

**SSD-66826207 – Fiveways Site including affordable in fill housing.
Amended Application - Arising from Responses to Submissions.
Closing date for submissions: 30 September 2024 @ 5:00pm**

NSW Planning Portal:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mixed-use-development-including-fill-affordable-housing-five-ways-crows-nest>

Submission from: Wollstonecraft Precinct

Precinct objects to this amended application with reference to the amended Reports prepared by Gyde.com dated 12 September 2024:

Summary: Precinct lodged a submission on the original application which was exhibited from 10 May to 6 June 2024. The objections and comments of that submission remain valid. This submission refers to the amended report by addressing relevant parts.

The overriding impression from the amended report is that none of the community's objections have been properly addressed. The amended report focuses on five areas:

Affordable Housing provisions
Building Height
Common Open Space (within the development)
Cross Ventilation
Addition of escalators to the ground floor
Enhancement of the "Connection to Country" framework

Precinct comments on only the top four of the six areas:

Affordable Housing Provisions: Precinct has three issues with the provision of affordable housing on this site:

1. The Site is within the 2036 Plan area which has only recently (2020) been the subject of the government-led uplift of density to >14,000 population/sqkm. The ink is hardly dry on the few planning proposals that have led to amendments of the LEP.
2. The site is within the TOD Precinct Boundary that has been designated for further increased density and to accelerated development. The increased density will be >17,500 population/sqkm within the 2036 Plan area. There is insufficient other infrastructure to support 14,000 population/sqm let alone the spike resulting from the TOD and from this SSD Proposal.

Within that TOD area, the DPHI has selected six sites for uplift to provide 15% floor space for affordable apartments plus an equal 15% floor space for other

apartments, as a bonus for the developer. It states elsewhere within that boundary, there will be no opportunity for any further height uplifts, but all (other sic.) developments within the TOD precinct must contribute 10% -15% of apartments to affordable housing. This development is included in that boundary, yet it is permitted to continue with its SSD application. This is wrong.

3. The affordable housing in this SSD application has a sunset period of 15 years. All affordable housing should be provided in perpetuity, otherwise the stock of housing will decline rather than increase over time.

Building Height: Precinct objects to the Applicant's proposal to increase height above the maximum allowable under Clause 4.6 of the North Sydney LEP (2013)

Regarding this Clause 4.6 Variation request, the maximum height of the building (HOB) can be achieved by simply reducing the height of the Podium. The explanations and justifications offered by the Applicant to increase height purposely ignore the obvious solution. The Variation of Height Request is nothing more than a "try-on" and should be refused.

There are also other ways that HOB can be reduced:

- a) Provision of affordable housing within this development could be achieved by abandoning or refusing the SSD application and instead by applying the requirement for 10% -15% affordable housing as per the TOD program:
- b) If by some imperative, the DPHI decides to proceed with a form of SSD proposal, Precinct requests that the rules of the SEPP that stipulate allowable additional floor space and allowable additional height be relaxed so that the reference for each be calculated on the actual floor space applicable to the apartment towers and the actual height applicable to the apartment towers. These parameters were advocated in our submission lodged on 6 June. There would be a lesser number of affordable and marketable apartments, but that number would still be significant, given the already approved development. The relaxed height would also result in a lower podium height as per the reference proposal in the approved project.

Common Open Space: As stated above the COS as defined in the amended application is all related to and within the development. It has absolutely no meaning for the community whose main concern is the lack of community open (and recreational) space outside of the development. It is unreasonable to assume that the COS within the development will satisfy any of the requirements for recreational open space that up to 450 residents in this development will need as part of the broader community. This development will significantly contribute to density and that will require more open space in the 2036 Plan area. The requirement for additional open and recreational space has been identified within Precinct's submission on the Crows Nest TOD. The details are repeated below:

Open and Recreational Space: Amendments to the Design Guide and the Urban Design Report as recommended by North Sydney Council would include a plan for identifying and funding of social infrastructure including open and recreational space which is critically short already.

In this regard, the top priority is the visionary plan to develop Hume Street Park to its full potential of 8,500 sqm by relocating the child-minding centre and undergrounding the car park and basket-ball courts. It will be expensive but there is no alternative, and it is urgently needed. It is in a location that is protected from excess overshadowing of the tall buildings and will support a grassed area. It is the most suitable location and of a size that is needed.

The second priority is funding for the redevelopment of the Holtermann Street carpark which was included in the 2036 Plan but apart from the design cost was not funded. We are aware that the estimated cost is about double the mooted promised cost proposed by the government.

*The TOD has identified a private car park in Sinclair Street as a potential park. The plan is to incentivise the owner with extra height for affordable housing so that this land becomes public open space. Once again: **no cost to government**. However, the owner is already fighting for extra height in the Land and Environment Court to build only 3 BR large floor area apartments. This site is seen as very problematic given the need for vehicle access for underground parking and waste removal. The incentivised height would also result in overshadowing making it unsuitable as a proper park.*

Road Closures: Precinct has proposed to Council that part of Willoughby Road be closed to vehicular traffic between Clarke Street and Albany Street to pedestrianise and provide more public open space free of buses. The government has been recently suggesting this idea to local government to improve amenity and add open space. Surprisingly, this idea didn't get a mention in the TOD. It should be supported and funded.

