



OBJECTION REPORT

**Residential Development with In-fill Affordable
Housing**

SSD-83478456

**21, 23 & 25 McIntosh Street and 55 Werona Avenue,
Gordon**

September 2025

www.townplanningcollective.com.au

OBJECTION REPORT

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1 Executive Summary

This report provides a review of the State Significant Development application lodged to Department of Planning Housing and Infrastructure for the Residential Development with In-fill Affordable Housing consisting of three new residential flat buildings with in-fill affordable housing located at 21, 23 & 25 McIntosh Street and 55 Werona Avenue, Gordon.

A summary of the concerns is provided below:

1. Building height

The proposed development is non-compliant with the established and accepted height and density of the area.

2. Bulk and scale of the development

The proposed development is considered to be a boxed, bulky development that is of a scale that is not compatible with the locality.

3. Heritage

The development is located within a heritage conservation area and is considered to obliterate the heritage context of the area.

4. Visual Privacy

The proposed development result in unacceptable visual privacy impacts.

5. Character of the area

The proposed development is considered out of character for the area and particularly in comparison with the surrounding locality.

6. Demolition and construction

The proposed development proposed substantial excavation of the site which is raised as a concern.

7. Overshadowing

The development result in unacceptable overshadowing of the neighbouring properties which is a result of the overdevelopment of the site.

8. Traffic, parking and access

The development will result in unacceptable impact on the traffic and parking within the area.

2 Introduction

Town Planning Collective have been engaged by the residents of 51A Werona Avenue, Gordon and 27 McIntosh Street, Gordon to review the SSD application and provide comments regarding the impact of the development on their properties and the surrounding area. Our review of the DA (SSD-83478456) has been based on the information that is available from the NSW major project planning portal.

3 Background

3.1 Site Description

The site is identified as 21, 23 & 25 McIntosh Street and 55 Werona Avenue, Gordon. The site is described in the applicants Environmental Impact Statement Report as the following:

The site is located at 21, 23 & 25 McIntosh Street and 55 Werona Avenue, Gordon and is within the Ku-ring gai Local Government Area (LGA).

The site has an area of 7,776sqm and currently contains single dwelling houses, with associated structures.

The main frontage of the site is on McIntosh Street, with a secondary access being from 55 Werona Avenue, via an existing access handle.

The site falls from its southern boundary of the Werona Avenue property (RL113.44) to north-east corner of 25 McIntosh Street (RL 107.56) by 5.88m. There is a noticeable change in the existing topography across the sites, with the higher side being the southern part of the Werona Avenue site and the lower side being along the McIntosh Street boundary.

The site is located to the east of Pacific Highway and is within walking distance (400m) of entrance to the Gordon Railway Station.

The subject site is legally identified as Lot 20 in DP 4442 and known as 5 Annette Street, Gordon. The site is regular in shape with a total site area of 808.3m².

3.2 Proposed Development

The Environmental Impact Statement accompanying the development application provides the following description of the development:

The proposed development seeks consent for three new residential flat buildings with in-fill affordable housing. The proposal will include:

- *Demolition of all existing structures and associated outbuildings, including swimming pools and tennis courts*

- *Partial clearing of site*
- *Construction of a residential development, involving three residential flat buildings having a maximum height of 8 storeys*
- *162 residential apartments of which 33 will be affordable housing units, of which 29 (15%) will be retained as affordable housing of 15 years and 4 (2%) will be retained as affordable housing in perpetuity*
- *Excavation for two basement levels, containing 191 car parking spaces and associated services*
- *Removal of 29 trees*
- *Landscaping of common areas.*

In accordance with the In-fill Affordable Housing SEPP provisions, the development seeks a 30% height incentive by providing 15% of the total GFA as affordable housing. An additional 2% of the total GFA will be affordable housing, in perpetuity, in accordance with the TOD Housing SEPP provisions

4 Planning Assessment

4.1 Built Form Character

It is noted that seeking the maximum height is not an automatic right for any type of development, including affordable housing and transport orientated development. The consent authority must consider other planning controls and impacts of the development in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

Section 155(2) in Chapter 5 of the SEPP (Housing) permits a maximum building height of 22 metres for a residential flat building within a TOD area. Under Section 18 in Chapter 2 of the SEPP (Housing), an additional 30% building height above the maximum building height control is permitted for infill affordable housing comprising of at least 10% of the development. In this circumstance, the maximum permitted building height for the proposed development is 28.6m.

