



PLANNING AND INFRASTRUCTURE

Planning Unit

6 March 2025

Director Housing Delivery
Housing Supply and Infrastructure
Department of Planning, Housing and Infrastructure
Locked Bag 5022,
Parramatta NSW 2124
Att: Adela Murimba

Dear Adela,

Re: State Significant Development Application Number SSD-75408008
Mixed-use development with in-fill affordable housing
44 – 52 Anderson Street, Chatswood

I am writing to you regarding the State Significant Development Application Number SSD-75408008 at 44 – 52 Anderson Street, Chatswood.

The project is a State Significant Development (SSD) pursuant to Section 26A of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP). The SSDA seeks to use infill affordable housing incentives inserted into the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in December 2023, enabling the maximum permissible floor space ratio and building height under *Willoughby Local Environmental Plan* (WLEP 2012) to be increased by 30% if the affordable housing component is at least 15% of the gross floor area (GFA) of the development.

The SSDA includes:

- Shop top development, comprising a two storey podium and two towers:
 - South tower: 32 storeys above podium (117m, RL 217.7m).
 - North tower: 30 storeys above podium (110.7m, RL 210.9m)
- Floor space ratio of 7.8:1
- A total Gross Floor Area of 20,959m² involving:
 - Residential: 18, 218m² including:
 - 3,872.6m² of infill affordable housing (18%) for 15 years and
 - 728.7m² of WLWP 2012 Clause 6.8 affordable housing (4%) in perpetuity.
 - Non-residential: 2,741m² (13%)
- 123 residential apartments, including 36 in-fill affordable housing units.
- 296 car parking spaces in basement levels accessed via Day Street.
- Loading within basement levels accessed via Day Street.

Council retains a number of reservations with respect to the infill affordable housing incentives inserted into the Housing SEPP in December 2023 and their applicability to the Chatswood CBD, noting the significant housing provided in the *Chatswood CBD Planning and Urban Design Strategy 2036* (the CBD Strategy) which became part of WLEP 2012 Amendment 34 (30 June 2023); notwithstanding, the concerns provided in this letter and attachments respond to the SEPP that is now in force.

The Council submission is provided at **Attachment 1** and is summarised as follows:

1. Engagement prior to SSDA lodgement

This exhibition represents the first comprehensive review opportunity for Council.

2. Consistency with Housing SEPP

Having regard to the *In-fill Affordable Housing Practice Note*, December 2023, it is noted that in-fill affordable housing bonuses do not override any LEP height control.

Council seeks for the proposal on this site to have appropriate regard to the location on the boundary of the Chatswood CBD, opposite the low density residential North Chatswood Conservation Area. The impact on adjoining land (and the other side of Anderson Street) is considered excessive, taking into account the building's height, scale and bulk. Particular regard is drawn to the expectations of the CBD Strategy and Willoughby Development Control Plan (WDCP) and the site specific section on 44-52 Anderson Street.

3. Site Location on edge of Chatswood CBD

Redevelopment on this site should have appropriate regard to the location of 44-52 Anderson Street within the Chatswood CBD. The location of this site on the edge of the Chatswood CBD, opposite the residential low density North Chatswood Conservation Area to the east, and the publicly accessible pathway and landscaped area to the west, requires an appropriately sensitive redevelopment response.

4. Recent site history

Regard should be made to the Planning Proposal on 44-52 Anderson Street that was supported by Council in June 2022 and made and notified on the NSW legislation website on 29 July 2022, and the accompanying site specific development control plan now incorporated into WDCP, Part L: Place Based Plans, Section 13.1.10 (Refer to **Attachment 2**).

Following on from DA-2023/219 for early works (approved) and DA-2023/172 for construction of a 26 storey mixed use development (refused by the Sydney North Planning Panel on 20 September 2024), the subject SSDA is a new application on this site (SEARs requested 2 September 2024). However, there are points in the previous Refusal of Development Application DA-2023/172 that should be noted in the assessment of the SSDA, with particular regard to the proposal not being in the public interest in its current form.

5. Design excellence

Noting the role of the design excellence process, Council officers request that appropriate regard be given by the consent authority (DPHI) to the issues raised in this submission.

The Design Excellence Competition Report states that the proposal has the potential to achieve design excellence. However, the design excellence process

does not comprise of a fulsome assessment against the planning controls and does not presuppose that the application warrants approval.

Subsequent to the design excellence competition, a comprehensive assessment has been undertaken having regard to the CBD Strategy, WLEP and WDCP (Part L: Place Based Plans, Section 13.1.10), covering issues including height on the CBD boundary, non-residential floor space, car parking rates, ground level setbacks and public domain embellishment, podium street wall heights, tower setbacks, access for service vehicles to basement level, as well as other open space, engineering and waste matters. Amendments are requested as discussed in this submission, as well as the provision of additional information.

