

3 June, 2025

Jim Koopman Design Collaborative



Department of Planning, Housing and Infrastructure  
Locked Bag 5022  
Parramatta NSW 2124

Attention: Jasmine Tranquille via the NSW Major Projects Portal

Dear Ms Tranquille:

Re: SSD 79276958 \_ 59-63 Trafalgar Avenue and 1A & 1B Valley Road Lindfield

**Subject: Design quality review submission to support an objection by the owner of 36 Middle Harbour Road Lindfield**

Jim Koopman Design Collaborative has been engaged by the owner of 36 Middle Harbour Road Lindfield to undertake a design review to support an objection to approval of a Residential Development with Affordable Housing at 59-63 Trafalgar Avenue and 1A & 1B Valley Road Lindfield which is Application No. SSD 79276958 (the Application).

The justification for the objection is set out in the conclusion of the design review report and falls into two broad categories being.

- Insufficient regard for SEPP (Housing) 2021 Section 3 Principles of Policy as it relates to site suitability, the consideration for future character and heritage conservation area context,
- Inconsistency with aims and objectives required by SEPP (Housing) 2021 Chapter 4 Design of residential development, Chapter 5 Transport Oriented Development Section 161 Consideration of the Apartment Design Guide and Schedule 9 Design principles for residential apartment development.

Based on my review of the Application, I submit that the proposal should be rejected.

Should you require any further information please do not hesitate to call myself on 0408 291 183 or by email at jim@koopmancollab.com.au.

Sincerely,

Jim Koopman  
Architect No. 6069

encls.

- Design Quality Review - SSD 79276958 Lindfield

Reference: C:\KOO\C\_PROJECT FILES\JKDC\_2025\2513\_SSDA Lindfield\REPORTS\2513\_SSDA Lindfield\_Submission Letter\_June 3 2025.docx

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# DESIGN REVIEW

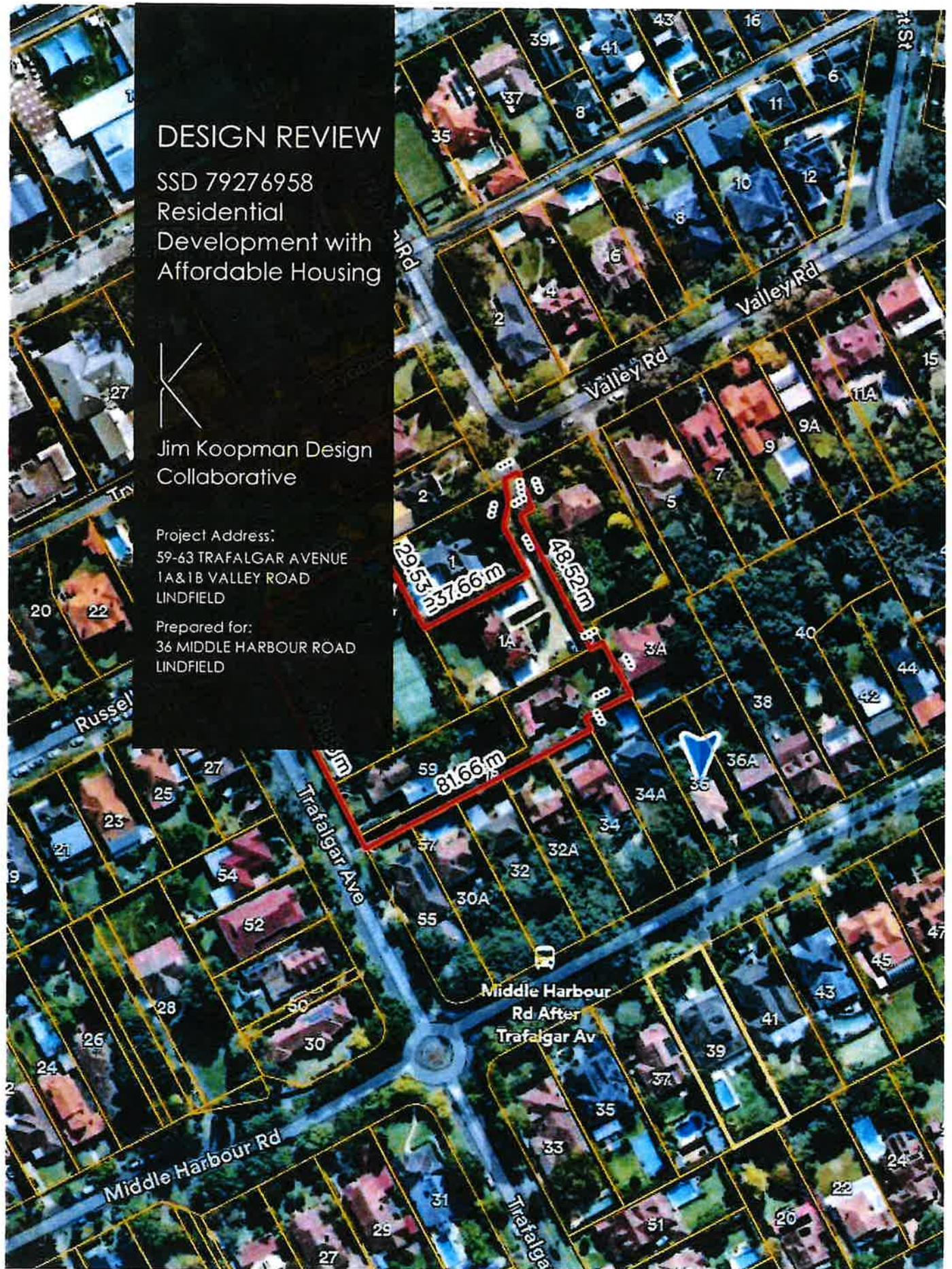
SSD 79276958  
Residential  
Development with  
Affordable Housing



Jim Koopman Design  
Collaborative

Project Address:  
59-63 TRAFALGAR AVENUE  
1A & 1B VALLEY ROAD  
LINDFIELD

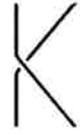
Prepared for:  
36 MIDDLE HARBOUR ROAD  
LINDFIELD





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## CONTACT

### Jim Koopman

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### Qualifications

I am a registered architect (No. 6069) and urban designer with 45 years experience, of which the last 17 years have been leading a wide variety of significant residential master planning and mixed use urban design projects for both the public and private sector. I currently provide design advisory services to various councils and the development industry as Jim Koopman Design Collaborative.

I am a former member of the Bayside Design Review Panel (2019-2023) and a current member of the Northern Beaches Design and Sustainability Panel (2020-present) and have been recently appointed to the Hornsby Design Review Panel.

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## DOCUMENT REVIEW

This document has been prepared and reviewed by:

Jim Koopman

Date: 2/06/2025

Reproduction of this document or any part thereof is not permitted without written permission of Jim Koopman. **If the report is not signed, it is a preliminary draft.**

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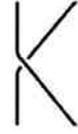
## VERSION NO.

1.0      2 June 2025

Submission

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I acknowledge that Aboriginal peoples are the traditional custodians of the lands on which I live and work and that these lands were never ceded. I pay respect to Elders past, present and emerging and seek to learn from their culture by looking to see, listening to hear and learning to understand.



# 1 EXECUTIVE SUMMARY

## 1.1 Purpose of the review

This review is being undertaken on behalf of the owner of 36 Middle Harbour Road Lindfield to support an objection to approval of a Residential Development with Affordable Housing at 59-63 Trafalgar Avenue and 1A & 1B Valley Road Lindfield which is Application No. SSD 79276958 (the Application). The justification for the objection is set out in the conclusion to this report and falls into two categories being

1. Insufficient regard for *SEPP (Housing) 2021 Section 3 Principles of Policy* as it relates to site suitability, the consideration for future character and context
2. Inconsistency with aims and objectives required by *SEPP (Housing) 2021 Chapter 4 Design of residential development, Chapter 5 Transport Oriented Development Section 161 Consideration of the Apartment Design Guide and Schedule 9 Design principles for residential apartment development.*

## 1.2 Density done well

This review is based on the understanding that the State Government's intention is to deliver planning reforms that will deliver increased housing density to meet the growing demand for housing and improving affordability, especially for key workers, young people and families.

The Department of Planning, Housing and Infrastructure (DPHI) have developed policies with the intention to ensure that any new apartment buildings proposed in Transport Oriented Development precincts should be appropriate to the context and build upon the existing desirable features of a precinct, whilst delivering increased housing density.

The application has not given due consideration to the principles and statutory aims of SEPP Housing 2021 which has the objective of ensuring density is done well in areas undergoing change.

## 1.3 Key findings

### 1.3.1 Site suitability

The site is not suitable for high density development with 30% bonus uplift provisions for the following reasons

- The site is not within 400m walking distance to the Station as intended by SEPP Housing Chapter 5 Section 150(a)
- The site is located in a heritage conservation area and accordingly is more suited to *SEPP Housing Chapter 6 Low and mid-rise housing* development for which *SEPP Chapter 2 Affordable housing* bonuses will apply.
- The site is not separated from R2 lower density sites in a heritage conservation area by a public road which would be best practice to mitigate the environmental impacts of high density zones with low and mid-rise density.



Generally, the alternative urban planning solution offered by Council's Preferred Scenario for the four TOD Precincts in the Kur-Ring-Gai Council area, has the potential to achieve the overarching Principles of Policy set out in *SEPP (Housing) Chapter 1 Section 3* whereas the current proposal cannot deliver those principles without reducing the dwelling yields sought by the NSW government.

To achieve the *SEPP (Housing) Chapter 1 Principles of Policy*, the TOD boundaries should be in accordance with those proposed by the Ku-ring-gai Council Preferred Scenario which utilise Trafalgar Avenue as zoning boundary.

Refer **INSUFFICIENT REGARD FOR THE POLICY PRINCIPLES IN SEPP (HOUSING) 2021** for detailed analysis

### **1.3.2 Residential apartment design quality**

The Application does not deliver new homes including affordable dwellings in a manner that:

- Is compatible with the future character of the Lindfield TOD in transition zones in heritage conservation areas more than 400m from a station entry.
- mitigates any unreasonable overshadowing impacts on the adjacent properties, and
- promotes good design and amenity

Refer **DESIGN QUALITY AND INCONSISTENCY WITH ADG** for detailed analysis



## 2 INTRODUCTION AND BACKGROUND

### 2.1 The site

#### 2.1.1 Description

The site is located at 59, 61 and 63 Trafalgar Avenue and 1A and 1B Valley Road, Lindfield within the Ku-ring-gai Local Government Area. The development site is currently zoned R2 Low Density Residential, and the lots subject to development form a large, consolidated site with a total area of approximately 6,672 square metre). Each of the lots are developed with long established dwellings and gardens with significant trees, and landscaped areas, including pools and tennis courts.

A key attribute of the subject site that will affect design led strategies is the south-easterly slope with an approximate moderate fall of approximately 11.5m (3 storeys).

The site is in a Middle Harbour Road, Lindfield Conservation Area –C42 (KLEP 2015) (MHR HCA) and adjacent to 4 local heritage items.

#### 2.1.2 Proximity to the station

The NSW Government website for [Transport Oriented Development | Planning](#) states

*"The amended planning controls apply within 400 m of 37 stations to deliver more affordable, well-designed and well-located homes."*

The closest part of the site is located **500m walking distance<sup>1</sup> from Lindfield Station increasing to 550m to the proposed apartment entry**, rather than the "approximately 400m" stated in the *Planning & Co EIS 1.2.2 Site Description and Context*

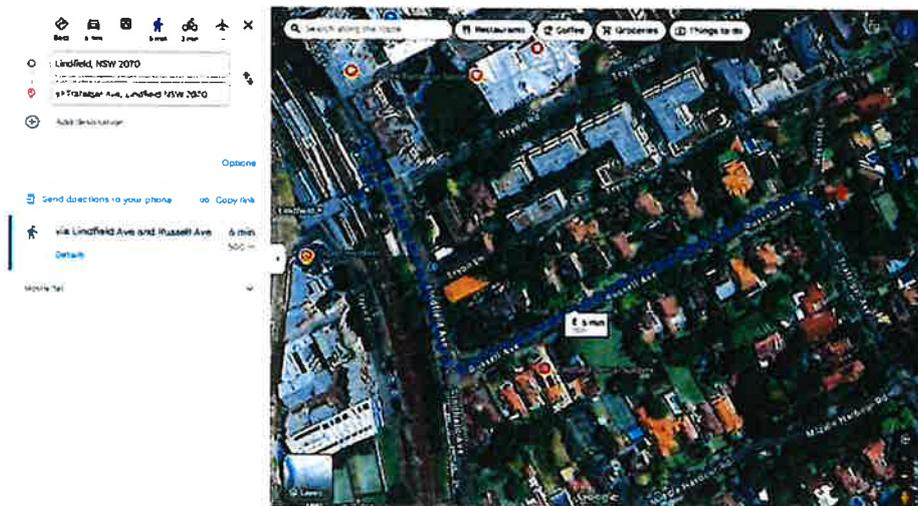


FIGURE 1 GOOGLE MAPS DIRECTIONS WALKING DISTANCE TO NEAREST PART OF THE SITE

<sup>1</sup> Walking distance is defined in Schedule 10 of the Housing SEPP as "the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings".

### 2.1.3 Native Vegetation

The site contains native vegetation that according to the *Keystone Ecological Biodiversity Ecological Development Report (BDAR)*<sup>2</sup> are likely to be naturally occurring (9 items) and others native NSW that have been planted (9 items). An example is the significant Sydney Turpentine (T43) *Syncarpia glomulifera* which is frequently occurring species in the plant Community Type PCT 3262 Sydney Turpentine Ironbark Forest ecosystem for which there are remnant elements contributing to the character of the area.

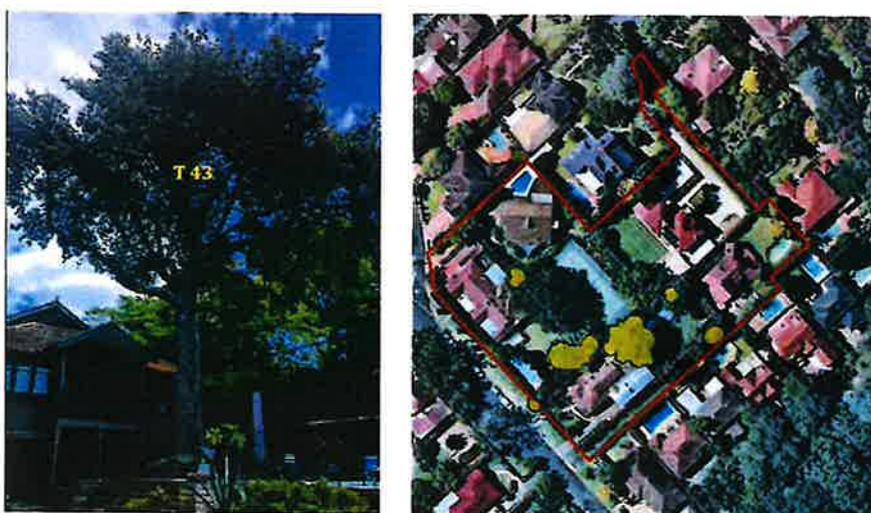


FIGURE 2

LEFT: BDAR REPORT. REMNANT TURPENTINE (TREE43) IN THE REAR OF NUMBER 59 TRAFALGAR AVENUE.

