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Contact:
Shanika Kappagoda

Ref:
SSD-78669234

21 May 2025

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

Via: NSW Major Projects portal

Attention: Adela Murimba

Dear Madam,

RE: SUBMISSION TO SSD-78669234, Residential flat building with in-fill affordable housing
Address: 27-29 Tryon Road, Lindfield

Thank you for the opportunity to comment on State Significant Development (SSD) application (SSD-78669234) for the proposed residential flat building with in-fill affordable housing development at 27-29 Tryon Road, Lindfield.

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

The key issues with the proposal include: lack of compatibility with desired future character; bulk and scale impacts; inadequate setbacks; exceedance of FSR; overshadowing of neighbouring properties; inadequate solar access to apartments within the development; inadequate privacy within the development and privacy impacts upon adjoining properties; lack of articulation to the side setbacks; inadequate landscaped area and deep soil zones; tree removal and tree impacts; and inappropriate setting and view impacts to 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. Council will be able to provide recommended conditions of consent following review of the RtS, unless there are substantial unresolved issues.

Subject to satisfactory resolution of the issues raised in this submission, Council may withdraw its objection to the proposal. Should you have any further enquiries, please contact Shanika Kappagoda, Executive Assessment Officer on 02 9424 0783.

Yours sincerely,

Shaun Garland
Manager Development Assessment Services

ATTACHMENT 1

Ku-ring-gai Council's objection to SSD-78669234, Residential flat building with in-fill affordable housing at 27-29 Tryon Road, Lindfield

Urban Design and Planning issues:-

Summary:

- i. not compatible with the desired future character
- ii. failure to comply with SEPP (Housing) 2021 development standards for floor space ratio and landscaped area
- iii. overshadowing of neighbouring dwellings
- iv. inadequate setbacks, building separation and visual privacy
- v. impacts upon the development potential of adjoining sites
- vi. inadequate solar access to dwellings and inequitable solar access to affordable housing
- vii. inadequate deep soil zones
- viii. overshadowing from future neighbours

State Environmental Planning Policy (Housing) 2021

Aims

The aims of SEPP Housing 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 (see below with regard to gross floor area)(see APARTMENT DESIGN GUIDE below with regard to overshadowing, building separation and solar access).

Desired future character

SEPP Housing 20(3) 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' (emphasis added).

Whilst SEPP Planning Systems 2.10(1) states that 'Development control plans... do not apply to State significant development,' it is considered that development control plans are the primary documents that describe the desired future character of the area. This is because the Development Control Plan has shaped previous nearby neighbouring apartment developments that will remain and will also shape other future nearby neighbouring apartment developments which do not trigger State Significant Development status, both within and just outside the mapped Transport Oriented Development area. This also seems to be implicitly acknowledged by SEARs 1(dp1) which requires that, 'all relevant legislation, environmental planning instruments..., plans, policies, guidelines and planning circulars' be addressed (emphasis added), and SEARs 6(dp1) which requires demonstration of 'how the proposed built form (layout, height, bulk, scale, separation, setbacks, interface and articulation) addresses and responds to the context, site characteristics, streetscape and existing and future character of the locality' (emphasis added).

The future character for the site as envisaged under the exhibited TOD alternative scenario is a height of buildings development standard of 18.5m and a floor space ratio development standard of 1.3:1. The TOD alternative scenario is directly relevant to the likely future character of the area given that the NSW

Government has publicly supported the development of the TOD alternative scenario and that public exhibition has occurred. The TOD alternative includes a 50% deep soil landscaping control for residential development. Since the application of a similar control more than 20 years ago in 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.

Compatibility is usefully defined in the Land and Environment Court of NSW Planning Principle in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191 22-31. Project Venture states:

- i. *'the most apposite meaning (of "compatibility") in an urban design context is "capable of existing together in harmony."... It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as difference in these attributes increases, harmony is harder to achieve' (emphasis added).*
- ii. *'In order to test whether a proposal is compatible with its context, two questions should be asked — Are the proposal's physical impacts on surrounding development acceptable? (and)... Is the proposal's appearance in harmony with the buildings around it and the character of the street?'*
- iii. *'The physical impacts, such as... overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity' (see Apartment Design Guide below with regard to overshadowing and building separation).*
- iv. *'for a new development to be visually compatible with its context, it should contain or least respond to, the essential elements that make up the character of the surrounding urban environment... The most important contributor to urban character is the relationship of built form to surrounding space, a relationship created by building height, setbacks and landscaping' (emphasis added).*
- v. *'Landscaping is also an important contributor to urban character. In some areas landscape dominates buildings, in others buildings dominate the landscape. Where canopy trees define the character, new developments must provide opportunities for planting canopy trees.' (see Apartment Design Guide below with regard to deep soil zones).*

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

- i. 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.
- ii. The landscaped area for the development does not comply with the minimum requirements of SEPP (Housing) 2021.
- iii. The setbacks do not provide sufficient space for canopy tree planting in scale with the development.
- iv. Despite the height of the building being greater than all surrounding buildings, setbacks to boundaries are typically half that required by the Apartment Design Guide.
- v. The street setback of the development does not respond to the street setback of neighbouring buildings.
- vi. The development presents tall and flat side elevations with minimal architectural relief that are not characteristic of the locality, not driven by site constraints and that will be highly visible within the local area.
- vii. The proposal results in severe overshadowing impacts upon neighbouring buildings and the development potential of neighbouring sites.

Landscaped area

The EIS states that there is a total landscaped area of 1014.34m² (33.7%) which exceeds the 30% of the site area requirement of the SEPP (Housing) 2021 Chapter 2 Infill Affordable Housing. However, the Landscape Soil Depth Diagram indicates the total landscape areas as 779.12m² (25.8%), therefore compliance with the minimum landscape area requirement is not achieved.

Floor Space Ratio

The stated gross floor area is 9,786.72m² [DA-Q12D010D]. This is equivalent to a floor space ratio of 3.249:1 which would comply with the maximum floor space ratio of 3.25:1, however the gross floor area does not appear to be calculated correctly. Areas to check include: the thickness of walls to common vertical circulation such as lifts and stairs (where not external walls), the thickness of walls to risers, internal walls of areas used for plant/services with common lobbies and the thickness of some party walls between dwellings. The cumulative gross floor area of these features is likely to be significant. Any increase in gross floor area will mean that the proposal exceeds the maximum floor space ratio. If the maximum floor space ratio is exceeded, this will require a well-founded request to vary the development standard pursuant to Clause 4.6 of the Ku-ring-gai LEP.

