



SCOPING REPORT -

REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENT (SEARS)

Stage 1 Concept Development Application for a Residential Flat Building with In-fill Affordable Housing

No. 11-19 Middle Harbour Road,

LINDFIELD

Prepared for: Castle Hill No. 7 Pty Ltd

REF: M250136

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1. Introduction

This report has been prepared to accompany a request for Secretary's Environmental Assessment Requirement (SEARs) to guide the preparation of a State Significant Development Application (SSDA) for a Stage 1 Concept Development Application for the demolition of existing buildings and associated structures, tree removal and site clearing and construction of a 9 storey residential flat building above basement car parking at No. 11-19 Middle Harbour Road, Lindfield.

This report is prepared by Planning Ingenuity on behalf of Castle Hill No. 7 Pty Ltd (the Proponent). The report relies on architectural plans prepared by DKO Architects.

Importantly, this application is submitted under *Division 4.4 Concept Development Applications* of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979). It seeks approval for a Stage 1 concept site planning and built form arrangement which has been designed as a direct response to the constraints of the site and the surrounding context. This application does not seek consent for any physical works. A separate detailed application will follow the granting of Stage 1 development consent.

The proposed development is identified as a State Significant Development as it falls within the requirements of Clause 26A ("In-fill Affordable Housing") of Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021, being development to which State Environmental Planning Policy (Housing) 2021 (Housing SEPP), Chapter 2, Part 2, Division 1 applies if the development that is residential has an estimated development cost of more than \$75 million. Since the residential component of the proposed development will have an estimated development cost of more than \$75 million, the proposal is classified as SSD.

The development also seeks to utilise the provisions of Chapter 5 of the Housing SEPP which relates to Transport-Oriented Development (TOD). Notably, the provisions under Chapter 5 establish the base height and FSR controls for the site in exchange for a 2% affordable housing dedication. These base controls are then subject to the uplift permitted under Chapter 2 of the Housing SEPP, as detailed within this request.

The Proponent also requests that the Department consider this application for the Faster Assessment program for Affordable Housing, which applies to SSD applications for in-fill affordable housing as defined in Chapter 2, Part 2, Division 1 of the Housing SEPP.

The proposed site is located within close proximity to Lindfield Railway Station and within walking distance to retail, commercial and medical uses, therefore ideally located for higher density housing. The Lindfield Railway Station is identified as a TOD station and therefore is envisaged for higher density residential development in order to address the demand for housing around transport to create walkable communities.

The purpose of this report is to provide information to the Department of Planning and Environment (DPE) to support the issuance of SEARs for the SSDA.

2. Site Analysis and Context

2.1 THE SITE

The site is located on the southern side of Middle Harbour Road to the east of the railway line. This site comprises of 4 parcels of land and is known as No. 11-19 Middle Harbour Road, Lindfield with a legal description of Lots A and B in DP 349665 and Lots 9 and 10 in DP 4665.

An aerial photograph of the site is provided at **Figure 1** below.



Figure 1 Aerial Photo of The Site (Source: NearMaps).

The site has an area of 5,187m², with a frontage to Middle Harbour Road measuring approximately 73m in length.

Existing on the site are single and two storey dwellings houses with vegetation existing predominately at the rear of each allotment.

2.2 SURROUNDING CONTEXT

The site is located within a low density residential area that is undergoing transition as part of the State Government led TOD Program.

The site and immediately surrounding sites are identified within the TOD area given the proximity to the Lindfield Railway Station. The site sits within close proximity to the Lindfield Town Centre and surrounding R4 zoned land



which are capable of greater development density under the current planning controls, that will further be increased in accordance with the State Government led initiatives.

The site itself is currently subject to a 9.5m building height limit and a maximum FSR of 0.3:1 under the Ku-ring-gai LEP 2015, however, in line with the TOD Program, the base controls for the site and surrounding land are subject to a building height of 22m and FSR of 2.5:1 for residential flat building development, where they provide a 2% affordable housing contribution delivered in perpetuity.

The site is not identified as a heritage item nor it is located within a heritage conservation area, however, there is a heritage listed item directly west of the site. Furthermore, the Clanville Conservation Area is located to the south of the site and the Trafalgar Avenue Conservation Area is located just north east of the site.