RIGHT; BDAR REPORT: DISTRIBUTION OF PATCHES OF VEGETATION ZONE 1 (YELLOW = PCT 3262) ON SITE, TOLLING 395 SQUARE METRES (0.04 HECTARES).

The BDAR states the "most valuable areas of biodiversity are the two remnant STIF trees, T43 and T17. They occur more or less in the centre of the site and are proposed to be removed."

The BDAR advises that "The opportunities for retention of locally native trees are few, given their distribution across the development site. However, the opportunity for restoration and enrichment of native vegetation is afforded in the areas of deep soil to be the subject of the Landscape Plan."

Site analysis: Given that the centre of the site does not have deep soil, the street setbacks need to be of a depth to buildings lines that enable the opportunity for restoration and enrichment of native vegetation to be implemented to retain the character of the area.

<sup>2</sup> Refer *Keystone Ecological Biodiversity Development Assessment Report* - Figure 5: BAM plot location. Shown also are the locations and numbers assigned to the locally native tree species that are likely to be naturally occurring (green) and those native to NSW that have been planted (yellow).

**2.1.4 Gordon Creek biodiversity buffer area**

The sites adjoining the subject site contain the headwaters of Gordon Creek which is one of 7 creeks that flow to Middle Harbour to the east.

**DCP Greenweb Categories**

-  Core biodiversity lands
-  Support for core biodiversity lands
-  Landscape remnant
-  Biodiversity corridors and buffer
-  Canopy remnant



FIGURE 3 GREENWEB MAP EXCERPT WITH SUBJECT SITE MARKED IN BLUE

The Greenweb map is Ku-ring-gai's DCP biodiversity mapping for the management of significant vegetation and habitat. The Gordon Creek headwaters are mapped as biodiversity corridors and buffers and support areas for core biodiversity.

In addition, the remnant bushland and the 20m wide riparian zone contributes to the existing character of the area.



FIGURE 4 GORDON CREEK, NO. 38 MIDDLE HARBOUR ROAD, APPROX. 50M FROM SUBJECT SSDA SITE

The BDAR incorrectly states " the closest mapped stream to the development site is Gordon Creek, where its head is located in the rear garden of number 38 Middle Harbour Road, 39 metres to the east. At that point it presents as a dry gully in a landscaped garden with many plantings, a constructed stone pathway crossing to

the opposite slope, and a large in-ground pool along its edge." In fact local residents advise that the creek emerges from the ground at No. 32A Middle Harbour Road and is permanent except in extended dry period.



FIGURE 5 GORDON CREEK, NO. 32 MIDDLE HARBOUR ROAD STREET LOOKING EAST TO 32A (PHOTO TAKEN MAY 2025)

Figure 5 below indicates current neighbourhood character with a Google Streetview screenshot of No. 32 Middle Harbour Road close to the intersection with Trafalgar Avenue. The riparian zone of Gordon Creek results in no built form being evident from Middle Harbour Road



FIGURE 6 GOOGLE STREETVIEW GORDON CREEK, NOS. 30A-32 MIDDLE HARBOUR ROAD STREET FRONTAGE (ADJOINS SSDA SITE SOUTH BOUNDARY) NATIVE TALLOWWOOD TREE CANOPY.

**2.1.5 Middle Harbour Road, Lindfield Conservation Area --C42 (KLEP 2015)**

The site is located in a heritage conservation area identified as the Middle Harbour Road Heritage Conservation Area is of local historic and aesthetic significance" ...as a good and largely intact residential precinct characterised by streetscapes of good, high quality examples of single detached houses primarily from the Federation and Inter-war period with some examples of mid to late 20th century development

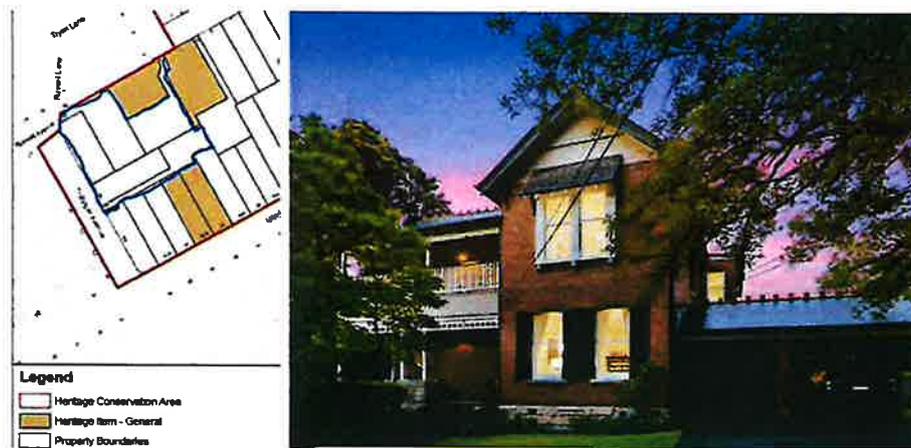


FIGURE 7: C42 HERITAGE CONSERVATION AREA MAP EXCERPT AND LOCAL HERITAGE ITEM 1 VALLEY ROAD LINDFIELD.

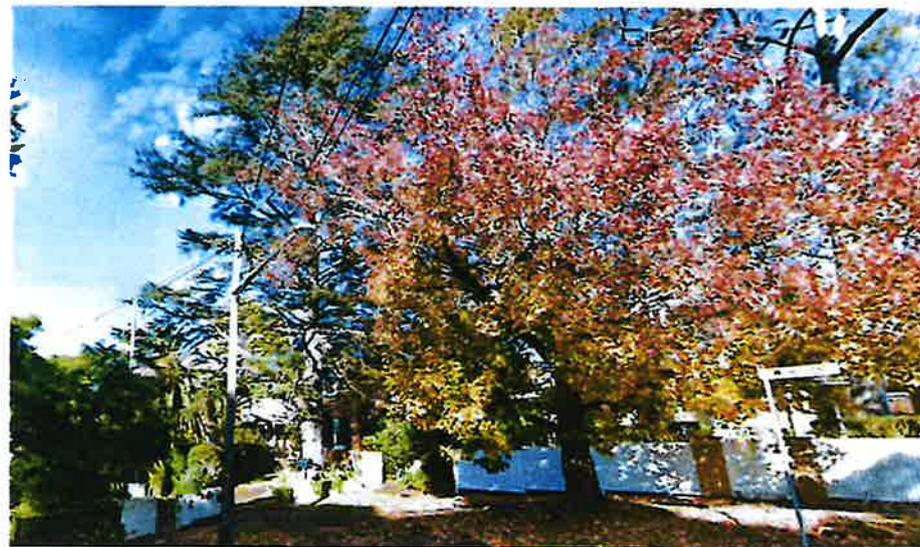


FIGURE 8: C42 HERITAGE CONSERVATION AREA HERITAGE ITEM 1 VALLEY ROAD LINDFIELD FROM VALLEY ROAD.



### Trafalgar Avenue street character and context

The Urbis Heritage Impact Statement (Urbis HIS) states "the design of the proposed scheme is sensitive to the characteristics of the Middle Harbour Road, Lindfield Conservation Area (C42) and the extant structures located on the subject lot." and that the "massing, materiality and façade articulation of the proposal is informed by the local visual context of the site's intersection location and its sloping topography, additionally the proposal respects the established setback pattern of the Trafalgar Avenue streetscape."

In my view the setback pattern of Trafalgar Ave consists of alignments caused by corner lots (55 and 61 Trafalgar Avenue) that are less than those setbacks that characterise the broader HCA. However, these lots are interposed with much larger pockets of landscaped area (shown in green outline in Figure 9 below) without any built form and includes the biodiversity buffer zone of Gordon Creek at No. 55 Trafalgar Avenue.

The overarching characteristic of the C42 HCA is set out properly in the statement of significance. i.e.

"The built context is enhanced by the street proportions and character, street plantings and garden settings including remnant and planted native trees, creek line and neighbouring reserve areas."



FIGURE 9: C42 HERITAGE CONSERVATION AREA- TRAFALGAR AVENUE SETBACK PATTERN (SUBJECT SITE IN RED)



**2.1.6 Right of Carriageway to adjoining properties**

The proposed development 59–63 Trafalgar Avenue and 1A–1B Valley Road, Lindfield involves the construction of a driveway over land situated between Trafalgar Avenue and 1B Valley Road, which adjoins the rear boundary of the following six properties which enjoy a 4.5m right of carriageway over the subject site:

1. 55 Trafalgar Avenue
2. 30A Middle Harbour Road
3. 32 Middle Harbour Road
4. 32A Middle Harbour Road
5. 34 Middle Harbour Road
6. 34A Middle Harbour Road

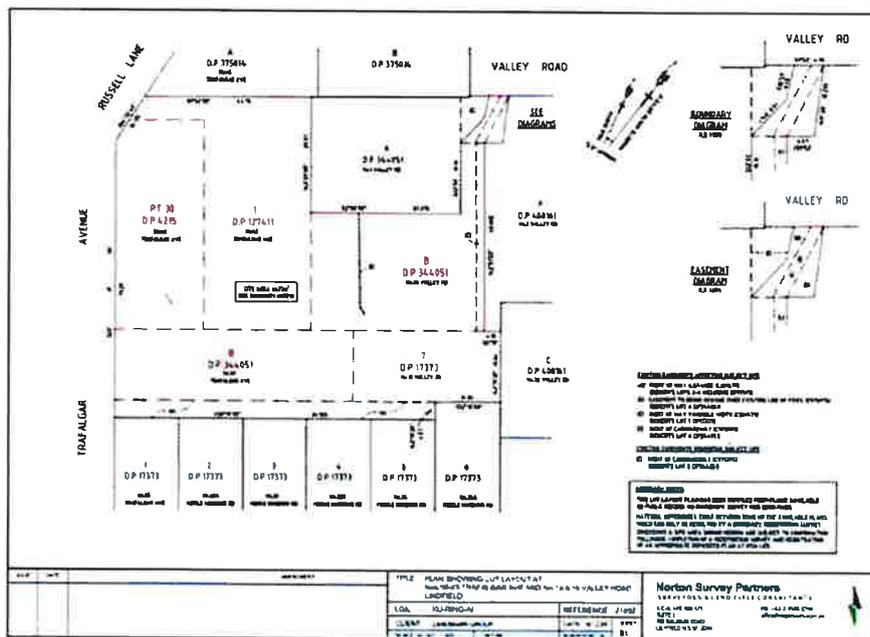


FIGURE 10: LOT LAYOUT PLAN INDICATING EXISTING R.O.W AND EASEMENTS.

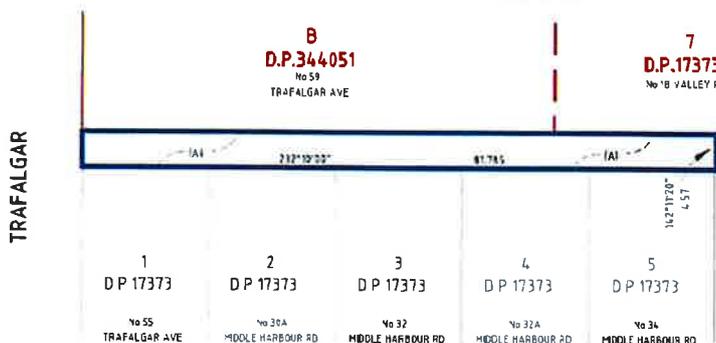


FIGURE 11: THE RIGHT OF CARRIAGEWAY OVER THE DEVELOPMENT SITE IS SHOWN BELOW OUTLINED IN BLUE



## 2.2 Community Engagement

The community engagement was conducted over a very short timeframe for a high impact development and provided very limited (controlled) design information given the scale of the development proposed.

SEARS were issued on 16<sup>th</sup> January 2025, and the plans were advanced enough for a design review to be undertaken by the NSW State Design Review Panel on the 1<sup>st</sup> February 2025. The first community webinars were held on 26 March 2025 and the SSD application submitted on 24<sup>th</sup> April 2025. The application was lodged 2 days after the completion of the public exhibition of the draft statutory planning controls on 22<sup>nd</sup> April and therefore could not adequately take into consideration the matters raised in the exhibition period.

The documentation supporting the proposal does not appear to meet the requirements of *SEARS Item 4 – Engagement* or the *Undertaking Engagement Guidelines for State Significant Projects* in the following ways.

- At the community webinar the developer incorrectly stated the site is 400m walking distance from the Lindfield Station entry when in fact it is in excess of 500m and outside the area targeted by *SEPP Housing Chapter 5 Section 150 (a) Aims of Chapter*.
- The owner of 36 Middle Harbour Road understands that neighbours most impacted from the development including 55 Trafalgar Avenue, 30A, 32, 32A, 34 and 34A Middle Harbour Road on the southern overshadowed boundary have only been consulted by invitation to community webinar.
- The webinar session stated design principles including "built form was designed to be responsive to the existing surroundings, minimising amenity impacts on neighbouring properties" when in fact structure plan will impact solar access to dwellings to the southern boundary, which currently receive 6 hours mid-winter sun, reduced to receive ½ hour to 2 hours solar access to private open space and living areas.
- The *Ethos Urban Consultation Outcomes Report 5.0 Feedback and Project Response* incorrectly states that "that proposal has been designed to generally comply with height and setback controls, ensuring the neighbour's solar access, privacy and views are maintained in alignment with per planning regulations" and that this was achieved in a number of ways including "Strategically shaping the building's mass to maximise solar access to adjoining properties." Refer Figure 12.



### Design Principles

- Enhance existing Landscape character to street and all building interfaces.
- Retention of significant trees  
Provide a laneway connection from Trafalgar Avenue to Valley Road
- Built form designed to be responsive to the existing surroundings, minimising amenity impacts on neighbouring properties.
- Architecture Character and materials inspired by the existing built character of Lindfield



FIGURE 12: BUILT FORM INFORMATION PRESENTED AT THE MARCH COMMUNITY INFORMATION WEBINAR

### 2.3 Owners prior submission

The Owner of 36 Middle Harbour Road has made a submission to Ku-ring-gai Council in April 2025 which includes a summary of key issues.

Refer **APPENDIX A**



## 3 PLANNING CONTEXT

This assessment of planning context identifies those SEPP Housing policy objectives that require applicants to consider how their development will align with existing area characteristics and existing building fabric, delivering increased housing density.

### 3.1 SEPP (Housing) 2021

#### 3.1.1 Chapter 1 Preliminary Section 3 Principles of Policy

The Environmental Impact Statement (EIS) dated April 23 2025 prepared by Planning&Co addresses the provisions of SEPP (Housing) 2021 Chapter 2 Affordable Housing, Part 2, Division 1 and Chapter 5 Transport oriented development, but is silent in regard to the overarching principles of this Policy set out in SEPP (Housing) Chapter 1 that relate to environmental impacts.

