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Via: NSW Planning Portal – Major Projects

6 October 2026

Dear Joe

Re: Objection to Amended Concept Proposal SSD-82899468

Residential Flat Building with In-fill Affordable Housing
1–5 Nelson Road, Lindfield (Lots 6, 7 and 8, DP 9789)
Site area: 4,967 m² | Applicant: Landmark Group / Castle Hill No. 3 Pty Ltd
Re-exhibition: 24 September – 8 October 2026

1. Introduction and Position

1.1 This submission is made by Friends of Ku-ring-gai Environment Inc. (FOKE) in response to the re-exhibition of the amended State Significant Development Application SSD-82899468 for a concept proposal involving a residential flat building with in-fill affordable housing at 1–5 Nelson Road, Lindfield (Lots 6, 7 and 8, DP 9789).

1.2 FOKE **objects** to the Application in its current form and seeks refusal. While the number of apartments has been reduced from 167 to approximately 151, the building envelope is not materially reduced. The amended scheme continues to exceed the maximum available height of 28.6 m, encroaches into the required riparian setback, fails to achieve the ADG separation and the additional 3 m heritage setback requested by the Department, and defers critical assessments required by the SEARs and by Council at concept stage.

1.3 This submission addresses the amended documents exhibited in 2026, including the Response to Submissions (RtS), the Letter of Amendment Request dated 10 September 2026, the Clause 4.6 Variation Request (Appendix 12), the Heritage Response to Submissions (Appendix 8), the Flood Impact and Risk Assessment (FIRA Issue C), the Design Report, the Visual Impact Assessment, the arboricultural assessment, the BDAR, the civil response, and related technical appendices. It is to be read together with FOKE's earlier submission, which is maintained except where expressly updated.

1.4 FOKE's position is consistent with Ku-ring-gai Council's objection of 14 August 2025. Council's objection remains the principal institutional record of the site's constraints. This submission tracks the residual issues against Council's grounds so that the Department can identify which matters remain unresolved.

1.5 FOKE supports well-designed higher-density housing and genuine affordable housing in appropriate locations. The eastern side of Nelson Road, retained as low-density residential under the Ku-ring-gai alternative TOD controls that commenced on 14 November 2025, is not an appropriate location for a nine-storey building of the bulk and height proposed.

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1.6 The central deficiency is that the Applicant has not responded to the Department's own requests.

Following the meeting of 6 February 2026, the Department strongly encouraged reduction of the building to no more than the maximum permissible height and the provision of ADG setbacks plus an additional 3 m to the heritage items across all levels (RtS, section 3.1). Neither outcome has been achieved.

1.7 FOKE requests that the Department hold the Applicant to those requests and refuse the Application if compliance cannot be demonstrated. In the alternative, FOKE seeks a height-compliant envelope, a 10 m riparian setback, full ADG and heritage setbacks at every level, independent flood assessment against Council's adopted model, concept-level groundwater and acoustic assessment, and re-exhibition of any further material amendment.

2. Nature of the Concept Approval

2.1 The Application seeks concept approval. If granted, it will fix the fundamental parameters of the future development, including maximum height, building envelope, setbacks, basement footprint and depth, dwelling yield, vehicle access, and the landscape and deep-soil framework. Any subsequent detailed application must be generally consistent with those parameters.

2.2 The issues raised in this submission concern the suitability of the envelope itself. Height, basement depth and entry level, riparian setback, and the relationship to the adjoining heritage items cannot be deferred to the detailed stage once the concept is approved. These matters must be determined now on adequate evidence.

2.3 SEARs item 1 requires an accurate summary of impacts that integrates the findings of the technical reports. Concept approval on incomplete information would be inconsistent with that requirement and with the principle that the consent authority must understand the likely impacts of the ultimate development before granting concept consent.

3. Statutory Pathway and Savings Status

3.1 The amended documents assert that the Application is to be assessed under the former Chapter 5 Transport Oriented Development provisions of State Environmental Planning Policy (Housing) 2021 as a saved application, notwithstanding the commencement of the Ku-ring-gai alternative TOD controls on 14 November 2025. The claimed pathway is the section 155 base standards of 22 m height and 2.5:1 FSR, plus the section 16 in-fill affordable housing bonus of 30 per cent, producing a claimed ceiling of 28.6 m and 3.25:1.

