

818 Pacific Highway, Gordon NSW 2072

Locked Bag 1006 Gordon NSW 2072

T 02 9424 0000 F 02 9424 0001

DX 8703 Gordon TTY 133 677

E krg@krg.nsw.gov.au

W www.krg.nsw.gov.au

ABN 86 408 856 411



Contact: Raymond Law

Ref: SSD-79276958

03 June 2025

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

Via: NSW Major Projects Portal

Attention: Jasmine Tranquille

Dear Madam,

RE: SUBMISSION TO SSD-79276958 FOR RESIDENTIAL FLAT BUILDING WITH INFILL AFFORDABLE HOUSING

Thank you for the opportunity to comment on State Significant Development (SSD) application (SSD-79276958) for demolition of existing structures, tree removal and construction of a residential flat building, including infill affordable housing at 59 – 63 Trafalgar Avenue and 1A & 1B Valley 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. **Appendix A** (also attached) also forms part of this objection.

The main issue with this proposal is that the site is not included within Council's alternate Transport Orientated Development (TOD) boundaries. Section 20 (3) in Division 1, Chapter 2 of SEPP (Housing) 2021 is clear that **development consent must not be granted** to residential development unless it has considered compatibility with the desired future character. The desired future character, as envisaged by Council under the Alternate TOD Scenario, is for the site and the surrounding area on the eastern side of Trafalgar Avenue and the northern side of Middle Harbour Road to remain R2 Low Density Residential and retain the existing maximum building height of 9.5m and floor space ratio of 0.3:1 in order to preserve the heritage significance of the Middle Harbour Road Conservation Area, including nearby heritage items at No's 1 and 3 Valley Road, Lindfield. **Development consent must therefore not be granted to this proposed development as no consideration is given to Council's desired future character for this area.**

Other issues with the proposal include, but are not limited to, heritage impacts; building height; floor space ratio; inadequate building setbacks; overshadowing; landscaping and ecology impacts and engineering matters.

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

Please note that nearby residents provided objections direct to Council in response to the exhibition of this SSD. Council would be more than happy to provide copies of these objections to the Department.

Should you have any further enquiries, please contact Council's Senior Development Assessment Officer, Raymond Law on (02) 9424 0922.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'L. Donovan', written in black ink on a light gray dotted background.

Luke Donovan

A/ Team Leader Development Assessment

ATTACHMENT 1

Ku-ring-gai Council's objection to SSD-79276958 for demolition of existing structures, tree removal and construction of a residential flat building, including infill affordable housing at 59 – 63 Trafalgar Avenue and 1A & 1B Valley Road, Lindfield is outlined below.

A. COUNCIL'S ALTERNATIVE TRANSPORT ORIENTATED DEVELOPMENT (TOD) SCENARIO

The Alternative TOD Scenario is directly relevant to the proposal and the subject sites in quantum. This is because Council's alternative scenario for Lindfield excludes all of the proposed sites (59 – 63 Trafalgar Avenue and 1A & 1B Valley Road) from its alternative boundary. Under the Alternative TOD Scenario, the floor space ratio (FSR) and building height of the sites will be maintained as currently prescribed in the Ku-ring-gai Local Environmental Plan 2015 (KLEP).

Figure 1 below outlines the significant differences between the current TOD standards and the potential future TOD standards - :

Non-Discretionary Development Standard:	KLEP 2015 ("Potential Future TOD Standards"):	Current: ("Current TOD Standards")	Proposed:	Difference:
Height of Buildings	9.50m	28.6m	33.07m	23.57m
Floor Space Ratio	0.3:1 (2,001.60sqm)	3.25:1	3.25:1 (21,684sqm)	2.95:1 (19,682.40sqm)

Figure 1 – Differences between the current TOD standards and the potential future TOD standards

If the Alternative TOD Scenario is incorporated into amending legislation the desired future character will become abundantly clear which is for the existing low density residential character of the area to retained (eastern side of Trafalgar Avenue, northern side of Middle Harbour Road and southern side of Valley Road). Section 20(3) of Division 1, Part 2 of SEPP (Housing) 2021 states the following –

- (3) *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—*
- (a) *the desirable elements of the character of the local area, or*
- (b) *for precincts undergoing transition—the desired future character of the precinct.*

Whilst Council accepts that compatibility does not mean "sameness", it is clear in **Figure 1** above that the proposed development is not in any way compatible with what Council currently envisages as its desired future character within this precinct. Development consent must therefore not be granted as no consideration is given to the desired future character of the area under this proposal.

B. DESIRED FUTURE CHARACTER – RETAIN HERITAGE SIGNIFICANCE OF THE AREA

As indicated above, development consent must not be granted to residential development unless consideration is given to when the proposed residential development is compatible with the desired elements of the character of the local area. The character of the local area is characterised by its heritage significance. The site is located within the 'Middle Harbour Road, Lindfield' (C42) heritage conservation area (HCA) and also directly adjoins the following 4 x local heritage items as prescribed in Schedule 5 of the KLEP:

- I452 – 34 Middle Harbour Road, Lindfield;
- I453 – 32A Middle Harbour Road, Lindfield;
- I479 – 1 Valley Road, Lindfield; and
- I480 – 3 Valley Road, Lindfield;

The bulk, scale, massing and overall design of the proposal is inappropriate and not compatible within the

The map shows a coastal area with several streets and lots. The streets visible are Market Street, Mission Street, and various streets along the waterfront. The lots are numbered, and the map is overlaid with a red hatched pattern, indicating a specific area of interest. The map includes lot numbers, street names, and a red hatched pattern covering a large portion of the area.

