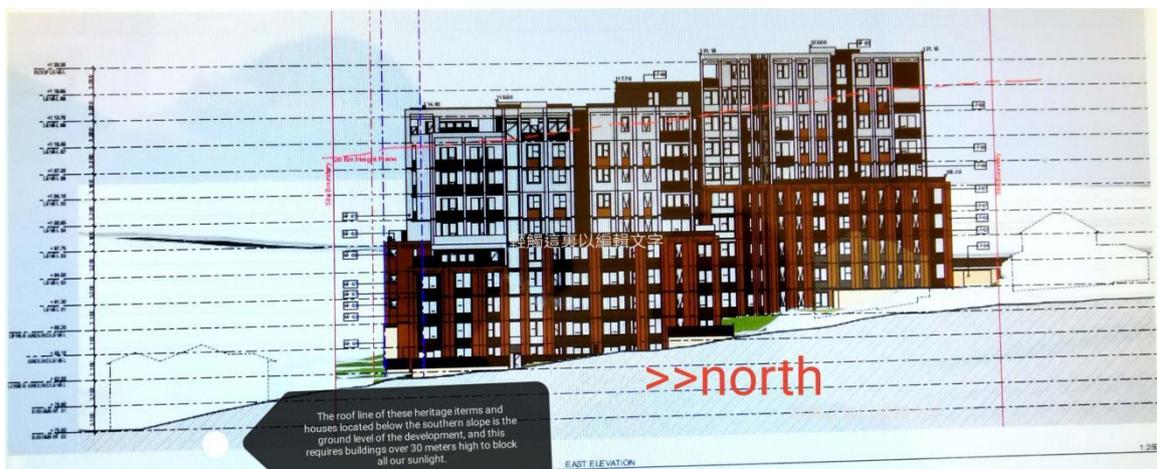


The heritage properties and houses located at the lowest point of Middle Harbour Rd will be blocked directly sunlight from the north ,east ,west all day by the proposed develop large building (over 30 meters high and over 100 meters wide) located at the north highest point. The reasons why I strongly oppose this development plan are as follows:



