

Ms Prity Cleary
Senior Planning Officer
NSW Department of Planning, Housing and Infrastructure
Objection submitted via NSW Major Projects Portal

7 October 2025

Dear Ms Cleary,

RE: SSDSSD-83431958 Residential development with infill affordable housing- 16-20 Middle Harbour Road, Lindfield – 98 Apartments including 19 Affordable units

Thank you for the opportunity to provide a submission on the State Significant Development Application proposal at 16-20 Middle Harbour Road Lindfield.

Friends of Ku-ring-gai Environment Inc (FOKE) are objecting to the proposed development which seeks development consent for a 10 storey residential flat development with in-fill affordable housing within Middle Harbour Road Lindfield in close proximity of 2 heritage items and neighbouring Trafalgar Avenue Heritage Conservation Area (HCA).

FOKE is not opposed to development or against appropriate infill proposals but wish to support development that is respectful in design, scale, consideration of heritage, the environment and biodiversity, infrastructure and liveability constraints of the area, and adhere to the prescriptive standards and policies which apply to the site.

The proposal is submitted as an application under the NSW Government's Transport Oriented Development (TOD) SEPP which is a blunt, top down 'one size fits all' instrument, and does not respect neighbourhood character, scale, heritage, environment, traffic or infrastructure constraints. There has been no consideration by the NSW Government of master planning of the TOD 2 areas, an advantage the government is providing for all TOD 1 areas.

Despite the proposed 23,200 additional dwellings (now 24,562 dwellings under the Council's exhibited TOD Preferred Scenario) proposed for the four TOD areas in Ku-ring-gai, the NSW Government is not proposing to provide or fund any new or additional community services, or infrastructure such as schools or hospitals or, in providing new community facilities, additional rail services or in improving traffic or parking facilities in Ku-ring-gai, despite the predicted 50,000+ population increase in the TOD. The TOD SEPP does not support, promote or encourage ecologically sustainable development.

Council's strategic planning studies never envisaged such an abrupt urban vertical intrusion of ten storeys such as the TOD SEPP allows (with the 30% bonus for affordable infill housing), particularly impacting heritage conservation areas, heritage items, tree canopy, biodiversity and areas of high environmental sensitivity.

The TOD SEPP violates the principle of orderly development and the expectations of the community. The TOD SEPP overrides local planning controls particularly at a time when broader strategic planning has been well progressed in Ku-ring-gai.

We note that Mr Yang and Mr Yu of MHR Lindfield Investments PTY LTD wish to take advantage of the TOD SEPP savings clause. Ku-ring-gai Council submitted the TOD Preferred Scenario KLEP amendments to the

Minister for Planning in June in accordance with Land and Environment Court mediation agreement of November 2024.

In the DPHI Major Projects Team accepting the proposed development has not considered the fact that the proposal development is to be located 550m walking distance to the Lindfield railway station therefore is not within the NSW Government gazetted TOD area but within the Low and Mid-Rise SEPP area (400-800 metres walking distance of the rail station) which is proposed for townhouses, manor houses etc.

We note that here are also other State Significant Developments currently proposed for Lindfield amounting to 2315 new dwellings in the form of luxury apartments and infill 'affordable' rental dwellings:

3 and 3a Beaconsfield Parade for 88 apartments
5,5a and 7 Beaconsfield Parade for 80 apartments.
9-21 Beaconsfield Parade for 377 apartments
2-4 Drover's Way and 9a Gladstone Road for 119 apartments
5-7 Middle Harbour Road for 62 apartments
11-19 Middle Harbour Road for 210 apartments
24,26,28 Middle Harbour Road for 94 apartments
27-29 Tryon Road for 76 apartments
59-63 Trafalgar Avenue and 1a&1b Valley Road for 220 apartments
1-5 Nelson Road for 167 apartments
10-14 Milray Street and 3 Havilah Road for 200 apartments
2-4 Woodside Avenue and 1-3 Reid Street for 89 apartments
2-8 Highgate Road for 84 apartments
12-16 Bent Street for 115 apartments
9-17 Balfour Street for 140 apartments
24-26 Russell Avenue for 50 apartments
19-25 Balfour Street Lindfield 71 apartments

With the proposed 98 apartments in Middle Harbour Rd this brings the total new apartments currently lodged to **2313**. This dwelling increase is unsustainable within the locality of 400 metres of Lindfield station, Pacific Highway and rail corridor.

The cumulative impact of all the proposed 17 lodged applications for DAs for new apartments must be considered particularly with the amount of additional traffic and parking shortfall which is now proposed for Lindfield's narrow local roads and laneways to Pacific Highway intersections and other arterial roads. This is on top of existing issues with the traffic congestion in the Lindfield centre combined with the Pacific Highway and collector roads traffic.

When assessing the number of car spaces proposed for 98 new dwellings the car spaces proposed in the new development is an inadequate 188. The average car ownership per household in Lindfield is 2 cars per dwelling. Street parking in and around Lindfield rail station and local centre has become difficult due to streets already parked out with commuter parking and overflow of resident cars.

