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**From:** DYPXCPWEB@northernbeaches.nsw.gov.au  
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**Subject:** TRIMMED: Online Submission

27/06/2025

MR Aaron Sweetman  
1 - 1 Cannons PDE  
Forestville NSW 2087  
[REDACTED]

**RE: DA2024/1303 - 11 / 0 Melwood Avenue FORESTVILLE NSW 2087**

PLEASE REDACT EMAIL AND PHONE NUMBER.

As a concerned resident of Forestville, I wish to formally object to Development Application DA2024/1303, which proposes the large-scale redevelopment of the Forestville RSL Club site. While redevelopment in principle can offer community benefits, this proposal fails on multiple critical grounds when assessed against the Northern Beaches Local Environment Plan (LEP), the Development Control Plan (DCP), and broader planning priorities for our area.

This submission outlines the most pressing and demonstrable planning breaches and inconsistencies, supported by detailed comment on specific applicant documents (see Appendix).

#### 1. Excessive Building Height - Breach of LEP

The proposed development exceeds the 9.5 metre LEP height limit by up to 30% in several locations - a major non-compliance issue.

More troubling is the methodology: height has been calculated from an artificially raised platform (the current 'bowling greens') rather than the natural ground / street level. This inflates the allowable building envelope and misrepresents the true visual impact.

This breach:

- Contravenes Clause 4.6 of the LEP, as no compelling justification has been provided for such a large variation;
- Fails to meet the DCP height transition objectives, particularly adjacent to low-rise residential properties;
- Fails to meet any criteria of NSW Low and Mid-Rise Housing Policy;
- Misapplies the Seniors Housing SEPP by treating the club as seniors housing to justify height, despite it exceeding the 11.5m limit and not qualifying under the policy;
- Sets a dangerous precedent for future overdevelopment in a village-zoned, low-rise area.

The council should refuse the application on this point alone.

## 2. Privacy and Overlooking - Breach of DCP Principles

The proposal introduces new balconies and windows that directly overlook:

- Adjacent residences,
- Scout halls, schools, and
- Children's activity centres.

This is a clear conflict with the DCP's privacy and safety principles, which seek to protect visual and acoustic privacy for sensitive uses. The impact is particularly acute for families and young children - groups afforded higher planning protections.

Council must consider that these breaches:

- Are not mitigated by planting or setbacks proposed in the DA;
- Will lead to ongoing residential complaints if approved;
- Could have been avoided through a more sensitive design approach.

## 3. Loss of Accessible Green Space

This proposal results in the removal of the bowling greens and surrounding open areas, which have long served as licensed but publicly accessible community space.

These areas:

- Have been used for ANZAC Day ceremonies, family recreation, and community events;
- Are shown in diagrams to be replaced with private mixed-use zones outside the licensed Club area - meaning they are no longer accessible under the same conditions;
- Are partly replaced by landscaping drawn from the council strip, misleadingly inflating the open space yield of the development.

The Northern Beaches community is already short on usable public open space. This loss is not offset by landscaped zones shared with private residential lots.

## 4. Construction Impacts - Long-Term Community Disruption

Given the proposed scale and staging, Forestville residents face multiple years of:

- Elevated noise,
- Dust pollution,
- Traffic blockages, and
- Safety concerns for children and the elderly.

The DA fails to provide a detailed Construction Management Plan that accounts for these risks, despite its likely proximity to:

- Schools and children's facilities;
- A high-seniority population;
- Narrow and high-use local roads like Melwood Avenue.

Council should require clear mitigation conditions or refuse the DA on this basis.

## 5. Traffic and Road Congestion

The development significantly increases density and use without presenting a credible plan to manage traffic. Concerns include:

- Increased vehicular movements in and out of the site during peak hours;
- Insufficient modelling of school and event-based congestion;
- Lack of consideration of already crowded roads. Residents understand how incredibly congested ingress and egress is with Warringah Road - particularly through the Melwood Avenue corridor. This development only adds to that congestion.

This is a critical issue for Melwood Avenue.

## 6. Internal Design and Prioritisation of Gaming

Interior plans submitted are "subject to change" - yet they are used to justify the DA. You can't claim both certainty and flexibility when seeking approval.

