

3 June 2025-06-03

Attn: Ms J Tranquille  
Senior Planning Officer, Affordable Planning Assessments  
Department of Planning Housing and Infrastructure  
Via NSW Major Projects Portal

**Re: SSD 79276958 Residential Development with Affordable Housing at 59-63  
Trafalgar Avenue and 1A & 1B Valley Road Lindfield**

Dear Ms Tranquille,

I live on Middle Harbour Road, Lindfield approximately 60m from the proposed development site. I support the concept of higher than single storey and sensibly planned density living near transport options, and have not opposed the development of any of the larger scale buildings near Lindfield station to date . However I strongly object to this proposed development as the application and development site in question does not meet numerous requirements under SEARS and contains significant misleading errors.

In particular, I will demonstrate that the EIS for 59-61 Travalgar Avenue, 1A & 1B Valley Road, Lindfield does not meet the Planning Secretary's Environmental Assessment (SEARs) Requirements of the following:

1. Statutory Context
7. Environmental Amenity
8. Visual Impact
14. Trees and Landscape
16. Biodiversity

The application for this State Significant Development should not progress because of the compounded non-compliance to the SEARs, and potential breaches of Federal and State laws beyond the scope of the NSW Department of Planning, Housing and Infrastructure.

**SEARS Assessment Criteria 1 - Statutory Context**

The proposal does not satisfy the following state and local development controls and drafts:

- State Environmental Planning Policy (Housing) 2021

The EIS statement in Section 2.2.8 states the “main pedestrian route to the site from Lindfield Station is via Lindfield Avenue and Russell Avenue along the local road network”. This route is more than 400m to the nearest entry to Lindfield rail station (433.7m from the nearest edge of the proposed development site and 464.2m from the entry location of the building entry on Trafalgar), verified by an independent surveyor (Appendix 1 – Survey Report attached). Therefore the proposed development does not respond to the immediate strategic context as the development site is outside the intended 400m walking distance from Lindfield Station.

The EIS has referred to the walking distance from the station in many sections as “approximately 400-metre walking distance from Lindfield rail station”, this is misleading as it is **more** than 400-metre walking distance from Lindfield rail station. As the proposed State

Significant Development site is outside the intended aims of the TOD to be 400m walking distance to the train station, it should not be given consent because it does not meet the criteria of being within a TOD area outlined in Chapter 5 of the SEPP, to be within 400 safe walking distance from the station.

- Ku-ring-gai Local Environmental Plan 2015  
Ku-ring-gai Council Preferred Alternative TOD Scenario

The EIS does not address the draft Ku-ring-gai Local Environmental Plan 2015 – draft TOD Alternative Scenario, which the DPHI and the SSD applicant is fully aware is in final draft form and is about to be passed and submitted to be included in the Ku-ring-gai Local Environmental Plan 2015 (KLEP). SEARs requires all Statutory Context (including drafts) to be addressed in the EIS. Ku-ring-gai's TOD alternative is especially relevant because it explicitly excludes the area for the proposed development site from TOD.

- State Environmental Planning Policy (Biodiversity and Conservation) 2021

### **Natural Environment Impacts**

The proposed development has significant impacts on the biodiversity specifically to Commonwealth and State protected and endangered flora and fauna on the site and the adjoining lower lying neighbouring riparian land. This completely contradicts the compliance to Section 14 Trees and Landscaping and 16. Biodiversity as stated in the applicants Environmental Impact Statement (EIS).

### **SEARS Assessment Criteria 14 - Trees and Landscape**

The impact to trees as described in section 7.11.2 of the EIS is the development is proposing to retain 26 trees, however if you refer to the drawings in Appendix N - Arboriculture Impact Assessment Report and Appendix L, you will see that 13 of trees are not located on the proposed development site, the trees are located on adjacent neighbouring properties. Furthermore, 7 trees proposed to be retained are located on public land. That is 77% of retained trees counted to not on the development site. I suspect that the submission may not comply with the “avoid and minimise rule” rule for this criteria.