Failure to meet Design Principles in Schedule 9 of the SEPP

Pursuant to Section 147 of State Environmental Planning Policy (Housing) 2021 (SEPP), 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:

- Design Principle 1: Context and neighbourhood character
- Design Principle 2: Built form and scale
- Design Principle 6: Amenity
- Design Principle 9: Aesthetics

Concerns with the following aspects of the proposal are raised:

1. Building massing

The building massing of the proposal is inconsistent with the following Design Principles in Schedule 9 of the SEPP:

Design Principle 1: Context and neighborhood character

- (1) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.*
- (2) Responding to context involves identifying the desirable elements of an area's existing or future character.*
- (3) Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*
 - (4) Consideration of local context is important for all sites, including sites in the following areas—*
 - (a) established areas,*
 - (b) areas undergoing change,*
 - (c) areas identified for change.*

Design Principle 2: Built form and scale

- (1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*
- (2) Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—*
 - (a) building alignments and proportions,*
 - (b) building type,*

- (c) building articulation,
- (d) the manipulation of building elements.

- (3) Appropriate built form—
 - (a) defines the public domain, and
 - (b) contributes to the character of streetscapes and parks, including their views and vistas, and
 - (c) provides internal amenity and outlook.

The proposed building massing of the RFB is not considered to be 'good design'. Inadequate consideration has been given to the established local context and the impact the proposal will have on it.

The development to the south-west (No. 9-25 Tryon Road) consists of a 3-5 storey RFB, located approximately 13m below the maximum ridge height of the proposed building envelope. No. 31 Tryon Road which adjoins the side (north-eastern) boundary of the development site and accommodates a 3 storey RFB located approximately 17m below the maximum ridge height of the development site. No. 20-22 Tryon Road, located to the north-west of the development site, consists of a 5 storey RFB. The properties to the rear (south-east) of the development site, located on Tryon Lane, are zoned R2 Low Density Residential and comprise of 1-2 storey residential dwellings. There are no buildings of the same height and scale of the proposal within the visual catchment of the development site.

The proposed massing of the RFB does not provide a well-considered visual transition between the development and the established buildings within the visual catchment of the site. Although a portion of the south-western façade of Building B is partially stepped in, it does not sufficiently mitigate the height difference, leading to dominant, abrupt and overwhelming bulk and scale impacts on neighbouring properties (**Figure 1**). Moreover, when viewed from the public domain, the development fails to establish a harmonious relationship which respects the existing local context while balancing the desired future character of the street and surrounding buildings through appropriate heights and built form, as outlined in Schedule 9 of the SEPP.

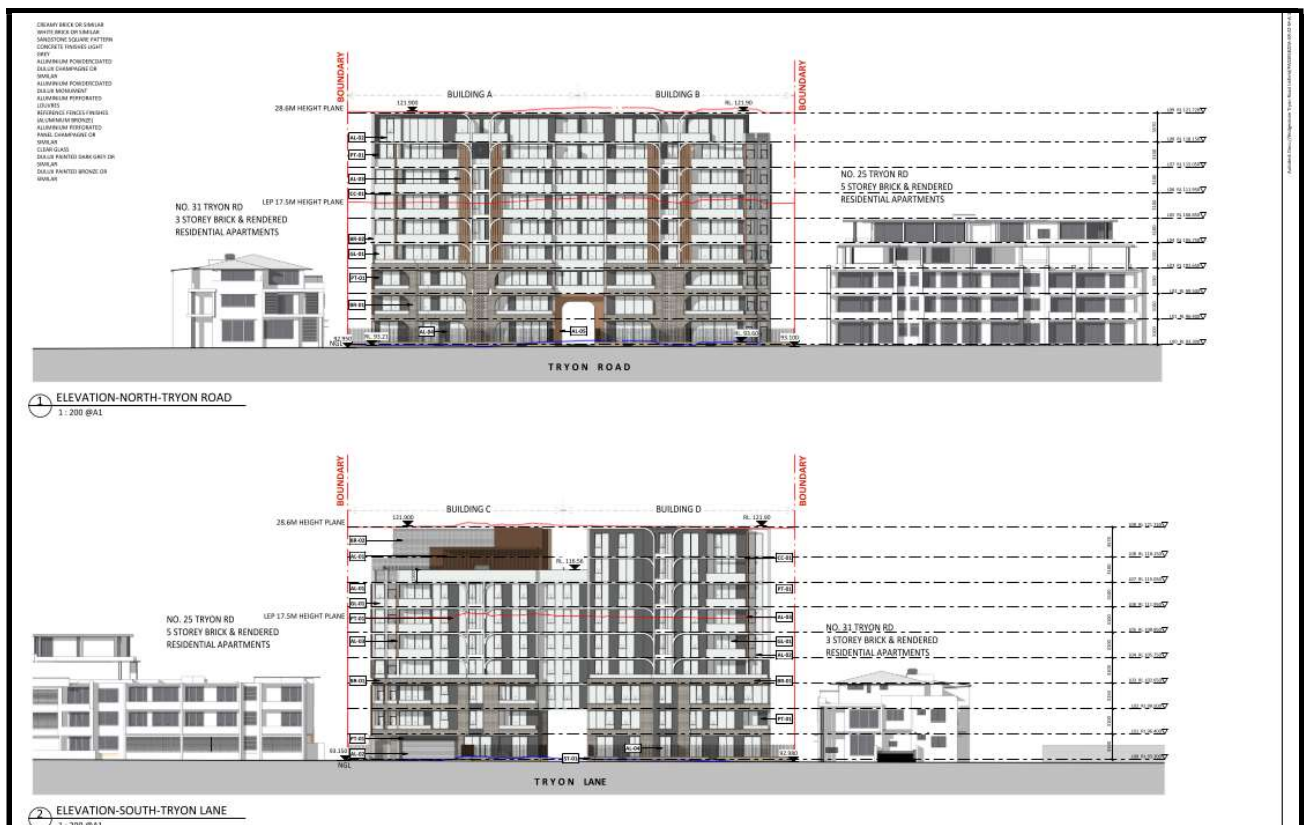


Figure 1 The proposed development results in an inappropriate height transition between the adjacent lower buildings

For the reasons above, the proposed building massing and insufficient side setbacks is not considered to be contextually appropriate. The proposal fails to meet:

- Design Principle 1 in Schedule 9 of the SEPP, which emphasises the importance of good design that respects the local context.
- Design Principle 2 in Schedule 9 of the SEPP, which emphasizes the importance of good design that respects the existing and desired future character of the street and surrounding buildings through appropriate heights and built form.

Significant design changes are recommended to ensure the proposal integrates into Ku-ring-gai's established character. Modifications should resolve issues relating to bulk and scale impacts to adjacent development of lower height and density as well as neighbouring heritage properties.

The front setback of the proposed 9 storey building should reflect and reinforce the character of the streetscape and provide sufficient space for the planting of substantial canopy trees. The front setback of Building A should be increased so that it is not less than the front setback of the adjoining 3 storey RFB.

Side and rear setbacks should comply with the requirements of the ADG.

The choice to provide side setbacks at typically half the requirement of the ADG does not reflect the existing character of the area or the desired future character. Minimal side setbacks in a building of substantially greater height than all neighbouring buildings results in a visually dominant built form incapable of existing in harmony with existing and future development. This impact is exacerbated by the tall and flat side elevations of the building that would be visually prominent within the streetscape and general locality due to their height and setbacks.

