

Ms Elena Sliogeris
Major Projects
Department of Planning and Environment

01 November 2023

Ref No: F2023/00657

Email: elena.sliogeris@dpie.nsw.gov.au

Dear Ms Sliogeris,

RE: State Significant Development for 100-120 King Street and 30-36 Dangar Street, Randwick - Seniors Housing (SSD-54377707)

I refer to the State Significant Development Application (SSDA) for 100-120 King Street and 30-36 Dangar Street, Randwick for Seniors Housing (SSD-54377707). Council has reviewed the proposal and provides its comments as detailed below. Please note that many of the issues and concerns raised in relation to the current SSDA have been previously also raised in response to past beaches in height and FSR under a series of modifications to the overall Montefiore development. Council's position in relation to these increases has always been that the breaches in density and height under these modifications are at the upper limit that the subject site can tolerate relative to the existing and future character of surrounding development under the established Residential R3 and Residential R2 zones. Importantly, Council previously advised that the increases in heights and densities represented a series of modifications to incrementally bring in higher and denser infill development within the Montefiore complex. The constant breaches in FSR and height in previous modifications (and now also in the current proposal) are part of a relentless drive for additional height and floor area to meet increasing demand for Independent Living Units (ILUs) and in situ Residential Aged Care (RAC) units. The constant breaches in height and FSR limits, cumulatively, has resulted in a higher and denser development in the overall Montefiore complex than that envisaged in the original approved concept plan, and has effectively rendered all height and density development standards applicable to the site over time, and to the present, insignificant.

Building Height, Bulk and Scale

The proposal has a proposed maximum building height of 22.8m which breaches the permitted building height of 13.3m by a maximum 9.5m which equates to a non-compliance of 71.4%. This is not a minor breach in height limit but a significant major non-compliance amounting to almost three-quarters of the maximum permissible height.

The proposed development will also have a FSR of 1.37:1 which presents a variation to the maximum permitted FSR of 0.98:1 allowable under the Housing SEPP resulting in an excess FSR of 0.39:1 which equates to an excess GFA of 7,538m² (in the proposed Building D only) or 40% variation. This brings the total GFA of development across the site (including Building D) to 40,513m². As with building height, the variation in FSR is considered major and significant.

Clause 4.6 variations have been submitted with the SSDA for both the non-compliances in building height and FSR. Following a review of the Clause 4.6 variations, and having regard to the local character and context of the site and its locality, as well as the existing Montefiore development, it

is considered that the excessive breaches in height and FSR have not been adequately justified in the Clause 4.6 variations:

- Contrary to the Clause 4.6 variations, the perceived height, bulk and overall scale of the proposed development will not be compatible with the existing and desired future character of the local area. The proposed five-storey built form for Building D is considered to be overbearing and dominant upon the existing medium density scale of the town houses and apartments in Dangar Street. Similarly, the additional non-compliant levels on Building D would appear dominant and intrusive relative to the existing mainly two-storey mixed use and residential development along the southern opposite side of King Street and the northern section of Dangar Street.
- The visual appearance of the proposed development is that of a large, continuous and dominant L-shape envelope that wraps around the north-western corner of the intersection of Dangar and King Street. The façade treatment is of particular concern given the heavy treatment of balconies and appears strongly monolithic and intrusive with a walled built form effect.
- The Clause 4.6 variations fail to provide any reasonable justification for this proposed excessively high and bulky built-form, which is out of character with the regular (2 to 3 storey) RFB (Residential Flat Building) developments in the locality. Figure 13 Viewpoint 02 photomontage in the Visual Impact Assessment (Appendix I) and Figure 16 Viewpoint 03 photomontage clearly shows an incongruous and intrusive town-centre urban built-form at this corner replacing the originally proposed open space corner in the approved Concept Plan for the Montefiore development.

In this regard, given the significant non-compliances it is highly recommended that both the height and FSR of the proposal be reduced to comply with the SEPP (Housing).

