

Panel Reference	PPSSNH-625
DA Number	eDA0157/25
LGA	Ku-ring-gai
Proposed Development	Demolition of existing structures, lot amalgamation and construction of a residential flat building with basement parking
Street Address	23-25 Lorne Avenue, Killara
Applicant/Owner	Applicant: BWSLD Killara II Pty Ltd Owner: Sld Developments Twelve Pty Ltd, Bridgewell Killara Li Pty Ltd, Deltakap Ventures Pty Ltd, Kim H Dinh
Date of DA lodgement	17 April 2025
Total number of Submissions	119
Number of Unique Objections	>10
Recommendation	Refusal
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	• Environmental Planning and Assessment Act 1979 • 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 • Ku-ring-gai Contributions Plan 2010
Attachments	• Development Assessment Report • Location sketch • Zoning sketch • Statement of Facts and Contentions

	• Architectural plans • Landscape plans • Stormwater plans
Summary of submissions	• Built form and design non compliances • Amenity impacts • Environmental impacts • Tree impacts • Infrastructure and services • Planning process • Social and economic concerns • Governance concerns • Construction and operational impacts
Report prepared by	Belinda Newell
Report date	22 October 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 determine Development Application No eDA0157/25 for demolition of existing structures, lot amalgamation and construction of a residential flat building with basement parking.

Pursuant to Schedule 6 of the State Environmental Planning Policy (Planning and Systems) 2021, the development has an estimated development cost of greater than \$30 million. In this case, the estimated development cost is \$33,783,584.

The consent authority for this development is the Sydney North Planning Panel (SNPP) (Section 4.5(b) and Clause 9(b) in Schedule 2 of the Environmental Planning and Assessment Act 1979).

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

- Owner's consent
- Gross floor area
- Inconsistent with desired future character
- Inadequate water management
- Inadequate site analysis
- Excessive building bulk
- Adverse impacts on HCA and heritage items
- Design and location of building entries
- Housing diversity, apartment mix and accessibility
- Solar access
- Solar shading and glazing
- Apartment amenity
- Inadequate passive surveillance
- Subterranean rooms
- Inadequate communal open space
- Privacy
- Excessive site coverage
- Tree impacts
- Inadequate deep soil and landscape design
- Excessive excavation
- Site contamination
- Inadequate energy efficiency
- Inadequate information

Submissions	119
Land and Environment Court	Deemed refusal appeal filed 11/06/2025
Recommendation	Refusal

HISTORY

Site history

The site has a history of residential use.

Previous applications history

A Pre-DA consultation was not undertaken with Council prior to the lodgement of this Development Application.

Council's records do not show any relevant previous applications relating to the site.

Current Development Application History

Date	Action
17/04/2025	Application lodged.
7/05/2025	The application was notified to neighbouring property owners for a period of 30 days in accordance with the Ku-ring-gai Community Participation Plan. 159 submissions were received.
11/06/2025	A Class 1 Appeal against the deemed refusal of the application was filed with the Land and Environment Court.
18/06/2025	Briefing of the Sydney North Planning Panel.
11/07/2025	The Statement of Facts and Contentions was sent to the SNPP.
14/07/2025	The Statement of Facts and Contentions was endorsed by the SNPP.
15/07/2025	The Statement of Facts and Contentions (Attachment 4) was filed.

Land and Environment Court appeal history

A deemed refusal appeal was lodged with the Land and Environment Court on 11 June 2025.

A Section 34 conciliation conference is scheduled for 13 November 2025.

THE SITE



Figure 1 – Aerial Map of the Site highlighted (Source: Geocortex Viewer)

Site description

The site is legally described as:

- a) Lot 4 in DP 547371, 23 Lorne Avenue, Killara
- b) Lot 103 in DP 1135940, 25 Lorne Avenue, Killara

The site has a combined area of 2150.6m², a frontage width of 32.3 metres to Lorne Avenue and a maximum depth of 84.12 metres.

The site is bound by Lorne Avenue to the south with single storey dwellings and a public park opposite, two single storey dwellings and a residential flat building to the north and residential flat buildings to the east and west.

The site has a natural crossfall of 6.5 metres, from the high point at its south-western corner to the low point at the north-eastern corner. The rear boundary has an irregular alignment. There are current easements and restrictions along the western boundary of the site relating to a right of carriageway, easements to drain water and a restriction on the use of land.

No. 23 Lorne Avenue accommodates a single dwelling, with vehicular access from Lorne Avenue.

No. 25 Lorne Avenue is a battle axe allotment, with the handle aligning the western side of 23 Lorne Avenue. The site accommodates a single dwelling with a swimming pool within the rear setback.

The site is zoned R4 High Density Residential under the KLEP 2015. An extract of the Council's Land Zoning Map showing the zoning of the site and immediate surrounds is provided at Figure 2 below.

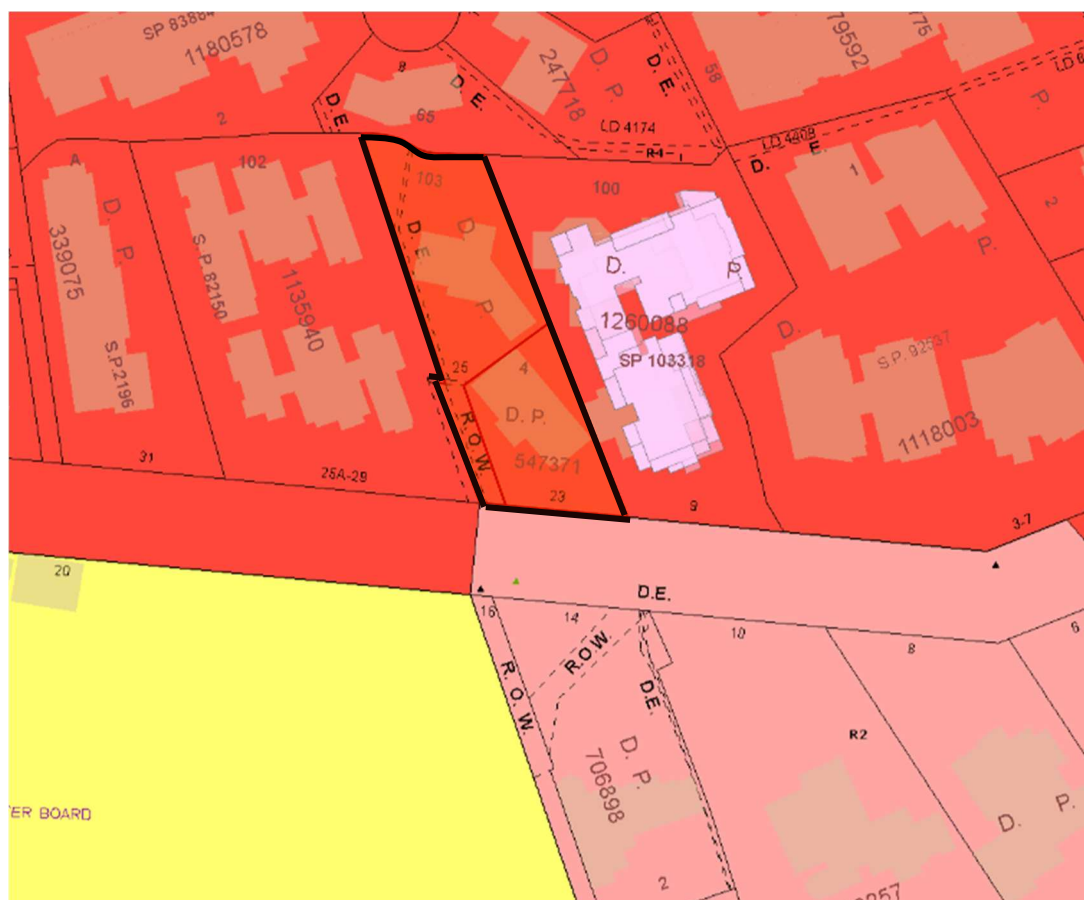


Figure 2 – Extract from the land use zoning map (Source: KLEP 2015)

Constraint:	Application:
Visual character study category	1920-1945
Easements/rights of way	Yes - easements and restrictions along the western boundary of the Site relating to a right of carriageway, easements to drain water and a restriction on the use of land
Heritage Item - Local	No
Heritage Item - State	No
Heritage conservation area	No
Within 100m of a heritage item	Yes - opposite the Site is the Marian Street Conservation Area which includes heritage items at 6, 8, 10, 14 and 20 Lorne Avenue
Bush fire prone land	No
Natural Resources Biodiversity	No
Natural Resources Greenweb	No
Natural Resources Riparian	No
Within 25m of Urban Bushland	No
Contaminated land	No

Surrounding development

Surrounding development occupies a range of zones including R4 High Density Residential to the east, west and north of the Site. To the south is R2 and SP2 zoned land. **Figure 2.**

Nos 25A-29 Lorne Avenue to the west, 9 Lorne Avenue to the east and 5 Wallaroo Close to the north, currently accommodate residential flat buildings. These adjoining buildings are modern in design and have a height of up to 6 storeys. To the north and north-east are part single / part two storey dwelling houses.

As detailed in **Figure 3**, opposite the Site is the Marian Street Conservation Area which includes a row of heritage items at Nos. 6, 8, 10 and 14 Lorne Avenue. The cluster of four heritage items forms the gateway to the Marian Street Conservation Area (HCA). No. 20 Lorne Avenue, opposite the Site, is a heritage listed public park and water reservoir owned by Sydney Water.