The proposal seeks a maximum building height of 30.5m, measured to top of the lift overrun in Building B which exceeds the maximum building height control by 2.4m, equating to a variation of 6.6%.

A Clause 4.6 variation request has been submitted in relation to building height. The Clause 4.6 variation request argues that the aims of Chapter 5 of the SEPP (Housing) is achieved notwithstanding non-compliance with the development standard and that compliance is unreasonable and unnecessary with the clause 4.6 providing that the development achieves the objectives of Section 150 of the SEPP.

Upon review of the proposal, it is considered that the Clause 4.6 variation request is not well founded and should therefore be rejected. The variation to the building height standard is unacceptable for the following reasons:

- The degree of non-compliance results in excessive bulk and scale that exceed the intended building envelopes for residential flat buildings, including setbacks, articulation and built form controls. This outcome detracts from the desired future character of the streetscape, diminishes the significance of nearby heritage items, and adversely affects the amenity of surrounding residents.
- The additional height sought for the upper levels of the building will be highly visible from surrounding streets and the broader locality, presenting an intrusive built form that is inconsistent with the prevailing character.
- The design does not meet the planning objective of providing a mix of land uses to support residents.
- The proposed massing fails to respond appropriately to the natural topography or to provide suitable height transitions to adjoining low-scale heritage items. Instead, the additional bulk and scale will undermine the established and future streetscape character.
- A compliant design could readily achieve an acceptable development outcome with reduced bulk, less visual impact, and better integration with the streetscape, nearby heritage significance, and conservation areas.

It is considered that, while a 28.6m height limit is permissible, that the site and context of the area does not warrant such a drastic height discrepancy between the proposed and the surrounding area. Any development of this size and scale will result in a visual scar on the locality and obliterate the heritage context of the street.

4.2 Gross Floor Area (GFA) And FSR

In accordance with Section 155(4) in Chapter 5 of the SEPP (Housing), the maximum FSR for a residential flat building within a TOD area is 2.5:1. As the proposal provides in-fill affordable housing units, an additional 30% FSR is permitted under Chapter 2 of the SEPP (housing) to a maximum of 3.25:1.

The proposal states the total GFA for the development is 18,591.24m² equating to a FSR of 2.39:1. Whilst the proposed GFA is compliant with the maximum FSR permitted for the site, it is noted that, in the context of the site and surrounds, that the FSR is considered excessive and out of context for the area.

4.3 Heritage Impacts

The site is not identified as a heritage item but part of the site is located within the Gordon Park Estate, McIntosh and Ansell Conservation Area. It is noted that in additions to the site being located within the HCA, it also is in the vicinity of a number of heritage items.

The predominant low density character of the streetscape comprising of a number of heritage items and adjoining conservation areas contributes to the significance of the locality. The proposed bulk and scale of the 8 storey residential flat building will visually dominate and detract from the setting of heritage items and conservation areas. The

proposal massing of the residential flat building will adversely affect views from heritage items to the surrounding area including views to the sky, tree canopies and heritage style roof tops.

The proposal does not respect the established built form and landscaped character of the streetscape and will result in the loss of the garden setting which will irreversibly impact the heritage significance of the locality. The development provides no architectural mitigation measures to provide a transition in height of the development to be compatible with the surrounding two storey heritage style dwellings within the immediate vicinity. It is requested that the development be redesigned to dramatically reduce the scale and proportions of the development and provide a less impactful development on the heritage conservation area and heritage items.

Concern is also raised that the materials and finishes consisting of light colours will be visually dominating and obtrusive in the streetscape, when viewed from surrounding conservation areas. It is recommended that the external materials and finishes be amended to comprise darker, earthy tones to present a more recessive building that responds more appropriately to the aesthetic of surrounding heritage items and conservation areas.