3. Description of the Proposal

The SSD Application will seek consent for a Stage 1 Concept DA for the construction of a 9 storey residential flat building with basement parking.

Specifically, the proposal seeks consent for the demolition of existing buildings and associated structures, tree removal and site clearing and construction of a residential flat building comprising approximately 210 residential apartments above basement car parking.

A preliminary concept scheme for the site is provided in the architectural plans prepared by DKO Architects and submitted with this scoping report. The concept scheme is capable of delivering an FSR of 3.25:1 which equates to a GFA of 16,858m². Of the total GFA, 2% or 337m² will be dedicated to affordable housing in perpetuity under the TOD provisions within Chapter 5 of the Housing SEPP, and 15% or 2,529m² will be delivered as affordable housing under the Infill Affordable Housing provisions within Chapter 2 of the Housing SEPP. This equates to an estimated 36 affordable housing apartments.

Basement parking levels will provide a total parking provision to meet the requirements of the Housing SEPP.





4. Environmental Planning Framework

4.1 STATUTORY PLANNING POLICIES

The legislation and environmental planning instruments applying to the proposed development include, but are not limited to:

- *Environmental Planning & Assessment Act 1979*
- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Housing) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021; and*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021;*
- *State Environmental Planning Policy (Sustainable Buildings) 2022;*
- *Ku-ring-gai Local Environmental Plan 2015; and*
- *Ku-ring-gai Development Control Plan.*

4.2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

This application is submitted under Division 4.4 Concept Development Applications of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979). It seeks approval for a Stage 1 concept site planning and built form arrangement.

Division 4.4 of the EP&A Act 1979 stipulates that a consent authority, when considering the likely impact of the development under Section 4.15, need only consider the likely impact of the concept proposal and does not need to consider the likely impact of the carrying out of development that may be the subject of a subsequent application. As such, only the potential impacts of the proposed concept development will be considered as part of the EIS.

4.3 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

The proposal is SSD, pursuant to Clause 26A of Schedule 1 of State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP), being development to which State Environmental Planning Policy (Housing) 2021 (Housing SEPP), Chapter 2, Part 2, Division 1 applies if the development that is residential has an estimated development cost of more than \$75 million. Since the residential component of the proposed development will have an estimated development cost of more than \$75 million, the proposal is classified as SSD.

4.4 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) commenced on 1 March 2022, repealing and replacing 11 previous SEPPs.



Of relevance to the proposed development is Chapter 2 Vegetation in non-rural areas.

Chapter 2 replaces the previous SEPP (Vegetation in Non-Rural Areas) 2017. The primary aims and objectives of Chapter 2 are related to the protection of the biodiversity values of the trees and other vegetation on the site in non-rural areas. This chapter works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

The subject site is identified as having biodiversity values as shown in **Figure 2** (overpage). As such, a Biodiversity Development Assessment Report (BDAR) will be prepared to accompany the EIS for this application.