- Contrary to the claims in the Clause 4.6 Variations, while building setbacks on the King Street and Dangar Street frontages have been provided, the size and depth of these setbacks appear ineffective and tokenistic, relative to the sizeable amount of upper floor envelope that is being added above and beyond the permissible building height and FSR. The various photomontages of the building in the Visual Impact Assessment show a built-form that will stand prominently above the canopy of established street trees (mainly *Pyrus Calleryana* on Dangar Street and *Lephostemon confertus* on King Street) which have a maximum height of about 16.6m compared with the maximum non-compliant height of the proposed building at 22.8m. The proposed trees in the front setback areas along King Street and Dangar Street will be even lower in height (comprising *Banksia serrata* along Dangar Street and *Banksia integrifolia* along King Street both with a maximum height of about 15m) so that the upper non-compliant floors will protrude prominently above these proposed setback trees as well.
- The increased building height, bulk and scale in the current proposal raises concerns regarding lack of permeability, pedestrian circulation and linkages through the Montefiore complex similar to those raised in previous objections to past breaches in the height and FSR standards, namely that, the development presents as a walled built form with little, if no, pedestrian permeability to connect through the site. Specifically, the walled built-form of the proposed Building D does not provide any opening to allow pedestrian link to the open space at the rear of this building and other open spaces beyond through landscaped corridors.
- The Clause 4.6 Variations refer to “... *principal façade alignment that will reduce the perceived bulk of the proposed development*” (page 16). The reliance on façade design treatment to justify increases in visual bulk and scale of buildings is generally considered a poor approach especially where the non-compliant section of the proposed building is highly visible from the street and

surrounding neighbourhood. In this case, the architectural design of the building is already one that is broad, solid and heavysset in nature with hard concrete balustrades and planter beds. No amount of façade treatment can adequately screen the excessive non-compliant floor levels of the proposed development.

- Contrary to the justification made in the Clause 4.6 variation, the proposed built-form will have detrimental amenity impacts including potential loss of views and solar access to adjoining and surrounding properties. In terms of view loss, the Clause 4.6 variation fails to provide a definitive and reliable assessment that the proposed breach in height and FSR limits would not result in loss of views to affected adjoining and surrounding properties. Rather it relies on “a **representative assessment of the most likely affected private dwellings**”. Such an assessment is considered inadequate for the following reasons:
 - Existing properties along King Street and Dangar Street currently enjoy valuable sky and district views as shown in Figure 9 Viewpoint 01 existing view; Figure 12 Viewpoint 02 existing view and Figure 15 Viewpoint 03 existing view of the Visual Impact Assessment (Appendix I). The loss of these valuable sky and district views and their replacement with a massive and visually intrusive non-compliant highly urbanised and incongruous built-form is confirmed in Figure 10 Viewpoint 01 photomontage; Figure 13 Viewpoint 02 photomontage; and Figure 16 Viewpoint 03 photomontage of the Visual Impact Assessment (Appendix I)
 - It is based on a sample of 4 properties which is considered small relative to the broader area in which view loss can be experienced by adjoining properties. There is no basis for the selection of these properties, two of which are considered expedient in that there is no line-of-sight obstruction directly across the development site to existing CBD and city skyline views currently enjoyed by these two properties when, in fact, other more relevant affected properties should be assessed, including, but not limited to these properties:
 - 127-131 King Street
 - 133-135 King Street
 - 94 Wentworth Street
 - It is based on a desk top analysis extrapolated from real estate brochures and not from actual living room windows and balconies on the relevant floor levels on which view-loss affected dwelling units are located, especially units that have views of the CBD and city skyline as well as the broader city district. For example, the view loss analysis acknowledges that, in the case of 76 Wentworth Street, only the lower ground level units were analysed (via desktop and sales images) but recognises that “*dwellings on the top two levels of the building on the western side would be affected*”, which should have been accessed, but were not analysed.
- The Clause 4.6 variation fails to properly consider the overshadowing impact of the proposal on properties at No. 89-91 Dangar Street. It simply accepts the overshadowing analysis in the EIS that states that the proposal will result in “some” overshadowing of the front courtyards of the property at 89-91 Dangar Street, that will occur for the last 30 minutes of the daylight measurement period (i.e., until 3.00pm) and the overshadowing of the lower portions of windows fronting the property at 89-91 Dangar Street being in shade by 3.00pm. This overshadowing impact is a direct consequence of the additional excessive height above the permissible height limit. The assessment in the Clause 4.6 variation that the loss in solar access will be minor is not acceptable especially considering that the west elevation of No. 89-91 Dangar Street is in shadow for the whole of the winter morning with access to sunlight only available after 12pm midday and given that the living rooms of these properties are already disadvantaged by being recessed into this property making the overshadowing impact of the proposal even more acute.

