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Ku·ring·gai Council

Contact: Luke Donovan

Ref: SSD-85974227

18 February 2026

Department of Planning Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

Via: NSW Major Projects portal

Attention: Joe Somerville

Dear Madam,

RE: SUBMISSION TO SSD-85974227, Residential development with infill affordable housing
Address: 9-17 Balfour Street, Lindfield

Thank you for the opportunity to comment on the State Significant Development (SSD) application (SSD-85974227) for the construction of a part-nine, part-ten storey residential flat building with in-fill affordable housing, containing basement level parking, 121 residential units, which include 28 affordable housing units on land at 9-17 Balfour Street, Lindfield.

This submission should be considered as an **objection** to the proposal. The submission (**Attachment 1**) gives a detailed explanation of the reasons for Council's objection.

The key issues with the proposal include: the development failing to appropriately respect the future built form character, a failure to meet a number of the design principles for residential apartment development, front building setback non-compliances, an inadequate Clause 4.6 seeking a variation to the building height standard, extent of tree removal, impacts on existing significant trees, ecological impacts, impacts on the heritage conservation area and adjoining heritage item and insufficient information relating to traffic, parking and water management.

It is requested that the Applicant's Response to Submissions (RtS) is forwarded to Council for review prior to a determination being made.

Should you have any further enquiries, please contact Luke Donovan, Executive Assessment Officer on 02 9424 0920.

Yours sincerely,

Brodee Gregory
Team Leader (Development Assessment – South)

ATTACHMENT 1

Ku-ring-gai Council's objection to SSD- 85974227, 9-17 Balfour Street, Lindfield

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A. FUTURE CHARACTER

Under Council's Alternate TOD, the site has a building height of 18.5m and a Floor Space Ratio (FSR) of 1.3:1. Refer to the maps below (**Figures 1 and 2 below**).

Figure 1: Alternate TOD – FSR (site in black outline)

Figure 2: Alternate TOD – Height of Buildings

The site has been identified under the Alternate TOD to enable residential flat buildings on the site that are of an appropriate height and mass in order to ensure an appropriate transition with the nearby lower

density residential properties on the northwestern side of Highfield Road and southwestern side of Wallace Parade. However, the building height and floor space ratio of the proposed development, with a stated FSR of 3.25:1 and a height of 33.2m is drastically inconsistent with what is envisaged under the Alternate TOD.

The Alternate TOD is directly relevant to the future character of the area. Importantly, the Alternate TOD continues to require a 50% deep soil landscaping control for residential development. This is consistent with Council's long-standing objectives which seek to ensure residential flat buildings are provided within a landscape garden setting that is surrounded by tall trees.

The proposal fails to achieve consistency with the desired future character because:

i. The height and density of the proposed development significantly exceeds Council's planning controls which will guide future surrounding development.
ii. The front building setback is significantly non-compliant which accentuates the bulk and scale of the development when viewed from Balfour Street and reduces opportunities for meaningful landscaping to soften the built form.
iii. The proposal results in significant adverse impacts upon an adjoining heritage item and the HCA.
iv. The proposed development results in adverse impacts upon biodiversity significant vegetation located at the rear of the site. The proposed development does not appropriately avoid or minimize impacts.
v. It has not been sufficiently demonstrated that a number of significant existing trees can viably be retained on-site to maintain the landscape character of the locality.
vi. The building footprint is excessive which considerably reduces opportunities for medium and tall trees planting within setback areas.

B. FAILURE TO MEET DESIGN PRINCIPLES IN SCHEDULE 9 OF THE SEPP

Pursuant to Section 147 of the SEPP (Housing) 2021 ('SEPP Housing'), the consent authority must be satisfied that the design of Residential Flat Buildings (RFBs) adequately addresses the design principles outlined in Schedule 9 of the SEPP. The proposal fails to meet the following design principles as detailed in the concerns raised below:

- **Design Principle 1: Context and neighbourhood character**

The existing and future character of Balfour Street should be given further detailed attention, including landscape character, building heights and setbacks and impacts of SEPP Housing. Existing landscape features and urban value, within the broader neighbourhood area surrounding the site west of Pacific Highway must be identified. Landscape character is a key point of reference in SEPP Housing and should therefore be comprehensively analysed. As detailed within this submission, landscape character has not been appropriated considered.

The boundary with the school to the north-east deserves special consideration from a privacy and safety perspective. Impacts associated with the Balfour Place mixed-use development on the corner of Balfour and Pacific Highway would benefit from further attention. This should reference the streetscape condition between this development and the rest of the street (particularly as it affects the school which is sited between it and the subject site). The nature of pedestrian movement and landscape with respect to building height and setback should be given further consideration. The existing mature tree at the southern most corner of Balfour Place signals a change in scale relationship along the street but this is not described. These characteristics might better inform the public domain interface and scale-height relationship of the subject development with Balfour Street.

- **Design Principle 2: Built form and scale**

Front setback

The proposed 6m front setback across all levels of the development is non-compliant with the Ku-ring-gai Development Control Plan (KDCP) which requires a 10m front setback. No detailed analysis of existing and future street setbacks to support this non-compliance has been provided (see Design Principle 1

above). Generous landscape front setbacks, that are absent private courtyards and large paved areas for pedestrian and vehicular access, are a key feature of residential flat developments throughout Ku-ring-gai. The proposed 6m front setback, with private front paved courtyards, retaining structures, circular central pedestrian entry, egress pathways, bulky waste collection area, servicing and vehicular entry (that is not at the lowest point of the frontage, but rather centrally located) significantly reduces deep soil plantings and the growth of tall trees in front of the development.

Building height

The proposed building height exceeds the 28.6m permissible height plane (SEPP Housing) by significant margins and this is not limited to a few discreet points across the roof plane. The exceedances range from 1.92-3.9m in the west corner, 2.6-4.6m in northern corner and 2.84m in the southern corner.

Street elevation and address

Further design attention to the street address/ elevation is recommended. This is because approximately half of the street frontage is taken up with vehicle entry and the partially visible frontage to the lower ground carpark. The treatment of this blank wall and how it can provide an appropriate street façade / landscape would benefit from further design attention. Whilst the centralised entry appears to be of an appropriate length, and includes a lift and staircase up to the main ground floor courtyard entry space, it would be preferable to also have an at-grade connection to the public domain of the street where it coincides with the eastern corner of the site.

