

10 September 2025

Department of Planning Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124

Attention: Adela Murimba

Dear Madam,

Re Submission to exhibition of SSD-82709458 at 19-25 Balfour Street, Lindfield

We write on behalf of the owners of Nos 8 to 14 Highfield Road, Lindfield (“**our clients’ property**”) in relation SSD-82709458 at 19-25 Balfour Street Lindfield (“the development site”). Our clients’ property adjoins the site to the north and shares a common rear boundary with the development site. The relationship between our clients’ property and the development site is shown in the following diagram.

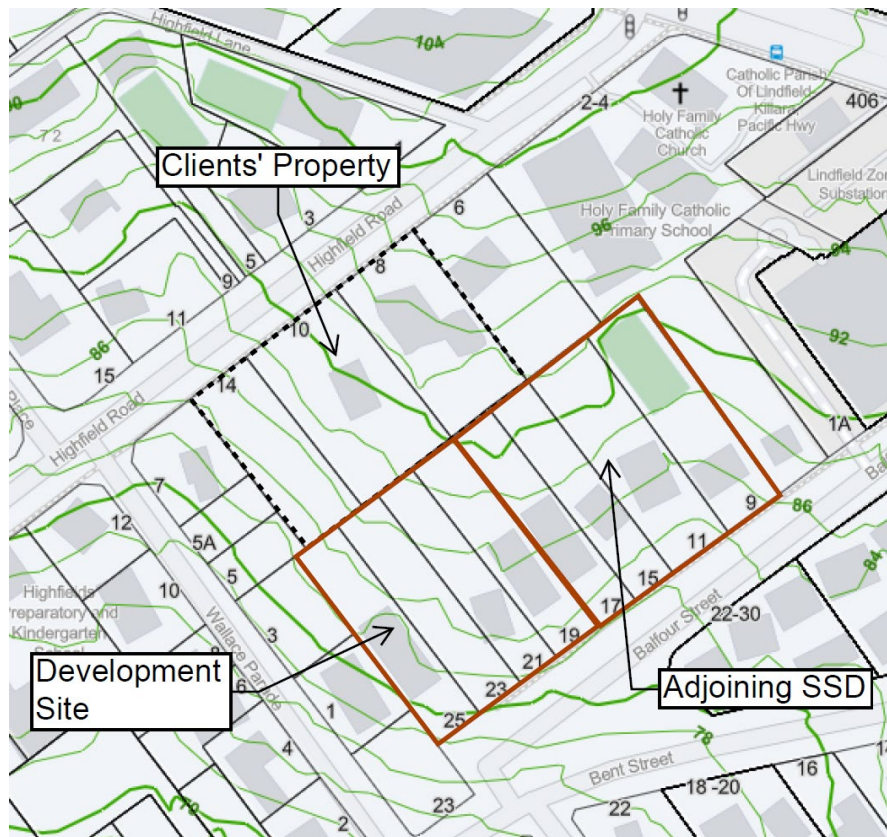


Diagram 1: Client’s property and development site

The proposed development is objected to for the reasons given below.

1. Excessive bulk and scale

Section 20(3) of the Housing SEPP dealing with in-fill affordable housing states:

(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

(a) the desirable elements of the character of the local area, or

(b) for precincts undergoing transition—the desired future character of the precinct.

The aims of chapter 5 of the Housing SEPP (dealing with transport oriented developments) 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.

The proposed development does not strictly comply with these requirements in that:

- The development site is over 450 metres walking distance from Lindfield Station. Highest densities and building height should be close to the station and transition down. In this case the resulting permissible development closer to the station is of a lower density and height under Council's preferred TOD alternative scheme;
- The development has an excessive bulk and scale compared to the surrounding development having regard to the current planning controls and having regard to the intended future character of the area as reflected in Council's preferred TOD alternative scheme:
 - Council's preferred TOD alternative scheme proposes an overall maximum height of 6 to 7 storeys compared to the 9 to 10 storeys of this development;
 - Council's preferred TOD alternative scheme proposes a density as measured by floor space ratio of 1.8:1 compared to the 3.25:1 as proposed which is a significant difference;
 - Council's preferred TOD alternative scheme proposes a deep soil requirement of 50% which would encourage the retention of major trees and accommodating the planting of additional trees. This would enable development that retains the landscape character of the area. The proposed development results in the removal of all trees on the site and the likely

removal of street trees (discussed in Section 8 below. This is inconsistent with the character of the area.

The proposed development represents an over development of the site. The TOD controls apply to all areas in Sydney identified as TOD areas. The FSR and height controls allowed under Chapter 5, which have been largely removed for most of Lindfield, do not take into account local character and local conditions. In this instance considerable weight should be given to the aims of the chapter and in particular 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 are of appropriate bulk and scale. The proposed development is located in an area clearly characterised by low density character housing and moderate density future housing and therefore the acceptable bulk and scale for this site would be considerably less than the maximum allowed.