The existing contributory buildings on the site provides a significant contribution to the heritage character of Lindfield. The demolition of these buildings and the construction of the proposed building will fail to conserve the heritage significance of the heritage conservation area and the adjoining heritage items. This is discussed in further detail in **Section C** below.

Council's Heritage Advisor provides the following comments in relation to the proposal:

The heritage provisions of the KLEP 2015 under clause 5.10 set the objective “to conserve the environmental heritage of Ku-ring-gai”. A further objective set by the KLEP 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.

Transport Orientated Development

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

The proposal will result in the removal of five (5) existing dwellings currently located at 59, 61, 63

Trafalgar Road, Lindfield and 1A, 1B Valley Road, Lindfield that collectively make a significant contribution to the heritage conservation area (C42).

(2) INAPPROPRIATE SETTING AND VIEW IMPACTS

Clause 5.10 in KLEP

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”

Inconsistent with the 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.”

Streetscape impacts

The ‘site’ has increased prominence in the conservation area because of its corner position at the intersection of Russell and Trafalgar Avenues. This forms the gateway into the conservation area on Trafalgar Avenue and is visible from a long view down the length of Russell Avenue. It contributes to three streetscapes in Russell Avenue, Russell Lane and Trafalgar Avenue. The proposed demolition of the buildings with mature gardens and construction of a residential flat building does not satisfy the objectives of the KLEP which is to conserve the heritage significance of the conservation area in terms of both the loss of a contributory properties and introduction of a detracting building into the conservation area.

Inappropriate setting for the Heritage items within the vicinity and the heritage conservation area

As detailed in B above, the proposed residential flat building is located next to 4 heritage items at:

- Item #1479, “Dwelling House, 1 Valley Road, Lindfield”
- Item #1480, “Hazeldean, Dwelling House, 3 Valley Road, Lindfield”
- Item #1453, “Dwelling House, 32A Middle Harbour Road, Lindfield”
- Item #1452, “Dwelling House, 34 Middle Harbour Road, Lindfield”

The site is also located within the Middle Harbour Road, Lindfield Conservation Area (C42).

Views from the individually listed items will be adversely affected as they will be blocked by a proposed residential flat building. Views to the sky, trees and terracotta roof tops will be obliterated by the proposed development. The proposed development will fail to conserve the heritage significance of these heritage items.

Summary of adverse impacts to setting and views

The proposed development will adversely impact on the heritage items and HCAs and will alter the context and setting of the existing streetscape of this section of Russell Avenue, Trafalgar Avenue and Valley Road.

(3) INADEQUATE SETBACKS

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

Summary of adverse impacts to setbacks

The proposed residential flat building does not adequately transition to the buildings on either side which are single or double storeys. There are insufficient setbacks between the built form and inadequate 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.

Summary of adverse impacts on character

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 will dominate the streetscape and be visible from all surrounding sides. There are limited setbacks and no transition in height.

(5) INCOMPATIBLE BULK-MASSING SCALE AND FORM

Inconsistent bulk and scale

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

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 of the site.

Summary of bulk and scale

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 of the existing low scale historic built form.

(6) LANDSCAPE LOSS

Loss of Trees

The loss of trees will have an adverse impact on the heritage items and HCAs 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 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.

Summary of Landscape loss

The proposed loss of landscaping will have a detrimental impact on the heritage items and conservation areas in the vicinity.

(7) DETAILS MATERIALS AND COLOURS

Incompatible Building Form

The proposed bulk use of concrete and bricks will be obtrusive in the streetscape and will have an adverse impact on the heritage items and HCAs in the vicinity.

Further details are provided in **Appendix A** of this submission.

