

Ms Adela Murimba  
 Planning Officer  
 Development Assessment and Sustainability  
 NSW Department of Planning, Housing and Infrastructure  
*Submitted via the NSW Major Projects Portal*

30 June 2025

Dear Ms Murimba,

**RE: SSD-82548708 Residential Flat Building with Infill - Affordable Housing - 24,26 &28 Middle Harbour Rd Lindfield – 94 Apartments**

Thank you for the opportunity to provide a submission on 24, 26 &28 Middle Harbour Rd Lindfield.

Friends of Ku-ring-gai Environment (FOKE) is a community voluntary organisation that advocates for the preservation, protection and rehabilitation of Ku-ring-gai's unique heritage and environment.

Founded in 1994 to protect the Ku-ring-gai's 20th Century heritage that is a unique blend of the natural and built form (and which has been described as the best domestic 20<sup>th</sup> Century domestic architecture in Australia), FOKE has been a leading voice against the cumulative impacts of overdevelopment on Ku-ring-gai's heritage and environment.

Friends of Ku-ring-gai Environment Inc (FOKE) are not opposed to development or against appropriate infill proposals but support development that is respectful of design, scale, heritage, environment, infrastructure constraints and liveability.

This development proposal does not meet the Ku-ring-gai Council Local Environment Plan 2015 (KLEP) and Development Control Plan (DCP), Apartment Design Guide (ADG) requirements and should be rejected.

This development application violates the principle of orderly development and the expectations of the community and overrides local planning controls and will visually dominate the surrounding area.

This development proposal breaches the principles of good urban planning on many levels.

- The proposal is advocating development on critical Flood Prone land
- The proposal is not consistent with the existing residential amenity
- The proposal does not respect the scale and form of the existing locality
- The 9-10 storey development will have an unacceptable impact on downslope neighbouring properties
- The proposed setbacks do not meet statutory requirements, nor does it take into account the additional specifications related to its topography.

**We also object to the proposal on the following grounds due to non-compliance, inconsistencies or flaws with:**

- Ku-ring-gai Local Environmental Plan (KLEP) 2015
- Ku-ring-gai Development Control Plan DCP) 2024
- Apartment Design Guideline (ADG)

*2016 NATIONAL TRUST HERITAGE AWARDS HIGHLY COMMENDED*

*2009 NATIONAL TRUST HERITAGE AWARDS HIGHLY COMMENDED*

*2008 NSW GOVERNMENT HERITAGE VOLUNTEERS AWARD*

*2000 FOKE, WINNER, NSW HERITAGE OFFICE CULTURAL HERITAGE CONSERVATION AWARD*

*"HERITAGE WATCH OVER OUR PLACE OF NATIONAL SIGNIFICANCE –KU-RING-GAI"*

*KEEP AUSTRALIA BEAUTIFUL COUNCIL (NSW) METRO PRIDE AWARDS.*

- SEPP Housing 2021

This development application was lodged in order to take advantage of the TOD SEPP savings clause whilst Ku-ring-gai council submits the TOD Preferred Scenario KLEP amendments to the Minister for Planning in accordance with Land and Environment Court mediation agreement of November 2024. Council lodged the KLEP amendments with the Minister this month.

In contrast to the EIS contentions of its suitability, this development is excessive in terms of mass, height and bulk. It causes massive impact to the environment and the surrounding area as the land is classified as Riparian Land and Flood Prone. The development does not address the high levels of negative impacts it has on surrounding properties, including Heritage Items and Heritage Conservation Areas, in terms of reductions in their liveability with the loss of sunlight and privacy, or the high negative impact on the Riparian zone that extends both in an upward and downward gradient of the site across and under neighbouring homes before entering Middle Harbour.