2. Adverse amenity impacts

Design Principle 6: Amenity

- (1) Good design positively influences internal and external amenity for residents and neighbours.*

Inadequate building separation

The proposal has many windows to habitable rooms and balconies with a building separation of only 3m from the western boundary from Ground Floor to Level 7 [DA-C120010 and DA-B1GRD10D to DA-B1L0710D]. This does not meet the requirements of ADG 3F-1 1 for a minimum building separation to the boundary of 6m for the first four storeys and a minimum of 9m for storeys five to eight. The proposal has windows to habitable rooms with a building separation of 6m from the western boundary at Level 8 [DA-C120010 and DA-B1L0810D]. This does not meet the requirements of ADG 3F-1 1 for a minimum building separation to the boundary of 12m for storeys nine and over.

It is noted that concerns regarding inadequate building separation were raised by the Department at pre-lodgement stage (pg 22 – Engagement Report by Hill PDA). SEARs 7(dp1) requires that visual privacy impacts to the surrounding locality be assessed and that 'a high level of environmental amenity for any surrounding residential land uses be demonstrated.' Providing half the required building separation is not demonstrative of a development that seeks to achieve a 'high level of environmental amenity'.

The proposal is considered to significantly 'borrow' amenity from the neighbouring site to the west at No. 9-25 Tryon Road, will overlook its communal and private open spaces, and is not considered to share building separation distances equitably between neighbouring sites as required by the ADG. Compliance with minimum ADG requirements is not unreasonable and should be achieved. Increased setbacks would

also reduce visual bulk and massing and provide a design character that better relates to the existing and desired future character of the area.

Inadequate privacy within the development

Direct lines of sight across internal corners and between neighbouring balconies will impact visual privacy between dwellings. This does not meet the following requirements of the ADG: 3F-1 1; 3F-1 6; 3F-2 5; Figure 3F.2; Figure 3F.4 and ADG 4E-2.

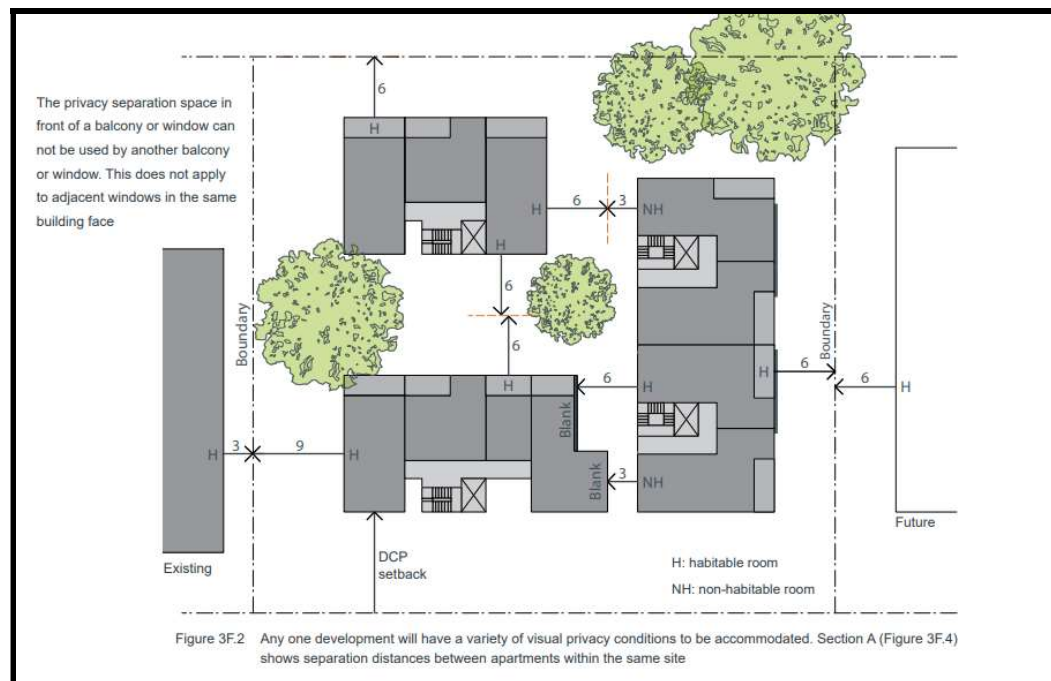
The Apartment Design Guide (ADG) requires:

Objective 3F-1

1. *Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:*

| Building height | Habitable rooms and balconies | Non-habitable rooms |
|-------------------------|-------------------------------|---------------------|
| up to 12m (4 storeys) | 6m | 3m |
| up to 25m (5-8 storeys) | 9m | 4.5m |
| over 25m (9+ storeys) | 12m | 6m |

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)



Objective 4E-2

Primary private open space and balconies are appropriately located to enhance liveability for residents.

Most of the central balconies of Buildings A and B have a separation distance of approximately 3.5m from bedroom windows, 5.5m from adjoining living rooms and 2m from balconies of the adjacent apartments. The inadequate separation coupled with the lack of privacy measures results in adverse overlooking and amenity impacts to the habitable rooms of the adjacent apartments (**Figures 2 & 3**).

