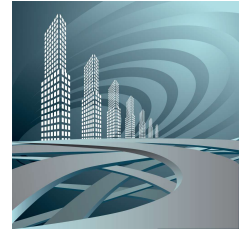


EVOLUTION PLANNING

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20 June 2025

Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy Street,
Parramatta NSW 2150.

Submission lodged via Major Projects portal

RE: SSD-81623209– RESIDENTIAL DEVELOPMENT, 9-21 BEACONSFIELD PARADE, LINDFIELD.

We have been engaged by the owners of 4, 6, 8, 12, 14, 16, 18, 20 and 22 Newark Crescent, Lindfield, (the 'Newark properties'), located to the immediate north of the development site, to review the exhibited application and make any submissions on their behalf.

Executive Summary

The matters raised in objection to the proposal are summarised as follows:

1. **Bulk & Scale** - Inappropriate built form transition with the Newark properties resulting in adverse visual and privacy impacts;
2. **Height** – Clause 4.6 variation request not well founded;
3. **Internal amenity** – significant deficiencies with respect to solar access and natural cross ventilation;
4. **Parking and Traffic;**
5. ***Ku-ring-ai Council Preferred TOD Alternative Strategy*** – Consideration of ('KRG Strategy') as a draft local and State environmental planning instrument.
6. ***SEPP (Housing) - Chapter 4 Design of residential apartment development*** – Design Principles

Background

On 5 June 2025, Ku-ring-ai Council resolved to adopt the exhibited 'Strategy' for submission to the Department of Planning to:



- Amend KRG LEP to, (as relevant to this matter), create new development standards for the site and the Newark properties; and,
- to 'switch off' the SEPP TOD development standards, allowing the LEP standards to prevail.

Refer to Figure 1 below showing the DLEP standards and the location of the Newark properties in relation to the site.