The accessible terrace of the front entry (located at level 1) might benefit from further design consideration. It is unclear who it is accessible to and for what purpose. The terrace is accessible but its small size and shape (cut into at sides and with voids) may minimise its useability. Safety concerns are also raised as the terrace facilitates access between the private open space of two units. Consideration might be given to creating a roof garden for visual relief from above.

- **Design Principle 5: Landscape**

The development does not positively contribute to the landscape character of the streetscape and neighbourhood for the following reasons:

- The front setback only has a 3m landscape strip predominantly along the entire street frontage. This is exacerbated by the location of the hydrant, substation and building services to the front. The lack of landscaped areas and large deep soil zones and absence of tall tree plantings along the street frontages fails to provide tall canopy trees that adequately contribute to the landscape character of the streetscape and neighbourhood.
- The secondary path and associated retaining walls to both the eastern and western side setbacks reduces available deep soil, diminishing opportunities for buffer planting and tall tree establishment. This fails to demonstrate adequate consideration of neighbouring amenity and privacy.
- There are numerous trees proposed too close to the adjacent infrastructure (building façade / services), that will either require the rootball to be “cut to fit” which is detrimental to the new tree, or the roots and canopy will cause conflict and on-going maintenance issues as the tree grows.

Northern courtyard

The northern courtyard (communal open space) (‘COS”) is envisaged as a place that will be*: “enriched with significant existing and proposed planting to celebrate the characteristic landscape of the Lindfield suburb.”* This is a good design objective however its placement fully below ground and in such close proximity to neighbouring dwellings and their private open space (‘POS’) is not supported. The three north-east facing dwellings on Level 1 are subterranean making them non-compliant with KDCP. Sun access, privacy and amenity of the COS will be negatively impacted. Consideration should be given to deleting the 3 level 1 units on the north-east corner and raising the COS up so that is located approximately half a level below Level 2. This will reduce excavation in this corner and provide a better relationship between COS and

POS. Locating this COS closer in level to the trees retained to the west will also benefit its amenity and useability.

- **Design Principle 6: Amenity**

Depth of habitable rooms

The depth of the combined living/dining/kitchen rooms to several of the apartments appears to exceed the maximum depth of 8m as specified in the Design Criteria in Part 4D of the ADG. Internal room dimensions should be detailed in the plans to ensure good levels of amenity to the apartments.

Sun shading

Consideration should be given to providing additional sun-shading measures on the western façade to improve thermal performance and internal amenity.

- **Design Principle 7: Safety**

Relationship between public and private domain

The central courtyard (communal open space) is promoted (Appendix 5) as: *"a generously scaled open space that promotes visual connections and community interaction."* Consideration of its integral relationship with the street would benefit from further detail. It would appear that there is a secured entry from the street to the courtyard which reinforces the private nature of this space. The change in height from the street gives it privacy (from the street) which benefits residents, but options to provide good visual connections and permeability to and from the street should be considered to facilitate optimal interaction with the public domain. For example, the fence line could be moved further into the site (or removed altogether) so that part of this courtyard forms a continuation of the public domain of the street.

C. FLOOR SPACE RATIO

The stated gross floor area is 18,455.43sqm. This is equivalent to a floor space ratio of 3.25:1 which would comply with the maximum floor space ratio of 3.25:1, however compliance with the definition of 'gross floor area' (GFA) is not clearly demonstrated by the plans.

Areas to check include (for example):

- the thickness of walls to common vertical circulation such as lifts and stairs (where not external walls),
- the thickness of walls to risers, and circulation areas, services in common hallways and garbage rooms.
- The garbage chute rooms at each level of the development would contribute to GFA.

The cumulative gross floor area of these features is likely to be significant and the gross floor area would be non-compliant. If the maximum floor space ratio is exceeded, this will require a well-founded request to vary the development standard pursuant to Clause 4.6 of the Ku-ring-gai Local Environmental Plan (KLEP). As a Clause 4.6 request has not been provided and the proposal does not comply with the development standard, consent cannot be granted.

Affordable housing calculations should be adjusted to reflect the revised GFA calculations.

D. BUILDING HEIGHT

Maximum building heights have been identified in the Clause 4.6 variation request and the height plane diagram as 33.2m. This is a maximum building height variation of 4.6m (to top of rooftop screening). It is however noted that parts of level 08 and 09 that comprise apartments breach the maximum building height by between 1.67m and 3.54m.

It is noted that additional detailed sections should be provided through the development to confirm building

height at different points. This is critical given the fall of the land and the stepped design of the building at the upper levels.

The Clause 4.6 variation request is not considered to be well founded for the following reasons:

The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The applicant has not sufficiently demonstrated that compliance with the standard is unreasonable and unnecessary for the following reasons:

- The bulk and scale of the development is not appropriate having regard to the likely future character under the Alternate TOD.
- The future context should not be confined only to the adjoining properties along Balfour Street or the nearby properties facing Pacific Highway. The future context must also consider those properties that adjoin the site to the rear on Highfield Road, one of which is a heritage listed property. The proposed building height of up to 33.2m would not be consistent with this future context.
- The proposed building height would not ensure an appropriate building height transition with nearby properties to the west that are "not saved" by the Original TOD and will be limited to a height of 18.5m.
- The Clause 4.6 relies upon the 9-12m rear setback and the stepping back of the upper levels from Balfour Street to, in part, justify the breach to the building height. Whilst these measures may assist in marginally reducing the bulk and scale, the breaches to the building height will still be readily perceived from adjoining properties and the public domain. It is noted that the breach to Level 8 is largely because of a non-compliant front building setback. Further, the application has not adequately demonstrated that significant trees within the rear setback can viably be retained under the proposed development. The bulk and scale will therefore not be appropriately minimised when viewed from either Balfour Street or the adjoining properties to the rear.
- Further, it is likely that additional structures will be required on the roof of the development to ensure appropriate weather protection for the roof top private open space areas which may result in a further breach to the building height standard.

There are sufficient environmental planning grounds to justify the contravention of the development standard.

The environmental planning grounds advanced in the Clause 4.6 are not sufficient for the following reasons:

- For the environmental planning grounds to be sufficient, they must focus on the aspect of the development causing the breach, the breach must be informed by these grounds, and the grounds must be 'sufficient' to support the breach.
- The design does not give adequate consideration to the unique circumstances of the site including its topography. There is inadequate stepping in by the development to acknowledge the fall of the land both across the site frontage and from the rear to the front of the site. It has not been demonstrated through analysis that a scheme compliant with the building height development standard is incapable of being achieved on the site. The proposed bulk and scale of the built form when viewed from all boundaries of the site is excessive and a more sensitive design should be adopted.
- The building height breaches are not confined only to the roof lift overruns, and mechanical equipment/screening. There are sections of the apartments on levels 08 and 09 which also breach the building height standard and which will be discernible from the public domain.
- The proposed built form is not compatible with the desired and emerging character of the properties to the rear of the site that front Highfield Road.

