

Response from David Walker

1 Introduction

My name is David Walker and I live with my family at 8 Lightcliff Ave, Lindfield. We adjoin the proposed development to the east and our home is a heritage property in a heritage conservation area. I've lived here with my family for around 5 years. We were attracted to the area and the property by its natural environment and privacy and we like where we live very much.

The news of the proposed development came as a shock to us as the properties are mostly outside the designated TOD area. I note that there are many errors and inconsistencies in the SSD application, which together with other adjoining neighbours, have been detailed in an attachment document, titled "Errors and Inadequacies". Many neighbours, some experienced in relevant professions, have helped in compiling those errors and inadequacies and therefore they also form a part of their submissions.

In terms of the additional adverse impacts on me and my family, these are listed and detailed below.

2 Adverse Impacts

The SEAR document from the DPHI on Planning NSW's website lists 22 areas where the SSD applicant must respond in order to be assessed, related to the required issues. It should be noted that in addition to the errors and inconsistencies detailed elsewhere, many of the applicant's reports are incomplete, misleading or incorrect. I've explored some of these and their impact for consideration below and encourage further engagement for more detail if required.

2.1 Statutory Context

Section 1 of the SEARs outlines the statutory requirements. Here are my concerns from a statutory perspective, which I ask assessors to consider as they determine the eligibility of this application. These are at a high level and adversely affect me by way of allowing the development in the first place, thereby facilitating the other adverse effects in the following sections.

- Two out of three properties within the proposed site are not in the designated TOD zone. One site has part of it within the agreed 400m radius to the train station. My understanding of the agreed legislation is that this entire site is therefore eligible for

development. In addition, I understand that adjoining properties that share a boundary are also eligible for development. That would mean that numbers 1 and 3 Nelson Road may be eligible, but not number 5. An investigation into the legalities of inclusion beyond adjoining properties is requested.

- More than 400m from the train station. The developer has confirmed in their EIS (ref M250136, page 52) that the shortest walking distance from the closest point of the three sites (which may not be the exit point) to the train station is 500m, which is further than the required maximum distance of 400m. If required, a formal survey should be completed.
- Not compatible with the Preferred Scenario. Kur-ring-gai Council has conducted extensive public consultation to refine the TOD maps. Due to the isolation of the proposed site in regards to adjoining properties, they have been excluded in Council's Preferred Scenario. This scenario would result in a transition from high rise to low rise by way of separation by Nelson Road. The planning scenario in place when this application was made was not the result of community consultation and results in a proposal whereby an 8 or 9 storey apartment block (TBC) is located adjacent to single storey homes with no plans for a transition in height or scale.
- A Concept SSDA cannot be assessed. The concept plan does not have enough detail for a proper assessment to be made. Even the Heritage Impact Assessment states "At this stage the Concept Plans do not include proposed materials, building techniques or details" (ref Appendix 16, page 37), and "To date the building has not been subject to detailed design" (page 38).
 - Examples include lack of detail in the shared spaces eg rooftops, lack of detail on the location of windows and doors that may impact privacy of adjacent properties (ref Appendix 9: Architectural drawings DA303 – DA312) and that a detailed flood impact study "will be provided in the detailed SSDA stage" (ref Appendix 22, Flood Impact Risk Assessment, section 4.3, p14). The planner, Ingenuity Planning, confirmed that "Following the (SSD) lodgement you will have the opportunity to review all final plans and consultant reports" (ref email attachment titled "Email – Planning Ingenuity Consultation"). However, this is not the case: the design is not final and the reports are not complete. Furthermore in this email, the planner states why: "the timing for this initial engagement phase is impacted by the forthcoming changes to the applicable planning policies which the NSW Department are making in the coming weeks. We are very much so under pressure to prepare and lodge our application as soon as possible to ensure that it can be considered by the Department under the current controls". So it appears to be a rush job which has not met the requirements.
 - The most significant of these to me is SEARs requirement 6.5 (2), regarding stormwater and water sensitive urban design. The applicant states in Appendix 3: Statutory Compliance Table, p.13 (incorrectly, see the "Errors and Inconsistencies" attachment document) that they comply to parts (a), (b) and (c) which are design principles, riparian/stormwater/flooding measures and stormwater impacts on adjoining properties and waterways and simply states "Noted" regarding mitigating the impact of stormwater runoff on adjoining properties, without any details.
 - Note also that there was zero opportunity for discussion during the applicant's engagement webinar presentation due to "running out of time".