These principles have become increasingly difficult to achieve when affordable housing height and FSR bonuses are applied to TOD rezoned areas and require skilful design solutions.

They are as follows -

- (c) *ensuring new housing development provides residents with a reasonable level of amenity,*
- (e) *minimising adverse climate and environmental impacts of new housing development,*
- (f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality.*

#### 3.1.2 Chapter 2 Affordable Housing

Section 20 (3) Design requirements states that 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."*

The proposed application is not compatible with the desirable elements of the character of the local area. Refer 3.2 DPHI Guidance to TOD below for design assessment guidelines.

#### 3.1.3 Chapter 5 Transport Orientated Development

The aims of Chapter 5 Transport Orientated Development set out in Section 150 include as follows —

- (a) *to increase housing density within 400m of existing and planned public transport.*

The TOD Guidance<sup>3</sup> states that the TOD amendment "*aims to deliver more mid-rise residential flat buildings and shop-top housing around rail and metro stations. The aim*

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<sup>3</sup> [Guidance to Transport Oriented Development](#)

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is to create developments that are well designed, are of appropriate bulk and scale, and that provide amenity and liveability". In the application, the development proposed is for high rise residential flat buildings more than 400m from a station with compromised amenity due to overdevelopment of the site.

Section 160 requires consideration of Apartment Design Guide.

Refer **DESIGN QUALITY AND CONSIDERATION OF THE ADG** below for design assessment

### 3.2 DPHI Guidance to TOD

#### 3.2.1 Development applications in heritage conservation areas

The TOD Guide<sup>3</sup> states "The Heritage Council of NSW support(s)..... applications involving heritage considerations to continue to be lodged with and assessed by councils."

DPHI guidance also states any "...new apartment buildings proposed in an HCA should be appropriate to the context, and build upon the features of the HCA, whilst delivering increased housing density.

Applicants may be required to submit a heritage impact statement (HIS) to accompany the development application. The HIS will outline how the proposal impacts adjoining and surrounding properties in the HCA. It will also need to demonstrate how the proposal will be compatible with the streetscape and appropriate to the heritage context."

In my view the design elements of the proposed development such as bulk and scale, front and side setbacks, and interface with the public domain will not be compatible with the streetscape and appropriate to the C42 HCA context. At 9 storeys, the proposal is significantly higher than surrounding contributory dwellings which are generally single storey in scale. The long, visually impermeable facades of the proposed development are not sufficiently modulated to break down its 9 storey scale.

A key driver of streetscape character in this HCA is the landscaped deep soil street setbacks. The setback proposed is 4.5m. Analysis of the existing context shows that

- existing street setbacks are generally in excess of 6m,
- the setback pattern of Trafalgar Ave consists of alignments caused by corner lots that are less than those setbacks that characterise the broader HCA but are interposed with much larger pockets of landscaped area without any built form and includes the biodiversity buffer zone of Gordon Creek at No. 55 Trafalgar Avenue.

In the circumstances of this particular case where the site adjoins R2 zoned low density lands as a minimum a compatible development would deliver

1. a 6m landscaped setback with canopy tree planting.
2. 9m side boundary setbacks as recommended in the ADG
3. Built forms above 4 storeys to be articulated with adequate separations between tower forms to allow sunlight to penetrate and to offer street vistas of blue sky to enhance the public domain and contribute to a finer grain urban scale.



### 3.3 Council's Preferred Scenario

Council staff working with SJB Urban have refined and developed a Preferred Scenario that achieves dwelling yields over the four Ku-ring-gai precincts to match the DPHI target calculated at 23,045 dwellings. In-house modelling used by the DPHI has found that Council's Preferred Scenario has the capacity to deliver the required dwellings.<sup>4</sup>

The draft statutory planning controls contained within the TOD Preferred Alternative Scenario prepared by Ku-ring-gai Council were exhibited from 2-22 April 2025 and anticipated to be approved by the Council and forwarded to the DPHI in early June 2025. The draft planning controls will amend the planning controls applying to the site and make the proposal prohibited development.

The proposal was lodged on 24<sup>th</sup> April 2024 2 days after the commencement of the public exhibition of the draft statutory planning controls and as a result **the application has not given adequate regard to the exhibited material and is consequently flawed in its considerations of desired future character and compatibility of development.**

Whilst the application benefits from the savings provisions in regard to the subject site it cannot reasonably assume the current zoning of adjacent lands at 55 Trafalgar Avenue, 30A and 32 Middle Harbour Road will remain in the TOD Zoning. This is for a number of reasons but primarily because the sloping topography, existing native tree canopy and 20m wide riparian zone of Gordon Creek which is in a biodiversity support zoning will preclude the development of those sites for high density development.

As a result of this flawed site analysis the application results in development incompatible with its future context.

**The Preferred Scenario for Lindfield proposes an alternative TOD Boundary** (shown in mauve colour in Figure 12) generally defined by streets to reduce detrimental planning impacts that arise where zoning changes occur at side or rear boundaries. Under this scenario the SSD Application (red) falls outside the TOD Precinct.

Due to the savings provisions that apply to the application this review takes the position that

1. Due to the site being in a Heritage Conservation Area and being in excess of 400m from the station (500m), any assessment should take into consideration *SEPP (Housing) 2021 Section 3 Principles of Policy* and be considered as a transition area from TOD to low and mid-rise housing, and
2. Any assessment of the immediate context should be undertaken with consideration of the likely context that would arise if Council's Preferred Scenario was accepted i.e. Existing TOD lands outside of Councils' Preferred zoning not subject to TOD savings provisions.

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<sup>4</sup> Extraordinary Meeting – 31 March 2025 Item GB.1 TOD ALTERNATIVES – POST EXHIBITION – PREFERRED SCENARIO, MASTERPLAN AND IMPLEMENTATION STRATEGY 20250331 - EMC - 2025/016498/BR/13

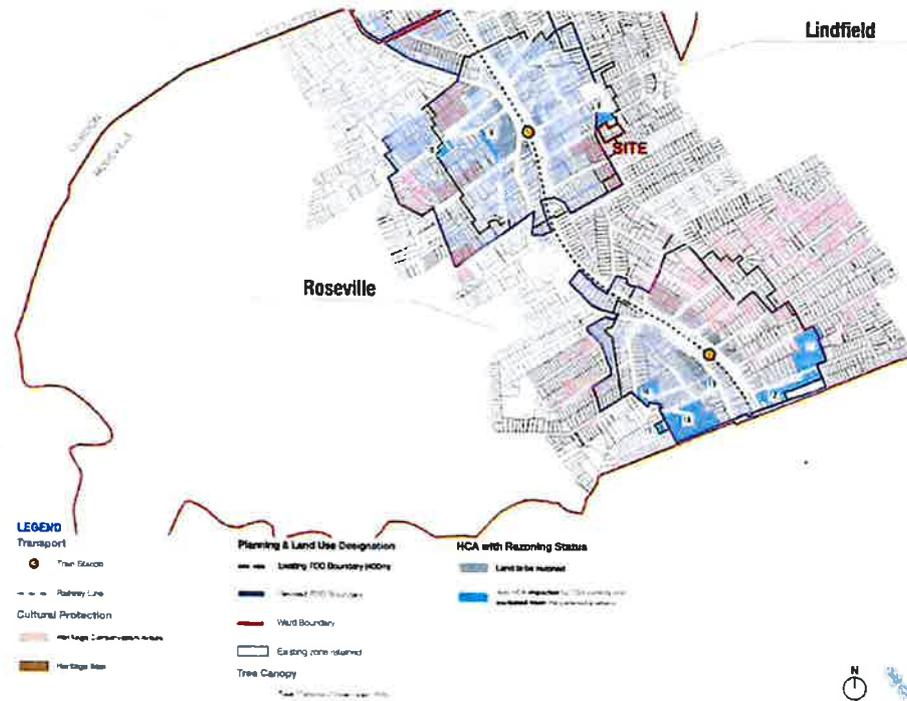


FIGURE 13: KU-RING-GAI COUNCIL PREFERRED SCENARIO ATTACHMENT A7

**Justification for TOD Areas Removed C42 Conservation Area <sup>5</sup>**

Eight properties in this C42 Middle Harbour Road Conservation Area are affected by the TOD with an additional 3 heritage items directly interfacing. The HCA has discrete boundaries defined by Trafalgar Avenue, Russell Lane, Nelson Road, Tryon Road, Valley Road, Howard Street, Capper Street and Middle Harbour Road.



**Due to the concentration of heritage items in this portion of the HCA it is deemed as largely unsuitable for development.** Additionally, there is no suitable planning solution that would allow this portion of the HCA to be divided from the remainder.

**The Preferred Scenario protects C42 in its entirety** consistent with *Principle 2 - Minimise impacts on Heritage Items, Principle 3 - Preserve Heritage Conservation Areas and Principle 5 - Manage transition impacts.*

FIGURE 14: KU-RING-GAI COUNCIL PREFERRED SCENARIO ATTACHMENT A

<sup>5</sup> [A6 Preferred Scenario - Justification for TOD Areas Removed and Added - Heritage Conservation Areas](#)

### Applicants Clause 4.6 - Variation for Building Height

The justification relies on flawed analysis of environmental planning grounds to justify the contravention.

#### Topography

The site falls approximately 11.5 from the south-east down to the north-west. This cannot be justification for height non-compliance. Properties to the southern boundary are lower than the subject site. The topography exacerbates the detrimental impact of both visual bulk and overshadowing on properties to the south.

The justification that to comply with height will result in an unreasonable construction cost burden is not credible.

#### Overshadowing

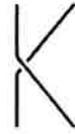
The justification relies on misleading statements regarding solar analysis including

- that the neighbouring dwellings to the south "will receive at least 2 hours of solar access between 9am and 3pm on 21 June, and solar impacts on these developments is very minor" is a misleading claim.
- That "The proposed development has been carefully designed to reduce solar impacts and will cast less shadow on 21 June than a compliant TOD and Infill Affordable Housing envelope."



FIGURE 15: VIEW FROM GOOGLE STREETVIEW FROM TRAFALGAR AVENUE SHOWING NORTH FACING PRIVATE OPEN SPACE ADJOINING THE SUBJECT SITE SOUTHERN BOUNDARY CURRENTLY RECEIVING 6 HOURS SUNLIGHT IN MID-WINTER

The private open space to 55 Trafalgar Avenue, 30A, 32, 32A Middle Harbour Road currently receive 6 hours sunlight. The Ku-ring-gai DCP 4C.5 Solar access requires the



maintenance of 4 hours between 9am and 3pm on 21st June to the principal open space recreational areas and all living areas (DCP 4C.5 Solar Access).

In low density areas adjacent to higher density zonings a minimum 4 hours solar access should be provided. The DCP provides guidance that in certain areas where existing solar access is less than 4 hours a reduction of 20% may be acceptable.

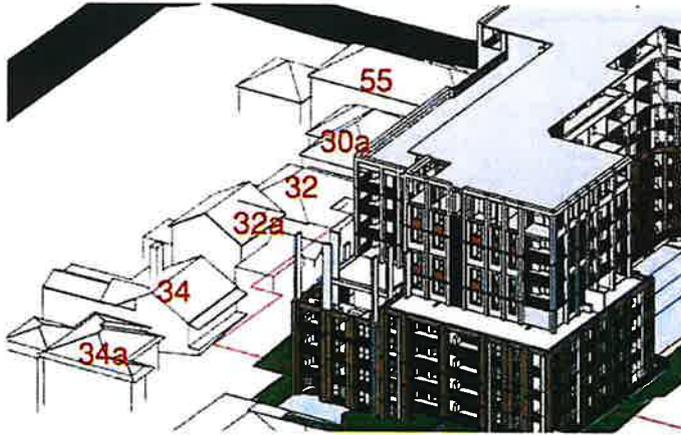


FIGURE 16: DKO DESIGN VERIFICATION REPORT 10AM SUN EYE

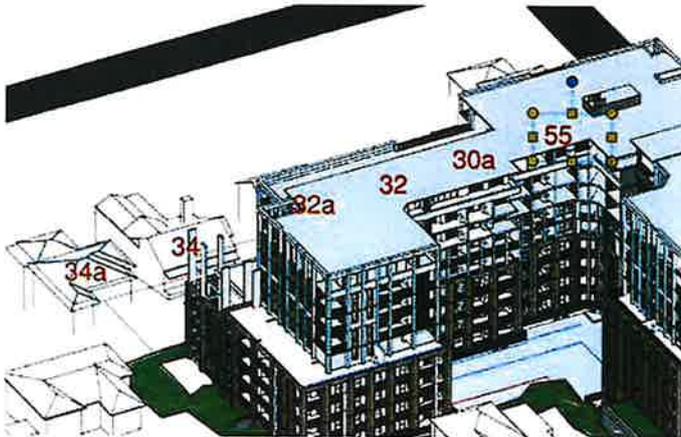


FIGURE 17: DKO DESIGN VERIFICATION REPORT 12PM SUN EYE

Reviewing the sun eye diagrams the properties with rear gardens facing the subject site southern boundary are unreasonably overshadowed between 9am and 3pm mid-winter. The above mentioned properties are fully overshadowed after 12pm

- 55 Trafalgar. 0 hrs
- 30a Middle Harbour ½ hr
- 32 Middle Harbour 1 hour
- 32a Middle Harbour 1 hour
- 34 Middle Harbour 2 hour

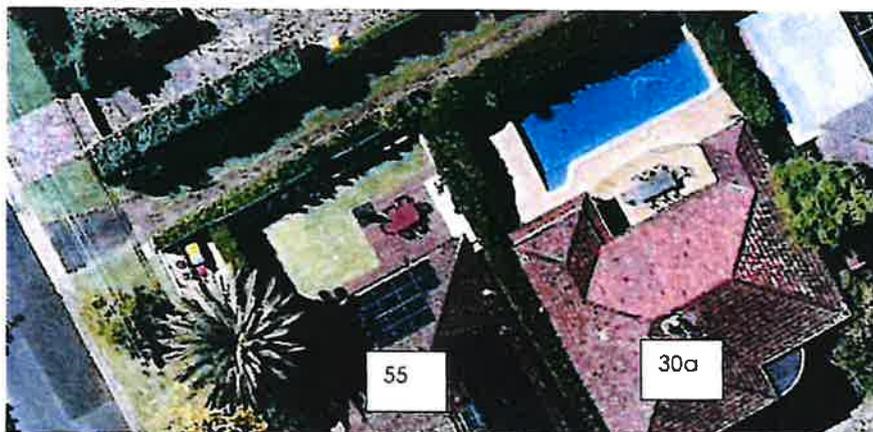


FIGURE 18: NORTH ASPECT PRIVATE OPEN SPACE AND LIVING SPACES TO NO.55 TRAFALGAR AVE AND 30A MIDDLE HARBOUR ROAD WILL RECEIVE LESS THAN ½ HOUR WINTER SUN BETWEEN 9AM TO 3PM.

#### Visual impact

The Visual Impact Assessment (VIA) prepared by Urbaine Design Group focuses on impact on views and does not adequately address impacts on street character and qualitative aspects of impacts on the heritage conservation area due to bulk and scale of development.