TOD Preferred Alternative Scenario

In response to the blunt top down 'one size fits all' NSW Government TOD SEPP, Ku-ring-gai Council planned an alternate scenario for the four TOD suburbs, Roseville, Lindfield, Killara and Gordon based on seven planning principles in order to:

- Avoid environmentally sensitive areas
- Minimise impacts on heritage items
- Preserves heritage conservation areas
- Minimise tree canopy impacts
- Manages transition impacts
- Ensures appropriate building heights and
- Supports local centre revitalisation

Ku-ring-gai Council adopted the council's exhibited TOD Preferred Scenario at the Extraordinary Meeting on 5th June 2025 and is now legally considered as a draft environmental planning instrument. The preferred scenario proposes to amend the Ku-ring-gai Local Environmental Plan to create new development standards for the four TOD areas of Ku-ring-gai and create a self-repealing SEPP to amend SEPP (Housing). The plans are currently with the Minister for Planning to approve and gazette. The MHR Lindfield Investments

PTY LTD development proposals do not take into account the prevailing exhibited draft planning instrument in accordance with Divisions 3.3 and 3.4 of the EP&A Act 1997.

The type of building typology being proposed is inconsistent with Ku-ring-gai's draft planning instrument, the Housing SEPP or the Apartment Design Guidelines (ADG).

The current KLEP 2015 planning controls for this site until the amended KLEP is gazetted are as follows:

- Land use zone – R2 Low Density Residential
- Minimum Lot size – 930m²
- Maximum FSR – 0.3:1 and
- Maximum building height – 9.5m

We understand that the draft KLEP amendments must be given weight under Section 4.15 (1)(a) (ii) of the EP&A Act 1997 as a “proposed instrument” or under Section 4.15 (1)(e) being within “the public interest” of the EP&A Act. The EIS and associated documents have not considered the above Draft Amendments despite the exhibited proposed amendments to the instrument.

The reasons for our objections are as follows:

- The proposal is advocating development which would isolate a one-storey dwelling between two 10 storey towers at number 22 Middle Harbour Road.
- Critically, the development raises the risk of increased flooding both upslope and downslope of the development site as floodwaters flow over and down the site. The excavation and removal of significant grassed areas will add to overflow levels on neighbouring properties.
- The proposal does not respect the scale and form of the existing locality.
- The 10 storey development will have an unacceptable impact on neighbouring properties.
- The building design presents a long 41.34m frontage of 10 storeys to Middle Harbour Road without any open central space to provide a less bulky appearance and assist in reducing its dominance over neighbouring properties and the surrounding area.
- The proposed setbacks do not meet statutory requirements and are incompatible with the existing surrounding development.
- The proposed development does not fulfill the objective of the TOD controls in Chapter 5 of the Housing SEPP which is to ensure development is of an appropriate bulk and scale.
- The development contributes to habitat and foraging loss for the endangered species.
- The development site is over 550 metres walking distance from Lindfield Station. This places this development in the Housing SEPP category of Low and Mid-Rise development.
- The Affordable apartments are not as the EIS states ‘well distributed’ throughout the building. Of the 19 units, 9 are located on the lower ground floor, which is below the Ku-ring-gai Council Flood assessment recommended habitable level of 87.53 AHD, with another 6 at upper ground level.
- The isolated house at 22 Middle Harbour Road would not be able to be developed as raised as possibility in the EIS, as the development of this site will have a low profit feasibility for a development. With the Flood Report highlighting that floodwaters discharge across the development site to 22 Middle Harbour Rd, a development of this site is unlikely to be taken up.

Not only is this an inappropriate development for its location with major impacts on surrounding dwellings, the Environment Impact Statement (EIS) has many inaccuracies and inconsistent information. Specifically when considering Deep Soil cover (both 24.6% and 21.5% cited), FSR (3.16: or 3.01:1), car parking spaces (both 196 and 188 cited) and the traffic Report which presents a Heavy Vehicle Route which recommends illegal turning options.

This proposal does not meet SSD standards which requires clear and accurate information for an assessment on exhibition. This proposal should be returned to the proponent for correction and resubmission.

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)
- SEPP Housing 2021

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 affords the overflow into the Gordon Creek Catchment. The development does not address the high level of negative impacts it has on surrounding properties, including Heritage Items and specifically the Trafalgar Avenue Heritage Conservation Area.