Sufficient environmental planning grounds must be advanced by the applicant to justify the proposed contravention. Greater consideration of the unique circumstances of the site and the specific elements that breach the building height standard is needed.

The consent authority must satisfy itself that the Clause 4.6 variation is well founded before the granting of any development consent. As detailed above, Council is of the opinion that that the variation request has not demonstrated that –

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

E. SETBACKS

Street Setbacks

Part 7 of the KDCP requires a minimum setback of 10m from the street frontage for residential flat buildings. The applicant justifies the proposed front setback by referencing the mixed-use building at 1 Balfour Street which is only required to provide a 4m upper-level setback (above street wall height) to Balfour Street and the adjoining development at 19-25 Balfour Street which provides for an 8m front setback (which Council deemed inadequate in its objection to that SSDA).

A 10m front setback requirement supports the objective within the KDCP of embedding new residential flat buildings within a garden setting, consistent with the area's established character of tree-lined streets and generous landscaping.

The proposed development provides only a 6m front setback to Balfour Street, representing a non-compliance with the KDCP. The non-compliant setback increases visual bulk from Balfour Street and fails to provide for sufficient deep soil landscape areas within the street frontage for the viable planting of tall trees.

The proposal does not contribute to the streetscape and amenity of adjoining properties and undermines the landscape-dominated character sought for the precinct.

F. SITE COVERAGE

The KDCP limits site coverage to a maximum of 30% of the site area, conditional on compliance with deep soil requirements in Section A Part 7A.6. This control aims to preserve the natural landscape character, support viable deep soil zones for mature tree growth, and reduce impervious surfaces that contribute to stormwater runoff.

The proposed site coverage appears to be approximately 47% and significantly non-compliant with the maximum site coverage control specified in the KDCP. This non-compliance reflects an overdevelopment of the site, a failure to protect and improve the tree canopy, and a failure to provide viable deep soil landscape areas.

G. BUILDING ENTRIES

The main pedestrian building entry is via a curved pathway and central stair or the adjoining lift. This means negotiating a level change of approximately 3.2m from footpath level. This entry sequence does not positively contribute to the streetscape and is not considered a pleasant entry to the internal circulation spaces, noting it is located behind a fence. This is inconsistent with Controls 2, 3, 4, and 5 and Objectives 1, 2 and 3 in Part 7C.5 in KDCP.

H. LANDSCAPING

The proposal has been assessed against **Item 14: Trees and Landscaping** of the SEARs compliance table. The submitted documentation does not satisfactorily respond to this requirement, for the following reasons:

Inadequate landscape documentation:

- *Appendix 22 (Landscape Plan)* does not provide a full Planting Plan and Plant Schedule indicating details of the proposed planting, including location, number and species of plantings, quantity and pot size of proposed planting for levels 1, 2, 3, and 9 where extensive balcony planting is shown on the architectural CGI's and the level 9 plan. This is contrary to the SEARs requirements and is to be provided for assessment.

Failure to Integrate significant existing trees:

- While 25 trees are proposed for retention, 67 trees are shown to be removed, including one (1) street tree (**Tree 3 *Alectryon tomentosus).*** The design across all disciplines does not demonstrate adequate considerations or setbacks to several significant existing trees to the rear of the site. For example, the trees to the western rear corner are shown to be retained due to the building stepping back to retain them, however the recess is inadequate, and several trees will still be significantly impacted, such as:
    - **Tree 81 *Eucalyptus saligna*** (Sydney Blue Gum) has a 20% encroachment into the notional root zone (NRZ) which is a major encroachment under AS4970 2025 *protection of trees on development sites*. This species is not tolerant of construction works and this encroachment will be detrimental to the long-term health of this significant, native tree.
    - **Tree 89 *Quercus robur* (Oak)** is shown to have an estimated 16% encroachment into the NRZ, however the Arborist failed to notice a wall is proposed within 0.5m of the trunk, within the structural root zone (SRZ) of this tree, which will be detrimental to the tree's stability and long-term health.
    - **Tree canopy pruning -** the tree canopies of Trees 81 and 89 will be considerably impacted by the construction of the building façade - scaffolding/construction access, requiring pruning up to 50% creating an asymmetrical canopy for building clearances. This is not in line with AS4373-2007 *Pruning of Amenity Trees* and is not supported by Council. The Arborist report does not discuss the canopy impacts and tree pruning requirements.
    - **It is also worth highlighting** a tree that is located within 3m of a building, such as Tree 89 becomes 'exempt' under the KDCP Part 13.2 Control 1 and can be removed without Council permission. Tree 89 is a high retention value tree with no defects. It is not supported for removal by Council and design changes are required to adequately retain it.
    - **Retaining walls -** An excessively high retaining wall, up to 3m high, is proposed 3m from the rear northern boundary. This wall and associated cut/excavation up to 3m deep in the rear landscaped setback will significantly impact existing Tree 17 *Alectryon coriaceus* (Beach Birds Eye) in the northern corner where the wall is proposed into the SRZ. Furthermore, the wall will impact neighbouring Tree 56 *Eucalyptus saligna* (Sydney Blue Gum) located in the heritage item to the rear.

- *Appendix 10 (Arboricultural Impact Assessment Report)* is inadequate. The Tree Management Plan is illegible. It has not considered all impacts of the proposed development including pruning, landscape works, retaining walls, re-grading (cut & fill), underground services, temporary construction access requirements (scaffolding) for example. The report does not provide specific tree-sensitive construction methods for each of the trees proposed to be retained. All these cumulative impacts should have been considered and discussed as part of the tree impact assessment.

- *Root mapping is required by the SEARS*. Suitable evidence must be provided demonstrating the proposal will not impact the long-term health and viability of the following public owned trees:
    - **Tree 2 *Quercus robur* (English Oak)** street tree. The substation and pedestrian secondary path are located within the NRZ of this tree.
    - **Tree 4 *Alectryon tomentosus*** (Hairy Birds Eye) street tree. The building services are located within the NRZ of this tree.