### **Statutory Context**

- The proposal ignores the fact that the DPHI has been in regular discussions with Ku-ring-gai Council and has supported the development of a Preferred Scenario that would meet the target dwelling numbers of the TOD scenario while protecting the heritage, character and environment of Lindfield and the surrounding targeted suburbs. This process was agreed as part of a legal mediation between DPHI and Ku-ring-gai Council and cannot be set aside. Council has in June formally tabled the TOD Preferred Scenario, following 7 months of design and community consultation.
- To undermine Ku-ring-gai Council's imminent Local Environment Plan (LEP) by allowing State Significant Developments (SSDs) to be approved within weeks of the approval of this Preferred scenario would be grievous, mischievous and disingenuous on behalf of the NSW Government.
- The Ku-ring-gai Preferred Scenario will amend the planning controls that apply to this site to retain to a maximum 18.5m height making this proposal a prohibited development. It would be an incongruously high development dominating the surrounding lower density dwellings.
- Within the context of the existing Ku-ring-gai local Environment Plan as it relates to heritage items, the proposal does not meet the requirements of the current Development Planning Controls (DPCs) with regard to front, rear and side setbacks and height of building setbacks. This SSD Application abuts one Heritage Item and fronts another two Heritage Items as well as being located in the Trafalgar Avenue Heritage Conservation Area (HCA) and next to the Middle Harbour Road HCA and should be rejected.
- The development is sited on Flood Prone land and fails to meet the requirements of the Ku-ring-gai Council Riparian Land DCP.
- The layout, height, bulk, scale, separation, setbacks, interface and articulation fail to address and respond to the context, site characteristics, and streetscape. The development is excessive in height, mass and site coverage, and does not comply with the Ku-ring-gai Local Environment Plan (LEP), Development Control Plan (DCP) or the Apartment Design Guide (ADG).

### **Flood Risk - Riparian Land Requirements (DCP 17.4) and (DCP 24D)**

The site is mapped in KLEP as flood prone land. The existing dwellings are sited to avoid the Core Riparian Zone (CRZ). The SSD Application does not meet the requirements of the Ku-ring-gai Flood Prone Land policy and should be rejected.

- The SSD Application fails to meet the required setbacks of 10 metres from the CRZ as measured from the centreline of the watercourse. The CRZ for category 3a should at a minimum cover the extent of any overland flow path.
- All parts of the development are to be located outside the CRZ on Category 3a Riparian Land. This requirement has not been met.
- Ku-ring-gai Flood Prone Land Policy aims to minimise the flood risk to life and property associated with the use of land and avoid significant adverse impacts on flood behaviour and the environment.
- DCP24D.3 states 'Subsurface water management systems are to be designed to transfer subsurface water through, around or under the SSD Application to maintain the natural subsurface water regime.' It must be 'demonstrated that the natural flow regime is restored both

up-gradient and down-gradient of the site, without any adverse effects on surrounding property; infrastructure; groundwater dependent ecosystems; threatened species, populations, and ecological communities.’ This requirement has not been met and effects to the down-gradient surrounding properties, environments and infrastructure have not been addressed.

- The Flood Impact Risk Assessment highlights that issues exist with a 1% AEP (Annual Exceedance Probability) on the site. Ku-ring-gai Council has stated that with the existing Stormwater system has an inadequate capacity to convey a 5% AEP event. This issue has also been raised in the Applicant’s Flood Impact Risk Assessment as a concern for flooding resulting from surcharging into draining pits in a maximum precipitation event.
- Ku-ring-gai is a high rainfall area with 2022 marking significant flooded roads, bridges properties and numerous catchment areas. This part of Lindfield was heavily affected.
- The typography of this site leading to the catchment area at the intersection of Trafalgar Avenue and Middle Harbour Road caused significant damage to gardens, structures and access into dwellings down gradient from this proposed development in 2022.



Source: Ku-ring-gai Council. Yellow outline marks the location of the SSD Application.

- With the replacement of slow draining grassed areas with hard surfaces and drainage aimed at moving the water offsite, this will exacerbate the speed at which water will accumulate and move downstream in times of high precipitation. The Flood Impact Assessment fails to take into consideration the likely impact on neighbouring properties from this impact.
- There is a Flood Evacuation Plan for the SSD Application, but it minimises the impact of flood or increased damage from water accumulation and speed downstream from the development site.
- Due to Climate Change, Lindfield and Ku-ring-gai can only expect increased levels of rainfall. As such this development should be rejected.

### Excavation Impact on Riparian Land

- This development includes a lower ground floor and two basement levels. The site will be excavated at the Middle Harbour frontage to a level of approximately 12m to approximately 15m at the rear fronting the properties at Russell Avenue.
- The building footprint and site coverage are excessive at well over the 30% cover required by the DCP. Over 70% of the site area will be excavated to support this development.
- The site topography accentuates the flood issue as Middle Harbour Road falls approximately 19m from Pacific Highway to the intersection with Trafalgar Avenue.
- The development site also falls 7m from its northeast to southeast corner delivering a steep slope across the site. Two catchment areas meeting at the proposed site development.

