

DA 0250/25 - Demolition of existing structures, lot consolidation and construction of a residential flat building development with basement car parking and associated works - SEPP (Housing) 2021 - Heritage Conservation Area, Threatened Species.

This submission (planning objection) is prepared by Jane McMillan of Planning Outcomes Pty Ltd on behalf of Mr and Mrs G Corrigan of 23 Bent Street Lindfield. My summary CV is attached at Appendix 1.



Objection to Proposed Development

- 1. s4.15 of the Environmental Planning and Assessment Act 1979, outlines matters that are to be considered by a consent authority in determining a development application.***

These include the provisions of:

- any environmental planning instrument, (1)(a)(i) and*
- any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (1)(a)(ii)*

The proposal is contrary to the provisions of the Ku-ring-gai LEP 2015 (KLEP) which identifies the site of the development as having an R2 zoning, maximum height of 9.5m, maximum FSR of 0.3:1-0.4:1. Residential flat buildings are not permissible in the R2 zone. It is also contrary to the provisions of the KLEP with

regard to heritage and environmental protection as the site is located within the Balfour Street/Highfield Road Heritage Conservation Area and contains terrestrial biodiversity.

The proposal is contrary to the provisions of Council's alternative draft planning strategy (draft amendments to the *SEPP (Housing) 2021*) for the site which contains lower floor space ratio and height development standards.

19-25 Balfour Street	Ku-ring-gai LEP 2015	TOD	Proposed Draft Changes
Zoning	R2	R2	R4
Building Height	9.5m	22m (28.6m with AH bonus)	18.5m* (additional with AH bonus)
FSR	0.3:1 to 0.4:1	2.5:1 (with AH bonus of 0.75:1 = 3.25:1)	1.3m* (additional with AH bonus)

The development proposal exceeds the maximum 28.6 height limit and approval is being sought for a 32.7m building, 10m higher than the TOD limit of 22m.

Council's draft planning strategy permits a 5-6 storey building which is compatible in bulk and scale with the recent Coles re-development on the corner of the Pacific Highway and Balfour Street. It is also consistent in height to recently constructed residential flat buildings on the eastern side of the railway line in proximity to Lindfield station. A 5-6 storey building is more compatible with lower density housing located in proximity Lindfield station such as at 23 Bent Street.



5-6 storey residential flat building in Lindfield Avenue



Coles re-development corner of Pacific Highway and Balfour Street

2. Environmentally Sensitive Site

The site is identified as containing remnant vegetation of the Ku-ring-gai DCP Greenweb map and is identified as containing terrestrial biodiversity in the KLEP 2015. Further the site is identified on the State Government's Terrestrial Biodiversity Values Map (non-EPI).



Biodiversity Values Map - State Government (Non-EPI)



KLEP 2015 - Terrestrial Biodiversity Map.

The arborist report states that three important trees are to be removed for the proposed development as well as the loss of remnant vegetation on the site.

As such the site is unsuitable for more higher density development than detached dwellings because of its environmental sensitivity.

3. Heritage

Balfour Street/ Highfield Road Conservation Area - (C29 (KLEP (LC) 2012)

The area is of aesthetic and historical significance as an intact area of Federation Queen Anne style housing, including a presbytery (10 Highfield Road), representative of the development of the 1884 Gordon Park Estate subdivision. The area also includes the c. 1940s Holy Family Catholic church and school at 2-4 Highfield Road (corner Pacific Highway), which is a property which includes 7 Balfour Street, one of the intact group of Balfour Street Federation Queen Anne style houses. 6 Highfield Road contains a dwelling house of local significance.



The proposed development is within the heritage conservation area and within the curtilage of a heritage item at 6 Highfield Road. The large bulk and scale of the ten storey building will impact on the curtilage of the property and

diminish its heritage significance. The character of the conservation area will be destroyed.