- There are many examples of the application being incomplete and therefore being impossible to assess or approve.
- Does not consider other forthcoming SSDs. Multiple SSDs are being proposed in the immediate vicinity. However, the cumulative effect has not been considered with regards to issues such as increased traffic, increased stormwater runoff and the removal of the overall heritage conservation area character.

2.2 Built Form and Urban Design

Section 6 of the SEARs requirements demands an “appropriate interface with the adjoining low density residential zone and heritage conservation area”. How can an 8 to 10 storey building have an appropriate interface with adjoining single storey dwellings? Even the applicant’s Heritage Impact Assessment (ref Appendix 16, p. 36) states in response to the requirements for local character and streetscape, “The proposed design does not comply due to its large vertical scale and contemporary nature. It is noted that the proposed building would be of a different scale and typology than that which currently exists on site or within the HCA”. It then continues to justify that the character of the area may be changing. If the character is changing, then there should be no need for a heritage impact assessment. But there is, so the applicant’s argument is not valid.

Kur-ring-gai Council’s TOD preferred scenario, which is the result of significant consultation, calls for a transition from high density and high rise, to lower density dwellings. There has been no consideration of this in this proposal and I request that the applicant be asked to revise the design to do so. Other aspects of urban design have been detailed above in section 2.1.

2.3 Environmental Amenity

Section 7 of the SEARs requires that “A high level of environmental amenity for any surrounding residential or other sensitive land uses must be demonstrated”. I maintain that we currently have a good level of amenity but that any degradation will result in an amenity that is not considered high. A loss of visual privacy and a loss of views are obviously the opposite of providing a high level of amenity and these are detailed later in section 2.4 of this document. In addition, one of the beauties of living on a natural watercourse in a valley is that fresh, cool air flows through it. In summer, this provides welcome relief on hot days through our entire house. Obstructing the natural flow of air with a very large building will take away this amenity, further degrading the overall environmental amenity and thus not complying with SEARs section 7.

2.4 Visual Impact

Section 8 of the SEARs asks to provide a visual analysis from key viewpoints. One of the greatest things about our home are the sunsets in summer. The private natural outlook is further enhanced by beautiful sunsets – see below. If this development is approved, these will be taken away. It just doesn’t seem fair that this is taken without any acknowledgement or consideration. This is yet another negative impact from this proposal that I believe should at least be considered.



The Visual Impact Assessment did not consider surrounding residents like me, despite the requirement to do so (SEARs section 7). I would have been happy to have someone do an assessment, but we were not approached. I earnestly request that the applicant comes to inspect my property so the impact can be assessed. Not only will it take away the natural outlook, it will essentially replace it with a wall. Only a very narrow 6m strip of land and water is proposed between my property the proposed development.

The Visual Impact Assessment must “Provide a visual analysis of the concept building envelope from key viewpoints”. When considering the SEARs statement in section 7, requiring a high level of amenity for surrounding residential land use, surely a key viewpoints should include the view from surrounding residents’ properties, yet none were included. I would have been happy to allow access or provide photos to help assess the visual impact but I was not approached. So below is a photo showing a conservative impact on the outlook from my backyard. This is not accurate and the actual height would most likely be higher than indicated. Note also that because the slope is downwards from the proposed development to my property, I would be looking upwards and the height would be higher than if it was viewed from elsewhere.