- As a result of these two slopes, plus the steep downward slope from Clanville Road in the south, this Middle Harbour Rd and Trafalgar Avenue intersection is an area where water overflows the intersection regularly without the need for any significantly high rainfall.
- The excavation and replacement of the grassed areas with predominantly hard surfaces will cause damage and blockages to the free flow of water into Gordon Creek and onward into Middle Harbour.
- The Flood Impact Study fails to address the impacts of this development both upgradient and downgradient of the riparian zone. The development of this site and the disturbance it will cause will exacerbate an already problematic flood prone area, affecting numerous homes on Russell Avenue and Middle Harbour Road.

#### **Excessive building and Height - non-compliant**

- The Clause 4.6 Variation request of the DA must be denied.
- This Applicant seeks a maximum building height of 33.07m which exceeds the maximum building height control by 4.47m (15.6%) above the 28.6m height control. The proposal needs to be amended to comply with the TOD SEPP. The proposal represents a gross over development in terms of height, scale and bulk in stark contrast to the adjoining 1-2 storey residences, adjacent to a Heritage Item and Heritage Conservation Area (HCA).
- The proposal is not in keeping with the KLEP 2015 or DCP or Section 155 (2) Chapter 5 of the SEPP (Housing) which permits a maximum building height of 22 metres for a residential flat building and under Section 18 in Chapter 2 of the SEPP (Housing) an additional 30% building height for in-fill housing comprising of at least 10 % of the development. Hence a maximum building height for the SSD Application is 28.6m.
- Under the Preferred Scenario approved by Ku-ring-gai council following discussions with DPHI, the building height for this location is 18.5m. With a 30% Affordable Housing uplift this would be 24m. This should be the maximum building height if this proposal is to progress.
- The height of the structure is incompatible for the area with 9 storeys at the rear and 10 storeys on the Middle Harbour Rd frontage.
- We request that the Applicant adheres to the prescriptive standards pursuant to the provisions of Clause 4.6 of the KLEP 2015 and the development standard at Clause 16(3) & 155 of SEPP Housing and that the request for a variation to the standard be refused.

#### **The development ignores the Ku-ring-gai DCP controls:**

- Excessive site coverage in excess of the DCP controls. Site coverage of 30% is exceeded by more than 100%, with an estimated 70+% site coverage. The site coverage comment of 44% in the EIS must relate to another development.
- Deep soil cover should be a minimum of 50%, but is halved to only 28%
- The site is classified to have an FSR of 1.3:1 under the Preferred scenario, not the 3.25:1 of this proposal.
- Its location next to a Heritage Item and Trafalgar Avenue Heritage Conservation Area and its associated requirements are not met.
- The streetscape and strategic context as required in the DCP are ignored
- Communal open space is increased from DCP setting of 10% to a proposed 43% that will impact the noise and privacy factor for the immediate vicinity and adjoining properties.

#### **Building Setbacks and Separation to the adjoining heritage item or Heritage Conservation Area (HCA) are ignored DCP 19F and 19D:**

- The DCP 19F requires a setback of 12m from an adjacent Heritage Item or HCA. There is only a 6m setback to the rear Heritage Item at 19 Russell Avenue, and only 6m to the eastern boundary adjacent to the Trafalgar Avenue HCA.
- Adjacent height with a building mass exceeding 8m from existing ground level, requires an additional setback of 6m from the Heritage Item or HCA, including balustrades, to be applied. Additional setbacks in height are required if the development exceeds 12m in height, which it does.
- The current setbacks above 4 storeys exceed the height limit of 8m for a setback next to a Heritage Item or HCA, and no further setbacks exist above 12m.
- This proposal has taken no consideration of its setting adjoining a Heritage Items or adjacent to a HCA.

### **Gardens, Setting and Curtilage (DCP 19F)**

- Garden settings in the vicinity of a Heritage Item are not to be adversely affected in terms of overshadowing or physical impacts on significant trees.
- The lack of adequate deep soil cover will impact the ability of large trees to be established in order to both maintain the existing streetscape canopy but also mitigate the height and bulk of the development. The proposal has a deep soil cover of only 28%, well below the required 50%.