The Transport Oriented Development Areas are generally land within 400m of a railway or metro station in a local government area to which the policy applies. However this definition does not make any allowance for heritage conservation areas under the KLEP 2015. The most significant heritage conservation areas in Kuring-gai are in proximity to the railway stations.

The TOD policy permits the current development proposal for a ten storey residential flat building within a heritage conservation area and within the curtilage of a heritage item. Reference is made to the attached letter from the Australian Institute of Architects which, although historic, identifies the need for any strategy to increase housing density to first start by identifying and protecting significant natural and cultural items and areas - Appendix 2.

4. SEPP(Housing) 2021

The planning controls governing the site are established in Chapter 5 of the *SEPP(Housing) 2021* - Transport oriented development.

150 Aims of chapter

The aims of this chapter are as follows—

- (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.*



View of the proposed development from the southern elevation and the adjoining house at 23 Bent Street (left hand side).

The proposed development is contrary to the aims of Chapter 5 of the SEPP for transport oriented development. The southern elevation plan shows that the development proposal is clearly not mid-rise housing that is of an appropriate bulk and scale with regard to surrounding development.

In addition, Schedule 9 of SEPP (Housing) 2021 identifies design principles that must be achieved for all residential flat buildings (a total of 9):

1. Context and neighbourhood character (1) <i>Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.</i> (2) <i>Responding to context involves identifying the desirable elements of an area's existing or future character.</i>	The existing character of the residential development around the Lindfield railway station is low density detached housing in landscaped garden settings identified in Urban Conservation Areas by the National Trust. Recent development within these Urban Conservation Areas due to State Government policies to increase housing supply in proximity to railway stations has resulted in 5-6 storey residential flat buildings particularly on the eastern side of Lindfield station. The proposed ten storey residential flat building does not respond to the character of the area around the North Shore Railway line which is predominantly
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(3) <i>Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i> (4) <i>Consideration of local context is important for all sites, including sites in the following areas—</i> <i>(a) established areas,</i> <i>(b) areas undergoing change,</i> <i>(c) areas identified for change.</i>	low density detached housing of heritage significance. The desired future character is for mid - rise housing near the railway stations, which, when approved, increases housing supply by responding to and enhancing the qualities and identity of the area including adjacent sites, streetscape and neighbourhood. The proposal is contrary to the design principle of consideration of local context. The proposal is therefore contrary to Design Principle 1 of the SEPP.
Detached houses in Wallace Parade (above and below)	



23 Bent Street (corner of Wallace Parade and Bent Street)



Western elevation of proposed development as it will look from 23 Bent Street and 3 and 5 Wallace Parade

2. Built Form and Scale <i>2 Built form and scale</i> <i>(1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i> <i>(2) Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—</i> <i>(a) building alignments and proportions,</i> <i>(b) building type,</i> <i>(c) building articulation,</i> <i>(d) the manipulation of building elements.</i> <i>(3) Appropriate built form—</i> <i>(a) defines the public domain, and</i> <i>(b) contributes to the character of streetscapes and parks, including their views and vistas, and</i> <i>(c) provides internal amenity and outlook.</i>	As outlined above and as illustrated in the photographs and elevation plan the proposed development is not of a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding development. The objective of good design is to allow for the provision of additional housing in proximity to the Lindfield Railway station without destroying the existing character of the area which is predominantly low density housing of national heritage significance. The proposal is therefore contrary to Design Principle 2 of the SEPP.
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3. Density 3 Density (1) <i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i> (2) <i>Appropriate densities are consistent with the area's existing or projected population.</i> (3) <i>Appropriate densities are sustained by the following—</i> (a) <i>existing or proposed infrastructure,</i> (b) <i>public transport,</i> (c) <i>access to jobs,</i> (d) <i>community facilities,</i> (e) <i>the environment.</i>	It is argued that the bulk and scale of the development is beyond the environmental capacity of the site to sustain as the site is identified as an environmentally sensitive site that contains remnant vegetation, terrestrial biodiversity and is identified on the State Government's Biodiversity Values Map. It is also argued that the proposed density is too great for the road infrastructure as detailed below, public transport and community facilities. The density proposed is not appropriate for the site nor its context as the above analysis clearly shows. The proposal is therefore contrary to Design Principle 3 of the SEPP.
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5. Apartment Design Guide