## 1. Non-Compliant Shadow Impacts

**Source Document:** Clause 4.6 (Appendix P )Report Fig.6 (Solar Study)

**Critical Flaw:**

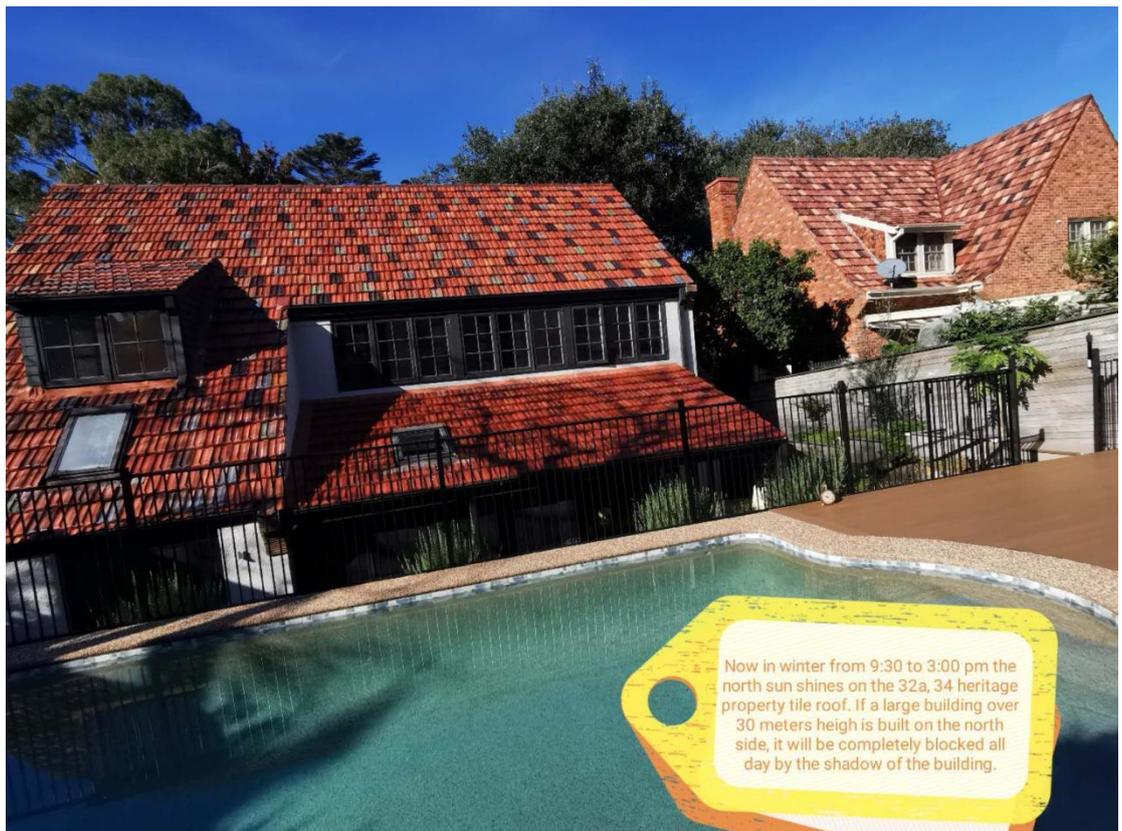
- a) Analysis only covers June 21 (day before winter solstice), ignoring year-worst scenario (June 22 solar altitude 0.5° lower).
- b) Simply mentioning that sunlight reaches the house, deliberately avoiding the regulatory requirement of “direct sunlight between 9am and 3pm on 21st June is to be maintained to the living rooms, primary private open spaces and any communal open spaces”

