



PLANNING AND INFRASTRUCTURE

Planning Unit

14 July 2025

Director Housing Delivery
Housing Supply and Infrastructure
Department of Planning, Housing and Infrastructure
Locked Bag 5022,
Parramatta NSW 2124
Att: Janith De Silva

Dear Janith,

Re: State Significant Development Application Number SSD-73277714
Mixed-use development with in-fill affordable housing
37 Archer Street, Chatswood

I am writing to you regarding the State Significant Development Application Number SSD-73277714 at 37 Archer 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 2012* (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:
 - Facing Archer Street, a 6m setback, and a 27 storey tower.
 - Facing Bertram Street, a 6m setback, a two storey podium and six storey tower above.
- Height of 93.4m on Archer St side of the site (RL184.25m), and 32m on the Bertram Street side of the site (RL118.95m).
- Archer Street tower setback 24m from Bertram Street.
- Floor space ratio of 6.47:1
- A total Gross Floor Area of 14,230m² involving:
 - Residential: 12,318m² including:
 - 2,134m² of infill affordable housing (15%) for 15 years
 - Non-residential: 1,912m² (13.44%) over three levels
- 125 residential apartments, including 28 in-fill affordable housing units.
- Equivalent to 910m² to be provided to Council as a monetary contribution based on WLEP 2012 Clause 6.8 Affordable Housing.
- 154 car parking spaces in six basement levels accessed via Bertram Street.

- Loading and waste collection at ground level, within building, accessed via Bertram 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. Height in close proximity to CBD boundary

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. Council seeks for the proposal on this site to have appropriate regard to the location on the boundary of the Chatswood CBD (in this case Bertram Street), opposite the low density residential South Chatswood Conservation Area and the Individual Heritage Item of local significance at 34 Neridah Street (I103 under Schedule 5, Part 1 Heritage Items, WLEP 2012).

The WLEP 2012 height control for 37 Archer Street is 23m for the portion of the site facing Bertram Street and 68m for the portion of the site facing Archer Street. The WLEP 2012 height control for the adjoining South Chatswood Conservation Area is 8m.

If a 30% increase in height is to be applied, this would result in 29.9m for the portion of the site facing Bertram Street and 88.4m for the portion of the site facing Archer Street.

Under the SSDA, the height is proposed to be further increased above the 30% affordable housing bonus to 32m and 93.4m.

A nuanced approach to the Housing SEPP 30% bonus uplift is sought. The heights in this location have recently been substantially increased and indeed maximised under WLEP 2012.

Increases in height above the WLEP 2012 maximum of 23m are not supported in this CBD boundary location. The arrival at this height came out of the CBD Strategy and review required by DPHI prior to endorsement. The intention with regards to the 23m height maximum was to ensure an appropriate built relationship with the adjacent South Chatswood Conservation Area (with a height maximum of 8m).

It is considered that an increase in height above the 68m on the Archer Street portion of the site may be considered, however due to the relative proximity and visibility to the Bertram Street CBD boundary and beyond, a full 30% increase is not supported.

Council requests the proposal to be reduced in height to comply with the 23m control facing Bertram Street and to provide a more modest increase on the Archer Street portion of the site to mitigate impacts to the conservation area and heritage item to the east, whilst providing improved modulation when viewed from the surrounding locality further to the east.

2. Excessive car parking spaces

Council seeks an approach to car parking in the Chatswood CBD that aligns with the significant and successful investment in the Metro, rather than default provisions that apply more broadly across NSW or outside metropolitan transport precincts.

In considering this SSDA, Council requests that emphasis be placed on the planning document that prescribes the lowest applicable car parking rate within the Chatswood CBD railway precinct—namely, the *Willoughby Development Control Plan* (WDCP), Part F: Transport and Parking Management. Strategic planning and traffic modelling for the Chatswood CBD are based on the enforcement of low parking rates to encourage a shift away from car use and to support the substantial public investment in the Chatswood Metro and other transport infrastructure.