The resulting development has an inappropriate bulk and scale in the context of the immediate vicinity of the site and in the context of what is allowable and achievable on surrounding sites.

The development, when viewed from adjoining properties, is overbearing and overwhelming and has a scale totally out of context. Setbacks are inadequate and fail to provide sufficient deep soil landscaping to soften the appearance of the building.

There is no certainty that sites to the north with a maximum FSR of 1.3:1 under Council's preferred TOD alternative scheme will develop in the short to medium term because of the marginal feasibility of development at this density based on current land values of dwelling houses. In the context of Council's preferred scheme with an FSR of 1.8:1 on properties fronting Balfour Street and 1.3:1 for properties fronting Highfield Road, the proposed development, and that on 9-17 Balfour Street, are an inappropriate design response and fundamentally at odds with the aim of the TOD controls in Chapter 5 of the Housing SEPP which is to ensure development is of an appropriate bulk and scale.

2. Inappropriate built form transition and inadequate building setback

The major failing of this development is the inappropriate built form transition from high density development in the TOD precinct to the south of our clients' property to lower density development to the north of the development site resulting in significant adverse amenity impacts. This boundary condition is characterised by adjoining private open spaces containing mature trees and garden vegetation. All vegetation at the rear of the development site will be removed and replaced with a 9 to 10 storey building (at the rear) setback 6 metres from the common boundaries with our client's properties as shown on the following extract from the architectural drawings.

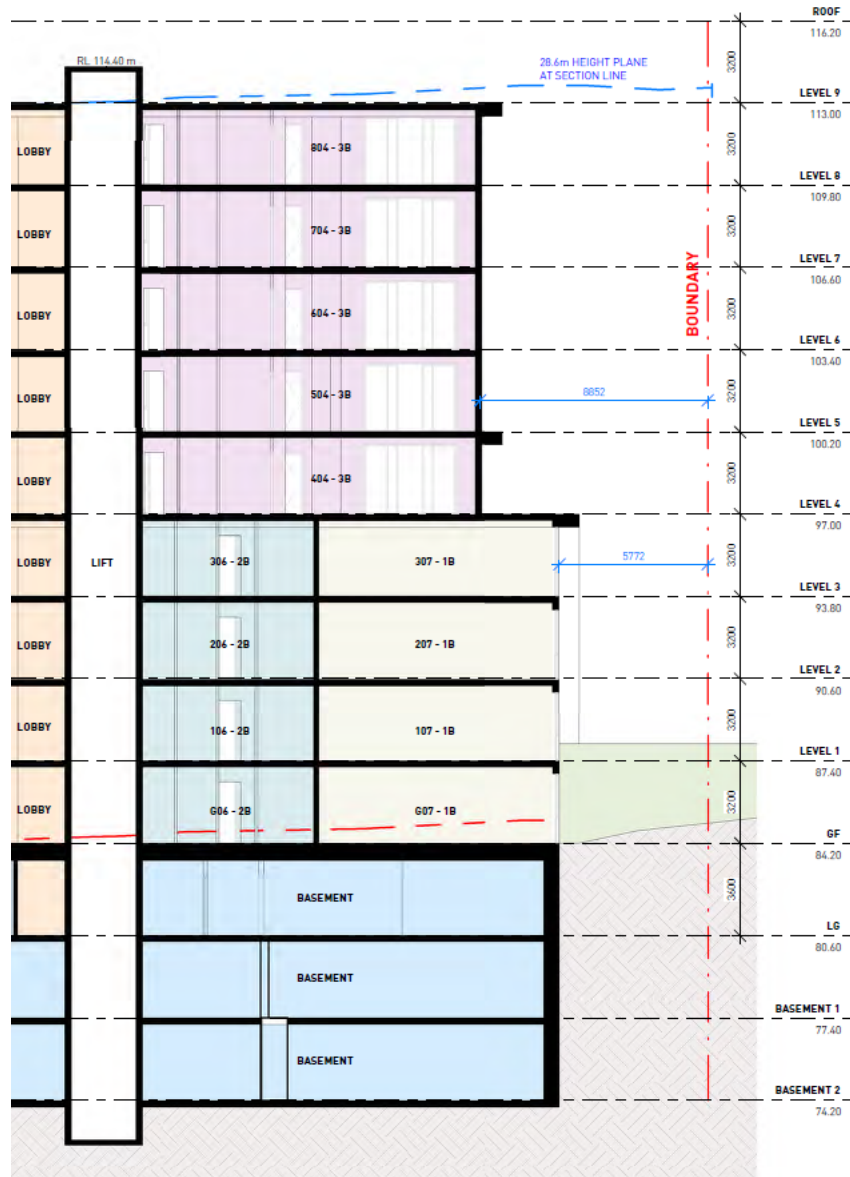


Diagram 2: Section of proposed development showing rear boundary condition adjoining our clients' property (right of diagram)

Our clients' property, the development site and other properties between Balfour Street and Highfield Road are within a heritage conservation area and contain land identified as being of significant biodiversity value.