- The Clause 4.6 variation for FSR erroneously links the provision of a future plaza and café/retail shopfronts at ground level to the justification for a significant variation from the building height and FSR standards. The Clause 4.6 variation refers to this provision as a “*public benefit offering*”. (page 20). The provision of “Local Shops” within the subject site at the intersection of King and Dangar Streets is a statutory requirement under a gazetted amendment to the Randwick LEP 1998 and should not be presented as a largesse of public interest to offset a variation in the height and FSR standard. This amendment to the Randwick LEP recognised that the provision of a local shops has positive public benefits for the locality and can assist in activating the street and breaking the perception of a “gated community”. Council has, over the years, in previous DA comments, consistently reminded the proponent of this requirement. To date, no shop facilities have been provided in the aged home site and there is no surety that the current proposal will do so. Furthermore, Council’s support for retail uses in this location has always been predicated on the requirement that a public square/landscaped open space should be provided adjacent to the retail uses and that the retail component should be open to serve the wider community surrounding the Montefiore site.

Concern is further raised that the current proposal undermines this objective by allowing the retail use to be substituted with “community” use (see EIS document page 79) exclusively for the Montefiore population thus reinforcing the “gated community” image of the overall complex. As such, the casual provision of a future plaza and café space in the development as some form of public interest measure to justify the excessive breach in height and FSR in the Clause 4.6 variation is not considered correct and valid.

Environmentally Sustainable Development

Council recommends the following additional items be considered for the development to improve the energy efficiency, resilience and longevity of the proposal.

Green Star Building rating

The EIS states in Environmentally Sustainable Development section 7.1.7 that the development is proposing to achieve 5-Star Greenstar Buildings Rating. While Council is supportive of this initiative, there is no mention of this proposed Green Star rating in the ESD Report (Appendix M) that has been prepared by Midland Engineering. Council recommends that details of the proposed Green Star rating should be disclosed so that these can also be included as a condition of consent for the development.

Solar Panels

Council acknowledges efforts have been made to reduce the energy demand of the proposal by installing 28.8kw solar panels on the roof of the proposed development. However, Council has reviewed the ESD report provided in Appendix M and notes there is no mention in this report of the proposed solar panel system or the estimated amount of power that will be generated by this PV solar panel system. Council requires that an appropriately sized solar (Photovoltaic) system should be installed to meet the majority of the developments energy requirements and hence demonstrate the ability of the development to meet the net zero requirements of the proposed five-star green star buildings rating (including green energy purchase agreement).

Council also recommends that a backup battery system should be considered and incorporated given high energy use of the proposal and this would assist in making the building more resilient and able to provide essential energy services during a power outage.

EV Vehicle Charging

Council notes the provision of the 3 Electric Vehicle (EV) charging spaces. However, Council recommends that this ratio of EV charging facilities be increased to provide one electric vehicle charging point per five independent living unit car parking spaces i.e., 13 of the proposed 63 Independent Living Unit (ILU) car parking spaces. In addition, Council recommends that the

proposed development demonstrate appropriate electrical infrastructure and capacity for the remaining units to install a vehicle charging point at a later date. This is recommended as installing the infrastructure at the construction stage of the projects has been found to be much more cost effective than trying to retrofit the site in the future.