Excessive building and Height - non-compliant

- The maximum building height stated as 28.6m is exceeded across the site to a maximum of 31 m. This is in excess of the allowable height under the TOD SEPP requirements where an affordable height bonus of 30% is allowed. The proposal represents a gross over development in terms of height, scale and bulk in stark contrast to the adjoining 1-2 storey residences, in the direct vicinity of 2 Heritage Items and a Heritage Conservation Area (HCA).
- The height of the structure is incompatible for the area with 10 storeys on the Middle Harbour Rd frontage and overtopping Russell Avenue by over 8 storeys.
- NO site coverage data is presented in any of the reports, but it is clear the coverage is in excess of 50%.
- The slope of Middle Harbour Road from the western boundary to the eastern boundary of the site is approximately 5 metres. However, no adjustment has been made to reduce the height to address the sloping topography of the site so that it aligns with the natural slope of the land as required in the ADG.
- The proposed multi storey apartment block and height is not consistent with desired future character and streetscape and will have material impact on neighbour amenity and the environment. Council's preferred scenario for this site has a maximum of 6-7 storeys, not 10 storeys. Similarly, the FSR under the Preferred Scenario is 1.8:1 not the massively overdeveloped 3.16:1.

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

- Excessive site coverage in excess of the DCP controls. There is no statement in the site coverage percentage, but it is clear it exceeds 50%. The DCP site coverage maximum is 30%. This is comprehensively exceeded.
- Deep soil cover should be a minimum of 50%, but is halved to only 24.6% or 21.5%.
- The site is classified as having an FSR of 1.8:1 under the Preferred scenario, not the 3.16:1 of this proposal.
- Its location in the vicinity of 2 Heritage Items and visually impacting two HCAs, the adjacent Trafalgar Avenue HCA, and Clanville Avenue HCA 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 29.9% that will impact the noise factor for the immediate vicinity and adjoining properties.
- The proposal does not meet the DCP requirements for site water management and its impact on neighbouring properties.

Building Setbacks and Separation to the adjoining Heritage Conservation Area (HCA) are ignored:

- The DCP 19F requires a setback of 12m from an adjacent HCA. The proposal has a tangential border with the Trafalgar Avenue HCA at its north eastern corner. There is only a 4m setback to this HCA where it should be a 12m setback.
- Adjacent height with a building mass exceeding 8m from existing ground level, requires an additional setback of 6m from the 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 HCA, and no further setbacks exist above 12m.
- This proposal has taken no consideration of its setting adjacent to a HCA.

Gardens, Setting and Curtilage (DCP 19F) – non-compliance

- 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 24.6%, well below the required 50%.

Other Setbacks as required are not met: (DCP 7A) – non-compliance

- Though the 10m setback from Middle Harbour Road meets part of this requirement. However, the 2m articulation zone behind the street setback as required is not included. This is a non-compliance issue. There should be a consistent 10m setback. The fact that the ground floor terraces/courtyards significantly encroach the 10m setback is not acceptable.
- Current side and rear setbacks are an inadequate 4m, not the 6m stated in the documents. These setbacks have been significantly encroached by terraces and courtyards on both the lower and upper ground floor levels. 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. This applies to all boundaries. This has not been met.
- 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.
- 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 is not met.

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 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 FSR of 1.8:1, not the proposed 3.16:1. 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, this proposal does not meet the requirements of the current Development Planning Controls (DCPs) with regard to front, rear and side setbacks and height of building setbacks. This proposed development is located in the close vicinity of 2 Heritage items and is adjacent to the Trafalgar Avenue Heritage Conservation Area (HCA) and should be rejected.
- The development is sited on Flood affected land and fails to meet the requirements of the Ku-ring-gai Council DCP for ensuring neighbouring properties upgradient and down gradient are not impacted.
- 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 – Site Water Management (DCP24) - not met

- The objective of DCP24A 'To ensure that development does not increase surface and subsurface runoff to downstream properties.' Not met.
- DCP24B 'To ensure adverse impacts are not increased beyond what was present prior to the development. To achieve a high level of residential safety and amenity'. Not met.
- DCP 24C 'To ensure that development does not increase surface and subsurface runoff to neighbouring properties. To consider the existing capacity of the public drainage system.' Not met.
- DCP24D.3 states 'Subsurface water management systems are to be designed to transfer subsurface water through, around or under the proposed development 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 the effects to the down-gradient surrounding properties and infrastructure have not been addressed.

The Southern Catchments Flood Study 2023 has highlighted 5 points in the immediate vicinity on Middle Harbour Road where stormwater overflows neighbouring land, flooding into yards and overflowing across properties, and ponding in streets.

The Study states that 'a significant major overland flow path forms between Middle Harbour Road and Tryon Road with upstream contributions from areas downstream of the railway line.' Floodwaters from the railway line (at Russell Ave and Strickland Avenue) flow into low lying areas between roads partially inundating individual properties.'

'During the 1% AEP flood, floodways and flood storage areas are largely contained within the downstream watercourses and along the trunk drainage lines discharging to the watercourses in the upstream of the catchment. Some roads adjacent to major overland flow path crossings, including Middle Harbour Road and Bancroft Avenue, act partially as floodways adjacent to the discharge point into the watercourse.'

With the replacement of slow draining grassed areas with hard surfaces and drainage aimed at moving the water offsite, this Surge Effect will be exacerbated in times of high precipitation. This Surge impact is not covered in the Flood Impact Assessment, nor is its likely impact on neighbouring properties.