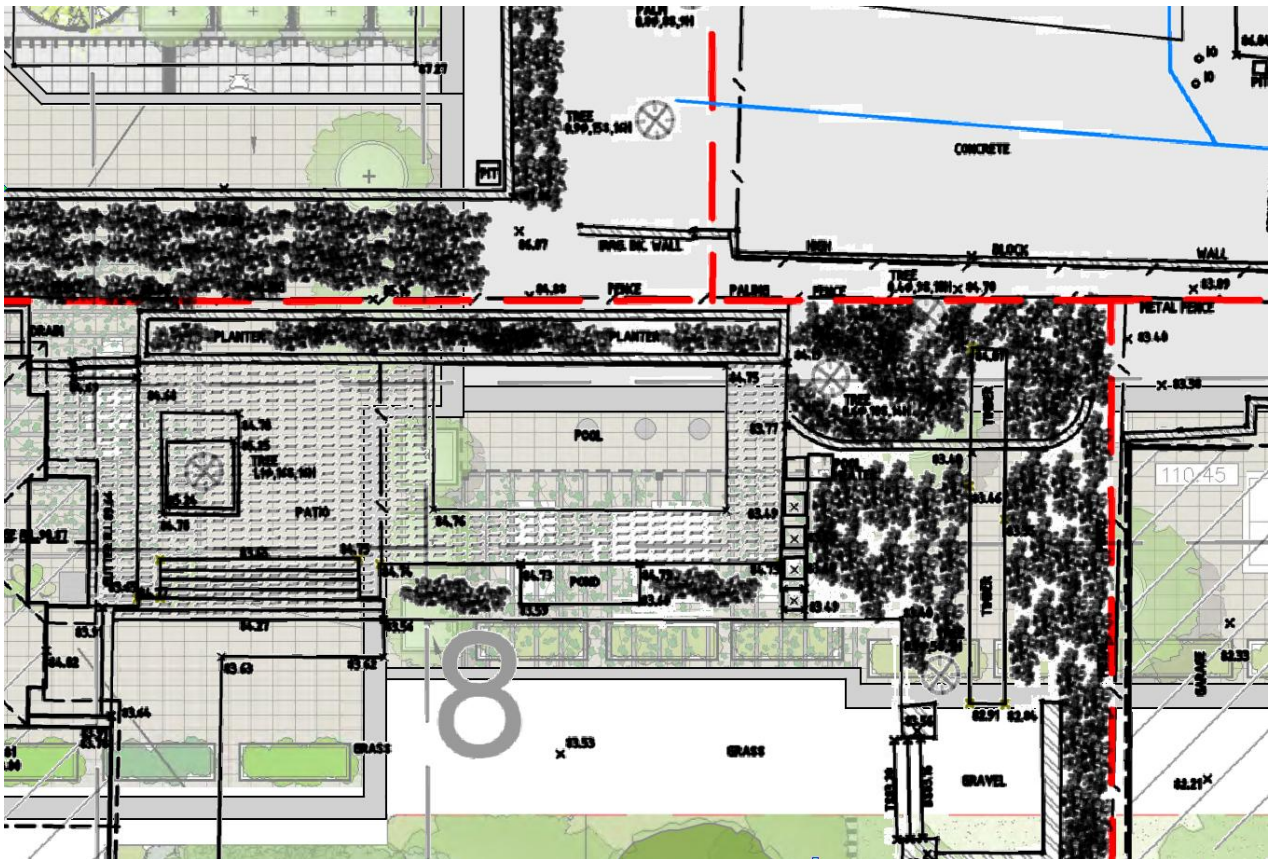
D. BUILDING HEIGHT

A Clause 4.6 written request forms part of the application, indicating a maximum building height of 33.07m which exceeds the maximum building height by 4.47m (15.60%). The subject application's 'Height Plane' (drawing no. DA500) drawing is provided in **Figure 3** below:



Figure 3 – Height Plane Drawing

Based on **Figure 2**, it is observed that the largest non-compliance in building height occurs at the roof parapet of the proposal (+4470). However, the maximum building height of the proposal cannot be correctly calculated due to insufficient detail on the architectural plans provided. It is acknowledged that the 'SITE PLAN' (drawing no. DA102) contains proposed roof level RLs. However, when attempting to assess the maximum building height contravention (+4470) by overlaying the 'SITE PLAN' with the exhibited Survey Plan, EGLs directly below this point are not annotated. This can be observed in **Figure 4** below:



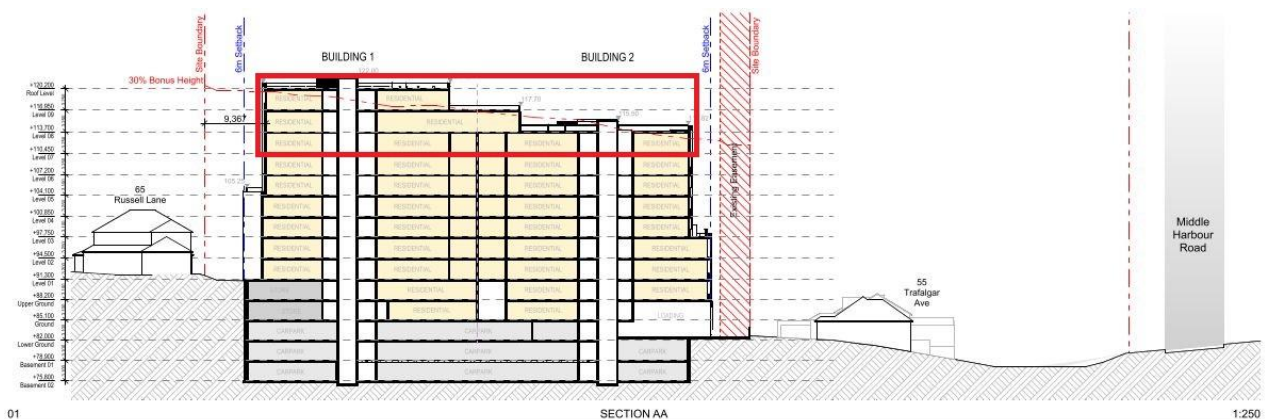
The subject application's Clause 4.6 states:

"The parts of the proposed development exceeding the maximum height are limited to a part of the uppermost levels of each building, and are a result of the significant slope across the site."

The extent of variation is not considered to be “...*limited to a part of the uppermost levels*”. Rather, it is considered that significant portions of the roof exceed the maximum building height. This is particularly evident on the proposal’s north-western roof, as depicted in **Figure 2** above, where only a minor portion of the roof complies with the maximum building height. The Clause 4.6 also states:

"No habitable floor space is located above the permitted height."

However, 'SECTION AA' (drawing no. D310) otherwise confirms the inconsistency with this statement as provided in **Figure 6** below:



The breach in the maximum building height, as indicated on the architectural plans, is significant and amounts to large portions of the roof and the top floor of the development. For the Clause 4.6 variation request to be well founded, the variation from the development standard must be clearly articulated and justified. The consent authority must be satisfied that the Clause 4.6 variation is well founded before the granting of any development consent. With respect to Clause 4.6(3)(a) and (b) of the KLEP, it is Council's opinion that the variation request has not demonstrated that:

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

Council provides the following comments on the cl 4.6 written request –

- the proposal is not of an appropriate bulk and scale as detailed within this submission. Consistency with Aim (b) (ii) in Section 150 is SEPP Housing is therefore not achieved.
- The environmental planning grounds advanced relate to topography, overshadowing, visual impact, bulk, scale and character and consistency with the Objects of the Act. Council does not agree with the environmental planning grounds relating to overshadowing, visual impact, bulk, scale and character.
- The proposed development, specifically those elements that breach the maximum building height will create unacceptable overshadowing, visual impact and bulk and scale impacts for adjoining properties and the public domain. As detailed earlier within this submission, the proposed development is not compatible with the desired future character.
- There are insufficient environmental planning grounds advanced to justify the proposed variation to the building height standard.