3.2 FOKE requests that the Department, in its assessment report:

- (a) identify the precise savings or transitional provision relied upon;
- (b) state the date on which the complete SSDA and EIS were formally lodged and accepted, and confirm that this occurred on or before 13 June 2025 (documents contain inconsistent references to "June 2025" and "15 July 2025"; upload dates do not establish lodgement); and
- (c) identify which version of section 4.15 of the Environmental Planning and Assessment Act 1979 has been applied, having regard to the 12-month saving for applications lodged before 15 December 2025 and the amended test of "significant likely impacts".

3.3 Savings status, if established, preserves the applicable former development standards. It does not predetermine approval and does not displace:

- section 20(3) of the Housing SEPP (mandatory consideration of design compatibility with local character or desired future character);
- section 147(1) and Schedule 9 of the Housing SEPP (design quality principles);
- section 21 of the Housing SEPP (affordable component managed by a registered community housing provider for at least 15 years);
- clause 5.10 of the Ku-ring-gai Local Environmental Plan 2015 (heritage);
- clause 6.4 of the KLEP (riparian land); or

- the full merits assessment required by sections 4.15 and 4.40 of the Act.

3.4 SEARs items 1 and 6 require accurate identification and application of the statutory context. The Department should state its position on these matters. FOKE's primary position is that the Application fails on merit even if the former standards are preserved.

4. Building Height and the Proposed Variation

4.1 The applicable standard and the extent of the breach

On the Applicant's own case, the maximum building height available is 28.6 m (22 m under section 155(2) of the Housing SEPP, increased by 30 per cent under section 16(3)). The site is otherwise zoned R2 Low Density Residential with a 9.5 m height limit under the KLEP. Full bonus FSR of 3.25:1 (16,141.3 m² GFA) has been retained.

The amended envelope reaches 31.86 m at the rear lift overrun — a breach of 3.26 m (11.4 per cent). Level 8 parapets exceed 28.6 m by between 1.17 m and 2.6 m; lift overruns exceed it by between 2.1 m and 3.26 m (Appendix 12). The exceedance occurs above a height that already includes the maximum available bonus. The original height was 32.35 m; the highest point has been reduced by only approximately 0.49 m.

RtS Table 3 continues to record the proposed height as 32.35 m with "Nil" change, while the Department's acceptance letter of 16 September 2026 describes a "reduction in overall height". The Department is asked to confirm the precise maximum height of the amended envelope, inclusive of all rooftop structures.

4.2 The Department's request has not been met

The Department's key issues letter requested that height not exceed 28.6 m where possible (except technical breaches over swimming pools). At the meeting of 6 February 2026 the Department strongly encouraged reduction to no more than the maximum permissible height, together with ADG setbacks plus an additional 3 m to the heritage items across all levels (RtS, section 3.1).

Neither request has been achieved. The residual breach is not a technical exceedance over swimming pools; it results from lift overruns and the introduction of rooftop communal open space on Level 8. The acceptance letter identifies "increased floor area and introduction of communal open space to level 08" as an amendment. The relocation of floor space upward while maintaining a height breach is inconsistent with the Department's request. The RtS also concedes that Level 2 is "technically the 5th storey" at the north-eastern corner by reason of the downslope.

4.3 The clause 4.6 request does not demonstrate sufficient grounds

Council's 2025 objection found no sufficient environmental planning grounds. Practice Note guidance provides that bonuses should not be treated as an entitlement and that a site may be unable to achieve full FSR and height while meeting ADG, deep soil and setback requirements. Retention of full bonus FSR together with a height breach confirms that difficulty.

The variation request relies principally on the contention that strict compliance would reduce affordable housing and rooftop communal open space. FOKE submits that:

- (a) the height bonus under section 16(3) is the statutory reward for the affordable housing component; the same component cannot also justify exceeding the bonus;
- (b) the request states that the full permissible GFA is delivered; removal of the rooftop elements causing the breach need not therefore reduce affordable floor space;
- (c) any loss of rooftop space or floor area is a consequence of the chosen envelope, not an independent environmental planning ground;
- (d) the request continues to rely on low- and mid-rise transition diagrams that are inapplicable to R2 land limited to 9.5 m; and
- (e) the request must be assessed against the current clause 4.6 tests (unreasonableness or unnecessary character of the standard, and sufficient environmental planning grounds). The Department should state whether those tests are satisfied.