### **Other Setbacks as required are not met: (DCP 7A)**

- Requires a 10m setback from the street boundary. This is a non-compliance issue with this proposal which has only a 4m to 8m setback. There should be a consistent 10m setback. The fact that the ground floor terraces/courtyards significantly encroach the 8m setback is not acceptable.
- For side and rear setback requirements to ensure deep soil, landscaping and tall trees are accommodated to all sides of the building: a minimum of 6m from the side boundary for all levels up to the fourth storey and a minimum of 9m to the fifth storey and above. A setback of 9m is required from the boundary to a lower density site. Again, not met.
- The proposal allows a 6m side and rear setback and then reduces this to a 2m setback on the western side and 3m on the eastern and northern side due to the encroachment of the floor terraces and courtyards at the ground level. This is another non-compliance issue. This is not a minor infraction as stated but a 66% reduction from the prescribed controls.
- The proposal needs to be amended to provide a minimum 10m front, unimpeded and increased rear and side setbacks to contribute to a reduction in bulk and scale.
- The current proposal fails to meet the setback requirements for sloping sites in DCP 7A.3 and 7A.4.

### **SEPP Housing – Apartment Design guide – flaws and inconsistencies**

- 3E Deep soil zones- Deep soil of 1383m<sup>2</sup> (28.3%) will be unlikely to allow for tall tree canopy to develop.
- Housing SEPP requirement for residential flat buildings to provide a minimum of 9m from the side and rear boundary up to the fourth level when located next to lower density residential development are not met.

### **Design Quality**

- The proposed future building envelope provides extremely poor solar access and will negatively overshadow residential properties in the vicinity of the site.
- The proposed 33metre building will negatively impact on the privacy of neighbouring residents and overshadow them, replace garden views with carpark entrances and concrete, while towering over the Heritage Item at 19 Russell Avenue.
- The interface between the 9/10 storey development and neighbouring single storey dwellings is excessive, incompatible and unacceptable.
- The design is completely out of context with the neighbouring homes of the area. It does not address solar and privacy concerns of neighbouring properties, particularly on the western and southern sides.

### **Built Form**

This development's Built Form and Urban Design are inappropriate for the location. Its bulk, height, excessive site coverage and density at 9+ storeys display a lack of integration into the surrounding area.

- The development substantially exceeds the maximum heights allowed and sits in an area known for its Federation and interwar homes, with 5 heritage items, one abutting the development, and one HCA adjoining and another in close proximity.
- The Applicant's request for a variation allowing it to exceed the allowable height under existing TOD planning controls by 15.6% is unjustified.
- It ignores any orderly transition to the surrounding low-density homes and will stand alone surrounded on all sides by 1-2 storey homes.
- There is no consideration for the amenity, privacy and overshadowing that will occur to the neighbouring dwellings.
- Shadowing on neighbouring dwellings to the south and west will be severe, especially in mid-winter.
- The development does not meet the required setbacks for the site's location
- The development will dominate the skyline. The excessive height, bulk and scale of the proposal will have an unacceptable visual and heritage impact on the area and its streetscape.
- Loss of Privacy due to the reduced setbacks and removed vegetation and old growth tree canopy will impact the amenity of neighbouring dwellings.

### **Future Character of Lindfield**

The proposal mentions regularly that this development 'reflects the anticipated future character of the area' echoes the Applicant's understanding of the 'uncharacteristic' size and design of the proposal for Lindfield.

- The community has consistently supported lower density developments further from the town centre as part of the desired future character of Lindfield.
- The future character of Lindfield is reflected in Council's Preferred Scenario as developed by the community with Ku-ring-gai council to meet the dwelling targets. This Scenario places high density developments such as this proposal close to town centres or the Pacific Highway corridor. This proposal under the Preferred scenario would be prohibited as this site and any development should meet the lower height of 18.5m as the height maximum of the Preferred Scenario zoning.
- Comments aligning this proposal to the Lindfield Hub development, across the railway and Pacific Highway are meaningless. This site sits approximately 10 metres below the Highway and nearly a kilometre away.
- This proposal under the Preferred scenario would be prohibited on this site and should be rejected.

