



PLANNING AND INFRASTRUCTURE

Planning Unit

24 March 2025

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

Dear Adela,

Re: State Significant Development Application Number SSD-74439970
Mixed-use development with in-fill affordable housing
5-9 Gordon Avenue, Chatswood

I am writing to you regarding the State Significant Development Application Number SSD-74439970 at 5-9 Gordon Avenue, 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 33 storey tower (116.7m, RL 214.9m)
- Floor space ratio of 7.79:1
- A total Gross Floor Area of 11,863.7m² involving:
 - Residential: 10,306.0m²
 - Commercial: 1,557.7m²
- 86.9% residential floor space, 13.1% non-residential floorspace
- 91 residential apartments, including 24 in-fill affordable housing units.
- 121 car parking spaces in basement levels accessed via Hammond Lane.
- Loading within Ground level accessed via Hammond Lane.

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 regarding the subject SSDA.

2. Consistency with Housing SEPP

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

The in-fill affordable housing bonuses should not be treated as an entitlement. DAs that propose in-fill affordable housing will be subject to merit assessment by the consent authority.

Council seeks for any proposal on this site to have appropriate regard to the location within the southern extension of the Chatswood CBD, the site specific DCP in WDCP Part L: Placed Based Plans (refer to **Attachment 2**) and other relevant provisions of the WDCP with particular regard to car parking.

3. Site location in southern extension of Chatswood CBD

Density on this site should reflect what has been planned for the southern CBD extension, noting the constrained road network. With the Pacific Highway to the west, the North Shore Rail Line to the east, and no north / south road options, the traffic largely is heavily reliant on Gordon Avenue and Nelson Street to enter and leave the area. In regards to the subject site, all vehicle access and egress is via Hammond Lane, Gordon Avenue and the Pacific Highway.

In addition, the location of this site, particularly with respect to the residential low density South Chatswood Conservation Area directly adjacent, requires an appropriately sensitive redevelopment response in regards to its presentation to the east.

4. Recent site history

Following on from DA-2023/170, the subject SSDA is a new application on this site and requires a fresh and detailed assessment. Regard should be made to the established controls including WLEP 2012, the site specific development control plan and other relevant sections of WDCP.

5. Design excellence

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 detailed assessment against the planning controls and does not presuppose that the application warrants approval. Noting the specific role of the design excellence process, Council officers request that appropriate regard be given by the consent authority (DPHI) to the planning issues raised in this submission.

Subsequent to the design excellence competition, a comprehensive assessment has been undertaken having regard to the CBD Strategy, WLEP, site specific and other relevant sections of WDCP, covering issues including height on the CBD boundary, non-residential floor space, car parking rates, setbacks and public

domain embellishment, greening of the site, deep soil planting and loading / unloading. Additional information and amendments are requested, as discussed in the attached submission.

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

a) Height on CBD boundary

A height of 116.7 was not anticipated for this location and represents a departure from recent DPHI direction, where the height for the extended southern section of the Chatswood CBD was generally supported at 90m, transitioning down towards low density residential conservation areas. The establishment of the 90m height control on this site, under Amendment 34 dated 30 June 2023, represented a 750% increase above the previous WLEP 2012 12m height maximum.

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.

The proposed additional 26.7m height in this location considered inappropriate due to the impacts on the CBD boundary close to the adjacent low density residential conservation area. The proposed increase in height undermines recent strategic planning and community faith in the NSW planning system. Council does not support any further increase in height above the existing height controls in this location above 90m.

b) Non-residential floor space

The SSDA proposes 86.9% residential floor space and 13.1% non-residential floorspace over the whole proposed development. This is not consistent with the land use mix Council has planned for the MU1 zone within the Chatswood CBD. In Council's view it is consistency with the WLEP 2012 Clause 6.25, 17% non-residential minimum floor space requirement is entirely achievable, noting that Council planning controls permit non-residential land uses within the tower form, not just in the podium.

The SSDA is requested to be amended to comply with this requirement, which is critical to ensuring the precinct meets its employment targets and continues to function as a mixed use centre.

c) Car parking rates and loading / unloading

Inconsistencies have been found in regards the Mecone Environmental Impact Statement and the Varga Traffic and Parking Assessment – refer to **Attachment 1** discussion. Consistent documentation should be provided.