The request itself contains internal errors: the header still reads “APPENDIX 31”; the breach percentage is stated inconsistently; page 17 refers to “approximately 167” apartments while the amended scheme is approximately 151; and the request purports to vary both section 16(3) and section 155(2) contrary to the Department’s instruction. Measured against the 22 m base standard the building exceeds the limit by 9.86 m (44.8 per cent).

4.4 Outcome sought

FOKE requests that any concept approval be limited to a maximum height of 28.6 m, inclusive of lift overruns, plant and rooftop structures, with no rooftop communal open space above that height.

5. Context and Desired Future Character

5.1 The statutory obligation

Section 20(3) of the Housing SEPP provides that consent must not be granted to in-fill affordable housing unless the consent authority has considered whether the design is compatible with the desirable elements of the character of the local area or, for a precinct undergoing transition, the desired future character of the precinct. Section 147(1) requires evaluation against the Schedule 9 design principles, commencing with Principle 1 (Context and neighbourhood character) and Principle 2 (Built form and scale). These are mandatory considerations. SEARs items 6, 7 and 8 reinforce the requirement for assessment of built form, amenity and visual impact in context.

5.2 Desired future character of the eastern side of Nelson Road

The Ku-ring-gai alternative TOD controls that commenced on 14 November 2025 rezoned the western side of Nelson Road for higher density but retained the eastern side, including the subject site, as R2 Low Density Residential with a 9.5 m height limit and FSR of 0.3:1. Only a small part of No. 1 Nelson Road fell within the original 400 m TOD boundary; Nos 3 and 5 lie further away. The Applicant’s heritage consultant acknowledges that the development “will to some degree exist in relative isolation on the east site [sic] of Nelson Road”.

Reliance on the western side’s R4 controls (18.5 m, 1.3:1) and on nearby SSDs as the relevant context is misplaced. Those controls apply on the opposite side of the boundary deliberately drawn by the planning framework. Savings provisions preserve numerical standards; they do not displace the obligation under section 20(3) to consider character.

5.3 The relevant context

The relevant context comprises:

- (a) the Crown Blocks Heritage Conservation Area (C22) and the adjoining heritage items I445 (6 Lightcliff Avenue) and I446 (8 Lightcliff Avenue);
- (b) the established one- and two-storey Federation and Inter-War dwellings of Nelson Road, Tryon Road and Lightcliff Avenue;
- (c) the historic c.1919 Belhelvie Estate subdivision pattern, characterised by generous spacing, landscaped setbacks and mature canopy;
- (d) the sloping landform and the watercourse on No. 5; and
- (e) the garden-suburb character identified in the Ku-ring-gai Development Control Plan as central to the locality (relevant as evidence of context; DCPs do not apply as statutory controls to SSD).

5.4 The Lorne Avenue decision

In *BWSLD Killara II Pty Ltd v Ku-ring-gai Council* [2026] NSWLEC 1573 the Court held that compatibility with desired future character requires more than numerical compliance with height and floor space standards. Desired future character is also to be understood by reference to local deep-soil, landscaping, side setback and canopy provisions. A proposal that stood out “markedly and negatively” at the interface with a heritage conservation area was found to be discordant, and its adverse impacts were found to outweigh its positive aspects, including affordable housing.

The Lorne Avenue proposal complied with the applicable height and FSR standards. The Nelson Road envelope exceeds the maximum bonus height. A proposal that both fails numerical compliance and sits in relative isolation on the low-density side of a deliberate planning boundary carries a heavier burden to demonstrate contextual compatibility. The decision is persuasive by analogy.

5.5 Bulk, setbacks and street character

The amended scheme retains a 6 m podium front setback to Nelson Road against the KDCP 10 m control. Tower setbacks are stated as 12 m (north, east, south) and 9 m (west). ADG separation departures remain at the north-eastern corner. A nine-storey form over two-storey neighbours, with a 6 m street setback, is inconsistent with the garden-suburb character retained on this side of the road.