This development is in a significant flood prone area and will require extensive underground works and excavation to deliver 3 lower ground and basement floors. The excavation level will be in excess of 15m from the existing ground level. The water flow disturbance will be significant for both upgradient and downgradient properties.

The site topography accentuates the flood issue as the area along Middle Harbour Road falls substantially from Pacific Highway to the intersection with Trafalgar Avenue, a fall of approximately 19m. This is an intersection which floods numerous times each year.

The proposed development site falls approximately 2m from north to south and 5m from its western to its eastern boundary resulting in a relatively steep slope through the site. The combination of these falls creates catchments draining both eastward and southward to downslope properties, with greatest impact on 22 Middle Harbour Road.

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 then into Middle Harbour. Furthermore, the development is significantly in excess of the 30% site coverage required by the Ku-ring-gai DCP making the problem even worse.

The Flood Impact Study fails to address the impacts of this development both upgradient and

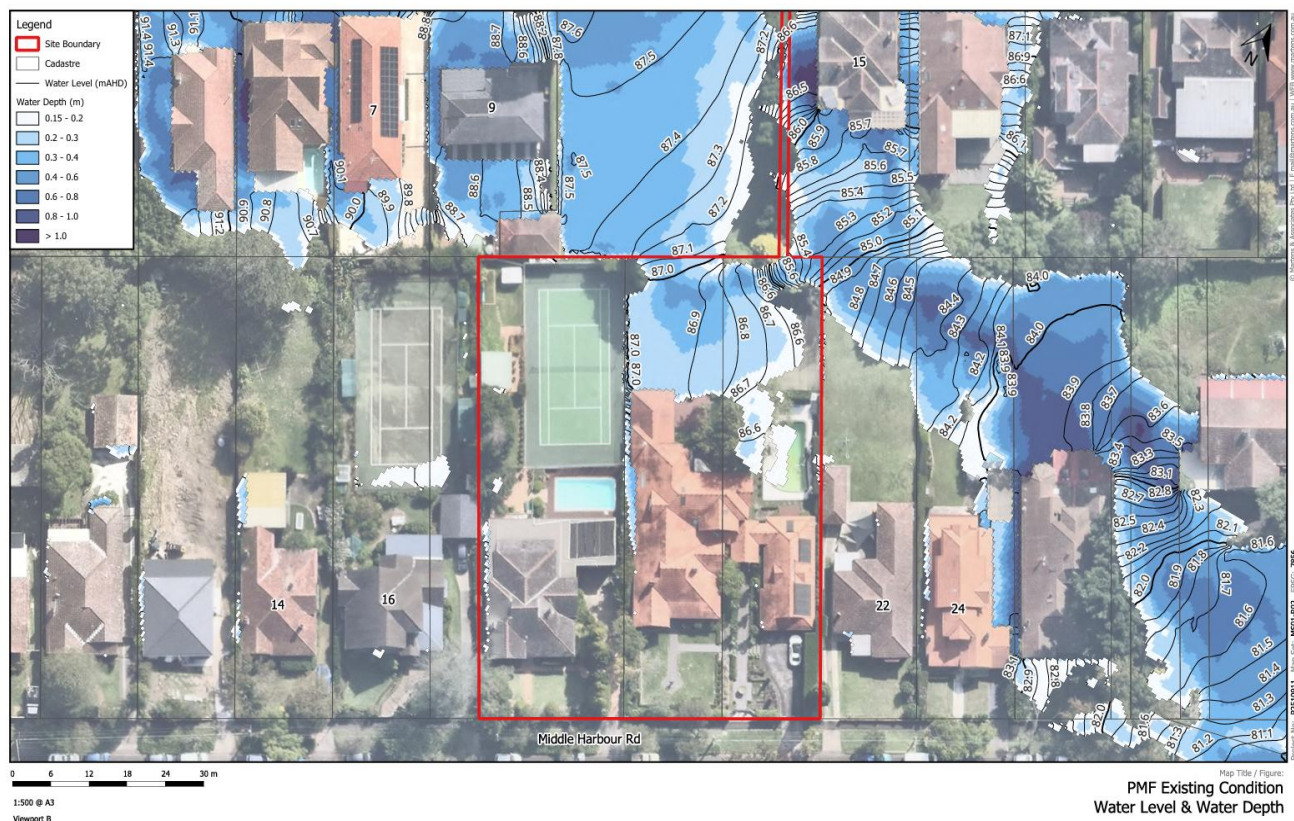
downgradient of the site. The development of this site and the disturbance it will cause will exacerbate an already problematic flood prone area, affecting numerous homes on Russell Avenue and Middle Harbour Road.

The cumulative impact of two 10 storey developments in close proximity cannot be underestimated in terms of their negative impact on the site water management. These should not be progressed until Council has sufficient funds to improve the current water flow situation.

The Ku-ring-gai Council supplied flood certificate for 18 Middle Harbour Road states that the minimum habitable floor level is confirmed as 85.64 -87.53AHD (Australian Height Datum). This is higher than the proposed lower ground floor apartments at 86AHD.