Recommendation:

To achieve compliance with SEARs Item 14, Part 3E ADG and Part 13 of the KDCP, and to adequately retain the significant trees and improve the landscape design, the following amendments are recommended:

- **Council strongly recommends architectural plans are amended** to show the ground floor plan is redesigned to have a minimum 4m building setback from Tree 89 (in line with the basement wall). It is also recommended that the POS balcony and the private access path along the western side setback be redesigned or deleted to Unit A101 3B-ENH to ensure this significant tree is satisfactorily retained and protected for the long-term. In addition, the rear POS balcony to unit A102 3B-ENH is to be deleted, and the natural ground retained in this locality to ensure significant Tree 81 is satisfactorily retained and protected for the long-term.
- **Council strongly recommends the landscape and civil plans are amended** to show that all the retaining walls are reduced in height to no greater than 900mm (preferably 600mm) to bring them back to a human scale and to avoid the need for excessive cut of the natural landscape per the KDCP Part 21.1. Terraced walls are recommended to break up the steep level differences and landscaping is to be added to the raised planters to soften the walls. Consideration should also be given to adding seating to take up some of the level differences and to create raised pockets of interest to the rear COS.
- **Council recommends a tree pruning diagram** is provided to realistically assess the amount of pruning required to Trees 81 and 89 to understand the full extent of the construction impacts and provide guidance and design modifications where the building footprint is to be modified/setback from the trees.
- **Council recommends a revised Arboricultural Impact Assessment** is provided to ensure all works (demolition, site access, construction access, scaffolding, landscaping and services) cumulatively have been considered and calculated correctly and adequate tree protection measures discussed for all trees.
- **Root Mapping Investigation is required to Trees 2 and 4.** Roots must be mapped / located using non-destructive investigation such as: Careful hand-digging, pneumatic, hydraulic, (airspade, hydrovac – on a low setting) or non-invasive techniques such as ground penetrating radar (GPR) to avoid severing the roots along the boundary. Design modifications and relevant approvals must be sought which ensure impacts are reduced to a sustainable level. Root mapping results and supporting documentation with photographs and recommended outcomes and design modifications is required to enable an informed assessment of tree impact.

Without the results of root mapping being assessed, tree impact to publicly owned assets cannot be determined. As further investigations are required which are likely to influence design outcomes, it is requested these investigations be undertaken and submitted for assessment of publicly owned assets (Trees 2 and 4). The failure to do so is inconsistent with the SEARS (Item 14 – root mapping), SEPP, ADG, LEP and DCP outcomes to protect and maintain the tree canopy that strongly defines Ku ring gai.

Apartment Design Guide

Part 3D Communal and Open Public Space

3D-2 Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks

- The landscape plans do not satisfy this control. The on-side detention tank (OSD) and rainwater tank (RWT) are located directly below the main entrance into the central communal open space. There are three (3) large access covers 900 x 900mm extending up through the raised feature planter. The location of these have not been coordinated. The 900 x 900mm access covers will be an eyesore in the prominent planter location.

Recommendations:

To achieve compliance with ADG Part 3D-2 Council recommends the 900 x 900mm access covers located

within the raised central planter are repositioned into the adjacent hard paving area and 'hidden' beneath inset paving to prevent them having a visual impact on an otherwise well-designed podium courtyard.

Part 3E Deep soil zones

As the site is considerably larger than 1500m^2 at 5,678.6m^2 with several significant trees, a larger area of deep soil of minimum 15% (851.8m^2), measured with a 6m dimension, should be provided to retain trees and provide for adequate landscaping including tall trees to the side boundaries and street frontages.

Viable deep soil landscape areas should be provided to the street frontages to ensure the proposed landscape outcomes include viable retention of existing street trees (Trees 2 and 4) and deep soil for the planting of tall tree plantings in context with the established landscape character.

The 50% deep soil requirement of the KDCP Part 7A.6 is not achieved.

Key Deep soil Issues:

- *Private Open Space within Deep Soil:* The extension of private open space terraces into deep soil areas should be avoided to maximise natural ground-level deep soil. Where terraces are necessary, they must be constructed with a pervious treatment or as suspended decks to maintain compliant deep soil zones with the required 6 m minimum dimension.
- *Capacity for Tall Trees:* Terraces and balconies intruding into deep soil areas reduce the capacity for tall canopy tree planting, diminishing the environmental and amenity benefits expected from deep soil zones.
- *Insufficient Setbacks and deep soil zone for existing trees:* The landscape design does not provide adequate deep soil to support the retention of existing significant canopy Trees (81 and 89), resulting in inconsistency with the existing and desired landscape character.
- The western side setback and eastern side setback incorporates a pedestrian entry and circulation path, which limits the opportunity to establish tall trees along this interface with neighbouring properties. This results in poor amenity and reduced privacy.

Recommendation:

To achieve compliance with Part 3E of the ADG and improve the landscape design, the following amendments are recommended:

- Ground-Level Private Terraces: Any ground-level private terraces within deep soil areas can either be constructed with a pervious treatment (e.g. suspended deck) or removed to maximise usable deep soil.
- Front and Side Setback: Redesign the side setbacks to delete the high retaining walls currently proposed. These walls significantly reduce the available deep soil for tree root development and create an undesirable interface with the established street character.

Objective - Landscape design contributes to the streetscape and amenity
The proposal does not meet this objective due to the following issues:

- **Deep Soil Zones and front setback**
  Lack of landscaping and 6m wide deep soil areas along the frontage, along with multiple building services reduce the opportunity to accommodate large or medium trees to contribute to the streetscape and amenity and fails to meet ADG objectives.

Part 4P.3 Planting on structures soil depths and soil volumes.

Objective - The building design incorporates opportunities for planting on structures.

The proposal does not meet this objective. The landscape and architectural plans are not coordinated. The architectural CGI's show planting on levels 1, 2, 3, and 9, however the Landscape and architectural plans provide insufficient information to assess the planting as promised. Where landscaping is proposed over structures raised planters / or planted areas, the appropriate soil depths and volumes (as per ADG Table 5 of Part 4P) should be provided. The following is also noted:

- Planters with cascading plants and screening (small leave shrubs) should be provided along edges of POS on higher levels to provide visual softness to the streetscape and neighbours, wind protection, and long-lasting greenery.
- The planting design shall include species suited to wind, drought, and varying solar conditions and consider seasonal changes.
- Planting should include automated irrigation and allow access for maintenance to all planting proposed above structures.