The proposed interior layout:

- Designates a centrally located, highly visible gaming room, making it the primary attraction of the Club rather than a peripheral function;
- Appears to offer fewer m<sup>2</sup> of hospitality space than gambling floorspace;
- Provides only 16 unisex toilets for the entire site - many of which are only accessible via or near the gaming floor.

This raises serious concerns about:

- Accessibility and safety for families, children, and elderly patrons;
- The DA's alignment with community use and DCP principles of inclusive and diverse space planning.

## 7. Visual Bulk and Neighbourhood Character

Forestville is a low-rise residential suburb, with zoning that supports village-scale character and development. This proposal:

- Dominates the local skyline due to its hilltop placement;
- Is out of scale with every surrounding dwelling;
- Offers no meaningful architectural transition or design concession to the suburban context.

The DCP's neighbourhood character controls are not met here. Approval would irrevocably alter the visual rhythm and heritage of our community.

## 8. Procedural Concerns and Member Consent

While matters of internal RSL Club (applicant) governance are not for Council to adjudicate, it is relevant to note that:

- This redevelopment includes core property.
- No member vote has yet taken place to approve its repurposing (assumption of Member approval is not guaranteed);
- The community-facing narrative of "community benefit" cannot be upheld if members - and by extension the local community - have not been consulted.

A small cohort of individual board members cannot speak on behalf of the entire Forestville and Killarney Heights community. At a bare minimum, there are more submissions in objection to the DA than there are Board Members who have approved it.

## Conclusion

This development fails on multiple fronts:

- It breaches height, privacy, and character controls;
- It removes valued green space;
- It threatens traffic safety, visual harmony, and community amenity;
- It prioritises commercial gaming use over public good;
- And the underlying theme of 'community benefit' is plainly false.

I respectfully request that Council and associated approval bodies reject DA2024/1303 in its current form. Any future proposal must better align with Forestville's planning framework, reflect the wishes of local residents, and preserve the community assets we already value.

I have provided a more detailed review and more detailed rebuttal of key applicant documentation below as Appendices. Please review and include as a part of this submission.

Thank you for considering this submission.

Yours sincerely,  
Aaron Sweetman

## APPENDIX

### Appendix 1 - Height Variation Request

The development application seeks to justify a significant breach of the local 9.5-metre building height limit by invoking Clause 4.6 of the planning rules. This clause allows for exceptions - but only in very specific circumstances. I believe the variation should not be approved, and here's why:

#### 1. The Breach Is Not Minor

The Club building exceeds the height limit by up to 2.85 metres, or 30% over the legal maximum. That is not a small technical deviation. In addition, the residential pavilions breach the height standard by up to 9.5%. The height exceedance is consistent across multiple elements of the development, meaning this is not an isolated case or a one-off design issue. It is a systemic breach that goes against the stated planning controls.

#### 1.1 SEPP (Housing) 2021 Breach:

The development breaches the building height limits set by Clauses 84(2)(c)(i) and 108(2)(a) of the State Environmental Planning Policy (Housing) 2021, which enforce a strict 9.5-metre cap. This is not just a local guideline - it's a state-imposed standard designed to control density and built form. While the applicant seeks to justify this breach under Clause 4.6 of the

Warringah LEP, it is clear that the development is non-compliant with both local and state planning instruments. The fact that the breach is being excused on the basis of "contextual compatibility" or design efficiency does not satisfy the environmental planning grounds required to override a SEPP standard.

The RSL Club is not seniors housing.

-The developer is relying on SEPP allowances intended for housing to justify height increases to a commercial building that will operate for gaming, functions, and public use. This is a misapplication of the policy's intent.

## 2. It Undermines the Purpose of Height Limits

Height limits exist for a reason. They are designed to protect neighbourhood character, reduce bulk, preserve visual and solar amenity, and maintain a consistent built form within a defined streetscape. If the Council accepts a 30% breach here, then what is the purpose of the control at all? Clause 4.6 is meant to deal with exceptional circumstances - not to serve as a planning loophole for large-scale non-compliance.