E. FLOOR SPACE RATIO

As specified within the subject application's Environmental Impact Statement, the proposed FSR is calculated at 3.25:1 (21,864sqm). However, it is noted that there are errors within the Applicant's gross floor area (GFA) calculations as detailed below –

- the 'LOWER GROUND FLOOR' has excluded the denoted 'WASTE COLLECTION ROOM' and the 'WASTE ROOM' directly adjacent to a 1-bedroom and 3-bedroom apartment. EGL RLs of both rooms were identified by overlaying the 'Lower Ground Floor' plan (drawing no. DA202) with the exhibited Survey Plan. For the 'WASTE COLLECTION ROOM', there are several instances where the RL is less than RL84.10. For example, a spot level at RL83.63 within the 'WASTE COLLECTION ROOM' is provided in **Figure 7** below:

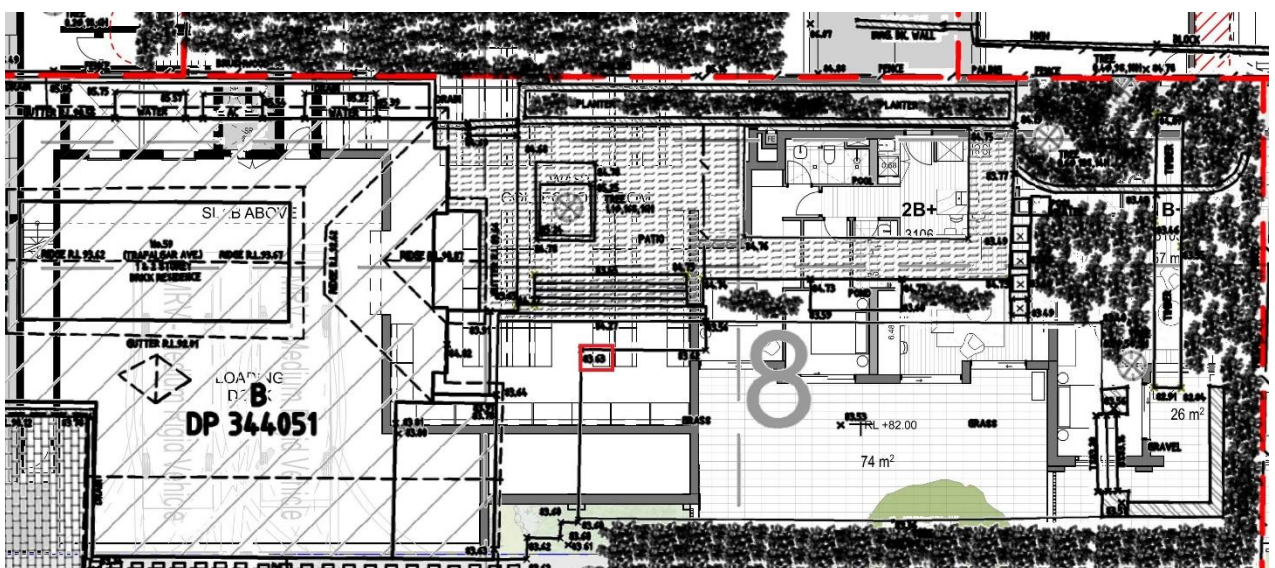


Figure 7 – 'WASTE STORAGE ROOM' Spot Level at RL83.63

- Similarly, this applies to the 'Lower Ground Floor' 'WASTE ROOM' where a spot level at RL83.89

interface with existing low density residential properties, the HCA, adjoining heritage items and Council's desired future character of the area as determined by the Alternative TOD Scenario. If the Alternative TOD Scenario is adopted, the setbacks proposed will be highly inappropriate and will not provide an appropriate built form transition with surrounding low-density sites given the Scenario's aim is to retain the existing residential character of this area. Part 7A.3-10 of the KDCP prescribes development controls in relation to side and rear setbacks at a zone interface. In this instance, it would be appropriate to provide minimum building setbacks from side and rear boundaries at 9m for up to 4 storeys and 12m for the 5th storey and above, being consistent with the KDCP. However, the proposal is not wholly compliant with the minimum 9m (to level 4) and 12m (level 5 and above) setbacks and proportionally increased setbacks adjacent to the side (south-east) boundary have not been provided in response to the sites' upslope nature from the low-lying properties to its south-east.

G. OVERSHADOWING IMPACTS

Based on the 'Shadow Diagrams' submitted with the subject application, the proposal will create adverse and unreasonable overshadowing impacts to low-lying properties to the subject sites' south-east. These properties will be severely affected by overshadowing cast by the proposal between the hours of 10am – 4pm. The 'Shadow Diagrams' do not specify a date modelling is based on. Council recommends this is confirmed as an annotation on an amended architectural drawing set.

As previously stated, Council's Alternative TOD Scenario has indicated the retention of these sites as low-density residential properties. This is best represented in the 9am 'Eye of the Sun Diagrams' (drawing no. DA501) render as provided in **Figure 9** below:



Figure 9 – Contrast in Scale of Proposal to Surrounding Properties

Figure 9 clearly indicates the contrast and dominance in the proposal's built form when compared to surrounding properties which are likely to be retained as maximum 1 and 2-storey residential dwellings if the Alternative TOD Scenario is adopted. The discrepancy in the proposal's built form will evidently create overshadowing impacts of an unreasonable threshold which will create irreversible and adverse impacts to affected properties within the development's surrounds.