Notwithstanding the inconsistencies, there is a substantial higher car parking total proposed by the proponent when compared to the Council total consistent with the maximum DCP rate. The SSDA exceeds Council's car parking requirement by either 59 or 56 car spaces (based on Council's WDCP maximum rate).

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). 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 is requested to be amended to have car parking consistent with WDCP railway precinct car parking rates.

Concerns are also raised in regards the ability of the proposed loading solution to accommodate a 10.5m garbage truck. This is discussed further under Engineering comments, with amendments required.

d) Greening of the site at ground level

Concern is raised with the lack of greening to Gordon Avenue and Hammond Lane, and the minimal deep soil planting to the rear setback. The greening of the site is addressed in f) Ground level setbacks, public domain and public benefit, g) Deep soil planting and in 9. a) Landscaping comments.

e) Ground level setbacks, public domain and public benefit

An examination of the SSDA plans reveal inconsistencies. These plans should be consistent, having regard to the amendments below, which are based on the site specific DCP and WDCP.

The SSDA is requested to be amended to show:

- Confirmation of the ground level areas to be subject to public rights of way.
- Areas subject to public rights of way are to be free of obstruction, with the only exceptions being green planting and reasonable / minimised paved areas or steps to access the site and development.
- Outdoor dining is to be removed from the 3m Hammond Lane setback.
- In regards the Gordon Avenue setback, stairs are to be minimised (narrowed) and utilities relocated out of the setback and integrated with the building (with their presence within the frontage visually minimised).
- Outside the site, in regards the Gordon Avenue verge treatment, the paving both at the eastern end of the Gordon Avenue frontage as well as the western end adjacent Hammond Lane is required to be removed and returned to soft landscaping.
- In regards the Hammond Lane setback, a minimum green planting width of 1m is required by Council, leaving 2m width for pedestrian movement.

f) Deep soil planting

Basements are to be set back from the Gordon Avenue and Hammond Lane corner to allow for deep soil planting and at least one canopy tree. The geometry of the

site allows for this opportunity to provide and achieve a meaningful green presence at ground level.

Council seeks deep soil planting in the setbacks to Gordon Avenue and the rear setback to the Chatswood Bowling Club, in consistency with the CBD Strategy and site specific WDCP. Noting that loading / unloading is proposed at ground level it is unclear why deep soil planting has not been proposed in these setbacks.

g) Tower setbacks

Encroachments into tower setbacks at significant heights are not encouraged by Council. Variation to architectural form should not be at the expense of setbacks.

7. Affordable housing

The SSDA submitted addresses the issue of affordable housing by:

- Utilising the Housing SEPP, to provide 15% affordable housing for a period of 15 years. After 15 years, these will no longer be affordable housing units and become available to the owner for market rent or sale.
- Providing 4% affordable housing contribution in accordance with WLEP 2012 Clause 6.8.

It is noted that a monetary contribution is proposed.

Built affordable housing contributions required under WLEP 2012 are provided to Council in perpetuity. The proponent is requested to provide affordable housing in this manner. Any temporary Affordable Housing provided for the purposes of the SEPP bonus provisions, should be in addition to the Affordable Housing contributions required under Council's LEP.

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).

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

8. Infrastructure provision

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.

Having regard to any final decision on this matter, standard VPA, s7.11 and s7.12 conditions are provided at **Attachment 3**.

9. Public art

In Council's view, the public art proposed in the SSDA (a leaf motif at the top of the tower) serves as aesthetic building identification rather than representing public art. No public art contribution is proposed, Council is seeking a public art component consistent with the Willoughby Public Art Policy, noting that it would be Council's decision whether any public art contribution would be appropriate on-site or whether a contribution towards another location would be of greater public benefit. This decision would be made having regard to the details of any offer made.

10. Building Sustainability

The SSDA is proposing a 4 Star Green Star Rating.
The site specific DCP for 5-9 Gordon Avenue states:

A minimum of 5 stars GBCA building rating is expected. A higher rating is encouraged.

Council considers a 5 star GBCA rating or the equivalent the minimum sustainable building outcome on this site. If any approval is to be given regarding this SSDA, a condition should be included requiring a 5 star GBCA rating or the equivalent for the development.

11. Requested further amendments or information

The attached submission includes comments requesting amendments and or/further information pertaining to open space, engineering and waste matters. In particular amendments are required related to engineering comments. Conditions are provided at **Attachment 3**.

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