## 3. The Development's Scale is Incompatible

The applicant claims that the building is "compatible" with surrounding development. But this is misleading. The height, scale, and massing of the new Club building will significantly overshadow and dominate adjacent low-rise structures. The concept of "compatibility" is being stretched to justify a much more imposing built form than the planning instruments envisage. This will be a highly visible, large-footprint structure on a corner site, not an unobtrusive or sympathetic addition.

## 4. The Ground Level May Have Been Misrepresented

One serious concern is how the applicant has defined and measured "ground level" on the sloping site.

The development site is not flat. The southwest corner, where the most significant height breach occurs, sits atop the former bowling green - an artificially raised surface that is 1 to 2 metres higher than the adjacent public footpath and roadway on Melwood Avenue.

Despite this, the building height appears to have been measured from that elevated surface, not the natural ground level as experienced from the public domain.

This matters for two reasons:

- From the street, the perceived height of the Club building could be closer to 13.5-14.5 metres, not the 12.3 metres stated in the application.
- NSW planning law (and the Warringah LEP) defines building height as the vertical distance from the existing natural ground level, not fill or artificially raised platforms, unless explicitly approved.

If height is being measured from a selectively chosen or manipulated level, then the entire variation request is based on an inaccurate premise - and the true scale of visual impact has been concealed. Council should demand clarification and, if necessary, a reassessment of height calculations using valid base levels.

## 5. It Creates an Unacceptable Precedent

Approving a height variation of this size - on a prominent, highly visible site - sends a clear message to future developers: these planning controls are optional. It would establish a precedent that could encourage further overdevelopment throughout Forestville and beyond. If height breaches like this are approved, the entire concept of a height standard becomes

hollow.

#### 6. Environmental Planning Grounds Are Weak or Generic

The applicant must show that there are sufficient environmental planning grounds to justify the breach - not just that the development is well designed or desirable. Yet the rationale offered in the application is vague and general. It relies on notions of "efficiency," "contextual appropriateness," and "long-standing Club use" - all of which could be used to justify almost any oversized building. This fails the test of specificity and environmental relevance.

#### 7. Better Design Could Avoid the Breach

Nothing in the design suggests that a compliant development was ever seriously considered. The layout, floor heights, and roof forms all appear to have been based on a preferred outcome - with the height variation applied for later. A stepped design, alternative roof profile, or internal reconfiguration could potentially deliver a similar result without breaching the limit. That route was not taken.

#### 8. It Diminishes Public Amenity

The visual impact of this building will be experienced by everyone who walks, drives, or parks in the area. It sits at a key junction, adjacent to a public car park and green space. The applicant downplays this by noting there are "no nearby homes" in immediate proximity to the breach - but public domain impact matters too. Local residents, families, and community members will feel the dominance of this structure daily. This is not an internal design flaw - it's a public-facing overreach.

In conclusion:

The proposed height variation is not minor, not justified, and not appropriate for this location. It fails the objectives of Clause 4.3 of the Warringah Local Environmental Plan. Worse, it may rely on incorrect ground level assumptions that understate the building's true height. It would set a damaging precedent and erode the integrity of Forestville's planning protections.

We urge Council to:

- Reject the Clause 4.6 variation on these grounds.
- Review the accuracy of the height measurements, particularly on the sloping south-western section of the site.
- Enforce the 9.5 metre standard, as intended under local planning policy.

### Appendix 2 - Height Plane Breach Request

#### 1. The Breach Is Not Minor in Principle

The applicant downplays the breach as "minor" and "inconsequential," yet height plane regulations are absolute controls designed to preserve amenity, not discretionary suggestions. Once a development pierces that 45-degree envelope, it fails the test - regardless of who the immediate neighbours are. If these breaches are approved, it could set a precedent for broader circumvention of planning controls.

Even small physical breaches can carry significant precedential weight in planning law. The community must rely on consistent application of regulations, particularly when those regulations are the only form of protection against bulk and scale in residential zones.

#### 2. Absence of Objectives Does Not Remove Intent

The applicant argues that there are no stated objectives for clause 84(2)(c)(iii), and therefore

relies on "implied" intent. However, that clause clearly exists to prevent excessive visual bulk and overshadowing from third-storey development in zones where such massing is otherwise not permitted.

The lack of express objectives does not negate the functional purpose of the clause - which is to protect residential character and amenity. If the drafters of the policy wanted flexibility for RSL clubs or unique geometries, they would have built in exceptions.