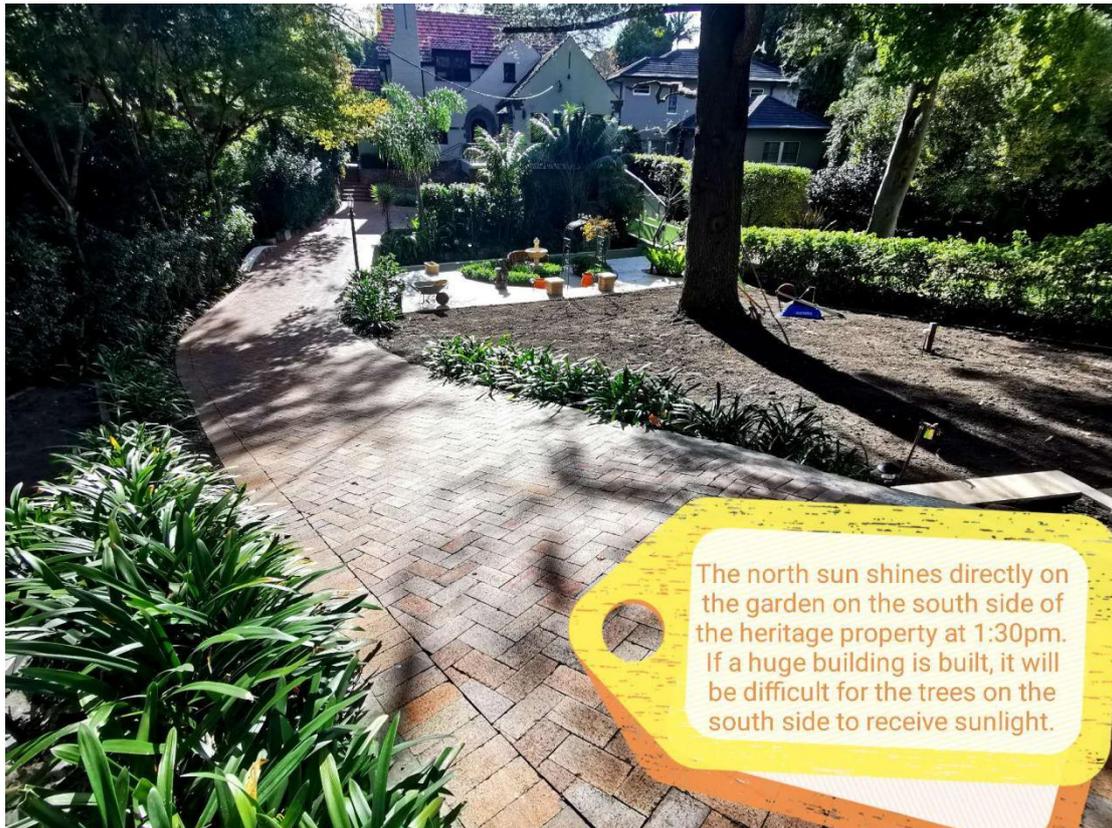
**Quantitative Proof:**

Recalculation using developer’ s data: Direct sunlight at 34 living rooms drops from 6 hours to less than 1 hour in winter. The main north-facing living space of 55 Trafalgar Ave,30,32,32A Middle Harbour Rd completely loses direct sunlight from 9 am.

**Legal Breach:**

- i )SEPP (Sustainable Buildings) 2022 Clause 4.3 (3-hour minimum).
- ii )Ku-ring-gai Development Control Plan ( Hereinafter referred to as“KDCP”) 7A.2 Site Layout [ Controls ] 10 ( 3-hours minimum).





## 2. Non-compliant building setbacks

**Source Document:** Architecture Plans (Appendix B)

### **Evidence:**

The proposed development is located upslope (the vertical drop exceeds ten meters). In particular, the Ground Floor on the south side of The proposed development is at least 2 meters higher than the Ground Floor of the buildings along Middle Harbor Road, and is adjacent to two Heritage Items (32A & 34 Middle Harbor Road), with a setback of only 9.2 meters.

### **Legal Breach:**

- i ) “KDCP” 7A.3 Building Setbacks [Controls] 10 {greater setbacks may be required where the residential flat building is located upslope from a lower density zone (see *Figure 7A.3-5*)}.
- ii ) “KDCP” 19D.2 Setbacks And Building Separation [Controls 1].
- iii ) “KDCP 2024” Figure 19D.2-1

## 19D.2 SETBACKS AND BUILDING SEPARATION

### Objectives

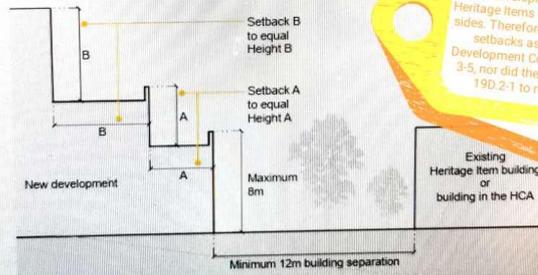
- 1 To ensure new work to heritage items respects and contributes to character of the heritage item.
- 2 To ensure new development provides an interface of scale and bulk to preserve the amenity to the significant elements within the heritage curtilage.
- 3 To ensure new medium density development does not visually dominate the Heritage Item, where this type of development is considered appropriate.
- 4 The setbacks between an HCA or heritage item and any new building higher than one level is to be 12m.
- 5 The setback between a heritage item and a single storey residential dwelling addition or new build is to be a minimum of 6m.

### Controls

- 1 In addition to the side and rear setback controls in Section A of this DCP, new development on the site of a Heritage Item is to comply with the following:
  - i) building separation requirements to the nearest Heritage Item building element.

New Development Height	Building Separation Requirement
1 or 2 Levels	Minimum 6m
3 or more Levels	Minimum 12m

- ii) new adjacent development is not to exceed a façade height of 8m from existing ground level, including balustrades;
- iii) where new adjacent development has a façade height above 8m high from existing ground level, the façade is to be stepped back to provide additional building separation in accordance with Figure 19D.2 -1.



