



GFM Investment Group Pty Ltd ACN 609 143 035
as trustee for the GFM BTS Trust Subtrust No.2 ABN 49 455 142 442
Suite 2, Level 10, 255 George Street, Sydney NSW 2000

31 July 2024

John Martinez
Department of Planning, Housing and Infrastructure
Locked Bag 5022,
Parramatta NSW 2124

Dear John,

173-179 Walker Street and 11-17 Hampden Street, North Sydney SSD-67175465 | Public Exhibition Submission | Objection

This letter has been prepared by GFM Investment Group Pty Ltd ACN 609 143 035 in its capacity as trustee of the GFM BTS Trust Subtrust No.2 ABN 49 455 142 442 (**the Applicant**) with regard to the proposed residential development at 173-179 Walker Street and 11-17 Hampden Street, North Sydney (**the site**), which is currently on public exhibition until 1 August 2024. The Applicant has entered into contracts of sale with the landowners at 45 McLaren Street, North Sydney with settlement in September 2024.

This letter provides a formal objection to the State Significant Development Application (SSDA), referred to as SSD-67175465.

The SSDA consists of two residential flat buildings (1 x 30-storey building and 1 x 12 storey building) and an additional 4-storey communal facility building. The proposal is inclusive of a 30% Floor Space Ratio (FSR) and height increase as it provides 15% of the total GFA as affordable housing, as permissible under the State Environmental Planning Policy (Housing) 2021 (**Housing SEPP**).

In preparing this submission, the following documents have been reviewed:

- SSD-67175465 - 173-179 Walker Street and 11-17 Hampden Street (currently on exhibition)
 - Environmental Impact Statement (EIS)
 - Appendix H – Design Report
 - Appendix L – View and Visual Impact Assessment (VIA)
- DA197/2022 - 173-179 Walker Street and 11-17 Hampden Street DA (withdrawn)
 - Architectural Design Report
- North Sydney Development Control Plan 2013
- NSW Land and Environment Court's Planning Principles for view sharing

In reviewing the submitted documents, it is evident that the VIA assessment has not considered the approved development at 45 McLaren Street, to the immediate north-west of the site, on the opposite side of Walker Street.

45 McLaren Street has long been the subject of planning, with a Planning Proposal and LEP Amendment gazetted on 30 June 2023. This led to the lodgement of a development application to give effect to the Planning Proposal outcomes. That development application was approved on 19 June 2024. The development granted consent to the demolition of existing building works and construction of a 14-storey mixed-use residential building with 3 basement levels.

This submission has been prepared in direct response to impact of views to 45 McLaren Street and requests that the VIA be amended as outlined below, to appropriately assess the impacts on the approved development at 45 McLaren Street, North Sydney. It is not until these impacts have been properly assessed and considered, can an assessment of the environmental impacts be undertaken.

1. Assessment of Impacts on 45 McLaren Street Approved Development in Visual Impact Assessment

As illustrated in Figure 1 below, the VIA prepared by Ethos Urban, identifies buildings within the immediate visual catchment which may be impacted by the proposed development. It is evident that 45 McLaren Street has been omitted from the VIA assessment.