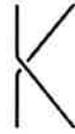
Further where modelling is undertaken, no contextual analysis has been considered, where the sites at No.55 Trafalgar Avenue, 30A and 32 Middle Harbour Road remain as R2 zoning or, being within 800m of the station, low and mid-rise housing zonings.

#### Bulk and Scale

The bulk and scale of development in a TOD area with affordable housing bonuses was intended for sites within 400m of a station, which this site is not, and notwithstanding this in accordance with TOD Guidelines development must respond appropriately to context when the development is within a heritage conservation area.

The site is large and well oriented which enables significant design flexibility for compliant options. If the height non-compliance did not result in additional overshadowing impacts and were implemented to facilitate increased setbacks to street frontages and side boundaries to achieve urban character outcomes, or to facilitate gaps between tower forms to create a nuanced high density built form response to in a HCA then perhaps the non-compliance could be justified.

That is not the case here. The built form to Trafalgar Avenue results in a building form that is stepped but unbroken for 70m on Trafalgar Street and 82m on the southern boundary interface with the R2 low density zone.



## 4 NSW STATE DESIGN REVIEW PANEL COMMENTS

### 4.1 Review of DKO design response to SDRP comments dated February 2025

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#### SDRP 1 Comments

*Develop and refine a list of key opportunities that can be delivered and will be enduring and impactful for country, e.g. opportunities for connection to the broader landscape (beyond site boundaries), hydrology relative to the riparian zone or initiatives with an environmental/ sustainability focus.*

*Refer. Explore:*

- a. opportunities to connect to Country in internal and external communal areas including lobbies, stairwells, corridors, as well as in private apartments,*
- b. how Country can be reflected in material choices,*
- c. how to facilitate interactions with Country on street fronts and internal 'tracks'.*

#### **Jim Koopman Design Review of DKO SSD.**

DKO response noted. No review undertaken for this report however I do note that the site abuts sites that are zoned by Ku-ring-gai Council Greenweb as containing remnant canopy and lands that provide 'support for core biodiversity lands' and include land zoned "biodiversity corridors and buffer".

Caring for Country through wholistic design methods as appropriate is recommended

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#### SDRP 1 Comments

*At the west zone along Trafalgar Avenue - continue to respond to the streetscape, including street trees and the future character of the TOD rezoning*

#### **Jim Koopman Design Review of DKO SSD.**

##### **Street Trees**

The DKO refers to additional street trees and the species shown in the Scrivener Landscaping Plan relate to Pre Clearing Plant Community Type "Sydney Turpentine Ironbark Forest" which are appropriate, though not clearly allocated as to which species are to be planted in the street.

##### **Future Character linked to Future Zoning Scenarios**

DKO do not respond to the desired future character of the TOD Zoning.

My review takes into consideration SEPP (Housing) 2021 Chapter 1 Preliminary Section 3 for the overarching Principles of Policy which require

- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality.*

In addition, SEPP (Housing) Chapter 5 Section 20(3) states "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.... for precincts undergoing transition, the desired future character of the area."

The site adjoins an R2 Low density Residential zone on the southern boundary. While those adjoining lots are currently zoned for TOD development, the Council's Preferred Zoning Scenario is seeking to exclude them on the basis that they are approximately 600m walking distance from the station entry and they are in a heritage conservation area, and subject to a 20m wide riparian zone to Gordon Creek which is identified as a biodiversity support area.

The likely planning context is that the TOD boundaries will be modified to exclude heritage conservation areas exceeding 400m from Lindfield Station. The application ignores this likelihood in its character assessment and its response to *Apartment Design Guide* design criteria and guidance.

**The development is not compatible with the desired future character of the locality** as it does not propose built forms that respond to the existing low density attributes of the sites it adjoins.

The desirable elements of the locality include significant deep soil landscaped areas and tree canopy with heritage items showcasing architectural styles from Federation and Inter-war periods

The C42 HCA is characterised by *"built context ... enhanced by the street proportions and character, street plantings and garden settings including remnant and planted native trees, creek line and neighbouring reserve areas."*

The Gordon Creek riparian lands adjacent to the subject are part of a bio corridor buffer area that with that contribute the natural environment that forms the unique character of the Ku-ring-gai area.

TOD rezoned lands would need to deliver the 50% deep soil landscaped area to effectively allow development which satisfies SEPP Housing Chapter 5 Section 20(3) referred to above.

An example of high density development in the Ku-ring-gai area that satisfies the character test can be seen at 6 Shout Ridge Road, Lindfield (Architectus/Arcadia).



FIGURE 19: 10M STREET SETBACKS WITH ENDEMIC PLANTING AT 6 SHOUT RIDGE ROAD LINDFIELD

Key features of the development include buildings in a bushland setting which is augmented by a number of key attributes

- generous 10m setbacks related to the scale of the buildings,
- 50% deep soil landscaped area
- through site vistas between buildings
- the use of natural buildings materials
- Endemic street planting



Given this SSD is over 500m walking distance from the station, on a moderate slope, in a HCA, and adjacent to a natural creekline in a biodiversity buffer zone, and the existing adjoining sites have extensive native canopy trees. I would recommend that for development to meet the contextual aims of SEPP Housing 2021 in the circumstances of this particular case, all of the attributes landscaping and building footprint of the Shout Ridge Road precinct should apply. As a minimum,

- Trafalgar Avenue setbacks should be 6m deep soil endemic planting. This reflects residential setbacks in low and mid-rise areas.
- Side boundary setbacks to lower density R2 zones should be 9m deep soil.
- As a site is a scale transition zone, building forms should incorporate breaks in the built form to relate the character of areas adjacent that remain low and mid-rise housing density. The opportunity exists in Trafalgar Avenue to create an open to the sky pedestrian link for residents between Building 1 and Building 2. (This will improve NCV performance)
- Deep soil landscape should be maximised.
- Building heights and configurations should ensure adjoining neighbours to the south retain a minimum 3-4 hours of solar access in mid-winter to private open space. Each planning scenario (Current TOD/Council Preferred) would result in different built forms.

In my view the approval process and design review process should not assume a TOD zoning on 55 Trafalgar Avenue, 30A and 32 Middle Harbour Road is a certain outcome.

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#### **SDRP 1 Comments**

*Further respond to the Lindfield landscape and street character, by:*

*a. ensuring deep soil is optimised at setbacks, the rights-of-way and other shared outdoor spaces. This will support generous, thriving planting and landscape buffer zones to neighbours*

*b. maintaining the proposed deep soil at the proposed street setbacks to enable the tree retention*

#### **Jim Koopman Design Review of DKO SSD.**

I understand that the Ku-ring-gai Council Preferred Scenarios would require a 50% deep soil for landscaped areas. The proposed development dedicates 23% of the site which exceeds ADG recommendations of 15%.

In my view, in the circumstances of this case, the location of deep soil is as important as a metric compliance. As this site is more than 400m from a station, which is effectively outside the intended TOD areas pursuant to SEPP Housing Chapter 5 Section 150(a) and is in a scale transition zone from high to low and mid-rise density, the most appropriate response to Lindfield landscape street character would be to provide a minimum 6m wide deep soil set back to Trafalgar Avenue for endemic tree canopy planting.

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#### **SDRP 1 Comments**

*Develop all pedestrian links and site access points to enable the following:*

*a. optimised neighbourhood integration and physical connections*

*b. maximised site connectivity, safety and street activation*



c. links that contribute to place character and promote landscape opportunities – e.g. develop the Valley Road right-of-way as a deep soil and green pedestrian link

#### **Jim Koopman Design Review of DKO SSD.**

The locations of links have not been optimised and consequently site connectivity to site entries, building entries are not as active or as safe as they could be. Refer

#### **APPENDIX 2 Alternate site structure plan.**

Further where the link exists along the southern boundary it crosses a shared zone of the car park access with naïve landscape gestures such as a waving pavement pattern inlay to suggest pedestrian use.

This link currently provides access to the rear garden of properties on the sites southern boundary and the design does not recognise this existing use.

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#### **SDRP 1 Comments**

*Develop the Trafalgar Avenue right-of-way as a pedestrian-friendly shared zone, that promotes access for residents of both Middle Harbour Road and the new ground floor dwellings.*

*The central common open space requires further development to address privacy, noise and over-looking issues.*

#### **Jim Koopman Design Review of DKO SSD.**

##### **Trafalgar Avenue right of way**

The Trafalgar Avenue right of way has not been developed as a shared pedestrian zone. Residents of the Middle Harbour Road properties enjoy a 4.5m wide ROW to provide the access to rear gardens for maintenance, repairs and building works. The design of the link would be improved with an increased setback to 9m in response to the low and possible future mid-rise scales adjacent. This would enable

- a more generous shared pedestrian pathway with improved sight lines to building entries
- enable the provision of a 1.5m wide planting beds along the boundary at the driveway where currently there is none
- Improved winter sun to this space which is completely overshadowing for more than 6 months of the year

##### **Central outdoor space**

I have not focused on this space as this report is more concerned with appropriate future character, amenity and environmental impacts to adjacent properties, however the alternate structure plan in **APPENDIX B Alternate site structure plan** would result in a more communal space and better access for residents.

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#### **SDRP 1 Comments**

*At the central outdoor space, address the following:*

- a. provide a variety of spaces to ensure a balance between dwelling and circulation*
- b. develop the key landscape to building interfaces*
- c. optimise the limited deep soil zone.*

#### **Jim Koopman Design Review of DKO SSD.**

No design review undertaken

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#### SDRP 1 Comments

Ensure the shared roof-top areas are destination spaces that:

- support all residents via their layouts, amenity and facilities and capacity for dwelling and gathering.
- are complimentary to shared spaces at the ground floor..

#### Jim Koopman Design Review of DKO SSD.

No design review undertaken

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#### SDRP 1 Comments

Continue to develop the built form in response to local character by 'breaking-down' the form and mass into recognisable and distinctive built forms/buildings:

#### Jim Koopman Design Review of DKO SSD.

As this is a transition area from high density with 400m of the station to low and midrise areas, the break down of the built form is insufficient despite the podium form and the stepping of built form with the slope. The built form is responding to floor space ratio targets with insufficient consideration for development character in a conservation area transitioning to low and midrise density. Assuming the site configuration is substantially retained, the built form areas in green should be lowered to Level 4 or left fully open to satisfy the NSW SDRP comments and provide appropriately scaled built form. The extent of removal between Buildings 2 and 3 should be ascertained by design analysis to ensure winter sun private open space to buildings at 30A and 32 Middle Harbour Road. Refer Figure 20

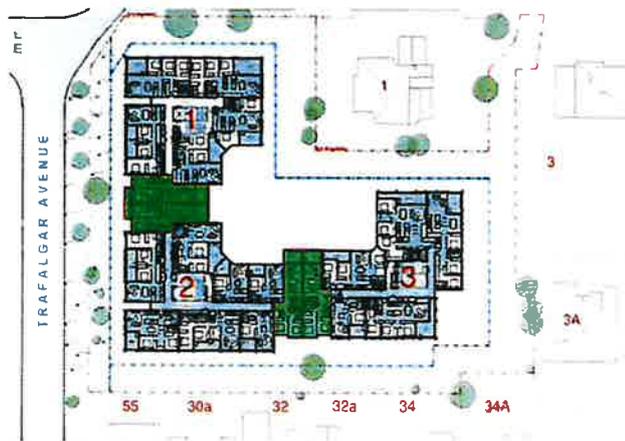


FIGURE 20: 10M STREET SETBACKS WITH ENDEMIC PLANTING AT 6 SHOUT RIDGE ROAD LINDFIELD

Building 3 height should be reduced to ensure complying mid-winter solar access to all adjacent neighbours to the south. The roof spaces could be utilised as more equitably located communal space and link to other communal spaces visually. The locations reduce communal open space overlooking potential in the current design.



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**SDRP 1 Comments**

Continue to look at local precedents to inform massing, colour and materials strategies. Consider the following:

- a. for local bungalows, look beyond horizontal strata and include other proportions and symmetries
- b. 25 Tyron Road is identified as a good materials precedent.:

**Jim Koopman Design Review of DKO SSD.**

No design review undertaken

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**SDRP 1 Comments**

Investigate opportunities for sustainability and Net Zero appropriate to residential development of this scale and complexity, including:

- a. testing Water Sensitive Urban Design options in response to the local hydrology
- b. testing roof-top capacity for PV cells
- c. integrating sustainability with Country-led opportunities:

**Jim Koopman Design Review of DKO SSD.**

No design review undertaken.

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**SDRP 1 Comments**

Ensure sustainability drives the architecture, e.g. building facades responsive to passive design and sun-shading relative to orientation.

Refer to 'NSW, DPIE, Net Zero Plan, Stage 1: 2020–2030' for further information.:

**Jim Koopman Design Review of DKO SSD.**

No design review undertaken

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## 5 INSUFFICIENT REGARD FOR THE POLICY PRINCIPLES IN SEPP (HOUSING) 2021

### 5.1 SEPP Housing Chapter 1 Policy Principles

The achievement of the Policy Principles set out in SEPP (Housing) Chapter 1 Section 3 can be assessed for adequacy by reference to various NSW Government advisory documents and guides discussed below.

SEPP (Housing)	Item Description	Notes	Objective achieved
CH 1 S3	(c) ensuring new housing development provides residents with a reasonable level of amenity,	<p>The proposal does not deliver reasonable amenity to future residents. Key poor outcomes include;</p> <ul style="list-style-type: none"><li>• Poor sense of address and legibility of building entry</li><li>• Unacceptable solar access as approximately 60% of apartments receive 2 hours sun</li><li>• Unacceptable natural cross ventilation as approx. 40% of apartments are naturally cross ventilated</li><li>• Corner apartments have significant amenity problems with poor outlooks, visual and acoustic privacy issues</li></ul>	X
CH 1 S3	(e) minimising adverse climate and environmental impacts of new housing development,	<p>The proposal results in excessive and unreasonable overshadowing of properties at 30a, 32, 32a and 34 Middle Harbour Road.</p>	X
CH 1 S3	(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality.	<p>The Application is for 9-10 storey development that does not reflect the desired future character typically sought on transition sites in a HCA i.e. sites located further than 400m from a station.</p> <p>The development does not deliver a streetscape that is sensitive to its context by virtue of</p> <ul style="list-style-type: none"><li>• excessive built form that is not appropriately broken down into discrete buildings</li><li>• excessive building heights that do not mitigate impacts on neighbours or reflect its proximity to adjacent heritage items and suburban housing</li><li>• Inadequate setbacks to Trafalgar Avenue to retain the landscape quality and street character of adjacent development that is not up zoned.</li></ul>	X

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		<ul style="list-style-type: none"> <li>Inadequate setbacks to side boundaries of R2 zoned areas</li> </ul>	
CH2 S20	<p>(3) 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>(b) for precincts undergoing transition—the desired future character of the precinct.</p>	<p>The proposed development is not compatible with the future character of the area for the reasons set out above in this reports response to NSW SRD concerns regarding character.</p> <p>The Councils Preferred Scenario resolves these compatibility issues because it is based on a consideration of retaining the best character attributes of the area and puts an emphasis on deep soil landscape areas that will protect the existing character of streets and locating higher density within 800m of the station except for HCAs which are 400m to 800m from the station being protected.</p>	X

**5.2 SEPP Housing Chapter 5**

**5.2.1 Heritage Conservation Areas**

The Department of Planning, Housing and Infrastructure have issued a guide for people who will assess and prepare development applications under the SEPP Housing Chapter 5 Transport Oriented Development planning controls titled *Guidance to Transport Oriented Development (May 2024)*

In the circumstances of the Application the subject site is located in a Heritage Conservation Area (HCA) more than 400m walking distance to the station (500m) and the proposed entry to all apartments is located 550m from the station entry.