The development project is adjacent to Heritage items on the north, east and south sides. Therefore, they did not make greater setbacks as required by Ku-ming gai Development Control Plan 2024 Figure 7A 3-5, nor did they follow the provisions of 19D.2-1 to make further setbacks.

(see Figure 7A.3-1).

### Side and rear setbacks at a zone interface

- 9 Setbacks are to respond to the attributes identified in the site analysis, conducted as required by Section A Part 2 Site Analysis of this DCP, including consideration of the location of adjoining buildings and views of the site.
- 10 Residential flat buildings are to provide the following side and rear setbacks to land which is zoned differently for lower density residential development:
  - i) a minimum of 9m from the side and rear boundary up to the fourth storey (see Figure 7A.3-4);
  - ii) a minimum of 12m from the side and rear boundary for the fifth storey and above (see Figure 7A.3-4);
  - iii) greater setbacks may be required where the residential flat building is located upslope from a lower density zone (see Figure 7A.3-5)

### Encroachments

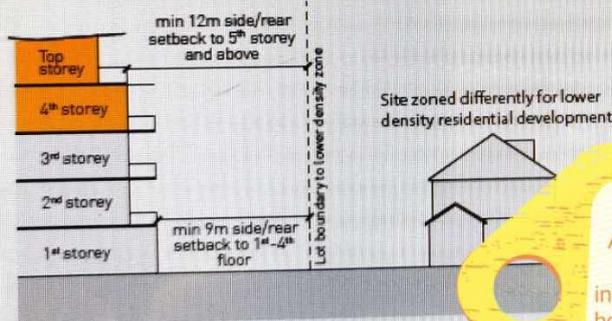


Figure 7A.3-4: Sites adjoining lower density zones

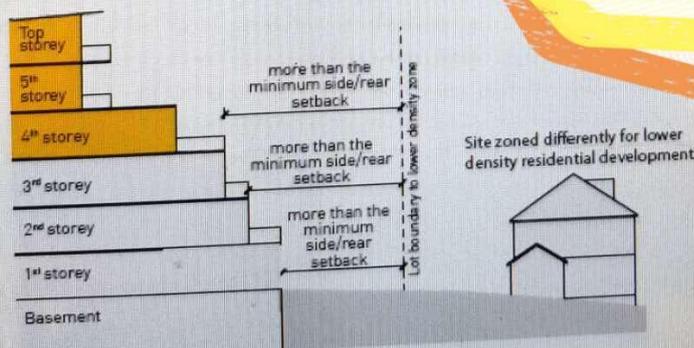


Figure 7A.3-5: On steep sites adjoining lower density zones, setbacks may need to be more generous.

According to the regulations here, the developer's design is completely inconsistent with the regulations. All our heritage properties are downhill, and the development buildings should be set back a certain distance on each floor.