5.6 Conclusion

The amended envelope does not demonstrate compatibility with the desirable elements of local character or the desired future character of the eastern side of Nelson Road. It fails to respond to context under Schedule 9 Principle 1 and fails to achieve an appropriate scale, bulk and height under Principle 2. These are mandatory considerations under SEARs items 6, 7 and 8.

6. Heritage Conservation

6.1 Statutory and SEARs requirements

The site lies within the Crown Blocks Heritage Conservation Area (C22) and directly adjoins heritage items I445 and I446. Clause 5.10 of the KLEP requires the consent authority to consider the effect of the proposed development on the heritage significance of the conservation area and of items in the vicinity. The in-fill affordable housing provisions do not override that requirement. SEARs item 22 requires a Statement of Heritage Impact where direct or indirect impacts are possible.

6.2 Council's heritage advice remains unanswered

Council's advice identifies Nos 1, 3 and 5 Nelson Road as contributory inter-war bungalows within the HCA. The proposal would demolish three contributory dwellings and erase the c.1919 subdivision pattern. The Urbis response relies on its own reassessment of the dwellings as non-contributory and on future R4 development outside the conservation area. Council's advice has not been answered on its merits. Assessment under clause 5.10 must be undertaken against the conservation area itself, not primarily against anticipated development outside it.

6.3 The additional heritage setback has not been provided

The Department requested an additional 3 m setback to the heritage items across all levels. Departures remain at Levels 2, 3, 6 and 7 at the north-eastern corner. At that corner the downslope renders Level 2 effectively the fifth storey, intensifying the interface with the heritage items.

6.4 Requests

FOKE requests:

- (a) an updated Statement of Heritage Impact addressing the amended envelope, including demolition of contributory buildings and loss of the historic subdivision pattern;
- (b) verified photomontages from Lightcliff Avenue, Tryon Road and Nelson Road, including views to and from the heritage items; and
- (c) confirmation that the additional 3 m setback has been provided at every level, measured from existing ground at the downslope rear.

7. Landscape, Tree Canopy and Deep Soil

7.1 Requirements

Schedule 9 Principle 5 recognises that landscape and buildings operate as an integrated system. SEARs item 14 requires proposed canopy coverage as a percentage of site area and evidence that options to retain significant trees were explored.

7.2 Quantified reduction in landscape outcomes

Despite claimed improvements, key landscape metrics have declined:

- Landscaped area has fallen by 895.83 m² (from 3,352 m² / 67 per cent to 2,456.17 m² / 49.4 per cent).
- Communal open space has fallen by approximately 310–357 m².
- Deep soil is claimed at 888.79 m² (17.9 per cent), substantially below the KDCP 50 per cent benchmark (2,483.5 m²). Council previously calculated only 460–500 m² of genuine deep soil after excluding structures.

The amendment relies on new Level 8 rooftop communal open space — the same element driving the height breach. Front deep soil is largely private open space for ground-floor units, limiting canopy tree capacity.

7.3 Arboricultural assessment incomplete

The arboricultural assessment (Appendix 4a) records that landscape and stormwater plans “have not been provided for review and have not been assessed”. Tree retention and protection-zone encroachment therefore remain unverified. CPHR has identified STIF-associated trees (a critically endangered ecological community and serious and irreversible impact entity). These matters require resolution at concept stage under SEARs items 14 and 16.

7.4 Requests

FOKE requests:

- (a) a plan overlaying basement footprint, deep-soil areas, retained trees and tree protection zones;
- (b) deep-soil dimensions, soil volumes and mature canopy metrics, with canopy cover expressed as a percentage of site area;
- (c) confirmation that the arboricultural assessment has been updated with the amended landscape and stormwater plans; and
- (d) evidence that options to retain significant and STIF-associated trees were explored.