In addition to the height and bulk of the proposal, it appears from the applicant's Appendix 11: Landscape Concept Report (screenshot shown below), that the natural watercourse will be sealed over, at the northeast corner of 5 Nelson Rd, beyond the "headwall" that is shown in the applicant's Appendix 8, Survey Plan sheet 2, shown below. Somehow, there are also proposed trees on top of this which doesn't seem possible unless it is built up to include a depth of soil, which would further degrade the outlook.



Covering over a natural watercourse would be, using a neighbour's words, "sacrilege". This is a small oasis that enters my property and is the home to various wildlife including the protected water dragon. In fact, the plans propose to build INTO this watercourse, which is also well within a riparian zone. There has been no consideration of this zone and no explicit mention of building into an existing watercourse in any of the documents that I've seen in the applicant's proposal. The location of the watercourse in drawings is inaccurate, is simply drawn as a straight line, and it is referred to in the applicant's documents as a culvert or a drain. It is far from that and no allowances have been made in developing in such close, and in fact overlapping, proximity. I

encourage assessors to consider the impacts on this amazing example of nature within an urban environment and to insist on its preservation or at least consideration. As the plans stand, there will likely be drilling into the creek's bedrock and the construction of a wall within the creek's boundaries. This has an impact not only on the visual amenity but also on the flow of water and the impact on protected and other species.

Below is the view from my place, looking west into number 5 Nelson Rd. The watercourse flows, partly uncovered, on no 5 Nelson Rd.



2.5 Noise and vibration

No assessment has been done in response to Section 10 of the SEARs regarding the shared rooftop areas and the propagation of noise to adjoining neighbours and other nearby residents.

2.6 Water Management

Section 11 of the SEARs requires the applicant to outline the proposed drainage design. I'm glad to see that the design in the applicant's Appendix 21: Stormwater Drainage Plan incorporates a detention tank. With the removal of significant areas or deep soil being replaced by hard surfaces, run off from the site will be significant. However, further details would be appreciated, as downstream of the proposed development is currently in a flood zone (see Council flood maps, also shown in the applicant's Appendix 22: Flood Impact Risk Assessment). Therefore any additional water exacerbates this risk.

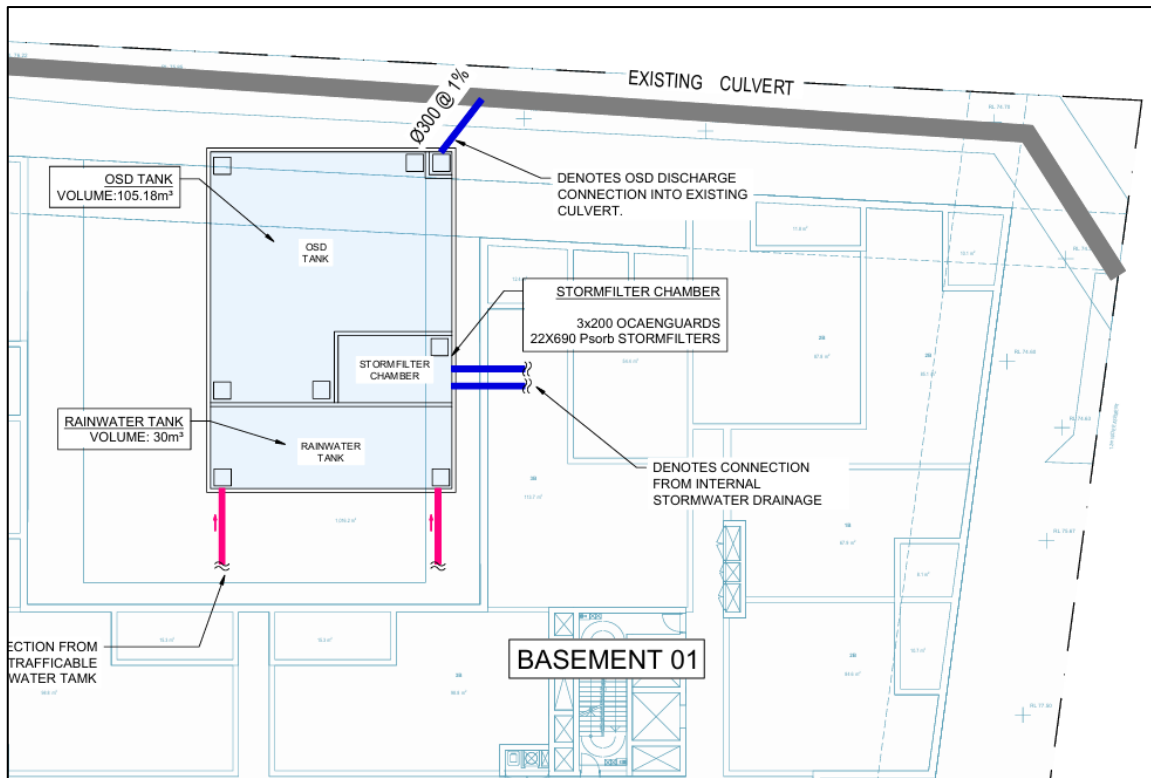
For example, will the tank be empty when it's not raining, and what rate will water exit the tank?