Currently our clients' property has a maximum FSR of 0.3:1 and a maximum height of building of 9.5 metres. Council's preferred TOD alternative scheme, currently before the Department

of Planning Housing and Infrastructure for assessment, proposes a maximum FSR of 1.3:1. This is significantly lower than the proposed development that has an FSR of 3.25:1.

This density transition is unacceptable given the nature of existing development on the sites to the north and the likelihood of them redeveloping in the immediate future which is low given the allowable FSR.

A similarly situation occurs with properties to the south west of the development site which have a density under Council's preferred TOD alternative scheme of 1.8:1 and 1.3:1.

The proposed setback from the rear boundary of the development site is 6 metres, including basement, for Levels 1 to 4 and 9 metres for Levels 5 to 9. The proposed setback from the south west boundary is 6 metres for Levels 1 to 5 and 9 metres for levels 6 to 10.

These setbacks are non-compliant with the Apartment Design Guide. A key element in urban design reflected in the ADG is a step down in building height at the boundary between two density zones. Setbacks provide transition between different land uses and building typologies. The development does not comply with Objective 3F-1 and associated design criteria and design guidance which states in part:

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)

A development that complies with the ADG would have the rear boundary setbacks increased by at least 3 metres from 6 metres to 9 metres for levels 1 to 4, from 9 metres to 12 metres for levels 5 to 8 and from 9 metres to 15 metres for level 9. The development adjoins land in a significantly lower density (1.3:1 compared to 3.25:1) and transitional requirements of the ADG should be observed.

Similarly to the south west the compliant setback would require an increase from 6 to 9 metres for levels 1 to 4, from 9 to 12 metres for levels 5 to 8 and from 9 to 15 metres for levels 9 and 10.

A 9 metre deep soil setback should include the basement levels to ensure a clear 9-10 metre deep soil zone to rear and south west side boundaries capable of accommodating substantial trees. The building setbacks should maximise deep soil areas, retain existing landscaping and support mature vegetation in a consolidated setting.

3. Loss of Privacy

There is the potential for overlook and loss of privacy to the rear yards of our clients' property from the north facing balconies and living rooms of the development. There is insufficient setback for retention of trees and for substantial additional planting that might reduce such impacts. If the DPHI is of a mind to approve the application then privacy screens should be installed on the northern face of balconies on the northern façade of the building.

4. Clause 4.6 request should not be accepted

Existing ground level incorrectly identified

The Clause 4.6 request accompanying the development application incorrectly identifies ground level existing for the purpose of identifying the extent to which the development does not comply with the building height development standard. The clause 4.6 request submitted

with the DA was prepared in accordance with the position adopted by the Court in *Bettar v Council of the City of Sydney [2014]* and *Stamford Property Services Pty Ltd v City of Sydney & Anor [2015]* in relation to measuring building height ... This applies in situations where the site is completely covered by buildings.

In *Merman Investments Pty Ltd v Woollahra Municipal Council [2021]* NSWLEC 1582, the Land and Environment Court interpreted 'ground level (existing)' as the existing level of the site at a point beneath an existing building. This should be applied in cases where a site is not covered completely by buildings. The existing ground level for the purposes of this DA should be existing site level beneath structures such as houses outbuildings, swimming pools and retaining walls.

This clause 4.6 should not be accepted because it does not show the correct existing ground levels.

No justification for varying the height control

There is no justification for varying the height control in this instance. The ADG is clear in its guidance that the height of development should step down a slope. This development does not do that to the south or to the west where there is the greatest breach of the height control. The development should step down to the Balfour Street frontage and to the low density development to the south west.

The additional height increases the overshadowing impacts to properties to the south and west. There are insufficient environmental planning grounds to accept the variation request. To the extent that the objectives of the height of building control in KLEP 2015 are relevant, the proposed development is clearly inconsistent with these objectives in that:

- The development site is well removed from Lindfield centre;
- There is no transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity;
- Inadequate setbacks mean that the built form is not compatible with the size of the land.

Thus the clause 4.6 request should not be accepted.