8. Riparian Land, Flooding and Basement Risk

8.1 Riparian land

No. 5 contains approximately 813 m² of mapped riparian land (Category 3 and 3A) draining to Middle Harbour. KDCP Part 17 requires a 10 m core riparian zone from top of bank. The amended documents describe the setback variously as 10 m, 9 m and 6 m; the civil and ecology consultants disagree with each other and with the KDCP. KLEP clause 6.4 requires consideration of water quality, flow regime, bank stability and riparian habitat. Those matters have not been assessed.

8.2 Flood constraint

SEARs item 19 requires assessment of flood extent and risk to the Probable Maximum Flood by reference to adopted flood studies. CPHR advised that Council’s Middle Harbour Southern Catchments Flood Study (BMT, 2023) shows a deep mainstream floodway along No. 5 and part of No. 3, with hazard H5 in the 1 per cent AEP event and H5–H6 in the PMF. The adopted study recommends limiting or precluding development in the relevant flood-planning category.

8.3 Discrepancies between the FIRA and Council’s adopted study

The Applicant’s FIRA was prepared from a new model rather than Council’s adopted TUFLOW model and was checked only by visual comparison of 1 per cent AEP contours. Material discrepancies include:

- PMF at Nelson Road: Council RL 79.8–79.9 m; FIRA RL 79.5 m. The basement crest at RL 79.5 m therefore appears to sit at or below Council’s PMF.
- Internal anomalies in the climate-change tables, where 1 per cent AEP plus climate-change levels exceed the stated PMF.
- Hazard increase to H5 across the northern setback, which the FIRA describes as “not accessible” yet which is proposed for landscaped riparian corridor, pathway and deep soil.

- Emergency strategy that reverses the adopted study's preference for shelter-in-place in short-duration extreme events.
- Reliance on an incorrect zoning premise ("high density mixed use") to justify basements in a floodway.
- Downstream impacts described inconsistently as both "negligible" and a "minor increase", without quantified afflux at Lightcliff Avenue properties that have a documented flooding history.
- Absence of stated blockage assumptions for the controlling headwall and culvert.

These matters are raised for resolution by the Department with Council, not as allegations of error.

8.4 Groundwater

The lowest basement (B03, RL 68.30 m) sits approximately 6–9 m below creek and culvert levels. No concept groundwater assessment has been provided (SEARs item 12). Geotechnical investigation has been deferred. Parking of approximately 275–280 spaces (roughly twice the Housing SEPP minimum) drives the depth and extent of excavation.

8.5 Requests

FOKE requests that, before determination:

- (a) the Applicant's flood model be reconciled with Council's adopted study, including model points, datum, blockage, climate-change scenarios, emergency strategy and downstream effects;
- (b) basement crest and driveway levels be tested against the adopted PMF and flood planning level;
- (c) the riparian setback be fixed at 10 m from top of bank with assessment under KLEP clause 6.4;
- (d) concept-level groundwater and geotechnical assessment be provided; and
- (e) residual flood risk be treated as an envelope constraint fixed at concept stage.

9. Neighbour Amenity and Visual Impact

9.1 Requirements

SEARs item 7 requires demonstration of a high level of environmental amenity for surrounding residential uses. SEARs item 8 requires visual analysis from key viewpoints. SEARs item 10 requires assessment of operational noise impacts on sensitive receivers at this stage.

9.2 Solar access

The RtS concedes that the rear private open space of 32 Tryon Road will not receive two hours of midwinter sun. Substitution of hedged front yards is not consistent with the ADG and KDCP test, which is directed to principal private open space. The calculation for 34 Tryon Road requires verification. Updated hourly winter-solstice shadow diagrams, including all elements above 28.6 m, are required.

9.3 Privacy

ADG separation departures remain at Levels 2, 3, 6 and 7 at the north-eastern corner. Planter boxes and screens do not constitute separation. The new Level 8 rooftop communal open space introduces additional overlooking. Acoustic assessment of that space and of mechanical plant has not been updated.

9.4 Visual impact assessment

The Visual Impact Assessment relies on nine public viewpoints, the nearest approximately 101 m distant, and on drawings by the original architect rather than the amended scheme. It assesses views on the premise of height compliance while the height is breached, and concludes "Nil to Negligible" impact despite its own methodology indicating that a multi-storey building in a two- to three-storey context would have significant local-scale visual impact. Close-range viewpoints from the adjoining streets and private properties are required.

