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Contact: Belinda Newell

Ref:
SSD-82709458

11 September 2025

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-82709458, Residential development with infill affordable housing
Address: 19-25 Balfour Street, Lindfield

Thank you for the opportunity to comment on the State Significant Development (SSD) application (SSD-82709458) for the proposed residential development with infill affordable housing at 19-25 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. **Appendix A** also forms part of this submission.

The key issues with the proposal include: lack of compatibility with desired future character, bulk and scale impacts, ecological impacts, inadequate setbacks and separation, exceedance of floor space ratio (FSR) and building height, amenity of units, overshadowing of adjoining properties, inadequate solar access to apartments within the development, inadequate privacy within the development and privacy impacts upon adjoining properties, inadequate landscaped area and deep soil zones, tree removal and tree impacts, water management, vehicle access and parking, waste management, inadequate BDAR and inappropriate setting and impacts to the heritage conservation area and heritage items in the vicinity.

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 Belinda Newell, Executive Assessment Officer on 02 9424 0987.

Yours sincerely,

Luke Donovan
Acting Team Leader (Development Assessment – South)

ATTACHMENT 1

Ku-ring-gai Council's objection to SSD- 82709458, 19-25 Balfour Street, Lindfield

A. STRATEGIC PLANNING CONTEXT

The NSW Government introduced the Transport Oriented Development (TOD) provisions of State Environmental Planning Policy (Housing) 2021 in May 2024, allowing 6–7 storey buildings within a five-minute walk of selected Sydney train stations. This policy affects four Ku-ring-gai town centres: Gordon, Killara, Lindfield, and Roseville.

In response, Council is working with DPHI on finalising and implementing alternative planning controls to the TOD (TOD Alternative Scenario) to accommodate new housing while preserving the area's valued heritage and environmental assets. Council's TOD Alternative Scenario was exhibited for 3 weeks in April 2025 and formally adopted by Council on 5 June 2025. The TOD Alternative has been submitted to the DPHI for approval.

The TOD Alternative scenario was developed using a set of seven planning principles based on Ku-ring-gai's Strategic Vision and local policies. The principles most relevant to the proposed planning controls for the subject site are:

PRINCIPLE 1 – Avoid Environmentally Sensitive Areas

PRINCIPLE 2 - Minimise impact on Heritage Items

PRINCIPLE 3 - Preserve Heritage Conservation Areas

PRINCIPLE 5 - Manage transition impacts

The TOD Alternative Scenario proposes to rezone the sites from R2 Low Density Residential to R4 High Density Residential, with a building height of 18.5m and a Floor Space Ratio (FSR) of 1.3:1. Refer to the maps below (**Figures 1-3**).

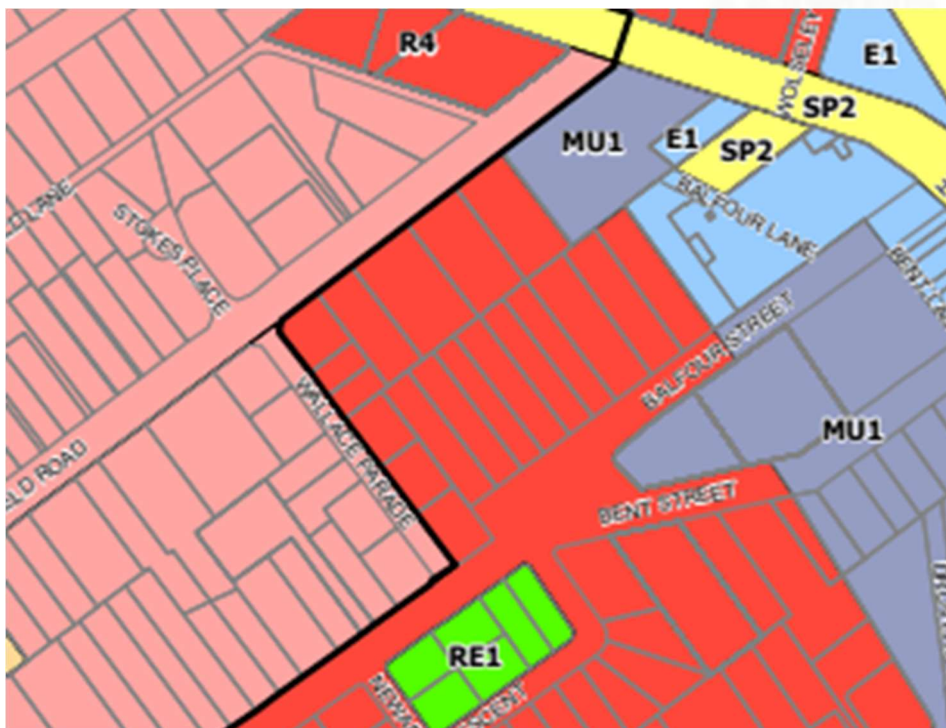


Figure 1: Alternate TOD - Proposed zoning

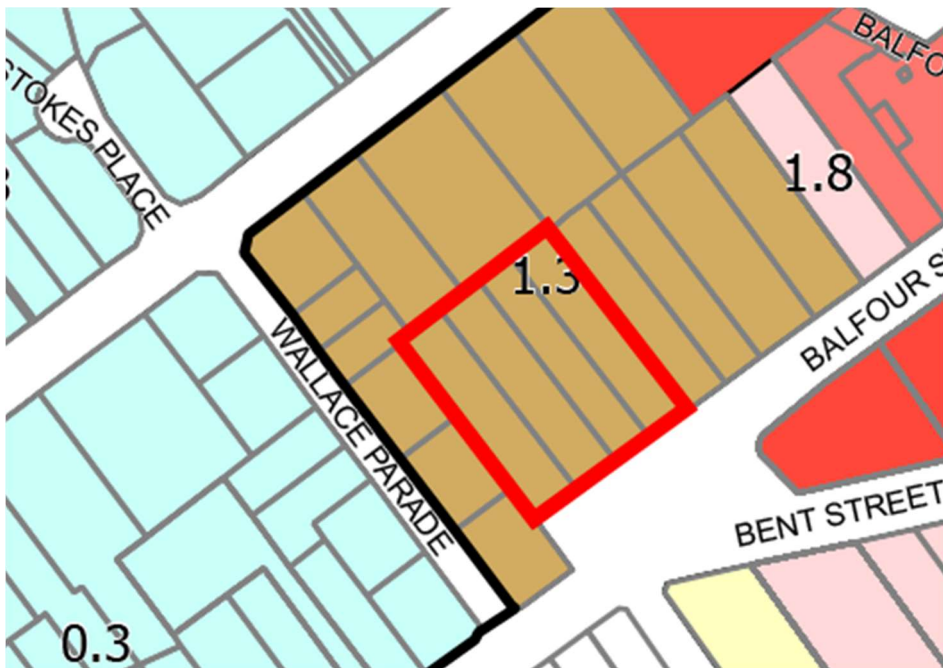


Figure 2: Alternate TOD – FSR

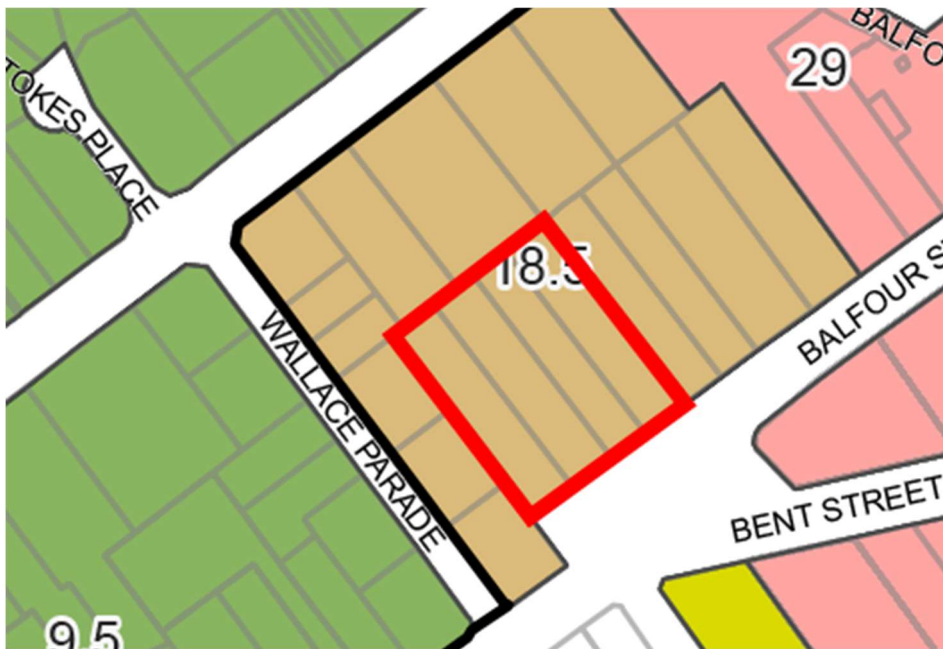


Figure 3: Alternate TOD – Height of Buildings

The site has been identified under the TOD Alternative Scenario to enable residential flat buildings on the site. However, the intended building height and floor space ratio of the proposed development, with a stated FSR of 3.25:1 and a height of 32.7m is drastically inconsistent with what is envisaged under the TOD Alternative Scenario.

The TOD Alternative Scenario is directly relevant to the future character of the area. Importantly, the TOD Alternative Scenario includes a 50% deep soil landscaping control for residential development. Since the application of a similar control more than 20 years ago under Ku-ring-gai LEP 194 this requirement has been proven to achieve residential flat building developments with a generous landscape setting characterised by canopy tree planting.

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

- i. The height and density of the proposed development significantly exceeds the proposed planning controls, is not characteristic of the locality and will be highly visible within the local area.
- ii. The proposal results in significant adverse impacts upon nearby heritage items and the HCA.
- iii. The proposed development results in adverse impacts upon biodiversity significant vegetation as well as removal of existing trees of high landscape significance.
- iv. The proportion of the site that is deep soil landscaping is significantly less than the character of existing and likely future development in the locality.