The Martens Flood Assessment

- The site is identified as being affected by an overland flow path in the north-eastern corner of No. 18-20 Middle Harbour Road.
- Based on the modelling results under existing conditions, floodwaters overtop Russell Avenue and flow across 22 Middle Harbour Road, entering the site along its northern boundary.
- The flows then continue along the drainage depression at the rear of the site in a north easterly direction, ultimately discharging onto 22 Middle Harbour Road.
- The Martens Report states 'The existing conditions at the site were found to show areas of high, medium, and low flood hazard on the site. The site experiences significant inundation during the 1% AEP and PMF events.'



Source: Martens Flood Report

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 31metre 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 Items at 19 Russell Avenue and 9 Middle Harbour Road.
- The interface between the 10 storey development and neighbouring single storey dwellings is excessive, incompatible and unacceptable.

- The building design presents a long 41.34m façade of 10 storeys to Middle Harbour Road without any open central space to assist in mitigating its bulk and dominance over neighbouring properties and the surrounding area.
- It fails to meet the Chapter 5 objective of the TOD Housing SEPP controls which is to ensure development is of an appropriate bulk and scale to its environment.
- When viewed from the street and public domain, the development fails to establish a harmonious relationship which respects the existing local context balancing the desired future character of the street and surrounding buildings through appropriate heights and built form as required by SEPP (Housing) Schedule 9. The proposal fails to meet Design Principle 1 and 2 in Schedule 9.
- The SSD proposal devalues the visual amenity of neighbouring properties who will lose their solar access, natural cross-ventilation and outlook.

Built Form

This development's Built Form and Urban Design are inappropriate for the location. Its bulk, height, excessive site coverage and density at 10 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 2 close heritage items, and one HCA adjacent and another in close proximity.
- The proposed building massing does not provide a well-considered visual transition between the development and the established homes, and future moderate density housing, within the visual catchment of the site leading to a dominant abrupt and overwhelming bulk and scale impacts on neighbouring properties.
- There is no consideration for the amenity, privacy and overshadowing that will occur to the neighbouring dwellings.
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- Shadowing on neighbouring dwellings to the west will be particularly 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.
- The SSD proposal is an overdevelopment of the site and totally out of proportion to the existing and future desired amenity of Lindfield, for a residential area which contains a consistent pattern of intact Inter-War and Federation 1-2 storey residential housing and 2 storey townhouses.
- The layout, site coverage, height, bulk, scale, separation, setbacks, interface and articulation fail to adequately address and respond to the context, site characteristics, streetscape and existing and future character of the locality.

Future Character of Lindfield

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

- The community has consistently supported lower level density developments further from the town centre as part of our desired future character of Lindfield.
- The fact that his proposal was submitted after the commencement of the Alternate Scenario process to the initial TOD development, approved by the DPHI, shows an egregious disrespect for the community and council led process of determining the best future character for Lindfield.
- The future character of Lindfield is reflected in the 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 proposed development is 550 metres walking distance from the train station, and further from the town centre, and should comply under the Low and Mid-Rise controls, rather than those of the TOD.

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 livability of these surrounding homes.
- The development essentially steals the amenity and solar access from adjacent houses.

Environmental Heritage will be negatively impacted

The site is located tangentially adjacent to Trafalgar Avenue Heritage Conservation Area (HCA), which includes a Heritage Item at 19 Russell Avenue (Item 149). It also is located opposite the Heritage Item at 9 Middle Harbour Road, 'Laurabada,' dwelling house (142), and within close vicinity of Heritage Items 34 Middle Harbour Rd (Item143).

Russell Avenue sits higher topographically than Middle Harbour Road. Part of the street to the east is located within the Trafalgar Avenue Heritage Conservation Area. The dwellings fronting the eastern part of Russell Avenue early and late Federation period in the Queen Anne, Arts and Crafts and Bungalow styles with some inter-war Old English examples.

Middle Harbour Road is characterized by Federation and Interwar homes built in the early part of the 20th century. The houses at 16 and 18 Middle Harbour Road reflect this character, both having reference to Federation architectural styles that are clearly visible. Both have face brickwork, with no. 18 sitting on a rusticated sandstone base. Both have roofs which are hipped and gabled, with slate or terracotta tiles. These buildings contribute to the character of the Middle Harbour streetscape and character of Lindfield.

The proposed development will not only remove two contributory late Federation dwellings but insert an uncompromisingly modern and bulky 10 storey building. The heritage report acknowledges that the proposed building will be significantly visible from the Russell Avenue and its heritage item at no.19, as well as the greater part of the Trafalgar Avenue HCA. 'Where the building will be most visible from within the HCA will be from Russell Avenue which sits higher than Middle Harbour Road.'

The highest impact will of course be in Middle Harbour Rd and the heritage item at no.9. This will be a glaring visual intrusion into the streetscape context of low density dwellings of the 20th century architecture.