Chapter 5 of the SEPP (Housing) 2021 states that:

161 Consideration of Apartment Design Guide

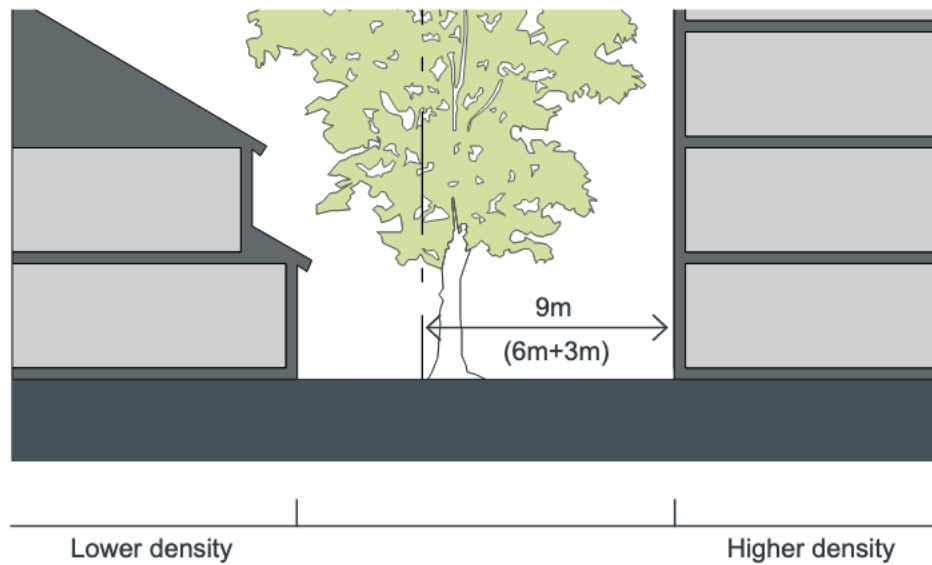
Development consent must not be granted for development for the purposes of residential flat buildings, independent living units or shop top housing on land in a Transport Oriented Development Area unless the consent authority has considered the Apartment Design Guide.

The proposed setbacks of the building to the western boundary are non-compliant with the ADG. An additional 3m setback is required if the development adjoins low density development of a different (R2 zoning).

The isolated sites at 23 Bent Street and 1 and 3 Wallace Parade will remain as detached houses because that cannot be re-developed and therefore an additional 3m is required to reduce amenity impacts. The statement of environmental effects report states that the adjoining residential properties on the western boundary are in a different zone and therefore no offer was made to purchase these properties.

The non-compliance with the setback requirements of the ADG exacerbates the visual impact of the development and also contributes to the height non-compliance. The design is not sympathetic to the slope of the land and should taper down towards the western boundary to reduce building bulk.

The development should not therefore be approved in its current form.



Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)

6. Site Isolation

The dwelling houses at 23 Bent Street and 1 and 3 Wallace Parade will be isolated sites should the development be approved. In the statement of environmental effects it states that offers were not made to purchase these properties because they were outside the TOD plan and not included for higher density development. This is not the case for 23 Bent Street Lindfield as shown in the plan below. The draft Council strategy also includes these properties within the R4 zone which extends to Wallace Parade. There will be serious amenity impacts that would occur to these properties should they remain as detached housing



23 Bent Street (marked with blue arrow) and 1 Wallace Parade and development site with red outline.

Part 3 of the Ku-ring-gai DCP states that:

Part 3 - Land Consolidation and Subdivision

Part 3B

Paragraph 3

Within an Employment zone, Medium density and High density residential zone, sites are to be consolidated to avoid isolating an adjoining site or sites. In particular potential redevelopment of the adjoining site or sites in accordance with its zoning must not be compromised.