Whilst the Department have designated some parts of TOD precincts boundaries to within 800m generally best practice accepts that the higher density development should be within the 400m walking distance and areas that are 400m to 800m from the station are urban density transition areas.

**5.2.2 Heritage assessment**

Ref	Item Description	Notes	Objective achieved
TOD Guide	DEVELOPMENT APPLICATIONS IN HERITAGE CONSERVATION AREAS.	Matters for consideration should include;	X
Heritage	<p>Any new apartment buildings proposed in an HCA should be appropriate to the context, and build upon the features of the HCA, whilst delivering increased housing density.</p> <p>It is intended that the consent authority considers the character of the HCA and have regard to aim of increased housing density, and change in built form as the area transitions over time.</p>	<p>The site is further than 400m walking distance from a station and the density and built proposed is inappropriate within this Heritage Conservation Area.</p> <p>This site should be considered a transition zone and provide density appropriate for sites located 400m to 800m from the station.</p> <p>Refer recommendations in relation to bulk and scale setbacks and public domain stated above in Planning Context – Chapter 5 TOD</p>	



## 6 DESIGN QUALITY AND INCONSISTENCY WITH THE ADG

A design review of Parts 1 to 4 of the ADG is set out below. The review is presented in a table and identifies only where the objectives, guidelines and recommendations of the ADG are not achieved.

### 6.1 ADG Part 1 Identifying the context

"Good design responds and contributes to its context. Context is everything that has a bearing on an area and comprises its key natural and built features."<sup>6</sup>

Control	Item Description	Notes	Objective achieved
<b>1B</b>	<b>Local character and context</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	<b>Desired future character</b>		X
	Establishing the desired future character is determined through the strategic planning process in consultation with the community, industry and other key stakeholders.	Council have established an intensive process of consultation and engaged SJB to establish a community driven preferred development scenario taking into consideration the circumstances of this particular case.	
	Understanding the context during this process is crucial to support change and determine appropriate building types and planning controls	In the preferred scenario the subject development site would be excluded from the TOD boundaries based on a comprehensive analysis of the site conditions.  The application makes assumptions about future context and the location of the TOD boundaries along Trafalgar Road that are not certain due to the site being in a Heritage Conservation Area in excess of 400m from a station.	
	<b>Common settings</b>		X
	The planning process establishes the appropriate location for residential apartment development by determining land use and density in proximity to transport, employment, services, land form and environmental features.	The TOD envisaged the development of mid-rise residential flat buildings. Mid-rise development is far more capable of responding to the characteristics of this particular place, i.e. Lindfield conservation area.	
	<b>Within this framework, the specific characteristics of a place or its setting will inform design decisions.</b>		
<b>TOD Guide</b>	<b>Setting 1 - Proximity to Transport</b> The TOD process states that the key "setting" is that TOD development will be within 400m walking distance to the station entry.	This site is over 500m.	X

<sup>6</sup> ADG PART 1 Identifying the context. 1B Local character and context



Control	Item Description	Notes	Objective achieved
TOD Guide	<p><b>Setting 2 – Development in a HCA</b> The DPHI document <i>Guidance to Transport Oriented Development</i> states</p> <p><i>"Understanding the heritage values of a heritage conservation area before deciding on a proposed development scope or type is key to success"</i></p>	<p>Middle Harbour Road, Lindfield Conservation Area –C42 (KLEP 2015) states that the HCA is <i>is of local historic and aesthetic significance as "a good and largely intact residential precinct characterised by streetscapes of good, high quality examples of single detached houses primarily from the Federation and Inter-war period with some examples of mid to late 20th century development.</i></p> <p><b>The built context is enhanced by the street proportions and character, street plantings and garden settings including remnant and planted native trees, creek line and neighbouring reserve areas. "</b></p> <p>In my view the Urbis HIS<sup>7</sup> is deficient in so far as it chooses to focus on the quality of the heritage items and does not adequately consider the street character is enhanced by street proportions, planting settings, the context of the creekline that contribute to the heritage character of the area as stated on the Council's <i>C42 Statement of Significance.</i></p>	X
TOD Guide	<p><b>Setting 3 – Environmental features</b> The DPHI document <i>Guidance to Transport Oriented Development</i> states " <i>The NSW Government also recognises that quality green space and urban tree canopy contribute to community health and wellbeing. Such green infrastructure is critical to delivering liveable, sustainable neighbourhoods. It increases resilience to urban heat and improves local amenity, walkability, and mental and physical wellbeing.</i>"</p>	<p>The Keystone Ecological BDAR<sup>8</sup> notes <i>that opportunities for retention of locally native trees are few, given their distribution across the development site. However, it states that the opportunity for restoration and enrichment of native vegetation is afforded in the areas of deep soil.</i></p> <p>The application proposes a 4.5m street setback. The one design action that would recognise the character of this place would be to set the building back by 6m to the boundary to enable <i>" restoration and enrichment of native vegetation"</i> and to recognise the importance of street proportion and garden setting that currently exists.</p>	X

<sup>7</sup> Urbis HERITAGE IMPACT STATEMENT 59-63 Trafalgar Avenue + 1A, 1B Valley Road, Lindfield Report P0057564 Rev 02 . Revised Statement of Significance.

<sup>8</sup> Biodiversity Development Assessment Report 59-63 Trafalgar Avenue and 1A and 1B Valley Road Lindfield Ku-ring-gai LGA For: Castle Hill No.8 Pty Ltd REF: KMC 24-1265 19th April 2025



	<p><b>The range of scales</b></p> <p>Apartment development needs to consider a range of scales during the planning and design phase.</p> <ul style="list-style-type: none"> <li>- Wider scale (1.5 kms)</li> <li>- Neighbourhood scale (400m-1 km)</li> <li>- Streetscape scale</li> <li>- Site scale</li> </ul>	<p>The TOD scale was envisaged as a mid-rise scale. Because the sites were intended to be within 400m walking distance to a station the 30% bonus uplift to high rise development was considered appropriate.</p> <p>In the circumstances of this case which is in excess of 400m and in a low rise HCA character area, the development needs to appropriately transition to the lower scale and the building form and scale needs to be modified in consideration of street character and amenity impacts to adjoining neighbours.</p>	X
<b>1C</b>	<b>Precincts and individual sites</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	<p><b>Individual sites</b></p> <p>Where an area is planned to change, new development needs to address the desired future character at both the neighbourhood and street scales.</p> <p>The DPE Planning circular<sup>2</sup> "Respecting and enhancing local character in the planning system" gives guidance.</p>	<p>In an area undergoing change future character should be shaped by understanding the desirable aspects of any particular place. This is what will give different precincts their unique character based on a genius locus.</p> <p>The development does not adequately respond to the desirable aspects of Lindfield heritage area, which include the garden setting, the street character and the building forms.</p>	X
	<p><b>What is local character?</b></p> <p>It is the way a place 'looks and feels. It is created by the way built and natural elements in both the public realm and private domain interrelate with one another, including the interplay between buildings, architectural style, subdivision patterns, activity, topography and vegetation.</p> <p>It is important to ensure that consideration of character is understood to be distinct from considerations of heritage and conservation. Compatibility is different from sameness, as it allows for many different features to coexist together harmoniously.</p>	<p>The application is an overdevelopment of the site because it does not result in a compatible design outcome.</p> <p>The reasons include:</p> <ul style="list-style-type: none"> <li>- The built form is not adequately articulated and does not permit views between buildings to garden settings from the public domain or from private gardens of adjoining development.</li> <li>- The bulk and scale do not respond to its adjacent context and result in substantial overshadowing</li> <li>- The landscaped street setbacks are a fundamental contributor to existing character. A 6m landscaped set back with tree canopy planting (rather than a 4.5m setback with built form incursions) will go a long way to ensuring character compatibility in the street.</li> </ul> <p>None of these reasons should preclude higher density development done well</p>	X

<sup>2</sup> Planning circular PS 18-001 dated 16 January 2018 titled Stepping up planning and designing for better places: respecting and enhancing local character



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	if properly address by design led strategies.	
<b>How can character be considered in the NSW planning system?</b>		X
<p>Local character needs to be considered as part of strategic planning and when detailed plans for places are prepared.</p> <p>Local communities play an important role in defining what character is in their local area.</p> <p>Consultation is essential throughout the plan-making process to ensure that character is planned for and consistent with the community's view of the desired future character of their area.</p>	<p>Currently the Councils Preferred Scenario has been developed following extensive community consultation within the constraint of very tight programs.</p> <p>Unfortunately, the State Government's rush to forge ahead with poorly conceived master planning for the Lindfield TOD zone has not followed their own planning circular guidelines.</p> <p>The decision to allow savings provision to apply to SEARS applications in the full knowledge an alternative scenario has been developed with DPHI review and modelling of housing yields under an alternative scenario detailed will lead to poor urban design outcomes.</p> <p>In this planning context, development that benefits from the savings provisions in HCA locations in excess of 400m from the station must be assessed diligently by the consent authority to ensure detrimental impacts relating to character and amenity are avoided.</p>	

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## 6.2 ADG Part 2 Developing the controls

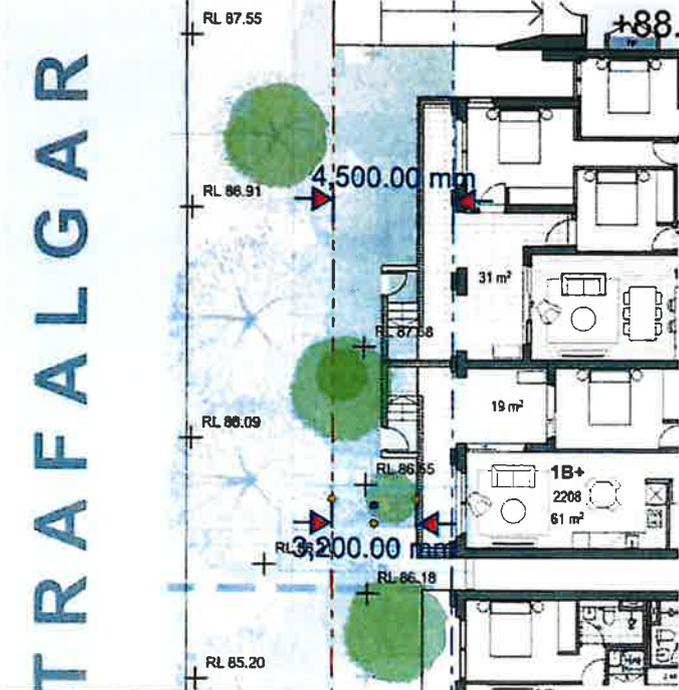
Building separation contributes to the urban form of an area and the amenity within apartments and open space areas. Amenity is improved through establishing minimum distances between apartments within the site, between apartments and non-residential uses and with boundaries to neighbours.

Control	Item Description	Notes	Objective achieved
<b>2C</b>	<b>Building height</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	Building height helps shape the desired future character of a place <b>relative to its setting and topography</b> . It defines the proportion and scale of streets and public spaces and has a relationship to the physical and visual amenity of both the public and private realms	<p>Building height has been established by the application of generic controls not related to any place based criteria except in relation to being 400m from a station in Chapter 5 TOD and being within 800m from a station in Chapter 2 Affordable Housing bonuses.</p> <p>In this planning context the application of height controls will establish the future character of the area, However the SEPP Housing planning policy principles and aims require heights proposed to take into consideration amenity impacts resulting from higher density for both residents and neighbours.</p> <p>On this particular site the topography results in the detrimental impacts of height being exacerbated for dwelling adjacent its southern boundary.</p> <p>To facilitate higher buildings and retain the landscaped and garden character of the streets and public domain in Lindfield, consideration must be given to enhanced setbacks, at least 6m, and enhanced landscaped deep soil provisions.</p>	X
	<b>Considerations in setting height controls</b>		X
	Consider secondary height controls to transition built form, for example: <ul style="list-style-type: none"> <li>• a street wall height to define the scale and enclosure of the street</li> <li>• a step down in building height at the boundary between two height zones</li> </ul>	<p>In SEPP Housing height controls are maximums and rely on the proper implementation of planning principles set out as objectives.</p> <p>This requires the designer to respond to the particular context, the success of which can be measured by impact assessment. This application has not given due consideration to matters relating to detrimental impacts on neighbours including overshadowing and visual impacts.</p>	
<b>2D</b>	<b>Floor space ratio</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	FSR is not a measure of the maximum capacity of the building envelope. The envelope provides an overall	<p>In this case the FSR is set by bonus provisions applied to an up zoning for TOD development.</p> <p>The FSR has not resulted from a best practice planning process of testing</p>	X



Control	Item Description	Notes	Objective achieved
	<p>parameter for the design of the development.</p> <p><b>Aims</b></p> <ul style="list-style-type: none"> <li>• ensure that development aligns with the optimum capacity of the site and the desired density of the local area</li> <li>• provide opportunities for building articulation and creativity within a building envelope by carefully setting the allowable floor space</li> </ul>	<p>envelopes against FSR for a particular context.</p> <p>In this circumstance, as with height controls, the responsibility of the designer and ultimately the consent authority to take into consideration the SEPP Housing planning principles and objectives in the circumstances of this particular case.</p> <p>This application seeks to achieve the maximum permissible floor space ratio, and the built form is a result of that imperative. It is not a result of a merit based design led process and accordingly results in a poor development outcome.</p>	
<b>2F</b>	<b>Building Separation</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	<p>Test building separation controls for sunlight and daylight access to buildings and open spaces.</p> <p>Required setbacks may be greater than required building separations to achieve better amenity outcomes</p>	<p>Good design will ensure adequate sunlight and daylight access. As noted in following design review for ADG 4A building separations to the southern boundary do not ensure reasonable access to winter sun.</p> <p>Building setbacks to boundaries should be increased, or building heights reduced, or building separation introduced at upper levels, or a combination of all above design actions to ensure reasonable access to winter sun.</p>	X
	<p>Building separation may need to be increased to achieve adequate sunlight access and enough open space on the site, <b>for example on slopes</b></p>	<p>Separations should take account of slope to deliver 'adequate sunlight access' to adjacent properties.</p> <p>Adequate sunlight access in terms of adjacent private open space to neighbouring properties is established in the Ku-ring-gai DCP which requires the maintenance of 4 hours between 9am and 3pm on 21<sup>st</sup> June to the principal open space recreational areas and all living areas (DCP4C.5 Solar Access).</p> <p>The DCP provides guidance that in certain circumstances a reduction of 20% may be acceptable (approx. 3 hours). This could be extended to areas <b>undergoing densification.</b></p>	X
	<p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m</p>	<p>Increased separations have been proposed for Building 3, though pinch points still result in reduced separations.</p> <p>At the interface with 55 Trafalgar Avenue, the separation assumes the adjacent site has been upzoned to TOD. Given this zoning is not currently benefitting from savings provisions this</p>	X