The proposal is inconsistent with the objectives of Clause 5.10 of the KLEP *“to conserve the environmental heritage of Ku-ring-gai”* and *“to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,”* and Article 8 - Setting in the Burra Charter which reads as follows:

Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place. This includes retention of the visual and sensory setting, as well as the retention of spiritual and other cultural relationships that contribute to the cultural significance of the place.

New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate.

It is considered that the proposed development is not compliant with the heritage values of the locality and should be refused.

4.4 Objectives Of Chapter 5 - Transport Oriented Development

Chapter 5 of the SEPP provides the following aims for development to be determined under the chapter.

The aims of this chapter are as follows—

- (a) to increase housing density within 400m of existing and planned public transport,*
- (b) to deliver mid-rise residential flat buildings, seniors housing in the form of independent living units and shop top housing around rail and metro stations that—*
 - (i) are well designed, and*

- (ii) are of appropriate bulk and scale, and
- (iii) provide amenity and liveability,
- (c) to encourage the development of affordable housing to meet the needs of essential workers and vulnerable members of the community.

The proposed development is not considered to comply with the aims of Chapter 5 as it is considered to be an overdevelopment of the site in the context of the heritage conservation area, does not provide an appropriate development in regard to bulk and scale and the development will directly impact the liveability of the adjoining residents. Additionally, it is considered that the development will only provide affordable housing for a 15 year period which does not encourage affordable housing to meet the needs of essential workers within the area as these needs are an ongoing long term requirement.

4.5 Character Of The Area

The site is located partially within the Gordon Park Estate, McIntosh and Ansell Conservation Area which describes McIntosh street as follows:

McIntosh Street falls down to the east from Rosedale Road, towards the creek below. McIntosh Street contains one and two storey houses, generally Federation with some interwar examples. Many of the houses have had later second storey additions. There is some recent construction on the street which is sympathetic in scale. The lots on the south side of the street are regular in size, whilst the lots on the northern side are inconsistent due to subdivision. Front fences are of low irregular stone, particularly on the northern side of the street. Other front fences are constructed of brick or masonry with picket inserts. Significant street planting occurs in McIntosh Street.

The street is characterised, as described above, with low density single and two storey dwellings with large setbacks and attractive landscaping. It is noted that the area has some existing residential flat buildings located toward the train station but these are noted to be modest in size compared to the proposed development.

The area is currently undergoing urban renewal and intensification around the train station which has been highlighted as an area of Transport Orientated Development, however it is noted that the subject site appears to be an isolated site in comparison, which will be intensified as the surrounding lots will be unable to increase heights or floor area due to the heritage restrictions. This will result in the proposed development being a tall and bulky development in comparison to the character of the street and area. It is considered that the development is not compatible with the surrounding development.

The Planning Principle, Project Venture Developments Pty Ltd v Pittwater Council 2005, provides a clear assessment path to determine whether a development is compatible with the surrounding development. The Principle establishes the following two questions to be answered to determine whether a proposal is compatible with its context:

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

An assessment against the planning principle follows:

1. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The proposed development seeks the maximum allowable FSR and height of building limit (noting that the development exceeds the maximum height of building limit for the site). The development also results in substantial impacts on the amenity of surrounding properties as well as traffic and parking issues for the area. It is considered that the development will also result in impacts for future development for the area, with the

The proposed development has non-compliant front setbacks of Annette Street and non-compliances relating to the visual bulk and scale of the development. The development also provides a large blank wall fronting 3 Annette Street. It is considered that the physical impacts are substantial considered the existing development along Annette Street, particularly those utilising the right of carriageway access. The physical impacts of the development on the surrounding buildings are considered to be unacceptable and damaging to the amenity of adjoining residences.

2. Is the proposal's appearance in harmony with the buildings around it and the character of the street?

The proposed development is an eight storey residential flat development consisting of three individual towers with a common basement parking area. The development is considered extremely out of character with the low density character of the area. It is noted that the site is in close proximity to a number of heritage items and within the heritage conservation area and appears to disregard any heritage aspects of the area with the approach to the design of the building. It is noted that a development with a reduced height and density with some incorporation of heritage styling would result in a better outcome for the harmony of the street. It is considered that the development is an overdevelopment of the site resulting in substantial visual impacts and view loss on the adjoining property and is considered to not be in accordance with the character of the area.

