

# Objection Submission

To: NSW Department of Planning, Housing and Infrastructure – Major Projects Assessment Team

Re: Development Application SSD-82709458 – 19–25 Balfour Street, Lindfield NSW 2070

Submitted by: Jian Jin, Owner of 1 Wallace Parade, Lindfield NSW 2070

Submission Date: 03/09/2025

## 1. Introduction

I, Jian Jin, as the owner of 1 Wallace Parade, Lindfield, hereby lodge a formal objection to the proposed residential flat building at 19–25 Balfour Street, Lindfield (SSD-82709458).

This submission is made pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (NSW). While I acknowledge the NSW Government’s Transit-Oriented Development (TOD) Program, the current proposal is inconsistent with both the statutory planning framework and the stated objectives of TOD.

## 2. Grounds of Objection

### (a) Environmental Impacts

#### **Solar access and overshadowing**

- The applicant’s shadow diagrams show that during winter solstice (22 June), surrounding low-density dwellings, including my property at 1 Wallace Parade, would not achieve the minimum three hours of direct sunlight between 9:00 am and 3:00 pm as required by the Apartment Design Guide (ADG, Objective 3B-2).
- With a proposed height of 32.7m, the building substantially exceeds the R2 low-density residential context, creating an excessive overshadowing effect.
- Long-term loss of sunlight would reduce amenity, increase winter heating demand, impair natural ventilation, and inhibit vegetation growth. Land and Environment Court precedents have recognised severe overshadowing as an unacceptable environmental impact that justifies refusal.

#### **Privacy and overlooking**

- The proposal does not meet ADG Objective 3F-1, which requires minimum 12m separation between habitable room windows.
- Upper-level balconies and windows would directly overlook the rear yards and habitable rooms of neighbouring properties, including mine, resulting in continuous visual intrusion.
- This is inconsistent with the privacy principles established in *Tenacity Consulting v Warringah* (2004).
- Planting or screens would not resolve the issue, as the scale and height of the building create unavoidable overlooking impacts.

### **Traffic and safety**

- Wallace Parade and Balfour Street are narrow local roads that cannot accommodate large increases in traffic volumes.
- The site is close to schools including Lindfield Public School and Holy Family Catholic Primary School, where congestion during school hours is already severe.
- Additional residents' vehicles would worsen bottlenecks. Insufficient parking would cause overflow parking, obstructing residents, garbage collection, and emergency vehicles.
- Increased vehicle movements near schools would heighten risks to students, elderly residents, and pedestrians.

### **Construction impacts**

- Given the project scale, construction is likely to last 18–24 months or more. This would cause:
  - Noise pollution from excavation, piling, and trucks, exceeding the Construction Noise Guideline thresholds;
  - Dust and air pollution from earthworks and transport, affecting residents' health;
  - Traffic disruption from frequent heavy vehicle access;
  - Daily disruption such as delays to waste collection and service access.
- Unlike small-scale developments, this project's magnitude and duration would impose significant and long-term negative impacts on the community.

### **(b) Suitability of the Site**

#### **Incompatibility with Heritage Conservation Area**

- The site is within the Balfour Street/Highfield Road Heritage Conservation Area (HCA), characterised by detached houses, landscaped setbacks, and consistent rooflines.
- The proposed 32.7m tower is completely out of scale with this context. Its bulk and modern façade undermine the streetscape and heritage values.

- The Ku-ring-gai LEP 2015 and DCP require that new development in HCAs respect and reinforce the established character, which this proposal fails to do.

### **Site Isolation**

This proposal directly creates **isolated sites**, including **1 Wallace Parade** and **23 Bent Street**. These properties were originally identified within the NSW Government's TOD high-density redevelopment area. However, due to the way this project is designed and delivered, they are now effectively "trapped" between large-scale buildings and have in practice **lost the ability to be redeveloped as part of the TOD high-density precinct**.

This represents a clear case of **planning inequity**: adjoining landowners are deprived of their reasonable redevelopment potential, their property values and planning opportunities are significantly diminished, and a classic **site isolation effect** is produced. The consequences are:

- **Departure from TOD objectives** – TOD seeks to achieve fair and orderly high-density development through comprehensive land consolidation. Instead, this project produces fragmented and unbalanced outcomes.
- **Erosion of neighbouring property rights** – Development rights that should reasonably be available to adjoining owners are effectively removed, with substantial loss of land value and redevelopment potential.
- **Contradiction of government policy goals** – TOD policy emphasises integration, fairness, and sustainability. The outcome of this project runs directly counter to those principles.