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Control	Item Description	Notes	Objective achieved
		zoning is not certain. Accordingly, the larger 9m setbacks should apply as a minimum.	
2G	Street setbacks	<b>Not addressed in DKO Design Verification Statement</b>	
	Determine street setback controls relative to the desired streetscape and building forms,	<p>In my view the 3.2m to 4.5m setback proposed is inadequate because it would not be capable of delivering a high density development that is compatible with existing character of the area. Further it includes incursions of elevated built form</p> <p>The setback is an opportunity to deliver a public domain interface that can support native tree canopy planting and create a distinctive Lindfield street character.</p> <p>The setback should be 6m which is characteristic of the area and will not preclude higher density development.</p>	X
			
	Consider nominating a maximum percentage of development that may be built to the front build-to line, where one is set, to ensure modulated frontages along the length of buildings	This ADG consideration would assist in breaking down the scale of the development and deliver a more compatible development in a heritage conservation area.	X

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Control	Item Description	Notes	Objective achieved
	<p>In conjunction with height controls, consider secondary upper level setbacks to:</p> <ul style="list-style-type: none"> <li>reinforce the desired scale of buildings at the street frontage</li> <li>minimise overshadowing of the street and other buildings</li> </ul>	<p>The building proposes upper level setbacks, however given the development seeks to utilise the affordable housing bonus height provisions, a 3m setback of a 9-10 story built form to 4 storey street wall will be less effective in creating excellent street proportions.</p> <p>I would recommend a minimum 4m setback on the basis that larger upper level setbacks are difficult to plan vertically in residential development.</p>	X
<b>2H</b>	<b>Side and rear setbacks</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	<p>Test side and rear setbacks with height controls for overshadowing of the site, adjoining properties and open spaces</p>	<p>Sun eye diagrams confirm the overshadowing impacts on adjacent properties at the southern boundary are severe and unacceptable.</p>	X
	<p>On sloping sites, consider increasing side and rear setbacks where new development is uphill to minimise overshadowing and assist with visual privacy</p>	<p>The site has a moderate slope and the development is uphill from adjacent properties.</p> <p>The development height is non-compliant with a bonus applied and has reduced setbacks of 6m at the western end of the southern boundary.</p>	<p>X Partial consideration</p>



### 6.3 ADG Part 3 Siting the development

The DKO design verification statement includes a summary of compliance with the ADG but is deficient in that it does not address the Objectives 3B-1,2, 3C-1,2 and 3G-1,2,3.

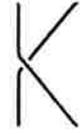
Control	Item Description	Notes	Objective achieved
<b>3B-2</b>	<b>Overshadowing of neighbouring properties is minimised during mid-winter</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	<p>Reviewing the sun eye diagrams the properties with rear gardens facing the subject site southern boundary are unreasonably overshadowed between 9am and 3pm mid-winter. Solar access is</p> <ul style="list-style-type: none"> <li>- 55 Trafalgar. 0 hrs</li> <li>- 30a Middle Harbour. ½ hr</li> <li>- 32 Middle Harbour 1 hour</li> <li>- 32a Middle Harbour 1 hour</li> <li>- 34 Middle Harbour 2 hour</li> </ul> <p>The above mentioned properties are fully overshadowed after 12pm</p> <p>Reducing the height of Building 3 to four storeys would minimise overshadowing and provide at least two hours solar access to rear gardens noted above. An alternate strategy would be to provide a 12m space between Buildings 2 and 3.</p>	X
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered	The site has a moderately sloping topography which creates a greater challenge for a sensitive transition in scale. NOTE: All properties rear gardens currently receive 6 hours solar access in mid-winter and so the resulting reduction in solar varies between 30%-100%. Where setbacks have been increased to R2 zoning the heights of buildings are such that unacceptable impacts remain.	X
	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%	<p>All adjoining properties currently achieve 6 hours of solar access mid-winter between 9am and 3pm. The proposal results in less than 2 hours solar access to 55 Trafalgar Avenue and Nos. 30a, 32 and 32a Middle Harbour Road.</p> <p>NOTE: No 32a will remain a R2 zoning under all potential TOD Zoning scenarios</p>	X <sup>10</sup>

<sup>10</sup> Not strictly applicable but the implied objective is that all neighbouring properties in this interface should maintain a reasonable access to winter sun

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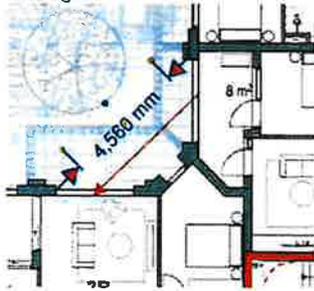
Control	Item Description	Notes	Objective achieved
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F <b>Visual privacy</b>	Building separations have been increased by 3m beyond the minimums to the R2 zoning on the assumption the Council's Preferred Scenario will not apply.	X <sup>11</sup>
	Overshadowing should be minimised to the south or down hill by increased upper level setbacks	<b>Increased upper level setbacks</b> beyond ADG design criteria have been applied to only 50% of the southern boundary. (Building 3).  The downhill impacts are exacerbated because the built form at Level 9 is not set back 12m from the side boundary as set out in the ADG.	X
	It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development	This strategy <b>has not been</b> considered. As a minimum, a gap should be provided to levels above the 4 storey podium between Buildings 2 and 3	X
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	Roofs to the south on neighbouring buildings are overshadowed to the extent that 4 hours of solar access will <b>be precluded</b>	X
<b>3C-1</b>	<b>Transition between private and public domain is achieved without compromising safety and security</b>	<b>Not addressed in DKO Design Verification Statement</b>	
	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate	All apartments are accessible from a central entry on Trafalgar Avenue that connects to the three lift lobbies by long internal corridors.  Where the opportunity exists to provide direct entry to Building 1 and 3 lobbies that opportunity has not been utilised.  The Building 3 lobby is via a long and circuitous corridor from the main entry lobby and accordingly has an inhospitable / institutional character  The Building 3 lobby has a winding pathway approximately 63m long from the Valley Road access handle that could not be described as a direct street entry. The front doors would not be legible from either Middle Harbour Road or Valley Road.	X
	In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the	The building has three multi core lobbies all accessed by a Main Residential lobby centrally located on Trafalgar Avenue. This results in poor address legibility. In particular access to Building 3 is substandard	X

<sup>11</sup> Non compliance if the Council's Preferred Scenario is enacted



Control	Item Description	Notes	Objective achieved												
	<p>following design solutions: •</p> <ul style="list-style-type: none"> <li>• architectural detailing</li> <li>• changes in materials</li> <li>• plant species</li> <li>• colours</li> </ul>														
<b>3F-1</b>	<b>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</b>														
<b>Design Criteria 1</b>	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>Assuming the current TOD zoning boundaries apply, Buildings 1 and 2 do not comply with the minimum required separations to side boundaries at Level 9.</p> <p>In both instances this results in building height non-compliances to the 30% uplift height controls.</p> <p>In the case of Building 2 the non-compliance could result in detrimental impacts to visual privacy to the north facing facades of future adjacent development on 55 Trafalgar Avenue Road. This side boundary interface is particularly sensitive as it is exacerbated by the adjoining site being downhill on a moderately sloping site.</p> <p>NOTE: In Ku-ring-gai Councils preferred scenario the adjacent site at No.55 Trafalgar Avenue remains as an R2 zoning. In this scenario then considerations for additional setbacks to lower zoned areas apply.</p>	X
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													
<b>Design Guidance</b>	<p>Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance</p>	<p>To avoid a ziggurat effect the proposal built form does not apply a 2<sup>nd</sup> 3m setback to side boundaries at Level 9. This design strategy will result in additional perceptions of bulk and will impact visual privacy to adjacent sites where non-compliance occurs.</p> <p>To avoid a ziggurat effect a more skilful design would test a design strategy whereby the 9<sup>th</sup> floor would be set back by the extent necessary on all sides in the form of a single story roof pavilion so that visual privacy (and bulk and overshadowing) impacts meet the objective of 3F-1 and the built form massing objectives are achieved.</p>	X												
<b>Design Guidance</b>	<p>New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:</p>	<p>The subject site is moderately sloping. The proposal non-compliances on Building 2 will increase overlooking by its non-compliance and therefore compromises the opportunities for future development on adjoining site</p>	X												

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Control	Item Description	Notes	Objective achieved
	<ul style="list-style-type: none"> <li>• site layout and building orientation to minimise privacy impacts (see also section ADG 3B Orientation)</li> <li>• on sloping sites, apartments on different levels have appropriate visual separation distances (see figure ADG 3F.4)</li> </ul>	<p>at No. 55 Trafalgar Avenue to access the northern aspect with private open space, habitable rooms and rooftop communal open space,</p> <p>ADG 1C states that where "an area is undergoing change that the development potential of the adjacent site is retained where zoning permits this."</p> <p>Site planning proposed uses a double loaded corridor solution for Buildings 2 and 3 which are oriented east west creating a continuous built form with breaks that will overlook the adjoining sites. 3B-1 ADG guidance is that a more skilful design would orientate buildings on the south boundary in a north/south orientation.</p>	
<b>Design Guidance</b>	Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in Design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping ADG (figure 3F.5)	<p>Current TOD zoning</p> <ul style="list-style-type: none"> <li>• Building 3 to 3A Valley Road</li> <li>• Building 3 to 34A Middle Harbour Road</li> </ul> <p>Council Preferred TOD Scenario</p> <ul style="list-style-type: none"> <li>• Building 2 to 30A and 32 Middle Harbour Road</li> <li>• Building 2 to 55 Trafalgar</li> <li>• Building 3 to 3A Valley Road</li> <li>• Building 3 to 34A Middle Harbour Road</li> </ul>	X
<b>Design Guidance</b>	Direct lines of sight should be avoided for windows and balconies across corners	<p>Building 3</p> 	X
<b>3G-1</b>	<b>Building entries and pedestrian access connects to and addresses the public domain</b>	<b>Not addressed in DKO Design Verification Statement</b>	
<b>Design guidance</b>	Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries	The building entry to Building 3 is not clearly identifiable. Use of the access handle from Valley Road prevents a legible access to Building 3. The access pathway is winding and 63m long precluding clear sight lines.	X
<b>Design Guidance</b>	Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries	Access from the primary street address in Trafalgar Avenue is via long corridors with bends and limited sight lines to outside. Clear sight lines to secondary building entries are not provided.	X

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Control	Item Description	Notes	Objective achieved
<b>3G-2</b>	<b>Access, entries and pathways are accessible and easy to identify</b>	<b>Not addressed in DKO Design Verification Statement</b>	
<b>Design Guidance</b>	Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces	All lift lobbies are connected internally by one not clearly visible as they are connected internally to a main entry point in Trafalgar Avenue	X
<b>3G-3</b>	<b>Large sites provide pedestrian links for access to streets and connection to destinations</b>	<b>Not addressed in DKO Design Verification Statement</b>	
<b>Design Guidance</b>	Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport	<p>A residents only pedestrian link through the site is provided connecting Trafalgar Avenue with Valley Road. The 'L' shaped link utilises boundary setbacks and includes a rudimentary low quality shared zone at the carpark entry. intention appears to be to be to provide garden access to lobbies in Buildings 2 and 3.</p> <p>A more skilful solution is to connect Trafalgar Road to Valley Road via an open to the sky, minimum 6m wide, residents garden link along the alignment of the boundary containing adjacent heritage item. This would enable the provision of clearly legible sight lines to entries Buildings 1 and 3 and communal open space at ground level.</p>	X
<b>Design Guidance</b>	Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate	The proposed internal link configuration does not deliver strong visual cues as currently designed.	X

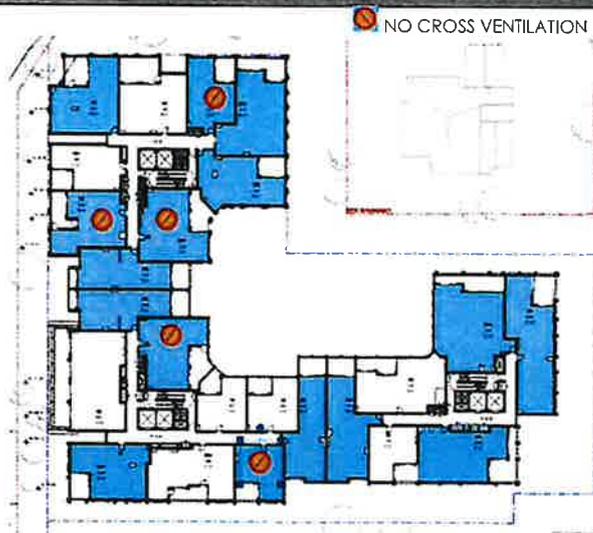
### 6.4 ADG Part 4 Designing the building

Control	Item Description	Notes	Objective achieved
<b>4A-1</b>	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space		
<b>Design Criteria 1</b>	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area.	<p>There are no constraints relating to orientation and the shape of the site that would preclude compliance with this criterion. The site is large at over 6,600sqm in area and generally a simple rectangular form.</p> <p>The DKO Design Verification Statement states the development achieves 141 dwellings with compliant solar access (64%). My assessment identified 7 additional apartments in Building 1 (1405-1905) that do not receive 2 hours solar access</p>	X
		 <p>134/220 = 61% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter</p>	
<b>Design Criteria 2</b>	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	39 (17.7%) apartments do not receive direct sunlight between 9 am and 3 pm at mid-winter	X
<b>Design Guidance</b>	Design drawings need to demonstrate how site constraints	The justification in the Design Verification Statement does not	X