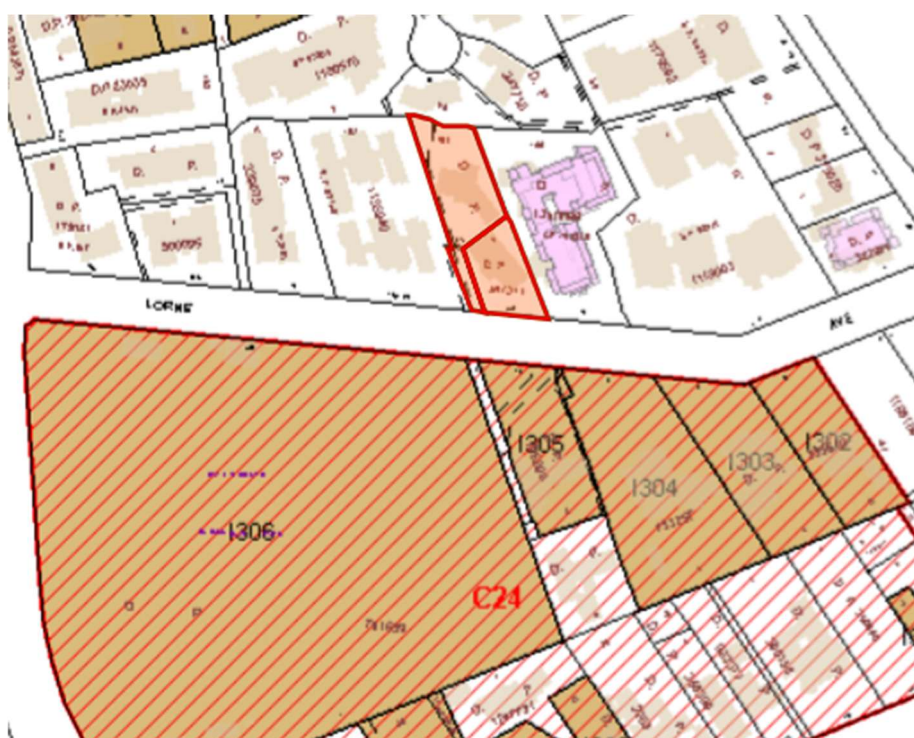


Figure 3 – Extract from the heritage map with the Site highlighted in red (KLEP 2015)

Within the visual catchment of the Site, lots have an irregular subdivision pattern (**Figure 1**) and include rectilinear and irregular lots of variable sizes.

THE PROPOSAL

1. The Development Application seeks development consent for the demolition of existing structures, lot amalgamation and construction of a residential flat building with basement parking at 23-25 Lorne Avenue, Killara (the site).
2. The Development Application, seeks consent for the following (Proposed Development):
 - a) Consolidation of Lot 4 in DP 547371 and Lot 103 in DP 1135940 into a single lot with an area of 2150.6m².

- b) Demolition of the existing residential dwellings and ancillary structures as shown on the demolition plan.
- c) Construction of a residential flat building over part 3 – part 5 basement levels including:
 - i. 55 units comprising:
 - 3 x 1 bedroom units
 - 11 x 2 bedroom units
 - 35 x 3 bedroom units
 - 6 x 4 bedroom units
 - Affordable housing: 15% (GFA) as affordable for 15 years and 2% (GFA) as affordable in perpetuity.
 - ii. building height and form:
 - 1 building of part 8 and part 9 storeys
 - flat roofs
 - materials and finishes consist of glass, a variety of cladding and brickwork
 - iii. car spaces:
 - 83 x residents (includes 8 accessible + 1 service bay)
 - 11 x visitors (includes 1 accessible + 1 shared with car wash)
 - bicycles and motorbike spaces are also provided
 - iv. plant located on the rooftop and within the basement
 - v. garbage rooms, storage for resident use, and services are also located within the basement
 - vi. access and parking
 - carparking located in basement levels 1, 2 and 3 and the lower ground floor level
 - primary pedestrian access is via a bridge from the Lorne Avenue frontage
 - a 6.6m wide two-way driveway to Lorne Avenue
 - service bay adjoining the waste collection point on the lower ground level
- d) landscaping works
 - i. communal open space is located within the rear, front and eastern side setbacks
 - ii. removal of 13 trees
 - iii. landscape works include built landscape structures and planting
- e) stormwater works
 - i. The stormwater plans show runoff from all roof areas to be collected and conveyed to a combined detention and retention tank of 48m³ and 27,500L respectively located within the lower ground floor area
- f) The overflow from the detention system is directed to a proposed headwall with rip-rap structure to avoid erosion and slow down outflows from the Site which will flow into an open channel that traverses the downstream properties and is connected into Council's trunk drainage system further downstream

CONSULTATION

Community

In accordance with Appendix 1 of the Ku-ring-gai Community Participation Plan, owners of surrounding properties were given notice of the application. In response, submissions from the following were received:

1	ZH Hu & H Qiu	404/9 Lorne Avenue, Killara
2	R Rhhu (2 submissions)	404/9 Lorne Ave, Killara
3	Mr PHK Lau & Mrs GLH Lau	35/29 Lorne Avenue, Killara
4	Mrs DMF Wong (2 submissions)	101/9 Lorne Avenue, Killara
5	ESS Brooks	18/29 Lorne Avenue, Killara
6	EF Wong	27/29 Lorne Avenue, Killara
7	AJ Gordon & S Gordon	501/9 Lorne Avenue, Killara
8	JKM Yee	503/9 Lorne Avenue, Killara
9	GFA Lozat & Y Liu	12/29 Lorne Avenue, Killara
10	J Ahn & L Ahn & J Ahn	36/29 Lorne Avenue, Killara
11	GP Walsh & CE Walsh	203/9 Lorne Avenue, Killara
12	C Walsh	203/9 Lorne Avenue, Killara
13	Mr A Green	PO Box 542, Gordon
14	S Xiao	304/9 Lorne Avenue, Killara
15	BH Yeo & PS Yeo	7/29 Lorne Avenue, Killara
16	HI Wedlock & JC Wedlock	202/9 Lorne Avenue, Killara
17	HM Leung & HY Chan	405/9 Lorne Ave, Killara
18	J Ching	5/29 Lorne Avenue, Killara
19	Ms L Shi	34/29 Lorne Avenue, Killara
20	G Ledingham & G Ryder	4/29 Lorne Avenue, Killara
21	Dr Kim Tan	2/33A Lorne Avenue, Killara
22	Mr DA Rath & Mrs R Rath	24/17 Powell Street, Killara
23	Mr WKF Ho & Mrs RAK Ho	23/17 Powell Street, Killara
24	EWK Cheung	30/29 Lorne Avenue, Killara
25	Mr P Lorsch & Mrs M Lorsch	11/17 Powell Street, Killara
26	I Richter, Chairman on Behalf of Owners of Strata Plan 81316 (17 Powell)	17 Powell Street, Killara
27	A Li	206/9 Lorne Avenue, Killara
28	Mrs JM Wilson	6/29 Lorne Avenue, Killara
29	J Xu	3-7 Lorne Avenue, Killara
30	Mr N Loveday	32/29 Lorne Avenue, Killara
31	R Culbert	8/33A Lorne Avenue, Killara
32	S Pan	12/17 Powell Street, Killara
33	Mr W Marr (2 submissions)	17/29 Lorne Avenue, Killara
34	Z Ning	104/9 Lorne Avenue, Killara
35	A Parry	Unknown
36	Mr LM Harrison & Ms AT Harragon	13/5 Wallaroo Close, Killara
37	A Harragon	13/5 Wallaroo Close, Killara