The Heritage report also states that due to the height of the development, it will be visible from the Clanville Avenue HCA as well as the Heritage item at 34 Middle Harbour Road.

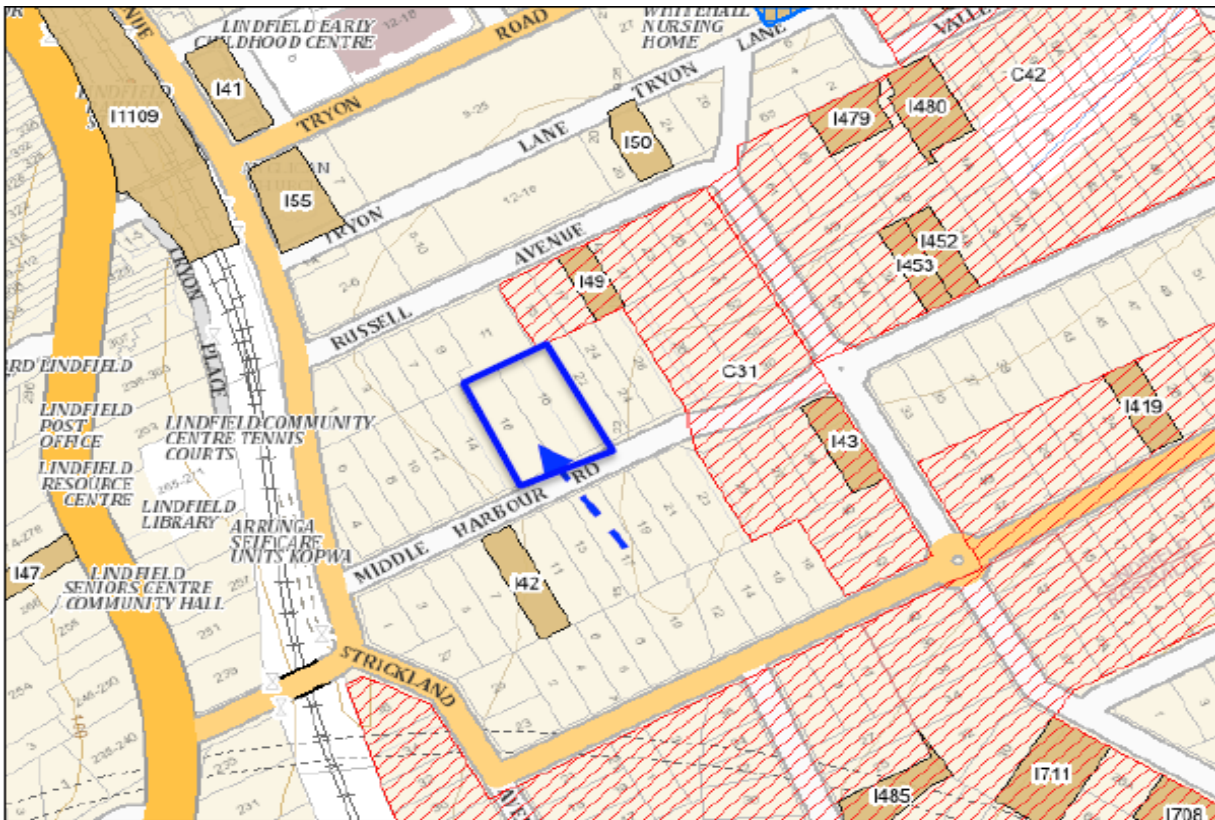


Figure 17: Detail, heritage map showing heritage items and Conservation Areas in relation to the subject site. The site is outlined in black and shaded dark blue.

It is understated in the HIA report paid for by the proponent, but it is clear that this development will have a major detrimental impact on the heritage of the area, its heritage items and the integrity of the HCAs and should be rejected.

Visual Impact

The proposed development sits in the midst of predominantly single storey homes and adjacent to Trafalgar Avenue HCA and in close proximity to 2 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 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 in the order of 4 or 5 storeys. It will dominate Russell Avenue to the north protruding behind the heritage homes and Trafalgar Avenue HCA by over 8 storeys. It will be the largest building as one drives or walks down Middle Harbour Rd from Lindfield Avenue. It will impact the heritage item at 9 Middle Harbour Road as the visual dominance of a 10 storey building across the road from the heritage item will dominate the streetscape whether one approaches from the east or west.

It is clear that the Visual Impact Report is misleading and inaccurate in order to minimise its impact. The HIA is more closely aligned to the fact that from Russell Avenue an 8 storey tower will rise above single storey buildings. Chelmsford Avenue and Lindfield Avenue will be no different. With the loss of most of the trees on the site, the development will be visually greater than highlighted in the VIA.

Overshadowing

- Direct sunlight into western properties is severely diminished in winter, with number 14 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.14 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 is particularly appalling with not only all the residences west of the development being in shade for the majority of the day in mid-winter, but that the shadow will extend 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.

