

SUPPLEMENTARY COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-575
DA Number	eDA0516/24
LGA	Ku-ring-gai
Proposed Development	Demolition works, tree removal, subdivision, lot consolidation and construction of a residential apartment development, including basement, landscaping and associated works.
Street Address	136 – 144 and 148 Fox Valley Road, Wahroonga
Applicant/Owner	Applicant: The Trustee for Capital Corporation Wahroonga 3 Unit Trust Owner: Australasian Conference Association Limited
Date of DA lodgement	3 December 2024
Total number of Submissions Number of Unique Objections	Two
Recommendation	Should SNPP grant consent without prejudice conditions be applied.
Regional Development Criteria Schedule 6 of the SEPP (Planning Systems) 2021	Estimated development cost of greater than \$30 million
List of all relevant s4.15(1)(a) matters	• Wahroonga Estate Concept Plan (MP07_0166) – MOD 9 (Concept Plan) • Environmental Planning and Assessment Regulation 2021 • Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Housing) 2021 • Ku-ring-gai Local Environmental Plan 2015 • Ku-ring-gai Development Control Plan
Attachments	1. Development Assessment Report (2025/028422) 2. Supplementary Development Assessment Report (2025/256028) 3. Updated Conditions Without Prejudice (2025/254715) 4. Location sketch (2025/229587) 5. Zoning sketch (2025/229573) 6. Architectural plans (2025/142644) 7. Site Plan (2025/263499) 8. Subdivision plans (2025/263500) 9. Landscape plans (2025/142652) 10. Civil Development Application Report (2025/272817) 11. Stormwater/ Civil plans (2025/271196)

	12. Civil intersection plans (2025/046159) 13. Variation request (2025/142655) 14. Bushfire Protection Assessment (2025/194014) 15. Applicant's response to Without Prejudice Conditions (2025/269669) 16. Record of Deferral (2025/256049)
Summary of submissions	i. compatibility with low density character ii. inadequate setbacks iii. excessive building height iv. request for appropriate landscape planting including street trees v. increase in residents, traffic and inadequate public transport vi. adequacy of stormwater systems vii. impacts of Asset Protection Zone (APZ) on protected vegetation
Report prepared by	Shanika Kappagoda
Report date	25 August 2025

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

PURPOSE OF REPORT

To report back to the Panel Development Application No. eDA0516/24 that was originally reported to the SNPP for determination on 30 July 2025, with a recommendation of refusal. At this meeting the Panel resolved:

ACTIONS

To allow progression of the application to determination

- 1. The applicant and Council are to urgently meet in the next week to address the reasons for refusal. Specifically to resolve the issue of permissibility and address any other matters which the applicant indicated in their response to the Panel dated 29 July 2025 which could be addressed, either in plan or by conditions of consent.*
- 2. The applicant is to submit to Council amended plans and additional information by 13 August 2025*

3. Council is to upload a supplementary assessment report and revised draft conditions as quickly as possible thereafter
4. The Panel will hold a final briefing on 3 September 2025 and determine the application by way of electronic determination after receiving the supplementary assessment report and revised conditions

The Panel required Council to provide a Supplementary Assessment Report responding to amended plans and additional information, as detailed above and for the matter to be determined following a final briefing on 3 September 2025.

The following report is an assessment of the amended plans and information which was provided to council on 13 and 20 August 2025.

INTEGRATED PLANNING AND REPORTING

Places, Spaces & Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai.	Applications are assessed in accordance with state and local plans.	Assessments are of a high quality, accurate and consider all relevant legislative requirements.