4.6 Design Principles

The development is considered to be non compliant with the design principles outlined in Schedule 9 of the housing SEPP. It is considered that the development is out of character for the immediate area, considering the heritage nature of the area and the heritage conservation area, and is a substantial overdevelopment of the site in the context of the area. The development should be redesigned to provide a better relationship to the heritage conservation area and low density character of the area, noting that due to the heritage impacts of the area, it will likely be the only residential flat building within the immediate

locality. It is considered that a more appropriate design should be presented to reduce overall impacts and keep within the context of the area.

4.7 Visual Privacy

The proposed development is considered to result in visual privacy impacts due to the location of windows and balconies fronting the adjoining neighbouring properties. In particular it is noted that the eastern façade of the development provides windows and balconies that will look directly into 27 McIntosh Street and the western façade looking directly into 51A Werona Avenue, with minimal to no mitigation measures.

Meriton V Sydney City Council [2004] NSWLEC 313 as follows:

The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.

In the case of the proposed development, the site is located in a R2 zone with the surrounding development being low density residential dwellings in a heritage conservation area, the expectation of privacy within the area is considerably high.

Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)

The proposed development provides minimal setbacks as required under the DCP but positions windows and balconies to front the side and rear boundaries of the site. The result of this is direct and easy overlooking of neighbouring properties, beyond what is considered acceptable or manageable

The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.

The proposed development will result in substantial visual privacy impacts on the whole of each adjoining property with the overlooking occurring directly from living and balcony areas.



Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.

It is considered that the privacy impact occurs through poor design of the building as no visual privacy mitigation measures have been incorporated into the design of the development and the development is considered to be a overdevelopment of the site.

Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.

The development provides minimal mitigation measures.

Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.

The proposed development provides no visual privacy mitigation.

Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.

Landscaping is provided but is not considered to result in much reduction in visual privacy impacts.

In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.

The larger area is undergoing change with higher density developments being permissible within the areas closer to the train station, however, as the area is a heritage conservation area, it is considered that the area is not undergoing change and is not intending the undergo change.

It is considered that the development as provided in the development application result in unacceptable privacy impacts when considered against the planning principle above and should be refused.

4.8 Traffic And Parking

The vehicular access to the proposed development is located off McIntosh Street with a 7.5m wide driveway being the only entry and exit point for the site. The driveway provides a single lane in and a single lane out for residents and visitors to the proposed building. The

site provides no external visitor parking, loading or trade parking areas with all traffic being required to enter and exit the site via the driveway with gated basement level parking area.

It is noted that the local street network currently experiences high levels of traffic and parking congestion, noting the current low density context of the area, which will be dramatically impacted as a result of the development. It is noted that the road only provides parking on the southern side of the street due to the narrowness of the road. It is considered that providing a large residential flat building within the street will result in a exponential increase in parking demands within the area and result in traffic impacts with residents turning into the subject site within an intersection.

It is considered that the substantial increase in density for the site is not appropriate for the local road and the context of the area and the development should be dramatically reduced to decrease the size of the development.

4.9 Overshadowing

The development is considered to result in substantial overshadowing of neighbouring properties beyond what is considered acceptable and appropriate considering the low density nature of the area.

The planning principle *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 provides that where “Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal’s design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.”

It is considered that the proposed development is a poor design in regard to overshadowing of the neighbouring property due to the lack of consideration in relation to the bulk and design of the development and excessive height, with particular note to a breach to the height of buildings development standard. It is considered that in the context of the area and what the local residents expect in regards to the size and scale of development, the proposed development result in an acceptable impact regarding overshadowing and visual bulk and scale. Where a smaller scale development were proposed that complied with the overall context of the area, with a stepped height design, the shadowing impacts would be mitigated.

The proposed development should be refused based on the extent of overshadowing resulting from the design of the development.