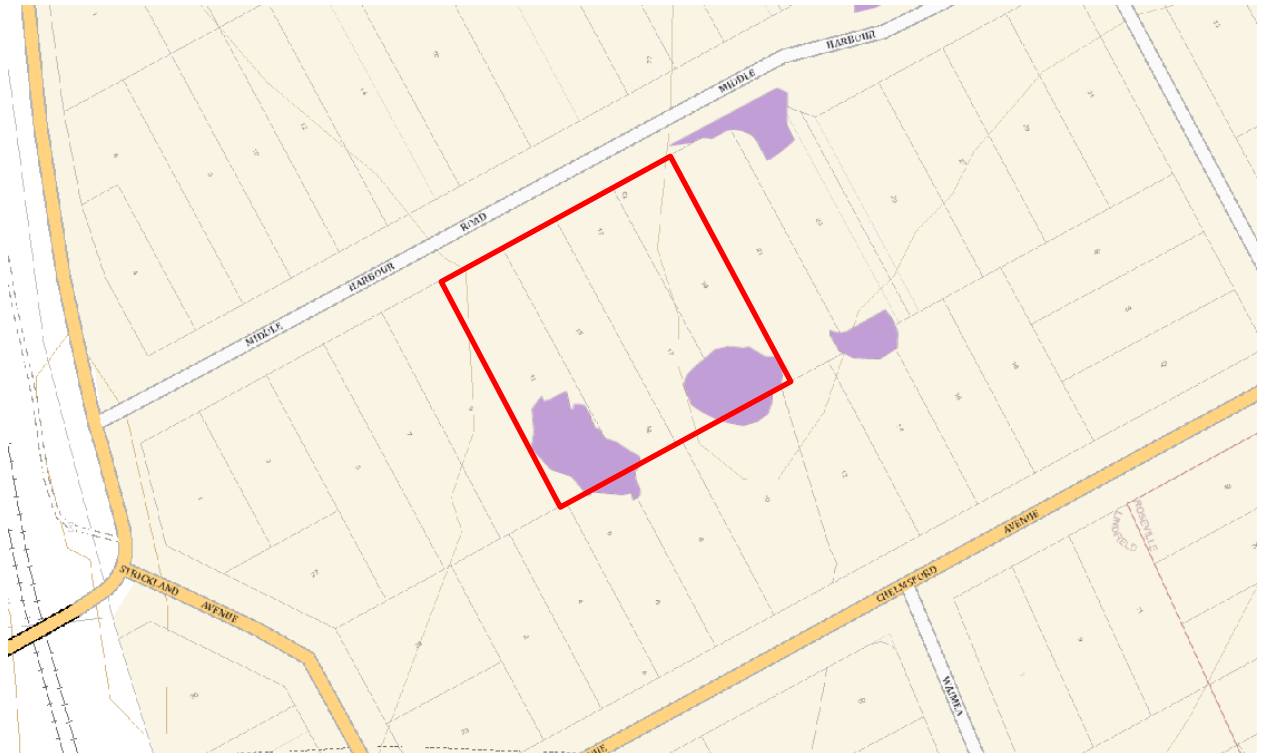


Figure 2 Biodiversity Values Mapping (Source: NSW Planning Portal).

4.5 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The State Environmental Planning Policy (Housing) 2021 ("Housing SEPP") applies to development proposals for affordable and diverse housing and aims to encourage and promote the provision of affordable housing within residential and mixed use developments.

Of relevance to the proposed development are the following chapters of the Housing SEPP:

- Chapter 2 Affordable Housing
- Chapter 4 Design of Residential Apartment Development
- Chapter 5 Transport Oriented Development

Chapter 2 Affordable Housing

Division 1 of Chapter 2 in Part 2 of the Housing SEPP contains provisions relating to in-fill affordable housing. Clause 15C provides the following in relation to where the division applies:

(1) This division applies to development that includes residential development if—



- (a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5, Chapter 6 or another environmental planning instrument, and*
- (b) the affordable housing component is at least 10%, and*
- (c) all or part of the development is carried out—*
 - (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or*
 - (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.*

The development will meet the above requirements since it is permissible with consent under Chapter 5 of the Housing SEPP, will provide more than 10% gross floor area as affordable housing, and is carried out within an accessible area. Therefore Division 1 applies to the development.

Clause 16 of the Housing SEPP provides the following provisions in relation to the available affordable housing bonus under this Division:

(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).

(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$$

(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).

Example—

Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.

In accordance with the above Clause, the development is permitted a bonus FSR of up to 30% if 15% of the gross floor area on the site is provided as affordable rental housing.

The site is subject to a maximum permissible FSR of 2.5:1 in accordance with Chapter 5 of the Housing SEPP, as discussed in detail within this Report.

When applying the Housing SEPP bonus FSR of 30% to the LEP permissible FSR of 2.5:1, a maximum FSR of 3.25:1 and a gross floor area of 16,858m² would be permitted on the site, where at least 2,529m² (15%) of this would need be dedicated to affordable rental housing for a period of 15 years (in accordance with Clause 21 of the Housing SEPP).





The proposal will accommodate the necessary affordable housing provision under this Chapter and therefore can access the available FSR bonus. The proposed concept scheme will provide a gross floor area which complies with the maximum available FSR, as shown in the submitted architectural plans.