Part 13 Tree and Vegetation Preservation TREE REMOVAL and IMPACTS

Inadequate Arboricultural Assessment:

- The submitted Arboricultural Impact Assessment (AIA) lacks sufficient detail to confirm the protection and retention of trees both within and adjacent to the site. The architectural drawings and landscape plans are conceptual only and provide insufficient information regarding site levels, building interfaces, stormwater infrastructure, and service locations. The cumulative impacts of these elements on tree retention have not been addressed.
- Trees 2, 4, 17, 56, 81 and 89 are of particular concern, as the design of the building, walls and building services have not adequately considered the cumulative encroachment into the Tree Protection Zones of these trees.
- An excessively high retaining wall, up to 3m high, is proposed 3m from the rear northern and will impact Trees 17, and neighbouring Tree 56 *Eucalyptus saligna* (Sydney Blue Gum) shown to be retained and protected. This is discussed further below under KDCP Part 21.1.
- Further detail is required in both the architectural and landscape plans. All proposed structures must be consistent across submitted documentation, and the stormwater system must be included in the AIA to properly assess potential impacts on existing trees within the site.
- The AIA shall also include specific tree sensitive construction methods for each tree proposed to be retained.

Accordingly, the proposal fails to demonstrate adequate protection of existing trees and is inconsistent with the objectives and controls of Part 13 (Tree and Vegetation Management) and Part 7A.6 of the KDCP.

Other DCP relevant controls

- Part 7A.6 - At least 30% of the required number of tall trees must be planted within the front setback. The proposal includes no tall trees in the front setback or the western side setback.
- Part 21.1 – A 3m high retaining wall is proposed 3m from the rear northern. High solid walls are not supported by Council and are not in keeping with the character of Balfour Street/Highfield Road Heritage Conservation Area (HCA). The wall location has not considered the location of the existing Trees 17, and neighbouring Tree 56 *Eucalyptus saligna* (Sydney Blue Gum) shown to be retained and protected.

Inconsistent/Inadequate information

The submitted architectural and landscape plans are inconsistent. In particular, the finished levels shown on each set of plans do not match, with conflicting information provided.

The proposed wall along the front setback is shown at differing heights across the submitted documentation, with no top-of-wall levels provided. As a result, the actual height of the proposed wall is unclear.

The landscape proposal includes insufficient detail regarding:

- Services Infrastructure:
    - Proposed substation in the southern corner of the front setback is not feasible due to the existing raised street frontage in this location, as a substation needs straight access from the public domain if provided in the frontage.
    - The development proposal shall include the building services and substation within the building envelope, to minimise visual impacts, and ensure that new development does not impact on the landscape character and garden setting of the street character and HCA.

Inadequate Proposed Planting to the Front setback

The front setback does not provide a suitable landscape buffer to the streetscape. The proposal includes 6 small trees (Crepe Myrtle and Magnolia) to the street frontage. No tall canopy trees have been incorporated into this area.

The proposal should include large canopy trees, such as *Angophora costata, Nyssa sylvatica, or Zelkova serrata*, to create an effective buffer between the built form and the street while maintaining passive surveillance.

I. HEALTH

Mechanical plant/ air conditioning units

The submitted SSDA Acoustic Assessment prepared by Acouras Consultancy (Document Reference SYD2025-1140-R001E, dated 12/12/2025) references architectural drawings prepared by PTW, identified in Appendix B as “WIP” drawings dated 12/11/2025 and 20/11/2025.

Council notes, however, that the architectural plans currently under assessment are Revision A, dated 28/11/2025. As a result, there is potential that modifications made between 12/11/2025–20/11/2025 and 28/11/2025 such as adjustments to rooftop plant layout, condenser unit numbers, plant deck configuration or building envelope changes may not be reflected in the submitted acoustic assessment.

Given the potential for discrepancy between the drawings referenced in the Acoustic Assessment and the architectural documentation currently before Council, the applicant should confirm whether the acoustic assessment has been reviewed against, and updated to reflect, the Revision A plans dated 28/11/2025.

Section 3.3 (Mechanical Services) of the Acoustic Assessment indicates that typical residential condenser units are proposed to be located within rooftop plantrooms screened by a 1.5m high masonry wall.

However, the report does not identify the specific number of condenser units, nor does it reference detailed rooftop plant layouts.

The Revision A architectural plans show three discrete rooftop areas allocated for air-conditioning condenser units. The acoustic report does not clearly confirm whether noise modelling has been undertaken based on the finalised rooftop configuration, including the distribution of units across these three plant areas, cumulative plant noise impacts, or potential interaction between plant groupings.

Accordingly, the applicant should:

- Confirm that the SSDA Acoustic Assessment has been reviewed against the Revision A architectural drawings dated 28/11/2025;
- Confirm the number and arrangement of condenser units proposed within each of the three rooftop plant areas; and
- Provide updated acoustic modelling where required to demonstrate compliance with the relevant KDCP noise criteria, based on the current architectural configuration.

In addition, the architectural documentation should clearly identify the number of condenser units proposed within each rooftop plant zone to ensure that adequate spatial provision, acoustic screening, and attenuation measures can be achieved within the built form.

J. ENGINEERING / TRAFFIC

The following engineering matters are raised which must be addressed as part of response -

Water Management

1. The proposal seeks to discharge into Council's existing drainage system via a 450mm pipe. Council's pipe system will need to be investigated. The existing invert levels and exact location of the stormwater pit within the road reserve will need to be confirmed by a registered surveyor.

2. A CCTV video and report of the existing pit and pipe fronting to Council's trunk drainage system shall form part of this required certification. The condition of the existing pipe is to be inspected by a licenced plumber to verify if the existing pipe is in good working condition. The findings of the plumber's report are to be submitted.

3. Supporting hydraulic calculations are to be submitted to confirm that the pipeline to which connection is proposed has sufficient hydraulic capacity to accept the post developed flows according to requirements of Part 24B.2 Controls 8 and of KDCP.

4. The plans should include invert levels and surface levels of all stormwater pits within the site.

5. The location of the access pits to the filter chambers in detention system are to be accessible for maintenance. Clarification is to be provided to confirm how maintenance vehicles can access the filtration system.

Flood Assessment

Overland flow levels are to be depicted on the maps and confirmation is to be provided from the Design Engineer that the minimum floor levels for the proposed development (at the lower ground level) as depicted on the architectural plans meets the 300mm above the 1% AEP levels as stated within Flood Risk Management Report.

Waste Management

The swept paths analysis is to be amended demonstrating that Council's Waste Collection Vehicle of 6.7m Mitsubishi Canter can enter and depart the garbage/room recycle storage area in a forward direction. A swept path for 6.4m small rigid vehicle (SRV) has been submitted, which is not adequate.