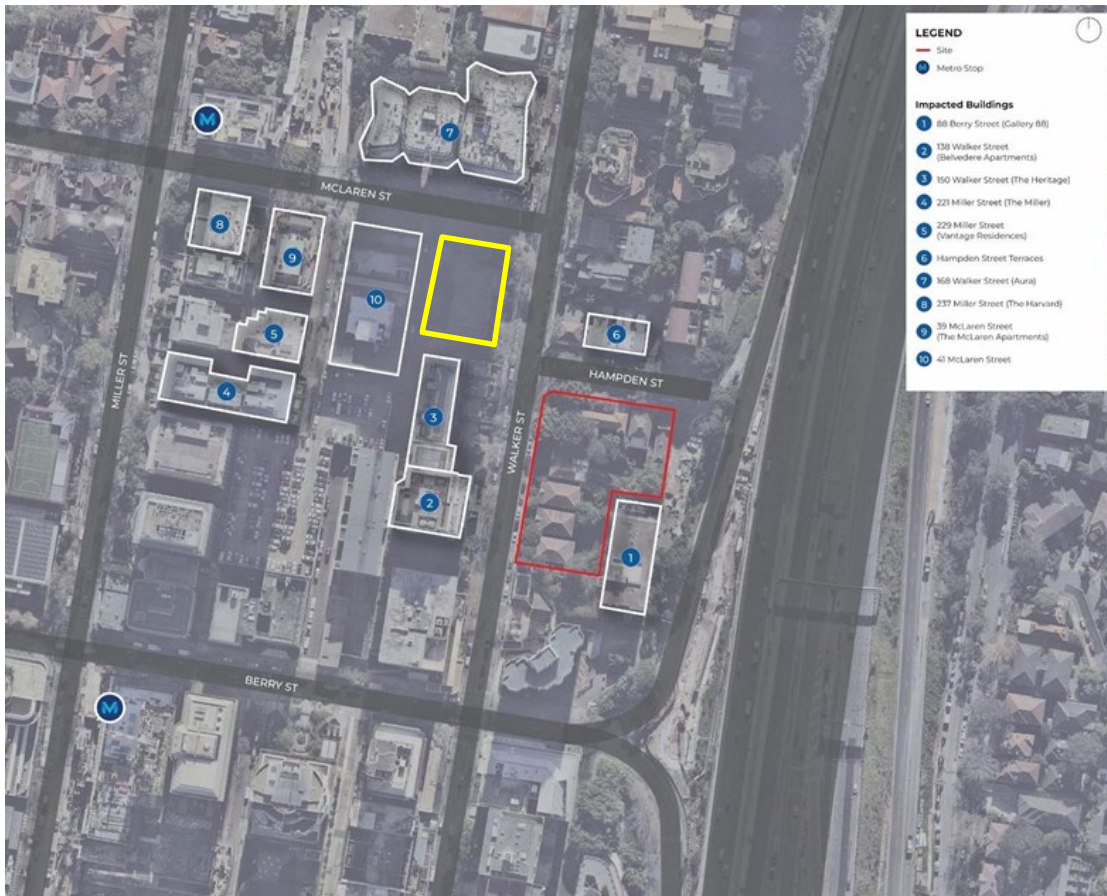
Whilst the current building on site is only 4 storeys, planning for the site at 45 McLaren Street has been ongoing and well documented. The submitted Urban Design Report includes the now approved building envelope for 45 McLaren Street, and thus it should have been considered in the VIA.

The SEARs issued for the proposed development required the following information to be provided in relation to Visual Impacts:

- *Provide a visual analysis of the development from key viewpoints, including photomontages or perspectives showing the proposed and **likely future development**.*
- *Where the visual analysis has identified potential for significant visual impact, provide a visual impact assessment that addresses the impacts of the development on the existing catchment.*

It appears that this was an error in the technical analysis of the VIA. Until such time that a VIA is undertaken, based on the stamped approved plans for 45 McLaren Street, an assessment of the visual impacts is unable to be undertaken.

Figure 1 Sites considered in the VIA (with 45 McLaren Street outlined in yellow)



Source: Ethos Urban

The lack of consideration not only undermines a proper assessment of environmental impacts as required for the EIS, but also makes it difficult for the Applicant to appropriately determine the visual impacts of the proposal on their property, its future residents and any potential economic impacts as a result of view loss.

Records of North Sydney Council's DA tracker would provide evidence that the 45 McLaren Street site should be recognised as "*future development*" in the VIA as the development application was determined on 19 June 2024, and the 173-179 Walker Street and 11-17 Hampden Street SSDA was lodged after this, with the Environmental Impact Assessment dated 21 June 2024.

The North Sydney LEP had also been amended at the time of lodgement the SSDA, following a planning proposal (PP-2022-1259) lodged for 45 McLaren Street which rezoned the site to allow for increased residential density.

Objection: The VIA is to be updated to include an assessment of the visual impacts on the approved development at 45 McLaren Street. This is to be based on actual approved RLs for the site.

2. Consideration of 30% uplift in Visual Impact Assessment

As previously mentioned, the proposal is subject to a 30% increase in FSR and height under the Housing SEPP due to its incorporation of affordable housing at 15% of its total GFA.

However, the Visual Impact Assessment prepared for the site fails to identify the proportion of the building subject to the uplift, and therefore it is difficult to determine the extent of the impact associated with the uplift. The 30% uplift is not a given and the extent of uplift must be assessed with regard to their impacts.

While a series of diagrams of the uplift are included in the Design Report, the report does not appropriately assess the impacts of this increase.