### 3. Community and Streetscape Impact Is Underplayed

The applicant emphasizes that the breached elements face a car park and are not near residential homes. This may be true for the current site configuration but fails to account for:

- Future public domain changes (e.g., park upgrades)
- Visual bulk from pedestrian and vehicular views
- Long-term degradation of low-rise character

Streetscapes are defined not just by current use, but by scale, rhythm, and precedent. A third storey pushing into height planes fundamentally alters the experience of built form from the public realm.

### 4. The RSL Club Use Does Not Grant Exemption from Controls

The argument that the site's use as an RSL Club justifies larger floorplates or different design allowances is not supported in planning law.

Permissibility of use does not imply entitlement to exemption from built form controls. The community impact of height and scale is not diminished because the operator is an RSL. If anything, their community mission should reinforce adherence to community expectations.

### 5. Design Efficiency and Site Geometry Are Not Valid Justifications

The applicant claims that the large allotment size and unusual geometry make the non-compliance efficient or reasonable. However, the site's generous size should make compliance easier, not harder.

A larger site affords more opportunity for compliant design. Non-compliance in this context reflects a prioritisation of yield over conformity, not an unavoidable design consequence.

### 6. Insufficient Evidence of 'No Impact'

The claim that there is "no material impact" is based on subjective observation and assumptions rather than verified modelling (e.g., overshadowing, view corridors, sightlines). The burden of proof lies with the applicant to quantitatively demonstrate no adverse impact. Without transparent visual simulations and impact modelling, such claims remain unsubstantiated.

### 7. Cumulative Impact and Precedent

Approving this variation opens the door for future applicants to push similar breaches, eroding the integrity of the planning framework.

Clause 4.6 is not intended to become a mechanism for normalisation of non-compliance. When used routinely, it undermines community confidence in the planning system.

### 8. Lack of Public Benefit

The proposal does not clearly demonstrate a public benefit from the breach - such as additional affordable housing, community infrastructure, or environmental offsetting.

Variations should be granted only where a measurable planning gain outweighs the loss of control. In this case, the gain appears to be internal design convenience rather than a broader benefit.

In conclusion:

While the applicant presents a well-researched legal argument, the proposal:

- Normalises a breach without compelling public benefit,
- Risks setting a precedent that weakens planning protections,
- Relies on subjective assessments of visual and amenity impacts,
- Misapplies the spirit of flexibility under Clause 4.6.

## Appendix 3 - Urban Design Review Amended

### 1. Height Limit Exceedance (9.5m Max Standard)

The applicant claims the height breach is minor, limited to the centre of pitched roofs, and not visible from the street.

- Precedent and Community Expectation: Allowing any exceedance, no matter how minor or "invisible," sets a precedent that undermines zoning rules and invites further non-compliance in future developments.
- Visibility is not the only issue: Bulk, shadowing, and privacy impacts occur irrespective of central roof height visibility. Residents and park users experience this impact from upper floors overlooking or shading their properties, especially in sloped areas.
- Topographical exaggeration: Depending on the land's gradient, even pitched roofs may appear more prominent than the designers claim, particularly from neighbouring low-density homes or the adjacent park.

### 2. FSR Breach (0.8:1 Max Standard)

The applicant claims the 1:1 FSR includes underground rooms that don't affect bulk/scale, so the breach is justified.

GFA rules exist for good reason: FSR controls are not only about visible bulk, but about intensity of use, infrastructure load, and long-term amenity for both residents and the broader community.

Underground space still contributes to activity and intensity: Gymnasiums, theatres, and multipurpose rooms-while underground-add human activity, car use, noise, and energy demand that exceed the intent of an R2 zone.

Slippery slope: Accepting basement area exemptions without limit encourages developers to exploit loopholes that dilute the purpose of zoning controls.

### 3. Interface to the North (Low-Density Area)

The applicant claims the 9m+ setback and planting will soften the visual and physical impact on adjacent homes.