6. Amendments required for development to be in the public interest

a) Height on CBD boundary

A height of 117 and 110m for the two towers was not anticipated for this location and represents a departure from recent DPHI direction (approximately 5 years ago during consideration of the CBD Strategy), where the height on this section of Anderson Street was supported at 90m (from 12m, resulting in a 750% increase). In accordance with the *In-fill Affordable Housing Practice Note*, December 2023 (p.13):

The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement.

A nuanced approach to the Housing SEPP 30% bonus uplift is sought, with the proposed additional 27m height in this location considered inappropriate based on bulk and scale impacts on the CBD boundary to the adjacent low density residential conservation area, and undermines recent strategic planning and community faith in the NSW planning system. Unlike other centres, the heights in this location have recently been substantially increased (30 June 2023), indeed maximised. Council does not support any further increase in height above the existing height controls.

b) Non-residential floor space

In Council's view it is considered that consistency with the WLEP 2012 Clause 6.25, 17% non-residential minimum floor space requirement, is entirely achievable noting that Council planning controls are accepting of non-residential land uses within a tower form.

The 17% requirement and the desired mix is based on the floor space provided on a site.

The SSDA is requested to be amended to comply with this standard requirement.

c) Car parking rates

Council seeks an approach to car parking in the Chatswood CBD consistent with the significant and highly successful investment in Metro, rather than the approach that applies across NSW and outside metropolitan Sydney railway / transport precincts.

It is requested that in considering this SSDA, emphasis be placed on the applicable planning document providing the lowest rate for car parking in the Chatswood CBD railway precinct (which would be the WDCP, Part F: Transport and Parking Management). Strategic planning and traffic modelling for the Chatswood CBD relies on the enforcement of low parking rates to ensure model shift and to maximise state government investment in the Chatswood Metro and other transport infrastructure.

The SSDA exceeds Council's car parking requirement by approximately 218 car spaces (based on Council's maximum rate), noting that this does not yet include non-residential spaces. The SSDA is requested to be amended to have car parking consistent with WDCP car parking rates.

d) Proponent's response to built form, massing, setbacks and street wall heights

The SSDA seeks variation to Council's CBD Strategy and WDCP, Part L: Place Based Plans, Section 13.1.10, regarding the subject site.

The merits of compliance with Council's CBD Strategy and WDCP are addressed in a discussion of ground level setbacks and public domain embellishment, podium street wall heights and tower setbacks.

e) Ground level setbacks and public domain embellishment

The SSDA is requested to be amended to show:

- Confirmation of the ground level areas to be subject to public rights of way,
- No basement intrusion into the Anderson Street 4m setback (noting that 2m of the 6m total is proposed as paved),
- The 2m setback on the western boundary landscaped and integrated with the adjacent public domain and the restoration of the expected setback to O'Brien Street as per the WDCP.

f) Podium street wall heights

Podium street wall heights are sought that have greater sympathy to the location, having particular regard to the low density residential North Chatswood Conservation Area to the east and the publicly accessible pathway and landscaped area to the west. An appropriate response is outlined in the site specific WDCP.

g) Tower setbacks

Having regard to the sensitive site location, tower setbacks should be provided consistent with the site specific DCP to ensure a slender tower form.

7. Affordable housing

It is Council's preference that built affordable housing units be provided to Council in perpetuity.

The infill affordable housing bonuses were not intended to replace existing affordable housing requirements and this was clearly communicated throughout the exhibition and finalisation of the SEPP.

The SSDA should satisfactorily address s 7.32 (3) (a) of the *Environmental Planning and Assessment Act 1979* and s 15 of the SEPP (Housing) 2021, and s 7.32 (1) and (3) (c) of the *Environmental Planning and Assessment Act 1979*, in regards the affordable housing proposed (both in regards WLEP 2012 and the SEPP). This information should be submitted as part of this SSDA.

Having regard to any final decision on this matter, affordable housing conditions are provided at **Attachment 3**.

8. Infrastructure

This site was rezoned with an associated voluntary planning agreement put in place to ensure that the local infrastructure required to support the future residents of the site can be adequately serviced. It is critical that this approval retains the agreed infrastructure contributions under the voluntary planning agreement.

9. Requested further amendments or information

The attached submission includes comments requesting amendments and or/further information pertaining to Anderson Street public domain, open space, engineering and waste matters.

Should you have any question in regards this letter and **Attachment 1**, or any of the other attachments, please contact Craig O'Brien – Acting Team Leader Strategic Planning on (02) 9777 7647.

Yours sincerely,



Dyalan Govender
Acting Head of Planning