Council further encourages the installation of two 'Level 2' AC fast charging EV charging points in the proposed 18 visitor car parking spaces. The circuit should be suitably located to provide for convenient, shared access for visitors and commercial users.

For appropriate details on required infrastructure for EV charging facilities the Council encourages to follow infrastructure requirements specified in section 19 of Councils recently adopted [2023 Development Control Plan](#).

Groundwater Intrusion

Council notes that, given the proposed two-level basement carpark and high groundwater levels in the development area (2.8m below existing ground levels), the proposed development is likely to interact with groundwater. Given this interaction, a licence approval for the development and for dewatering during construction will be required from NSW Water. This requirement is not mentioned in the EIS document. Council recommends that this development be referred to NSW Water for their consideration and the provision of any required conditions of consent.

Contamination

A contamination statement has been provided in section 5.4 of SEE with this application detailing the following:

Land Contamination

A Site Contamination review has been prepared by CETEC and is provided in the SEE. The advice identifies contaminants of concern being hydrocarbons, lead and PAH in a detailed site investigation in Appendix K. The report recommends further investigation and development of an RAP for the site. Further validation, monitoring at the completion of remediation works is proposed. The report concludes the site is suitable for the intended use subject to further investigations and remediation works. Based on the information provided appropriate conditions have been included in the attachment to this letter.

Additional contamination assessment by JK Environments provided a detailed site investigation dated August 2023. The assessment concluded that based on the TCLP lead result of fill in TP519, the fill in Placement Cell D is assigned a preliminary classification of Hazardous Waste. Should off-site disposal of any fill from Placement Cell D be required, confirmation of this classification should be undertaken and should include statistical analysis of fill from the cell. In our opinion, it is possible that with a larger data set and the calculation of 95% upper confidence limit (UCL) values on the lead and lead TCLP data that the material may fall into a lower classification (i.e., possibly Restricted Solid Waste). Any confirmatory waste classification must consider the DSI data. Based on the TCLP lead results of fill from TP512 and TP516, the fill in Placement Cell C is assigned a preliminary classification of Restricted Solid Waste (non-putrescible). We note that TP512 was located slightly beyond the known E35813PHrpt2-rev2 iv northern extent of Placement Cell C, however, the proximity to the cell indicated that the most likely source of the lead was overrun of filling beyond the cell boundaries, or slight inaccuracies with the mapping of the cell location/extent. In our opinion, it is possible that with a larger data set and the calculation of 95% UCL values on the lead and lead TCLP data that the material in Placement Cells C and D may fall into a lower classification (i.e., possibly General Solid Waste). Any confirmatory waste classification must consider the DSI data. Based on the results of the waste classification assessment, and at the time of reporting, the remaining fill material at the site is assigned a preliminary classification of General Solid Waste (non-putrescible).

This classification will need to be confirmed following removal/delineation and validation testing for the other waste streams noted above. Based on the scope of work undertaken for this assessment, and at the time of reporting, JKE is of the opinion that the natural soil at the site is

likely to meet the definition of virgin excavated natural material (VENM) for off-site disposal or re-use purposes. This classification must be confirmed following removal of overlying fill. Data gaps were identified associated with the following:

- Sampling was not undertaken beneath the building footprints;
- Waste Classification confirmation will be required. JK Environment consider the site can be made suitable for the proposed development via remediation and management and recommends the following action:
 - A RAP must be prepared to outline measures to reduce the risks associated with the lead in fill at the site. The RAP must also outline the details for additional testing to address the waste classification requirements and minor data gaps identified in this report;
 - A long-term Environmental Management Plan (EMP) will be required to manage the lead impacted fill that will remain following completion of the proposed remediation/development. Additional waste classification assessment will be required to confirm the classifications of fill and natural soil to be excavated for the proposed basement.
- The conclusions and recommendations should be read in conjunction with the limitations presented in the body of the JK Environment report. Based on the information it is recommended a Site Auditor be required to review contamination reports and provide a Site Audit Statement certifying the site is suitable for the intended uses.