In relation to Subclause (3) of Clause 16, the maximum building height for residential flat buildings on the subject site is 22m under Chapter 5 of the Housing SEPP. When applying the 30% bonus afforded by Chapter 2 of the SEPP, a maximum building height of 28.6m is permitted. The proposal is expected to generally comply with this building height limit, as demonstrated in the submitted architectural plans.

Furthermore, there are a number of non-discretionary development standards under Clause 19 of the Housing SEPP which would apply to the development. Whilst the proposal is for a Concept DA, details of a reference scheme will be submitted with the SSDA to indicate compliance with the applicable standards.

It is also important to note that under Clause 21 of the Housing SEPP, the affordable housing component within the proposed development will be managed by a registered community housing provider for a period of at least 15 years.

Chapter 4 Design of Residential Apartment Development

On 14 December 2023, SEPP No.65 – Design Quality of Residential Flat Buildings was repealed, and its provisions transferred to the State Environmental Planning Policy (Housing) 2021.

In accordance with Clause 147 under Chapter 4 of the Housing SEPP, development consent must not be granted to residential apartment development unless the consent authority has considered the following:

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
- (b) the Apartment Design Guide,
- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

A detailed assessment of the proposal against the Housing SEPP and the Apartment Design Guide will be undertaken within an EIS to be submitted with the application.

Chapter 5 Transport Oriented Development

On 13 May 2024, the first stage of NSW Government's Transport Oriented Development (TOD) planning reforms was implemented through an amendment to the Housing SEPP to include Chapter 5 Transport Oriented Development.

The amended planning controls apply to land identified as being located within a TOD area. As shown in **Figure 3** (overpage), the site is located within the Lindfield Station TOD area and therefore is subject to the provisions under Chapter 5 of the Housing SEPP.

In accordance with the provisions under Chapter 5 of the Housing SEPP, development for the purpose of a residential flat building is permitted within a 'relevant residential zone' and is subject to a building height of 22m and FSR of 2.5:1.

Since the subject site is located within a relevant residential zone, being the R2 Low Density Residential zone, the maximum permissible building height and FSR for a residential flat building on the site is 22m and 2.5:1, respectively.

Furthermore, in accordance with Clause 156, in order to apply the base height and FSR controls under Chapter 5 of the Housing SEPP, at least 2% of the gross floor area of the building must be used for affordable housing which will be managed by a registered community housing provided in perpetuity.



The required 2% of gross floor area is in addition to the 15% affordable housing provision under Chapter 2 of the Housing SEPP. As such, in order to apply the controls under both Chapter 2 and 5 of the Housing SEPP, the proposal will seek to provide a total affordable housing component equating to 17% of the total gross floor area, where 15% of this is to be managed by a registered community housing provider for 15 years, and the remaining 2% will be provided in perpetuity.

The proposal will satisfy the remaining provisions under Chapter 5 of the Housing SEPP and a detailed assessment will be provided within an EIS to be submitted with the application.