The SSDA proposes 123 residential car spaces, 18 visitor spaces and 13 non-residential spaces, resulting in a total of spaces of 154.

The proposed residential car spaces significantly exceeds the residential car space rate of between the minimum 25 (with no visitor spaces required) and maximum 73 (including 9 visitor car spaces) in Council's WDCP. Based on the non-residential land use proposed, based on WDCP, a further 13 car spaces are required.

The SSDA is requested to be amended to have car parking consistent with the location's exceptional access to transit and WDCP car parking rates. Appropriate car parking rates or total should be conditioned in any approval.

Council's car parking rates were established in line with the existing densities accorded under Council's recently increased height and FSR in order to manage impacts. Excessive car parking rates in this location undermine efforts to deliver the required load shift to ensure the ongoing operation of the local road network. Reductions in car parking also provide opportunities to decrease basement size and increase deep soil green planting. It is requested that this positive outcome be further explored. This is further discussed in the landscaping section.

3. Infrastructure contributions

Council anticipates the full payment of applicable s7.11 or s7.12 local contributions and requests the opportunity to confirm the requirements under *Willoughby Local Contributions Plan 2019* prior to the finalisation of any relevant conditions, should the application proceed to the drafting of a consent.

The methodology to calculate the contribution rates and any relevant credits can be found in the *Willoughby Local Contributions Plan 2019*. Exemptions for affordable housing apply only to dwellings dedicated in perpetuity in accordance with the WLEP and there is no exemption for housing managed as affordable housing temporarily.

A Housing and Productivity Contribution is also noted.

Infrastructure contribution conditions are provided in **Attachment 2**.

4. Landscaping and public domain

Under WDCP Part L: Place Based Plans, 4. Chatswood CBD, the intention regarding ground level setbacks is that they involve soft / green landscaping as much as possible, in particular with regard to CBD boundaries with low density residential heritage conservation areas (in this case Bertram Street). Deep soil is intended to be located within these setbacks, to provide meaningful vegetation planting.

The effectiveness of how the proposal addresses ground level setbacks, both in regards soft / green landscaping and the capacity to grow meaningful vegetation, is questioned. The substantial presence of paved areas, limited soil depth and piecemeal and disconnected nature of the deep soil areas, compromises the ability to meet the objectives behind landscaping and deep soil controls. Greater consideration should be given to an improved soft / green landscaping and deep soil offering, involving the ground level location of meaningful soft / green landscaping visible from both Bertram and Archer Street.

a) Landscaping to Bertram Street

The importance of soft / green landscaping to the Bertram Street frontage, and the relationship with the low density residential South Chatswood Conservation Area (HCA) directly opposite, is emphasized and has not been satisfactorily addressed in the current design. Opportunities should be explored to further increase soft / green landscaping:

- The development provides the minimum 6m setback, with the majority occupied by paving, ramps, services and access points and bleaches. The basement further restricts the deep soil area.
- As a minimum, the bleaches should be removed to provide more soft / green landscaping buffer between the retail shop frontages and the residential properties in the HCA on Bertram Street.
- The biggest area of soft / green landscaping, next to the vehicle access, is not in a deep soil zone, with basement underneath. The garden bed to the northern side of the driveway has a proposed soil depth of just 450mm with only low planting of ground covers grasses and low mounding shrubs. Taller planting should be provided to facilitate softening the bulk and scale of the development against the adjoining R2 conservation area, particularly in front of the service areas. Soil depth and volume must be provided to support at the very least a medium sized tree and some taller shrubs. Reduction in car parking provides opportunity for the deep soil zone in the Bertram Street frontage to be increased, with particular regard to this garden bed.

Landscaping to Bertram Street is further discussed in the landscaping comments in **Attachment1**.

b) Landscaping to Archer Street

A 6m deep soil zone is provided to Archer Street. Excluding the through site link, it is noted that a significant portion of this 6m setback comprises hard surfaces (paved area, stairs and bleaches).