Cross ventilation: The proposal to connect all apartment common ceiling plenums on each floor (up to level 9) with one duct to provide fresh air would result in noise and voice transmission and a means for pest infestation. It could also be a problem for fire safety. This inadequacy is a band-aid for inadequate design and is potentially unsafe. It needs to be peer reviewed.

Response to Submissions (RtS) Report: The analysis of submissions is weighted towards favourable comments about the low number (7) of supportive submissions but ignores the poor quality of those submissions, the majority of which are one sentence or paragraph and devoid of substance. Four submissions are from suburbs where residents will not be impacted by the proposal. By comparison, even though Precinct objects to the application it supports the provision of new housing supply and to the supply of affordable housing. Precinct's objection is the increase in height as compared to the approved proposal and offers comments/suggestion with three options as to how the excess over-development could be reduced to an acceptable lower level.

Properly done, the RtS should say that there was overwhelming objection to the application as measured by both number and by quality of objections and with valid reasons. This is also supported by the brief paid survey containing leading questions, carried out by a consultant which hand delivered a survey questions to properties close to the site but ignored Wollstonecraft Precinct which has the most exposure on the western side of the Pacific Highway and which has been prominent in its submissions on this project since conception.

2.4 Categorising Issues: This is a long list of the issues, some of which were raised by the DPHI. It is noted that the DPHI at this stage is adopting a neutral position yet insisting on clarification of features that meet their planning controls. It is as if they are acting as both the customer and umpire. We understand that the Independent Planning Commission (IPC) is the Consent Authority. Clarification is requested.

3 Actions taken since Exhibition:

3.1 Project Refinement: The Applicant has conducted a review of the project's Height (HOB), Common Open Space, Parking provisions and Signage.

HOB has been increased but this is unnecessary given the excessive height of the Podium which can readily be decreased to what it was in the approved project. The persistence of this request shows that the Applicant wishes to have its cake and eat it too. The request under Clause 4.6 under the NSLEP 2013 for Variation of HOB should be refused.

The amendments to the COS are noted and we make no further comment.

Parking provisions are noted to have not changed from the 190 requested for all housing in the original Application and is unchanged otherwise, meaning that a total 328 car spaces are requested for the whole project. We restate our objection to this unsustainable number of car parking spaces. The NSDCP in relation to car parking for new high-rise developments in close proximity to the Metro must apply. It is noted that the Applicant has obtained a marketing proposal detailed in Appendix 14. The thrust of this report is to get around the proven strategy that reduced parking leads to reduced congestion. We fully support Council's DCP in this regard as we did when it was recently updated as a result of a majority resolution by the elected body.

3.3 Review and Analysis of Submissions: We note that a meeting involving the Applicant, the Applicant's Architect and Consultants and the DPHI was convened on 2 July 2024 to review and analyse all submissions. That collaborate approach is reported to have informed the project's refinement, ensuring that the community's feedback is incorporated into the final design. We note that so far, the HOB and Car parking provisions as requested by the submissions have been ignored. We also note that North Sydney Council was not included in this review and analysis which raises the question how the community's feedback will be incorporated into the final design?

3.4 Instruction to Technical consultants: Three areas are mentioned, one of which is parking feasibility for retail and commercial spaces. Apart from spaces for delivery vehicles and emergencies, there is no valid reason why the NSDCP for this requirement should be amended. For example, shop assistants in the city travel to work by public transport and shoppers do not take their vehicle into the City to shop. This SSD project deserves no special treatment.

3.5 Further Community Engagement: This statement is repetitive. A low impact survey was carried out but it was limited by its coverage of interested and affected parties. We covered this aspect in our comment above headed Response to Submissions (RtS) Report :

“Properly done, the RtS should say that there was overwhelming objection to the application as measured by number of objections and by valid reasons. This is also supported by the brief paid survey carried out by a consultant which hand delivered a survey of questions to properties close to the site but ignored Wollstonecraft Precinct which has the most exposure on the western side of the Pacific Highway and which has been prominent in its submissions on this project since conception”.

4.1 Response to Community Concerns:

Height: The height of the building (HOB) has been dealt with in previous commentary above. No amount of argument can prove that the building height can not be controlled within the maximum height calculated using the formula of 1.3 times the approved height of 58.5m by simply reducing the height of the podium to that shown in the reference design submitted with the approved proposal. QED.

Density: Precinct has demonstrated above that density of the proposed design with 188 apartments and an estimated 450 residents will be a significant increase when compared to the reference design in the approved project having 129 apartments. We have offered three alternatives for consideration by DPHI anyone of which if accepted, would reduce the number of persons and car parking spaces that together lead to congestion.