EXECUTIVE SUMMARY

Issues:	Deep soil landscaping
Submissions:	N/A - Additional information was not required to be notified - refer to Community Consultation section of in this report
Land and Environment Court:	N/A
Recommendation:	See recommended conditions (Attachment 3)

HISTORY

A Development Assessment Report was considered by the Sydney North Planning Panel on the 30/07/2025, with a recommendation for refusal. The reasons for refusal included:

1. Permissibility
2. BASIX certificate
3. Deep soil
4. Bushfire
5. Landscape design
6. Location of stormwater dispersion trench
7. Environmental site management plan
8. Vehicle access

9. Waste management
10. Water management
11. Connection to services
12. Public interest

The Panel deferred consideration of the application for the reasons identified in the Record of Deferral (**Attachment 16**):

APPLICANT'S RESPONSE TO DEFERRAL/REQUEST FOR INFORMATION

In response to the deferral by the Panel the following actions have occurred:

6/08/2025

- The applicant provided an updated response to the without prejudice conditions of consent that were considered at the SNPP meeting of 30 July 2025 (**Attachment 15**).

7/08/2025:

- A meeting between the applicant and Council was held in which the applicant's updated response to the without prejudice conditions of consent and the 'actions' specified in the SNPP records of deferral was discussed.

13/08/2025:

- The applicant submitted a response addressing the requirements of proposed Condition 24 (Amendments to approved engineering plans) and the site description.

20/08/2025:

- Council's Development Engineer requested the level spreader details to be updated, demonstrating that the structure is not below ground.
- Updated engineering plans were submitted, demonstrating that the level spreader is aboveground.
- Council sent the revised without prejudice conditions were sent to the applicant.

21/08/2025:

- The applicant responded to the revised without prejudice conditions, with minor amendments.

21/08/2025:

- The amended without prejudice conditions updated and sent to the applicant.

27/08/2025:

- The applicant accepts the updated without prejudice conditions, including the retention of Condition No. 13, which requires a Construction Traffic Management Plan.

CONSULTATION

In accordance with Part 3 of the Ku ring gai Community Participation Plan, Council's Development Assessment Team Leader determined that notification of the amended plans was not required as the amendments were unlikely to detrimentally affect the enjoyment of adjoining or neighbouring land.

ASSESSMENT OF THE ADDITIONAL INFORMATION AND APPLICANT'S RESPONSE TO CONDITIONS

An assessment of the additional information submitted in response to the deferral of the application is provided below:

Permissibility

The originally submitted plans located the proposed dispersion trench on the adjoining property to the rear (southern) boundary, which is zoned C2 Environmental Conservation. In response to concerns regarding the permissibility of constructing a dispersion trench within a C2 Environmental Conservation zone, amended plans relocated the trench within the boundaries of the development site, being proposed Lot 1101, which is zoned R4 High Density Residential. As a result of the relocation and re-design, the dispersal trench is now divided into two separate trenches, one located in the south-eastern corner and the other in the south-western corner of Lot 1101 (**Figure 1**).

The dispersal trenches are ancillary to the proposed 'residential flat building' use, which is a permissible form of development with consent in the R4 High Density Residential zone.

This issue is now resolved.