### **Environmental Heritage will be negatively impacted**

- The site is located partly within the Trafalgar Avenue Heritage Conservation Area (HCA) and adjoins a Heritage Item at 19 Russell Avenue to the rear of No.26 Middle Harbour Road. It also is located within close vicinity of Heritage Items at 31, 9, 32A and 34 Middle Harbour Rd.
- 28 Middle Harbour Rd is included in the Trafalgar Avenue HCA and is described in the report as a good example of an Inter-War dwelling. Inconsistently, the Heritage 21 report states that as it has not been maintained well it should no longer be considered an element of this HCA.
- However, the report does concur that 28 Middle Harbour Rd has significance as part of an intact residential precinct of the Federation and Inter-War period and reflects the early pattern of subdivision and early residential development. It proceeds to confirm that 28 Middle Harbour Rd 'does fulfil the criteria for historic significance at a local level.'
- The removal of 28 Middle Harbour Rd from the Trafalgar HCA has the twin impact of reducing the size of this HCA and allowing the adjoining HCA properties along Trafalgar Avenue and Russell Avenue to be dominated and overlooked by this 9+ storey development.

The Heritage 21 report is contradictory in recommending that the demolition of these dwellings will have no contributory impact.

The report:

- Fails to provide a review of the Trafalgar Avenue HCA as to the significance of the loss of 28 Middle Harbour Road to the overall HCA. The loss will severely negatively impact the Trafalgar Avenue HCA which contains two Heritage Items.
- 19 Russell Avenue will have 9 storeys overlooking the property without the appropriate ground setbacks of 12m nor the additional setbacks above 8m and further setbacks for the additional heights.
- The Trafalgar Avenue HCA has another 7 properties directly adjoining the site which will similarly be compromised in terms of the negative impact of such a massive building. Similar setbacks as above are required for all items in the HCA to meet the requirements of the DCP 19F and 19D.
- Fails to thoroughly assess the impact of this development on the four other heritage items in the visual vicinity of the development in terms of overlooking, streetscape and landscaping.
- Understates the impact of this largescale development to the surrounding HCAs (Trafalgar Avenue and Middle Harbour Rd). No mention of the Middle Harbour HCA though it contains 2 Heritage Items within the visual vicinity.
- Fails to address the incompatibility of the SSD Application in terms of any of its recommended design, massing and style and its destructive impact on the intactness of the HCA that surrounds it.

### **Visual Impact**

- The SSD Application sits in the midst of predominantly single storey homes and adjacent to Trafalgar Avenue HCA and in close proximity to Middle Harbour Rd HCA and 5 heritage items.
- The development will dominate the area while presenting a design and bulk that is completely foreign to that of the heritage and low-density dwellings which will surround it.

- This size of development should be located in the town centre or on Pacific Highway so that a suitable transition from a large 9/10 storey building to low density residential can be undertaken in a manner that reflects good principles of urban planning.
- The impact of the size of the development from the surrounding streets of Middle Harbour Road, Russell Avenue, Trafalgar Avenue will be immense. As a 10 storey building on an upward slope on Middle Harbour Rd it will be visible to the whole eastern side of the street as it rises above the tree canopy. I
- It will dominate Russell Avenue to the north, protruding behind the heritage homes and Trafalgar Avenue HCA by over 7 storeys.
- It is clear that the Visual Impact Report is misleading and inaccurate, photos 1 and 2 show a bend in Middle Harbour that does not exist (obviously taken with a fisheye lens). Middle Harbour Rd runs east/west not north/south as stated in the document.

### **Overshadowing.**

- Direct sunlight into western properties is severely diminished in winter, with number 22 Middle Harbour Rd unlikely to receive any direct sunlight into its living areas at this time.
- Stipulated in the ADG is that living spaces receive at least 2 hours of sunlight. This must also apply to the existing residences west of this massive development.
- The EIS report is clearly in error in stating that the loss of sunlight to these residences is minor. The EIS cannot meet the requirement for 2 hours of sunlight for internal living spaces, it can only state 2 hours 'of solar access to their outdoor amenity spaces' in midwinter. This development ensures dark and damp neighbouring residences where previously there was sunlight.
- The Ku-ring-gai DCP states that '3 hours of sunlight must be allowable on 21st June in living rooms, private open spaces and communal open spaces.' This applies to new developments and adjoining dwellings. No.22 Middle Harbour Road has unobscured sunlight for possibly one hour in mid-winter.
- The proposal needs to clearly assess the REAL direct sunlight into living areas, and onto these adjoining residences and amend the development as necessary to meet the specific requirements as per the Ku-ring-gai DCP and ADG.
- The shadow diagram for the south and west side of the development will maintain shadow for the residences west of the development for the majority of the day in mid-winter, with the shadow also extending across Middle Harbour Road to the residences on the other side.
- No mention is made of 4 hours of direct sunlight for solar collectors and hot water services as required by the Ku-ring-gai DCP. This is because this requirement cannot be met.
- At 9+ storeys above the neighbouring properties, this development is essentially too big for the site.
- Due to the steepness of the block and the height of the development commencing upslope, the setbacks need to be far larger to ensure privacy, direct sunlight and residential amenity for adjacent residences.