Traffic: The further analysis to which you refer is not credible and proves that paper studies are no match for experience. Alexander Street has two lanes not three. The intersection from Alexander Street allows left turn, straight ahead and right turn. Currently the traffic entering and leaving the Site is very low. In weekday peak hour and on weekends the intersection is blocked by traffic turning right and by traffic turning left. If DPHI were to allow 7 levels of basement parking and the requested number of car parking spaces, traffic will be exacerbated and further, by those vehicles exiting the car park that wish to turn right. You acknowledge correctly that there is good public transport so why is it necessary to have 7 levels of basement parking. The analysis and argument for such huge numbers of car parking spaces doesn't stack up.

Overshadowing: The approved design is bad enough for overshadowing and now the Applicant, supported by DPHI it seems, are attempting to justify the extra height of more

than 12 metres is insignificant and doesn't matter. In winter, every bit of sunlight is like 'gold' to residents, but it is treated as if a small increment and should be of no concern. This is one reason why Precinct and North Sydney Council, wants the development to be as low as possible and in this submission has offered ways that height (and shadowing) can be reduced. Residents on the western side of the Pacific Highway are very concerned about this issue and with the impact of sight lines of the massive tower. There is also the audacious statement that the tower is "slim" and the shadows will move quickly. This statement is not supported by fact.

Visual Impact: This comment is related to the advertising sign which has been deferred for later application in a DA process. The advertising sign should in no way impact on the HOB. It is a matter of visual impact which as was presented in the original proposal was hideous and unacceptable.

Public Open Space Deficiency: The Common Open Space as provided on the roof of the podium is acknowledged but this is normal for apartment developments of similar dimensions. It is no substitute for playing fields and for open space elsewhere. The 450 residents of the development won't reduce demand on public space that is classified as essential infrastructure available to all.

The comment about development contributions to Council shows no appreciation of the amount of money needed to service public amenity and that expansion requires additional money from other sources such as grants from government.

Prior to the recent government intervention to increase allowable height in the 2036 Plan and more recently, rezoning as per the TOD, Council had the ability to negotiate with developers for voluntary planning contributions towards the provision of new infrastructure. Now, that option has been eliminated and all infrastructure contributions go to government. The hybrid provisions of North Sydney Council will not come close to enough to provide the quantum and quality of open space and social infrastructure necessary to meet the demands of an additional 32,000 persons in St Leonards Crows Nest.

The comment is primarily directed to DPHI to raise within government that development of this scale needs more money to provide Social Infrastructure of which Open Space is one requirement.

4.3 Response to North Sydney Council: There are many valid arguments offered by NS Council including:

Podium Height. This is also a major concern for the community and Precinct because it increases height without any authority to do so. Furthermore, it is higher than the approved design which should be the deciding factor.

The response in relation to Heritage impact and the project's sympathy with the nearby Heritage items is quite extraordinary. No matter how the impact is described it is not sympathetic in the slightest to those heritage items.

Through-site Links. Council is not satisfied with the proposed design and recommends amendment to comply with the NSLEP DCP. The Applicant thinks otherwise. Like all comments or objections apart from the advertising sign, the Applicant has no appetite to change or consider alternatives. Regrettably, the DPHI is showing no sympathy for public comment either.

5 Updated Project Justification: From a community standpoint the project was justified in accordance with the 2036 Plan after a lengthy negotiation with Council and review by the Dept of Planning that imposed uplift on this site that Council had in its Civic Study, suitable for 8 storeys.

Its sole justification now is by a further imposition of additional height to accommodate even more housing (in this case affordable). 10% to 15% of the housing that if provided within the approved project (129 apartments) could have been imposed on the developer. It is now overdeveloped and unwarranted on the basis of poor planning that impacts many residents who already have lost value in their homes and will lose views, sunlight and amenity.

7. Conclusion: The amended design does not comply with the maximum allowable height which can be achieved by reducing the height of the podium. Neither has it addressed community concerns. This is evidenced by an attitude of reliance on the compliance with SEPP and other controls and no consideration of accommodation of reasonable criticism, particularly about overshadowing and vision impact.

The Applicant has introduced elsewhere in the RtS, commentary reportedly from the Government Architect that was never made public. It suggests that the site could accommodate 35 storeys and would be a “marker” as a gateway to Crows Nest Village. The advice provided on a confidential basis to the dept of planning, resulted in 16 storeys in the draft and final Plan. We do not need, nor do we want such height and bulk and scale nor a “marker” to introduce the Village.

The consent authority is reported to be the Independent Planning Commission. Given the size and bulk of the proposed development we request that the IPC conducts a public hearing to determine if it is overdevelopment and if the scope can be reduced to include 10% - 15% affordable housing within the already approved envelope of the approved project or alternatively, with a much lesser aggressive approach to height.

Wollstonecraft Precinct
28 September 2024

