmental Plan 2012*, cl 2.3, 4.3, 4.4, 4.6, 5.10, 6.8, 6.23, Sch 5 Pts 1–2; *Willoughby Development Control Plan 2023*, Pt L (Castlecrag Local Centre), Pt H (Heritage); *State Environmental Planning Policy (Housing) 2021*, Chs 2, 3, 4, Sch 9; *State Environmental Planning Policy (Planning Systems) 2021*; Apartment Design Guide; *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.