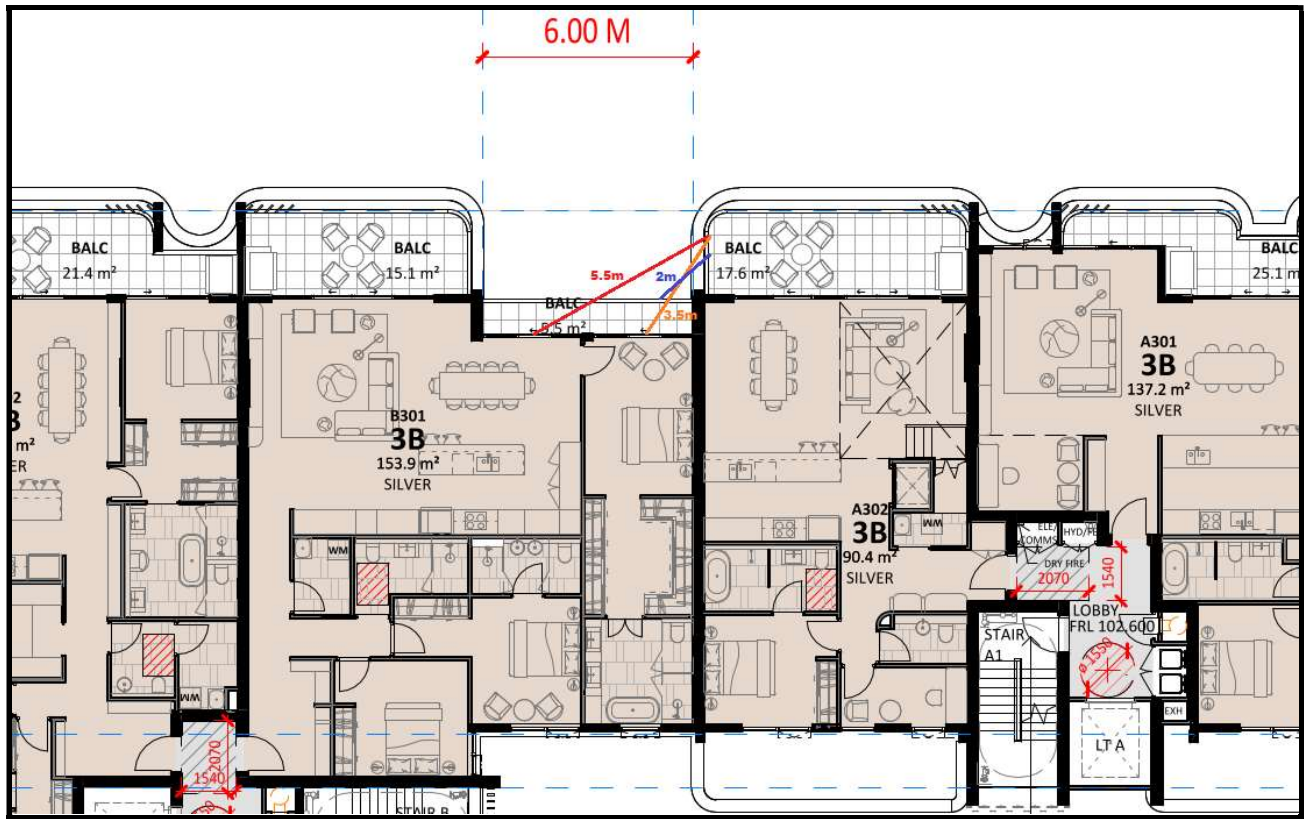


Figure 2 inadequate privacy measures between central balconies and habitable rooms of Buildings A and B (plan view)



Figure 3 inadequate privacy measures between central balconies and habitable rooms of Buildings A and B (elevation view)

The balcony design from Level 2 to Level 7 of Buildings C and D detail non-compliant separation of 6m, when 9 to 12m is required (ADG 3F-1 1). No privacy measures have been incorporated into the design, allowing direct overlooking. (Figures 4 & 5).

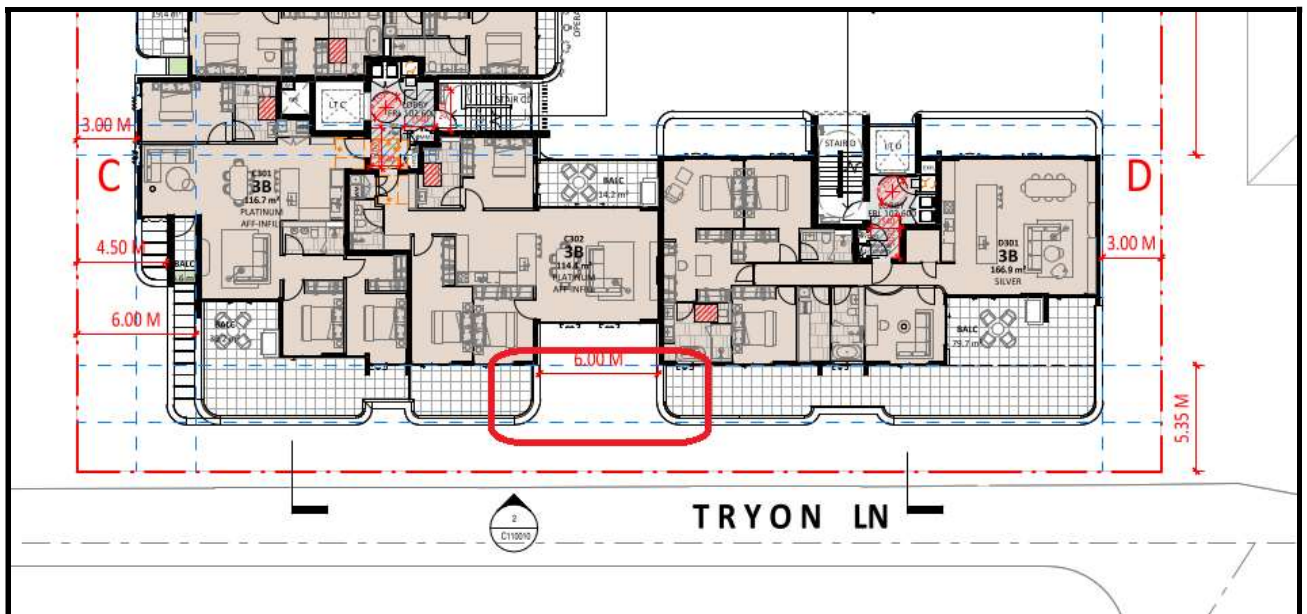


Figure 4 inadequate privacy measures between adjoining balconies of Buildings C and D (plan view)



Figure 5 inadequate privacy measures between adjoining balconies of Buildings C and D (elevation view)

Apartment Design Guide (ADG)

Overshadowing of neighbouring dwellings

The 'Solar Access Sun-eye Diagrams' provided [DA-Q14A120A to DA-Q14A126] show that the proposal will severely overshadow the private open space and swimming pool of the existing dwelling at No. 24 Russell Avenue. This does not meet the requirements of ADG 3B-2 1, ADG 3B-2 2, ADG 3B-2 4 or ADG 3B-2 5. SEARs 7(dp1) requires that solar access impacts to the surrounding locality be assessed and that 'a high level of environmental amenity for any surrounding residential... land uses be demonstrated.' A high level of environmental amenity is not demonstrated through a severe and avoidable impact on solar access to No. 24 Russell Avenue.