B. INCONSISTENT WITH AIMS

The aims of State Environmental Planning Policy (Housing) 2021 (SEPPH) Chapter 5 include to *'deliver mid-rise residential flat buildings...around rail... stations that — are well-designed, and are of appropriate bulk and scale, and provide amenity and liveability'* (SEPPH 150(b)(i-iii)).

These objectives are not considered to be met as detailed below:

Well-designed:

The proposed residential flat building is not considered to be well designed as evidenced by layout inefficiencies, non-compliance with the Apartment Design Guide (ADG), and lack of integration with heritage context.

Appropriate bulk and scale:

The proposed residential flat building is not of an appropriate bulk and scale as evidenced by:

- Breaches of the maximum building height (including parapets and lift overruns)
- Overshadowing of adjacent properties (see ADG 3b)
- Inadequate building separation, particularly for taller elements, which amplifies the perceived scale and bulk (see ADG 3F)
- A relatively low proportion of deep soil area relative to site size, limiting opportunities for meaningful landscape relief (see DCP 7A.6)
- Overshadowing of neighbouring properties (see ADG 3B)

Amenity and liveability:

The proposed residential flat building does not provide the required levels of amenity or livability as required by the ADG as evidenced by:

- Insufficient communal open space within the site (see ADG 3D)
- Insufficient visual privacy within and around the site (see ADG 3F)
- Non-compliance with cross-ventilation requirements, particularly for affordable units (see ADG 4B)

Desired Future Character:

Section 20(3) of SEPP (Housing) 2021 (SEPPH) 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... for precincts undergoing transition, the desired future character of the area'* (underline emphasis added).

The TOD Alternative Scenario is directly relevant to the future character of the area given that the NSW Government has publicly supported the development of an alternative scenario by Council, that public exhibition has occurred, that Council has adopted the plan and submitted the plan to the NSW Government.

The proposed development is not compatible with the desired future character of the area as follows:

- **Excessive building height** – Council's Plan proposes a base building height of 5-storeys for the subject site (6-7 storeys with Affordable Housing Bonus).

- **Excessive density** – Council's Plan proposes an FSR of 1.3:1 and a requirement for 50% deep soil. This will create a character of residential flat building developments within a generous landscape setting characterised by canopy tree planting.
- **Streetscape character** - The proposed setback of 7.6m (min) front setback does not comply with the minimum street setbacks of 10m.

Figures 1-3 above show the location of the proposed development (red outline) in relation to Council's TOD Alternative Scenario. It is important to note that the TOD Alternative Scenario seeks to ensure an appropriate height and density transition between the Pacific Highway and railway corridor and the lower density residential properties to the west of Wallace Parade.

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

Pursuant to Section 147 of the SEPPH, 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
- Design Principle 2: Built form and scale
- Design Principle 3: Density
- Design Principle 4: Sustainability
- Design Principle 5: Landscape
- Design Principle 6: Amenity
- Design Principle 7: Safety
- Design Principle 9: Aesthetics

D. APARTMENT DESIGN GUIDE

i) 3B - Overshadowing of Neighbouring Properties

Objective 3B-2 of the Apartment Design Guide (ADG) seeks to minimise overshadowing of neighbouring properties during mid-winter. It requires that solar access to living areas, private and communal open space, and solar collectors on adjacent sites is maintained. The ADG further recommends that, where overshadowing is significant, building separation should be increased beyond the minimum requirements of Section 3F (Visual Privacy) and that upper-level setbacks should be introduced, particularly to the south or on downhill sites.

The maximum permitted building height under the Transport Oriented Development (TOD) Area controls is 22 metres. With the application of the In-Fill Affordable Housing bonuses, this increases to 26.86 metres. The proposal nonetheless exceeds even this bonus in several locations, reaching a maximum height of 32.7 metres. This is 4.1 metres (14.34%) above the Section 16(3) Housing SEPP standard.

The site slopes to the south-west, exacerbating overshadowing impacts on neighbouring properties. The dwellings at 23 Bent Street and 1 Wallace Parade are in partial or full shadow until 2pm, leaving only one hour of sunlight (2–3pm). This represents a significant shortfall in solar access relative to the ADG's objectives. Importantly, the proposal does not comply with setbacks along the western elevation at the 10 storey and makes no provision for increased separation or setbacks to the west, despite the ADG guidance that these measures should be applied where overshadowing impacts are significant.

Overshadowing of the public reserve at the corner of Bent and Balfour Streets is a concern given such substantial increases in density and the absence of neighbourhood parks and green open space. Existing levels of solar access to the public open landscaped space should be maintained.

The In-Fill Affordable Housing Practice Note (p.12) clearly states: *"The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement."* Despite this, the submitted Overshadowing Diagrams compare shadows cast by a so-called 'compliant height' form with those of the

proposed scheme. However, the 'compliant' form is taken to be 26.86m, already assuming the affordable housing bonus. This methodology understates the actual impacts, as a true and accurate comparison should be between the 22m control and the proposed scheme.

ii) 3D - Communal and Public Open Space

The Apartment Design Guide (ADG) defines communal open space as: *“an outdoor space located within the site at ground level or on a structure that is within common ownership and for the recreational use of residents of the development. Communal open space may be accessible to residents only, or to the public.”*

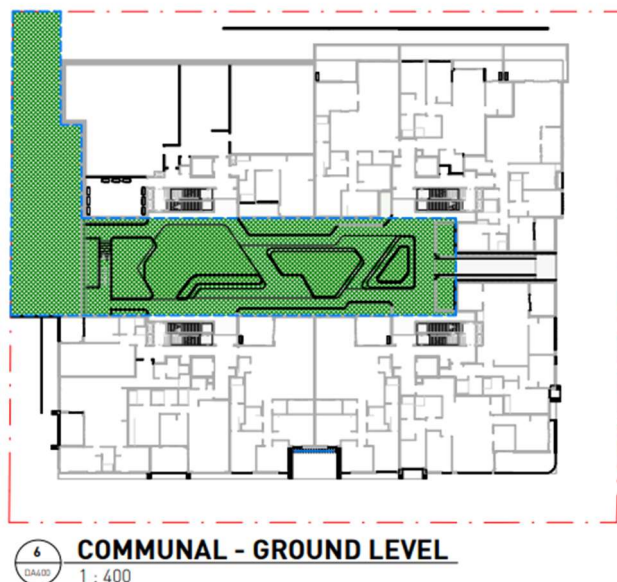
Under the ADG, a minimum of 25% of the site area is required to be provided as communal open space.

The proposal provides three separate communal open space areas, being:

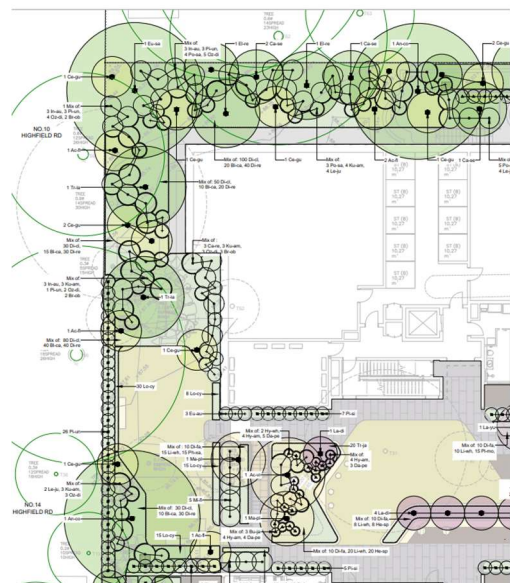
- A 'Communal Courtyard' at ground level, listed in the documentation as the *secondary communal space*;
- The Primary Communal Open Space on Level 1; and
- An additional communal open space area on Level 4.

According to the Area Schedule, the combined area of these spaces constitutes 20.6% of the total site area, falling short of the 25% minimum requirement by 4.4%. Even this figure appears to be overstated, as the ground-level communal space calculation includes landscaped setbacks extending to the boundary. A review of the Landscape Plan shows that much of this space is not usable for resident recreation and instead comprises planted areas only, which should not be counted towards communal open space provision.

Ground Floor Communal Space



Ground Floor Communal Space as per Landscape Plan



The design guidance also states that *“direct, equitable access should be co-located with deep soil areas.”* The primary communal open space on Level 1 does not comply with this principle. While it is nominally accessible from the Communal Courtyard below, it is exclusively overlooked by Unit 108, raising issues of equity, privacy and functionality. This design outcome risks reducing the sense of shared ownership and usability of the space, contrary to the ADG's intent for communal open space to be inclusive, equitable, and genuinely communal.

On this basis, the proposal does not meet the minimum quantitative requirement (25%) for communal open

space, nor does it comply with the qualitative design guidance relating to access and usability.

iii) 3F - Visual Privacy:

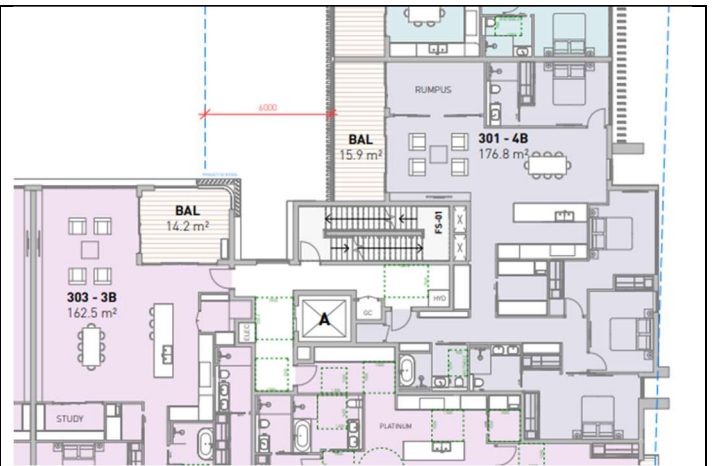
The ADG requires adequate building separation to protect visual privacy and amenity, with minimum distances depending on building height. For residential buildings, setbacks from side and rear boundaries must be:

- 6m for habitable rooms up to 12m (4 storeys),
- 9m up to 25m (5–8 storeys),
- 12m over 25m (9+ storeys).