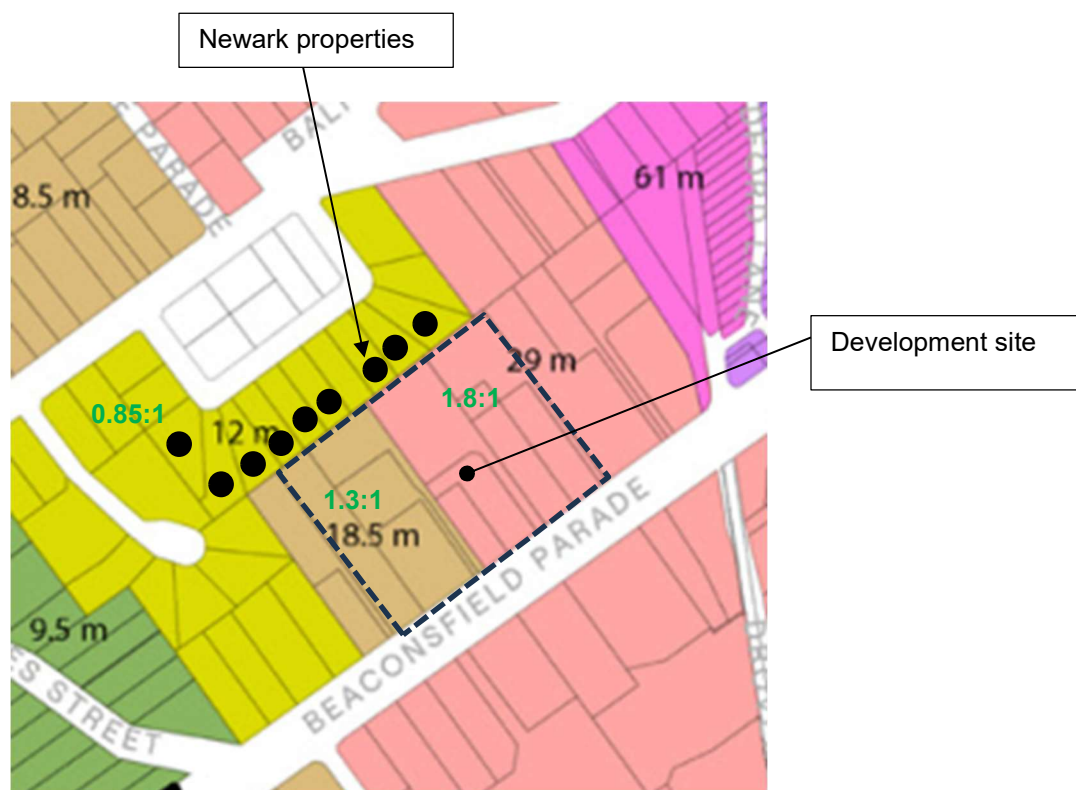


Figure 1: Draft LEP standards

In terms of imminency and timing, the Mayoral Minute attached to the Council Minutes of 5 June state:

"The Department has advised that 'upon Ku-ring-gai Council formally submitting to the Department an alternate scheme that seeks to replace the existing TOD planning controls, steps will be taken to disapply those existing controls after Friday 13 June 2025'".

On the basis that the KRG Strategy has now been submitted to the Department, it is our position that the strategy should be treated as a draft environmental planning instrument, since the Minister, (or delegate thereof), is now in a position to amend KRG LEP and create a self-repealing SEPP to amend SEPP(Housing), in accordance with Divisions 3.3 and 3.4 of the Act. Refer to Section 5 and the related submissions below.



Submissions

1. Bulk and scale

The aims of Chapter 5 of SEPP(Housing) 2021, related to TOD are:

- “(a) to increase housing density within 400m of existing and planned public transport,*
- (b) to deliver mid-rise residential flat buildings, seniors housing in the form of independent living units and shop top housing around rail and metro stations that—*
 - (i) are well designed, and*
 - (ii) are of appropriate bulk and scale, and*
 - (iii) provide amenity and liveability,*
- (c) to encourage the development of affordable housing to meet the needs of essential workers and vulnerable members of the community”*

We fully support the stated aims, in terms of increasing housing density around transport nodes. However, we submit that the proposed development will result in an unsatisfactory built form relationship with the Newark properties, (as existing and into the future); with consequential adverse massing, visual and privacy related impacts. This is entirely inconsistent with the aims of TOD, to be of ” appropriate bulk and scale”.

The submitted EIS does not address the TOD aims at all, nor does it include any specific assessment of this key boundary massing issue. Instead, the siting of the building at the rear appears to rely entirely on ‘compliance’ with Part 3F of the Apartment Design Guide, (ADG), in terms of building separation. Technically, the proposal complies with Part 3F with respect to the rear boundary, (except for a minor encroachment at ground level). Refer to Figure 2 below.

However, it is our submission that the proposed degree of building separation is inadequate and the provisions at Part 3F of the ADG, which recognizes neighbouring lower density development by adding 3m to separation distances, should be applied.



Figure 2: Extract proposed west elevation (Newark properties on left of figure)

The Newark properties are not in a different zone, but with a height limit of 12m and FSR standard of 0.85:1 we believe this is exactly the type of situation the drafters of the ADG had in mind when preparing the Guide.

Our submission is further supported in this respect since the Technical Study, prepared by SJB, leading to the KRG Strategy, anticipates “*townhouse and multi-unit dwellings*” on the Newark properties as a result of the DLEP zoning and standards.

Despite the exhibition of the KRG Strategy and technical studies, no reference has been made to the likely future planning context of the site created by the pending legislative changes in the EIS. Whilst the DA may be ‘saved’ by transitional arrangements in the new instruments, having an understanding of the likely future planning context is critical to inform an appropriate design response to the site context. Due to this ‘blind-spot’ in the contextual analysis, we submit that the bulk and scale of the development as it presents to the rear boundary requires fundamental re-consideration if the aims of the TOD are to be met.