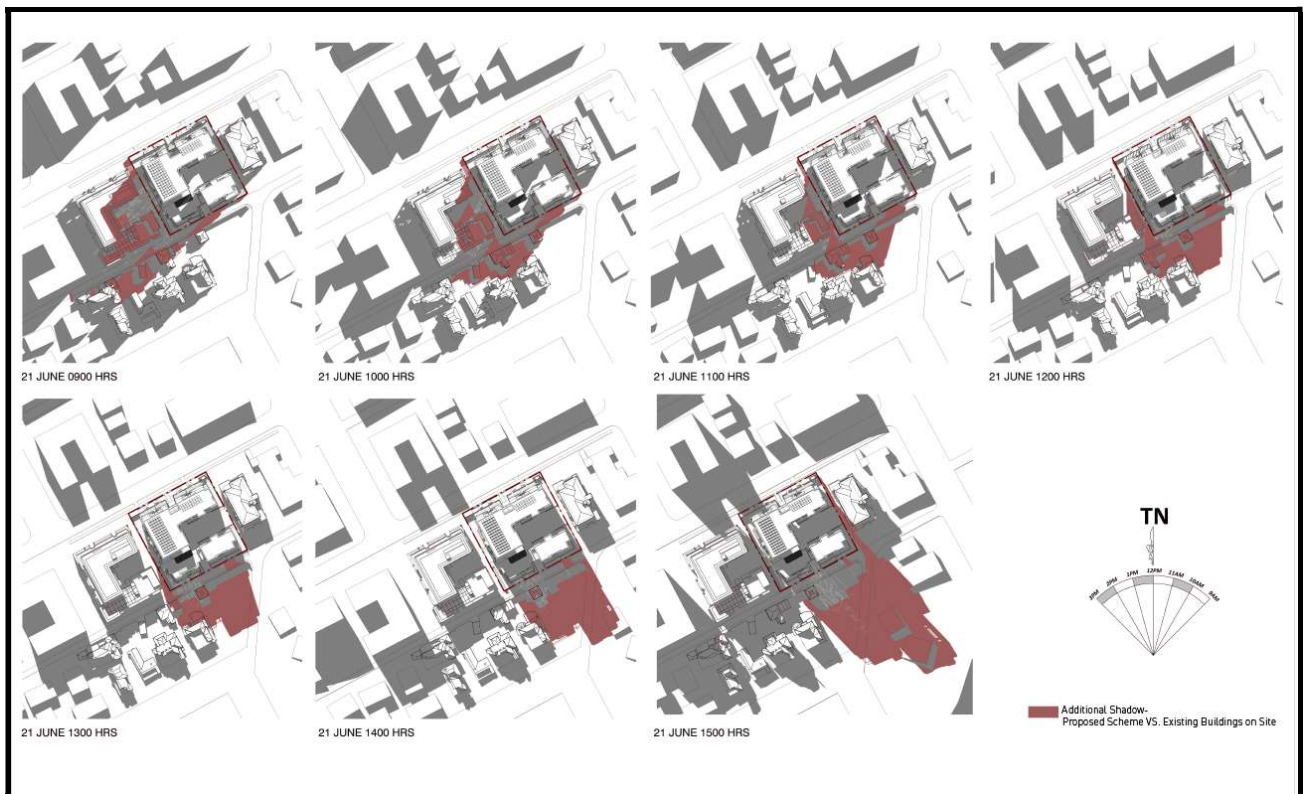


Figure 6 Significant adverse overshadowing of neighbouring properties as a result of the proposal

Impacts upon and from future development of adjoining sites

It is noted that No. 24 Russell Avenue to the south across Tryon Lane is also mapped as a Transport Oriented Development Site which will allow it to redevelop. No analysis appears to have been provided about the potential overshadowing impact of the proposal upon future development of these sites. Additionally, no analysis has been provided about the potential overshadowing impacts future development will have on the subject site.

Planning for solar access should not be on a 'first-in best-dressed' basis. Consideration should be given to ensuring that adequate solar access is available to future developments and that their development potential is not constrained. This aspect may not meet ADG 3B-2 1, ADG 3B-2 2, ADG 3B-2 4 and ADG 3B-2 5. 'Sun-eye Diagrams' should be produced with envelopes shown on neighbouring sites to demonstrate the potential overshadowing impact of the proposal on surrounding properties. Additional 'Sun-eye Diagrams' are also required which demonstrates the potential overshadowing impacts to the development site caused from future development on neighbouring properties. These 'Sun-eye Diagrams' should also compare the proposed development with a development where no bonuses were applied (SEARs 7(dp2)).

It is noted that the In-fill Affordable Housing Practice Note (p12-13) 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... The application of bonuses does not affect the consent authority's responsibility to consider the requirements of relevant EPIs (and) a development's likely impacts... in the case of solar access controls [including SEPP Housing itself as an EPI and its requirement to consider the ADG]... for preserving solar access to dwellings... the height and FSR bonus may not be achieved

in full where development would cause unreasonable overshadowing or would result in substantial reduction to the mid-winter solar access available to existing dwellings'

Due consideration should be given to this practice note advice in assessment.

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.

Amenity of common areas within the development

All proposed lift lobbies above the ground floor appear to be internalised other than for an open door to an open fire stair notated as 'Door remains open in normal mode, self close in fire mode' [DA-B1GRD10D to DA-B1L0710D]. If the detail of these doors or the fire stairs changes during further design development this may no longer meet the requirements of ADG 4F-1 4. Daylight and natural ventilation is an essential feature for amenity of these shared common spaces. It is suggested that a requirement along these lines be conditioned to prevent the lobbies becoming internalised later in the design process.

Population profile and facilities:

To improve the amenity of the development, the following matters should also be considered:

- Inclusion of 100% liveable housing as per the DCP percentages – KRG will have a continuing high ageing population that will downsize, and also to provide equity to disabled people looking for housing close to facilities.
- Inclusion of an onsite communal room for use by residents – this is important especially in providing a wheelchair accessible area enabling disabled visitors/residents to congregate and enable communal gatherings outside small units.

For the reasons above, the proposal in its current form fails to meet the following amenity Design Principles and ADG objectives:

- Design Principle 2 in Schedule 9 of the SEPP, which emphasizes the importance of good design that positively influences internal and external amenity for residents and neighbours.
- Objectives 3F-1 and 4E-2 of the ADG.

3. Bulk and scale impacts associated with the side facades

Design Principle 9: Aesthetics

- (1) *Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.*
- (2) *Good design uses a variety of materials, colours and textures.*
- (3) *The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

The façades of each building, which address the side boundaries, have not been adequately articulated to reduce the apparent building mass. The buildings result in significant adverse bulk and scale impacts when viewed from the adjoining properties (Nos. 9-25 and 31 Tryon Road) and the public domain (Tryon Road and Tryon Lane). Accordingly, the side facades of the buildings fail to meet Design Principle 9 in Schedule 9 of the SEPP, which emphasise that good design achieves a built form that has good proportions; uses a variety of materials, colours and finishes; and prioritizes the visual appearance of well-designed residential apartments developments which respond to and respect the local context, ensuring a visually aesthetic outcome.

To minimize bulk impacts and to ensure the proposal results in an appropriate built form for the site, significant design changes are required. In addition to stepping in the upper levels over the lower levels, consideration should be given to incorporating staggered wall planes, a combination of materials and finishes and decorative architectural elements. Avoid reflective materials and minimise glass as glare can impact neighbouring residents.

Landscaping issues:-

SEARs (Secretary's Environmental Assessment Requirements)

A full Planting Plan and Plant Schedule indicating location, quantity and pot size of proposed planting has not been provided which is contrary to the SEARs, ADG and KDCP requirements. Refer to comments below under 'Landscape design and character'.

BASIX COMMITMENTS

The area of proposed indigenous planting of 361m² is not indicated on the plans in accordance with the BASIX certificate requirements.

APARTMENT DESIGN GUIDE (ADG)

Part 3E Deep soil zones

Insufficient deep soil results in the loss of significant trees and a reduction in the landscape character and amenity. The deep soil requirement of the ADG of minimum 7% (210.79m²) has not been met as the plans incorrectly include areas less than 6m in width. The 6m setback to the northern front boundary is divided by a wall and therefore not 6m in width and the setback to the western boundary is less than 6m, resulting in only one area to the eastern boundary that meets the deep soil definition of approximately 110m² (3.65%). In addition, as the site is considerably larger than 1500m² with a number of significant trees, a larger area of deep soil of minimum 15% (451.7%) should be provided to retain trees and provide for adequate landscaping to boundaries and street frontage.

The 50% deep soil requirement of the KDCP is not achieved.