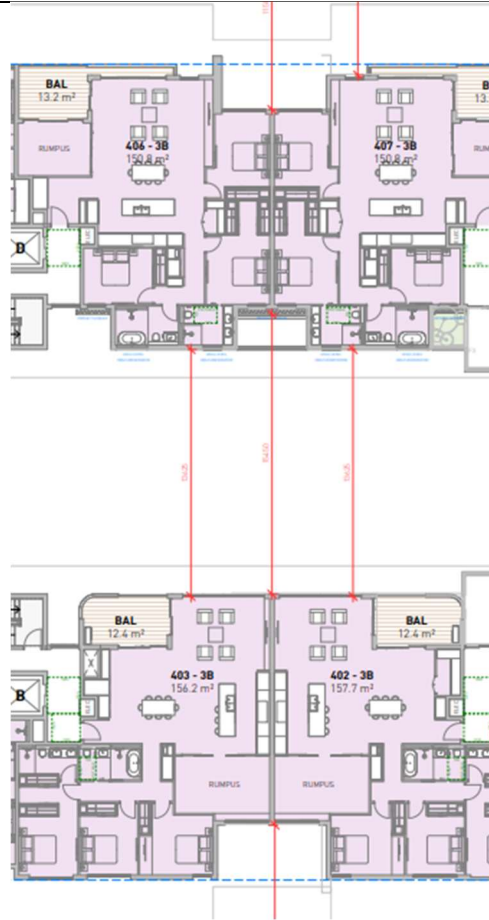
A number of internal layouts within the development do not comply with the visual privacy requirements of the ADG. Several instances occur where directly facing balconies or habitable room windows have not been designed with adequate separation or offsetting to prevent overlooking. Instead of addressing these conflicts through apartment layout or building design — as envisaged by the ADG — the proposal relies on the application of privacy screens to one side of the interface. This approach is not consistent with the ADG's design intent, which makes clear that privacy should be achieved in the first instance through compliant separation distances and careful placement/orientation of openings. Reliance on screening devices as the primary means of mitigation, when redesign or offsetting is possible, is not considered an acceptable planning outcome.

Key non-compliances include:

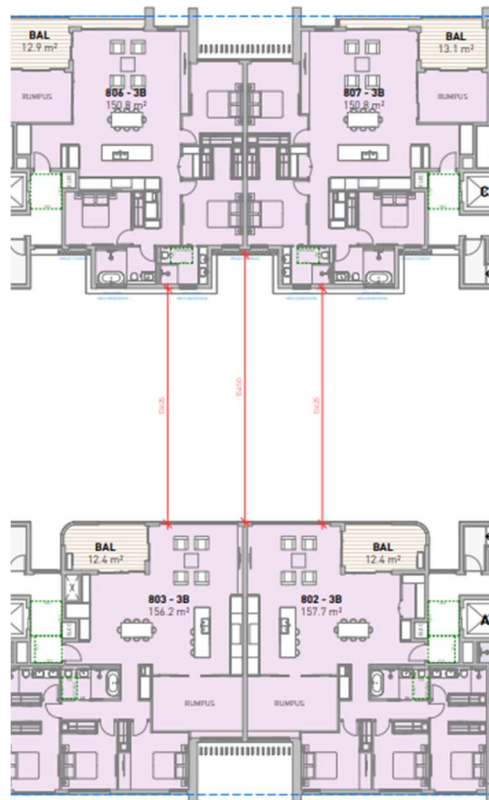
On levels 1-3, the balconies of units 101 and 103, 201 and 203, and 301 and 303 are offset very small distance (its not marked on the plan, but is estimated at approximately 4-5m, when balconies are supposed to be offset 12m.



On levels 4-7 the separation distance between the living room windows 402, 403, 502, 503, 602, 603, 702 and 703 are offset only 15.45m from the bedroom windows 406, 407, 506, 507, 606, 607 and 706 and 707, when 18m is required.



On Level 8 the separation distance between the living room windows 802 and 803 are offset only 15.45m from the bedroom windows 806 and 807, when 24m is required.



iv) 4A - Solar and daylight access

The Apartment Design Guide (ADG) defines solar access as *“the ability of a building to continue to receive direct sunlight without obstruction from other buildings or impediments, not including trees.”*

The submitted Architectural Plans and Architectural Design Report assert that the proposal will achieve a minimum of two hours direct sunlight to 70% of living areas between 9am and 3pm at mid-winter. However, this assessment appears to rely on the assumption—evident from the provided “solar access diagrams”—that no surrounding buildings would cast additional overshadowing on the development. This is an incorrect assumption. All surrounding SSD and DA developments that are currently under assessment, or capable of development under the TOD Alternative Scenario should be correctly modelled, to accurately demonstrate solar access impacts.

v) 4B Natural Ventilation

The Apartment Design Guide (ADG) requires that at least 60% of apartments within the first nine storeys of a building achieve natural cross-ventilation. The submitted Architectural Design Report claims that 87 of the 98 apartments (88.7%) comply. However, this figure appears to be incorrectly calculated, as a number of units have been identified as “cross-ventilated” despite only being single-aspect dwellings.

A review of the architectural plans confirms that several apartments provide openings from habitable rooms onto a single façade (often via a shared balcony). While both living and bedroom spaces may open to this façade, such an arrangement does not satisfy the ADG’s definition of natural cross-ventilation, which requires openings on at least two distinct external façades to enable genuine airflow across the dwelling.

Apartments relying solely on single-aspect balconies, or where multiple habitable rooms face the same orientation, cannot be considered cross-ventilated. An example of this issue is illustrated below:

Example of single aspect apartments being calculated as having natural cross ventilation



It is estimated that a total of 79 out of 98 apartments within the development achieve natural cross-ventilation, equating to 80%. This outcome complies with the Apartment Design Guide (ADG) requirement that a minimum of 60% of apartments within the first nine storeys achieve natural cross-ventilation.

However, the proposal does not comply when assessed against the provision of affordable housing. The In-fill Affordable Housing Practice Note (p.15) specifies that affordable dwellings must not be delivered to a lower standard of amenity than the rest of the development. This requirement applies to key residential amenity measures, including solar access, natural ventilation, privacy, outlook, and internal space. Providing affordable housing to a materially lower standard of amenity would be inconsistent with the

Practice Note and contrary to the objectives of the Housing SEPP.

The Architectural Plans assert that 18 out of 27 affordable units (67%) will be naturally cross-ventilated. On closer review, this figure is overstated. It is estimated that only 12 out of 27 affordable units (44%) are genuinely cross-ventilated, with several units incorrectly classified as such despite being single-aspect. This outcome is substantially below the 60% minimum cross-ventilation target in the ADG, resulting in a lower standard of amenity being delivered to affordable dwellings when compared to the remainder of the development.

E. FLOOR SPACE RATIO

The stated gross floor area is 15499.4sqm. 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 lower ground floor and ground floor plans do not include contour levels with RLs to confirm that the floor level immediately above the basement does not project more than 1m above existing ground level. It appears that some bike storage and the garbage chute room are not contained within a basement and would contribute to GFA.
- Plant rooms are indicated on the plans however these areas are shown as large vacant areas. Details of plant should be provided. (it is noted that these areas are excluded from GFA based on their use as plant, some of these areas are not within a basement as defined and clarification of this use should be sought)
- Part of the living room for G10-3B has been excluded from the GFA calculation.
- It is noted that the GFA overlay appears to not be correctly overlayed in parts.
- Ensure voids match the GFA layer, small void in unit 901-4B is not evident on the floor plan.

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 LEP. 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.

F. BUILDING HEIGHT

The height of the proposed building is difficult to verify based on the documentation provided. The submitted sections do not show existing ground levels (RLS) nor does the submitted roof plan.

Maximum building heights have been identified in the clause 4.6 variation and the height plane diagram of 32.7m. Page 10 of the Clause 4.6 does state the maximum breach as 4.8m, however this appears inconsistent with the other figures in the statement. Clarification should be sought from the applicant.

Additional information including a plan overlaying roof levels with existing ground levels and/or a revised "building height blanket" diagram that includes both reduced level (RLs) and measurements in height (metres) must be provided to enable an accurate assessment. In the site circumstances, Council does not agree that the method of calculating building height, as determined by Commissioner O'Neill in **Bettar v Council of the City of Sydney [2014] NSWLEC 1070** (Bettar) is appropriate. This is because the ground level (existing) can be accurately determined based on the survey plan. The existing buildings on the site do not occupy the entire site and consequently there is no need to adopt the level of the footpath to determine ground level (existing).

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

There are no specific objectives associated with building height in Division 1 of SEPP (Housing) 2021. The applicant has addressed the consistency of the development against the Aims of Chapter 5 Transport Oriented Development and the objectives of Chapter 2 Affordable Housing Part 2, Division 1 infill affordable housing. Whilst this is commendable the applicant has failed to consider the objectives under clause 4.3 'Height of buildings' of KLEP which are objectives that are directly applicable to building height.

The variation request argues that compliance with the development standard is unreasonable and unnecessary for the following reasons:

The proposed development proposes a residential flat building, comprising 98 residential units, 27 of which, are dedicated for affordable housing. As such, the proposal directly responds to and aligns with the aims and objectives outlined above.

This is a considerable uplift from the four low density residential dwellings which currently existing on the site. Whilst the proposed development will result in a marginal height exceedance, the environmental impacts as a result of this exceedance are minimal.

In this respect, the objectives of the development standard are achieved and notwithstanding non-compliance with the standard.

It is further stated at Wehbe test 3:

As discussed above, the underlying objectives of Chapter 2, Part 2 and Chapter 5 is to deliver both market and affordable housing typologies that provide a high-quality built form for residents.

If the maximum building height standard is not varied, the additional floor area provided by Section 16(3) and required to deliver the new in-fill affordable housing sought by Division 1, Part 2, Chapter 2 of the Housing SEPP could not be achieved.

In the case that strict compliance with the height control was required, this would reduce the amount of affordable housing GFA proposed, relative to the total housing yield, which is contrary to the objectives of the Housing SEPP, therefore, the underlying objective and purpose of the standard would be undermined.

Furthermore, the need to increase the height of building above the height control is due to the undulating topography of the site, which slopes from the northeast to southwest direction with a total fall of 11.4m. Compliance with the development standard is unattainable to achieve the desired FSR due to the drop in level. If compliance with the maximum height standard for this site was required, the underlying objective and purpose of the standard would not be able to be fully achieved.