### **Privacy and Noise**

- This development does not meet the DCP23.7/8 Acoustic and Visual Privacy requirements of minimising the impact of noise and privacy loss on neighbouring buildings and their occupants:
  - Private open spaces and principal living spaces of the adjacent dwellings are to be protected from direct or unreasonable overlooking from all new residential developments
  - When designing and siting active open space areas (e.g. BBQ areas, communal areas etc) regard is to be paid to potential noise impacts on adjacent buildings.
- The surrounding dwellings on all sides will be overlooked by the development as its height at 33.07m will be 7-8 storeys higher than the adjacent 1-2 storey dwellings. Trees alone will not be able to mitigate the overlooking and loss of privacy in both outside and, for some, their interior spaces.
- 22 Middle Harbour Road, which is dominated by the development with less than the required setback for the scale of the new development will be particularly vulnerable.
- Substantial measures need to be taken to ensure that legal battles over the loss of privacy will not ensue, as Lindfield is predominantly a family area.
- The construction of two outdoor communal spaces, one at level 4 and another on both rooftops at Level 8 will cause undue noise to be carried to neighbouring residences, and further afield. These



communal spaces on the rooftop are positioned predominantly at the rear of the building overlooking the single storey residences in Russell Avenue and Trafalgar Avenue.

- These communal spaces need to be reviewed to reduce overlooking and include noise abatement measures to ensure that the amenity of neighbouring residents is not affected.

### **Social Impact**

- Residents are exhibiting high levels of being stressed, angry and emotional about the devastation to our community, the destruction of our heritage, our tree canopy and wildlife.
- The daily visual impact of the development and the changes to their landscape and ability to enjoy their home environments will have a psychological toll on existing residents.
- The development will dramatically and negatively affect numerous surrounding residences due to its height and position impacting loss of sunlight, privacy and tree canopy leading to depression.
- Already many residents feel a sense of 'grief' that their home and neighbourhood will significantly and irreversibly be negatively impacted due to increasing overdevelopment of the neighbourhood.
- The term 'solastalgia' perhaps may describe the feelings of many residents, a scientific term that describes the emotional distress felt when existing residents witness the destruction and degradation of their local environment and amenity.

### **Traffic and Parking issues will be exacerbated**

- With an additional 190 cars, the local streets surrounding the development will be clogged. The streets are not wide and with trucks arriving into the development during construction and for ongoing services will be a real and persistent problem.
- Currently this section of Middle Harbour Road is a commuter parking area with parking that will only be exacerbated by the lack of adequate parking on site in this development.
- Weekend and weekday traffic is currently a major issue in Lindfield and the Pacific Highway, with choke points from at Strickland Avenue and the Havilah Rd underpass experiencing longer and longer delays.

### **Environmental and Amenity Loss**

- The proposal fails to demonstrate a "high level of environmental amenity for any surrounding residential or other sensitive land use".
- The extent of the overshadowing, loss of solar and privacy in adjacent dwellings will significantly reduce the liveability of these surrounding homes.
- The development essentially steals the amenity and solar access from adjacent houses.
- A Social Impact Statement is required to address the inequities for adjacent homes from this development

### **Water and Sewerage systems.**

- The water pressure in various parts of Lindfield has already decreased as more residents and businesses have relocated here.
- The addition of many toilets, showers/baths and washing machines that will be added to a sewerage system that has not been substantially upgraded since the late 19<sup>th</sup> century cannot be ignored as part of any EIS. See Sewerage Systems EIS Guideline | Planning.nsw.gov.au.
- Council records show that Sydney Water has had in excess of 50 sewer leaks over the past 2 years in Ku-ring-gai
- **The EIS has not addressed these critical issues.** A thorough assessment of the current water and sewerage system's ability to accommodate significant high density population growth is required.

