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20/05/2025

Project Reference: 2025020

Charbel Touma
Major Projects Assessment
NSW Department of Planning and Environment
4 Parramatta Square
12 Darcy Street,
PARRAMATTA NSW 2150

Dear Charbel,

SSD-78775458: 3-9 PARK AVENUE, GORDON

We refer to the above State Significant Development Application lodged with the NSW Department of Planning and Environment (**DPE**). Hamptons Property Services Pty Ltd (**Hamptons**) acts on behalf of the owners of 16 Park Avenue, Gordon (Figure 1), which is located to the north-east of 3-9 Park Avenue (**site**).

Figure 1: 16 Park Avenue, Gordon (Source: Supplied by owner)



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Summary

This submission is made on the premise that the owners acknowledge and accept the existence of relevant State Government policy, being State Environmental Planning Policy (**SEPP**) (Housing) that facilitates:

- opportunities for affordable housing to form part of residential development (Chapter 2),
- increased density in Transport-Oriented Development Areas (Chapter 5), and
- low and mid-rise housing under Chapter 6.

These endeavour to increase the supply of high and mid-rise residential development, including the provision of affordable housing.

This submission does not object to greater density around transport hubs (including the provision of affordable housing). However, objection is raised to the scale of development that does not have adequate regard for the existing character of the area (noting it is in transition), particularly, that it fails to consider the heritage attributes directly adjacent, and in the vicinity of, the site. The scale and form of future development should be more responsive to the domestic character in which the site is located, noting the aesthetic significance of dwellings in the heritage conservation area, including landscape character.

The Development Application

The Development Application (DA) has been lodged under Chapter 5 of the SEPP Housing and Chapter 2 for Infill Affordable Housing.

Under Chapter 5, the permitted maximum building height of 22m and floor space ratio of 2.5:1 is proposed.

In addition to this, the Infill provisions allow for additional building height to 28.6m and floor space to 3.25:1.

The proposal seeks consent for a building height of 31m and an FSR of 2.9:1. The proposal is non-compliant with the permitted building height and is subject to a Clause 4.6 variation request.

The Relevant Planning Controls

In the context of this submission, the following provisions are the most relevant, as set out below.

Chapter 2 Affordable Housing - Part 2 Development for affordable housing

20 Design requirements

Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with-

- (a) the desirable elements of the character of the local area, or
- (b) for precincts undergoing transition – the desired future character of the precinct.

Chapter 4 Design of residential apartment development

142 Aims

- (1) The aim of this chapter is to improve the design of residential apartment development in New South Wales for the following purposes— ...
- (c) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,

Schedule 9 Design principles for residential apartment development

1 Context and neighbourhood character

- 1) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.
- 2) Responding to context involves identifying the desirable elements of an area's existing or future character.
- 3) Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.
- 4) Consideration of local context is important for all sites, including sites in the following areas—
 - (a) established areas,
 - (b) areas undergoing change,
 - (c) areas identified for change

2 Built form and scale

- (1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

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Chapter 5 Transport oriented development

150 Aims

The aims of this chapter are as follows-

- (b) to deliver mid-rise residential buildings ... around rail and metro stations that:
 - (i) ...
 - (ii) are of appropriate bulk and scale, and

Heritage Attributes

As the Applicant's Heritage Impact Statement correctly identifies, the site is not listed as a heritage item, nor is it in a heritage conservation area. It is, however:

- directly adjacent to 11 Park Avenue, to the east
- diagonally opposite 12-14, 16 and 20-22 Park Avenue, all of which are listed as heritage items, and
- directly opposite the Gordondale Conservation Area.

The items are listed for their historical, associations, aesthetic, representative and social values and photos of these items are reproduced below¹ along with the heritage mapping.

¹ Heritage Impact Statement, Urbis, Page 28

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Figure 2 Heritage items adjacent and opposite the site