Therefore, Council does not support the proposal given the unreasonable level of overshadowing impacts and the ancillary loss in indoor and outdoor amenity to the low-lying properties resulting from the proposal's sheer contrast in bulk and scale from the desired character of the area.

H. RESIDENTIAL AMENITY

Solar Access

Part 4A(1) of the Apartment Design Guide (ADG) specifies that living rooms and private open spaces of at least 70% of apartments are to receive a minimum of 2 hours' direct sunlight between 9am – 3pm at mid-winter. The proposed development results in 141 (64.09%) of apartments receiving 2 hours' solar access between 9am – 3pm, which does not comply with the ADG. It is evident in the 'Solar Access Diagrams' (drawing no. DA405 and DA406) that the proposal seeks to rely on an additional hour, between 3pm – 4pm, to achieve the 70% threshold as prescribed by the ADG.

Furthermore, part 4A(3) of the ADG specifies that a maximum of 15% of apartments in a building receive direct sunlight between 9 am - 3 pm at mid-winter. The proposed development results in 39 (17.73%) of apartments receiving no solar access to living spaces, which does not comply with the ADG.

Given the above non-compliances, the proposal is not considered to achieve the Objective of Part 4A of the ADG and Council does not support the proposal.

Apartment Depth

Part 2E of the ADG specifies a maximum apartment depth of 18m to ensure adequate daylight and natural ventilation and optimize natural cross ventilation. The design of the building results in apartment lengths spanning up to a length of 21m on the north-western end of the building on levels 3, 4, 5 and 6. These apartments exceed the ADG's prescribed maximum length and it is recommended that apartment designs do not exceed a maximum length beyond 18m.

I. LANDSCAPING

a. SEARS – 14. Trees and Landscaping

Appendix L and Appendix N

The proposal has been reviewed against the Secretary's Environmental Assessment Requirements (SEARS), particularly in relation to landscape design, tree retention, and arboricultural impact. The following issues have been identified:

1. Submitted landscape plan (Appendix L) fails to provide the following information:
 - 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 SEAR's requirements.
 - clear indication of trees proposed to be removed and trees to be retained.
 - percentage of tree canopy cover of the site.Landscape plans is missing information and is not suitable for assessment.
2. Arborist report (Appendix N) insufficient information has been provided to ensure retention of the following trees:
 - T33, T34, T35, T45, T52, T54, T59, T60, T61, T62, T69 and T70; retention of these trees might not be possible due to major encroachments into Tree Protection Zone (TPZ) and some of them also due to encroachment into their Structural Root Zone (SRZ). Removal of existing surfacing/structures and/or installation of new surfacing/structures may impact the viability of the trees. No root mapping or other further assessment has been provided to verify these trees will be viable for retention.

b. BASIX COMMITMENTS

BASIX Certificate No. 1792354M, dated Thursday, 17 April 2025, is submitted as part of the application. The certificate identifies a commitment to a common garden area of 2,000 m², which aligns with the submitted documentation. However, the certificate is inconsistent with the proposal due to:

- Documentation presents several POS of ground level units (Units number 3106, 3105, 3104, 3103, 3102, 3101, 3203, and 3202) within the common garden areas. This discrepancy may impact projected water use and should be addressed to ensure consistency between the certificate and the landscape plans.
- The certificate fails to nominate any common taps. Common taps are required for the irrigation of common landscape areas and for common elements such as the bin/waste rooms (health) and car wash bay.

The certificate does not reflect the proposed water usage for the development. An amended certificate consistent with the development is required.

c. SEPP (Housing) 2021 inconsistency

Schedule 9- Design Principles for Residential Apartment Development (Clause 5 – Landscape)

The proposal is **inconsistent with the landscape design principle** for the following reasons:

- The lack of tall tree plantings and deep soil landscape zones along the street frontages fails to adequately contribute to the landscape character of the streetscape and neighbourhood. - Clause 5. (2).
- The proposed removal of T44 and the potential removal of T45, fails to retain positive natural features that form part of the local context and contribute to the established tree canopy within the streetscape. -Clause 5. (3(e)).
- The proposed driveway proposed adjacent to the southern boundary, and the removal of established trees along this boundary, fails to demonstrate adequate consideration of neighbouring amenity and privacy. -Clause 5. (4(d)).
- The proposed planting above structures in individual pots instead of built in planter beds undermines the practical establishment and long-term viability of the proposed landscape design outcomes above structures -Clause 5. (5).

d. APARTMENT DESIGN GUIDE

Part 3E - Deep soil zones

The proposed site has an area of 6,672sqm.

The stated deep soil is 1,135 sqm with 6m min dimension, 17% of the site area.

The submitted documentation does not include sufficient landscape diagrams or plans demonstrating compliance with the minimum 6-metre dimension required for deep soil zones. The deep soil calculation cannot therefore be verified.

Objective 3E-1 of the ADG, recommends developments on sites larger than 1,500 m² should provide a minimum of 15% deep soil area, with a minimum width of 6 metres, preferably located along street frontages or rear setbacks.

As the proposed site area is well in excess of the above recommend area, the proposal should provide at least a 15% deep soil area with minimum 6 m dimension to meet both the ADG recommendations to provide for a landscape character of tall tree planting and generous areas of landscaping consistent with Ku-ring-gai's existing and desired landscape character.

The proposed landscape design does not provide suitable deep soil areas for the establishment or retention of a sufficient number of tall canopy trees, this is inconsistent with the desired and existing landscape character.

In several locations, deep soil areas are used as private open space (POS), restricting the ability to retain

or plant tall trees and undermining long-term landscape outcomes.