38	<i>M Chicherio</i>	<i>14-16 Lorne Avenue, Killara</i>
39	<i>Z You & P Zaunmayr</i>	<i>303/9 Lorne Avenue, Killara</i>
40	<i>L Wu</i>	<i>9 Lorne Avenue, Killara</i>
41	<i>Mr IM Richter & Mrs A Richter</i>	<i>2/17 Powell Street, Killara</i>
42	<i>M Sookias</i>	<i>3 Darnley Street, Gordon</i>
43	<i>C Chan</i>	<i>15/29 Lorne Avenue, Killara</i>
44	<i>Mr T Leung & Ms L Zhou</i>	<i>2/29 Lorne Avenue, Killara</i>
45	<i>C Chau</i>	<i>204/9 Lorne Ave, Killara</i>
46	<i>Mr PA Lewis & Mrs CM Lewis (3 submissions)</i>	<i>7/17 Powell Street, Killara</i>
47	<i>FE Balfour & JI Balfour</i>	<i>601/9 Lorne Avenue, Killara</i>
48	<i>Mr NI Nedyalkov & Ms M Stecker</i>	<i>5/33 Lorne Avenue, Killara</i>
49	<i>ACD Allen (2 submissions)</i>	<i>26/29 Lorne Avenue, Killara</i>
50	<i>Mrs HR Jarratt- Van De Geest</i>	<i>31/29 Lorne Avenue, Killara</i>
51	<i>C Agnihotri & A Agnihotri</i>	<i>20/29 Lorne Avenue, Killara</i>
52	<i>C Agnihotri</i>	<i>20/29 Lorne Avenue, Killara</i>
53	<i>HM Moo</i>	<i>205/9 Lorne Avenue, Killara</i>
54	<i>L Dang</i>	<i>Unknown</i>
55	<i>Mr M Weiner & Mrs T Weiner</i>	<i>G01/9 Lorne Avenue, Killara</i>
56	<i>Mr MJ Carroll & Mrs H Carroll</i>	<i>33/5 Wallaroo Close, Killara</i>
57	<i>CA Miesch (2 submissions)</i>	<i>24/29 Lorne Avenue, Killara</i>
58	<i>EWY Cheung & SKC Lee</i>	<i>301/9 Lorne Avenue, Killara</i>
59	<i>Mr TH Irving & Mrs SL Irving</i>	<i>40/25 Lorne Avenue, Killara</i>
60	<i>Q Sun</i>	<i>C402/3-7 Lorne Avenue, Killara</i>
61	<i>X Liu</i>	<i>Unknown</i>
62	<i>Mr Q Sun & Ms S Wang</i>	<i>C302/3-7 Lorne Avenue, Killara</i>
63	<i>W Qiao & Y Dong (2 submissions)</i>	<i>401/9 Lorne Avenue, Killara</i>
64	<i>Ms VWT Chew</i>	<i>16/29 Lorne Avenue, Killara</i>
65	<i>A Tait & L Tait</i>	<i>32/5 Wallaroo Close, Killara</i>
66	<i>AJ Cassidy & DP Taranto (2 submissions)</i>	<i>102/9 Lorne Avenue, Killara</i>
67	<i>Mrs KC Reynolds</i>	<i>38/29 Lorne Avenue, Killara</i>
68	<i>K Boniface & R Boniface</i>	<i>39/9-23 Bruce Avenue, Killara</i>
69	<i>L Ng</i>	<i>29 Lorne Avenue, Killara</i>
70	<i>Mrs TC Chen & Mr DC Weng</i>	<i>37/29 Lorne Avenue, Killara</i>
71	<i>J Chan</i>	<i>29 Lorne Avenue, Killara</i>
72	<i>H Guq</i>	<i>A401/3-7 Lorne Avenue, Killara</i>
73	<i>Ms H Gu</i>	<i>A401/3-7 Lorne Avenue, Killara</i>
74	<i>J Lu</i>	<i>A401/3-7 Lorne Avenue, Killara</i>
75	<i>J Gu</i>	<i>A401/3-7 Lorne Avenue, Killara</i>
76	<i>A Lynch</i>	<i>103/9 Lorne Avenue, Killara</i>
77	<i>Ms S Wu</i>	<i>B404/3-7 Lorne Avenue, Killara</i>
78	<i>H Guo</i>	<i>B404/3-7 Lorne Avenue, Killara</i>
79	<i>Mr JD Osborne & Mrs CN Osborne</i>	<i>201/9 Lorne Avenue, Killara</i>
80	<i>Ms W Zhang</i>	<i>C502/3-7 Lorne Avenue, Killara</i>
81	<i>P Ren</i>	<i>B602/3-7 Lorne Avenue, Killara</i>

82	V Zhang	C102/3-7 Lorne Avenue, Killara
83	Mr V Nayager	8 Wattle Street, Killara
84	GP Walsh, Secretary on behalf of the Strata Committee and Owners of Strata Plan 103318 (9 Lorne)	9 Lorne Avenue, Killara
85	AC Lynch	103/9 Lorne Avenue, Killara
86	James Lovell and Associates Pty Limited on behalf of the Strata Committee and Owners of Strata Plan 103318 (9 Lorne)	1/9 Narabang Way, Belrose
87	Mr R Nabiei & Mrs M Rahimishahmirzadi	C601/3-7 Lorne Avenue, Killara
88	Y Huang & PCK Wong	A106/3-7 Lorne Avenue, Killara
89	P Wong	A106/3-7 Lorne Avenue, Killara
90	L Forrester	6/5 Wallaroo Close, Killara
91	RJ Goodridge (2 submissions)	6/5 Wallaroo Close, Killara
92	Thomas Saw (2 submissions)	403/9 Lorne Avenue, Killara
93	T Chan	204/9 Lorne Avenue, Killara
94	Dr JD Jarratt	31/29 Lorne Avenue, Killara
95	SL Sun	C302/3-7 Lorne Avenue, Killara
96	Mr S Brender	22/29 Lorne Avenue, Killara
97	Creative Planning Solutions on behalf of the Strata Committee and Owners of Strata Plan 82150 (29 Lorne)	PO Box 1074, Broadway
98	G Chan	8 Wattle Street, Killara
99	S Irving, Secretary on behalf of the Strata Committee and Owners of Strata Plan 82150 (29 Lorne)	at 25a-29 Lorne Avenue, Killara
100	Mr THM Saw & GL Chan	403/9 Lorne Avenue, Killara
101	S Sun	B403/3-7 Lorne Avenue, Killara
102	Ms IX Liang	B403/3-7 Lorne Avenue, Killara
103	Z Ning on behalf of Rudder Development Four Pty Ltd	Ground Floor, 9-25 Commonwealth Street, Sydney
104	Mr PKK Au Yeung	7/5 Wallaroo Close, Killara
105	Kathy Cowley, President on behalf of Friends of Ku-ring-gai Environment Inc	PO Box 584, Gordon
106	F Chung	5 Wallaroo Close, Killara
107	S Tsui	Unknown
108	D Wang	18/5 Wallaroo Close, Killara

The submissions raised the following issues:

Inadequate setbacks

The proposed setbacks are insufficient and do not provide adequate space to achieve a landscape setting, adversely impacting on the streetscape and the amenity of neighbouring

properties.

Excessive building height

It is agreed that the building height would be uncharacteristic of the area. While a higher-density and larger-scale development is permitted on the Site via chapters 2, 4 and 5 of SEPP (Housing) 2021, due to its interface with the adjoining HCA and R2 Low Density Residential zoned land and the TOD Alternative Scheme, the maximum potential indicated by the applicable development standards may not be able to be achieved.

The proposed 8-9 storey residential flat building, which has insufficient landscaping and setbacks and non-compliant FSR would be juxtaposed with the existing residential character and the future desired character as espoused by the TOD alternate scheme.

Bulk and scale incompatible with streetscape and heritage character

It is agreed that the building height would be uncharacteristic of the area and incompatible with the streetscape, adjoining heritage items and HCA.

Non compliant floor space ratio

It is agreed that the floor space ratio is non compliant.

Non compliant site coverage

It is agreed that the site coverage is non compliant.

Non compliant deep soil

It is agreed that deep soil requirements are not achieved and insufficient landscaping is provided.

Non compliant communal open space

It is agreed that the communal open space requirements are not achieved.

Inconsistent with ADG guidelines

It is agreed that the proposal is inconsistent with the ADG guidelines.

Overdevelopment and setting precedent for future development

Concern has been raised regarding the scale and uncharacteristic nature of the development.

Impacts on heritage conservation area, heritage items and landscape character

It is agreed that the proposal would have adverse impacts on the heritage items and heritage conservation area opposite the site. Details of the impacts are included in the Heritage Advisor's comments below.

Loss of biodiversity, vegetation, urban forest, and tree removal contrary to local strategies

The site is not mapped as containing biodiversity.

It is agreed that the proposal would have adverse and unacceptable impacts on trees. Details are included in the Landscape and Tree Assessment Officer's comments below.

Incompatible with site's environmental constraints

The proposed development has not adequately considered the constraints of the site. As such, the design does not adequately consider stormwater management, tree impacts and removal, amenity of adjoining properties or the heritage conservation area / heritage items opposite the site.

Privacy and amenity impacts on adjoining properties

The proposal has not undertaken appropriate site planning and has not adequately considered the building location, neighbouring developments and landscaping to ensure acceptable privacy and amenity to adjoining properties.

Poor solar access and overshadowing

It is agreed that the proposal is unacceptable in relation to its overshadowing impacts.

Wind and micro climates

While controls do not specifically relate to micro climates, Part 23R.1 of KDCP does specify to utilise water efficient landscape principles, such as the selection of low water usage species, including local species, and the use of tree foliage to create on ground shade and windbreaks. It is agreed that insufficient landscaping is provided around the building which would assist in the provision of tree foliage which create windbreaks.

Light spill, and reflected heat

Further consideration of building materials is required.

Light spill could be managed by conditions of consent if the application was recommended for approval.

Inadequate building separation

It is agreed that there is inadequate building separation, with non compliances to the east, west and north as detailed in Reason for Refusal 8. The unacceptable building setbacks would result in adverse amenity impacts on adjoining residences / occupiers of the site, impacts to the streetscape and heritage items/HCA.

In particular, there is no meaningful landscaping along the western and eastern site boundaries. This results in impacts on the built form interface (and amenity) with reliance on blank walls along the western boundary and the lack of meaningful deep soil landscaping around the perimeter of the site.

Inadequate cross ventilation

Council Urban Design Consultant has advised that cross ventilation is compliant with the minimum 60% requirement of the ADG. However, opportunities for further performance improvements can be made by including openings that are oriented to look along the building north and south and into balconies of some units.

Insufficient balcony/open space provision

The private open space for the proposed apartments is compliant with the requirements specified in the Apartment Design Guideline.

Acoustic impacts from plant equipment and communal areas

The application did include an acoustic report, however this information appears inconsistent in relation to the proposed location of acoustic equipment and associated acoustic impacts.

Concern has been raised in relation to the location and usability of the COS, however the COS is acceptable in terms of likely acoustic impacts.

Inadequate infrastructure for drainage, stormwater, flooding, erosion, and water pressure

The site is not affected by flooding.

The referral comments provided by Council's Development Engineer include concerns regarding drainage and stormwater impacts. In relation to erosion, conditions of consent would be recommended if the application was recommended for approval.

Water pressure is managed at the construction certificate stage.

Traffic and parking impacts and safety of pedestrians

Suitable access and visitor parking has been provided.

Concerns have not been raised in relation to pedestrian safety from an engineering perspective.