The tree canopy coverage to be retained on the site is misleading, as it includes numerous trees on neighbouring properties.

### **Adjoining Riparian Land**

7.2.1 Statement that South will receive at least 2 hours of solar access is false, , and will receive Refer to A Architectural Drawings D414.. The extra height does create more overshadowing. Refer to EIS 7.13.2 where no sunlight so the trees would be in the dark. Solar Access clearly shows that 55 Trafalgar Avenue, 30A & 32 Middle Harbour Road will receive 0% or no hours of sunlight during winter .

## **SEARs Assessment Criteria 7 - Environmental Amenity**

In the EIS submission, Section 7.3.1 states that overshadowing of the dwellings to the south with receive at least 2 hours of solar access between 9am and 3pm on 21 June is not correct, as the submission has omitted analysis of 3 properties to the south west of the development. Refer to Appendix B – Architecture Plans DA414 Shadow Diagrams where properties south of and down the hill from the development at 55 Trafalgar Avenue, 30A Middle Harbour Road, 32 Middle Harbour Road clearly have 0% light or shadowing for 100% of the time between 9am and 3pm. All these properties are in the riparian land and this lack of solar access by the proposed development will have a detrimental impact on the biodiversity of the riparian area adjacent to the proposed development. I ask the DPHI investigates this lack of Environmental amenity.

## **SEARs Assessment Criteria 8 – Visual Impact**

I refer to Section 7.5 – Visual Impact in the EIS and Appendix W – Visual Impact Assessment concludes the visual impact is acceptable. I would like to question the validity of the Visual Impact Assessment conclusion, because the visual impact photos and analysis have not taken into account the heritage listed houses that are connected to and would be affect by the proposed development nor comments made to address the visual impact to adjacent neighbouring residences. Near proximity visual impacts were omitted from this report. This breaches Ku-ring-gai Local Environmental Plan 2015 where developments in the vicinity of Heritage items need to address impacts visual impact.

## **SEARs Assessment Criteria 16 - Biodiversity**

The Proposed development does not meet the pre-conditions for Biodiversity pursuant of Part 4 of the EP&A Act to comply with the Biodiversity Conservation Act 2016 and does not meet the requirements under Planning Secretary's Environmental Assessment Requirements Point 16 – Biodiversity. Furthermore, if the DPHI approve SD-79276958 with the removal of a Turpentine tree and Liquidamber, both linked to endangered flora and fauna, potentially laws will be broken under the Commonwealth Environment Protection and Biodiversity Conservation Act (EPBC Act), & NSW Threatened Species Conservation Act 1995.

Section 7.13.2 of the EIS refers to Appendix G Biodiversity Development Assessment Report (BDAR) and incorrectly states that the habitat connectivity is a “minor consideration” for the site. I would like to point out that the proposed development site is adjacent to riparian land and trees earmarked for removal on 59 & 61 Trafalgar Avenue provide Habitat Connectivity and nesting hollows for the endangered Powerful Owl.

The BDAR contains a number of serious errors leading to a misleading conclusion that the development meets the objectives outlined in Section 1.3 (e) of the EP & A Act where the proposed development aims to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.

I live across the road from the riparian land adjacent to the proposed development site, and have spotted on my property the Powerful Owl twice within the last 6 months. I am deeply

concerned about the biodiversity impacts of the proposed SSD site and it's connection to the adjoining riparian land. EIS Appendix N – Arboriculture Impact Assessment Report has earmarked significant and protected trees for removal, they are:

- Situated on 61 Trafalgar Avenue, Lindfield.  
T18 Liquid Ambar (*Liquidambar styraciflua*) SSD application applying for removal because it is in the footprint of the proposed building – this 20 metre high tree is significant because it is located on the crest of a ridge to the north of the Gordon Creek riparian area. The tree is used as Habitat Connectivity for birds between the riparian area and the State and National parks to the west, north and east of the proposed site.