The NSW Land and Environment Court has consistently recognised **site isolation as an undesirable planning outcome**. In *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251, the Court established that developments must avoid creating isolated sites, and where isolation is unavoidable, the assessment must consider:

1. whether amalgamation with adjoining land was reasonably attempted;
2. whether genuine acquisition negotiations were pursued; and
3. whether the remaining isolated site can still achieve a reasonable planning outcome.

This principle has been reaffirmed in *193 Liverpool Road Pty Ltd v Inner West Council* [2017] NSWLEC 13 (Moore J), which confirmed that *Karavellas* remains authoritative. Earlier cases such as *Melissa Grech v Auburn Council* [2004] NSWLEC 40 and *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189 were cited in *Karavellas* as foundational authorities. More recently, the principle was applied in *ABC Planning Pty Ltd v Cumberland Council* [2019] NSWLEC 1278, demonstrating its ongoing relevance even where an LEP does not expressly address site isolation.

Accordingly, approval of the current proposal would result in an outcome already recognised by the Court as inequitable, fragmented, and contrary to sound planning practice, while also **undermining the credibility of the TOD program itself**.

### **Infrastructure Constraints**

- Local roads are too narrow to accommodate increased traffic.
- Schools and community facilities are already at or near capacity.
- Utilities such as drainage and electricity have not been upgraded to support additional demand.
- TOD policy requires infrastructure first, which is not met here.

### **(c) Planning Instruments and TOD Policy**

#### **Conflict with Ku-ring-gai LEP 2015**

- The site is zoned R2 Low Density Residential under the Ku-ring-gai LEP 2015, where residential flat buildings are prohibited.
- The proposed 32.7m height and excessive FSR significantly exceed statutory controls.

#### **Inconsistency with TOD objectives**

Even under TOD reforms, the proposal contradicts key principles:

1. Gradual density transition – TOD promotes staged growth, not abrupt high-rise intrusion.
2. Land amalgamation and fairness – TOD requires equitable consolidation. This proposal creates isolated sites.
3. Respect for character and heritage – TOD stresses integration with local identity. This proposal undermines a heritage conservation area.
4. Infrastructure alignment – TOD requires density to align with infrastructure readiness, which this site lacks.

#### **Misuse of TOD policy**

- TOD reforms are intended for orderly, integrated, sustainable growth around transport nodes.
- This proposal misuses TOD to justify an over-scaled, ad hoc project, undermining policy credibility and public trust.

### **(d) Public Interest**

#### **Undermining planning integrity**

- Approving a development that contravenes statutory planning controls would weaken the integrity of the planning system and erode public trust.

### **Precedent setting**

- Approval would set a precedent for further high-rise intrusion into low-density and heritage areas, creating cumulative negative impacts across Ku-ring-gai.

### **Equity and community confidence**

- By isolating neighbouring sites, the proposal creates inequitable outcomes for landowners, contrary to TOD fairness objectives.
- This would reduce community trust in planning reforms.

### **Infrastructure and sustainability**

- The proposal would overload local infrastructure including roads, schools, parking, and drainage systems, with no upgrades.
- This contradicts TOD's infrastructure-first principle and undermines long-term sustainability.

## **3. Conclusion**

The proposed development fails to satisfy the statutory assessment requirements under section 4.15 of the EP&A Act, conflicts with the Ku-ring-gai LEP 2015, contradicts TOD policy objectives, and would result in unacceptable impacts on the environment, amenity, and public interest.

I respectfully request that the Department refuse Development Application SSD-82709458 in its entirety.

## **References**

- \*Karavellas v Sutherland Shire Council\* [2004] NSWLEC 251
- \*193 Liverpool Road Pty Ltd v Inner West Council\* [2017] NSWLEC 13
- \*Melissa Grech v Auburn Council\* [2004] NSWLEC 40
- \*Cornerstone Property Group Pty Ltd v Warringah Council\* [2004] NSWLEC 189
- \*ABC Planning Pty Ltd v Cumberland Council\* [2019] NSWLEC 1278

Sincerely,



Jian Jin

Owner – 1 Wallace Parade, Lindfield NSW 2070

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