Overall, strict compliance with the height control will adversely impact the number and quality of market and affordable units, therefore, defeating the objectives and aims of the relevant sections of the Housing SEPP. For this reason, strict compliance with the provisions of Section 16(3) of the Housing SEPP is considered unreasonable and unnecessary for this reason.

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

- The merits of the height breach should be considered against clause 4.3 'Height of buildings' of KLEP.
- The proposal does not comply with the FSR.
- The In-Fill Affordable Housing Practice Note (p.12) clearly states: *"The full extent of the in-fill affordable housing bonuses may not be achieved on all sites, due to site constraints and local impacts. The in-fill affordable housing bonuses should not be treated as an entitlement."* Reliance on the SEPP housing provisions does not demonstrate why the standard is unreasonable and unnecessary noting the extent of impacts.
- The bulk and scale of the development is not appropriate as demonstrated by the insufficient building setbacks to the street frontage and western boundary (level 10) and incompatibility with

future character.

- Inadequate deep soil and tree canopy planting.
- The podium height is incompatible with the Proposed Alternate TOD, whereby the subject Site would have a maximum height limit of 18.5m.
- The areas that breach the height plane, in particular the uppermost western edge do not comply with the required building separation (12 metres) in accordance with Part3F-1 of the ADG and appear that they will have overshadowing impact on properties particularly to the west.
- The proposal is inconsistent with SEPPH Aim 150(b)(ii) and (iii) to '*deliver mid-rise residential flat buildings... that are of appropriate bulk and scale and provide amenity and liveability*'.
- The clause 4.6 variation states that the breaching elements collectively represent a minor portion of the building envelope. However as demonstrated in the height plane diagram more than 50% of the upper levels project above the allowable building height.
- It is disagreed that the breach is *marginal and that the environmental impacts as a result of this exceedance are minimal*. The proposed breach is up to 4.1m for an area of over approximately 50% of the upper level with resulting solar access and bulk and scale impacts to surrounding properties and the streetscape. Council also questions the accuracy of the submitted height blanket diagram (Figure 4 below) as it appears to be based on extrapolated ground levels (consistent with the approach taken in *Bettar*) as opposed to ground levels that exist on the site.

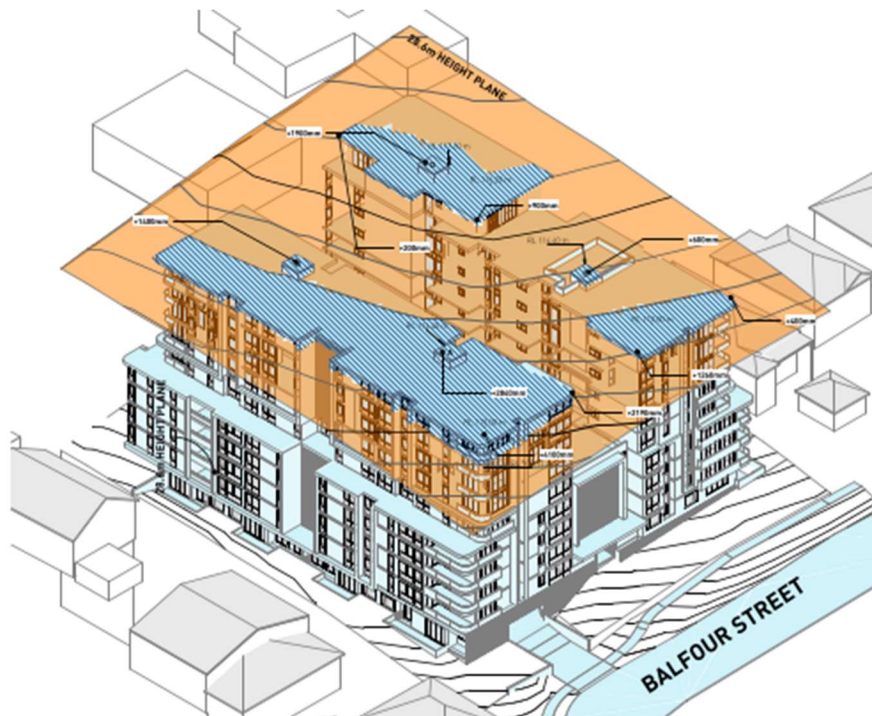


Figure 4: extract height plane diagram

The environmental planning grounds advanced by the applicant are as follows:

▪ **Topography**

The existing topography of the site which slopes from the northeast (89.54 RL) to southwest (78.14 RL) direction with a total fall of 11.4m, results in height control plane that is inconsistent across the site area.

In response to this, the design of the built form steps between the two tower elements, with the eastern tower being a storey less (9 storeys) than the western tower (10 storeys). Given this, the eastern tower proposes only a marginal height exceedance (1.4m maximum) which is limited to the lift overrun and services.

Overall, the proposed height variation is considered necessary to respond to this significant fall in level in order to achieve a high-quality design and built form.

• **5.2.2 Environmental impacts** **Overshadowing**

The proposed development has been thoughtfully designed to minimise potential overshadowing impacts on surrounding sites, including those identified for future development. The building form and orientation have been carefully considered to support the ability of neighbouring properties to achieve compliant solar access.

Despite the height variation, neighbouring buildings continue to receive sufficient winter solar access. Buildings to the west benefit from at least 2 hours of sunlight from 1pm to 3pm mid-winter. Meanwhile, buildings to the south, along Bent Street are only affected by overshadowing around 3pm.

The shadow diagrams (Figure 8) demonstrate the minor increase in overshadowing as a result of the proposed variation. Given this, impacts are considered acceptable.

Privacy impacts

To ensure a favourable urban design outcome with the two tower elements, setbacks are included in the building's design to reduce the impacts on the existing properties to the east and west.

The proposed tower form is articulated, with a podium level proposed on level 4. This setback also provides an appropriate transition between the site and the low-density residential properties whilst reducing any perceived bulk and scale of the proposed building in relation to these properties.

- **5.2.3 Intensity of development**

The proposal complies with the FSR development standard. Given this, the proposed height variation does not increase the intensity. The height exceedance as a result of the proposed variation is minimal in the context of the development and broader area and will not materially intensify the redevelopment of the site.

- **5.2.4 Desired future character**

The proposed development has been designed in accordance with the TOD program and Chapter 5 of the Housing SEPP. In accordance with these Government initiatives and policies, the immediate context is set to undergo significant transition to a medium and high-density residential area, as shown indicatively in Figure 9.

The proposed development supports the gradual intensification of the locality within proximity to the Lindfield Train Station, directly responding to the Housing SEPP and TOD program. The proposed development is also consistent with Ku-ring-gai Council's exhibited planning strategy, which identifies the Lindfield Town Centre and surrounding TOD precinct for transition to high-density residential use. The site is expected to be rezoned from R2 Low Density to R4 High Density Residential, supporting built forms of similar scale. This strategic alignment reinforces the compatibility of the proposed development with the intended future character of the locality.

The environmental planning grounds 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.
- It is noted that the GFA exceeds the maximum FSR permitted and therefore the additional height is not required to meet the maximum GFA.
- The design does not give adequate consideration to the unique circumstances of the site including its topography. There is no stepping down in the height of the western tower to acknowledge this cross fall in the site.
- The proposal does have an adverse overshadowing impact to neighbouring properties which is contributed to by the non-compliant element.
- The non-compliant elements are not suitably set back from the boundaries of the site and result in a breach to the building separation controls under the ADG.
- The stated lack of amenity impacts to adjoining properties by the applicant, is firstly, not agreed with by Council and secondly, not a sufficient environmental planning ground to justify a significant breach to the building height development standard. The built form is excessive which will have visual and amenity impacts to adjoining properties and the streetscape.
- The justification states that the built form has been designed to meet the requirements of the TOD SEPP. This is not considered an environmental planning ground.

- It is agreed that the site has a sloping topography with RL78.1 southern corner and RL 89.5 in the northern corner. The design has however failed to give any due regard to this fall in the land. 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 could be adopted.

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 the variation request has not demonstrated that –

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- there are sufficient environmental planning grounds to justify the contravention of the development standard.*

G. 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 the top of Balfour Street. However, this building is not an appropriate urban reference in terms of scale, use, materiality, setbacks, or bulk.

This requirement supports the objective of embedding new 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 7.6 metre (minimum) front setback to Balfour Street, representing a non-compliance with the DCP. The non-compliant setback increases visual bulk from Balfour Street, fails to provide for sufficient deep soil landscape areas within street frontages 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.

Side and rear setbacks

While the side and rear setbacks comply with the requirement for 6m up to the 4th storey (and 9m above) this does not account for the additional subterranean level that extends along approximately half of the eastern frontage and most of the western frontage. Given the site's topography and the lower ground level, an additional 3m setback should be applied at Level 3 for at least half the building length on both sides.

H. SITE COVERAGE

The DCP 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 proposal has a site coverage of 51.3% (2,453m²), which substantially exceeds the permitted maximum and reflects an overdevelopment of the site, both visually and functionally.

I. DEEP SOIL

For sites over 1,800m², the DCP requires at least 50% of the site to be allocated as deep soil landscaping. The intent of this requirement is to contribute to Ku-ring-gai's distinctive garden character, support urban biodiversity, and enable effective stormwater infiltration and tree planting.

The proposal provides only 32.5% of the site as deep soil, a major shortfall from the DCP control. This compromises the ability of the development to deliver meaningful green infrastructure and is inconsistent with both the DCP and the stated objectives of the Ku-ring-gai Local Environmental Plan (KLEP), which seeks generous landscaping.

J. BUILDING FORM AND FACADES

Part 7C.6 seeks to ensure buildings are well designed, clearly articulated, limit the unarticulated lengths of building, create a garden setting and facades that are environmental responsive.

The natural ground level rises at the front, and the building presents a solid, windowless wall to the street along the lower ground level for at least half the frontage. At this corner, the wall reaches 6.8m (7.7m to the top of the balustrade) above street level, creating a visually dominant and unarticulated street wall. This is inappropriate within a Heritage Conservation Area and does not respect the established character of the streetscape.

The building presents a continuous 35m-wide (11-storey) frontage at the south-west, without any setback to the upper levels. Unlike the side and rear elevations, no design relief is provided to reduce visual bulk or improve articulation from the street.