Paragraph 6

Where a development proposal results in an isolated site, as described in 4 above, the applicant must demonstrate that:

- i) Negotiations between the owners of the lots have commenced prior to the lodgement of the development proposal. Where a satisfactory result cannot be achieved the development proposal should include details of the negotiations, demonstrating that a reasonable offer has been made to the owner of the isolated site: and*
- ii) Both the isolated site and the development site can be orderly and economically developed in accordance with the provisions of KLEP and this DCP,*

including: - achieving an appropriate urban form for the location, and - having an acceptable level of amenity.

The guidelines for isolated sites contained in the Ku-ring-gai DCP are consistent with the planning principles for isolated site contained in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251.

The main points to be made regarding site isolation for the properties at 23 Bent Street and 1 and 3 Wallace Parade are that:

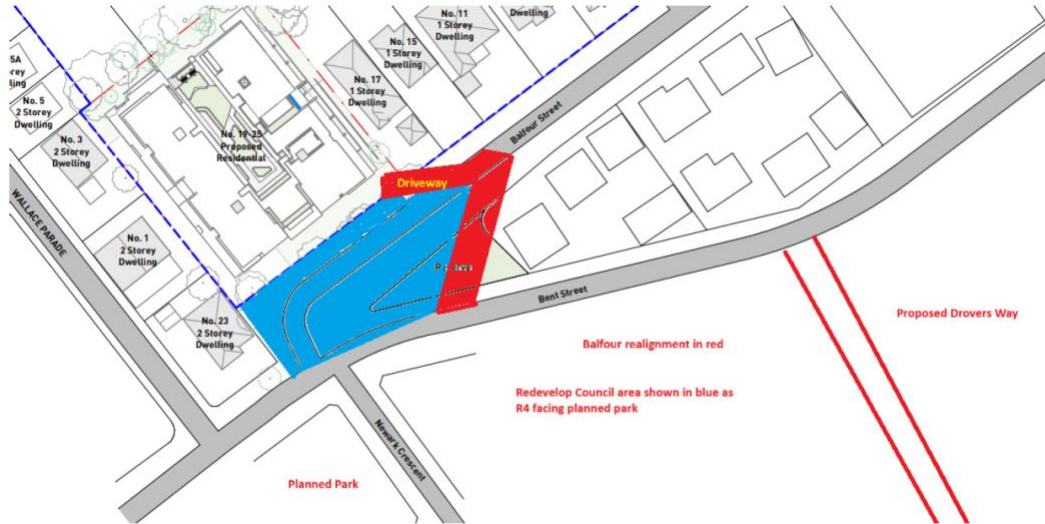
- 1) The development application was lodged without any offer being made by the developer to purchase these properties. 23 Bent Street and 1 Wallace Parade are included in the original TOD plan.
- 2) They are isolated properties as they cannot be re-developed for higher density development.
- 3) The development at 19-25 Balfour Street cannot proceed in its current form and achieve an acceptable level of amenity for the properties at 23 Bent Street and 1 and 3 Wallace Parade.

7. Traffic and Road Safety

Wallace Parade is a narrow street with sufficient width for only one car to pass if cars are parked on the western side. In addition there is a school located on the corner of Wallace Parade and Highfield Road and another school nearby in Highfield Road. Refer to Council letter regarding traffic problems in Wallace Parade at Appendix 3.

It should also be noted that the development should not proceed without the re-alignment of Balfour Street. There is a difficult left hand turn into Balfour Street from Bent Street with vehicles facing an awkward camber which makes it difficult for heavy vehicles to make the turn. There are two blocks of vacant Council land on the corner of Bent and Balfour Streets. Many years ago, the Council advised residents that this land was being reserved for the realignment of Balfour St. Refer to letter at Appendix 4.