I believe the endangered Powerful Owl may use this tree's hollows to nest in, as well as a habitat connector. Refer to Photo 1 (SSD- 79276958 Attachment Photo 1) Photo taken from Corner Trafalgar Avenue and Russel Avenue looking at T18 located at 61 Trafalgar Avenue, where you can clearly see a large hollow in the tree. The BDAR Table 4 states that the Powerful Owl (a threatened species) has been excluded as a possibility because the "development site does not conform with the required habitat constraints e.g hollow-bearing trees, which is blatantly and deceptively incorrect and leads to the false assumption that no Powerful Owls are located within or near the proposed development site. This is contrary to my and my neighbours experience and sightings of the Powerful Owl. I ask that the DPHI to obtain an independent review of the Biodiversity impact to the Powerful Owl and it's habitat in relation to the proposed development site. I will also be passing my evidence and concerns about the impact this development will have on the habitat of the Powerful Owl species to NSW Department of Climate Change, Energy, the Environment and Water for an independent review.

**Photo 1 – Photo taken from Corner Trafalgar Avenue and Russel Avenue looking at T18 located at 61 Trafalgar Ave (photo also Attached)**



- Situated on 59 Trafalgar Avenue - T43 Turpentine Tree (*Syncarpia glomulifera*) is an endangered tree species– SSD application applying for removal because it is in the footprint of the proposed building. Figure 6 of the BDAR highlights that the proposed development site is located within the footprint of PCT 3262 Sydney Turpentine Ironbark Forest. I note that the comments in the BDAR in section 3.2 state that the tree does not meet the Commonwealth conditions for protection because “the occurrence on site is far too small and modified”. This is incorrect, as the report and analysis has not taken into account that T43 is part of a cluster of Turpentine trees. T43 tree located in 59 Trafalgar Avenue is connected to eight (8) further Turpentine Trees closely located in adjacent properties. 55 Trafalgar Avenue has two (2) Turpentine Trees, 30 Middle Harbour Road has 2 Turpentine Trees and 32 Middle Harbour Road has 4 Turpentine trees in its context of a cluster of Turpentine Trees

This cluster of 9 Turpentine Trees (that the T43 tree forms part of) is significant and is protected under the Commonwealth Environment Protection and Biodiversity Conservation Act (EPBC Act), and the NSW Threatened Species Conservation Act 1995.

I will thus be passing my evidence and concerns about the impact of this development on the habitat of the Powerful Owl species, and the removal of the reminance of the state and federally protected State Turpentine and Ironbark Forest to the relevant Federal and State agencies including the NSW Department of Climate Change, Energy, the Environment and Water.

## 22. Environmental Heritage

The site location considerably impacts on the environmental heritage of the immediate area is in and next to locally listed Heritage Conservation Areas, shares a boundary with 4 Heritage Listed buildings (37% of adjoining properties), and directly impacts 3 Heritage listed houses located perpendicularly across the road from the development site.

Section 2.2.7 of the EIS has omitted three Heritage listed buildings from its list of affected heritage items, which are located perpendicularly across the road from the development site and thus is associated to the development site. Refer to Figure 12 Heritage Map, I refer to items 150, 1481 and 143 which have been omitted from the EIS and Appendix J Statement of Heritage Impact. The omission of the true number of Heritage listed buildings (7 in total) being directly impacted by the proposed development either in the current HCA and neighbouring HCAs is a material and will adversely affecting the Environmental Heritage of the area.

In summary, the application SSD-79276958 for a State Significant Development should not progress because of the compounded non-compliance to the SEARs, and potential breaches of Federal and State laws beyond the scope of the NSW Department of Planning, Housing and Infrastructure.

Kind regards,  
Pamela Fijan  
35 Middle Harbour Road, Lindfield