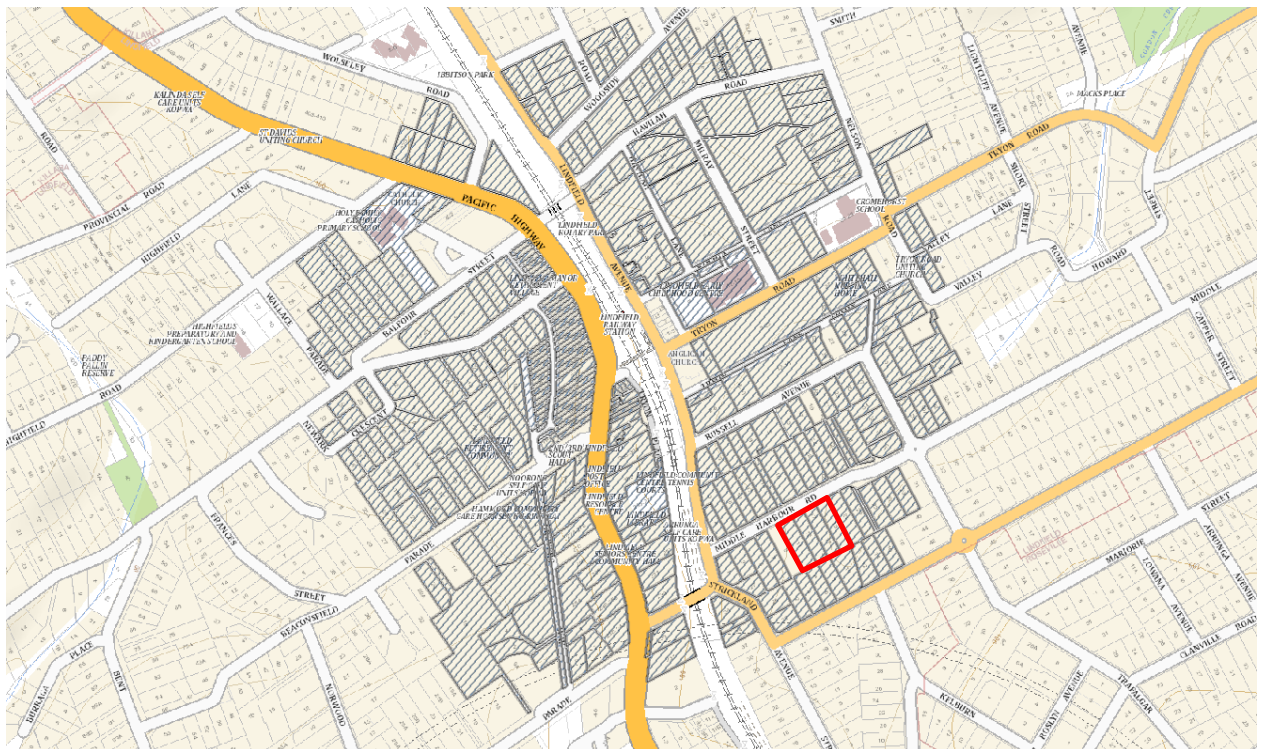


Figure 3 Transport Oriented Development Map with site outlined red (Source: NSW Planning Portal).

4.6 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated and if it is contaminated whether it can be made suitable for the proposed purpose. Due to the site's residential history there is no reason to expect the site to be contaminated, however, the EIS will be accompanied by a preliminary site investigation to ensure the site is suitable for the proposed development.

4.7 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 contains provisions for various land uses and activities, including development in or adjacent to rail corridors and interim rail corridors and to road corridors and road reservations.

The following clause applies to the proposed development:

- **Clause 2.122 Traffic-generating development** identifies traffic generating development which must be referred to the Road and Traffic authority. This provision is relevant as the proposal is of a type listed in column 3 of Schedule 3, being 50 or more car parking spaces and 75 or more dwellings. Therefore, the application will be referred to Transport for NSW for comments.

4.8 STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 came into effect on 1 October 2023, replacing and repealing the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

In accordance with the provisions of the SEPP, a BASIX Certificate will be submitted with the EIS to confirm that the proposal (once operational) will comply with the water, thermal comfort and energy efficiency requirements of the policy.

4.9 KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2015

Ku-ring-gai Local Environmental Plan 2015 (KLEP) is the current environmental planning instrument that applies to the site. The relevant planning controls for the site are outlined below.

4.9.1 Zoning and Permissibility

The subject site is zoned R2 – Low Density Residential under the KLEP.

Whilst residential flat buildings are not permitted with consent in the R2 zone, the proposal is permissible under Chapter 5 of the Housing SEPP.

4.9.2 Heritage

The site is not identified as containing heritage items and is not located within a heritage conservation area.

The site is located adjacent to the “Laurabada” dwelling house which is identified as an item of local heritage significance and is located within close proximity to the Clanville Conservation Area to the south and the Trafalgar Avenue Conservation Area to the north east (Refer to **Figure 4**).

A Heritage Impact Statement will be provided to accompany the future application to assess the impact of the proposal on the nearby heritage item, and any other items within the locality.