Part 4O-1 Landscape Design

Landscape proposal is conceptual, and a detailed assessment is not possible without a planting plan. The landscape design should complement the existing natural and cultural features of a site and contribute to the building's setting.

Proposed tree planting and tree removal and retention are unclear.

The proposal does not meet Tree Planting Requirements (ADG), as per table 4 Part 4O of ADG.

Not enough information has been provided in submitted landscape plans to assess the number of different tree species proposed.

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

The proposal does not meet this objective due to the following issues:

- **Deep Soil Zones and front setback**

Deep soil areas along Trafalgar frontage are restricted by minimal setbacks, proposed structures and Private Open Space for the ground floor units, reducing the opportunity to accommodate large or medium trees to contribute to the streetscape and amenity and fails to meet ADG objectives.

- **Planting on Structures**

The architectural elevations show planting above structures along the Trafalgar Street façade. This contributes positively to the streetscape. However, architectural and landscape plans present removable pots which cannot achieve the desired outcome, as presented in elevations.

The use of removable pots is not supported, as it does not meet the requirements of Part 4P of the Apartment Design Guide. Permanent, well-integrated planting solutions are required to ensure long-term success and visual quality.

- **Northern Setbacks**

There is an opportunity to incorporate exotic canopy species on the northern setback that align with the broader landscape character.

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

The proposal only includes removable potted plants above structures, which is not supported. Potted plants are vulnerable to extreme weather and irrigation failure and do not align with Part 4P of the Apartment Design Guide.

Where landscaping is proposed over structures raised planters / or planted areas the appropriate soil depths and volumes (as per ADG Table 5 of Part 4P) should be provided for the following purposes:

- All Communal Open Spaces (COS): To improve amenity, air quality, and stormwater management. Include tree species known to perform well above structures.
- Between Private Open Space (POS) and COS: To maintain privacy and enhance residential amenity.
- Along edges of COS on Levels 7 and 8: Planters with cascading plants and screening small leaf shrubs to provide visual softness to the streetscape, wind protection, and long-lasting greenery.
- The planting design shall include species suited to wind, drought, and varying solar conditions; consider seasonal changes and allow for species rotation as part of a detailed maintenance schedule;
- Include automated irrigation and allow access for maintenance.

e. TREE REMOVAL and IMPACTS

1. Tree Retention and Planting

The landscape plan does not clearly show which trees are: Existing to be retained, Existing to be removed, or new trees to be planted. The symbols used are unclear, making it hard to understand the proposal without checking the Arboricultural Impact Assessment (AIA).

Recommendation:

Update the landscape plan to clearly label all trees with a consistent legend, so it's easy to see what is being kept, removed, or planted. This will make the plan easier to assess and ensure it matches the Arborist Report.

2. The removal of the following trees is not supported:

- T44 (*Melaleuca quinquinervia*) –
- T45 (*Podocarpus elatus*) –
- T48 (*Pittosporum undulatum*) –
- T52 (*Cupressus* spp).

These trees are located in the periphery of the development site. These trees provide separation and amenity towards neighbouring properties. The design should be revised to avoid or minimise impact and allow retention. Update the AIA accordingly.

3. The AIA fails to accurately assess impacts on retained trees:

- T59, T60, T61, and T62, four existing street trees, *Lagerstroemia indica* will be impacted by proposed footpath within the road reserve adjacent to the boundary.
- Proposal includes the retention of T33, T34, T35, T45, T52, T54, T59, T60, T61, T62, T69, T70 all of these trees will have major encroachments into (TPZ) and some encroachments into their (SRZ). AIA does not provide enough information to allow retention of these trees.

The AIA makes recommendations for various impacted retained trees that:

it will need to be demonstrated that the proposed hard surfacing can be constructed without impacting significant roots in the TPZ.

This has not been demonstrated either in the arboricultural assessment or elsewhere in the documentation provided. Therefore, retention of the above trees as indicated in the AIA is uncertain

No root mapping has been provided to verify these trees will be feasible for retention.

It is noted that root mapping is recommended in the AIA for the following trees: Trees 45, 58, however given the advice in the arboricultural report further root mapping may be required.

f. **LANDSCAPE DESIGN and CHARACTER**

The proposal fails to provide adequate deep soil areas for large trees and to provide for an appropriate landscape setting within Trafalgar Avenue frontage and southern side setback consistent with the desired and established landscape character

There are opportunities to increase deep soil provision and improve landscape outcomes, enhancing the overall design and contributing positively to the local streetscape character, including:

- Relocating the proposed driveway away from the 6-metre southern landscape setback to allow for a continuous deep soil buffer with planting in scale with the development along neighbouring boundaries.
- Providing adequate setbacks of structures to existing trees (e.g., T44 and T45) to support their long-term health and viability.
- Reducing encroachment of POS Terraces into Deep Soil Areas. Private open space (POS) paved terraces for Units 3106, 3105, 3104, 3103, 3102, 3101, 3203, and 3202 extend into areas identified as deep soil in the landscape plan. However, architectural drawings show these terraces located over actual deep soil, not above basement structures as required. To comply with the Apartment Design Guide (ADG) Part 3E and preserve continuous deep soil zones for meaningful tree planting, POS

terraces should be located only above basement structures, not over genuine deep soil areas. The deep soil zones shown in the landscape plan must accurately reflect built conditions, as the current plan provides inconsistent information.

- Removing POS from street frontages where deep soil exists to prioritise planting of tall canopy trees and maintain streetscape amenity and for consistency of ongoing the landscape treatment.

g. Further Landscape Issues

Inconsistencies

Landscape and architectural plans are inconsistent.

POS for Units 3106, 3105, 3104, 3103, 3102, 3101, 3203, 3202 extend with a paved terrace above the deep soil area in architectural drawings, this is inconsistent with the landscape plans which indicate turf and planting in those areas.