9.5 Requests

FOKE requests updated shadow diagrams, a privacy analysis for the adjoining heritage and residential properties, a visual impact assessment based on the amended envelope with close-range viewpoints, and an updated acoustic assessment.

10. Affordable Housing

10.1 Principle

FOKE acknowledges the public benefit of well-designed affordable housing. The affordable housing component is the basis of the height and floor-space bonus. It must be weighed in the assessment but cannot substitute for compliance with sections 20(3) and 147 of the Housing SEPP. In the Lorne Avenue decision, affordable-housing benefits did not outweigh adverse contextual impacts.

10.2 Location, size and amenity

Of the 31 affordable apartments:

- All are located in a single core on Lower Ground to Level 4; none occupy the upper levels where amenity is highest.
- They are disproportionately one-bedroom (48 per cent against 26 per cent overall) and approximately 20 per cent smaller in average GFA than market units.
- Cross-ventilation is achieved in only 58 per cent of affordable units, below the ADG 60 per cent minimum. The In-fill Affordable Housing Practice Note requires that affordable housing not be provided to a lower standard of amenity.

10.3 Tenure and provider

Tenure is 15 per cent for 15 years and 2 per cent in perpetuity. The units forming the perpetual component are not identified. The nominated community housing provider is a Landmark affiliate; the confirmation letter does not supply the provider's own ABN or agreement. SEARs item 1 requires the CHP's name, ABN and documentation of the provider's agreement. An independent registered provider is required.

10.4 Requests

FOKE requests confirmation of the location, size, aspect, solar and ventilation performance of every affordable unit; identification of the perpetual component; the identity and registration of an independent CHP; and distribution of affordable units across cores and levels.

11. Cumulative Impacts, Traffic and Construction

11.1 Cumulative development in the Lindfield precinct

The Lindfield precinct is subject to a concentration of State Significant Development applications for residential flat buildings with in-fill affordable housing. Nearby or proximate projects include:

- SSD-78669234 – 27–29 Tryon Road (65 apartments including 14 affordable; 9 storeys; approved April 2026);
- SSD-78156462 – 12–16 Bent Street (111 apartments including 26 affordable; 10 storeys; approved);
- SSD-81623209 – 9–21 Beaconsfield Parade (399 apartments including 59 affordable; 9–10 storeys; approved);
- SSD-82548708 – 24, 26 and 28 Middle Harbour Road;
- SSD-78493518 – 2–8 Highgate Road;
- SSD-79261463 – Reid Street and Woodside Avenue; and
- SSD-79276958 – 59–63 Trafalgar Avenue and 1A/1B Valley Road.

Collectively these projects, together with the subject Application, represent a substantial intensification of density, traffic generation, construction activity and demand on local infrastructure. SEARs item 18 require assessment of social and cumulative impacts. No adequate cumulative assessment has been provided.

11.2 Traffic and parking

The amended scheme proposes approximately 275–280 car spaces — roughly twice the Housing SEPP minimum. The traffic assessment contains a wrong project number and has not been updated for the amended yield or higher parking. No cumulative traffic analysis accounts for concurrent or sequential occupation of nearby SSDs, particularly the approved scheme at 27–29 Tryon Road. FOKE requests an

updated traffic impact assessment addressing cumulative generation, network capacity and consistency with a transport-oriented location.

11.3 Construction impacts

Construction of a three-level basement adjacent to heritage items, with indicative construction traffic of 20–30 trucks per day, raises material risks of vibration, noise and structural damage. Concurrent construction of multiple SSDs multiplies these impacts. FOKE requests a preliminary construction management framework, concept-level geotechnical and vibration assessment, and clear conditions for dilapidation surveys and cumulative construction coordination.

12. Social Impacts – Families, Children and Communal Open Space

12.1 SEARs and the social dimension of high-density housing

SEARs item 18 requires assessment of social impacts. Schedule 9 of the Housing SEPP and the Apartment Design Guide emphasise communal open space that supports the amenity and wellbeing of residents. Where a development includes a substantial proportion of larger (family-sized) apartments, the design of communal open space and on-site facilities becomes a material social planning consideration. The absence of facilities suited to families with children is a significant likely impact that should be addressed at concept stage.