Figure 1 11 Park Avenue, Gordon

Source: *Realestate.com.au*



Figure 2 12-14 Park Avenue, Gordon

Source: *State Heritage Inventory, 2020*



16 Park Avenue, Gordon

Source: *Supplied by owner*

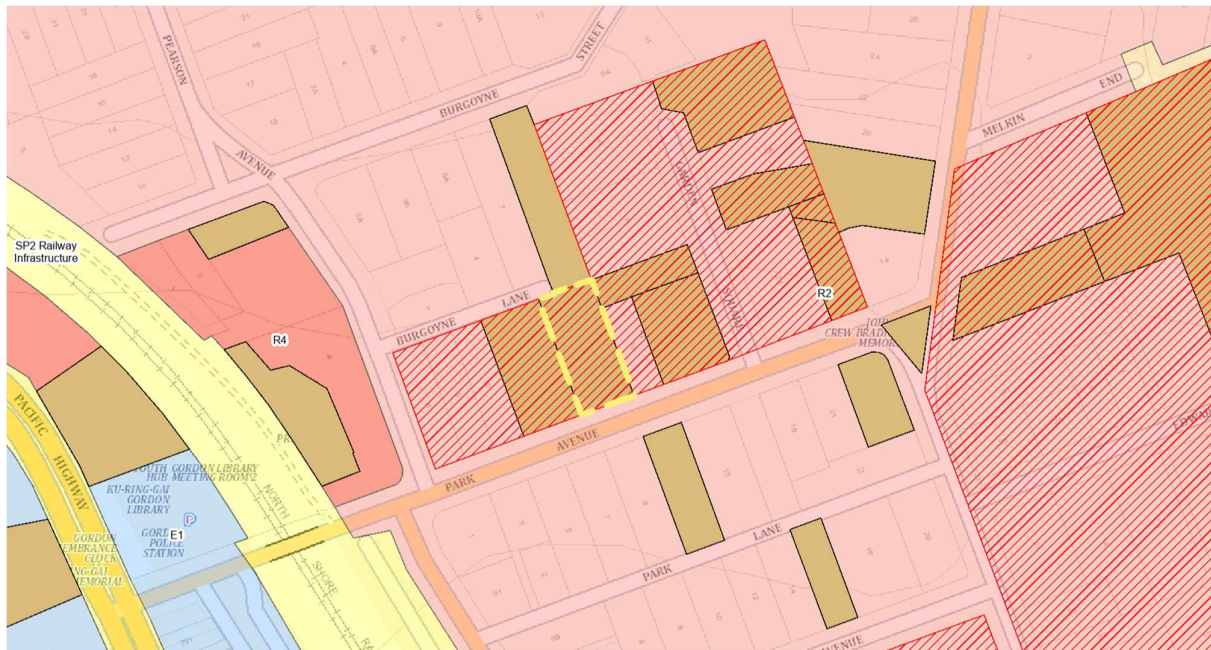


Figure 4 20-22 Park Avenue, Gordon

Source: *State Heritage Inventory, 2019*

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Figure 3 Heritage items adjacent and opposite the site and the Gordondale Heritage Conservation Area (Source: NSW Planning Portal)



The Statement of Significance for the Conservation Area² is reproduced below:

5.4.1.1. Gordondale Estate Conservation Area

Historically, the area represents the fine residential development of Gordon during the nineteenth and twentieth centuries. The area provides evidence of the 1823 land grant to Benjamin Clayton and the subsequent subdivision of this grant by the McIntosh family in the 1880s. This subdivision demonstrates the development resulting from the construction of the North Shore rail line at the end of the nineteenth century. It has historic significance as an overlay inter-war subdivision of the 1922 Garden Square Estate.

The area retains a grouping of mostly intact houses from the Federation to inter-war period. The houses and heritage items within the conservation area are of high quality exhibiting fine detailing and quality workmanship. The conservation area has aesthetic significance as an intact and consistent late nineteenth century development. The 1922 Garden Square Precinct has aesthetic significance as an inter-war overlay. The area is of aesthetic significance for the high proportion of quality houses.

The area is of local heritage significance in terms of its historical and aesthetic value. This satisfies two of the Heritage Council criteria of local heritage significance for local listing.

² Heritage Impact Statement, Urbis, Page 30

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The importance of both these items and the conservation area cannot be discounted in the context of their value to the heritage of both Gordon, specifically, and Ku-Ring-Gai as a whole, just because the higher density provisions under the SEPP (Housing) have come into effect. The specific controls set out above demonstrate that existing and future, or transitional, character must be considered in the assessment of any application.

Ku-Ring-Gai Council Submission

Ku-Ring-Gai Council's submission to DPE seeks a waiver to implement specific controls for the local government area and includes Council's preferred option, endorsed on 31 March 2025 and which are subject to a final endorsement by Council on 22 May 2025. Included in the initial report, the Technical Study at Attachment 4, dated March 2025, provides a superior outcome for this section of the Gordon precinct, which favours balance between the existing and future/transitional character. This is more responsive to the site-specific area and desirable outcomes, than the blanket approach that forms part of the TOD provisions for all the relevant local government areas.