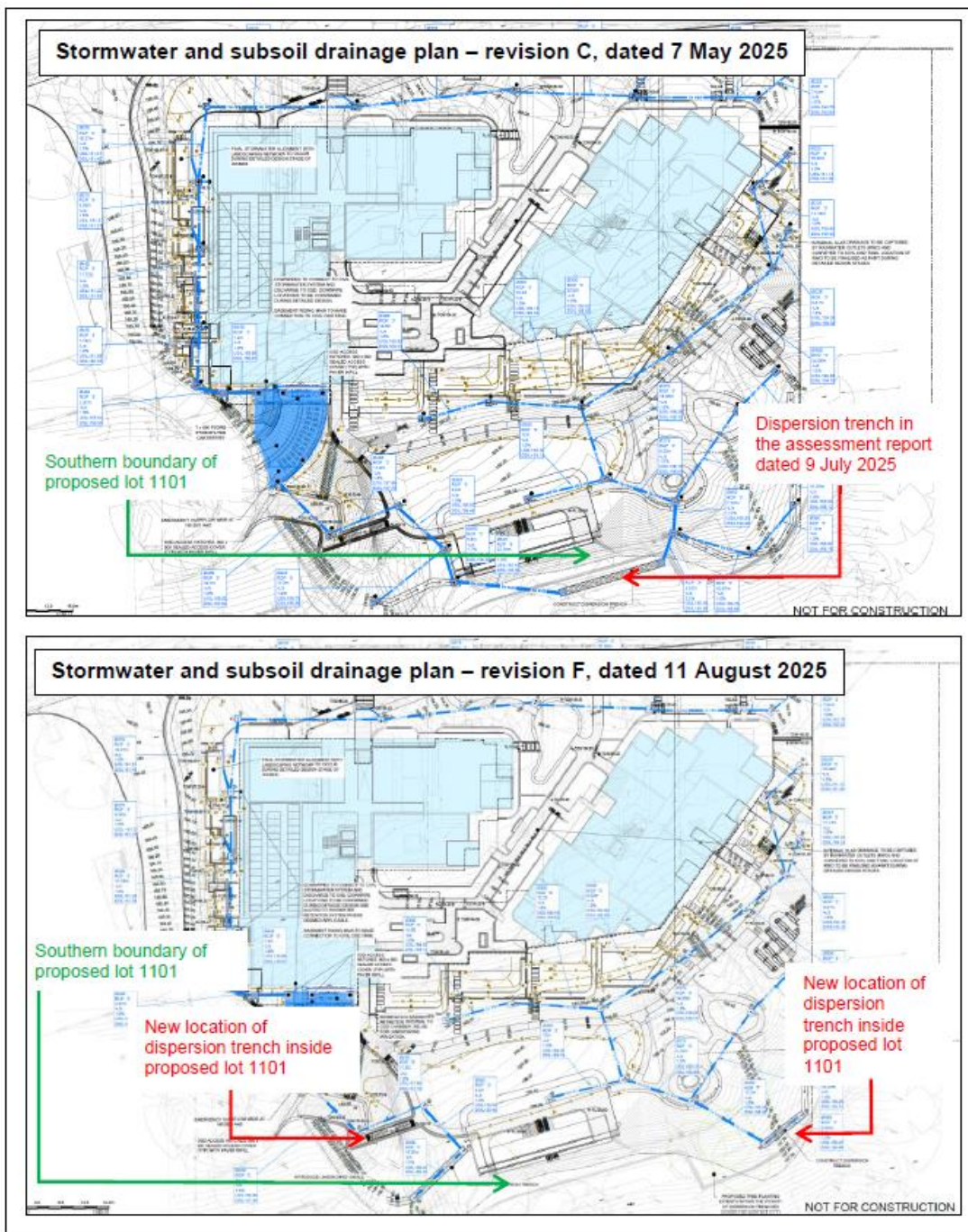


Figure 1: The old and the proposed new location of the dispersal trench (Source: Capital Corporation response letter)

Subdivision

The application was lodged on 3 December 2024. At the time of lodgement, the property description of the site was Part of Lot 701 in DP 1291622 and Lot 1 in DP 834963. On 26 February 2025, DP 1293107 was registered. The current property description is Part of Lot 103 in DP 1294107 and Lot 1 in DP 834963 to create lots 1101 and 1102. The subdivision plan has been amended to reflect the current legal property description.

The revised subdivision plan complies with Clause 4.1 (Minimum subdivision lot size) of the KLEP 2015. The proposed subdivision creates a new allotment (Lot 1101) with a site area of 8,205m²,

meeting the requirements of Control 3 under Clause 4.1. Additionally, the new allotment's width and depth both exceed 24 metres, in accordance with Control 3B of Clause 4.1.

Bushfire certification of landscape plan

Without prejudice Condition 23 required the bushfire consultant to certify that the landscape plan is compliant with the Asset Protection Zone requirements under Planning for Bushfire Protection 2019. This certification was provided on page 35 of the updated Bushfire Protection Assessment report dated 6/06/2025 in which the following statement has been made:

This report endorses the Architectural Plans and Elevations for the proposed medium density residential flat building, prepared by Turner (Project No. 21016, dated 02.05.2025), as well as the Landscape Plans and Elevations prepared by Arcadia (Project No. 22-907)

This issue is now resolved.