Lack of service vehicle access

Insufficient information has been provided to determine that Council's current waste collection vehicle can enter and depart the garbage/room recycle storage area in a forward direction. These issues are identified in Reason for Refusal 32.

Inadequate construction management plan and construction impacts

Contrary to the requirements of Council's DA Guide, a construction traffic management plan (CTMP) has not been submitted.

If the application was approved, a condition could be imposed requiring a construction management plan and conditions to mitigate construction impacts.

Insufficient support infrastructure

Support infrastructure is not required to be provided at DA stage. If the application was to be approved, development contributions would be applicable which would assist with the provision of local services and infrastructure.

Legality and timing of TOD SEPP and proposal inconsistent with local planning controls

On 19 June, DPHI published updated maps under the [Ku-ring-gai Local Environmental Plan \(Housing\) \(Map Amendment No 1\).\(PDF, 704KB\)](#). These maps identify the locations where local development applications and state significant development applications have been 'saved' and the TOD controls still apply, see **Figure 4** below.

Section 20(3) of SEPP (Housing) 2021 (SEPPH) states that '*development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with... for precincts undergoing transition, the desired future character of the area*' (underline emphasis added).

The proposed development is not compatible with the desired future character of the area as it is at an interface with an adjoining HCA zoned R2 Low Density Residential and the proposed residential flat building has insufficient landscaping, deep soil, setbacks and the non compliant building height and floor space ratio would be juxtaposed with the low density residential character of the adjacent sites and the lower density RFB's adjoining the site.

Lack of clear information, misleading documentation

It is agreed that the submitted documents and plans lack consistency and sufficient detail to enable a comprehensive and accurate assessment of the proposal against the relevant planning provisions.

Insufficient consultation with Council and community

Consultation between the applicant / owner with neighbouring properties and Council is not a requirement to lodge a development application in accordance with the EP and A Act.

Doubts about genuine affordability, long-term provision, and community benefit

The affordable housing component is consistent with the requirements of SEPP (Housing) 2021.

Impacts on property values

Impacts on property values are not a consideration under the EP and A Act.

Site contamination

The subject site has a history of residential use. A stage 1 preliminary site investigation was submitted with the application. The report concludes that there is a potential for the site to be contaminated and that remediation may be required. A further assessment including the preparation of a detailed site investigation is required to determine if the site is suitable for the proposed development.

A Stage 2 Detailed Site Investigation (DSI) has not been provided and this forms Reason for Refusal 24.

View loss

It is noted that the proposed development would alter the outlook from properties not only adjoining but also in the vicinity of the site. The outlook is of tree canopies and skyline and does not contain iconic or water views. In this regard, the loss of outlook would be acceptable.

Geotechnical and structural impacts

Concern has been raised in relation to the extent of excavation and setbacks to boundaries. If the application was approved a condition could be imposed requiring dilapidation reports.

Lot amalgamation

The proposed lot consolidation is acceptable. Further amalgamation is not proposed.

Illegal dumping

Illegal dumping is not a consideration under the EP and Act. Such matters would be considered by Council Rangers and Environmental Health Officers in the event that this occurs.

Internal Referrals

Urban design

Council's Urban Design Consultant commented on the proposal as follows:

1	<u>Context and Neighbourhood Character</u>
	a) <u>Site analysis</u> – The site not just ‘a site’ within the TOD SEPP map. - include an understanding of connected natural systems – water and canopy with topography, - 23-25 Lorne Ave, Killara - Architectural Analysis prepared by BKA Architecture is noted regarding sought departures from setbacks and building envelope articulation. However, this should include studies of the streetscape to test the merit of sought variations to Ku-ring-gai controls for setbacks and deep soil more widely. b) <u>Building type</u> – is consistent with the provisions enabled under the TOD SEPP. However, the proposed resolution of those provisions has significant impacts to the existing and future urban fabric and landscape character outcomes, built form interface character and implications for internal layouts. See comments also at 2-Built Form and Scale, 5-Landscape, and 6-Amenity. c) <u>Entries</u> – Main building entry is via a bridge at the First Floor. The pedestrian entry point at the street is clear, although the main entry to the building becomes tucked to the side of the vestibule with little entry presence or clear visual cues to/from the street. Relocating the Fire Control Room should be considered to open the lobby to create a more positive street presence and address. See further comments at 5-Landscape. The movement sequence beyond the main entry is long with somewhat indirect sightlines. Providing natural daylight and ventilation at each of the lifts has sought to lessen the challenging amenity and, at a minimum, provides a visual cue for lift locations during daylight hours which is generally positive. Further consideration of the internal layouts may provide opportunities to rationalise the spatial relationships more generally.

	d) <u>Setbacks and streetscape character</u> - The TOD SEPP interaction between permitted FSR in relation to permitted height directly results in bulkier building types unless adequate rigour is applied to the arrangement of GFA on each site. Associated impacts to deep soil and canopy still need to achieve Ku-ring-gai urban landscape character, accepting a more urban character for TOD sites from other apartment buildings outside the new TOD mapping. - The Ground Floor egress stair (below the site boundary ground line) should be reconsidered to minimise its impact across the street frontage. This is in context of the impacts on landscape resulting with the separate First Floor level entry bridge, driveway and additional basement egress. - The western side setback seeks significant departures from Ku-ring-gai's DCP and ADG provisions. This results in little to no meaningful landscape along the western boundary. See comments at 2-Built Form and Scale, and 5-Landscape. - Minor encroachments of the building are into the northern (rear) setback zone. These departures appear avoidable with a more efficient building footprint/unit layout. e) <u>Heritage</u> – the introduction of the TOD SEPP into heritage conservation areas and its development provisions present significant tension with Ku-ring-gai's Part 19 DCP heritage requirements particularly for setbacks. The subject site has become a legacy of already completed R4 apartment development along the northern side of Lorne Avenue. The wider context of the subject site includes the Marian Street HCA which defines the urban character for the southern side of Lorne Avenue. This presents challenges for the urban presentation and site setting in managing the bulkier permitted building type enabled under the TOD SEPP provisions. This needs careful navigation to achieve desirable public outcomes. How the proposed design has considered wider urban character should be further analysed as a streetscape study that tests the heritage considerations particularly in justifying the significant departures from the ADG and Ku-ring-gai's DCP. The provided Architectural Analysis considers the immediate neighbours but is silent on the wider streetscape implications expected to demonstrate a sensitive design approach and heritage response. An understanding of this particular site and wider context is needed to demonstrate how Ku-ring-gai's heritage and urban design objectives are being satisfied. While some design decisions have been successful (discussed elsewhere in this review) others such as the resolution of the arrangement of GFA and implications for landscape setbacks require further consideration to better manage the scale differential and streetscape character for Lorne Avenue's wider heritage context.
2	<u>Built Form and Scale</u>
	1. <u>Building form - general</u> – The interplay of TOD SEPP development standards (FSR and height in combination with no minimum lot size requirement) will result in a range of bulk and scale outcomes for residential apartment building types. The proposed development has sought to respond to what becomes a more challenging remnant site

within an existing R4 infill condition, there remain impacts that require further consideration.

2. *Built form - modulation*– *the intent to modulate the monolithic building length of approximately 65 metres is noted.*

Proposed site arrangement has generally achieved the required minimum ADG setbacks to the eastern boundary by pushing the building west on the site to within 2-3 metres of the western boundary from the Lower Ground Level to Level 7.

Therefore, the built form response needs to be considered in context of the significant departures from ADG setbacks and Ku-ring-gai's DCP deep soil resulting from the proposed building form arrangement of GFA on the site and associated implications for the building form.

As proposed, there are impacts to built form interface (and amenity) by the resulting reliance on blank walls close to the western boundary and the lack of meaningful deep soil landscape experienced both on the site and experienced by neighbouring residents at No 25A, 27-29 Lorne Avenue. It is noted that while blank walls are permitted, the outcome at this scale is not supported.

The site strategy appears intended to maximise amenity along the eastern side which sacrifices the western side units. However, the GFA arrangement introduces inefficiencies to the built form that appear to contribute to the extent of these setback impacts. For instance, multiple building lines resulting from locating lift, egress and services cores along valuable building perimeter in combination with unit configurations with large areas with little to no direct natural daylight and ventilation appear to lose opportunities both for more efficient internal planning layouts and options that may increase the landscape setback.

3. *Basement footprint* –

- *the proposed basement wall alignments along the western boundary are a focus of concern.*
- *Reducing the basement footprint to achieve a more acceptable deep soil and long-term interface character is required.*
- *Noting protection of Tree 14, relocating the driveway further east - up to 2-metres lower on the site - would reduce the ramp length with opportunities for flow-on basement efficiencies.*

These may provide alternative options for the basement layout that can deliver more landscape to the western boundary with a public benefit of being visible from the street in combination with some reconsideration of the built form above ground.