5. Poor solar access

The analysis of solar access to apartments does not consider the impacts of the SSD application proposed for 9-17 Balfour Street which adjoins the development site. This proposal has an FSR of 3.25:1 and a building height of 33 metres. Setbacks are similar to the proposed development. The impact of overshadowing of this adjoining development on the units in the proposed development should be considered as it is likely that overshadowing of the north eastern façade would occur such that the proposed development would not comply with the ADG solar access requirements to apartments.

Given that 9-17 and 19-21 Balfour are the only developments on TOD sites, they should be planned together to ensure solar access and outlook are shared and to provide a significant continuous deep soil landscape area to the rear.

6. Overshadowing

The shadow diagrams show that the proposed development will result in the loss of solar access at mid-winter to the rear yards of the adjoining three residential properties to the south

west from before 9.00am to 1.00pm. Councils preferred TOD alternative scheme indicated that these three properties have an FSR of 1.8:1. The narrow depth of these properties and the level of overshadowing will result in a significant reduction in amenity for these dwellings with the shadow not avoiding these properties until 2.00pm. This overshadowing is made worse by the non-compliant building height and the non-compliant building setbacks.

7. Impact on trees

All trees on the development site are to be removed. The basement is located some 6 metres from the rear boundary, although with a localised setback to avoid Tree 56 on the adjoining property. Excavation for the basement will extend closer to the rear and side boundaries to allow for piling and rock jack hammering likely to be required as stated in the geotechnical report accompanying the development application. This has the potential to impact on trees on adjoining sites to the north. The rear setback should be increased to retain mature trees on the development site near the rear boundary and to ensure trees on the adjoining sites can be retained in good health.

The loss of trees is significant as this forms an important element of the existing and future character of the area and of the Balfour St/ Highfield Rd conservation area.

8. Impacts on Council property

The existing site condition includes a steep rise from the carriageway of Balfour Street to the site boundary. At the location of the driveway the pre and post levels are as follows as shown on the landscape drawings:

Location	Existing RL	Proposed RL	Change (m)
Carriageway at northern end of proposed driveway	78.42	78.46	-
Site at northern end of proposed driveway	80.39	78.65	-1.74
Carriageway at southern end of proposed driveway	78.71	78.115	-0.6
Site at southern end of proposed driveway	79.97	78.365	-1.6

The drawings also show that the existing footpath will be regraded reducing in height from RL79.74 to RL78.60 in the vicinity of the driveway. It is clear that there will be significant changes to the levels of the verge between the existing carriageway and the site boundary to provide access to the site and to provide an accessible pathway. This is likely to significantly affect the topography and vegetation on the street verge and require further changes including retaining walls and or batters on Council property. Approval for these works should be obtained from Council. Full details of these works should be provided.

9. Heritage Impacts

The *Guidance to Transport Orientated Development* prepared by the Department of Planning Housing and infrastructure in May 2024 states:

Any new apartment buildings proposed in an HCA should be appropriate to the context, and build upon the features of the HCA, whilst delivering increased housing density.

The site is within Balfour Street/ Highfield Road Conservation Area and is in proximity a heritage item at 6 Highfield Road as shown below. This conservation area comprises our clients' property on Highfield Road and dwellings at 9 to 25 Balfour Street. The Balfour Street properties are the subject to two SSD applications.



Diagram 3: Balfour Street/ Highfield Road Conservation Area

The conservation 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) and which includes 9-25 Balfour Street, being an intact group of Balfour Street Federation Queen Anne style houses.

The development does not meet the guidance of the TOD scheme or the heritage provisions of KLEP 2015 in that:

- It requires the demolition of dwelling houses in the southern part of the conservation area and will remove contributory buildings that are important elements of the conservation area;

- The development will have a significant impact on the significance of the conservation area through the removal of dwellings and their landscape settings, particularly when the cumulative impacts of the SSD-85974227 at 9 to 17 Balfour Street are considered;
- The setting of the conservation area would be dramatically affected by the development with the demolition of important dwellings and by erection of a 9 to 10 level building immediately behind the remaining contributory buildings on Highfield Road. This includes impacts on the setting of the heritage item at No 6 Highfield Road. The important landscaped area in the rear gardens of 9 to 25 Balfour Street will be lost further degrading the significance of the conservation area;
- The visual impact on the setting of No 6 Highfield Street would be significantly affected by the development.

10. Summary

Our clients object to the proposed development. It is a poor planning outcome and has an excessive bulk and scale relative to its context and adversely impacts on the amenity of the area.

Our clients request that DPHI assessing officers visit their properties on Highfield Road to fully appreciate the impacts of the proposed development.

Should you wish to discuss the above or require further information, please do not hesitate to contact the undersigned on 0417 220 284.

Yours faithfully,

BBC Consulting Planners



Dan Brindle

Director

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