The scale of the development and the number of cars that will be contained on the development site will cause unacceptable traffic impacts to Wallace Parade and no development should proceed without the realignment of Balfour Street.

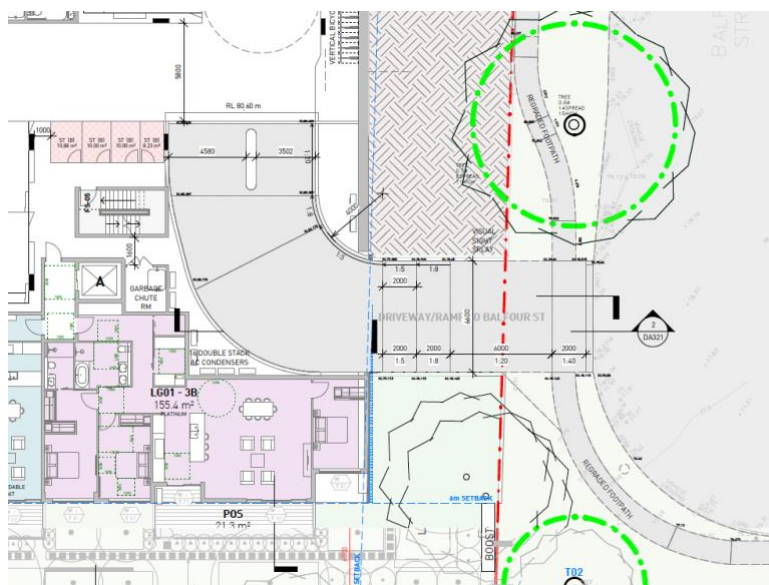


Blue shading shows Council owned land including the reserve. Red shows realignment of Balfour Street and new driveway entrance for proposed development. The blue shaded area could be made into additional open space.

The location of the proposed driveway is unsafe being located close to the bend in Balfour Street near the intersection with Bent Street. This is a unsuitable from a safety point of view.



Driveway location near the bend in Balfour Street and Intersection with Bent Street



Detail of driveway location

8. Height Non-compliance

The proposed building height is: 32.7m. The SEPP Housing provides for a maximum building height of 28.6m (including the affordable housing height bonus). Portions of the 9th Storey will extend above 28.6m to a maximum of 32.7m. The applicant has lodged a Clause 4.6 Request to vary a development standard for the height non-compliance.



The height non-compliance occurs at the southern elevation adjacent to the boundary with the property at 23 Bent Street. This non-compliance increases overshadowing, loss of privacy and visual bulk to 23 Bent Street and the properties in Wallace Parade. For these reasons the non-compliance should not be supported.

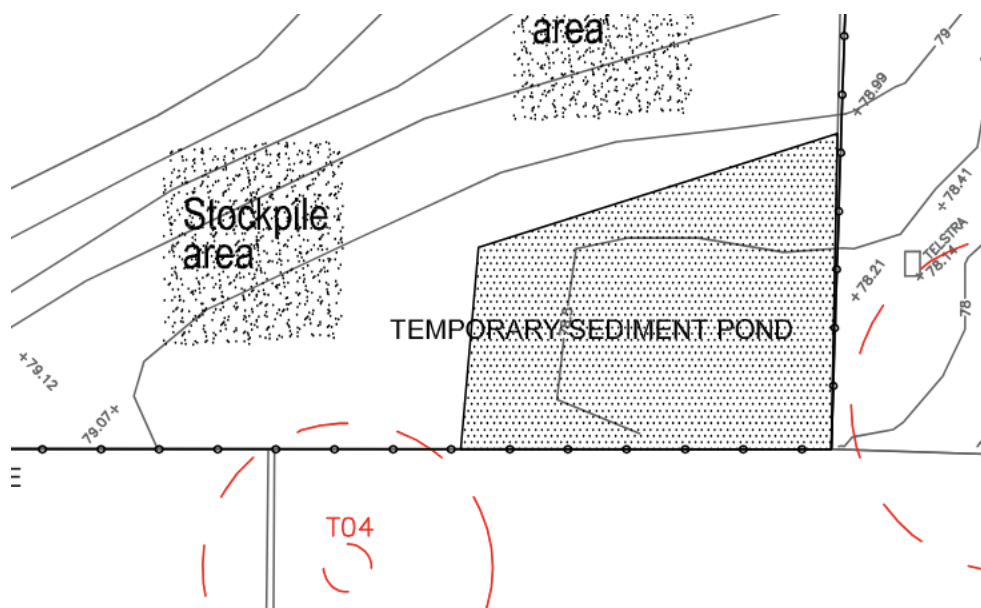
The design is the exact opposite of what should occur - the building height should taper down to follow the slope of the land to reduce amenity impacts to adjoining properties. Further the non-compliance with the height limit is exacerbated because the proposal does not comply with the Apartment Design Guidelines for setbacks from the western boundary.