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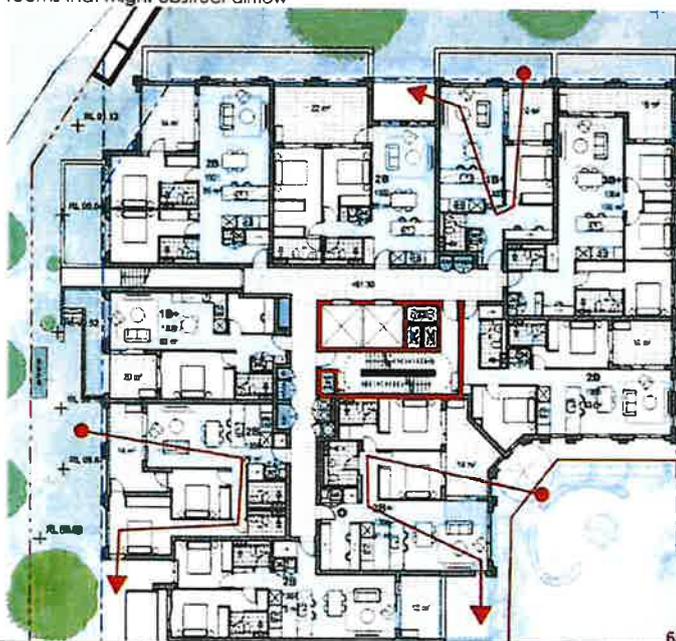
Control	Item Description	Notes	Objective achieved																																	
	and orientation preclude meeting the design criteria and how the development meets the objective	demonstrate how the development meets the objective.  This non-compliance is a key indicator of overdevelopment.																																		
<b>48-1</b>	<b>All habitable rooms are naturally ventilated</b>																																			
<b>Design guidance</b>	The area of unobstructed window openings should be equal to at least 5% of the floor area served	REFER Diagrams in 48-3 below.  In the locations marked as not cross ventilated (CV) below, one of the constraints to achieving natural CV is that openings that equate to 5% of the living room floor area would need to be provided adjacent to openings and private open space in neighbouring apartments. This will result in unreasonable amenity impacts to visual and acoustic privacy.	X																																	
<b>48-3</b>	<b>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</b>																																			
<b>Design guidance</b>	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.  Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	Refer Cross Ventilation marked up diagrams below. I do not agree with the assessment of compliance and numbers set out in the DKO Verification Report shown below in black. My assessment numbers are shown in red and the reasons for that assessment follows below  The proposal delivers <b>87 (43.7%)</b> naturally cross ventilated apartments.	X																																	
<b>CV - TOTAL</b>																																				
<table border="1"> <tbody> <tr> <td>LOWER GROUND LEVEL</td> <td>1</td> <td>1</td> </tr> <tr> <td>GROUND LEVEL</td> <td>3</td> <td>7</td> </tr> <tr> <td>UPPER GROUND LEVEL</td> <td>12</td> <td>10</td> </tr> <tr> <td>LEVEL 01</td> <td>19</td> <td>12</td> </tr> <tr> <td>LEVEL 02</td> <td>19</td> <td>13</td> </tr> <tr> <td>LEVEL 03</td> <td>17</td> <td>11</td> </tr> <tr> <td>LEVEL 04</td> <td>15</td> <td>11</td> </tr> <tr> <td>LEVEL 05</td> <td>14</td> <td>11</td> </tr> <tr> <td>LEVEL 06</td> <td>14</td> <td>11</td> </tr> <tr> <td></td> <td><b>120</b></td> <td><b>87 (43.7%)</b></td> </tr> <tr> <td></td> <td><b>199 (60.3%)</b></td> <td></td> </tr> </tbody> </table>				LOWER GROUND LEVEL	1	1	GROUND LEVEL	3	7	UPPER GROUND LEVEL	12	10	LEVEL 01	19	12	LEVEL 02	19	13	LEVEL 03	17	11	LEVEL 04	15	11	LEVEL 05	14	11	LEVEL 06	14	11		<b>120</b>	<b>87 (43.7%)</b>		<b>199 (60.3%)</b>	
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Control	Item Description	Notes	Objective achieved
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Excerpt from DKO Design Verification indicating apartments not capable of complying with ADG cross ventilation objectives.

Design guidance	Apartment are designed to minimise the number of corners, doors and rooms that might obstruct airflow	Natural flow paths shown in red are optimistic and in my view unworkable.	X
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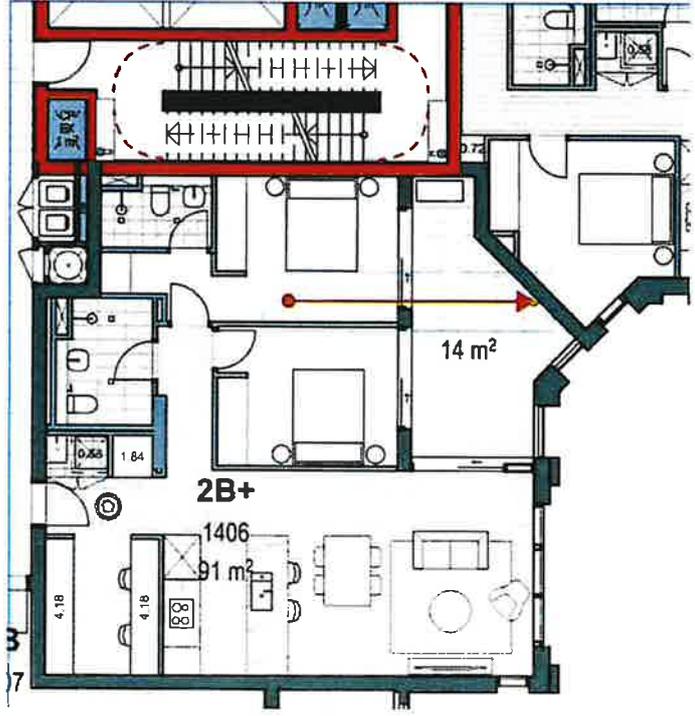
Control	Item Description	Notes	Objective achieved
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Excerpt from DKO Architectural Plans above with my overlay in red indicating apartments cross ventilation pathways not capable of complying with ADG cross ventilation objectives.

The ADG Glossary states "natural ventilation which allows air to flow between positive pressure on the windward side of the building to the negative pressure on the leeward side of the building providing a greater degree of comfort and amenity for occupants. The connection between these windows must provide a clear, unobstructed air flow path. For an apartment to be considered cross ventilated, the majority of the primary living space and n-1 bedrooms (where n is the number of bedrooms) should be on a ventilation path."

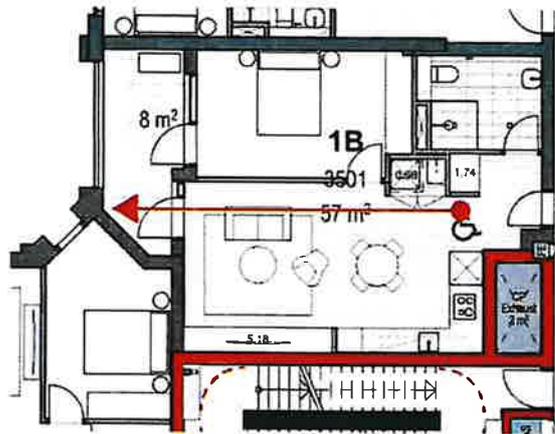
<b>4D-1</b>	<b>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</b>		
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<b>Design Guidance</b>	A window should be visible from any point in a habitable room	Corner apartments provide poor amenity generally. Objective of the ADG Design Guidance is that any room should have a view of the outside from any point. The example design solutions below show how some habitable rooms in corner plans do not have sight lines to outside.	X
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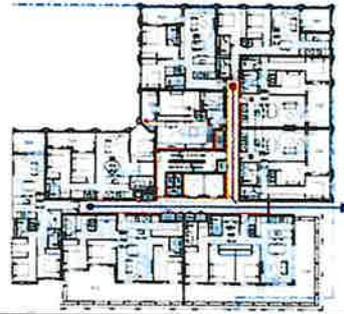


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Control	Item Description	Notes	Objective achieved
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<b>4F-1</b>	Common circulation spaces achieve good amenity and properly service the number of apartments		
<b>Design Criteria 1</b>	The maximum number of apartments off a circulation core on a single level is eight	On the Ground Floor approximately 22 apartments are served and in Building 2 there are 11 apartments per core:  <i>NOTE: Where apartment numbers per core exceed 6 it is extremely difficult to achieve acceptable natural cross ventilation without utilising a design strategy of significant massing manipulation of offset building forms.</i>	X
<b>Design Guidance</b>	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	Access to daylight and natural ventilation to ground floor corridors is unacceptable. Due to the length of corridors access to daylight and natural ventilation should be provided to each corridor	X
<b>Design Guidance</b>	Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors	As noted above and shown in diagram below (left)- recommended (right) - application	X



Control	Item Description	Notes	Objective achieved
<b>Design Guidance</b>	<p>Achieving the design criteria for the number of apartments off a circulation core may not be possible.</p> <p>Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including:</p> <ul style="list-style-type: none"> <li>• sunlight and natural cross ventilation in apartments</li> <li>• access to ample daylight and natural ventilation in common circulation spaces</li> <li>• common areas for seating and gathering</li> <li>• generous corridors with greater than minimum ceiling heights</li> <li>• other innovative design solutions that provide high levels of amenity</li> </ul>	<p>The building exceeds the recommended number of dwellings per core in Building 2.</p> <p>A consequence of this is that the development does not achieve many ADG objectives and has poor performance in natural cross ventilation.</p>	X
<b>4F-2</b>	<b>Common circulation spaces promote safety and provide for social interaction between residents</b>		
<b>Design Guidance</b>	<p>Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines</p>	<p>On the Ground Floor approximately 22 apartments are served by an excessively long and cranked corridors. (65m long)</p> <p>Upper level corridors exceed 15m in length.</p>	X
<b>Design Guidance</b>	<p>Tight corners and spaces are avoided</p>	<p>Ground floor corridor is poor amenity with a centrally located light corner</p>	X
			

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**4H-1** Noise transfer is minimised through the siting of buildings and building layout

**Design Guidance** Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy)

Separations at corners between neighbouring apartment balconies and operable windows to bedrooms in re-entrant building areas will result in noise nuisance. X





## 7 CONCLUSION

This urban design and high level architectural review of the proposal concludes that the proposal identified as SSD- 79276958 would result in the overdevelopment of the site as it ignores key elements of the planning context and does not afford due consideration to the character of the site, the amenity of the residents or the environmental impacts on adjoining properties.

Based on my review of the proposal, I submit that the proposal cannot be supported by the DPHI and should be rejected.

### 7.1 SEARS 1 Statutory Context

The proposal is inconsistent with the publicly exhibited draft statutory planning controls contained in the Kr-ring-gai Council Preferred Alternative Scenario applying to the site and the Heritage Conservation Area

The draft statutory planning controls contained within the TOD Preferred Alternative Scenario prepared by Ku-ring-gai Council were exhibited in April 2025 and anticipated to be approved by the Council and forwarded to the DPHI in early June 2025.

The draft planning controls will amend the planning controls applying to the site and make the proposal prohibited development to be assessed utilising the savings provisions. The key issue is that the adjacent sites (55 Trafalgar Avenue, 30A-32 Middle Harbour Road), at the time of writing, are not subject to an application benefitting from savings provisions, and need to be considered in the Statutory Context as R2 Low Density Residential zoning (9.5m HOB) and SEPP Chapter 6 Low and mid-rise housing (9.5m HOB) /Chapter 2 Affordable housing (12.35m HOB).

The application ignores this statutory context and therefore does not meet the requirements of *SEARS Item 1 – Statutory Context* of the SEARS dated 16 January 2025.

#### Clause 4.6 Variation - Building Height

The justification relies on flawed analysis of environmental planning grounds to justify the contravention. For reasons as discussed above in detail the Clause 4.6 objection, for the exceedance of the height development standard is unjustified. The applicant has failed to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances, or that there are sufficient environmental planning grounds to justify contravention of the development standard.

Refer **3.4 Applicants Clause 4.6 Variation for building height** above for comments.

### 7.2 SEARS 4 Engagement

The community engagement was conducted over a very short timeframe for a high impact development and provided very limited design information given the scale of the development proposed.



During the engagement process the actions and incorrect claims made were not in accordance with document *Undertaking Engagement Guidelines for State Significant Projects* as were final responses to issues raised by the community. Refer **2.2 Community Engagement** above.

Further, proposal was lodged 2 days after the conclusion of the public exhibition of the draft statutory planning controls and as a result does not seem to consider the outcomes of feedback relating to this publicly exhibited material. As a result, the application does not address the planning context adequately.

### **7.3 SEARS 5 Design Quality**

Based on my review and assessment, the application does not meet the requirements of *SEARS Item 5 – Design Quality* development does not currently achieve design excellence in terms of the following:

- Better fit: The application does not demonstrate it is compatible with the desired future character of the heritage conservation area and the natural environment of this place
- Better look and feel: The proposed bulk and scape of the development does not contribute to its surroundings and is not designed to adequately promote positive engagement in the design of pedestrian links.

A more skilful structure plan is required to achieve compatibility in this particular context for a high density development. A key reason the design is flawed in this regard is because the documentation submitted with the proposal does not take into consideration impacts on adjoining sites, that are currently in the TOD, that will be excluded from the TOD under the Council's Preferred Alternate Scenario. This strategic planning issue has resulted in an underestimation of cumulative impacts.

#### **See 9. APPENDIX B. Alternative Structure Plan**

The recommendations of the NSW State Design Review Panel, and in particular an adequate design response to the desired future character have not been adequately addressed.

Refer **4 NSW STATE DESIGN REVIEW PANEL COMMENTS** in this report

### **7.4 SEARS 6 Built form and Urban design**

Due to the excessive height, bulk and scale of the proposal combined with non-compliant ADG side boundary separations, inappropriate deep soil street setbacks for this HCA and articulation that ignores the NSW SRD recommendations to "*break down the mass into recognisable built forms and buildings*", the proposal will have an unacceptable visual impact on the character of the HCA, on the streetscape and directly on adjoining properties.

Refer **6.1 ADG Part 1 Identifying the context, ADG Part 2 Developing the controls, ADG Part 3 Siting the building, 3.2 DPHI Guidance to TOD and 5.2.1 Heritage Conservation Areas** in this report



## 7.5 SEARS 7 Environmental Amenity

The proposal will have an unacceptable impact on the solar access and daylighting in mid-winter of properties on the southern boundary and in the case of two lots (55 Trafalgar Ave, 30a Middle Harbour Rd) reducing 6 hours of daylight in mid-winter to less than ½ hour.

My assessment of solar access (61%) and natural cross ventilation (44%) for residents is that in areas there is substantial non-compliance which reflects overdevelopment of the site.

Refer **6 DESIGN QUALITY AND INCONSISTENCY WITH THE ADG** in this report

## 7.6 SEARS 8 Visual Impact

I have concerns about the quality and scope of analysis in the Visual Impact Assessment Report by Urbaine (VIA). The VIA represents future development building envelopes rather than the proposed built form. The envelopes are shown as highly transparent to limit its analytical value as this technique is intended to minimise any perceived visual amenity impact.

In addition, the assessment does not consider the Councils Alternate Preferred Scenario and does not adequately assess the visual impact of the development from the backyards of adjoining buildings and local heritage items.

The VIA focuses its assessment of view loss experienced by pedestrians, people in vehicles and neighbouring dwellings. The analysis is deficient in its assessment of visual amenity. It does not undertake an assessment of the magnitude and significance of visual effect in the context of the streetscape, the character of the area and likely scale of development on sites that are subject to review under the Councils Preferred Alternative Scenario. It fails to undertake any analysis of the change to visual amenity likely to be experienced by occupants at those individual residential properties which are on adjoining properties.

I would recommend that prior to consideration of the application, that a Residential Visual Amenity Assessment (RVAA)<sup>12</sup> be undertaken by the proponent.