4. *Built form and internal layouts* – *as proposed, the proposed dominance of blank walls along the western façade results unit types with little opportunity for windows with exposure to the perimeter. Associated impacts become rooms/habitable spaces having inadequate direct access to natural daylight or ventilation. See comments at 6-Amenity.*

	5. <u>Top storey</u> – further consideration of Level 8 is required to rationalise the footprint and consider the impacts of walls along the western and eastern boundaries. Unit 8.01 terrace length and extent of the wall and Unit 8.02 extension of the wall from LG level to Level 8 should be further considered. 6. <u>Height Floor-to-Floor height</u> – The sections show compliant ceiling heights however, the floor to floor heights of 3.1m are inconsistent with current industry practice which is to specify 3.2m to accommodate structure, insulation and effective waterproofing. This is likely to require a 800mm to 1000mm increase in overall building height.
3	<u>Density</u>
	1. <u>FSR</u> – The arrangement of GFA requires further consideration. 2. <u>Yield</u> – and/or apartment mix may require further consideration to address amenity issues. KDCP provisions for 15% Platinum Level housing is to be accommodated. It appears an additional unit will be required. See comments at 2-Built Form and Scale and at 6-Amenity. <u>Landscape</u> – general comment is that deep soil landscape is being impacted significantly by the TOD SEPP settings for FSR and building height. How this is managed is critical to TOD SEPP development and the full bonus provisions and consideration by Council's Landscape & Tree Assessment. Some areas included in the calculations also may be inconsistent with KDCP definitions. The arrangement of the basement and building footprint result in significant impacts for meaningful deep soil landscape outcomes as regards urban design. See comments at 5-Landscape.
4	<u>Sustainability</u>
	1. Consistent with the requirements in Part 4U 'Energy Efficiency' of the ADG reason for refusal 13 and 25 identifies various measures that should be, but have not been, incorporated into the proposal.
5.	<u>Landscape</u>
	1. <u>Driveway and basement setback</u> – minimal setbacks along the western boundary are not supported. Alternative basement layouts will be required to provide meaningful deep soil for planting including consideration of relocating the basement entry to the lower side of the site while noting a deep soil minimum of 6-metres to the eastern side is also subject to Council landscape requirements for any variations. 2. <u>Northern setback</u> – While encroachments of the building (Unit LG.01 typical to Level 02) are relatively minor, they appear avoidable with a more efficient internal layout for these units and is not supported. Council's landscape officers to provide requirements. 3. <u>COS</u> – Solar access amenity for the primary communal open space needs to demonstrate 50% of the area(s) receives a minimum of 2hrs solar amenity. Views-from-the-sun (sun-eye) modelling of the site needs to include future permitted development on neighbouring sites including those to the north, which may impact the proposed ground level COS.
6.	<u>Amenity</u>
	1. <u>Solar access</u> – a) Units to the east at 9 Lorne Avenue are significantly impacted by overshadowing after 1pm which is when they currently start to

receive some solar amenity. Their poorer performance is due to a combination of their adverse south-westerly aspect and as a direct result of the bulk of the proposed development. The Statement of Environmental Effects prepared by Planning Ingenuity notes the following regarding existing solar performance:

'31 of 46 units (67%) of units achieving solar access to main living and POS areas. Of the existing 15 non-compliant apartments, approximately 10 along the [subject site's] eastern boundary will be impacted... the sunlight hours to these units will be reduced between 15-45 minutes depending on the location.'

Extrapolating from the Eye of the Sun Diagrams 1-hr increments appears will provide possibly 15mins to 30mins maximum solar amenity to the neighbouring units during winter months.

The relevant ADG urban design consideration is how the design response has sought to mitigate impacts such as through built form, use of setbacks along the eastern boundary. Generally, the design has sought to prioritise the outcome along the eastern side through more generous setback distances and stepping of built form.

However, this results in poor outcomes along the western boundary interface – effectively pushing the building west on the site to rely on blank walls and reducing the setbacks to within 2-3 metres of the western boundary from the Lower Ground to Level 7 (8 to 9 storeys). See comments at 2-Built Form and Scale and at 5-Landscape.

- b) *Eye of the Sun Diagrams is to include the modelling of existing apartment developments to the north in the vicinity and permitted development for undeveloped sites. This is needed to fully understand the solar amenity achieved for some units and the primary communal open space.*
2. Solar shading – *it is unclear why wintergardens are proposed. They increase the area of exposed glazing across eastern facades creating avoidable heat loads for the balconies. There is no significant noise attenuation issue such as adjacent traffic or railway to be mitigated. General comment is that all unprotected glazing within the east-north-west range is to include operable external shading devices.*
3. Natural cross ventilation – *generally adequate. However, opportunities for further performance improvements can be made by including openings that are oriented to look along the building north and south and into balconies of some units.*
4. Natural daylight and ventilation –
- *Units LG. 01, G.01, 1.01, 2.01, 3.01, 4.01, 5.01 and 8.01 have large living areas set deep into the building with inadequate access to daylight and natural ventilation.*
 - *Unit G.05 snorkel bedroom provides poor amenity due to the combination of the awkward carpark ramp geometry and deep location of the bedroom from the building perimeter.*
 - *Units 1.05, 2.06, 3.05, 3.01, 4.01, 5.01, 6.01 bedrooms would benefit*

- with an additional opening onto the large balconies.
- Unit 1.07 layout should be reconsidered so natural daylight and ventilation of the bedroom(s) are not impacted by mitigating vehicle noise and headlights from the adjacent driveway.

5. Privacy amenity –

- a) *Full height glazing – full-height floor-to-ceiling glazing is not supported due to increased heat loads, privacy issues to-and-from habitable rooms, and the resulting foreseeable ad-hoc internal privacy screening each resident will use to manage their comfort levels. Reducing the glazing-to-wall ratio is necessary. Consideration could be given to introducing solid spandrels or wall areas and/or operable directional external screens that still maintain high levels of natural daylight, outlook and ventilation amenity. Note previous comments above regarding excessive glazing of balcony wintergardens. See comments on materials palette at 9-Aesthetics.*
- b) *Building separation – proposed building separations along the east and north are generally appropriate for achieving adequate visual and acoustic privacy. However, this shifts the building mass to the west resulting in a reliance on solid walls for the full height of the development within 2-3 metres of the western boundary which is challenging. Significant impacts result from the visual dominance viewed and experienced by the neighbouring properties over the long term. The bulk of proposed building form from Lower Ground to Level 7 combined with the resulting failure to achieve Ku-ring-gai's deep soil canopy landscape does not adequately consider the lower scale urban form of No 25A, 27-29 Lorne Avenue. See associated comments regarding implications for natural daylight and ventilation amenity for the subject development.*
- c) *Use of open metal balustrades is preferable to full-height glazed balustrading noting such balustrade treatment is inconsistent with the ADG. Glazed balustrading also tends to perform poorly over the long term.*

While the solid upstands are noted at some of the lower levels, full-height glazed balustrades result in general flow-on visual impacts between properties and/or the public domain and heritage context with poor quality, ad hoc screening applied by individual residents. Replacing balustrading with metal bars and blades can provide some localised directional views to mitigate direct overlooking to the neighbouring properties and the street noting the heritage context that also improves the architectural character more generally and reduces the need for maintenance/regular cleaning.

- 6. Openings for kitchens and bathrooms – *opportunities for providing windows to some kitchens and bathrooms on external walls is positive. There appear opportunities for increasing the number of these.*
- 7. Floor-to-ceiling heights – *floor-to-floor heights should be increased to and minimum of 3.2m for levels where internal layouts have vertically aligned wet areas through the building, and possibly more height where wet areas are proposed above habitable rooms below.*

	8. <u>Communal open space</u> – primary COS is located at ground level at the lowest part of the site to the north. <i>The area provided appears inadequate for the scale of the development and has no relationship to the lift lobbies. Access is convoluted which further discourages its use.</i> <i>A rooftop communal space should be considered. Council landscape officer requirements and additional information appears is needed to confirm the adequacy of proposed landscape planting along northern boundary more generally.</i> 9. <u>Subterranean units</u> – Part 7C.3 of KDCP does not permit subterranean rooms due to long-term performance for waterproofing, and general daylight and outlook amenity. Unit LG.01 and G.06 should be reconsidered so no external wall of any unit is in contact with adjacent soil or planters above the internal floor level. See KDCP Part 7C.3. 10. <u>Storage</u> – ADG minimum storage needs to be demonstrated in every unit. Locating storage will need to demonstrate the DCP requirement for the development to demonstrate 100% Liveable Housing Silver Level needs is satisfied. <i>An ADG compliance diagram is required that demonstrates minimum storage within each unit is accommodated. Required storage is in addition to cupboards in bedrooms, kitchens, bathrooms and laundries (area needed for appliances, tubs and laundry goods). The storage should include full height cupboards, a min 600mm deep for storing bulkier items such as brooms, vacuum cleaners, ironing boards and other day-to-day personal belongings. Most units appear have accommodated minimum requirement, however some need confirmation, therefore a full compliance table should be submitted.</i> 11. <u>Unit Layouts</u> – Ensure bedrooms and bathrooms do not open directly into living rooms – see units G.03, G.04. Also see comments regarding natural Daylight and ventilation amenity.
7.	<u>Safety</u>
	a) <u>Sightlines</u> – CPTED - ensure building entries and sequence demonstrates lobbies have clear unobstructed sightlines. Sequence should achieve a direct path from the street to the lifts that avoids dog-legs and mitigates excessively long corridors for lifts deep into the building. Generally, each lift lobby serves 4 units/floor, which is supported. Some improvements for sightlines at the Ground Floor could be considered. b) <u>Passive surveillance</u> – Generally, good levels of passive surveillance are achieved in the basement. The western landscape area provides little opportunities for views into the space given the dominance of blank walls. Further consideration of visibility into/from the entry lobby is recommended.
8.	<u>Housing Diversity and social interaction</u>
	1. <u>Affordable Housing</u> – needs to ensure an equitable mix of types and