Setbacks and Building Separation

- As previously mentioned, the setbacks for the Heritage Items and HCAs do not meet the requirements of the Ku-ring-gai DCP 19F and 19D
- As a residential Flat building the current proposal fails to meet the setback requirements for sloping sites in Ku-ring-gai DCP 7A.3 and 7A.4
- Due to the steepness of the block and the height of the proposed 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 (eg 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 proposed development as its height at 31 m will be 8 storeys higher than the adjacent 1-2 storey dwellings.
- Number 14 and 22 Middle Harbour Road, which are 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 six outdoor communal spaces, two at level ground level and another on four sections on the rooftop will cause undue noise to be carried to neighbouring residences and further afield. These communal spaces on the rooftop are positioned predominantly at the corners of the building overlooking the single storey residences in Russell Avenue, Middle Harbour Road and Trafalgar Avenue.
- The communal open spaces on the lower and upper ground floor are open to the western and eastern boundary, ensuring that noise will be directed straight into no.14 and no.22 respectively at ground level. Screen planting may assist the visual privacy but not the acoustic privacy. This aspect needs to be redirected to street level or contained within the building site to minimise impact to neighbours.
- 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

- There is no positive social impact for existing residents.
- 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 impact on the surrounding residences.
- Approximately 10 neighbouring dwellings will be seriously impacted by this development. Loss of sunlight and privacy are major issues that will lead to a sense of depression for these residents.
- 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 196 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, this 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 in this development.
- As a bus route Middle Harbour Rd often requires cars in the opposite direction to stop on the side to let the bus pass. The traffic report does not address this issue which will be complicated during construction and the expected additional street parking.
- The cumulative impact of other developments has not been addressed.
- 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.
- The Varga Traffic Planning projected net increase of an additional 17 vehicles an hour AM and 13 vehicles PM reflects a massive 10-13 times greater traffic flow along this section, and potentially the whole, of Middle Harbour Road.
- **Have Varga Traffic Planning visited the area? Their Heavy Vehicle Route Map is nonsensical! It involves two illegal turn settings.** They do not understand that one cannot turn right from Middle Harbour Road into Archbold, nor from Chelmsford. Nor can vehicles turn right from Archbold into Middle Harbour Road. Trucks will not be able to use Capper Street, essentially

a laneway, with tight corners. This will only leave Lindfield Avenue as the major artery during construction!

- **There is no mention of the fact that both ends of Middle Harbour Road have ‘traffic calming’ measures which aim to inhibit the flow and speed of traffic.**
- During construction, the intersection of Middle Harbour Road and Lindfield Avenue will be a major problem, causing trucks and vehicles to clog the other residential streets.

Water and Sewerage systems

- Lindfield is renowned for having old and poor sewerage pipes. The additional population from this development will place an unacceptable level of pressure on the existing sewerage system and should not proceed until the sewerage network is upgraded.
- It is unclear in the proposals what measures are to be implemented to manage, reuse, recycle and safely dispose of waste, including in accordance with any council waste management requirements.
- The water pressure has been significantly reduced over the past few years due to the increase of development in Lindfield. Additional dwellings will only exacerbate water pressure issues in Ku-ring-gai unless upgraded.
- 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 49 significant trees in the development area. Of these, less than half, being 21 existing trees, will be retained. 26 trees categorised as of medium retention value, one of high value and one of low value will be removed from the site. Additionally, one tree deemed to be in poor condition is also expected to be removed. Any new trees that will be planted, will be with a substantially reduced deep soil cover and hence 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 30.2%, below the DCP 50% target. No numbers of new trees are included in the Bird Tree Consultancy report to support this target.
- This is a massive destruction and will decimate the mature tree canopy that is essential for our bird life and small animal habitats.
- KMC Greenweb mapping highlights remnant landscape and remnant canopy, which occurs in the location of the single Turpentine tree central to No. 18-20, which is proposed to be removed.
- The proposed works area contains a patch of native vegetation, mapped as PCT 0 – Exotic and Planted Vegetation under the NSW State Vegetation Type Mapping. However, floristic surveys conducted by ESEA (2025) determined that this vegetation is most closely defined as PCT 3136 – Blue Gum High Forest, 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 further review.
- The vegetation to be removed was found to exhibit potential habitat features for one (1) fauna species in the locality - the Large-eared Pied Bat (*Chalinolobus dwyeri*).
- For the purpose of this BDAR assessment, this species was assumed present, based on the availability of suitable habitat within the locality, and due to numerous previous sightings in very close proximity to the proposed works area. The species polygon boundary was aligned with the associated PCT 3136 on the subject land.
- ***Chalinolobus dwyeri* (Large-eared Pied Bat) is a Serious and Irreversible Impact (SAIL) candidate species and is considered at risk of serious and irreversible impact as a result of the proposed vegetation removal works.**

- 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, that extra precautions need to be in place to avoid any inadvertent damage or spills during construction.
- 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.
- 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.