Tree Retention and Planting

The submitted landscape plan lacks clarity and sufficient detail. It does not clearly identify which trees are to be retained or removed, nor does it provide clear information about proposed new tree planting or the locations and types of shrubs and understorey planting. The use of unclear or inconsistent symbols throughout the plan makes interpretation difficult.

The landscape plan must be revised to clearly label all existing trees, specifying whether they are to be retained or removed consistent with the Arboricultural Impact Assessment (AIA). It must also clearly identify all proposed planting, including species, location, and type (tree, shrub, or groundcover). This level of detail is essential to accurately assess the landscape and tree retention outcomes of the proposal.

J. ECOLOGY

The site supports Plant Community Type (PCT) 3262 – Sydney Turpentine-Ironbark Forest, which is characterised by a canopy dominated by species such as *Syncarpia glomulifera* and *Eucalyptus spp.*, alongside understorey species including *Pittosporum undulatum* and *Brachychiton acerifolius*. The Arboricultural Impact Assessment (AIA) indicates the removal of several trees, including trees 5, 6, and 48 (*Pittosporum undulatum*), trees 29 and 47 (*Brachychiton acerifolius*), and tree 43 (*Syncarpia glomulifera*), all of which form part of the STIF community.

The BDAR presents the loss of 0.04 hectares of this critically endangered community and justifies the removal of the trees primarily based on the site's sloping nature and lot configuration, as well as the central positioning of key STIF trees. However, these arguments fail to meet the requirements under the *Biodiversity Conservation Act 2016* and the *BAM* (Biodiversity Assessment Method) guidelines, particularly regarding avoidance and minimisation of impact.

Legal Framework and Failure to Avoid and Minimise Impacts

Section 6 of the *Biodiversity Conservation Act 2016* (BC Act) mandates that the first priority for any development proposal is to avoid impacts on biodiversity values. Minimisation of impacts is the second priority, with offsetting only being considered for unavoidable impacts. This is further detailed in Chapter 7 of the *BAM*, which outlines various approaches to avoidance and minimisation, including:

- Modes or technologies that would avoid or minimise impacts on biodiversity values.
- Alternative locations within the development that would reduce impacts on biodiversity values.
- Alternative designs or siting options that would preserve biodiversity values within the property.

The BDAR attempts to justify the proposed removal of key STIF trees by stating that the site's constraints, including the topography and the central location of trees T43 and T17, make retention impractical. The BDAR further claims that retaining these trees would result in their survival being compromised due to the shading effects of tall buildings and other environmental changes.

The BDAR does not provide adequate evidence of alternative designs or technologies that could have

been explored to minimise these impacts. The site is already highly modified, with trees positioned around existing buildings and formal gardens. Given the trees' survival in this altered context, there is a clear opportunity to design around the ecological constraints rather than removing these trees as part of the redevelopment proposal. The claim that tree removal is "unavoidable" is therefore insufficiently substantiated.

Keystone Ecological's statements on avoidance and minimisation are relevant here: the BDAR does not fully engage with the BAM's avoidance and minimisation principles, particularly in relation to alternatives that could preserve biodiversity. The report does not provide a detailed analysis of how alternative designs, site configurations, or development footprints could reduce impacts on these significant trees and their associated ecological community.

Inadequate Justification for Loss of STIF Trees

The BDAR's justification for removing trees such as T43 and T17, stating that their retention would lead to unsustainable environmental conditions (i.e., overshadowing and changes in their microenvironment), is not a scientifically robust argument. This reflects design limitations rather than an unavoidable ecological consequence. Proper redesign could facilitate the retention of these trees, which is the preferred approach under the BC Act.

The Landscape Plan proposed as mitigation for the loss of 8 STIF trees includes tree planting and enrichment of floristics and vegetation structure. While this may provide some benefit, offsetting cannot replace the loss of critically endangered ecological communities such as PCT 3262, and this approach falls short of the legal requirements for the avoidance and minimisation of biodiversity impacts under the BC Act.

Given the failure to demonstrate avoidance and minimisation of impacts, as required under the *Biodiversity Conservation Act 2016* and *BAM*, the application should be refused in its current form. The site's ecological values are insufficiently protected under the proposed development, and the BDAR does not adequately explore feasible alternatives that could retain significant biodiversity components of the site.

It is recommended that the proposal be revisited with a genuine effort to avoid and minimise impacts on PCT 3262 and the significant STIF trees identified in the AIA.

K. ENGINEERING

Council raises the following engineering issues with the proposed development –

Water Management

1. Infiltration system is to be deleted as this is not supported for Type 5 Developments under Part 24 of the KDCP.
2. No supporting calculation for the pump-out pit based on the 100 year 2 hour storm has been submitted as per Part 24B.5 of the KDCP.
3. Stormwater design does not show the rising main from the pump-out tank directed to the on-site detention tank.
4. The location of the access pits to the detention system and rainwater tank are to be shown outside of the communal area (not within private courtyard).

Traffic and Parking

1. The residential parking provision exceeds the maximum provision required in the Ku-ring-gai DCP. The number of residential car parking should be reduced to comply with the Ku-ring-gai DCP, or excess spaces need to be included in the Gross Floor Area as defined in the KLEP.