	amenity across the development. Nominated units are - Unit G.04, G.05, G.06, 1.01, 1.02, 1.03, 1.04, 1.05, 1.06 and 1.07. 2. <u>Platinum Level housing</u> – Part 7C.4 of KDCP control 3 requires a minimum of 15% or 8.25 units as platinum level housing. The proposed 8 units does not comply, and clearances are not shown on the plans. Proposed Platinum Level units should be representative of the unit mix being offered and their location should achieve equitable access to high amenity. Unit LG.06 is significantly subterranean, single aspect, deep footprint and set low within the natural ground plane across the site. 3. <u>Silver Level housing</u> – KDCP requirement for 100% Silver Level is demonstrated.
9.	<u>Aesthetics</u>
	1. <u>Materials</u> – The use of brickwork is supported, noting opportunities to respond/interpret the heritage context could be further explored for the brick selections. Refer to Heritage Advisors comments. The following is noted: a) Reliance of painted render – large expanses of wall finishes along the western and eastern facades rely on painted render, which is not supported. Long-term outcomes have been demonstrated to weather poorly, requiring more frequent maintenance and use of scaffolding. b) Extent of glazing – the eastern façade’s ratio of glazing-to-wall requires reconsideration to reduce the amount of glass both for long-term building performance and aesthetic outcomes. (Tinted glazing is not supported in Ku-ring-gai due to poor amenity and aesthetic outcomes). Ku-ring-gai has detailed DCP requirements at Part 23 for materials that intend warmer tonal ranges that appear should be further considered in the proposed development. See comments at 6-Amenity for solar screening, also relevant for architectural character and building maintenance. External operable screens should be included both to add movement to the elevations and manage levels of solar amenity throughout the year. 2. <u>Balustrading</u> – proposed full-height glazed (clear or translucent) balustrades are not supported. These are inconsistent with the ADG and KDCP and associated implications for achieving positive aesthetic outcomes. Consider metal balustrading to replace glazed systems. They achieve good durability, lower maintenance, and higher quality architectural character over the long term. Privacy can be better managed through design development such as introducing metal balustrade blades rather than finer square bars that allow directional views particularly at lower levels.

Heritage

Council's Heritage Advisor commented on the proposal as follows:

Ku-ring-gai Local Environmental Plan (KLEP) 2015

Clause 5.10 (4) of the KLEP 2015 requires that before granting consent to the proposed works Council must consider the effect of the works on the heritage values of a place listed in the Heritage Schedule of KLEP 2015

Clause 5.10 of the KLEP 2015 requires that before granting consent to the proposed works Council must consider the effect of the works on the heritage item, nearby items or conservation area concerned. Clause 5.10 (5) allows Council to require a Heritage Impact Statement before granting consent.

Heritage Status

Local Heritage Item	NO
Heritage Conservation Area	NO
Immediate vicinity of a heritage item	Regimental Park - 20 Lorne Avenue 14 Lorne Avenue 10 Lorne Avenue 8 Lorne Avenue 6 Lorne Avenue
Immediate vicinity of a HCA	C24

Marian Street Conservation Area - C24 (KLEP 2015)

The Marian Street Heritage Conservation Area is of high local historic and aesthetic significance as a good and largely intact residential precinct characterised by streetscapes of good, high quality examples of single detached houses from the Federation, Inter-war and Post-war periods. The built context is enhanced by large garden settings, wide street proportions, street plantings and remnant and planted native trees; elements which are synonymous with the Ku-ring-gai area. The early grant boundaries, estates and subdivision pattern significantly remain visible in the current layout and pattern of development and late 19th and early to mid 20th century building stock retains a high level of integrity. The early development is also overlaid by later land subdivisions and some consolidation and later development, which reflect changes in the wider rail and road networks and ongoing evolution of the local and wider area. The area substantially retains the original vision for the area with emphasis on residential, recreational and cultural development.

Controls

The following objectives and controls of the Ku-ring-gai Development Control Plan 2024 (KDCP) apply:

Development Control	Complies
19F. DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS OR HERITAGE CONSERVATION AREAS (HCAS)	
19F.1 Local Character and Streetscape	
General 1. All development in the vicinity of a Heritage Item or HCA is to include a Heritage Impact Statement (HIS). The HIS is to address the effect of the proposed development on a Heritage Item or HCA and demonstrate that the proposed works will not adversely impact upon significance, including any related heritage features within the identified curtilage and setting.	YES

Development Control	Complies
19F. DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS OR HERITAGE CONSERVATION AREAS (HCAS)	
Built Form	
2. Development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA is to have regard to:	
i) the form of the existing building or buildings including height, roofline, setbacks and building alignment;	NO
ii) dominant architectural language such as horizontal lines and vertical segmentation;	NO
iii) proportions including door and window openings, bays, floor-to-ceiling heights and coursing levels;	NO
iv) materials and colours;	NO
v) siting and orientation;	NO
vi) setting and context;	NO
vii) streetscape patterns.	NO
Views	
New development in the vicinity of a Heritage Item or HCA is to demonstrate that it will not reduce or impair important views to and from the Heritage Item from the public domain.	NO

19F.1 Local Character and Streetscape

General

Built Form

Views

Objectives

1. To consider the impact on the historic curtilage and setting of the Heritage Item or HCA and related heritage features such as views, streetscape context, historical subdivisions, garden settings, alienated trees and other landscape features.
2. To retain the significance of Heritage Items or HCAs in their settings.
3. To ensure that the scale of new development does not dominate, detract from or compete with Heritage Items or HCAs in the vicinity.
4. To ensure that new development respects and conserves the significance of any nearby Heritage Items or HCA and their settings.
5. To ensure that new development does not visually dominate the adjoining or nearby Heritage Item or HCA.
6. To ensure that the scale of new development in the vicinity of a heritage item and HCA is in harmony with the streetscape and does not dominate, detract from or compete with the Heritage Item or HCA.
7. To protect significant views and vistas to and from the Heritage Item or HCA.

For the following reasons the objectives of the controls are not achieved:

19F.1.2i) + 19F.2ii) + 19F.1.2iii) + 19F.1.2iv) + 19F.1.2v) + 19F1.2vi) + 19F.1.2vii)

The proposed 8 storey apartment complex towers over the neighbouring properties and the heritage listed properties and HCA directly across the road – the complex should be stepped in at the higher levels to avoid the 30 meters tall sheer walls. The vertical sheer walls of the apartment complex are unacceptable.

The proposed vertical proportions and excessive use of light coloured render (in vertical planes) exaggerates the height of the building. The apartment complex should be reconfigured to have horizontal proportions – see **Figure 1**. The apartment complex should follow a heavy to light principle that steps in as it rises – sandstone at the lowest level, brick in the middle section and metal at the top.



Figure1.

Development Control	Complies
19F.2 Building Setbacks	
Setbacks	
Residential Context	
6. New development adjacent to a Heritage Item or adjacent to the HCA that has more than 2 levels or has a height more than 8m, is to step back the upper levels in accordance with Figure 19F.2-1 in the KDCP.	YES

19F.2 Building Setbacks

Objectives

1. To ensure new work in the vicinity of a Heritage Item or HCA respects and contributes to the established streetscape patterns through careful siting of new buildings.
2. To ensure new development provides an interface of scale and bulk to preserve the amenity to the adjacent Heritage Item or building within a HCA.
3. To ensure new medium and high density development does not visually dominate the Heritage Item or building within the HCA.

For the following reason, the objectives of the controls are not achieved:

19F.2.1 + 19F.2.2 + 19F.2.3i), ii), iii) + 19F.2.4 + 19F.2.5

The apartment complex has strong vertical sheer wall proportions and does not meet this control.

Development Control	Complies
19F.3 Gardens and Landscaping	
Gardens, Setting and Curtilage	
1. Development in the vicinity of a Heritage Item or an HCA is to:	
i) retain original or significant landscape features associated with the Heritage Item or HCA, or which contribute to its setting. In particular, garden settings in the vicinity are not to be adversely affected in terms of overshadowing or physical impacts on significant trees;	NO
ii) retain the established landscape character of the Heritage Item or HCA including height of the tree canopy and density of boundary landscape plantings or otherwise reinstated them in the new development;	NO
iii) include appropriate screen planting on side and rear boundaries.	NO

19F.3 Gardens and Landscaping

Objective

- 1 To ensure that new development does not impact on the landscape character and garden setting of any nearby Heritage Item or HCA.

For the following reason, the objectives of the controls are not achieved:

19F.3.1i) + ii) + iii)

The proposal does not satisfy this part of the DCP. With the loss of the established landscape character including height of the tree canopy and density of landscape planting to boundaries with insufficient screen planting on side and rear boundaries and dominance of multiple paths and driveway to frontage.