Traffic and parking

The following aspects of the application are not supported:

1. There is no provision for an on-site car share parking space, which is a requirement of Control 14 of Part 7B.1 of the KDCP. Under the proposed apartment mix and car parking provision, there would be a high number of 2 and 3-bedroom apartments with only 1 car space allocated to them, and several 2-bedroom units with no car parking spaces allocated to them, which justifies the provision of at least 1 car share vehicle on-site.

The following aspects of the application require additional information/clarification:

1. The configuration of the storage cages and the location of the doors should be reviewed to ensure convenient access to/from the cages by bicycle – some storage cages are located in tandem or at the head of a car parking space, which would result in a parked car needing to be moved to access the cage.
2. The 13 visitor bicycle parking facilities should be located somewhere on the Ground Level, near the main pedestrian entry.
3. Dimensions of the driveway width need to be provided.
4. Compliance in the provision of the 2m x 2.5m sight triangle at the access point as per AS2890.1 needs to be demonstrated. The architectural plans and perspectives indicate a wall in this area, and the Landscape Plans show *Camellia Japonica* planting in the area of the sight triangle, that according to the Planting Schedule & Palette are to be pruned to a height of 2-3m. This is not acceptable, and the Landscape Plans should be amended to ensure the sight triangle is maintained.
5. Clarification is required that the lifts, lobbies and hallways are of a suitable size such that residents can transport their bicycles between their allocated storage cage and street level.
6. A temporary on-site loading area in accordance with Part 25B.2 of the KDCP to facilitate bulky goods waste collection has not been shown on the plans.
7. Swept paths need to be provided that demonstrate that access to and from the on-site loading bay by Council's 6.7m long small waste collection vehicle is satisfactory.
8. Clarification is required that provision is being made for all car parking spaces in the development to be electric vehicle (EV) ready in accordance with Control 15 of Part 7B.1 of the KDCP.
9. The architectural plans are to show proposed 'No Parking' restrictions for 6m on either side of the driveway, in accordance with section P of Council's Traffic and Transport Policy.

K. ECOLOGY

The proposal involves clearing of mapped native vegetation and removal of mature canopy trees forming the structural core of the vegetation community present on the site. The Biodiversity Development Assessment Report (BDAR) relies on the arboricultural evidence to justify the proposed removal of canopy trees and to support the claimed application of the avoid–minimise–offset hierarchy under the Biodiversity Conservation Act 2016 and the Biodiversity Assessment Method (BAM) Stage 2 Operational Manual. Based on review of the submitted documentation, the arboricultural evidence does not support the scale of canopy removal proposed, and the BDAR does not demonstrate compliance with Stage 2 Section 3 of the BAM.

Arboricultural Evidence and Risk Assessment

The Ents Tree Consultancy report undertook diagnostic assessment of Tree 50 and Tree 75. The scope of assessment was limited. The report confirms that no aerial inspection was undertaken, no root plate mapping or subsurface investigation was undertaken, and diagnostic testing was confined to trunk sections at approximately 0.5 metres above ground level. Whole-tree structural stability depends on root anchorage, buttress development, crown architecture, wind exposure and soil conditions. These variables were not assessed in a quantified manner. Diagnostic testing confined to lower trunk tomography does not provide a complete assessment of whole-tree failure probability.

The Ents report records relative strength loss values in the range of approximately 18–26% and identifies approximately 30–50% as a critical threshold for failure. The measured values are below the critical threshold cited in the report. No residual wall thickness modelling is provided. No t/R ratio assessment is provided. No structural load modelling is provided. The report does not demonstrate that recognised structural failure thresholds have been exceeded.

The Ents report assigns both Tree 50 and Tree 75 a low risk rating for pedestrians and a moderate risk rating for property under the TRAQ methodology. The report states that *"a tree risk rating has been completed with trees 75 & 50 receiving a moderate level of risk for hardscapes / buildings and a low-risk rating for pedestrians."* It further states for Tree 75 that *"this tree receives a rating of having a low level of risk, for hitting a person based on the assessment criteria."* The Ents report therefore does not identify these trees as high-risk or imminent failure trees.

Photographic evidence within the Ents report indicates historic wounds with reactive inroll growth and woundwood formation. Woundwood development is consistent with compartmentalisation and adaptive response under the CODIT model. The reports do not demonstrate breach of barrier zones or progressive decay beyond compartment boundaries. Sonic tomography identifies acoustic variation but does not quantify failure probability without residual shell thickness modelling and structural interpretation.

The Arboricultural Impact Appraisal prepared by EziGrow assigns Tree 75 a Z5 classification. Under EziGrow's Tree AZ framework, Z5 corresponds to significant defects and high risk of failure where the risk cannot be satisfactorily reduced by reasonable remedial care. The Arboricultural Impact Appraisal does not provide quantified structural modelling demonstrating that risk cannot be mitigated through recognised arboricultural management measures such as crown reduction, monitoring, exclusion zones, or design-based separation. The escalation from a low pedestrian risk rating under TRAQ to a Z5 classification implying unmitigable risk is not transparently justified.

The EziGrow Arboricultural Impact Appraisal also identifies removal of multiple additional canopy trees, including mature Sydney Blue Gum (*Eucalyptus saligna*) individuals forming the rear canopy patch. This includes high category trees described as being in good health and condition, including Trees 3, 48, 68, 69 and 83. These trees were not subject to diagnostic testing and are not alleged to present structural failure risk. Their removal is therefore driven by the development footprint rather than demonstrated arboricultural necessity. The proposal removes both trees described as defective and additional healthy canopy trees, resulting in loss of the structural core of the canopy community.

The arboricultural evidence must be considered in the context of site design. The Ents report concludes that Trees 50 and 75 present low risk to pedestrians and moderate risk to property. That level of risk is capable of being managed through spatial planning, setbacks and ongoing arboricultural management. If the proposal had been designed to retain the patch of canopy trees within the rear of the properties as a consolidated vegetated area, risk could have been mitigated through appropriate setbacks from Tree Protection Zones and Structural Root Zones consistent with AS 4970–2025, separation of buildings from target zones, and long-term management. The reports do not demonstrate that risk is unmanageable under a design that respects TPZ and SRZ constraints.

BDAR Avoidance and Minimisation – Failure to Comply with BAM Stage 2.