The Technical Study also adopts a number of urban design principles. Principle 5 relates to the management of transition impacts. To support Principle 5, transitions greater than 2:1 are to be avoided. The DLEP is consistent with this approach, but upon application of the bonus height available under Chapter 2 of the SEPP, the transition ratio between the proposed development and the Newark properties is in the order of 3.6:1. The DLEP height standards represent a transition of up to 2.4:1 on the basis of the Newark properties being developed to 12m (3 storeys plus roof), which may be difficult to achieve due to the relatively low FSR and minimum lot requirements, requiring consolidation.



The poor transition in massing is further compounded, by a breach to the maximum height standard, particularly at across the northern elevation, as discussed below.

No Visual Impact Assessment has been carried out with respect to potential impacts on the Newark properties which sit at a lower level than the site amplifying the excessive form. The nine-storey buildings, (setback by only 6m at ground level, limiting the area for any meaningful canopy tree planting), will dominate vistas from the rear of the Newark properties and will contain windows and balconies which directly overlook all of the private open space areas presently enjoyed by the neighbouring residents.

2. Height

The proposed development takes advantage of the TOD height provisions and the bonus height available for in-fill affordable housing and still breaches the height limit by between $\frac{1}{2}$ - 1 storeys across the northern/rear elevation, being the most sensitive part of the site in terms of the related impacts on the Newark properties, but also elsewhere across the development.

The Clause 4.6 variation request provided to vary the maximum height standard is not well founded, in our view, for the following reasons:

- a) The request does not fully justify why compliance with the development standard is “*unreasonable or unnecessary*”

The Clause 4.6 variation request addresses all of the reasons in ‘*Webhe*’ to establish why compliance is “*unreasonable or unnecessary*”, but ultimately only relies on one - the objectives of the standard being satisfied, since the other reasons cannot be relied upon.

It then relies on the objectives for Affordable Housing at Chapter 2 of the SEPP only. The objects at that part are to provide affordable housing. The proposal clearly satisfies this objective by providing affordable housing but it has no relevance to ‘height’ and would not constrain any height. My opinion is that since the TOD height standard forms the base ‘height’, then the objectives of that part should also be taken into account in the assessment of ‘height’. The TOD aims/objectives, outlined above, require the consideration of ‘good design’, ‘bulk and scale’ and ‘amenity’, all which directly relate to the height of buildings.

It is our position that the TOD objectives are not satisfied since the breach aggravates the oppressive massing and scale of the development when viewed from the Newark properties and will contribute to additional overlooking impacts. Without due consideration and satisfaction of these aims, the variation request is deficient and consent cannot be granted.

- b) We disagree with the following ‘environmental planning grounds’ to vary the standard:
 - i. Objects of the Act

(c) - The variation refers to a “*missed opportunity*” to provide “*high amenity apartments*” if the standard were complied with. We disagree with the notion that the variation should be



supported otherwise an 'opportunity' will be missed. This open ended reasoning is not logical. It begs the question, (and one which really should be asked), ... where does the 'opportunity' end? Our position is at a point where the proposal has a satisfactory relationship with neighbouring development, unlike the proposal.

We also disagree that the proposal will provide apartments of high amenity. The overall internal amenity performance of the development is poor with deficient levels of solar access and natural cross ventilation, failing to comply with the minimum requirements of the ADG. Refer to Section 3 below.

(g) – The parts in breach of the standard do not only relate to lift over runs and roof open space. The elevations and sections clearly show north facing apartments in breach of the height limit by between ½ and 1 storey. Refer to Figure 3 below.

- ii. Topography – Again, the breach includes residential apartments and the reasons related to 'optimising solar access' need to be considered perhaps in the context of the northern elevation being loaded to improve solar access to an otherwise poorly performing scheme, at the expense of the owners of the Newark properties.
- iii. Desired future character – The assessment provided in the EIS only considers the policy framework created by the TOD provisions in its current form. We submit that the Clause 4.6 does not adequately contemplate the likely desired future character of the area.
- iv. Environmental Impacts – The variation request states:

"The non-compliant portions of the building relate to portions of the roof parapet and the lift overruns. No loss of privacy results because these are non-habitable spaces".