K. BUILDING ENTRIES

The main building entry is unclear in terms of legibility and address to the street. It is located approximately 5m above street level and is inaccessible from its location mid-way along the building frontage. Access is to a regraded footpath via a dog-legged path that meets public domain 12m towards the east.

This entry path and its landscape /architectural character is not shown on the street elevation.

L. SUSTAINABILITY

Gas shown as provided to hot water which is not a sustainable outcome. Further information is also included in the Engineering comments.

M. SUBTERRANEAN UNITS AND GROUND

In accordance with control 6 of Part 7C.3 no part of any wall used to accommodate any residential apartment uses, including storage areas outside the apartment, is to be in direct contact with soil or rely on any form of tanking including spaces that act as tanking.

Control 7 requires where basement storage is located adjacent to external walls, they are to be separated from the tanked wall by an accessible maintenance passage. Further consideration of the basement is required.

Units LG04, LG03, LG02, G09, G10 are subterranean and do not comply with Part 7C.3 in KDCP. 1800mm width private open space (POS) to subterranean apartments is not acceptable.

N. AFFORDABLE HOUSING

Provision of affordable housing units, operated by a Community Housing Provider, should be provided in perpetuity (beyond the 15-year minimum requirements), otherwise the population will once again be displaced in 15 years and lose established networks and area connections leading to social issues.

O. CONTRIBUTIONS AND PUBLIC BENEFIT

The applicable s7.11 contributions plan is Ku-ring-gai Contributions Plan 2010 and the current inflated contributions rates can be found on council's website and on the Planning Portal. These are updated quarterly.

The proponent indicates that an exemption from development contributions is sought for the affordable housing component on the development (EIS, p. 40). Per section 1.30 of Ku-ring-gai Contributions Plan, formal applications for the suspension of contributions must comprehensively argue the case for suspension including the specific circumstances that would distinguish the subject proposal's merit case from others. A comprehensive argument has not been put forward by the proponent and it is unclear why contributions would be exempted in this instance.

It is Council's view that unless the affordable housing is dedicated to a Community Housing Provider (CHP)/Council for use in perpetuity then it is not housing provided "by a CHP" (or on behalf of them), so the development would not be eligible for exemption from Local Infrastructure contributions under the Ministerial Direction. Nothing in the Contribution Plan requires Council to grant the discretion requested, especially where there will be a significant cumulative impact on infrastructure delivery.

P. SITE REQUIREMENTS

Clause 6.6 of KLEP states:

- (2) Despite any other provision of this Plan, development consent must not be granted for the erection of multi dwelling housing or a residential flat building on a lot in a residential zone unless the lot has an area of at least 1,200 square metres and minimum dimensions (width and depth) of at least—*
- (a) if the area of the land is less than 1,800 square metres—24 metres, or*
 - (b) if the area of the land is 1,800 square metres or more—30 metres.*

Further Part 3 of KDCP specifies is to avoid creating:

- 4 Lot consolidation is to avoid creating:*
- i) a primary street frontage less than that required by KLEP;*
 - ii) a lot size less than that required by KLEP; and/or*
 - iii) a highly constrained site.*
- Note: 4 (i) and (ii) only apply to some zones and development types*

- 6. Where a development proposal results in an isolated site, as described in 4 above, the applicant must demonstrate that:*
- i) Negotiations between the owners of the lots have commenced prior to the lodgement of the development proposal. Where a satisfactory result cannot be achieved the development proposal should include details of the negotiations, demonstrating that a reasonable offer has been made to the owner of the isolated site: and*
 - ii) Both the isolated site and the development site can be orderly and economically developed in accordance with the provisions of KLEP and this DCP, including: - achieving an appropriate urban form for the location, and - having an acceptable level of amenity.*

The sites to the west of the site are positioned between the site and Wallace Parade (Figure 5). There is a possibility that these sites may be isolated and may not achieve the required width depending on how the sites are developed. The potential future redevelopment of these sites must be considered as part of this SSD. This should take the form of indicative building footprints/envelopes which demonstrate that these sites can be economically developed and achieve compliance with relevant SEPP and ADG requirements.



Figure 5: showing existing subdivision pattern and potential lots undersized

Q. INSUFFICIENT INFORMATION TO UNDERTAKE AN ASSESSMENT

- a) The elevations and sections do not sufficiently identify existing ground RL's.
- b) The roof plan should include the survey spot height and contours to demonstrate maximum building height.
- c) The use of all areas should be labelled and the plant areas to be particularised showing what plant is proposed.
- d) The location of the external clothes drying areas for the apartments must be detailed on the plans. If these areas are located on the balconies, they are to be appropriately screened and excluded from private open space calculations.

R. LANDSCAPING

i. BASIX inconsistency

The proposed development is inconsistent with the submitted BASIX certificate.

- a) Certificate 1794239M dated 06/05/2025 is submitted with the application. The certificate includes:
 - i. 0.0sqm of common lawn area
 - ii. 552sqm of common garden area
 - iii. 552sqm of low water use/indigenous planting
 - iv. No common taps are provided
- b) The proposal is inconsistent with the landscape outcomes within the BASIX certificate due to:
 - i. Numerous areas of common lawn are proposed whereas the certificate nominates 0sqm.
 - ii. The common area of garden is inconsistent.
 - iii. Private areas of garden and lawn are proposed for units: G09, G10, G11, and 901 whereas the certificate nominates 0sqm.
- c) Common taps are required to enable irrigation of communal landscape areas, and for health requirements in garbage rooms.

ii. SEPP Housing 2021 inconsistency - Chapter 2: Affordable Housing

The proposed development is inconsistent with Part 2: Div 1: Part 19 Non-discretionary standards.

- a) Part 19 states: The following are **non-discretionary development standards** in relation to the residential development to which this division applies—
 - (a) a minimum site area of 450m²,
 - (b) a minimum landscaped area that is the lesser of—
 - (i) 35m² per dwelling, or
 - (ii) 30% of the site area,
- b) A minimum landscape area of 30% of the site area is required as it is the lesser of (b)(i) or (b)(ii). 30% of the site area equates to 1431.3sqm.
- c) Schedule 10 defines landscape area as:
landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.

No landscape area compliance plan is submitted. For clarity and to enable further assessment a landscape area compliance plan with calculable areas + calculations is requested.

iii. Landscape principle 5

The proposal is inconsistent with the SEPP landscape principles.

- a) The removal of tree 3 fails to retain an existing natural feature which forms part of the local context that also contributes to the existing tree canopy within the streetscape (3 a, e).
- b) Insufficient soil depth and volumes for on structure planters fails to provide for practical establishment and long-term management of the proposed landscape design outcomes (5).

iv. ADG inconsistency

The proposal fails to adequately consider the requirements of the ADG.

- a) Part 3E Deep soil zones: of the ADG requires deep soil zones to meet the following minimum requirements:

Site Area	Min dimension	Deep Soil Zone (% of Site area)
Less than 650m ²	-	7%
650m ² – 1500m ²	3m	
Greater than 1500m ²	6m	
Greater than 1500m ² with significant existing tree cover	6m	

- b) On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:
 - i. 10% of the site as deep soil on sites with an area of 650m² - 1,500m²
 - ii. 15% of the site as deep soil on sites greater than 1,500m²
- c) For a site area of 4771sqm:
 - i. 7% equates to 334sqm
 - ii. 15% equates to 715.6sqm

- d) Ku ring gai is characterised by its tree canopy and garden setting. It is assessed that the ADG minimum of 15% should apply, and meaningful deep soil zones for the provision of sufficient soil volumes for the planting of tall trees within all setbacks is required.
- e) By the applicant's calculations the proposal will result in a in a deep soil zone of 1571sqm/33% of the site area. The areas included within the applicant's calculations are inconsistent with the ADG definition, due to inclusion of:
 - i. Areas less than the minimum dimension (6m).
 - ii. Areas that include or are traversed by structures
 - iii. Impervious surfaces.
 - iv. Services

It is assessed the proposal is significantly less than 15%.

- f) There is design opportunity to significantly increase the available deep soil zone across the site, particularly within the side and rear setbacks
- g) Objective 3E-1 design guidance states 'deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include:
 - o basement and sub-basement car park design that is consolidated beneath building footprints
 - o use of increased front and side setbacks
 - o adequate clearance around trees to ensure long term health
 - o co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil
- h) The landscape design fails to adequately respond to significant landscape features with the proposed removal of tree 3, a mature Jacaranda mimosifolia (Jacaranda) 9m high located adjacent to the site frontage / southern site corner. The tree has been given an A1 category rating (Important trees suitable for retention and worthy of being a material constraint). The tree contributes positively to the established streetscape / landscape character and shall be retained with an appropriate deep soil zone located around it.

Tree 3 spatially conflicts with the proposed Booster Assembly and drainage lines and pits. There is design opportunity to relocate these elements elsewhere on site and outside of the TPZ of retained trees, as their positioning is flexible.

Design amendment is required to enable the viable retention of tree 3 in accordance with objective 3E-1.

- i) Objective 4O-2 requires landscape design to contribute to the streetscape and amenity, which is through the landscape design responding to the existing site conditions including:
 - changes of levels
 - views
 - significant landscape features including trees and rock outcrops

The proposal fails to adequately respond to the objective. The landscape design proposes the removal of tree 3, a mature Jacaranda mimosifolia (Jacaranda) 9m high located adjacent to the site frontage / southern site corner. The tree has been given an A1 category rating (Important trees suitable for retention and worthy of being a material constraint). The tree contributes positively to the established streetscape / landscape character and shall be retained.

- j) Part 4P: Planting on structures Objective 4P-1 design guidance requires minimum soil standards for plant sizes should be provided in accordance with table 5.

The proposal fails to provide minimum soil volumes for proposed plantings within the planters on structure. For example, medium tree species (*Pistacia chinensis*/Chinese Pistachio) is proposed on structure within a planter bed with mounded soil depth up to 1.0m and shared with other smaller

trees, with soil volumes less than the minimum soil standard within the ADG (Table 5). As such the ongoing viability of proposed plantings cannot be certain, and therefore should not be relied upon.

v. DCP inconsistency

The proposal results in inconsistencies with the landscape objectives and controls within Parts 7 and 13 of the KDCP.