The BDAR avoidance section confirms that avoidance was not applied as a starting principle. The BDAR states that approximately 0.09 hectares of vegetation identified as PCT 3262 will need to be cleared for the new building footprint. The BDAR further states that the initial design required removal of all canopy trees to the rear of the properties, and that the plans were later redesigned to retain four Sydney Blue Gums (Trees 80, 81, 90 and 92). This admission demonstrates that the building footprint was not originally constrained by biodiversity values. Avoidance was treated as a design refinement rather than as the primary organising principle of the proposal.

Stage 2 of the BAM establishes a statutory framework requiring impacts to be avoided before minimised and offset. The BAM Stage 2 Operational Manual states that actions to avoid impacts must be applied as early as possible in the project life cycle and requires the assessor to clearly present information on how impacts have been avoided, including evaluation of alternatives for the location and design of the proposal with evidence of analysis of environmental considerations. It also requires documentation of refinements and changes to project location and design to demonstrate that the avoid–minimise hierarchy has been applied.

The BDAR does not provide comparative footprint options, reduced basement scenarios, alternative building envelopes, or documented analysis of rejected layouts. It states that the building largely encompasses the footprint of existing dwellings, but this is not evidence of avoidance. The proposal includes a nine-storey residential flat building with three basement levels and a development footprint of approximately 4,730m². No evidence is provided that the scale or basement configuration was tested against canopy retention outcomes. The BDAR accepts that clearing of 0.09 hectares of vegetation is required and then attempts to justify that clearing as necessary, rather than demonstrating that it was avoided.

The BDAR states that only one of the retained Sydney Blue Gums is in good health and that the other three show signs of decay and/or fungal infections which may affect tree longevity. This statement is used to diminish the significance of canopy retention. This is inconsistent with the Ents report findings which assign

low pedestrian risk and moderate property risk to Tree 50 and Tree 75 under TRAQ. The BDAR relies on a narrative of decline to reduce the perceived long-term value of retained trees, rather than applying avoidance through design and setbacks.

The BDAR proposes that, to minimise the environmental impact of clearing 0.09 hectares of vegetation, up to 80% of representative species be used in landscaping. Landscaping with representative species after clearing is not avoidance and does not represent meaningful minimisation of the ecological impact associated with removal of mature canopy trees. The BAM requires minimisation measures to be based on industry best practice and supported by evidence of efficacy. The BDAR does not provide such analysis. Landscaping substitution cannot replicate mature canopy structure and does not maintain ecological function of the remnant patch.

The BAM provides that offsets apply only to residual impacts remaining after all reasonable measures to avoid and minimise have been undertaken. The BDAR proceeds to calculate ecosystem credits and offset obligations without demonstrating that alternative design configurations capable of retaining the rear canopy patch were genuinely evaluated and rejected on reasonable grounds. The BDAR therefore relies on offsetting without first demonstrating compliance with the statutory avoidance hierarchy.

Vegetation Community Identification and PCT Assignment

There is a significant issue regarding the vegetation community identification used in the BDAR. The BDAR identifies the vegetation as PCT 3262 Sydney Turpentine Ironbark Forest. However, the canopy description confirms that the rear canopy is dominated by Sydney Blue Gum (*Eucalyptus saligna*) to approximately 30m tall. *Eucalyptus saligna* dominance is characteristic of Blue Gum High Forest (PCT 3136). The site also supports other species commonly associated with Blue Gum High Forest, including Illawarra Flame Tree (*Brachychiton acerifolius*). The BDAR itself acknowledges that the presence of *Eucalyptus saligna* dominance would suggest Blue Gum High Forest as the more likely PCT, but adopts Sydney Turpentine Ironbark Forest on the basis of broader landscape context.

The PCT assignment is not a minor technical issue. If the vegetation community has been misidentified, the benchmark selection, vegetation integrity scoring, threatened ecological community assessment, and ecosystem credit calculations are unreliable. The BDAR does not provide a defensible floristic justification reconciling the canopy composition and structural attributes with the adopted PCT. The proposal involves removal of multiple mature *Eucalyptus saligna* canopy trees which represent the defining structural component of Blue Gum High Forest on the site. Removal of these canopy trees represents loss of the core ecological attributes of the community.

Conclusion

The Ents report does not identify Trees 50 and 75 as high-risk failure trees and records low pedestrian risk and moderate property risk. EziGrow escalates Tree 75 to a Z5 classification without quantified structural modelling demonstrating that risk cannot be mitigated. The Arboricultural Impact Appraisal also proposes removal of additional healthy Sydney Blue Gum canopy trees that are not supported by structural defect evidence.

The BDAR confirms that the initial design required removal of all rear canopy trees and was only later modified to retain four individuals. The BDAR does not demonstrate documented evaluation of alternative designs as required by BAM Stage 2 Section 3.1, and relies on landscaping substitution and offsetting in place of genuine avoidance and minimisation.

Based on the submitted evidence, the BDAR does not demonstrate compliance with the avoidance and minimisation requirements of the Biodiversity Conservation Act 2016 or the BAM Stage 2 Operational Manual. The proposal is driven by a fixed building footprint rather than biodiversity constraints. The scale of canopy removal is not shown to be unavoidable, and the ecological impacts on the remnant canopy patch are not appropriately avoided or minimised.

Further Information Required

Prior to determination, the consent authority should require independent arboricultural peer review including

quantified residual wall thickness assessment and whole-tree structural stability assessment, detailed Tree Protection Zone and Structural Root Zone encroachment feasibility analysis consistent with AS 4970–2025, documented alternative design testing demonstrating avoidance and minimisation of remnant canopy removal, confirmation of the correct Plant Community Type, and recalculation of BAM integrity and credit requirements if required.

In addition, the proponent should provide a revised BDAR which demonstrates compliance with the BAM Stage 2 avoidance and minimisation hierarchy, including documented assessment of alternative building footprints and basement configurations and clear evidence that the proposal has been designed around retention of the rear canopy patch rather than treating removal as the default outcome.

L. HERITAGE

Heritage Objectives

The heritage provisions of Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015) under clause 5.10 set the objective "*to conserve the environmental heritage of Ku-ring-gai*". A further objective set by the LEP is *"to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views"*. These objectives follow the standard instrument established by the NSW Government SEPP.

The Ku-ring-gai Development Control Plan sets further detailed objectives and controls to implement these LEP objects in relation to conserving significance, fabric, setting and views for heritage conservation areas and heritage items.

The site subject to the proposed development:

- is located in Balfour Street / Highfield Road Conservation Area (KLEP 2012 area C29) ('HCA')and
- adjoins heritage item *Dwelling house* at 6 Highfield Road (KLEP I39).