Opportunities should be explored to further increase soft / green landscaping as it faces Archer Street. The width of the hard surfaces, the stepping and bleaches within this setback, are requested to be reduced, and further setback to maximise planting.

Landscaping to Archer Street is further discussed in the landscaping comments in **Attachment 1**.

c) Through site link and rights of way

The SSDA does provide a through site link along the northern boundary. The Landscape Plan does not provide clear delineation between paving and landscape areas. There must be a clear distinction of the extent of paving and clear indication of the planted out landscape area being provided.

The following further issues are identified:

- The basement extends to the boundary on the north side. Section 02 on Drawing No. LA LP 112 / 01 within the Landscape Plans (Appendix F) annotate a soil depth of 1000mm to support the landscaping and proposed trees. However, the RLs show a total depth to the basement structure of less than 530mm. Willoughby DCP requires a minimum of 600mm soil depth to be included in landscape area calculations. For planting of large canopy trees (13-18m high with 16m spread) on structures the Apartment Design Guide (ADG) requires a minimum depth of 1200mm, with an area of 10m x 10m or equivalent with a soil volume of 150m³ per tree; the landscape plans show 5 trees which exceed 18m in height to be planted on structure.
- A minimum soil depth of 1200mm could be capable of supporting the proposed canopy tree species.
- In addition to the minimum soil depth requirements, sufficient soil volume must also be provided to support the trees.
- Consideration should be given to exceeding minimum requirements to ensure a high quality outcome for on-site landscaping.
- The landscape area provided in the through site link is less than 18% of the setback to the building. The average width of landscaping is approximately 1.4m from the 7.9m setback to the building line. A greater area of soft / green landscaping should be provided within the northern side setback – reflective of the abovementioned points.
- While increasing the planting areas, positioning of structures such as bike paths and benches restricting pathway width should be considered to avoid creating narrowing choke points. Minimum clearances must comply with AS 1428.1:2021 Design for access and mobility.

The CBD Strategy and WDCP Part L; Place Based Plans seek public domain embellishment through ground level setbacks through public rights of way (in this case the ground level setbacks facing Archer Street and Bertram Street). A condition is proposed in any approval requiring a public right of way for both front setbacks as well as the through site link (**Attachment 2**). A further condition is proposed addressing the through site link as follows:

Prior to the issue of any Construction Certificate, a management strategy is to be provided regarding the through site link addressing safety of pedestrians and cyclists, maintenance including landscaping, responsibilities, public liability, CPTED issues, duty of care, hours of opening, way finding signage and paving.

Through site link and rights of way are further discussed in the landscaping comments in **Attachment 1**.

d) Existing tree removal and replacement

The Arboricultural Impact Assessment (AIA) notes 39 trees to be removed from within the site. 19 are exempt and therefore a total of 20 trees require approval for removal. WDCP Part G Vegetation Management requires trees approved for removal shall be replaced at a rate of 3:1. Therefore a total of 60 replacement trees are required.

Council has no objection to the removal of the two street trees on Bertram Street, which are listed as undesirable species under Willoughby DCP Part G. Council will accept replacement planting at 1:1 with mature stock (at the cost of the proponent), with the species selection being determined by Council prior to planting.

41 replacement trees are proposed to be planted on site, spread across the ground level and levels 01, 08, 12 and the rooftop. There will be a shortfall of 19 replacement trees. The shortfall in replacement tree planting shall be paid for under the Offset tree planting scheme in accordance with WDCP Part G.

It is noted that the Landscape Plans do not provide plant quantities or pot sizes. Replacement trees to be planted in the deep soil zones must be planted as semi-mature. Advanced must be used at a minimum for all other tree planting. Palms are generally not accepted for replacement canopy tree planting under Council's standard conditions.