- a) Part 7A.6 Control 1 requires residential flat development to have a minimum deep soil landscape area:
 - i. Deep soil landscape area is defined as the soft landscaped part of the site area that is; not occupied by any structure whether above or below the surface of the ground except for minor structures such as: paths to 1.2m wide, stormwater pipes of 300mm or less, lightweight fences; has a minimum width of 2.0m; is not used for car parking; and can be used for water sensitive urban design. Part 7A.6: Control 1 requires sites with a site area of 1800sqm or more to have a minimum 50% of the site area as deep soil landscaping. It is noted this is consistent with the desired future character detailed above.
 - ii. For a site area of 4771sqm a minimum of 2385.5sqm is required.
 - iii. The proposal fails to provide 2385.5sqm of deep soil landscape area as defined by the DCP and is inconsistent with the DCP deep soil landscape area objectives 1, 3, 5, 7, and controls 1, 2, and 3.

- b) Part 7A.6 Control 2 requires deep soil zones to be configured to retain healthy and significant trees on site and adjoining sites. The proposal fails to retain healthy and significant trees. The removal of tree 3 is inconsistent with the control.
- c) Part 7A.6 Control 3 requires deep soil zones to be configured to allow for required tree planting including tall tree planting and garden and screen planting at front, side and rear boundaries. The proposal fails to provide sufficient unconstrained deep soil landscape zones within the side setbacks for the provision of tall tree plantings as defined by the DCP.

There is further design opportunity to reduce the extent of POS and retaining structures within the side setbacks to provide additional deep soil landscape areas for the planting of tall trees within setback areas.

- d) Part 7A.6 Control 7 requires minimum tree replenishment and planting across the site. Lots greater than 1801sqm are required to support 1 tree per 300sqm of site area or part thereof capable of attaining a mature height of at least 18m on shale, transitional soils and 15m on sandstone derived soils.
- e) For a site area of 4771sqm a minimum of 16 trees capable of attaining a minimum height of 18m is required. The development proposes the planting of 12 tall trees which is inconsistent with the control.
- f) Part 13: Tree and vegetation preservation includes objectives to recognise, protect and enhance trees to maintain local character and amenity, in conjunction with the aesthetic and heritage value of trees. The submitted plans are inconsistent regarding tree removal.
 - i. The demolition plan proposes the retention of tree 3, a mature Jacaranda mimosifolia (Jacaranda) 9m high located adjacent to the site frontage / southern site corner, whereas the landscape plan indicates the trees removal.
 - ii. To maintain landscape and neighbour amenity, and streetscape character, it is appropriate to retain tree 3 with amendments to the stormwater plan and location of the Booster valves.

- g) The proposal results in tree impact which has not been adequately assessed by the applicant's arborist.
 - i. Tree 23 is a mature and visually significant *Acmena smithii* (Lillypilly) located within the Balfour St nature strip. The tree is growing within the existing embankment and in association with some stairs (to be demolished) and the existing concrete driveway to #23.
 - ii. The arborist has stated: *'Trees 1, 2, 4, 5, 15, 23, 43, 44, 45, 46, 48, 60, 61 and 63: These are important trees with a high potential to contribute to amenity so any adverse impacts on them should be minimised. The proposed works remain largely outside the TPZ of these trees and therefore direct impacts are not expected'*.
 - iii. The arboricultural assessment has failed to consider the regrading and relocation of the public pedestrian access path which proposes excavation within the structural root zone (SRZ) and tree protection zone (TPZ) and likely to encounter and potentially sever structural roots resulting in tree impact and possibly stability issues. There is further design opportunity to amend the location of the proposed public pathway to minimise tree impacts through grading works.
- h) Part 21.1: Site design Earthworks and Slope:
 - i. Control 3 requires landscape cut or fill should not be more than 600mm above or below natural ground line. The proposed grading of landscape setback areas to respond to the proposed FFL exceeds the DCP requirement.
 - ii. Control 5 requires existing ground level to be maintained for a distance of 2m from any boundary. The development proposes grading works within a 2m setback of site boundaries and is inconsistent with the control.
 - i. To maximise unconstrained deep soil landscape areas within landscape setbacks it is suggested existing levels be maintained to the greatest extent possible with proposed retaining walls to be located at the outer edge of proposed POS.
- g) Part 21.2: Landscape Design Objective 2 requires landscape design and species selection to be suitable to the site, its context and considers the amenity of residents and neighbours.

The landscape plan fails to adequately address the objective due to:

 - i. Tall tree replenishment planting has not been provided in accordance with the DCP controls Part 7A.6 c7.
 - ii. No tall exotic tree species (deciduous or evergreen) are proposed to maintain and enhance the established landscape character and context.
 - iii. Proposed species within planters on structure may be unviable due to insufficient soil depths and volume. It is recommended minimum ADG soil depths and volumes be proposed and/or plant species amended to ensure long term viability. For example the planting of medium height tree species (Chinese Pistacio) within mounded planters to gain soil depth does not provide sufficient soil volume as required by the ADG and likely to impact their ongoing viability and possibly stability due to insufficient soil volume.
 - iv. The removal of tree 3 is not accepted.
 - v. The planting of tall replenishment trees immediately adjacent to proposed retaining walls on the high side is ill-conceived and likely to result in future and ongoing conflict and tree instability due to irregular root development.
 - vi. F2 (1.8m high timber) is to be deleted forward of the building line to maintain the visual dominance of the soft landscape within site frontages.

S. HEALTH

i. Acoustic report

A Noise and Vibration Impact Assessment prepared by Pulse White Noise Acoustics (dated 20 May 2025) for the proposed residential development at 19–25 Balfour Street, Lindfield was submitted.

The report should be amended to clarify the following:

1. The number of individual units proposed within each plant room; and
2. Confirmation that each plant room will incorporate adequate natural ventilation intake to avoid both overheating and uncontrolled noise breakout.

T. ENGINEERING / TRAFFIC

Stormwater

1. Civil plans are required to show plan view of the 300mm pipe within the road reserve to Council's drainage system. Details to include longitudinal section, showing existing ground levels and proposed pipe invert levels, grades and flow capacities. In addition, surrounding survey detail, including all trees within 7 metres of the proposed drainage system.
2. The surface and invert levels of the stormwater pit to which connection is proposed in Balfour Street must be verified by a registered surveyor.
3. No supporting calculation for the pump-out pit based on the 100 year 2 hour storm has been submitted as per Part 24B.5 of the KDCP.
4. Stormwater design does not show the rising main from the pump-out tank directed to the on-site detention tank.
5. Insufficient details with respect to the design and location of the OceanGuards and Stormfilters have been depicted on the stormwater plan.

Site Access, Parking Provisions and Traffic Impacts

1. The parking provision should be reduced to the lower end of the range in the Ku-ring-gai DCP.
2. Compliance in the provision of the 2m x 2.5m sight triangle at the access point as per AS2890.1 needs to be demonstrated.
3. At least 2 car parking spaces on Lower Ground Level are to be reserved for car share operation, with no charge to the car share operator to use the space/s.
4. The configuration of the storage cages and the location of the doors should be amended to ensure convenient access to/from the cages by bicycle.
5. The lifts, lobbies and hallways should be of a suitable size such that residents can transport their bicycles between their allocated storage cage and street level.
6. The 10 visitor bicycle parking facilities should be relocated to the Ground Level, near the main entry from Balfour Street.
7. EV readiness is to be provided for all car parking spaces within the development and to be stated on the plans.
8. The development is to provide an on-site loading area (a separate hardstand area is not permitted). The position of the loading area must not prevent access to and from the basement level car park, with at least one travel lane to be maintained at all times while loading/unloading takes place on the driveway. At least one on-site loading space is to be provided to cater for a minimum 6.7m long service vehicle.

Waste Management

1. Swept paths are to be submitted 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. The 6.4m SRV as shown is no longer adopted by Council.

U. ECOLOGY

The site formerly supported Sydney Turpentine-Ironbark Forest (STIF), a Critically Endangered Ecological Community. Several STIF trees have been unlawfully removed and poisoned, artificially reducing the ecological condition. This should not be used to downgrade the assessment baseline.

The BDAR and VMP have been reviewed against the requirements of the Biodiversity Assessment Method (BAM).

Identification of Plant Community Types: BAM requires correct identification and mapping of PCTs based on floristics, soils and context. The BDAR re-types the site as PCTid=0, ignoring evidence of STIF (PCT 3262). BOS Helpdesk advice confirms that surrogate plots in extant STIF should be used where vegetation has been unlawfully removed. The BDAR therefore fails to meet BAM requirements for PCT identification.

Survey design and data quality: BAM requires representative plots across all condition states. The BDAR relied on a single degraded landscaped plot, producing a VIS of 3. This ignores the former STIF condition and unlawfully cleared areas, leading to an artificially low score. The survey design is inadequate and non-compliant.

Avoidance and minimisation: BAM requires demonstration of avoidance and minimisation before offsets are considered. The BDAR claims avoidance by noting the footprint does not encroach into adjoining tree protection zones, but within the site all remnant or indicative STIF is removed. No alternative layouts were tested. Landscaping with up to 80% STIF species is proposed as mitigation, but this is not an avoidance measure under BAM. The avoidance hierarchy has not been applied.

Mitigation and management: BAM requires measures that are ecologically effective and long-term. The VMP proposes partial STIF planting in narrow setbacks, retains exotics in communal areas, and limits monitoring to 24 months. These measures are tokenistic and insufficient to restore a Critically Endangered Ecological Community. BAM standards for mitigation are not met.

Offsets: BAM requires offsets to be calculated where impacts remain. The BDAR concludes no offsets are required on the basis of the degraded plot data, despite acknowledging clearing of 0.0121 ha of vegetation indicative of STIF. Offsets have been avoided by underestimating biodiversity values. This is inconsistent with BAM.

Consistency with planning instruments: The proposal conflicts with LEP 2015 Clause 6.3 as it does not protect, maintain or improve biodiversity values and fails to avoid TEC loss. It also conflicts with DCP Part 18 by not providing for genuine restoration or connectivity.