### 3. Unacceptable Heritage Impacts

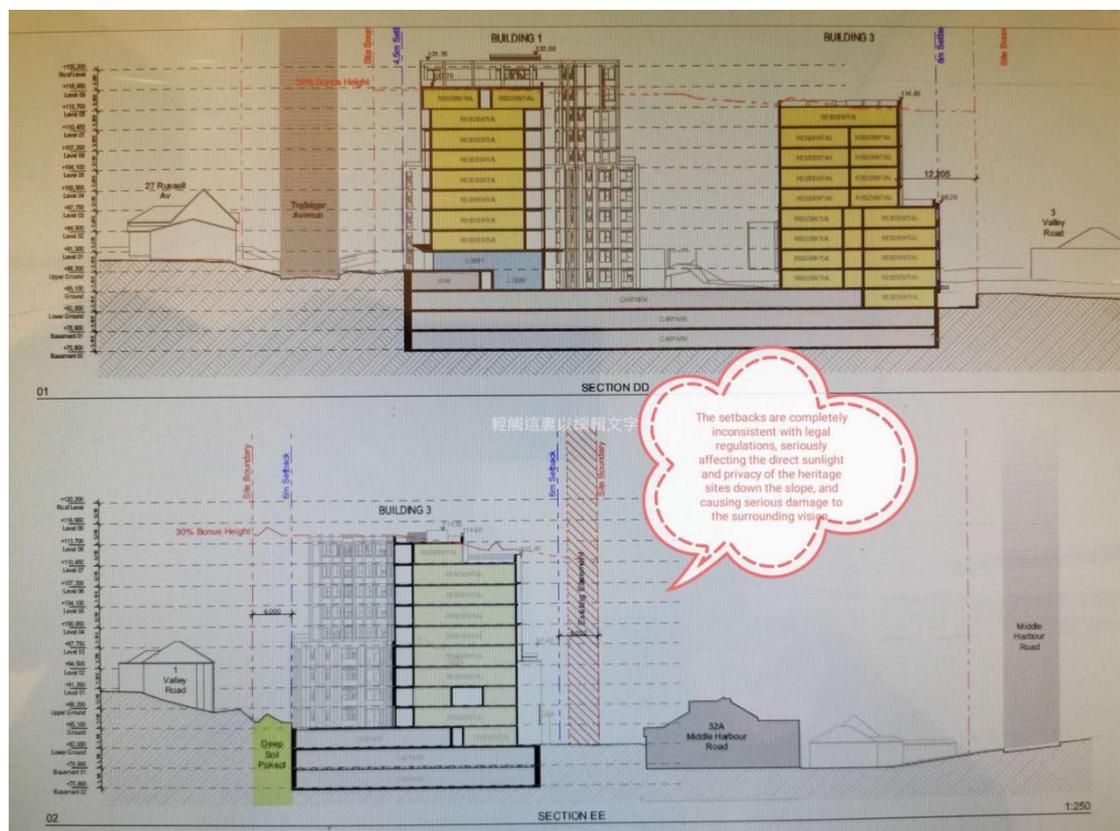
**Source Document:** HIS(Appendix J) & Clause 4.6 (Appendix P) Report Fig.4

#### **Impact Summary:**

The entire text of HIS (Appendix J) contains no statement at all about the impact of reducing the impact on Heritage Items 32A (1453) & 34 (1452) Middle Harbor Rd. In fact, the negative impact of the proposed development on the above two Heritage Items is devastating in all aspects. The proposed development deliberately avoids this major impact issue.

#### **Legal Breaches:**

- i ) KLEP 2015 s5.10(4): "Must consider effect on heritage significance."
- ii ) Australia ICOMOS Burra Charter 2013 Principle 6: New development must not dominate heritage setting.
- iii ) "KDCP" 19F.1 LOCAL CHARACTER AND STREETScape [Controls 4"Views"]
- iv ) "KDCP" 19A.2 Subdivision And Site Consolidation Of a Heritage Item [Objectives 5]



#### 4、 A serious violation of the privacy rights of the original residents

##### Impact Summary:

The minimum clearance height of the proposed development (From ground level) exceeds 30 meters. The proposed development is located upslope (the vertical drop exceeds ten meters), and the building setback does not comply with relevant legal requirements. The proposed development is like a giant lookout overlooking the Neighboring dwellings from an almost vertical perspective. Even tall trees cannot block this almost vertical view. The main living and private spaces of the original residents around the proposed development (including but not limited to living rooms, pools, and bedrooms) can be overlooked by others at any time, and their personal privacy rights have been seriously violated.



#### 5. Structural Damage Risks to Heritage Roofs

**Source Document:** Clause 4.6 (Appendix P) Report Sect.6.1

##### Evidence:

33m excavation depth on 11.5m sloped land (Scoping Report Sect.4.3.3) with no slope stability report.