Part 4O-1 Landscape Design

For a site area of 3011.3m² with a minimum 15% deep soil a minimum 5 large or 10 medium trees are required and at 7% deep soil a minimum of 3 large trees or 6 medium trees are required in accordance with the ADG. In accordance with KDCP a minimum of 10 large trees capable of reaching 18m in height are required. As the plant schedule does not include any quantities and the planting plan also does not indicate location and species on plans, assessment of tree replenishment is unable to be measured.

Objective 4O-2 Landscape design contributes to the streetscape and amenity

The loss of significant trees to the frontage does not contribute to the streetscape and amenity.

Planting on structures soil depths and soil volumes

Landscape Plans are insufficient to fully assess if adequate soil depths are provided in planters for the proposed planting and in accordance with ADG and KDCP as no detailed Planting plan and schedule is provided indicating location and number of proposed species. Refer to comments under 'Landscape design and character'.

Tree removal and tree impacts

1. Deep soil zones and design layout of the basement does not retain significant trees and provide adequate clearance around trees in accordance with ADG and KDCP objectives to protect and enhance the value of trees. The following trees should be retained:
 - i. Tree 8 *Liquidambar styraciflua* (Liquidambar) 20m high, to front boundary to be retained to maintain streetscape character and amenity with design amendments to increase setback and relocate services.
 - ii. Tree 24 *Phoenix canarensis* (Canary Island Date Palm) 9m high, and Tree 23 *Cupressus* sp. 18m high, to the western boundary are to be retained as they provide significant screen planting and amenity to the neighbouring property and to the site and local area. Trees are located on the boundary and therefore can be retained with sufficient setback of basement and proposed works.
 - iii. Proposed walling and structures impact the tree to the northeastern corner within the neighbouring property. Neighbouring trees to be surveyed and assessed by Arborist so that the proposed excavation works and structures are outside of the structural root zone and less than 10% encroachment within the Tree Protection Zone (TPZ) of neighbouring trees.
2. A methodology for transplanting of Tree 11, 12 and 13 should be provided to ensure transplantation is viable. Methodology to include removal, protection, storage location for trees during construction, tree maintenance and planting procedures.
3. The EIS incorrectly states within the KDCP compliance table that 10 trees are to be retained when only 3 palms are proposed to be transplanted and all other trees on site are proposed to be removed.

Landscape design and character

1. A full Planting Plan and Plant Schedule indicating location, quantity and pot size of proposed planting has not been provided which is contrary to the SEARs, ADG and KDCP requirements. Without a full planting plan and complete plant schedule, assessment of the proposal is unable to fully assess the following:
 - i. adequate screen planting to boundaries and between ground floor units and private open space.
 - ii. adequate tree canopy coverage as planters will restrict species selection to small trees only or shrubs. Trees are to be planted in all setback areas.
 - iii. suitable planting densities and species including BASIX planting requirements
 - iv. adequate soil depths provided in planters for the proposed planting and in accordance with ADG and KDCP.
2. Planters against Unit A002 are above the floor level, and it is recommended that additional planter walling is provided against wall of unit to reduce moisture issues.
3. The existing ground levels have not been maintained to within 2m of boundaries with the extension of the basement to the boundary rather than within the footprint of the proposed building, contrary

to the ADG and KDCP. This results in planters to boundaries rather than deep soil which restricts the height of proposed planting to boundaries and reduces the long-term viability of the planting due to the restricted soil area and reliance on irrigation. The extension of the basement to the side boundaries and proposed planter walling will also detrimentally impact existing planting to boundaries on the neighbouring properties.

4. Landscaping to the southern boundary is minimal with the proposed driveway and on grade service area and to the east of the driveway planters that are only predominantly 650mm wide. The lack of planting area within the rear setback is insufficient to provide adequate landscape amenity and is inconsistent with the neighbouring properties.
5. Supplementary street tree planting should be included as the public domain is central to the setting of the site and the provision of a consistent approach to the public domain. The trees will contribute to the lowering of heat island effects by shading roads and footpaths.

Engineering issues:-

Water Management

The proposal is not supported by sufficient information confirming that stormwater is appropriately controlled in accordance with Part 24 of the KDCP. The following information is required:

1. The stormwater plans show all roof areas to be collected and conveyed to a combined detention and retention tank of 110m³ located within the lower ground floor area. The design PSD of 39 L/sec is too high to discharge directly to the adjacent kerb and gutter. As such, a direct connection to Council's underground drainage system will be required. To achieve this, the outlet from the OSD tank will need to connect into a new kerb inlet pit at the site frontage on Tryon Road. From here, a new 375mm RCP pipe under the road pavement and connecting into the existing kerb inlet pit in Nelson Street will be required. The works with the road will require an application to Council for approval under the Roads Act 1993. A condition outlining the requirements for an application under the Roads Act 1993 can be provided to the Department on request.
2. Civil plans to show plan view of the 375mm pipe within the road reserve to Council's trunk 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.
3. No supporting hydraulic calculations to demonstrate compliance with Part 24C.3-4 of the Ku-ring-gai DCP that requires rainwater retention and re-use to be provided to achieve a 50% reduction in runoff days have been provided. A water balance model is required to be submitted.
4. Clarification is required as to the purpose of the proposed rainwater tank given that a retention component would also be required.
5. Stormwater plans to clearly show OSD and OSR volumes.
6. No stormwater disposal system has been submitted for the basement level, this is required.
7. A pump-out tank within the basement is to be provided and designed for the 100-year 2 hour storm as required under Part 24B.5 of the Ku-ring-gai DCP.
8. Supporting calculations for the pump-out pit based on the 100-year 2 hour storm is to be submitted.

9. Stormwater design should show the rising main from the pump-out tank directed to the on-site detention tank.
10. The invert level of Council's existing kerb inlet pit to which connection is proposed needs to be verified by a registered surveyor.
11. Details of the proposed kerb inlet pit in Tryon Road including surface and invert levels are required to be provided.
12. Invert levels and surface levels of all stormwater pits within the site are required.

Car park design

The following additional information regarding the design of the car parking areas is required:

1. No driveway longitudinal section starting from the centreline of the public road to the ground floor carpark entry has been submitted. The driveway gradient of 5% for the first 6m as per AS2890.1:2004 is to be demonstrated as well as confirming that a maximum 20% grade along the driveway access is not exceeded as per the requirements of Part 23.7 of the Ku-ring-gai DCP.
2. 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.
3. Sight triangles are to be shown on the ingress and egress side of the driveway, at the property boundary demonstrating compliance with Figure 3.3 of AS2890.1:2004.

Waste Management

1. Demonstrate the required number of bins in accordance with Part 25 of the KDCP.
2. A longitudinal section is to be submitted demonstrating that a clear head height of 2.6m and throughout the basement carpark for Council's waste collection vehicle along the path of travel (as informed by the swept path analysis) can be provided.

Heritage issues:-

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.

The guide outlines the steps needed to ensure our heritage places are conserved, maintained and enhanced through good design, while realising good development outcomes.