In addition to the detention tank, there is another stormwater easement / discharge that is detailed on the applicant's drawings (ref "1.2m wide easement" in Appendix 9: Architectural drawing DA102 near the northeast corner of the proposed site – see screenshot below). However, there's no mention of how this easement / discharge will be used. This could easily lead to uncontrolled downstream flooding.



Drawing S01-SW302 from Appendix 21 (Stormwater Drainage Plan, screenshot below) acknowledges this easement but does not include details of what it will be used for. A photo of this second existing 300mm diameter outlet is also shown below.

If this easement is not to be used, then this should be stated in the design, or the easement be removed from the design drawings.



2.7 Trees and Landscaping

Runoff from the increase in hard surfaces is amplified and as discussed, this may lead to increased flooding downstream, which has not been assessed.

SEARs section 14 calls for the location, size and species of trees. The existing landscaping plan is an inaccurate concept only and cannot be fully assessed. For example, it claims that the 6m strip of land to the north of the site is “deep soil”, and that there will be trees planted there which will be used to provide privacy and which will maintain the character of the HCA. However, as noted in other reports, most of this strip includes a 3.2m wide easement with a concrete culvert channelling a natural watercourse. Perhaps there is shallow soil on top of the culvert and specific trees will be planted that don’t need very much soil, but this seems doubtful. A photo of the existing culvert headwall (exit) taken of the northeast corner of the site is shown below, showing minimal soil coverage. The tree and landscaping plan, and other plans regarding privacy, heritage assessment and overall design are therefore inaccurate and should be rejected for review and resubmission.



2.8 Biodiversity

As mentioned in section 2.4 above, the watercourse that runs partly covered and partly on the surface within the proposed site is more than a drain, it’s a spring-fed wonder of biodiversity that also transports stormwater into Middle Harbour, through residential properties like mine.

Regarding SEARs section 16 requirements for biodiversity assessment, the applicant’s Appendix 17: BDAR states that a “first order stream” riparian zone attracts a 10m protected zone (page 7) but the report omits to acknowledge the documented riparian zone within no 5 Nelson Rd, as detailed on the NSW Planning Portal website, on the Kur-ring-gai Council website and as detailed in the applicant’s “Request for SEARS” document, ref M250135, (Figure 2 on page 6, and Figure 5 on page 12). The proposal must acknowledge the riparian zones and design the proposal accordingly, but it has not.

The Eastern Water Dragon (*Intellagama lesueurii*, see photos below) is currently found throughout all 3 sites as well as all neighbouring properties (confirmed in July and August 2025 by neighbouring residents). I'm unsure how the existing riparian zones were determined but they should potentially be increased, pending an updated survey.

Not only is the onsite waterway a haven for water dragons, but frogs, eels, tawny frog-mouthed owls, and Australian native water rats (*Hydromys chrysogaster*) all co-exist in and around the watercourse. While Appendix 17 (BDAR) was conducted by a local ecology company, they do not have the experience or data that local residents who have lived around the proposed development site do. The BDAR lists a lot of animals that don't exist on the site like sea eagles, snails and koalas, but they fail to mention the ones that are there. There is no mention or assessment of the impacts on existing biodiversity and this should have been included as part of the application.