Overall, the BDAR and VMP do not satisfy the Biodiversity Assessment Method. PCT identification is flawed, survey design is inadequate, avoidance has not been demonstrated, mitigation is short-term and tokenistic, and offsets have been avoided. The applicant should not gain benefit from unlawful clearing.

Recommendations:

A revised BDAR should be provided using a surrogate STIF plot to calculate a valid VIS and offsets.

A revised VMP should be provided to reinstate STIF across feasible areas, remove exotic plantings, and commit to long-term management of at least 10 years with measurable benchmarks. The design should be amended to demonstrate genuine avoidance and minimisation of biodiversity impacts.

V. 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.

Transport Orientated Development

The Guidance to Transport Orientated Development Brochure by the Department of Planning and Infrastructure May 2024 Page 11 states “Development Applications in heritage conservation areas.

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.

What is a Contributory Property?

KDCP2024 Definition - Section B Part 19

This Part identifies various controls that specifically apply to contributory properties. For the purpose of this DCP, Contributory Properties are buildings and sites within a HCA which are deemed to exhibit one or more of the following characteristics:

- i) buildings and sites that make an important contribution to the character and significance of the HCA. They can be from a key historical layer, true to an architectural type, style or period, or highly or substantially intact including their garden setting. Where subdivision has occurred, the subdivision is within the key historical period or the area.
- ii) buildings and sites which are altered from their original form but are recognisable and could be reasonably reinstated to that condition or the alterations are not considered to be detrimental to the integrity of the building; for example, a building that has been rendered or painted or where the roof cladding has been replaced but the form is otherwise legible.
- iii) buildings and sites with new layers/additions sensitive to the style, form, bulk, scale and materials of the original building.

Note: Contributory buildings do not necessarily need to be high-quality buildings but should represent the key historical period of the HCA. An HCA may also contain high-quality buildings which are not necessarily from the key historical period.

The subject dwellings to be demolished satisfy the DCP definition (above) as contributory buildings in the Clanville Conservation Area (C32) in KLEP2015. See Appendix for details.

The proposed development will have an unacceptable impact on the Balfour Street/Highfield Road (C29)

The NSW Heritage Inventory provides the following **statement of significance** for the *Balfour Street / Highfield Road* Heritage Conservation Area:

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. [SHI item ID 1882680]

Heritage items in the vicinity include;

- Dwelling house (KLEP item I416) at No. 28 Bent Street,
- Dwelling house (KLEP item I39) at No. 6 Highfield Road

Refer to the above properties and their statements of significance in Appendix A of this submission.

(1) Inappropriate demolition of existing buildings at Nos. 19-25 Balfour Street, Roseville

The proposed works will result in the demolition of all dwellings currently located at Nos. 19-25 Balfour Street, Lindfield.

These dwellings are part of the Balfour Street/Highfield Road HCA and were built in the Federation (1890-1915) period. These buildings make an important contribution to the character and significance of the HCA as they have a key historical layer, most are true to an architectural type, style or period and some are substantially intact including their garden setting. A number of these dwellings have been altered from their original form but are recognisable and could be reasonably reinstated to that condition. Most alterations and additions are sensitive in style, form, bulk, scale and materials of the original building.

The proposed demolition of these contributory buildings and gardens and the construction of a multi-storey residential flat building does not satisfy the objectives of the KLEP2015 to conserve the heritage significance of the conservation area in terms of loss of contributory property and introduction of a detracting building in the heritage conservation area.

(2) Inappropriate setting and view impacts

Clause 5.10 Heritage conservation

The objective under Clause 5.10 of the LEP states, “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”

Inconsistent with Burra Charter

The Burra Charter – the Australia ICOMOS charter for the conservation of places of cultural significance – is the key document guiding conservation practice in Australia. The following *Article 8. Setting states,*

Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place. This includes retention of the visual and sensory setting, as well as the retention of spiritual and other cultural relationships that contribute to the cultural significance of the place.

New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate.

Inappropriate setting for the HCA

The low-density residential character of the heritage conservation area including a number of heritage items contributes to the significance of the locality. The proposed bulk and scale of the residential flat building will result in drastic, adverse and irreversible change to the setting of the Balfour Street/Highfield Road heritage conservation area and nearby heritage items and is not acceptable. It will visually dominate and detract from the setting of this area.

The overall impact of the proposed development will have a high degree of visual impact to the setting of the Balfour Street/Highfield Road HCA due to the notable increase in scale. The setting of Balfour Street is characterised by a mix of single storey Federation and Interwar housing, many with first floor rear additions and all with large to medium established gardens with trees. These houses and gardens will be dwarfed by the enormous infill building which will tower over them.

The proposal is of such a large bulk and scale which is entirely disproportionate, unsympathetic, and out of character to the surrounding Balfour Street/Highfield Road HCA and heritage items in the vicinity. The entire visual landscape of the Balfour Street/Highfield Road HCA will be visually dominated by this proposal.

The site is also located in the vicinity of heritage items at 28 Bent Street and 6 Highfield Road. Views from the heritage items will be obscured by a large scaled residential flat building.



Subject sites, Nos. 21 (R) and 23 (L) Balfour Street



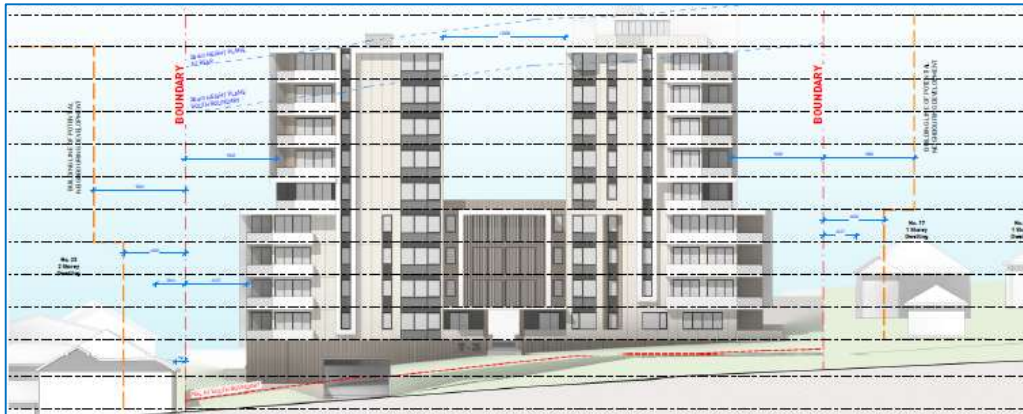
Proposed view towards Balfour Street

Irreversible impacts to the setting

The over-scaled development does not respect the established built form and landscaped character of the streetscape and will result in the loss of the garden setting which will irreversibly impact the heritage significance of the locality.



Proposed development [architectural plans]



Proposed development in the area context [architectural plans]



Proposed development in the area context [visual impact statement by Keylan.

Inappropriate setting for the Heritage items in the vicinity

Views from these heritage items will drastically change from low rise to high rise with loss of trees as they will be obscured by the large scaled residential flat building.

Unacceptable Site consolidation for new development within an HCA

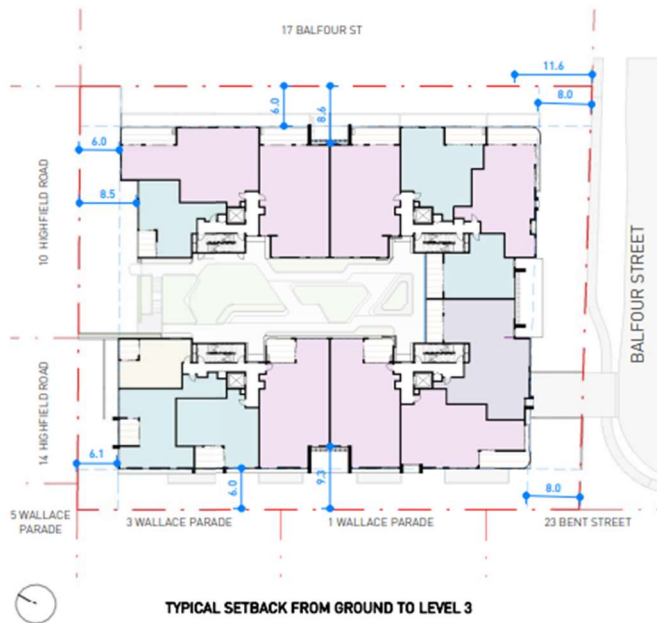
The proposal includes amalgamation of four properties, which demonstrate original DP 4195 subdivision pattern, and its re-subdivision for individual houses' development in the Federation / Interwar period. The resulting amalgamated allotment would not retain the typical block width characteristics and historic subdivision patterns of the area.

The proposed amalgamation is for purposes of constructing a multi-level building, conflicting with the scale of the houses in the Heritage Conservation Area which are predominantly single level. This will adversely impact the significance, character and appearance of the HCA.

(3) Inadequate setbacks

The proposed residential flat building does not respect the established pattern of built elements in the streetscape as it is larger and taller than all the buildings in this part of the street and surrounding area.

There are insufficient setbacks between the built form and insufficient setbacks on the upper levels to provide a transition between the adjacent buildings of different scales.



Proposed setbacks. Design Report by Giles Tribe.

(4) Adverse impacts on character

The proposed minimal setbacks to the side boundaries on both sides, is not the general character of the streetscape and will increase the bulk of the building and have an obtrusive and unacceptable impact. The proposed development will be located in the south-west corner of the Balfour Street/Highfield Road as well as the vicinity of several heritage items and will not harmonise or enhance the area's distinctive identity as it is very dominant in the streetscape and will be visible from all surrounding sides.

Incompatible bulk-massing scale and form

Inconsistent Bulk

The proposal massing of the residential flat building will adversely affect views from the Balfour Street/Highfield Road and heritage items to the surrounding area including views to the sky, tree canopies and terracotta roof tops. The proposed residential flat building does not relate to the predominant scale (height, bulk, density) of the setting around it and will have an adverse impact on the Balfour Street/Highfield Road HCA and heritage items in the vicinity.

Large Scale

The overall large scale of the proposed development is not in context with the streetscape of the Balfour Street/Highfield Road HCA and heritage in the vicinity and has no transition to the buildings on either side.