Low and Mid-Rise Policy

The secretary of the Department of Planning and Infrastructure stated in publicly available correspondence to Members of Parliament that Clause 5.10 of a Standard Instrument style LEP continues to apply to development made under the provisions of SEPP (Housing) 2021 and must be considered in the assessment of those applications.

PROPOSED DEVELOPMENT

The proposed development will have an unacceptable impact on three heritage items, (including a state item) and three heritage conservation areas in the vicinity of the site. Refer to the location of these and their statements of significance in Appendix A of this submission.

(1) Demolition of existing buildings at No. 27-29 Tryon Road, Lindfield

The proposed works will result in the removal of both former dwellings currently located at Nos. 27-29 Tryon Road, Lindfield.

No. 27 Tryon Road is not a representative example of aged care facilities constructed during a similar period, because of the numerous subsequent changes made to the building, including the demolition and reconstruction of the building's northern elevation.

The HIS by City Plan states, *"29 Tryon Road is a representative example of a California Bungalow style dwelling constructed during the Federation era. It demonstrates architectural and aesthetic qualities typical of the style, as demonstrated by its form, materiality, detailing and landscaped garden setting."* An archival recording is recommended before demolition begins.

(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.

Poor Streetscape Relationship

The setting of Tryon Road is characterised by a mix of earlier Federation, Interwar and Postwar period housing, mainly contained to the surrounding Heritage Conservation Areas. The portion of Tryon Road where the subject site is located is characterised by mid-rise residential flat buildings.

Inappropriate setting for the Church

The subject site is located in the vicinity of a number of heritage items, including the Tryon Road Korean Church - SHR no. 01672, which is listed as a State Heritage item under the Heritage Act 1977. Views to the historic building (church) at the intersection of Tryon Road and Nelson Road Lindfield, which is its key view corridor, will be adversely changed as there will be a backdrop of a large 9 storey high building. Views west from Tryon Road to the historic church will also be adversely affected due to the height and size of a large 9 storey building.

Inappropriate setting for the Heritage items in the vicinity

The site is also located directly north of a local heritage item, dwelling house at No. 22 Russell Avenue and north-west of a local heritage item, dwelling house at 3 Valley Road Lindfield.

Views to the dwelling House (No. 22 Russell Ave) looking northwards will be adversely impacted as the proposed development will be clearly visible behind the form of the heritage item.

Inappropriate setting for the Heritage Conservation Areas in the vicinity

There will also be views of the proposed development from the heritage conservation areas in the vicinity that are primarily 1-2 storeys in height.

Irreversible impacts to the setting

The over-scaled development and loss of garden areas will adversely impact on the heritage items and HCAs heritage significance and will be irreversible.

(3) Inadequate setbacks

The proposed 9 storey building does not respect the established pattern of built elements in the streetscape and the HCA in the vicinity as it is larger and taller than all the buildings in this part of the street and surrounding area.

The proposed building has a sheer 9 storeys in height across the site and does not transition to the buildings on either side which are 4-5 storeys high. 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.

(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 is in the vicinity of several heritage items and conservation areas and does 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.

(5) Incompatible bulk-massing scale and form

Inconsistent Bulk

The proposed 9 storey development does not relate to the predominant scale (height, bulk, density) of the setting around it and will have an adverse impact on the heritage items and HCAs in the vicinity.

Large Scale

The overall scale of the proposed development is not in context with the streetscape, heritage items and HCAs 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 heritage items and heritage conservation areas in the vicinity because of the inconsistency with the existing low scale historic built form.

(6) Landscape loss

Loss of Trees to the street frontage

The loss of significant trees to the front of the proposed building will have an adverse impact on the heritage item (historic church) in the vicinity as it will change the leafy character of the street.

Loss of planting at rear and side setbacks

The lack of planting area within the proposed rear and side setbacks will have an adverse impact on the items and conservation areas in the vicinity as it does not provide adequate landscape amenity and is inconsistent with the neighbouring properties.

(7) Inappropriate form, details, materials and colours

Inconsistent Colours

The base of the proposed building will be constructed with a sandstone and pale brick material palette which appears to be too light and dominant in the streetscape. A darker earthy colour would be more appropriate with the use of a lighter colour for the upper floors.

Incompatible Building Form

The curved forms and proportions of the proposed development will be obtrusive in the streetscape and will have an adverse impact on the heritage items and HCAs in the vicinity.

APPENDIX A

27-29 Tryon Road, Lindfield - (SSD-78669234)



Figure 2. Aerial map of the subject site (shaded red). (Source: NSW Spatial Digital Twin Map Viewer)

Figure1. Site Plan from Statement of Heritage Impact by City Plan.

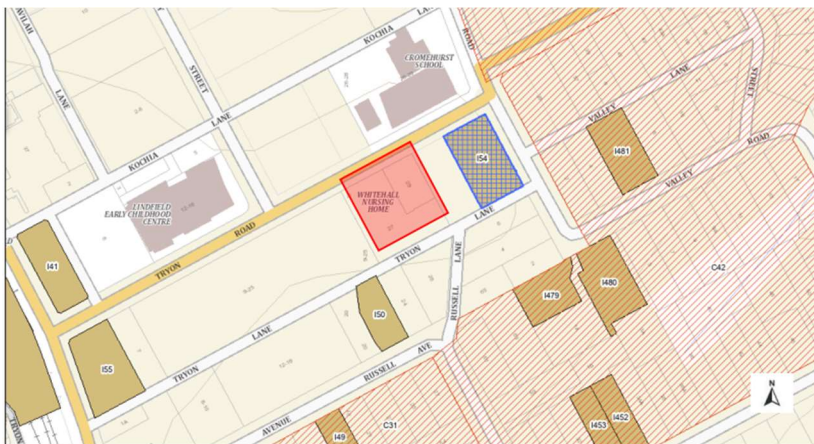


Figure 3. Heritage map showing the subject site (shaded red) within its current heritage context. (Source: NSW Planning Portal Spatial Viewer)

Figure 2 Heritage Map from Statement of Heritage Impact by City Plan.