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

1. There is an inconsistency in the number of residential and visitor parking spaces between the TIA and the Architecture Plans.
2. There is an inconsistency in the number of bicycle parking spaces between the TIA and the Architecture Plans.
3. It is unclear if there is practical access for residents to the loading dock to collect larger parcels or groceries from. A Loading Dock and Deliveries Management Plan would be required so that there is coordination between the loading dock, parcel boxes in the resi lobby and home deliveries/groceries etc. (note: requests for an on-street Loading Zone on Trafalgar Avenue will not be considered).
4. The architecture plans should be amended to show the driveway/gutter crossing only at the kerb alignment.
5. The adequacy of the 6.0m wide access point should be tested with the swept path of at least the 8.8m MRV entering and leaving the site, with cars parked on either side of the road near the access point.
6. Compliance in the provision of the 2m x 2.5m sight triangle at the access point as per AS2890.1 needs to be demonstrated.
7. Indicative construction traffic management is to be submitted. The site entry and exit are to be shown as well as storage and manoeuvring areas. Heavy vehicle routes are to be shown for all directions. The arborist should comment on proposed access around the site and storage areas.
8. Provide a longitudinal section through the driveway and into the basement carpark to clearly demonstrate that there will be 2.6 metres clear headroom along the whole of the travel path required for the small waste collection vehicle. The section must include realistic slab/beam depths, stormwater pipelines and other overhead services.

L. HEAT ISLAND EFFECTS

The communal roof top area should include more generous landscape gardens to reduce the heat island effects. This is an important long term environmental consideration given the expected rise in temperatures moving into the future.

M. AFFORDABLE HOUSING NEEDS

Council acknowledges that housing in Lindfield is not affordable and population displacement and community retention is a challenge in the LGA. The provision of apartment housing stock in the area, particularly affordable housing, will contribute to addressing this issue. Affordable housing should support lower income-earning key workers that are needed in their local community, such as home support workers, rather than only moderate income earners. It was specifically noted that home support workers that undertake home visits are highly sought after in the local area by aged care providers funded to support ageing individuals who wish to age in place.

Council recommends that all affordable housing units within the development should be operated by a Community Housing Provider in perpetuity (beyond the 15-year minimum requirements) as the loss of affordable housing after 15 years will result in the displacement of that resident population raising the key issues of social isolation with people having to reestablish their social and support networks elsewhere. Loss of the resident population returns the issue of loss of local workforce and thus impacts on the local community reliant on those workers.

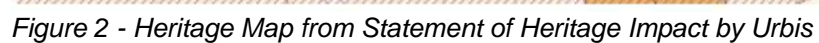
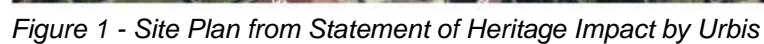
N. SOCIAL INFRASTRUCTURE AND SERVICES

Council notes that there is a need for the provision of additional social infrastructure services to meet the demands of an increasing population resulting from high density residential developments such as the subject proposal. In particular, Council has identified the need to provide additional services and facilities including additional library spaces, cultural facilities, hireable community spaces, aquatic centres, indoor recreational spaces and open spaces to meet the demands of residents.

It is also important for the applicant and consent authority to identify the capacity of existing services such as pre-school and childcare places and address future demands as such services will be required to support young families that move into the development.

Council notes that over subscription of schools and hospitals and other social services have not been considered by the State Government for the expected cumulative development that will result from the increased housing reforms.

59-63 Trafalgar Avenue and 1A & 1B Valley Road, Lindfield



- Item #I479, “Dwelling House, 1 Valley Road, Lindfield”
- Item #I480, “Hazeldean, Dwelling House, 3 Valley Road, Lindfield”
- Item #I453, “Dwelling House, 32A Middle Harbour Road, Lindfield”
- Item #I452, “Dwelling House, 34 Middle Harbour Road, Lindfield”

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- C42 – Middle Harbour Road, Lindfield Conservation Area
- C31 - Trafalgar Avenue Conservation Area

LISTED ITEMS IN THE VICINITY OF THE SITE

Statement Of Significance for 1 Valley Road, Lindfield

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 Crafts stylistic detailing. The mature gardens at the front of the house and the complimentary picket fence contribute to the streetscape character as the original curtilage to this early twentieth century residence. The item is of local heritage significance in terms of its historical, aesthetic and representative value. This satisfies three of the Heritage Council criteria of local heritage significance for local listing.

3 Valley Road, Lindfield

Reasons for listing; cultural, architectural, municipal significance

Statement Of Significance for 32a Middle Harbour Road, Lindfield

The property is of historic significance as part the 1906 "Lindfield Grove Estate" and is an example of the subdivision pattern within the suburb of Lindfield. It also represents subsequent re-subdivision of the large lots of the estate. The property is aesthetically significant for its inter-war Old English style two-storey brick dwelling constructed in 1938. The house illustrates several hallmarks of the style, including the asymmetrical massing, prominent front gable, patterned brickwork, brick arched entryway, and prominent brick chimney attached to the western side of the roof. The item is of local heritage significance in terms of its historical and aesthetic value. This satisfies two of the Heritage Council criteria of local heritage significance for local listing.

34 Middle Harbour Road, Lindfield

Reasons for listing; architectural, municipal significance

HERITAGE CONSERVATION AREAS

Subject Area Statement of Significance – Middle Harbour Road, Lindfield Conservation Area (C42)

The Middle Harbour Road Heritage Conservation 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 primarily from the Federation and Inter-war period with some examples of mid to late 20th century development. The built context is enhanced by the street proportions and character, street plantings and garden settings including remnant and planted native trees, creek line and neighbouring reserve areas. The area is significant as part of Dering's Clanville Estate and subdivision and represents the

Subject Area Statement of Significance – Trafalgar Avenue Conservation Area - C31 (KLEP 2015)

The Trafalgar Avenue area is of aesthetic and historical significance as it encompasses intact portions of the Clanville, Seldon and Runnymede Estate subdivisions, containing Federation and Inter-war housing.