Increased Density

The proposed increased density will irreversibly degrade the heritage significance of the Balfour Street/Highfield Road HCA and heritage items in the vicinity because of the inconsistency with the existing low scale historic built form. At a height over 30 metres, this will be one of the tallest structure in the Lindfield area with a disproportionate and overbearing impact on the Balfour Street/Highfield Road Avenue Conservation Area including inappropriate transition in built form, destroying sightlines, and obliterating the privacy of numerous residences adjacent and proximate to the site



Proposed setbacks. Design Report by Giles Tribe.

(5) Landscape loss

Loss of Trees to the street frontage and HCA

The landscape design proposes the removal of tree 3, a mature Jacaranda, 9m high located adjacent to the site frontage / southern site corner. The tree contributes positively to the established streetscape / landscape character and shall be retained.

Proposed tree plantings particularly within the site frontages are limited to small and medium sized trees, which fails to consider the established landscape context where tall trees contribute to the streetscape.

No tall exotic tree species (deciduous or evergreen) are proposed to maintain and enhance the established landscape character that contribute to the streetscape and conservation area.

The proposed loss of domestic gardens and mature plantings will have a detrimental impact on the heritage conservation area.

(6) Inappropriate form, details, materials and colours

Inconsistent Colours

Concern is raised that the proposed materials and finishes consisting of minimal brickwork and large areas of render in light colours will be visually obtrusive in the streetscape, when viewed from the surrounding heritage conservation areas and heritage items in the vicinity. The proposed central dark coloured square stands out and appears a dominant element. It should match the colours on the base level.

It is recommended that the external materials and finishes be amended to comprise primarily bricks of warm, earthy tones and secondary material such as sandstone or timber to present a more recessive building that responds more appropriately to the aesthetic of the surrounding heritage items and conservation areas. Render and grey colours should be avoided.

Incompatible Building Form

The overall scale and form of the proposed development will be obtrusive and dominant element in the streetscape and will have an adverse and detracting impact on the HCA and heritage items and HCA in the vicinity.

APPENDIX A – HERITAGE

19-25 BALFOUR STREET, LINDFIELD



Fig 1. Heritage items are shaded, HCA is hatched.



Figure 2: Location map showing the site outlined in red. Heritage items are shaded, HCA is hatched. (Source: Nearmap).

The proposed development at 19-25 Balfour Street, Lindfield is located in the following;

- Balfour Street / Highfield Road Heritage Conservation Area:(C29)
- In the vicinity of the heritage item at No.28 Bent Street, Lindfield

- In the vicinity of the heritage items at No. 6 Highfield Road, Lindfield

The NSW Heritage Inventory provides the following **Statement of Significance** for the Balfour Street / Highfield Road Heritage Conservation Area:

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.
(SHI item ID 1882680]

HOUSES PROPOSED TO BE DEMOLISHED

The following aerals, taken in 1943 and 2025, evidence considerable alterations to the subject houses.



Figure 7 (above)
1943 aerial photograph. The subject properties are identified and outlined in red
Source: LRS SIX maps

Figure 8 (below)
2025 aerial photograph. The subject properties are identified and outlined in red
Source: Nearmap



Fig 3. Houses to be demolished. Statement of Heritage Impact by GBA Heritage

NO. 19 BALFOUR STREET, LINDFIELD

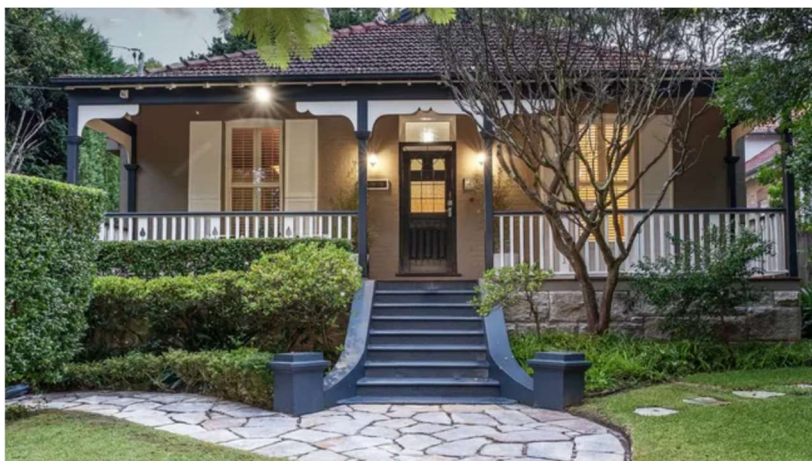


Fig 4. Front elevation of **No. 19 Balfour Street, Lindfield**. (Real estate photo)

No. 19 Balfour Street, Lindfield is located in the Balfour Street / Highfield Road Conservation Area (C29) and is in the vicinity of heritage items at No.6 Highfield Road and 28 Bent Street, Lindfield.

The dwelling has a single storey frontage built around c.1900-1915 in the Federation Style with a later first floor rear addition. Constructed of painted brick walls with a terracotta tiled hipped roof with separate front verandah supported on timber posts with timber balustrade and freize above.

The house is located above street level and set back from the road. The house is screened by mature vegetation and there is a high hedge along the front fence.

There was a rear single storey addition in c.1995 and a first floor rear addition partially in the roof in c.2005. The building is considered to be contributory as its Federation style is identifiable in the streetscape.

The proposed demolition of this building and garden and the construction of a multi-storey residential flat building does not satisfy the objectives of the KLEP2015 to conserve the heritage significance of the conservation area and heritage items in the vicinity in terms of loss of a contributory property and the introduction of a detracting building in the heritage conservation area.

NO. 21 BALFOUR STREET, LINDFIELD



Fig 5. Front elevation of **No. 21 Balfour Street, Lindfield** (Real Estate photo)

No. 21 Balfour Street, Lindfield is located in the Balfour Street / Highfield Road Conservation Area (C29) and is in the vicinity of heritage items at No.6 Highfield Road and 28 Bent Street, Lindfield.

The dwelling has a single storey frontage built around c.1900-1915 in the Federation Style with a later first floor rear addition. Constructed of painted brick walls with a terracotta tiled hipped roof with separate front verandah supported on timber posts with a timber balustrade.

The house is located above street level and set back from the road. The house is screened by mature vegetation and there is a high hedge along the front fence.

There was a rear single storey addition in c.1979 and a first-floor rear addition partially in the roof in c.1988. The building is considered to be contributory as its Federation style is identifiable in the streetscape.

The proposed demolition of this building and garden and the construction of a multi-storey residential flat building does not satisfy the objectives of the KLEP2015 to conserve the heritage significance of the conservation area and heritage items in the vicinity in terms of loss of a contributory property and the introduction of a detracting building in the heritage conservation area.

NO. 23 BALFOUR STREET, LINDFIELD



Fig 6. Front elevation of No. 23 Balfour Street, Lindfield (Real Estate photo)

No. 23 Balfour Street, Lindfield is located in the Balfour Street /Highfield Road Conservation Area (C29) and is in the vicinity of heritage items at No.6 Highfield Road and 28 Bent Street, Lindfield.

The dwelling is single storeyed and was built around c.1900-1915 in the Federation Style with a later linked first floor rear addition. Constructed of face brick walls with a modern slate tiled hipped and gabled roof with a wrap-around front verandah supported on timber posts with a timber balustrade.

The house is located above street level and set back from the road. It has screened by a high hedge along the front fence.

There was a rear single storey addition in c.1979 and a first-floor linked rear addition partially in c.1997. The building is considered to be contributory as its original form and detailing in the Federation style is identifiable in the streetscape.

The proposed demolition of this building and garden and the construction of a multi-storey residential flat building does not satisfy the objectives of the KLEP2015 to conserve the heritage significance of the conservation area and heritage items in the vicinity in terms of loss of a contributory property and the introduction of a detracting building in the heritage conservation area.

NO. 25 BALFOUR STREET, LINDFIELD



Fig 7. Front elevation of **No. 21 Balfour Street, Lindfield** (Real Estate photo)

No. 25 Balfour Street, Lindfield is located in the Balfour Street /Highfield Road Conservation Area (C29) and is in the vicinity of heritage items at No.6 Highfield Road and 28 Bent Street, Lindfield.

The dwelling is single storeyed and was built around c.1900-1915 in the Federation Style with a later basement level and linked ground floor rear addition. Constructed of face brick walls with a corrugated steel hipped and gabled roof with a wrap-around front verandah supported on timber posts with a timber balustrade.

The house is located above street level. It has a picket fence on a high masonry base on the front boundary.

There was a rear single storey addition in c.1987 and a basement level and first-floor linked rear addition in c.2005. The building is considered to be contributory as its original form and detailing in the Federation style is identifiable in the streetscape.

The proposed demolition of this building and garden and the construction of a multi-storey residential flat building does not satisfy the objectives of the KLEP2015 to conserve the heritage significance of the conservation area and heritage items in the vicinity in terms of loss of a contributory property and the introduction of a detracting building in the heritage conservation area.

HERITAGE ITEMS IN THE VICINITY OF THE SITE



Fig. 8. Street map showing the subject properties outlined in red and the heritage items in the vicinity outlined in blue. The subject properties are across Balfour Street and Bent Street from the heritage item

Source: SDT Explorer.

6 HIGHFIELD ROAD LINDFIELD



Fig. 9. Front elevation of 6 Highfield Road, Lindfield

The NSW Heritage Inventory contains the following Statement of Significance for heritage item ID 1880578, 6 Highfield Road, Lindfield, *Dwelling house* (I39): **6 Highfield Road, Lindfield, Dwelling house** (I39)

:

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.

NO. 28 BENT STREET, LINDFIELD



Fig 10. Front elevation of No 28 Bent Street, Lindfield

The NSW Heritage Inventory contains the following Statement of Significance for heritage item ID 1882457, **28 Bent Street, Lindfield, Dwelling house** (I416):

The property is significant as part of the early residential development of the suburb of Lindfield and as part of the early development of “JH Park’s Subdivision, Lindfield”. Although having undergone some modifications to the original building, the house remains largely intact externally with its original inter-war bungalow stylistic detailing. The deep setback and mature palm trees at the front of the house contribute to the streetscape character as the original curtilage to this early twentieth century residence.

The item 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.

END OF SUBMISSION