This is not correct. Refer to the extracts below from part of the non-compliant north elevation and section showing apartment windows facing the Newark properties located above the height limit.

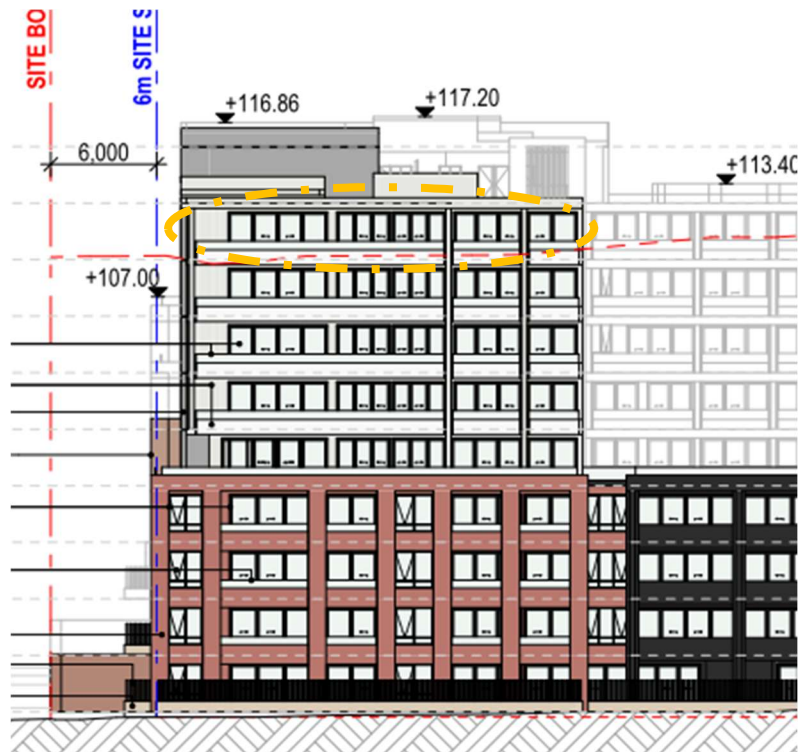


Figure 3: Extract North Elevation facing Newark properties.

A section drawing through the eastern end part of the development where the breach is greatest is not provided, but the sections provided, extracted below at Figure 4, clearly show windows in breach of the height limit. The findings stated in the variation request pertaining to an absence of potential privacy impacts is not correct. Direct sightlines will be available from apartments in breach of the standard to the rear private open space areas of the Newark properties.

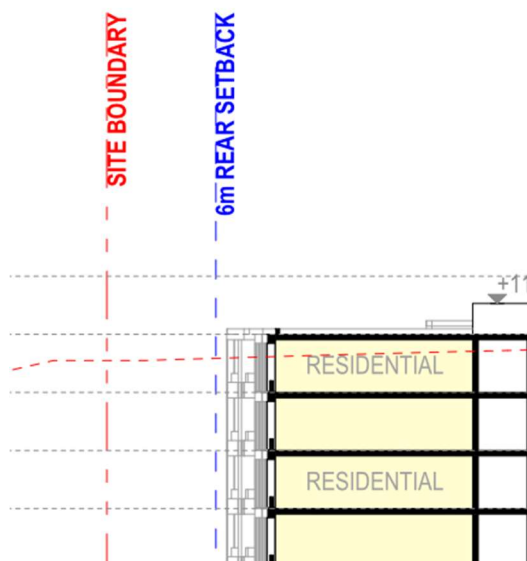


Figure 4: Extract DA302 Section at northern part of building adjacent to the Newark properties.

In conclusion, we believe that the submitted Clause 4.6 variation request does not adequately demonstrate why compliance with the development standard is “*unreasonable or unnecessary*” and that sufficient environmental planning grounds to justify the variation have not been provided.