The extract below summarise what the proposed planning controls are that the Council is seeking endorsement for

1 (noting this is not part of the site), 3 and 5 Park Avenue

Zoning – MU1 Mixed Use

Building height - 22.5m (7 storeys)

Floor space ratio – 2:1

7 and 9 Park Avenue

Zoning – R4 Residential

Building height – 8.5m (5 storeys)

Floor space ratio – 1.3:1

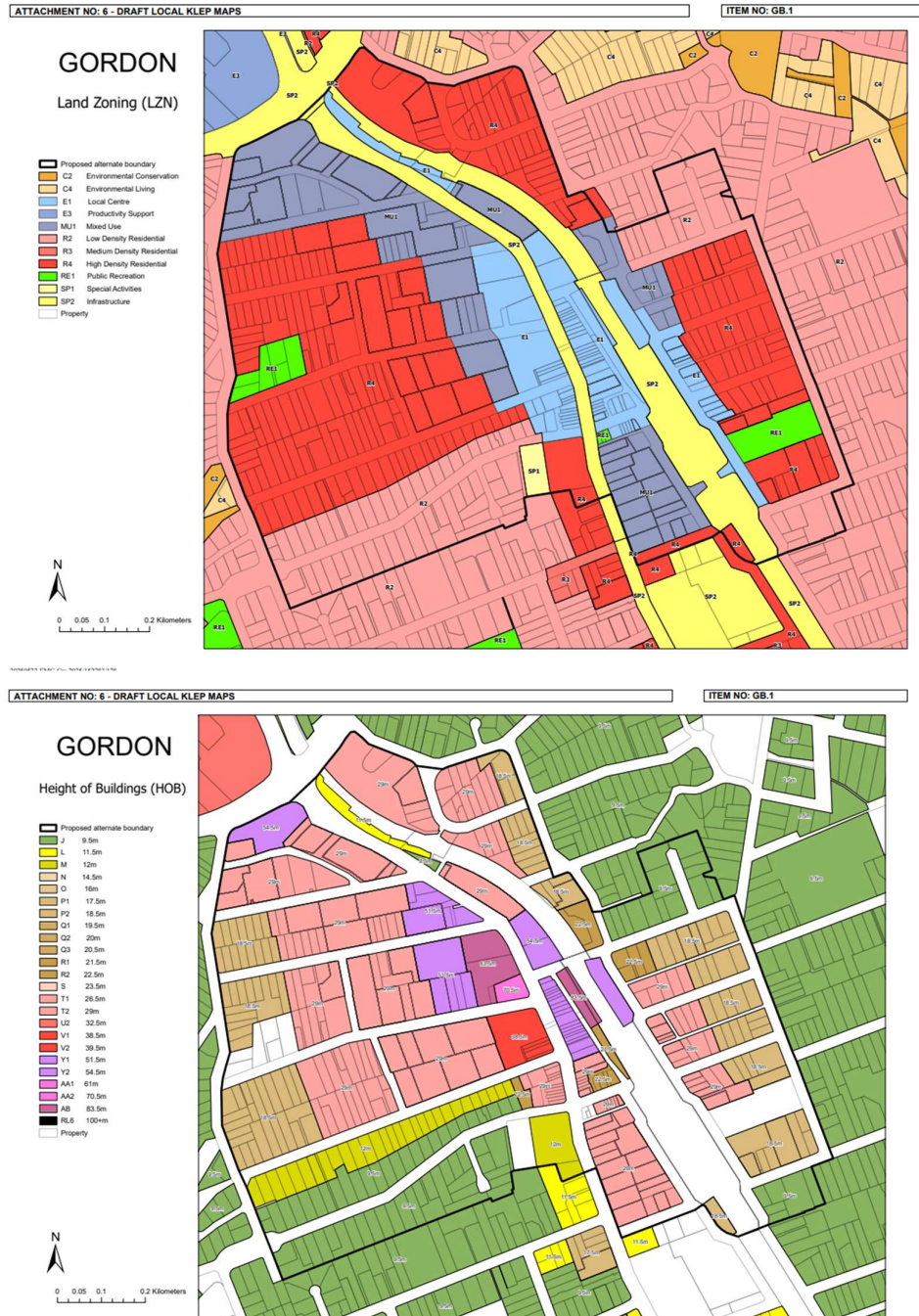
Gordondale Heritage Conservation Area

No change³

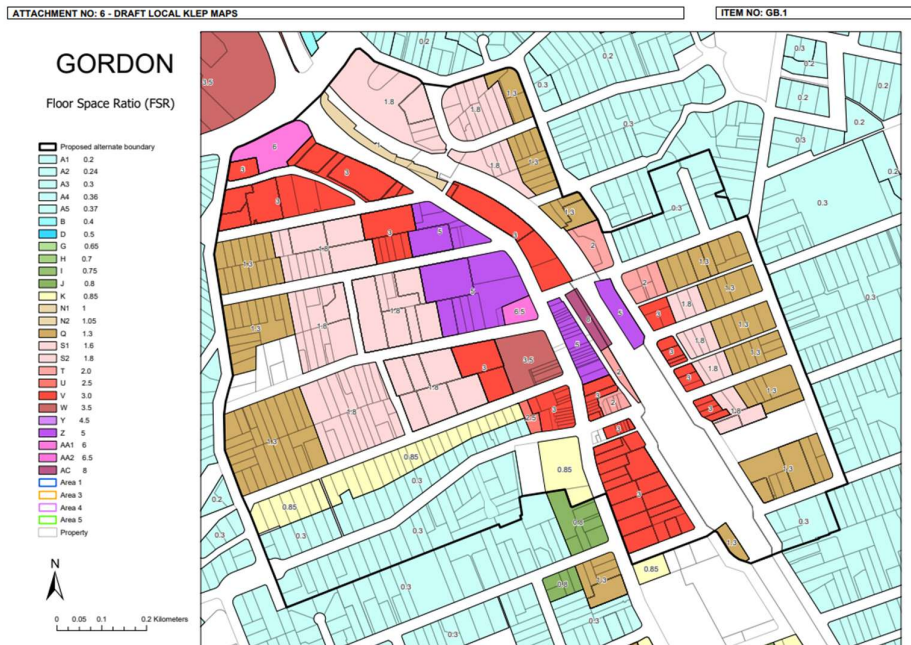
³ Agenda of Extraordinary Meeting, Ku-Ring-Gai Municipal Council, 22 May 2025

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Figure 4 Land use and built form (Source: Ku-Ring-Gai Council)



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Why the proposal is not acceptable in heritage terms?

The images below are taken from the Architectural Plans accompanying the application, prepared by PTW Architects and demonstrate the view of this from the surrounding street network.

Figure 5: View from the northern side of Park Avenue, looking east (Source: PTW Architects)



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Figure 6 View from northern side of Park Avenue, looking east (Source: PTW Architects)



Figure 7 View of the development, looking south (Source: PTW Architects)



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The photomontages demonstrate the brevity of the development, specifically that:

The proposed setback to the western site boundary provides the appearance of a rectilinear and monolithic form which is jarring in the streetscape, despite the articulation, with the building retaining the same setback the whole way up the façade. This provides very little visual relief in the context of the heritage conservation area, which is of a low, domestic scale, on the opposing side of Park Avenue, as one drives towards the site (

- Figure 5).
- The view from the northern side of Park Avenue provides an overbearing built form both adjacent to a heritage item and directly opposite both heritage items and the Gordondale Heritage Conservation Area that is not responsive in scale or context. While the lower massing seeks to complement the lower storey form similar to the heritage item at No. 11 at the eastern end, the harsh alignment above Level 2 provides a protruding rectilinear element in the streetscape that is out of character. This would be far better resolved, with a lower storey form to the streetscape, consistent with what is proposed by a smaller form characteristic of the street frontage. The proposal, in its current form, has no regard for the scale of the heritage items, nor heritage conservation area directly opposite the site (Figure 6)
- Figure 7 demonstrates that the regard, in heritage terms, is limited to a small portion of built form over three storeys, with no regard to the heritage conservation area, at the interface of the site along Park Avenue, which rises to ten storeys. Regard is had for the adjacent item in a limited form, at No. 11, but not the opposing heritage items or conservation area (Figure 7).
- The Heritage Impact Statement prepared in support of this submission states that:

A reduction in the overall height and volume of the proposal, combined with an increased setback and integration of a far more defined podium level, would be the single most effective means of alleviating the adverse impacts generated by the development on the setting of the 'in the vicinity' heritage places.⁴
- The lower datum of the building is presented in darker coloured brickwork, in harmony with the conservation area. However, the extent of white concrete protruding from this, and the balance of the building, coupled with the extent of glazing to both window and balcony openings, presents a form and composition that is not in character with the streetscape conditions. While design should not mimic the attributes of heritage items or conservation areas, in this case, the proposal does not rest in harmony

⁴ Heritage Impact Statement, Touring the Past, Page 17

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with the features of this (Figure 7). This is supported by in the Heritage Impact Statement prepared in support of this submission, which recommends that:

The elevational treatment of at least Block A should be revisited, and a gentler, more recessive composition with a far greater emphasis on visual lightness should be implemented.

- Overall, the form to Park Avenue is excessively pronounced and requires a more subdued response to this streetscape, particularly at the lower building levels. This will ensure that it is responsive to the streetscape character, particularly that of the conservation area (which includes several heritage items).

A more appropriate design response is required that clearly defines a lower podium level along the entire frontage to Park Avenue, to respond to the heritage conservation area opposite the site. The Heritage Impact Statement prepared in support of this submission recommends that this podium should be a maximum height of two storeys to *establish a genuine sense of human scale at the street level and a less overbearing built form*⁵. This should create a clear delineation between lower and upper building form. This will provide a more responsive outcome to the streetscape and character, with an upper form recessed from this. This is supported in the Heritage Impact Statement by Touring the Past, which states that:

The front setback of the proposal from Park Avenue should be increased to at least 8 metres to respond more sympathetically to the deeper setbacks that characterise the streetscape and assist in reducing the development's overly dominant interface with the public domain and in the vicinity of heritage items as well as allow for an enhanced garden frontage.

An increased setback of the proposal from its side boundary with 11 Park Avenue (item I20) is necessary and should comply with the building separation requirements as set out in the KDCP at Part 19F.2, which are designed to allow for sufficient 'breathing space' to be retained around heritage items—an outcome especially necessitated in the case of a tall building.

⁵ Heritage Impact Statement, Touring the Past, Page 17

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In combination with the above, at least Block A should be redesigned to incorporate a legible two-storey podium for its entire length, with the surmounting upper levels afforded a minimum 6-metre setback. This will establish a genuine sense of human scale at street level and a less overbearing built form overall.

No roof top open space is warranted in this context, noting that this is without adequate shade protection and will result in the appearance of a four-storey form on completion, adding to the bulk and scale of the proposal.

The front setback of the building, above the podium, should be increased by a further minimum distance of 6m to reduce the dominance of the building form in the streetscape. This would be far more responsive to the heritage conservation area opposite. The boldness of the current design is not acceptable in this context, despite the separation afforded by the road network.

Does the proposal respond to the relevant planning controls?

The current proposal does not respond to the relevant planning controls for the following reasons:

<p>Chapter 2 Affordable Housing - Part 2 Development for affordable housing</p> <p>20 Design requirements</p> <p>Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with-</p> <p>(d) the desirable elements of the character of the local area, or</p> <p>(e) for precincts undergoing transition – the desired future character of the precinct.</p>	<p>The site is in a precinct that is undergoing transition, such that a new desired future character will be established based on the TOD provisions. However, the desired future character must be considered in the context of those elements that will not change, that being, that a heritage conservation area and several heritage items are adjacent and proximate to the site. Therefore, the desired future character is one that requires a careful balance to be achieved between traditional elements and more contemporary form.</p> <p>The proposal, in its current form, fails to respond to that balance, providing a tokenistic gesture at the eastern end of the site, without this being translated along the entire frontage that interfaces with both items and the conservation area. Instead, the scale</p>
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	<p>of the development takes on an overbearing appearance to the street frontage that does not respond to the more traditional character. The form of the development, as it interfaces with the street, should be reduced to ensure that it is reflective of a balanced character within the precinct. Beyond the street frontage, consideration should be given to the Heritage Impact Statement prepared in support of this submission, or, at the very least, the Council's preferred planning heights, both of which provide a far more balanced urban form in this heritage context.</p>
<p>Chapter 4 Design of residential apartment development</p> <p>142 Aims</p> <p>(2) The aim of this chapter is to improve the design of residential apartment development in New South Wales for the following purposes— ...</p> <p>(f) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,</p>	<p>The proposal fails to provide a built form that is acceptable in the streetscape context of both the heritage items and the Gordondale Heritage Conservation Area as affirmed in the Heritage Impact Statement prepared in support of this submission. It instead nods to the adjacent item at No. 11, before rising significantly along both the southern and western planes to create a built form that will be out of character within the streetscape context, noting that the extent of change on the northern side of Park Avenue will be limited.</p> <p>While attempts have been made in the rhythm and form of the building to establish more refined elements, it is the overall scale that does not achieve the desired Aim.</p>
<p>Schedule 9 Design principles for residential apartment development</p> <p>2 Context and neighbourhood character</p>	<p>The proposal fails to respond to the natural features of the site, instead of stepping with the fall, but continuing to rise in height, which is creating the</p>