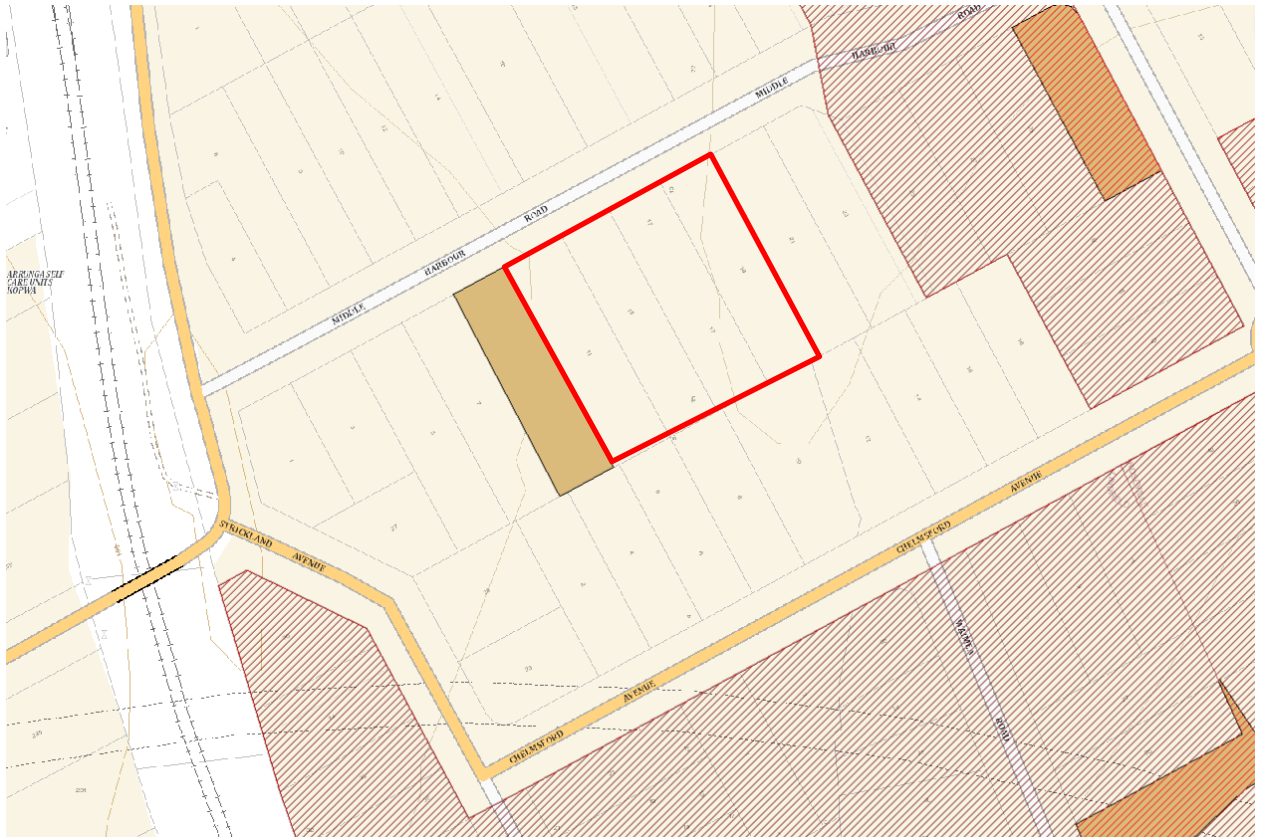


Figure 4 Heritage Mapping (Source: NSW Planning Portal).

4.9.3 Biodiversity

Clause 6.3 of the KLEP applies to land identified as having terrestrial biodiversity. As shown in **Figure 5** (overpage), a portion of the site is identified on the terrestrial biodiversity mapping.

The clause stipulates a number of matters for the relevant consent authority to consider in determining whether a development will have an adverse environmental impact.

As previously stated, a BDAR will be prepared to accompany the EIS for this application.



Figure 5 Terrestrial Biodiversity Mapping (Source: NSW Planning Portal).

4.10 KU-RING-GAI DEVELOPMENT CONTROL PLAN 2015

Pursuant to Clause 2.10 of SEPP (Planning Systems), Development Control Plans do not apply State significant development. Nonetheless, the proposal will have regard to the relevant controls of the Ku-ring-gai DCP 2015.