3. Apartment Amenity

Solar Access

The EIS, where reference is made to solar access in response to the DCP, and the Design Report are inconsistent with respect to reported compliance with the solar access provisions of the ADG. The ADG requires at least 2 hrs solar access (already reduced to take into account metropolitan environments) between the hours of 9am-3pm mid-winter. As we understand, the proposal achieves 61% (and only 70% between 8am-4pm). Applying different controls to veil the non-compliance is unacceptable.

We acknowledge the orientation of the site is a constraint to achieving good solar access, but this is a constraint the designers need to better address if the TOD aims are to be met with respect to amenity and liveability, as well as the ‘Design Principles at Ch 4 of the SEPP, discussed at Section 6 below.

Natural Cross Ventilation

The EIS states that the proposal complies with the ADG design criteria of 60% reporting that 60% of the units will benefit from natural cross ventilation. We submit that the actual figure is much lower since the analysis provided with the application includes units which would not meet the inclusion criteria at Part 4B of the ADG. Refer to Figure 5 below.

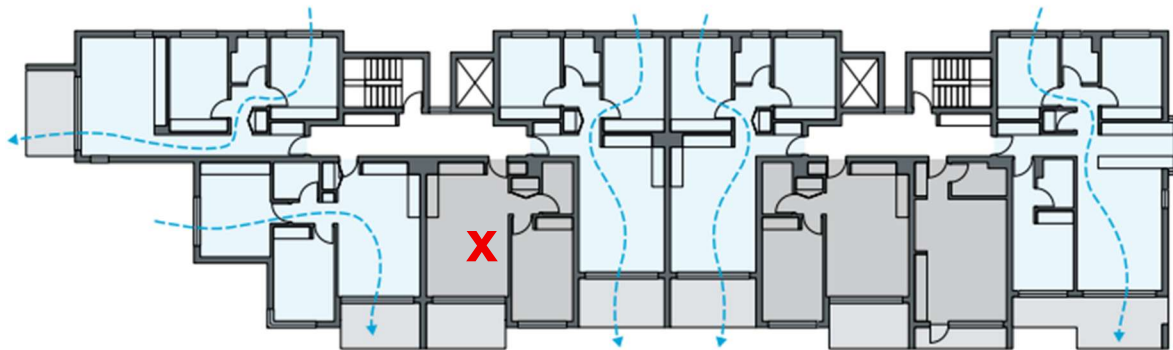


Figure 5: ADG 4B Natural Cross Ventilation

The proposal includes apartments which are single aspect, relying on a recessed plane introduced by a window or balcony, which are specifically excluded in the ADG as shown above. Refer to Figure 6 below for a limited analysis of Level 3 only, but the anomaly is repeated throughout. The proposal does not comply to a significant degree.

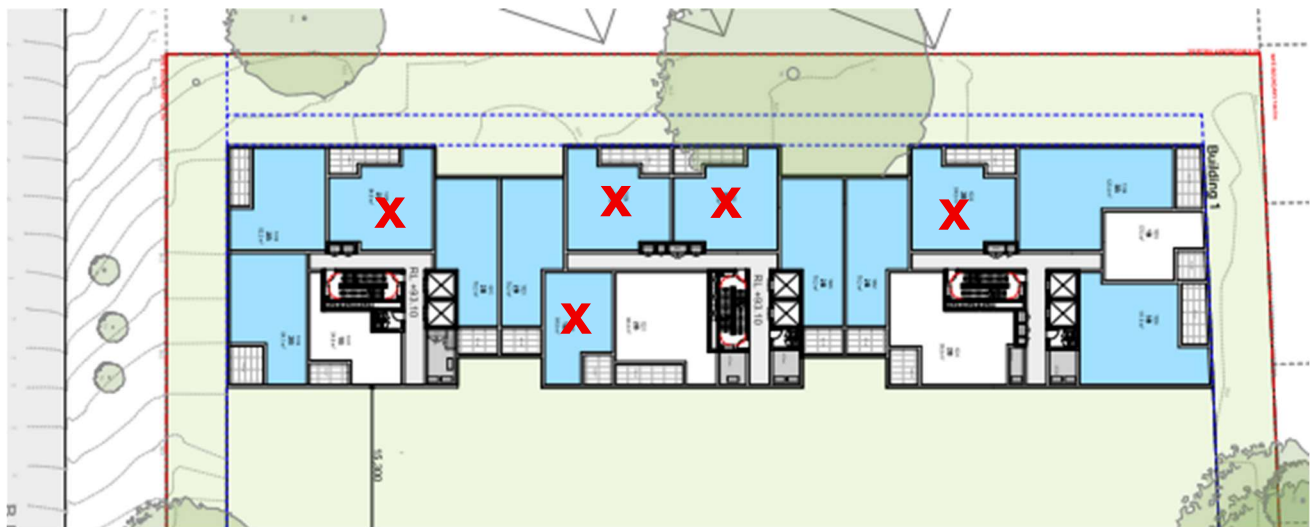
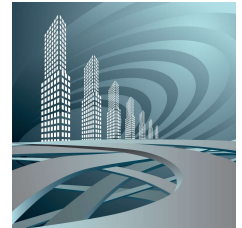