Appropriate recommended conditions have been provided in the attachment to this letter.

Acoustics

An acoustic report prepared by Renzo Tonin dated August 2023 Acoustic Assessment has been submitted with the application confirming acoustic compliance can be achieved subject to the following recommendations:

- Building Design attenuation including glazing is required;
- Assessment of mechanical plant at design stage is required at CC stage.
- Recommendations for the operation of the aged care facility.
- Recommendations for Design and operation are provided in sections 6 and 7

Based on the acoustic report conclusions, acoustic compliance can be achieved through acoustic design and management. An acoustic validation report is recommended prior to an occupation certificated being issued.

Appropriate acoustic conditions are recommended in the attachment to this letter.

Waste Management

Council's Waste Management team advises that the Demolition and Construction Waste Management Plan:

- has not shown in drawing the temporary waste storage location and collection point
- has not specified reuse/recycling opportunity on-site or off-site and destination of the intended disposal facility

Additionally, Operation Waste Management Plan proposes the following waste management approach:

- the existing Block A in the Montefiore complex has been catering for all waste generated on site (from the existing Blocks A, B, C, E & F) and will have capacity to host the proposed Block D. Waste generated in Block D is to be transferred to Block A's central waste management area 3 times per week using bin tug. However, no evidence has been provided showing waste storage room in Block A has sufficient capacity for storage of additional waste generated by the new block D or how the waste from Block D will be transferred to block A.
- Food Organics and garden organics storage and collection needs to be addressed.

- It is noted that on the upper ground floors there are two chute rooms on each floor with two waste holding areas underneath the chutes in the lower ground floor. Will both chutes be used for garbage? Additionally, it is not clear how recycling and other streams of medical and cytotoxic waste will be disposed.

In conclusion, it is recommended that both the Demolition and Construction Waste Management Plan and Operational Waste Management Plan be amended and updated to address the issues raised in the waste management comments above.

Traffic and Parking

A Traffic Report prepared by Traffix which shows that, in relation to carparking, the proposal complies with all car parking requirements under the SEPP Housing 2021 for residents (of Independent Living Units), visitors and staff.

While the car parking provisions are compliant with the SEPP numerical controls, Council has on numerous occasions over the past few years received complaints concerning an on-going issue of staff not accessing the dedicated carpark and not utilising the allocated spaces for staff parking within the aged care facility despite the relatively generous provision of on-site car parking, preferring instead to park on residential streets.

In response, Council has consistently requested that the Montefiore Home be required to proactively manage a better use and uptake of the staff car parking within its site. Since the Home has clear jurisdiction over its staff and facility, and given that, with the expanded facility, there will be staff who will still choose to park on residential streets as a matter of preference, the Home should make an appropriate statement of commitment that it would apply stringent management initiatives to ensure that all staff driving to work park their cars on site. Council has consistently requested that this requirement be included as part of any consent for the project. Council is not aware of any condition having been applied in subsequent approvals for the facility requiring “management initiatives” or even a “Staff Carparking Management Plan” to enforce/encourage on-site car parking by staff. Council believes that the enforcement of such a plan through appropriate conditions of consent would be beneficial. Such a plan could include, but not necessarily be limited to, the following measures:

- ensure adequate allocation during work shifts, including managing staff car spaces by a roster system if required.
- include requirements that any staff who drive to work and do not park in the carpark be encouraged to take public transport.
- check the adequacy of internal parking facilities in catering for overlapping staff shifts.
- assess the allocation of parking spaces between staff members, residents, family visitors and external services, including medical consultants, tradesmen and the like.
- input the implications of any weekend peak traffic when family members are likely to pay visits. Given that the access driveways are gated, the plan should indicate whether vehicles would queue and park on public roads as a result of the intensified operation.
- assess existing parking restrictions relating to kerb side spaces in the vicinity of the site.
- include details of any short-term parking spaces within the site, including those adjacent to the main reception area.