2.9 Flood Risk

SEARs section 19 requires a Flood Impact Risk Assessment (FIRA), however the flood risk has not been addressed adequately since there is a lack of a downstream flood plan and risk assessment. The applicant's Appendix 22, Flood Impact Risk Assessment, section 4.3 on p. 14, states that "The flood impact has not been assessed using modelling tools such as TUFLOW at this conceptual stage ... a detailed flood impact study is required to determine the impact of the proposal on the flooding behaviour and the mitigation measures that are needed to ensure that the proposal has NIL adverse impact elsewhere in the floodplain". Potential flooding is a very real concern for me and I don't believe this proposal should be accepted in any form until the necessary independent studies are completed and assessed.

In lieu of recent and relevant flooding data, I am happy to provide some examples below that show the capacity of the watercourse. I have extensive video and photos that verify an independent report for Council by BMT titled “Middle Harbour Southern Catchment Flood Study“(10 Feb 2023, available on the Kur-ring-gai Council website and also attached as a part of this submission). It states that flow exceeds the drainage system capacity (multiple references, eg pp. 20, 21, 35, 52, 87 and 115). With the addition of most of the proposed development being hard surfaces, and the addition of new and other proposed upstream developments, runoff is likely to enter the watercourse which will then cause flooding on downstream properties.

Using existing available flood information does not consider climate change (as cited in the BMT study) or the upstream developments that are planned and in place with increased hard surfaces that were not present when past studies were completed.

The waterway that runs through the proposed development site is under capacity already (ref BMT study, details above) and the removal of deep soil on the majority of the proposed development site will result in additional runoff that may result in flooding. This has not been addressed in enough detail, apart from incorporating a retention pit that may only retain some stormwater for some time. The existing downstream easement on the eastern boundary also has an unknown impact on flooding – see section 2.6 above for details.

Like other reports from the applicant, firsthand data and experience from those who have lived in the relevant locations for a significant period of time is more accurate than desktop studies that use outdated or second- or third-hand data. Below are examples of stormwater impact.

Flow after a “normal” rain (four photos):







Flow after a very heavy rain (four photos):







2.10 Environmental Heritage

The applicant states that they do not consider the properties contribute to the heritage conservation area anymore. However, all developments have been carefully managed by Kur-ring-gai Council for many years and the character of the area is unique and valued. I believe an independent assessment of the whole HCA and a consensus agreement would be appropriate before a statement along the lines of “it’s not really heritage anymore” can be made. One assertion from a developer on an issue like this is insufficient.

3 Conclusion

In conclusion, I feel that not only is the application incomplete and inaccurate, but I also question the legality of inclusion in the planning controls that existed at the time of application, as well as more recent refined ones such as the TOD Preferred Scenario which resulted from extensive consultation.

The adverse impacts to me and my family include a drastic reduction in privacy which was not considered in the application. It also includes an impact (increase) on the volume of water that enters and flows directly through my property. As documented by reports on Kur-ring-gai Council’s website and for which I have extensive evidence of, the waterway’s capacity is currently insufficient to prevent flooding and will be further overloaded due to the increase in hard surfaces and the resulting runoff if the development is approved. Although the applicant has acknowledged that the site is within a flood zone, a downstream impact report was not conducted. Furthermore, additional stormwater from other upstream developments was not considered but should be.

Lastly, the effect on biodiversity was not fully acknowledged. Most relevant are a lack of consideration of the existing riparian zones within the proposed development site, but also the effect on other wildlife such as eels and native water rats.

I encourage assessors to reach out to me directly for additional information if required. While I recognise the need for additional housing and am not opposed to development, the proposed application for 1-5 Nelson Rd Lindfield is incomplete and should be returned to the applicant for further refinement.