Figure 6: Extract L3 western building – Cross ventilation analysis DA508

These significant deficiencies with internal amenity are considered to be entirely unacceptable, particularly in the context of this new development, taking advantage of the opportunities available under the State government new housing policy initiatives. If the proposed density of the site can only be achieved with such poor amenity levels, then the density needs to be reconsidered. Again, density around transport nodes is important, but density which responds satisfactorily to context and achieves good amenity level (both TOD aims) is more important.



4. Traffic and Parking

The proposal includes 93 car spaces above the minimum requirement. Whilst 'compliant' and within the DCP parking range, the whole premise behind the TOD and Affordable Infill FSR and height incentives, centres around the premise of sites being in 'accessible' locations to promote the use of public transport. The proposed parking and consequential traffic generation represents the polar opposite of the intent of the 'transport orientated development' planning policy initiative.

The SIDRA analysis in the Traffic Report finds there will be no change in the performance of local street junctions. We have no evidence (or specialist expertise) to refute this but find it hard to believe that a development of this nature will have no impact on local junction performance and ask that the experts within Transport for NSW give further careful consideration to this proposition and this "*traffic generating development*".

5. Ku-ring-ai Council Preferred TOD Alternative Strategy

The KRG Strategy containing the Draft LEP maps and implementation strategy to create a self-repealing SEPP, has been publicly exhibited and the Minister has discretion as to any further exhibition or 'gateway' requirements. Following the preparation of a statement of intended effects, the self-repealing SEPP to amend SEPP Housing TOD and the amendments to KRG LEP may occur, and may occur prior to the determination of this application.

We submit that the Draft SEPP and Draft LEP should be considered in accordance with s.4.15 (1)(a)(ii) of the Act. Again, the applicant may benefit from savings provisions as to how the new standards will apply to the site, but the effects of the amending instruments need to be factored into the fundamental site/context analysis and design response to provide a more harmonious transition in scale with neighbouring lower density development.

6. SEPP (Housing) - Chapter 4 Design of residential apartment development

For reasons articulated above, the proposal fails to satisfy the following design principles:

- Context and neighbourhood character;
- 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”*
- Density *“(1) Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context”*; and,
- Amenity.

Conclusion

In light of the significant deficiencies with the proposed development, it is recommended that either the applicant be given an opportunity to re-consider the design and its response to context or that the application be refused.

On behalf of our clients, we thank the Department for their careful consideration of this submission.



Please contact the undersigned directly on 0430 007 725, should you wish to discuss this matter further.

Yours sincerely,

A handwritten signature in black ink that reads "Tony Robb". The signature is fluid and cursive, with the first name "Tony" and last name "Robb" clearly distinguishable.

Tony Robb
BA(Hons) UPS, Grad.Dip.TP (Westminster) RPIA
Principal.



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