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<p>5) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.</p>	<p>excessive scale of development, as proposed. In doing so, it does not respond to its context along the frontage of Park Avenue, nor Park Lane. Instead, the scale of the proposed form should be reduced to respond to the natural features of the site to ensure that the character created by this proposal aligns more consistently with the topography of the land to avoid its domination in this sensitive precinct and will be more responsive to context.</p>
<p>6) Responding to context involves identifying the desirable elements of an area's existing or future character.</p>	<p>The proposal fails, in its current form, to respond to its context, which includes desirable heritage attributes and landscaping to the street frontage. The density of planting along Park Avenue is extensive, providing a soft interface with the street frontage, both within the development and along the nature strip. The documentation is inconsistent in its visual representation of landscaping and provides a tokenistic response in terms of canopy planting that does not take account of the desirable elements of this streetscape. As the Design Report states:</p> <p><i>The landscape area is unlikely to change due to large groups of heritage buildings and leafy street character.</i>⁶</p> <p>Further, the visual appearance promoting the landscape elements of the proposal demonstrates the importance of a lower built form to the street frontage, which promotes the opportunities for landscaping. What is instead evident is the way in</p>

⁶ Urban Design Report, PTW, Page 21

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	<p>which landscaping is being shoved into the balance of the street frontage of the site, at the western end of the building, to screen the form. It is clear from this that a great level of setback is appropriate to the street, to maintain the desired future character of the area, that is, one responsive to the heritage characteristics, which includes the landscape character.</p>
	
<p>2 Built form and scale</p> <p>(1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p>	<p>As set out above, the proposal fails to provide an appropriate scale, bulk and height having regard to the desired future character of the street, noting that it fails to take account of what will be a continued attribute in the streetscape, that is both heritage items and the Gordondale Heritage Conservation Area.</p> <p>The proposal instead provides a harsh built form at the interface with the street frontage that is not responsive to this context and requires moderation. As suggested</p>

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	<p>previously, the scale of the proposal at the street frontage should provide a modest podium to establish a genuine human scale at street level; beyond that, consideration should be given to the Heritage Impact Statement prepared in support of this submission, or, at the very least, the Council's preferred planning heights, both of which are more acceptable in that context.</p>
<p>Chapter 5 Transport oriented development</p> <p>150 Aims</p> <p>The aims of this chapter are as follows-</p> <p>(b) to deliver mid-rise residential buildings ... around rail and metro stations that:</p> <p>(i) ...</p> <p>(ii) are of appropriate bulk and scale, and</p>	<p>For the reasons set out above, the proposal does not satisfy this Aim. A more moderated mid-rise form is required to provide an appropriate bulk and scale of development.</p>

Conclusion

Our submission concludes that:

- The scale of development, as proposed, has insufficient regard for the heritage attributes attached to Park Avenue, providing a nod to the heritage item at No. 11 Park Avenue, but otherwise disregards the heritage context of this precinct.
- The scale of development, to ensure its suitability in this context, should be reduced to the street frontage of Park Avenue, with a recessed form above with consideration for the heights recommended in the Heritage Impact Statement prepared in support of this submission, or, at the very least, the Council's preferred planning heights, as shown in the Council's preferred option, to ensure that the scale and form is moderated to balance its appearance in the streetscape as it undergoes change.
- The landscape treatment is to be sufficient to complement the development and not simply jammed into the front setback which otherwise reduces the harmony that is created in this streetscape.

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We would ask that the above matters are duly considered in the DPE assessment of this application.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Hodgkinson', with a stylized flourish at the end.

Kristy Hodgkinson
Co-Owner and Director