- 9m setbacks do not eliminate overbearing presence: A three-storey wall, even if tiered, dominates the skyline for existing two-storey townhouses and especially single-storey dwellings nearby. Setback alone doesn't remove that psychological or physical impact.
- Planting takes years to mature-if ever fully: Promised screening vegetation such as slim callistemons and tea-trees may take many years to reach effective height, if they survive at all. Many developments promise planting that never reaches proposed density or scale.
- Sunlight and privacy loss: No amount of greenery offsets the loss of morning light, privacy, or tranquil low-rise character that existing residents currently enjoy.

### 4. Car Parking "Exceeds Council Code"

The applicant claims the excess car parking will alleviate pressure on local streets, especially



on weekends.

- More car parks = more cars: Overprovision of parking invites higher car ownership, contradicting principles of sustainable transport planning, particularly in an area close to shops and services.
- Traffic Congestion and Safety: Increased vehicle entry/exit, including for events, creates turning conflicts and congestion near school zones, parks, and narrow residential streets.
- Amenity erosion for local residents: The additional traffic and movement, even if "accommodated" on-site, brings noise, fumes, and traffic stress to a previously quiet, bushland-adjacent suburb.

#### 5. "Strategic Planning Context" Justifies Breaches

The applicant claims the new zoning supports higher-density outcomes, so breaches are aligned with the area's future character.

- "Strategic intent" doesn't overrule specific planning controls: Strategic documents may project long-term goals, but they don't give free licence to override height, FSR, or character protections currently in force.
- Community consultation and zoning safeguards: Residents bought into a low-density neighbourhood with clear planning rules. Changing the character must occur through proper planning instruments-not post-approval justifications.

### Appendix 4 - FSR Variation Request

#### 1. Non-Compliance With the Strategic Intent of R2 Zoning

The R2 Low Density Residential zone is designed to preserve the character of suburban neighbourhoods - generally typified by detached dwellings, modest building bulk, and low traffic generation.

A 50% exceedance in FSR (from 0.5:1 to 0.75:1) substantially increases building mass and population density on a site intended for low-density use, directly undermining the intent of the zone.

Permitting this exceedance may set a dangerous precedent for overdevelopment across similar low-density zones, risking cumulative impact over time.

#### 2. Bulk and Scale Are Visibly Out of Character

While the applicant argues the development is "not jarring," the reality is that a combined FSR of 1:1, especially with 2200m<sup>2</sup> of ILU space placed on top of a club, creates a building envelope visually and physically out of sync with its surrounding detached homes.

Claims about consistency with LMR (Low-Mid Rise) mapping overlook that these are indicative, not determinative - the actual zoning remains R2. Approving this application would amount to rezoning by stealth.

The development's sheer size transforms the streetscape and introduces a visual bulk that is incompatible with the surrounding neighbourhood.

#### 3. Clause 4.6 Should Be Applied With Caution - Not Routine Flexibility

Clause 4.6 is not intended to justify major deviations from planning controls simply because an applicant argues good design or amenity.

The floor space variation here is substantial (50%) - well beyond minor tolerance - and undermines the credibility of the planning controls if approved.

The Wehbe criteria should be applied stringently, especially when there's no significant public benefit from the variation.

#### 4. Infrastructure and Traffic Capacity Remain Constrained

While the traffic report claims minimal impact, the net gain of 11 vehicle trips during the peak hour may underestimate long-term cumulative strain on local streets and intersections already congested near schools and shops.

The area is not within a designated transport-oriented development corridor, and reliance on buses (even if available) does not offset increased private vehicle use, especially for seniors with mobility needs or club patrons at night.

#### 5. No Planning Merit in Claiming "Club Use" as an Excuse for Oversized Residential Build

The applicant seeks to justify excess residential FSR by embedding it within and above the club footprint. This blurs distinct uses and exploits the permissibility of the club to justify greater height and bulk for private dwellings.

This is a form of planning sleight-of-hand that conflates a commercial/community function (RSL) with private residential profit, eroding the zone's integrity.

Moreover, embedding residential units atop a club may also pose acoustic and amenity conflicts.

#### 6. "Better Design" Does Not Justify More Floor Space

The proposal implies that superior design outcomes (e.g., pavilion layout, articulation) justify a 50% increase in FSR. This sets a poor planning precedent where compliance is treated as negotiable if aesthetic arguments are made.

True design excellence does not depend on breaching development controls - it works within them.