### **Tree Canopy and Biodiversity**

- The Proposal has identified 45 significant trees in the development area. Of these, half, being 22 existing trees, will be removed. 30 new trees will be planted, but with a substantially reduced deep soil cover will not reach the canopy cover or height of the old growth trees.
- The current canopy cover is substantial and will be severely reduced to a level of only 39% below the DCP 50% target.
- This is massive destruction and will decimate the mature tree canopy that is essential for our bird life and small animal habitats.



- One Plant Community Type (PCT) is present within the Site - PCT 3262 Sydney Turpentine Ironbark Forest was mapped in low condition due to the presence of weeds. PCT 3262 is associated with a Threatened Ecological Community (TEC) Sydney Turpentine-Ironbark Forest of the Sydney Basin Bioregion which is listed as critically endangered under the *Biodiversity Conservation Act 2016* (BC Act) and *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as critically endangered. **This needs a more thorough review to ensure this critically endangered community on this site can be protected.**
- Many of these mature trees surrounding the proposal are many decades old. All measures possible need to be employed to ensure they are maintained and not removed or inadvertently damaged as a result of this development. They also form a rich and layered habitat and biodiversity for which our area is known.
- It remains incredibly important that as Gordon Creek flows across and over this land to stormwater drains that flow directly into Middle Harbour and Davidson National Park, extra precautions need to be in place to avoid any inadvertent damage or spills during construction.
- Riparian systems and the number of vegetation communities and species that are fully or partially dependent on subsurface/groundwater flows need to be protected. Any changes to groundwater will have significant impacts.
- There is no hydrogeological report regarding changes to groundwater and its impact on vegetation and riparian communities.
- One Matter of National Environmental Significance was identified as having potential to be adversely affected by the Proposal. *Pteropus poliocephalus* (grey-headed flying-fox) is listed as Vulnerable under the EPBC Act and it is considered that this species is likely to use some of the Site for seasonal foraging.
- Ku-ring-gai is described as an "environmentally sensitive area" for migratory species who utilise the vegetated ridgeline such as Lindfield as they migrate north to south. The loss of the vegetation from developments impact on migratory species through loss of foraging and sheltering resources. Many protected, and declining obligatory migratory birds such as Yellow-faced Honeyeater (*Caligavis chrysops*) and White-naped Honeyeater (*Melithreptus lunatus lunatus*) rely on the canopy that spans this north-south corridor to navigate, rest and forage. The biannual honeyeater migration and also, occasionally the Critically Endangered Regent Honeyeater (*Anthochaera Phrygia*) follows this vegetated belt. Koel specifically the Eastern Koel, is a migratory bird that travels from Southeast Asia to Australia breeds annually in canopy trees along the rail corridor.

### Infrastructure and Public Space

- Lindfield is regularly classified by Ku-ring-gai Council as having very limited open space and parks for its current population. This Proposal will just exacerbate the issue.
- The SSD risks unsustainable development, straining local infrastructure and exacerbating environmental and biodiversity decline.

### Community Benefit

- The SSD proposal offers no benefit to the existing community and will exacerbate and overwhelm existing infrastructure and community services particularly the local schools, parking, community services and facilities.
- Affordable housing should be held in perpetuity and not for just 15 years.

### Conclusion

This development is a massive overreach in terms of the site coverage, ignores the Riparian Land issues or any further consequences that will occur to this Flood Prone land should this development proceed. It does not meet the setback and separation and other standard requirements of the Ku-ring-gai LEP or DCP, Housing SEPP or that of the ADG.

The proposal will have a significant negative impact on the adjoining heritage item, two Heritage Conservation areas and the immediate environment, traffic and parking, tree canopy, neighbourhood character, visual amenity and privacy, and local infrastructure.

The site is an environmentally significant area, which supports the EPBC Act rated vulnerable Grey Headed Flying Fox in addition to the Threatened Plant Community of the PCT 3262 Sydney Turpentine Ironbark Forest. The precipitation that flows across and onto this land flows directly via Gordon Creek into Middle Harbour. This development will further destroy Sydney's vulnerable environments.

The SSD Application is an overdevelopment of the site and not in the public interest as it does not demonstrate a public benefit or strategic merit.

Thank you for considering this submission. The issues with this development are significant and we hope the Department will take into account our concerns and reject the development proposal.

Yours faithfully,

*Kathy Cowley*

Kathy Cowley

PRESIDENT

cc Mayor and councillors

cc Matt Cross MP Member for Davidson

cc The Hon Scott Farlow MLC Shadow Minister for Planning