Existing tree removal and replacement, and impacts to existing trees to be retained, are further discussed in the landscaping comments in **Attachment 1**.

e) Basix landscape requirements

The BASIX certificate shows a requirement for 550m² of indigenous or low water use planting in common area landscape. The area of landscaping to comply with this requirement is not indicated on the plans.

Basix landscape requirements are further discussed in the landscaping comments in **Attachment 1**.

5. Building sustainability

The SSDA proposes to achieve at least a 4 Star Green Star Buildings rating.

Council exhibited amendments to the WDCP between 17 March to 22 May 2025. It was resolved to support these amendments at the Council Meeting of 23 June 2025. With regard to sustainability, these proposed amendments provide clarity on Council expectations regarding sustainability standards for new development across the Chatswood CBD. Development in the MU1 Mixed Use Zone is required to achieve a minimum 5 star GBCA building rating.

Council seeks a clear commitment consistent with WDCP as amended for a minimum 5 star GBCA rating or the equivalent for the proposed SSDA development. Council seeks for any approval to contain conditions of consent requiring a 5 star GBCA rating or equivalent.

6. Non-residential floor space

The SSDA proposes 13.44% non-residential floor space over the whole proposed development. In Council's view, 17% non-residential minimum floor space requirement is entirely achievable, noting that Council planning controls permit non-residential uses within the tower form and in the podium.

For MU1 zoned land close to or adjacent the CBD boundary, the 17% non-residential component was intended under the CBD Strategy to provide opportunities for non-residential offerings different to the E2 Commercial centre of MU1 land closer to the CBD centre.

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

7. Public art

In Council's view, the SSDA does not provide a public art contribution consistent with the *Willoughby Public Art Policy*. Council is seeking a public art component consistent with aforementioned 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 and a public art contribution should be conditioned in any approval. A public art condition is proposed in **Attachment 2**. If a public art strategy for the site is proposed, comments are provided in **Attachment 1**.

8. Design Excellence Process

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 Architectural Design Competition Report concluded that, subject to recommendations, the competition winning scheme is considered capable of achieving design excellence.

It should be noted that the design excellence process does not represent a fulsome assessment against the planning controls and does not presuppose that the application warrants approval. The advice provided through the design excellence process does not fetter the discretion of the consent authority in assessing impacts.

Subsequent to the design excellence process, a comprehensive assessment has been undertaken having regard to the CBD Strategy, WLEP and WDCP (Part L: Place Based Plans), covering issues including height in close proximity to CBD boundary, excessive car parking spaces, infrastructure contributions, landscaping and public domain, building sustainability, non-residential floor space, as well as engineering and waste matters. Amendments are requested as discussed in this submission, as well as the provision of additional information.

9. Vehicle access and technical parking matters, flooding and stormwater management issues

Attachment 1 contains engineering comments pertaining to vehicle access and technical parking issues, flooding and stormwater management issues. Conditions are provided at **Attachment 2**.

10. Waste management issues

Attachment 1 contains waste comments requesting amended information to ensure waste management meets the requirements of the Waste Management Technical Guide and Development Controls by Northern Sydney Regional Organisation of Councils (NSROC).

Detailed waste conditions will be provided later in the SSDA process, at Response to submissions stage.

11. Affordable housing

It is Council's preference that built affordable housing units be provided to Council in perpetuity. Comments are provided in **Attachment 1**. If DPHI is to approve the subject SSDA, affordable housing conditions are provided at **Attachment 2**. Having regard to the infill affordable housing proposed, it is requested that the proponent and DPHI address the *Community Housing Providers (Adoption of National Law) Amendment Bill 2025*, which has been introduced to NSW Parliament 3 June 2025.

Additional comments are provided at **Attachment 1** and proposed conditions for any approval at **Attachment 2** (related to engineering, affordable housing, general – including landscaping, infrastructure contributions, public art and waste).

Should you have any question in regards this submission, please contact Craig O'Brien – Acting Team Leader Strategic Planning on (02) 9777 7647.

Yours sincerely,



Dyalan Govender
Acting Head of Planning