12.2 Absence of community and child-friendly facilities

There are no community facilities proposed on the site for recreation or entertainment suitable for families with children. The communal open space (COS) provides no child-friendly areas. Research on child-friendly communal open space identifies four principal factors, in order of significance: connection with nature; spatial flexibility; social networking; and safety and security. Water play is a further significant indicator of a child-friendly environment, followed by a variety of play equipment and natural environments. The most significant safety indicators for children are the availability of an outdoor shelter and soft surface materials. Children require free space for self-directed activities and places such as parks, playgrounds and sports fields for recreation.

The proposed rooftop COS does not meet any of the significant child-friendly factors. Despite the inclusion of family-sized apartments, there are no suitable communal open space play areas planned for children to play, to socialise, to ride a bicycle or to kick a ball.

12.3 Policy context – planning for families with children in apartments

The Executive Summary of the James Martin Institute for Public Policy (JMI) Policy Insights Paper, Planning for the inclusion of families with children in apartments (Dr Sophie-May Kerr, UNSW City Futures Research Centre, May 2024), states:

“With 1 in 4 apartments in Greater Sydney now home to families with children under the age of 15, it is critical that more attention is paid to family-friendly housing. The increase in families raising children in apartments is shaped by both lifestyle and affordability drivers. Importantly, there is evidence that families are drawn to compact city benefits such as proximity to work, transport and amenity. While this might be viewed as a compact city success, the story is more complex.

This report focuses on the experiences of families at the forefront of this housing shift in Australia, revealing the key challenges they confront including spatial constraints, inadequate storage, poor acoustic performance, a lack of play space, health and wellbeing concerns and inadequate family-friendly neighbourhood infrastructure.”

The paper is available at: https://www.unsw.edu.au/content/dam/pdfs/ada/city-futures/JMI-Policy-Insights-Paper-Planning-for-the-inclusion-of-families-with-children_ymaiJn.pdf

FOKE submits that the NSW Government’s in-fill housing policies require greater attention to family-friendly housing that supports the health and wellbeing of families, especially children living in apartments. The present nine-storey concept proposal does not adequately consider the wellbeing of families with children.

12.4 Off-site recreation and cumulative demand

The closest sports fields, recreation area and children's playground are approximately one kilometre from the site. In a precinct already subject to multiple high-density SSDs (section 11), reliance on distant off-site facilities intensifies cumulative pressure on existing open space and does not substitute for adequate on-site provision. SEARs item 18 and the social impact assessment framework require this to be addressed.

12.5 Requests

FOKE requests that, before determination of the concept:

- (a) the communal open space strategy be revised to incorporate child-friendly design factors, including connection with nature, spatial flexibility, opportunities for social interaction, safety and soft surfaces;
- (b) the assessment expressly consider the needs of families with children, having regard to the proportion of larger apartments and the findings of contemporary research such as the JMI / UNSW Policy Insights Paper;
- (c) any concept approval secure adequate on-site play and recreation space as a parameter of the envelope and landscape framework; and
- (d) the cumulative demand on local open space and community facilities arising from this and nearby SSDs be assessed under SEARs item 18.

13. Adequacy and Consistency of Information: matters that cannot be deferred at concept stage

13.1 The amended documents contain material inconsistencies on matters fundamental to the concept envelope, including height (32.35 m "Nil" change versus 31.86 m versus "reduction"), apartment numbers (approximately 167 versus 151), basement levels, creek setback (10 m / 9 m / 6 m), communal open space figures, and applicant entity. SEARs item 1 requires an accurate integrated summary of impacts.

13.2 Key assessments required by the SEARs at concept stage remain deferred, including groundwater (item 12), acoustic assessment of the Level 8 rooftop space (item 10), planting schedule and canopy percentage (item 14), options analysis, cumulative impact of nearby SSDs, and an updated traffic assessment for the higher parking provision.

13.3 FOKE requests that a single consolidated set of envelope parameters be confirmed before assessment, that outstanding SEARs requirements be addressed at concept stage, and that any material correction be re-exhibited.