Council has on numerous occasions over the past few years also received complaints from local residents on the persistent problem of construction traffic, and the parking of construction vehicles associated with development in the Montefiore site, in residential streets. The traffic and EIS report fails to recognise and address these on-going issues for local residents. There should be upfront and clear acknowledgement in these reports of construction traffic and parking issues in residential streets and there should be recommended conditions in the draft mitigation measures to require all construction traffic to park on-site and not in residential streets. In this

regard, the simple comment in the Traffix report (page 4) that effectively leaves this important consideration to the “... *significant input from the appointed builder and would heavily rely on the construction methodology*” is not acceptable; fails to address the on-going concerns of residents; and inadequately addresses the long-standing impact of construction traffic and parking, loss of amenity, to residents in the locality.

In relation to traffic generation, the Traffix report (page 23) shows that the vehicle trips per hour during the AM peak period for the ILU and RAC components amounts to 0 (zero). Council requests a detailed explanation as to how and why there is no traffic generation during the AM peak period for these residential components.

Flood Management

The Flood Risk Assessment (231083 CAAA – prepared by TTW and dated 13 July 2023) has been reviewed. It is noted that there are omissions in the assessment that raises concerns especially given that the proposal constitutes an increase in intensity of development involving, in flood-related terms, a “critical facility”. Council is not satisfied that the proposal is consistent with clause 5.21 of the Randwick LEP as it is located within a flood planning area. Specifically, as the proposal is for a critical facility, the proposal does not satisfy clause 5.21 (3) in relation to minimising risk to life and evacuation in the event of a flood event. This is highlighted by the fact that the Flood Risk Assessment is considered to be light on details and fails to provide critical information on the measures it proposes to use in situ in order to achieve the claimed protection in excess of the PMF, including but not limited to the following:

- The location of points 1-11 inclusive from Figure 11 have not been shown and incorporated into plan 231083 C06 Rev P1;
- Parts of the development constitute a critical facility and measures are required to protect the development to levels in excess of the PMF. Greater detailed information is needed as to the validity and effectiveness of the protection measures shown on plan 231083 C06 Rev P1.
- A flood gate is proposed on the Dangar Street boundary immediately north of the development site – comprehensive details are required (see plan 231083 C06 Rev P1).

No consent should be granted without the provision of meaningful details requested above.

The following standard conditions should also be applied to any condition of consent for the proposed development:

1. Prior to issuing an occupation certificate a works as executed plan must be submitted to Council together with certification from the hydraulic engineer for the project;
2. A restriction on the use of land and positive covenant relating to the proposed flood protection measures **must be** created prior to the issuing of an occupation certificate;
3. Onsite stormwater detention (OSD) must be provided in accordance with Council’s private stormwater code and policies.
4. A restriction on the use of land and positive covenant relating to the OSD **must be** created / registered on title prior to the issuing of an occupation certificate.

Landscaping

In relation to landscaping, Council’s Landscape Officer advises that there is no significant existing vegetation within the subject site that would pose a constraint to the proposed development. All existing established street trees around the perimeter of the site, being those along both the Danger Street and King Street frontages, are shown as being retained in-situ which is supported. The inclusion of pathways, seating benches, tables, courtyards, outdoor kitchens and the like, will benefit and cater to the amenity needs of future occupants. Overall, the landscape plans prepared by Oculus (Appendix L) are reasonable and acceptable and will significantly increase plant material, canopy trees and quality of the future private spaces in the proposed development. However, it should be noted that the landscape plan and treatment plays no role in

screening and mitigating the excessive non-compliant height, bulk and scale of the proposed building.

If you have any questions or require further information regarding this matter, please contact David Ongkili, Coordinator Strategic Planning on 9093 6793 or email david.ongkili@randwick.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stella Agagiotis', written in a cursive style.

Stella Agagiotis

Manager, Strategic Planning

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