Engagement Process does not meet SEARs Requirements

The Engagement Process does not meet the SEARs requirement for the proponent to engage with the community, council and key agencies during the preparation of the EIS. The Engagement Process:

- **Has not undertaken any mailing to surrounding and affected properties in Russell Avenue, Trafalgar Avenue, Middle Harbour Road and Strickland Avenue. These are purportedly to be undertaken prior to commencement of construction.** No mailout or contact of surrounding neighbours has occurred prior to this EIS to inform, ascertain and consult on issues.
- **The contact programme relied on in this engagement report is that the proponents Mr Yang and Mr Yu have had discussions since May 2024 with landowners from No. 12 through to No. 28 Middle Harbour Rd. These discussions have primarily been to elicit further site amalgamation of these neighbouring properties into this SSD application. This cannot be extended to state these were informative and consultative discussions regarding the proposed development.**
- **The only discussion prior to the EIS was with DPHI. No other discussions with related bodies such as Council, other statutory bodies, government agencies or relevant stakeholders were undertaken.**
- **The Report relies heavily on the Ku-ring-gai Council community engagement process in determining the Alternate Scenarios rather than engagement specific to this SSD.**

It is apparent that the Engagement process has been both highly limited and compromised. It does not meet the requirements to inform and consult as part of the SEARs engagement process and should be resubmitted or the SSD rejected.

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.
- This SSD proposal will increase the demand on what is old infrastructure and local services and will create a need for additional medical centres, schools, childcare, libraries etc. which have not been assessed as to the number required to meet this significant increased

population of thousands of new residents.

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.

The State Significant Development Application proposal is not compliant with bulk and scale, height, setbacks and is inconsistent with Ku-ring-gai's Draft LEP, DCP and Housing SEPP (2021). Combined they will have a negative impact on heritage, environment, traffic, parking, urban design, neighbourhood character, visual amenity and privacy, liveability, tree canopy, biodiversity, open space, infrastructure and community benefit.

The SSD risks unsustainable development, straining local roads, street parking and infrastructure and exacerbating environmental and biodiversity decline.

The proposed development is inappropriate for the location in question given the topography, flood zone and its impact on adjacent dwellings, HCA and heritage items.

Development cannot continually remove old growth trees, threatened biological communities and habitats for threatened native fauna, without addressing the cumulative effect which will result in irreversible devastation of habitat for birdlife, fauna and the loss of native vegetation and trees essential for foraging.

As such the SSD development application is an over development and should be rejected as it neither adequately addresses and fails to incorporate the exhibited draft amendments to the KLEP 2015, DCP and all standards of the SEPP (Housing 2021) and ADG into the proposed development.

The resulting TOD SSD development if approved, will negatively impact the net zero emissions target that council is proposing to achieve by 2040.

The proposed development is a poor planning outcome which is not in the public interest as it does not demonstrate public benefit or strategic merit but a significant profit for the developer.

The use of the TOD SSD pathway appears to be a deliberate tactic to circumvent local and state planning controls to add additional high-density housing which will be more than the current demand for luxury apartment blocks in Lindfield.

At the time of writing there are already 664 apartments and townhouses in Ku-ring-gai ready to buy off the plan or already built, and 307 apartments across Lindfield and surrounds, available for rental. There is no shortage of apartments to purchase in Ku-ring-gai.

The 98 apartments proposed for 16-20 Middle Harbour Road will not solve or assist with the affordability or housing crisis but likely to keep increasing luxury apartment costs. We understand that most apartments in Ku-ring-gai are bought by foreign and local investors or downsizers and not those in the community that need housing the most.

Conclusion

In summary the proposed development:

1. Not compatible with the desired future character of Lindfield.
2. Fails to comply with KLEP 2015, KDCP, SEPP (Housing) 2021 and ADG standards.
3. Overshadows and overwhelms neighbourhood properties and dominates heritage listed properties.
4. Inadequate setbacks, building separation and visual privacy.
5. Impacts on the development potential of adjoining sites.
6. Impact on waterflows and flooding across numerous sites
7. Inadequate solar access to dwellings and inequitable solar access to affordable housing.
8. Inadequate deep soil zones for planting canopy trees.

We reiterate that the State Significant Development Application proposals at 16-20 Middle Harbour Road are not compliant in height, setbacks and should be rejected as it will have a negative and detrimental impact on

local heritage, environment, traffic, urban design, neighbourhood character, visual amenity, liveability, tree canopy, open space, infrastructure and community benefit. As such the SSD proposal should be rejected.

Thank you for considering the submission. It is to be hoped that the Department will take on board our concerns and reject the proposal.

Yours faithfully,

Kathy Cowley

Kathy Cowley

PRESIDENT

cc Mayor and Councillors Ku-ring-gai Council

cc General Manager Ku-ring-gai Council

cc Matt Cross MP Member for Davidson

cc The Hon Scott Farlow MLC Shadow Minister for Planning

cc Nicolette Boele MP Member for Bradfield