4.11 STRATEGIC PLANNING FRAMEWORK

The relevant strategic planning policies which apply to the proposed development include:

- NSW State Priorities;
- The Greater Sydney Region Plan – A Metropolis of Three Cities;
- North District Plan;
- Ku-ring-gai Local Strategic Planning Statement;
- Ku-ring-gai Housing Strategy;
- Future Transport Strategy 2056;
- Sydney's Cycling Future 2013;
- Sydney's Walking Future 2013;
- Sydney's Bus Future 2013;
- Crime Prevention Through Environmental Design (CPTED) Principles;
- Better Placed – an integrated design policy for the built environment of NSW; and



- Healthy Urban Development Checklist, NSW Health.

The EIS will assess the proposal against these relevant strategic planning policies.





5. Proposed Assessment of Impacts

This section provides a high-level assessment of the likely impacts associated with the proposal, key matters requiring further assessment in the EIS and proposed approach to assessing these matters. The purpose of this section is to inform the preparation of the SEARs which will direct the preparation of EIS documentation.

5.1 BULK AND SCALE

The EIS will demonstrate that the site is suitable for the proposed bulk and scale of development, inclusive of the bonus height and FSR afforded to the proposal under the relevant Chapters of the Housing SEPP. Whilst the proposal will sit at a height that is greater than what is anticipated by Councils controls, it will represent a development that is reasonably anticipated for the site and surrounding sites alike in accordance with the prevailing controls for building height and FSR under the Housing SEPP.

An assessment of the bulk and scale will consider impacts on the surrounding locality in relation to overshadowing, views, visual bulk, building setbacks and street presentation, against the backdrop of the permissible controls and strategic location of the site.

Ultimately, and as previously submitted, the site is located within the Lindfield TOD precinct which has been marked for higher residential density given its prime location within close proximity to public transport, employment opportunities and open space.

5.2 TRAFFIC

The proposal will provide a total parking provision which aligns with the Housing SEPP provisions in order to support approximately 210 residential apartments. A traffic and parking impact assessment will form part of the EIS and will address issues relating to impacts on the existing road network and parking, arrangement of on-site parking, potential delays and peak traffic movements generated by the proposed development.

5.3 RESIDENTIAL AMENITY

The EIS will address how the proposed concept scheme will allow for a high level of residential amenity to be delivered to those proposed apartments. A full assessment against the provisions of Chapter 4 of the Housing SEPP will be conducted and submitted with the EIS.

5.4 ACCESS TO SERVICES

The EIS will demonstrate that the subject site is capable of supporting the proposed development with regard to the availability of utilities and infrastructure.

5.5 BIODIVERSITY

As detailed above, a BDAR will be prepared to accompany the proposed concept development given the biodiversity values identified within the site. The BDAR will consider the potential impact of the proposed development on the biodiversity values on the site and will provide guidance with regard to how potential impacts can be avoided and/or minimised.





5.6 HERITAGE

As detailed above, the site is located within close proximity to items of heritage significance and heritage conservation areas. As such, the concept development will be accompanied by a heritage impact statement which provides a high level assessment of the proposed building envelope and its potential impacts on the heritage significance of the locality. Notably, since a detailed design scheme is not sought as part of this application, assessment of the impacts of the proposal on the surrounding heritage sites will be limited to the concept envelope only.





6. Conclusion

By virtue of Clause 26A ("In-fill Affordable Housing") of Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021, the proposal is State significant development being development to which State Environmental Planning Policy (Housing) 2021 (Housing SEPP), Chapter 2, Part 2, Division 1 applies with an estimated development cost of more than \$75 million.

This Scoping Report has been prepared in support of the proposed Stage 1 Concept DA for the demolition of existing buildings and associated structures, tree removal and site clearing and construction of a 9 storey residential flat building comprising approximately 210 residential apartments above basement car parking.

The report has described the proposal, identified the relevant strategic and statutory context, and identified the scale and nature of the impacts of the proposal.

We therefore request that the Planning Secretary issue the SEARs for the project to enable progression of the application.