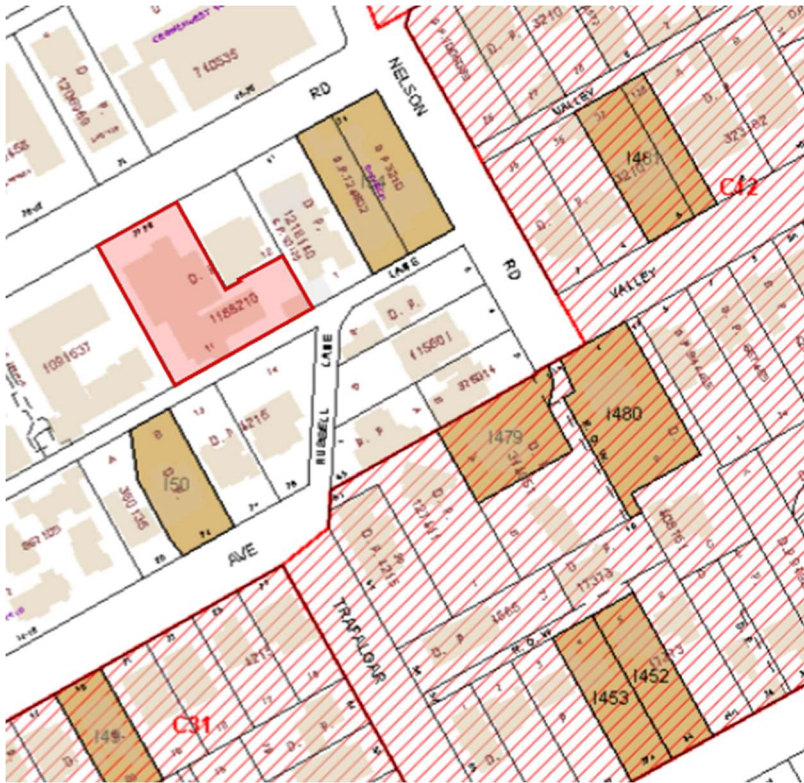


Figure 3. Geocortex Map Ku-ring-gai Council showing heritage items and HCAs in the vicinity of the site.

The proposed development at 27-29 Tryon Road will be in the vicinity of the following;

- 33 Tryon Road, Lindfield (Sydney Korean Community Church) State Listed
- 22 Russell Ave, Lindfield (dwelling house) Local Listing
- 3 Valley Road, Lindfield (dwelling house) Local Listing
- Crown Blocks Conservation Area, C22
- Trafalgar Avenue Conservation Area, C31
- Middle Harbour Road, Lindfield Conservation Area, C42

HERITAGE ITEMS IN THE VICINITY OF THE SITE – STATEMENTS OF SIGNIFICANCE

33 Tryon Road, Lindfield



Figure 2. Front entry elevation on 33 Tryon Road, Lindfield Sydney Korean Community Church



Figure 2. Front entry elevation on 33 Tryon Road, Lindfield Sydney Korean Community Church

33 Tryon Road, Lindfield (Tryon Road Korean Church) (NSW state inventory form Updated on 28/11/24)

The Tryon Road Uniting Church, constructed in 1914 in the Federation Gothic style with Arts & Crafts influences, is of aesthetic significance at the State level. Externally and internally, the church complex is an unspoiled instance of Australian Edwardian design.

Harmonious furnishings and stained glass from distinguished Sydney firms contribute to a beautiful interior and enhance its Arts & Crafts design. The organ has historic, social and technical significance at State level. It comprises pipework from an early Irish organ used at St Mary's Cathedral, Sydney, in 1839, purchased for the Wesleyan Church first in Macquarie Street and later York Street; it was rebuilt and enlarged at different times by the important Sydney builders Charles Jackson and William Davidson and the great Melbourne firm of George Fincham & Sons. It is a rare instrument with unusual size and power, and interesting tonal character. The organ case is of cedar and possesses unusually high-quality design and workmanship. It has recently been restored to its Macquarie Street glory.

The complex comprises church and hall and is of local significance for its social associations with Lindfield from the early years of the suburb to the present time. It is a rare instance of church premises designed by the Roseville architect William Slade, who also designed the Roseville Uniting Church, and many other local buildings in the late nineteenth and early twentieth centuries.

The item is of local heritage significance in terms of its historical, aesthetic/technical, social and rarity value. This satisfies five of the Heritage Council criteria of local heritage significance for local listing.

The church is a rare example of a pre World War I church and hall complex, including all ancillary facilities, being constructed all at one time and within one building. It is also a rare example of Federation Gothic church with high quality Arts and Craft and Art Nouveau detailing.

22 Russell Avenue, Lindfield



Front Elevation 3 Valley Road, Lindfield

22 Russell Avenue, Lindfield (NSW state inventory form Updated on 2/6/25)

The property is significant as part of the residential development of the suburb of Lindfield during the first decade of the twentieth century when the subdivision and consolidation of the large holdings in the area was at its peak. Although having undergone some modifications to the original building, the house remains largely intact externally with its original Federation Period Arts and Crafts stylistic detailing. The building is a prominent element located on its large site and makes a contribution to the character of the immediate area.

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.

3 Valley Road, Lindfield



Front Elevation 3 Valley Road, Lindfield

3 Valley Road, Lindfield (NSW state inventory form Updated on 2/6/25)

The property has historic significance as part of the early residential development of the suburb of Lindfield when the subdivision of the large holdings in the area was at its peak. Although having undergone some modifications to the original building, the house has aesthetic significance for the age and largely intact original Federation Arts and Craft stylistic detailing.

The mature gardens at the front of the house and the complimentary picket fence contribute 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.

CONSERVATION AREAS IN THE VICINITY OF THE SITE – STATEMENTS OF SIGNIFICANCE

Crown Blocks Conservation Area, C22

Historically, the area represents the fine residential development of Killara during the nineteenth and twentieth centuries. The area is of local historic and aesthetic significance as a good and largely intact residential precinct characterised by streetscapes of good, high-quality examples of single detached houses from the Federation, inter-war and post-war periods. The built context is enhanced by large garden settings, wide street proportions, street plantings and remnant and planted native trees and reserve areas which are synonymous with the Ku-ring-gai area.

Killara Park, Swains Gardens and various reserves in and around the area contribute to the aesthetic character and social significance of the area. The blocks are located about streets generally formed by neighbouring early grant boundaries, estates and suburban subdivision. The current layout and pattern of development represents the late nineteenth and early to mid-twentieth century development of the area. The predominant early twentieth century development of the area also reflects the evolution of rail and road networks and particularly improvements of the rail network in the late 1920s and early 1930s. Some land consolidation and creation of larger blocks and subdivision and creation of residential blocks has also occurred in the area. Despite these changes the area significantly retains a streetscape pattern characterised by single detached houses and emphasis on residential development and retention of natural and recreational areas.

The area 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.

Trafalgar Avenue Conservation Area, C31

Historically, the area represents the residential development of Lindfield during the nineteenth and twentieth centuries. The construction of the North Shore rail line in 1890 brought about the subdivision of the Clanville Estate to create the Lindfield Grove, Fowler and Bothwell Estates, parts of which form the conservation area.

The area is a largely intact residential precinct of the Federation period, which developed alongside the railway. It includes houses in a variety of styles, dating from the 1900s to the 1920s. Mature trees on public and private land (including remnant native trees) are an integral part of the character of the area.

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.

Middle Harbour Road, Lindfield Conservation Area, C42

Historically, the area represents the fine residential development of Lindfield during the nineteenth and twentieth centuries. The area provides evidence of the 1819 land grant to Daniel Dering Mathew, known as "Clanville", and the subsequent subdivision of this grant. This subdivision demonstrates the development resulting from the construction of the North Shore rail line at the end of the nineteenth century.

The Middle Harbour Road Lindfield Conservation Area is of historic and aesthetic significance as a good and largely intact residential precinct characterized by streetscapes of good, high-quality examples of single detached houses primarily from the Federation and interwar periods with some good examples of mid to late twentieth century dwellings.