13.4 Conclusion.

Concept approval does not excuse inadequate or inconsistent information necessary to assess the proposal and its envelope. Height, building envelope, basement depth and extent, flood levels, riparian setback, deep soil and canopy capacity, heritage interface, rooftop noise, traffic and cumulative impacts are fundamental constraints, not matters that can be deferred.

- a. FOKE requests that the Department not determine the concept application unless and until a single, internally consistent set of envelope parameters is exhibited and the outstanding SEARs work needed to assess those parameters is completed.
- b. If the corrected information changes the height, yield, basement extent, flood response, riparian setback, landscape capacity, heritage relationship, traffic outcome or amenity impacts, it should be publicly re-exhibited and referred to Council before determination.

14. SEARs Compliance Status

The following SEARs items remain open or unresolved on the amended package:

- Item 1 (Statutory context) — inconsistencies in the clause 4.6 request; CHP details incomplete; lodgement date unclear.
- Item 6 (Built form) — Department height and setback requests unmet; options analysis not evident.
- Item 7 (Environmental amenity) — residual solar and privacy failures.

- Item 8 (Visual impact) — no close-range viewpoints; assessment based on superseded drawings and assumed height compliance.
- Item 9 (Transport) — no updated assessment for higher parking.
- Item 10 (Noise) — rooftop space and plant unassessed.
- Item 11 (Water management) — trunk drainage and OSD connection unresolved.
- Item 12 (Groundwater) — no concept assessment.
- Item 14 (Trees and landscaping) — no planting schedule or canopy percentage; arborist did not receive plans.
- Item 19 (Flood risk) — levels below adopted study; emergency strategy inconsistent; model not independently verified.
- Item 22 (Heritage) — Council advice unanswered; additional setback not provided; no updated SOHI.

Concept approval should not be granted while these requirements remain unmet.

15. Outcome Sought

15.1 For the reasons set out above, FOKE requests that the Application be refused.

15.2 In the alternative, and without derogating from the primary request, FOKE requests that the Application not be determined until the information identified in sections 3 to 12 is provided and publicly exhibited, and that any concept approval be limited so that:

- (a) maximum height is 28.6 m inclusive of all rooftop structures;
- (b) setbacks meet the Apartment Design Guide in full, with the additional 3 m heritage setback at every level;
- (c) the basement footprint is reduced to secure deep-soil and canopy outcomes, and parking is brought closer to the Housing SEPP minimum;
- (d) no part of the building or basement encroaches into a 10 m core riparian zone from top of bank;
- (e) basement entry and habitable floors are set at or above levels confirmed against Council's adopted flood study;
- (f) concept-level groundwater, geotechnical, acoustic and landscape assessments are provided and assessed before determination;
- (g) affordable units are identified, distributed across cores and levels, managed by an independent registered CHP, and secured in perpetuity; and
- (h) a single consolidated set of envelope parameters is confirmed and any material correction is re-exhibited.

16. Reservation of Rights

16.1 This submission is based on the documents available on the NSW Planning Portal at the date of lodgement. FOKE reserves the right to make further submissions if additional information, amended plans or agency advice are published, or if documents are released under the Government Information (Public Access) Act 2009.

16.2 Nothing in this submission is to be taken as acceptance of any part of the Application not expressly addressed.

17. Re-exhibition, Council Referral and Determination

17.1 FOKE requests that any further material amendment to height, envelope, yield, basement, riparian setback, flood levels or affordable housing arrangements be publicly re-exhibited, and that FOKE be notified of any further exhibition, the Response to Submissions and the determination.

17.2 FOKE requests that the RtS and any further information be referred to Ku-ring-gai Council for review before determination.

17.3 FOKE notes that Council has objected to the Application. If the Application is referred to the Independent Planning Commission, FOKE requests that a public meeting be held and that FOKE be given an opportunity to be heard.

18. Accuracy

18.1 FOKE has relied on the exhibited documents and publicly available sources. Matters requiring confirmation have been identified. Any discrepancy is raised for resolution by the Department.

Yours faithfully

Kathy Cowley

Kathy Cowley

PRESIDENT

cc Mayor and Councillors Ku-ring-gai Council

cc Matt Cross MP Member for Davidson

cc Nicolette Boele MP Member for Bradfield