Landscaping

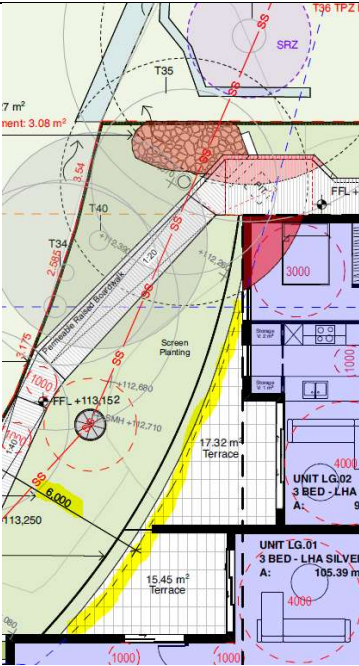
Council's Landscape and Tree Assessment Officer commented on the proposal as follows:

SEPP (Sustainable Building: BASIX) 2022		
Part 3 Aims	Proposed	Complies
To encourage sustainable residential development.	Certificate 1789571M dated 31 March 2025 includes the following: Common lawn area = 24m² Common garden area = 516m² Common garden area to units: Unit 8.1 = 20m² Unit 8.02 = 5.2m² G.03 = 14m² G.04 = 8m² G.05 = 22m² G.06 = 19m² The proposal is consistent with the landscape outcomes within the BASIX certificate.	YES

SEPP (Housing) 2021		
Chapter 2 – Development for Affordable Housing		
Part 2 Div 1 Infill Affordable Housing	Proposed	Complies
19. non-discretionary development standards – the Act, s4.15 2) The following are non-discretionary development standards in relation to the residential development to which this division applies— (a) a minimum site area of 450m².	The proposal satisfies this part Site area = 2150.6m²	YES
(b) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area. (Note: Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies).	The proposal satisfies this part Site area = 2150.6m² (30% = min 645.18m² landscape) No of dwellings = 55 (1925m² landscape) Landscape Area proposed = approximately 750m² landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.	YES

ADG				
Objective 3E-1 Deep soil zones	Proposed		Complies	
Deep soil zones are areas of soil not covered by buildings or structures within a development. They exclude basement car parks, services, swimming pools, tennis courts and	Insufficient deep soil and incorrect and inconsistent calculations have been provided.		NO	
	Deep soil zones are to meet the following requirements:			
	Site Area	Min dimension		Deep Soil Zone (% of Site area)
	Less than 650m2	-		
	650m2 – 1500m2	3m		

impervious surfaces including car parks, driveways and roof areas.	Greater than 1500m2	6m	7%
	Greater than 1500m2 with significant existing tree cover	6m	
Figure 3E.4 Pedestrian pathways and paving which is specifically designed for tree root growth can occupy up to 10% of the deep soil zone.	On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: • 10% of the site as deep soil on sites with an area of 650m² - 1,500m² • 15% of the site as deep soil on sites greater than 1,500m² Site area = 2150.6m² 7% = 150.542m² 15% = 322.59m² The deep soil calculation is inconsistent across the plans and reports. The SEE and architectural Deep Soil Plan states that the proposal provides 217m² of appropriate deep soil planting, while the Hardscape Landscape plan indicates 250m². However, the plan calculations are incorrect as they include the areas to the rear covered by decks which is contrary to the definition of not being covered by structures and only allowing a total of 10% permeable structures to be included. In addition, both plans include the area to the rear which is less than 6 metres in width due to the terraces/building within the 6 metres setback.		

	 The actual deep soil provided is limited to the front area of approximately 116m² with a minimum dimension of 6 metres, which is only 5% of the site area. If the rear retaining wall/terrace is setback 6 metres from the rear boundary, the area of approximately 82m², including 20m² of boardwalk is available to be included in deep soil, resulting in approximately 198m² (9%) of deep soil. Due to the existing trees on site and on neighbouring properties in the vicinity of the site boundaries plus the landscape character of the area, a minimum of 15% (322.59m²) deep soil should be provided.	
Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees.	The proposed deep soil zones around trees on site and within neighbouring properties are inadequate. Refer to comments under Part 7A.6.	NO
Objective 3F-2 Site and building design elements increase privacy	Proposed The proposal does not satisfy this part as no pergola or shading devices provided to communal	Complies NO

without compromising access to light and air and balance outlook and views from habitable rooms and private open space.	open space to limit overlooking from rear units is provided.	
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KDCP COMPLIANCE TABLE								
Control	Proposed	Satisfies						
Part 7A.6 Deep Soil Landscaping and Part 13 Tree and Vegetation Preservation								
C1. Residential flat development is to have a minimum deep soil landscape area:	Deep soil landscaping is defined as the soft landscaped part of the site area that is; not occupied by any structure whether above or below the surface of the ground except for minor structures such as: paths to 1.2m wide, stormwater pipes of 300mm or less, lightweight fences; has a minimum width of 2.0 metres; is not used for car parking; and can be used for water sensitive urban design. <table><tr><th>Site Area</th><th>Minimum Deep Soil Landscaping</th></tr><tr><td>Less than 1800^{m2}</td><td>40% of the site</td></tr><tr><td>1800^{m2} or more</td><td>50% of the site</td></tr></table> Note: For the purpose of this section, the site excludes any access handle. Note: Certain sites in the B2 and B4 zones have a reduced maximum deep soil landscaping area. Refer to Section B Part 14 Urban Precinct and Sites The proposal does not satisfy this part Site area = 2150.6m² 50% deep soil = 1075.3m² Actual deep soil provided with min 2 metres width = 407m². Incorrectly stated on plans as Deep Soil plan as 540m² as includes areas less than 2 metres in width due to walling or structures or paths wider than 1.2metres.	Site Area	Minimum Deep Soil Landscaping	Less than 1800 ^{m2}	40% of the site	1800 ^{m2} or more	50% of the site	NO
Site Area	Minimum Deep Soil Landscaping							
Less than 1800 ^{m2}	40% of the site							
1800 ^{m2} or more	50% of the site							
C2. Deep soil zones are to be configured to retain healthy and significant trees on site and adjoining sites	The proposal does not satisfy this part. The tree numbering on the survey and architectural ground floor plans do not correspond with the Arborist and Landscape Plan. Architectural plan to delete tree numbering from background survey to be consistent with Arborist report. Note Architectural demolition plan includes Arborist tree numbering.	NO						

where possible.	<i>Tree removal is not consistent between the plans, with Trees 19, 33 and 35 retained on the demolition plan and Arborist report, however indicated for removal on the Landscape Plans.</i> Tree removal <i>The proposal includes the removal of Trees 6, 10, 19, 20, 21, 22, 23, 24, 25, 30, 31, 33, 35.</i> <i>Tree 6, 3 x Syagrus romanzoffiana (Cocos Palm)/eastern boundary,</i> <i>Tree 10. Camellia sasanqua (Camellia)/ to eastern boundary.</i> <i>Tree 19. Viburnum tinus (Viburnum) and Macadamia / to front. Not marked in Arborist report or demolition plan for removal.</i> <i>Tree 20. Juniperus chinensis keteleeri (Conifer)/to front.</i> <i>Tree 21. 2 x Strelitsia Nicolai (Giant Bird of Paradise)/ to front.</i> <i>Tree 22. 9no. x Group of Camellia. Xylosma, Tibouchina, Olea / to front.</i> <i>Tree 23. Xylosma (Shiny Xylosma)/ to front.</i> <i>Tree 24. Lagunaria patersonia (Norfolk Island Hibiscus)/ within footprint of building.</i> <i>Tree 25. 7x Acmena smithii var minor (LillyPilly)/ within footprint of building.</i> <i>Tree 30. 3 x Citrus sp/ within footprint of building.</i> <i>Tree 31. 2x Camellia sasanqua (Camellia)/ to western boundary.</i> <i>Tree 33 Cordyline australis (NZ Cabbage tree)/to rear, Tree 34 Cordyline australis (NZ Cabbage tree)/ to rear.</i> <i>Tree 35 Phoenix canariensis (Canary Island Date Palm)/to rear.</i> <i>The removal of Trees 6, 10, 19, 20, 21, 22, 23, 24, 25, 30, 31, 37 and 38 is acceptable due to condition, species and/or location within the proposed footprint.</i> <i>The removal of Trees 33 and 35 is not acceptable. Tree 33 Cordyline australis (NZ Cabbage tree)/ to rear boundary is located within the neighbouring</i>	
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	property and therefore cannot be indicated for removal. <i>Tree 35 Phoenix canariensis (Canary Island Date Palm) is a significant tree that could be retained with amended SW and greater setbacks of structures. Note tree is to be retained in Arborist report.</i> Tree impacts <i>The following trees are impacted by the proposal:</i> <i>Major encroachment to the following trees –</i> <i>Tree 27 Tristaniopsis (Water Gum) to western boundary within neighbouring property. Major encroachment within SRZ from proposed retaining wall to boundary. Wall to be deleted and existing ground levels retained. Stormwater to be resolved to reduce impact on tree and be located outside of SRZ.</i> <i>Tree 26 Eucalyptus saligna (Sydney Blue Gum)/ to western boundary within neighbouring property. Root investigation undertaken to support proposed driveway excavation and steps. Retaining wall to boundary to be deleted and existing ground levels retained. Stormwater to the amended and relocated to east against external wall of driveway to ensure no impact to tree roots.</i> <i>Tree 39 Jacaranda mimosifolia (Jacaranda)/ to eastern boundary.</i> <i>The proposed basement is a major encroachment of 24% however the existing wall 1.5m from the tree will restrict root growth. However, proposed stormwater is not acceptable and needs to be amended in consultation with Arborist.</i> <i>Existing ground levels to be retained within the TPZ and existing walling to be retained or proposed planter wall to be located along line of existing wall to retain existing levels. Tree will require 2-4 third and fourth order branches of 60-120mm diameter to clear building, approximately 10% of canopy.</i>	
C3. Deep soil zones are to be configured to allow for required tree planting including tall tree planting	The proposal does not satisfy this part.	NO

<i>and garden and screen planting at front, side and rear boundaries.</i>		
<i>C4. Deep soil landscaping is to be provided in the common areas as a buffer between buildings that softens the bulk and scale of the buildings.</i>	<i>The proposal does not satisfy this part.</i> <i>Insufficient setback and paths against boundaries do not allow for sufficient landscaping as a buffer between properties.</i>	NO
<i>C7. Tree replenishment and planting.</i>	<i>The minimum number of trees required for the site of 2150.6m² is 7 trees capable of reaching 18m in height.</i> <i>The proposal retains 3 trees and no additional trees capable of reaching 18m in height are proposed.</i>	NO
<i>C8. In addition to tall trees, a range of medium, small trees and shrubs are to be selected to ensure that vegetation softens the built form and creates a garden setting.</i> <i>At least 50% of all tree plantings are to be locally occurring trees and spread around the site.</i>	<i>The proposal does not satisfy this part as insufficient tree planting to western boundary.</i>	NO
<i>C9. Trees are to be planted within all setback areas. At least 30% of the required number of tall trees are to be planted within the front setback.</i>	<i>The proposal does not satisfy this part with no trees to western side boundary due to insufficient setback and insufficient tall trees.</i>	NO