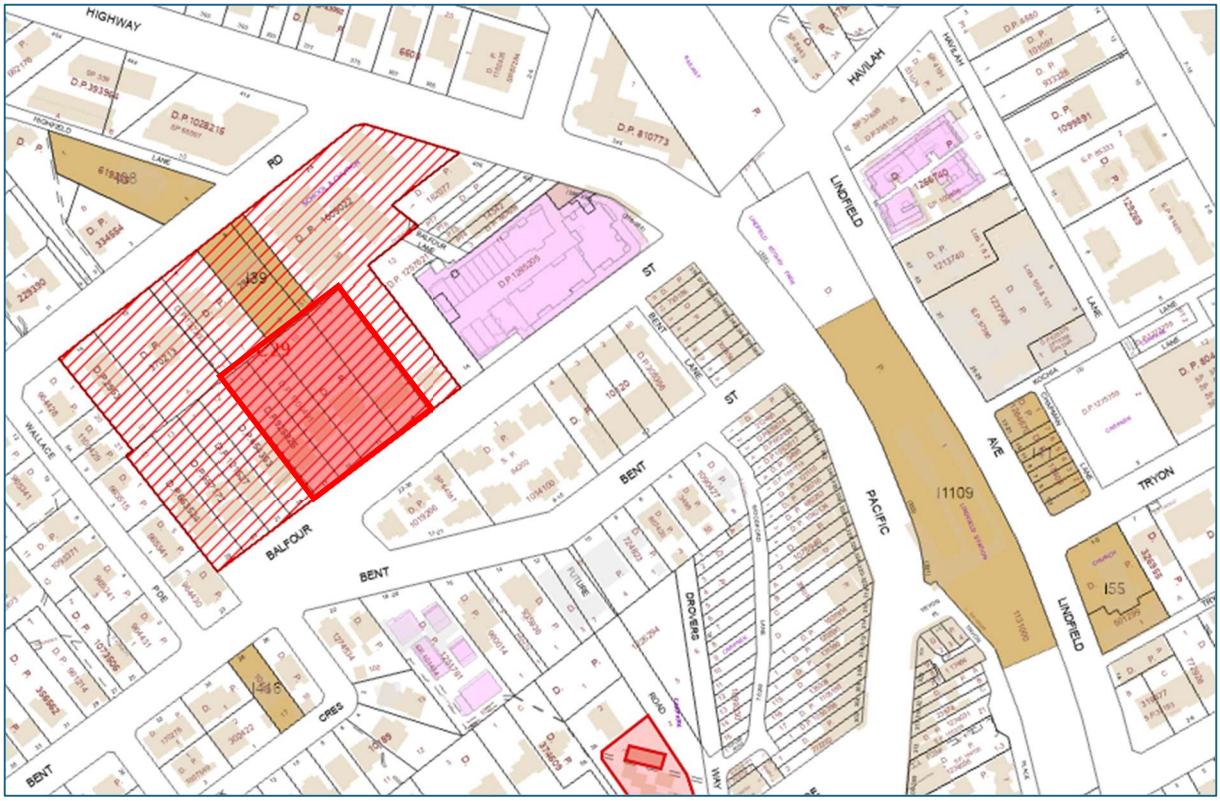

Figure 3: 9-17 Balfour Street in the heritage context of the area. The development site is marked red. Heritage items are in orange, and Conservation Area hatched.

The NSW Heritage Inventory provides the following Statement of Significance for the *Balfour Street / Highfield Road* Heritage Conservation Area [SHI item ID 1882680]:

Historically, the area represents the residential development of Lindfield in the early twentieth century following the opening of the North Shore rail line. The area demonstrates the subdivision of large land grants from the early nineteenth century, driven by the increased population of the area resulting from the improved access brought about by the railway.

Aesthetically, the area contains an important collection of intact Federation Queen Anne style housing, located on the northern side of Balfour Street. The area also includes the Holy Family Catholic Church constructed in 1940, and the school at 2-4 Highfield Road (corner Pacific Highway). The school includes 7 Balfour Street, one of the intact groups of Balfour Street Federation Queen Anne style houses. The area contains the presbytery associated with the Holy Family Church at 10 Highfield Road.

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

The NSW Heritage Inventory provides the following Statement of Significance for heritage item 6 Highfield Road, Lindfield, [SHI item ID 1880578]:

The property has local historical significance as a fine Federation Queen Anne dwelling constructed c.1903, during an early phase of development in Lindfield and Ku-ring-gai more broadly, following the opening of the railway station on the North Shore line in 1890.

The building is of local aesthetic significance as a good and largely intact example of a Federation period dwelling with Queen Anne features. Despite some modifications, the dwelling retains a strong sense of its early form, character and details including the face stone base, brick facades, main gabled and hipped roof form and terracotta roof cladding, rendered brick chimneys, open front balcony and associated details and original timber framed windows and doors.

The dwelling also retains its early (1903) boundaries, fine brick front fence and a front and side garden setting with garden trees and plantings which overall makes a positive visual contribution to the Highfield Road streetscape. The building setting is also enhanced by a landscaped garden area and swimming pool on the western side, garden and plantings to the southeast and an open tennis court at the rear (south) of the building.

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

Figure 4: Front elevation of 6 Highfield Road, Lindfield

The proposed development will have adverse impact on the heritage conservation area because:

- The proposed development will adversely impact on the HCA and will alter the context of the existing streetscape of Balfour Street, as it will be visually dominant and contravenes the pattern of development.
- The proposed development is within the conservation area and does not harmonise or enhance the area's distinctive identity. As a multi storey residential flat building, it would be directly contradicting the character of the area, and would be detrimental to its significance. The proposed development will irreversibly degrade the heritage significance of the heritage conservation area because of the inconsistency with the predominantly existing low scale historic built form.
- The proposed loss of domestic gardens and mature plantings will have a detrimental impact on the heritage conservation area.
- The proposed form, details, materials and colours will adversely impact on the HCA as they will be visually intrusive and conflict with the HCA character.

The proposed development will have adverse impact on the adjoining heritage item because:

- The proposed multi-storey residential flat building will irreversibly degrade the curtilage and heritage significance of the item, because its scale, bulk and height will physically dominate the item and its curtilage.
- The new development will dominate the background of the item from Highfield Road.
- The proposed form, materials and colours will adversely impact on the item and will be visually intrusive, conflicting the item's historic character.

END OF SUBMISSION