9. Impacts during Construction

The scale of the development will cause unacceptable impacts to the adjoining detached houses on the western boundary of the site during construction and the proposal needs to be reduced significantly in size, should it be approved.

Particularly objection is made to the location of the temporary sediment pond on the boundary.

The deep excavation is inappropriate in close proximity to the adjoining low density development and the impact for the houses at 23 Bent Street and 1 and 3 Wallace Parade will be the same as living in a construction zone.



10. S4.15 of the Environmental Planning and Assessment Act 1979, outlines matters that are to be considered by a consent authority in determining a development application

These include:

- *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality (1)(b)*
- *the suitability of the site for the development (1)(c)*
- *the public interest (1)(e)*

The above analysis contained in this report shows that the likely impacts of the development are substantial and negative when considering the environmental impacts to the natural and built environments and social and economic impact to the locality.

Most significantly the proposal is an overdevelopment with regard to building height and floor space ratio to such an extent that it cannot be considered to meet the planning principle for Context and Neighbourhood Character as required for TOD developments in Chapter 5 of the *SEPP(Housing) 2021* that buildings be well designed and *respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*

The excessive bulk and scale of the development causes unacceptable amenity impacts to adjoining detached houses with regard to overshadowing, loss of privacy and visual bulk. Traffic and safety will also be a serious problem due to the narrow width of Wallace Parade and the need to fix the Balfour and Bent Street intersection.

It is also considered that 19-25 Balfour Street should not be re-developed for higher density housing as it is located within a heritage conservation area and has been identified, including by the State Government, as an environmentally sensitive site.

The social and economic impacts to the locality include:

- unacceptable loss of amenity and reduction in value to the adjoining detached housing both during construction and over the life of the development.
- gross overdevelopment with regard to the site constraints and surrounding development
- the loss of the Balfour Street/ Highfield Road Conservation Area
- existing services which are already stressed due to the current level of development will be further strained
- traffic problems within the immediate vicinity of the site caused by the narrow width of Wallace Parade which contains a school and the problem

with the Balfour Road and Bent Street intersection which needs re-alignment.

11. Conclusion - the public interest

Ku-ring-gai Council is a local government area located between the commercial centres of Chatswood and Hornsby. The desire to increase the supply of housing around railway stations and existing town centres has been a long standing objective of the State Government. However, this does not have to have a detrimental impact to communities and existing urban areas.

The Ku-ring-gai local government area is characterised by detached houses and urban conservation areas in proximity to its railway stations. The proposed 10 storey development at 19-25 Balfour Street is not in the public interest as it has not been designed to enhance the qualities and identity of the area, contrary to the provision of the *SEPP (Housing) 2021*. It is an unsuitable site for the proposed development due to environmental and heritage reasons.

The proposal is contrary to the planning principles contained in Schedule 9 of the *SEPP (Housing) 2021* for mid-rise housing.

It is requested that if a residential flat building be approved on the site it be designed in accordance to Council's draft alternate strategy to a maximum of 5-6 storeys.