Objection: The VIA is to be amended to clearly highlight the difference between the ‘base’ controls and the 30% uplift so that the visual impacts associated with the uplift can be appropriately determined.

3. Alternative Design Outcome Resulting in Greater View Sharing

The NSW Land and Environment Court of NSW View Sharing Planning Principal [*Tenacity Consulting v Warringah Council*] sets out four key steps in assessing the impacts of the view sharing on neighbours.

These four key steps are identified as:

1. Assess the views to be affected.
2. Consider from what part of the property the views are obtained.
3. Assess the extent of impact.
4. Assess the reasonableness of the proposal that is causing the impact.

In relation to step 4, the Planning Principal states:

*“29 ... With a complying proposal, the question **should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.** If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

In reviewing the submitted VIA, there appears to be little to no analysis on whether a skilful design could provide the applicant with the same development potential and reduce the expected severe loss of views for neighbouring properties. A key requirement of the Planning Principle is to promote fair and equitable view sharing and alternative compliant envelopes are to be considered as part of this analysis.

Current SSDA Application (SSD-67175465) VS. Planning Proposal concept scheme

The site at 173-179 Walker Street was the subject of a Planning Proposal and LEP amendment. On review of the Department’s assessment of that Planning Proposal, 73% of the objections related to view loss (DPHI Response to Submissions Report). In response to this, the building envelope was refined, and the tower form was located in the northern corner.

For the purpose of view loss and view sharing, it is considered that the concept scheme that underpinned the former Planning Proposal went part way to consider the issue of view sharing. Any future development on the site should look to further reduce that impact, rather than exacerbate it.

When drawing comparisons between the Planning Proposal concept and the current SSDA application, it appears that the tower envelope that formed part of the Planning Proposal concept had a width of 30m (from north to south), comparative to the proposed tower width of approximately 38m. The enlarged tower floor plate directly reduces view sharing, resulting in the loss of views.

Former DA for the site (DA197/2022) VS. Current SSDA Application (SSD-67175465)

When comparing with the former DA for the site (DA197/2022), that tower form provided a greater degree of view sharing for those western and northern western properties and in particular, our development site.

We understand, the premise for preparing such building envelope was centred around the notion of view sharing and evoked a far greater level of view sharing.

This was achieved by creating a slender base and inverted tower form. It promoted improved view sharing and demonstrated a more reasonable outcome for the site.

When comparing the former building envelope with the current SSDA proposed envelope, it is evident that the view impacts are far more severe, whilst demonstrating, in line with the above Planning Principal that a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.

The proposed development has substantially greater bulk at the base and this is projected through the entire tower. Contrary to compliance with the ADG in regard to building separation, and the relevant site-specific DCP controls which were purposefully established to create view sharing opportunities through the site, the proposed development has reduced the building separation to 10.95m. The reduction in the building separation, coupled with the greater bulk in the tower form, is responsible for a greater degree of view loss.

An excerpt of the two buildings forms is provided in Figure 2 below, in which the proposed building form in Picture 2, is much bulkier in scale than the Former DA Design and will result in greater view loss, than what an alternative complying development would.

Figure 2 Comparison of Building Envelopes



Picture 1 Former DA Design

Source: *fjcstudio*



Picture 2 Current SSDA Design

Source: *Rothelowman*

It is evident by the above images, that the proposed development outcome has disregarded the notion of view sharing and failed to explore opportunities that would create equitable opportunities. In this

particular instance, a more skilful design would provide the applicant with the same development potential whilst reducing the impact on the views of neighbouring properties.

Objection: In accordance with the NSW Land and Environment Court view sharing Planning Principles, the VIA should demonstrate that an alternative complying development can be achieved, which would result in improved view sharing for surrounding sites. An assessment of the Current SSDA Application Design against the Planning Proposal concept scheme and Former DA Design should be undertaken to clearly identify the degree of additional view loss generated by the proposed development.

Conclusion

Thank you for the consideration of this submission on SSD-67175465 at 173-179 Walker Street and 11-17 Hampden Street.

We look forward to reviewing the VIA once this has been updated to provide a full and proper assessment of the approved development at 45 McLaren Street so that we can understand the impacts to our site, and if required, make a submission based upon the technical analysis undertaken.

At this stage, we are unable to understand the impacts given the omission of our site from the VIA.

Should you have any questions or comments regarding this letter, please do not hesitate to contact the undersigned.

Yours sincerely



Renato Calandro
Head of CASA