Inadequate water management

Without prejudice Condition 24 specified various changes to the stormwater plans to achieve appropriate water management for the development, as required by Clause 6.5 'Stormwater and water sensitive urban design' of KLEP 2025. The amended stormwater plans, submitted on 13 and 20 August 2025, incorporate the previously specified changes and additional information, accordingly this issue is now resolved. In response, Council has deleted Condition 24 as it is no longer required.

Driveway long-section, driveway grades, basement clearance heights and relationship to intersection upgrades

The proposal lacks sufficient information to demonstrate compliance with relevant vehicular access requirements, potentially resulting in safety and operational issues. These requirements were discussed during the meeting with the applicant on 7 August 2025. It was agreed that these issues are addressed through the recommended conditions entitled 'Driveway grades - basement carparks' and 'Basement car parking details' and that design adjustments to achieve compliance are unlikely to have any adverse flow on effects for the design of the development. This matter has been resolved with no changes to the relevant conditions.

OTHER MATTERS

During council's the meeting with the applicant on 7 August 2025 two further matters were discussed.

Timing of proposed subdivision

The applicant confirmed that the first stage of the development is the proposed subdivision of the site to create a development site (Proposed Lot 1101) and a residual lot (Proposed Lot 1102) as shown in the draft plans of subdivision dated 5/05/2025. In response to this clarification the sequencing of the conditions has been adjusted. The conditions relevant to the assessment of the application for Subdivision Certificate have been moved to the start of the condition set and certain conditions which relate to the registration of instruments for the residential component of the development (easements for waste collection, positive covenants for stormwater facilities, etc) have been moved to the 'Prior to the issue of an Occupation Certificate' stage. A condition requiring that the subdivision be registered prior to the issue of the first Construction Certificate has been added (**Condition 4**).

Legal property description

The legal property description on the originally lodged documentation does not match the current property description. The applicant confirmed that there had been changes to the legal description of the site due to a subdivision that occurred after the lodgement of the application. On 26 February 2025, DP 1293107 was registered. This plan involved subdividing Lot 701 in DP 1291622 and Lots 703 and 706-709 in DP 1222418 to create Lots 101, 102, and 103 in DP1293107. The registered DP is **Attachment 8**. The current property description is:

Property description	Address
Part of Lot 103 DP 1294107	140 Fox Valley Road, Wahroonga
Lot 1 DP 834963	136 Fox Valley Road, Wahroonga

The current legal property description has been included in the without prejudice conditions set.

CONCLUSION

The additional information and amended plans provided by the applicant on 13/08/2025 plus the without prejudice conditions have resolved the following reasons for refusal:

1. Permissibility
2. BASIX certificate
4. Bushfire
5. Landscape design
6. Location of stormwater dispersion trench
7. Environmental site management plan
8. Vehicle access
9. Waste management
10. Water management
11. Connection to services
12. Public interest (Particulars b. and c.)

Reasons for refusal 3 'deep soil' and 12 'Public interest', Particulars a and d remain unresolved, although the Panel requested, all matters which the applicant indicated could be addressed, as detailed below record of deferral, issued by the Panel (emphasis added as underlined text):

1. The applicant and council are to urgently meet to discuss the address the reasons for refusal. Specifically to resolve the issue of permissibility and address any other matters which the applicant indicated in their response to the Panel dated 29 July 2025 which could be addressed, either in plan or by conditions of consent.

The applicant's response to the Panel dated 29/07/2025 included the following statement regarding the suggested amendments to the plans which would have increased the area of deep soil landscaping within the development:

This condition is requested to be deleted. The justification is provided in Section 1.1 and Section 2.1.

Deep soil landscaping is not an issue which the applicant stated could be addressed by amended plans or conditions. The reasons why the variation to the deep soil landscaping control in the Kuring-gai DCP remain as originally reported to the Panel consequently, it is not necessary to expanded upon in this supplementary report.

RECOMMENDATION

Should the Sydney North Planning Panel, as the consent authority, determine to grant development consent to eDA0516/24 for demolition works, tree removal, subdivision, lot consolidation and construction of a residential flat building development including basement, landscaping and associated works on land at 136-148 Fox Valley Road Wahroonga, the conditions detailed in the without prejudice conditions (**Attachment 3**) should be applied.