## 7.7 SEARS 14 Trees and Landscaping

The built form setbacks and deep soil areas to the street are too small to ensure the achievement of the desired future character of this place in the context of a high density development in a heritage conservation area. As a minimum a 6m deep soil street setback should be provided with endemic tree canopy planting.

The site contains a significant Sydney Turpentine tree (T43 BDAR) and the application provides no "*evidence that opportunities to retain significant trees have been explored and/or inform the plan*" as required by the SEARS. This tree is endemic to the area and is a dominant tree in the endangered plant community type (STIF). It would

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<sup>12</sup> Residential Visual Amenity Assessment (RVAA) Technical Guidance Note 2/19 dated March 2019. This Technical Guidance Note has been prepared by the Landscape Institute and Institute of Environmental Management and Assessment (UK) to assist landscape professionals when undertaking Residential Visual Amenity Assessments (RVAA).



be a meaningful gesture to "Country" if it were retained in the design. Retaining the tree may also deliver breaks in the building form that would ensure dwellings along the southern boundary can retain access to mid-winter sun and vastly improve their residential visual amenity (RVA)

Refer **2.1.4 Native Vegetation** and **6.2 ADG Part 2 Developing the controls** in this report

## 7.8 SEARS 22 Environmental Heritage

I raise concerns as to whether the proposal is consistent with the requirements of SEARS Item 22 – *Environmental Heritage* of the SEARS dated 16 January 2025 for the following reasons.

The Urbis HIS states<sup>13</sup> that *"The development has been designed to provide a transition from the current low density to 4-9 storeys"* but does not take into account the reduced side boundary setbacks (6m to 55 Trafalgar Ave, 30A-32 Middle Harbour Rd) on the basis the HIS has not considered the likely future planning context of the Council's Preferred Alternate Scenario.

The visual impact analysis undertaken is not fit for the purpose of assessing the visual impact on adjoining heritage items. Refer the recommendations made in **SEARS 8 Visual Impact** above.

I do not agree that *"the design of the proposed scheme is sensitive to the characteristics of the Middle Harbour Road, Lindfield Conservation Area (C42) and the extant structures located on the subject lot."* or that the *"massing, materiality and façade articulation of the proposal is informed by the local visual context of the site's intersection location and its sloping topography, additionally the proposal respects the established setback pattern of the Trafalgar Avenue streetscape."*

The HIS relies on its assessment that the articulation of the façade and building envelope is adequate. I am of the view that the NSW SRD recommendation to break down the mass into recognisable built forms and buildings is required and has not been achieved.

The Urbis HIS states that the proposal respects the established setback pattern of Trafalgar Avenue. In fact, the setback pattern of Trafalgar Ave consists of alignments caused by corner lots that are less than those setbacks that characterise the broader HCA but are interposed with much larger pockets of landscaped area without any built. The overarching characteristics of the C42 HCA are not considered and as a result the Urbis heritage assessment is inadequate in this regard.

Refer **2.16 Middle Harbour Road, Lindfield Conservation Area C42 (KLEP 2015)** and **5.2 SEPP Housing Chapter 5** in this report

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<sup>13</sup> URBIS P0057564\_TRAFALGARAVE\_VALLEYRDLINDFIELD\_HIS\_ EXECUTIVE SUMMARY page 1

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## **8 APPENDIX A**

### **8.1 36 Middle Harbour Road Lindfield Owner Submission**

Date: 18 April 2025

18 April 2025

Mr David Marshall  
General Manager  
Ku-ring-gai Council  
Locked Bag 1006  
GORDON NSW 2072  
[krq@krq.nsw.gov.au](mailto:krq@krq.nsw.gov.au)  
[housing@krq.nsw.gov.au](mailto:housing@krq.nsw.gov.au)

Dear Mr Marshall

**RE: Response to Ku-ring-gai Council's Preferred Scenario alternative to the recent NSW State TOD plans for the Ku-ring-gai Area (Roseville, Lindfield, Killara and Gordon Zones)**

**I do not support** Council's '**Preferred Scenario**' as presented in recent exhibitions and endorsed by Council at its EGM on 31st March 2025 because this Scenario does not proportionally scale the heights of new buildings to appropriately transition with the existing heritage conservation low rise residential areas.

However, **I do strongly endorse** the '**Alternative Scenario 3b Option**', that was also presented by Council during the community consultation period - as being a better plan to guide Development of the NSW Ku-ring-gai TOD areas due to the inappropriate "One Size Fits All" TOD master plan presented by NSW State Planning.

**Both the Alternate 3b Scenario and the Council Preferred Scenario offer superior urban design Best Practise of locating zoning changes in sensitive areas (both conservation and riparian) at street boundaries rather than along rear or side boundaries.**

**By contrast**, in close proximity to my home at 36 Middle Harbour Road, Lindfield, the SEPP Housing 2021 Chapter 5 NSW State TOD master plan belies best practice, proposing new zoning boundaries which permit 22m (6-7 storeys) built form immediately adjacent low rise residential areas that are max 9.5M (2 storeys).

**To further exacerbate** the potential detrimental impacts arising from permissible heights, the SEPP Housing 2021 Chapter 2 Affordable Housing provisions permit a 30% uplift to 28.6m (9 storeys).

**By way of example** of inappropriate development outcomes that are possible when zoning boundaries are not in accord with best practice urban design, ***The Scoping Report: Infill Affordable Housing 59-63 Trafalgar Avenue and 1A & 1B Valley Road, Lindfield for LANDMARK***, which has received SEARS shows a proposal for a 10 storey development located to the north and overshadowing two storey development on a steeply sloping site falling to a creek-line identified as having Biodiversity Value. **Clearly**, in the circumstances of this particular case, all likely detrimental impacts to amenity, water flows and conservation values would be mitigated if the zoning boundary was Trafalgar Avenue.

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**Even worse**, we note that to achieve the development yields sought by the State Governments and permitted by the SEPP Housing 2021, the LANDMARK proposal ignores design guidance in the Apartment Design Guide (ADG) for building separation. i.e. where a higher zoned area adjoins a lower zoned area, then building separations to boundaries should be **increased** by 3 metres.

**The Alternative 3b Scenario** better supports Heritage Conservation areas, lowers building heights and more fairly spreads the development burden through the whole area. i.e. rather than penalise Lindfield and Gordon to the advantage of Roseville and Killara.

Whilst I appreciate the need to incorporate some Affordable Housing (AH) into the new developments – **I DO NOT THINK** it is fair to allow significant (30%) uplifts in Building Height and FSR, for a small quantity of AH, which is what is now creating this distorted excessive topography all the way out to the Conservation Heritage areas in **both** the NSW TOD planning as well as Council's preferred scenarios.

**One has to wonder** if the application of SEPP 2021 Housing Chapter 2 bonuses permitting 30% uplift to areas proposed for uplift in TOD rezoning areas is an unintended effect and effectively double dipping. I note that in the Accelerated TOD Precincts the 30% AH uplift is not available due to the master planning those precincts underwent to establish height and density. This in effect the Council's argument, **which I support**.

AH should be contained **within** the 400-meter Train Station Zone.

AH should be a target **to be** set within the normal zoning parameters of the area - AH should **NOT** be used as a tool for the Developers to destroy the suburbs with overly massive, scaled developments - causing loss of privacy, loss of sunlight, lack of appropriate amount of infrastructure for the area explosion of people (as offered under All Options presented).

I believe high-rise up to 20 storeys should be allowed all along the Highway, and from there it needs to be scaled down **to only** max 4 storey developments as the zones approach the important Heritage Conservation areas which are predominantly 2 storey character dwellings (which should be preserved for future generations re historical design references).

**Further to my submission**, this group of four properties (**65 Trafalgar Avenue, 2, 4 and 6 Nelson Road**) is situated at the intersection of Russell Lane and Nelson Road and was originally included for high density development under the TOD SEPP.

These properties directly back onto the C42 Middle Harbour Conservation Area which is proposed to be fully protected under the Preferred Scenario. This adjacency creates a sensitive interface, while the narrow width of Russell Lane could impose accessibility challenges for potential high-density development on this site.

Furthermore, the properties have irregular shapes and orientations, especially at the intersection, making them difficult to consolidate for high density development. Similar to their adjacent blocks, these four properties benefit from significant tree canopy coverage (over 30%).

**The Preferred Scenario** proposes to fully protect the adjacent C42 Conservation Area and therefore exclude these properties from high density development. Being located at a boundary between different character areas of proposed high density residential and Conservation Areas, **these four properties are better suited to create a buffer zone rather than accommodating high-density development.**

**In summary my key issues are: -**

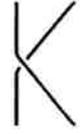
- ◆ Affordable Housing (AH) should **NOT** attract uplift % re heights and/or Floor Space Ratio (FSR) in TOD rezoning areas that already enjoy planned uplift, especially if that development abuts low-rise residential neighbours.
- ◆ AH should be provided to State Housing in perpetuity – e.g. not for say 10 years and then returned to the Developer.
- ◆ Setbacks from boundaries are vital and must follow Apartment Design Guidelines (ADG) as a minimum (especially in such large-scale change to a Suburb as the TOD will create).
- ◆ Better scaled height planning considerations for existing Heritage Conservation zoned areas.
- ◆ Protection of Riparian zones with their nearby surrounding areas to preserve environmentally important biodiversity.
- ◆ **Development should be allocated to whole blocks and defined by buffer zone roads.**
- ◆ Existing tree canopies need to be protected re shade, climate control, fauna habitats etc.
- ◆ Massive infrastructure upgrades will be needed for roads, tunnels, parks, schools, and childcare.
- ◆ AH should be provided within 400 metres of the Train Station and along Pacific Highway within the Ku-ring-gai Council Zones. **Without sacrificing Lindfield and Gordon to the benefit of Roseville and Killara and preserving the heritage and streetscape equally of the Ku-ring-gai area.**

Thank you for your considerations and support and the effort of Ku-ring-gai Council to fine tune the importance of the changes.

Yours sincerely

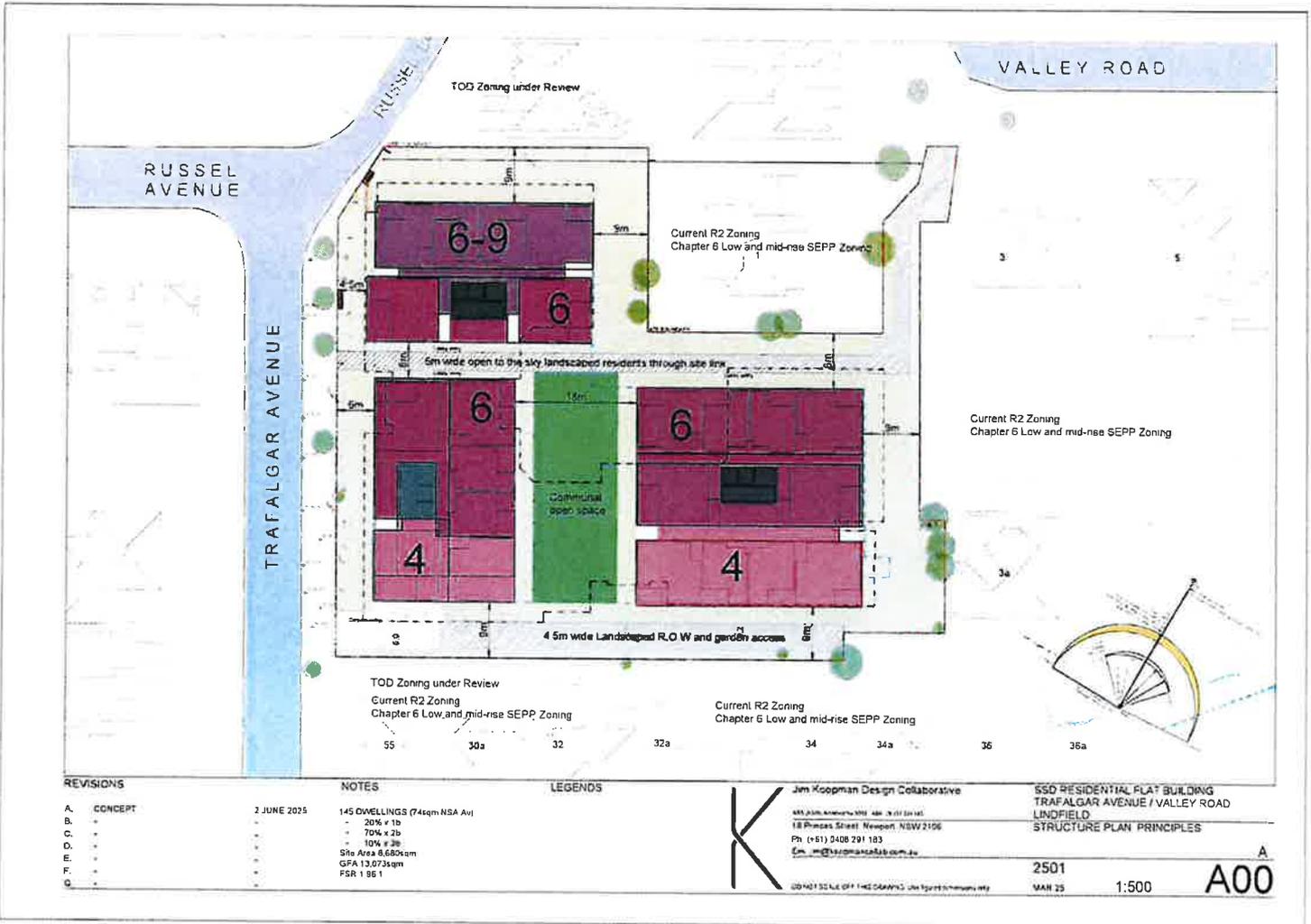
Karen Vio  
Postal: PO Box 441 Lindfield NSW 2070  
E: kincare11@gmail.com.au

cc: Mayor and Councillors Ku-ring-gai Council  
cc: Matt Cross MP Member for Davidson  
cc: The Hon Paul Scully MP Minister for Planning and Infrastructure  
cc: The Hon Scott Farlow MP Shadow Minister for Planning



## **9 APPENDIX B**

### **9.1 Recommendations for a Structure Plan capable of achieving the objectives of the SEPP (Housing) 2021**



**REVISIONS**

REVISIONS	CONCEPT	DATE
A.	CONCEPT	2 JUNE 2025
B.	-	-
C.	-	-
D.	-	-
E.	-	-
F.	-	-
G.	-	-

**NOTES**

145 DWELLINGS (74sqm NSA Avl)  
 - 20% v 1b  
 - 70% v 2b  
 - 10% v 3b  
 Site Area 8,682sqm  
 GFA 13,073sqm  
 FSR 1.551

**LEGENDS**

**Jim Koopman Design Collaborative**  
 18 Phoenix Street, Newcastle, NSW 2106  
 Ph: (+61) 0408 291 183  
 Email: jim@jimkoopmandesign.com.au

**SSD RESIDENTIAL FLAT BUILDING**  
 TRAFALGAR AVENUE / VALLEY ROAD  
 LINDFIELD  
 STRUCTURE PLAN PRINCIPLES

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DO NOT SCALE OFF THIS DRAWING. Use figures shown on only.