##### Legal Standard:

\*AS 2870-2011\* requires 3x-depth shoring for adjacent slopes  $>10^\circ$  (99m here). Not provided.

##### Heritage Impact:

Vibrations will damage original tile roofs of heritage item 1452 (34 Middle Harbour Rd), breaching Burra Charter 2013 Guideline (vibration limit  $<5\text{mm/s}$ ).

## 6. Destruction of Protected Blue Gum Trees

**Source Document:** Landscaping Plan (Appendix L) & Scoping Report Sect.4.3.2

**Evidence:**

Landscape plan designates "Tree 57 (Eucalyptus saligna – Sydney Blue Gum)" for retention.

Building 3's foundation (Concept Plan Fig.8) directly overlaps Tree 57, constituting false representation.

**Legal Breach:**

Removal breaches *Biodiversity Conservation Act 2016 Schedule 1* and \*Ku-ring-gai DCP 2023 C4.3\* (prohibits tree removal in conservation zones).

## 7. Noise Regulation Breaches

**Missing Assessment:**

No quantification of basement vent (24/7 operation) or waste compactor noise (absent in Scoping Report).

**Legal Limit:**

Nighttime noise at 34 bedroom windows must not exceed **35 dB(A)** (*NSW Industrial Noise Policy 2000*). Estimated noise  $\geq 60$  dB(A) from 15m distance.

## 8. Lindfield's existing infrastructure simply cannot support the needs of such a high-density community.

All public infrastructure in Lindfield (especially but not limited to water supply, power supply, natural gas supply, sewage treatment, etc.) are constructed in accordance with the R2 low-density area. Without any pre-capacity improvements, the proposed development will overwhelm Lindfield's public facilities and may even cause related public infrastructure to be damaged due to overloading.

## 9. Stormwater Flooding Risk

**Source Document:** Scoping Report Sect.4.3.4

**Proponent's Admission:**

"Aging stormwater infrastructure surrounds site" (p.6) with no upgrade plan.

**Hydrological Impact:**

21,675m<sup>2</sup> new impervious area increases runoff to 34 (\*Ku-ring-gai Flood Study 2022\*).

**Law breach**

Floodplain Development Manual 2005 "zero impact" principle.8.

10. It is not wise to build a large residential building around the creek. This project will increase the residential population by 500 people, and the

pollution to the Gordon creek can be imagined. Located highest develop project digs the ground to build foundations and huge garages, causing hidden dangers and damage to the surrounding properties and heritage houses below the slope and the Gordoncreek.

### **11. Traffic and parking will become serious problems**

**The proposed development has 220 units, 238 parking spaces, 500 residents and more vehicles will be parked on the roadside. By then, this area will see a large number of cars congesting the streets. Traffic that was originally smooth will become extremely congested.**





## 12. Property Devaluation

### Independent Evidence:

CBRE 2024 Study: High-rise developments adjacent to heritage zones cause **12-18% value loss**.

### Legal Precedent:

*Green v Parramatta Council [2020] NSWLEC 115* confirms devaluation is a "material planning consideration."

**13. We have right of way access behind our properties as provided under our titles and covenants. Under the proposed development we access will be limited as vehicular access will not be provided from what the developer has submitted. This is not acceptable to us, which we are 30,32,32a,34,34a,in Middle Harbour Rd,another affected properties. This lane has been historically been used by all of us and we must insist that any development must maintain vehicular access.**

### Demanded Actions

- 1.Reject the proposal under EP&A Act 1979 s4.15(1).
- 2.Mandate redesign to:
  - i ) Clear Easement E and preserve Tree 57
  - ii )Reduce height to R2 zoned limit (9.5m)
  - iii)Commission independent flood/noise reviews
- 3.Hold public hearing (EP&A Regulation 2021 s2.23).

\* Attached: Real photos of the Heritage property sunlight exposure and notes.