4.10 Visual Impact

The proposed development is considered to result in substantial adverse visual impacts when considered in context of the area. It is noted that the adjoining dwellings currently enjoy a positive outlook of the existing site and surrounds with no negative visual impacts as



a result of the low density nature of the area. The proposed development will result in an eight level residential flat building within close proximity to their boundaries and in the context of the low density nature of the area will have a more substantial impact than if the area was a higher density. The development is considered to result in substantial visual impacts to the adjoining residents as well as a resulting in an uncharacteristic visual impact on the heritage conservation area. The development is considered to be a visual scar on the locality and should not be supported.

4.11 Crime Risk

The proposed development seeks the increase of density of the site and is considered to result in an increased crime risk for the immediate area. It is noted that affordable housing is a good outcome for the area, but with that comes risk in regards to crime and antisocial behaviour. The adjoining residents raise a concern regarding the increased crime risk associated with the development.

The development is accompanied with a crime risk report which provides limited assessment of the development against the relevant safer by design principles. The report does not detail whether the author is qualified in CPTED assessment, but the details and assessment provided are considered not sufficient to make a determination as to whether the development has been designed to reduce crime.

4.12 Construction

The proposed development is considered to result in a large extent of cut and fill due to the excavated basement parking area. The residents raise the excessive excavation as a major concern for their residences with excavation to occur close to their boundaries. The excavation for a two level basement level is considered excessive and unnecessary for the site in the context of the area and with consideration to the desired character of the area. It is considered that the development also results in a substantial non-compliance in relation to the cut and fill.

It is considered that any demolition or construction on the site would result in vibration impacts on adjoining residences. It is therefore requested that a dilapidation report is provided for adjoining properties to ensure that the proposed demolition will not impact the sites. The dilapidation report should be provided prior to the commencement of works and a following report should be provided prior to the issue of any occupation certificate. The dilapidation reports should be undertaken by an independent qualified practicing professional and should document the property to identify if any excavation or building works result in any impact on the dwellings.

Additional concern is raised regarding the construction process including health concerns in relation to dust and noise. As mentioned above within this report, the area is a low density area with deep heritage roots and the development is considered to result in



unacceptable impacts that would otherwise be mitigated through a more thoughtful design for the locality.

4.13 Tree Removal

The proposed development involves the removal of a substantial number of trees on the site which is considered unacceptable. It is noted that the proposed development seeks consent for an increased number of trees to be planted on site, however it is considered that the removal of existing established trees and the inclusion of smaller, decorative trees will result in a reduction in overall landscaping for the site and surrounds. The large trees are a feature of the area and is considered a detriment for the locality to have them removed as a result of the development.

4.14 Proximity to Neighbouring Properties

The occupants of 51A Werona Avenue and 27 McIntosh street raise concerns regarding the close proximity of the proposed development to their properties. It is noted that both properties share a common boundary with the development with only a fence providing a buffer between their house and the future construction site and buildings. It is noted that the development provides a compliant setback arrangement as per the DCP standards, although it is questioned as whether this is sufficient as the DCP controls are assuming the development would be located within a higher density area where there is an assumption that high density development would occur. It is therefore questioned whether the development control for setbacks of residential flat buildings is sufficient for the context of the site and the low density nature of the area.

The occupants are concerned about the close proximity with the development resulting in substantial impacts to amenity and health impacts on their family and their dwellings. It is noted that the site, if approved, will be under construction for a prolonged period of time in comparison to a standard residential dwelling. This extended construction timeframe will result in privacy impacts, dust and noise impacts and construction management impacts with a deep concern that these impacts will be detrimental to their enjoyment of their dwelling.

It is noted that both properties were purchased for the low density nature and heritage aspects of the street with an assumption that noise and privacy will be maximised. The proposed development is considered out of context and the close proximity of the development will result in unacceptable impacts.

5 Conclusion

The adjoining residents are not anti-development and are only wanting to protect the amenity that they currently enjoy at their residence, as well as protect the value of any future development of their property. The proposed development as presented is considered to not comply with a variety of development controls and development standards, is not consistent with the heritage and low density character of the area and

results in substantial impacts on the adjoining property in terms of visual impact, visual privacy and overshadowing. It is considered that the development is an overdevelopment of the site. Due to the numerous issues with the development, it is considered that the state significant development should be refused.