#### 7. Community Expectations and Precedent

Residents in R2 zones reasonably expect development to reflect the scale and intensity permitted under the LEP.

Permitting this exceedance would diminish community trust in the planning framework and encourage future overreach from developers citing "flexibility."

#### 8. Environmental Planning Grounds Are Weak

The "environmental planning grounds" cited mostly restate general development benefits (like increased housing stock or site efficiency), which could apply to any site.

These are not unique justifications for breaching the FSR standard, nor do they specifically address how the contravention delivers a net planning benefit greater than a compliant design would.

In conclusion:

The proposed 0.75:1 FSR (and de facto 1:1 total site FSR) exceeds planning expectations for an R2 zone, undermines the purpose of Clause 4.6, and risks long-term cumulative harm to the area's character and amenity. The variation request is largely motivated by yield maximisation, not planning merit, and should be refused.

### Appendix 5 - Acoustic Amended

#### 1. The Assessment Relies on a Favourable Interpretation of Loosened Noise Laws

The report heavily leans on the NSW Liquor Act and Vibrancy Reforms to assert that noise conditions in development consent "cease to have effect" for licensed premises. However, this is not a carte blanche to ignore amenity impacts. Clause 79A of the Liquor Act still requires

that operations "not unduly disturb" the neighbourhood.

The development represents a major intensification of use. It's not simply "existing use continuing" - it introduces new residential units above a licensed premises with extended activities. This should trigger a more rigorous review, not a relaxed one.

## 2. Existing Residents Are Being Burdened With Acoustic Mitigation Responsibilities

The assessment suggests that residents can mitigate noise through window glazing and that "compliance" is based on assumed closed-window scenarios.

This unfairly shifts the responsibility for maintaining liveable conditions onto the residents.

Residents should not be forced to live with sealed windows and mechanical ventilation just to maintain their comfort - particularly in a suburban, low-density setting like Forestville.

## 3. "Compliance" Is Based on Hypothetical Behaviour and Assumptions

Noise compliance claims rely on numerous assumptions:

- Music not played in outdoor areas after 10pm
- Staff perfectly monitoring patrons
- Only 60 patrons in the outdoor courtyard
- All operable walls closed precisely at 10pm

These assumptions are unenforceable in practice, especially over the long term. Real-world conditions - large crowds, events, warm nights - may regularly breach these thresholds. Good intentions and policies are not guarantees of compliance.

## 4. New Residents Will Be Living Directly Above or Beside a Gaming Venue

The ILUs (independent living units) will be stacked above a large entertainment and gaming venue.

This is a fundamental incompatibility. It is misleading to suggest that simply increasing glazing thickness and ventilation solutions can reconcile a residential dwelling with a potentially 24-hour entertainment operation directly below.

## 5. No Consideration of Cumulative Impact Over Time

The assessment breaks noise into discrete components (traffic, gaming, patrons, plant), but does not adequately consider cumulative impact over long periods, especially late at night or during events.

Residents don't experience noise as isolated data points - they experience its total impact on sleep, wellbeing, and quality of life. The lack of comprehensive modelling under real conditions (e.g., music + patrons + carpark + plant) undermines the reliability of the conclusion.

## 6. Order of Occupancy Argument Is Misleading

The report invokes the Vibrancy Reforms' "order of occupancy" concept to argue that existing residents have diminished rights to complain.

The site is changing substantially. The RSL is not just renovating; it is expanding into a mixed-use development. This is not a case of residents moving next to a long-standing venue - it's a venue transforming into a large commercial-residential hub. That changes the dynamic.

## 7. The Report Dismisses Council's DCP Requirements

The report admits that the Northern Beaches DCP calls for noise-generating activities to be separated from sensitive uses and for residential amenity to be protected.

The acoustic report fails to meaningfully engage with these objectives. It instead defers to other legislation and concludes the DCP is "adequately addressed," which sidesteps the core

community protections the DCP is meant to uphold.

#### 8. Residents Have No Assurance of Ongoing Monitoring or Enforcement

While management measures are listed (e.g., staff training, sound limiters), these rely on self-regulation.

There is no enforceable commitment to ongoing compliance monitoring, transparent noise logs, or independent enforcement mechanisms. Without this, residents have no confidence that standards will be met or maintained.