7C.2 Communal Open Space <i>The location and design of the Primary communal open space is to optimise opportunities for active and passive social and recreation activities, solar access and orientation, summer shade, outlook, and maintain the privacy of residents on adjoining sites zoned differently for lower density residential development sites.</i> <i>Communal open space is to be integrated with any significant natural feature(s) of the site and soft landscaping areas as barbecue facilities, shade structures, play equipment and seating, are to be provided within the Primary communal open space.</i>	<i>The proposal does not satisfy this part as insufficient screening provided to rear boundary to maintain privacy to neighbouring property. No shading devices provided and limited facilities with one table and chairs and BBQ area to communal open space.</i>	NO
Part 7C.5 Building Entries		
<i>To soften the impact of hard landscaping within the site.</i> C12. Building	<i>The proposal does not satisfy this part as a minimum 1.2m of landscape planting is not provided on either side of the path.</i>	NO

entry paths are to be a minimum 1.2m wide and located within the common area with a minimum dimension of 1.2m on either side for landscape planting.		
Part 19 Heritage Items and Heritage Conservation Areas		
19F.3 Gardens and Landscaping – in the vicinity of Heritage Items/HCAs.	The proposal does not satisfy this part with the loss of the established landscape character including height of the tree canopy and density of landscape planting to boundaries with insufficient screen planting on side and rear boundaries and dominance of multiple paths and driveway to frontage. Main entry path could be consolidated to one ramped path.	NO
Part 21 General Site Design		
21.1 Earthworks and Slope. C3. Landscape cut or fill should not be more than 600mm above or below natural ground line.	The proposed landscape cut fill is acceptable.	YES
C4.A minimum 0.6m width is required between retaining walls.	The proposal satisfies this part.	YES
C5. Existing ground level is to be maintained for a distance of 2m from any boundary.	Existing ground level has not been maintained for 2 metres from any boundary with proposed wall and path to western boundary, less than 2 metres basement setback to western boundary and proposed wall to steps to front setback 1m from front boundary .	NO
C8. Retaining walls, excavated and filled areas are to be located and constructed to have no adverse impact on iii) trees and vegetation to be	The proposal does not satisfy this control. Refer to comments under Part 13.	NO

<i>retained on site or on adjoining sites.</i>		
21.2 Landscape Design <i>To ensure the landscape design and species selection is suitable to the site its context and considers the amenity of residents and neighbours.</i>	<i>The landscape plan is not acceptable.</i> <i>Access to rear lawn unresolved with existing sewer manhole RL is set at 112.71 and adjacent path landing at RL 113.152.</i> <i>Planters to Level 8 adjacent Unit 8.01 are to be incorporated into parapet rather than movable free-standing planters that can be removed if plants are not maintained.</i> <i>Existing levels indicated on landscape plans do not correspond with existing levels on survey. Levels to be updated to reflect survey levels.</i>	NO
Part 23 General Building Design and Sustainability		
23.5 Roof Terraces and Podiums <i>To encourage use of low maintenance planting and low water use on roof terraces and podiums with appropriate support systems.</i>	<i>The proposal satisfies this part.</i>	YES
23.9 Construction, demolition and disposal. <i>C2. An environmental site management plan showing tree protection area, machinery usage zones, storage areas, site sheds and location of stormwater pollution barriers is to be submitted with</i>	<i>An adequate Environmental Site Management Plan has not been submitted.</i>	NO

the application as per Councils DA Guide.		
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Engineering

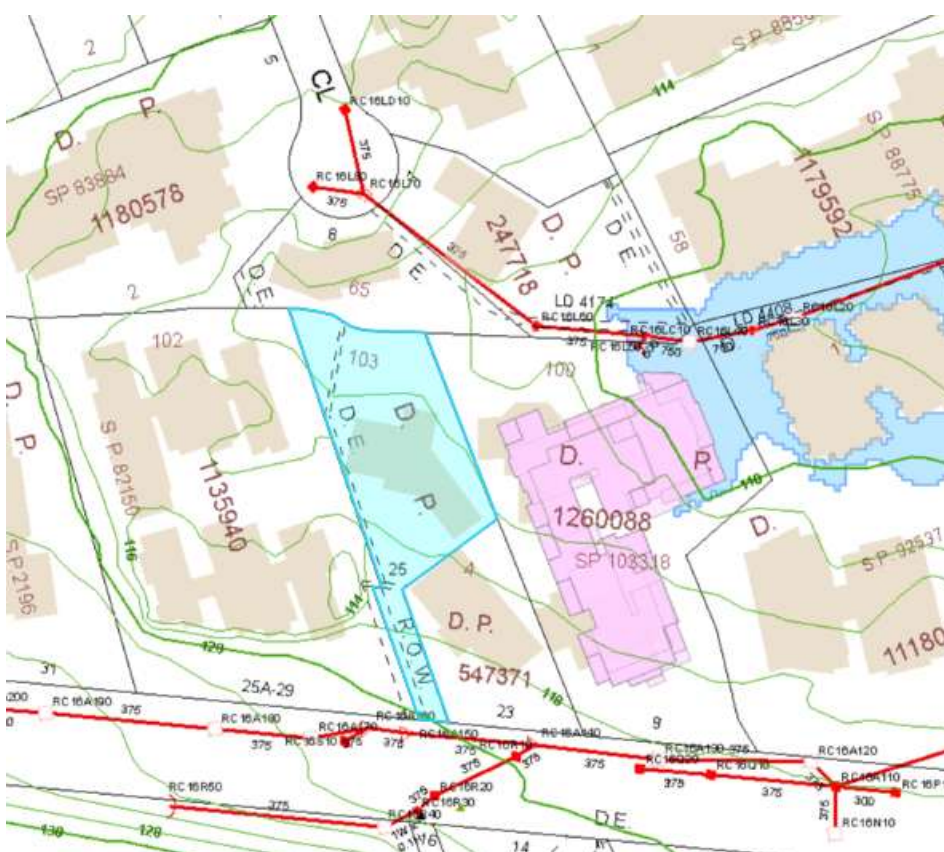
Council's Development Engineer commented on the proposal as follows:

Water management

The subject site is on a considerably steep topography from the south entrance (Lorne Avenue)] to the northern part (site boundary) with a cross fall across the site of approximately 6 metres.

The survey plan shows that the site is burdened by right of carriage ways, easement to drain water and restriction on the use of land. According to the legal documents the easement to drain water and right of ways benefits Lots 1, 2 and 4 in DP547371. No documentation has been submitted to confirm whether the easements and restrictions have been extinguished.

According to the survey plan, the adjoining site at 9 Lorne Avenue has a rock wall channel towards the rear of the site which drains into an open headwall to Council's trunk drainage system.



The stormwater plans show all roof areas to be collected and conveyed to a combined detention and retention tank of 48m³ and 27,500L respectively located within the lower ground floor area. The overflow from the detention system is directed to a new headwall with rip-rap structure to avoid erosion and slow down outflows within the subject site that then discharges through to an existing open channel that traverses the

The pollutant load standards set out in Part 24C.6 of the Ku-ring-gai DCP have been satisfied. A proprietary pollution device comprising StormFilters within the OSD tank and 4 x OceanGuard inserts within the stormwater pits as a stormwater quality measure to improve stormwater runoff quality from the subject site.

The proposal also seeks to provide a permeable area of 74.7m² which is presumably going into rainscaping. In addition, 252.9m² of landscaped area is directly draining towards the existing channel, which would be uncontrolled.

Car parking and vehicular access

Car parking requirements

The site is zoned 'R4' under the KLEP 2015. The site is within 300m from Killara Railway Station. Therefore, the parking rates are as per the Ku-ring-gai DCP Volume A Part 7B.2.

The 55 apartments in the following composition:

- 3 x one-bedroom apartments (2 Market units, 1 Affordable Units)
- 11 x two-bedroom apartments (7 Market units, 4 Affordable Units)
- 35 x three-bedroom apartments (30 Market units, 5 Affordable Units)
- 6 x four-bedroom apartments (6 Market units)

Ku- ring-gai Local Centres DCP Part 7B.2

3 x 1 bedroom units @ min 0.6 and max 1.0 spaces per unit = min. 2 spaces to max. 3 spaces.

11 x 2 bedroom units @ min 1.0 and max 1.25 spaces per unit = min. 11 spaces to max. 14 spaces.

41 x 3-4 bedroom units @ min 1.4 and max 2 spaces per unit = min. 58 spaces to max. 82 spaces.

Total resident parking = min. 71 spaces and max. 99 spaces

55 units @ 1 visitor space per 6 units = 9.16 visitor spaces say 10 spaces (rounded up)

The car parking requirement for residents falls between 71 and 99 spaces, and the minimum car parking for visitors is ten spaces.

Reference is also made to the non-discretionary development standards in Chapter 2, Part 2 (In-fill Affordable Housing) of SEPP 2021, specifically section 19.

The development provides both affordable and non-affordable dwellings under chapters 2 and 5 of SEPP Housing.

If the applicant is providing the **affordable housing dwellings** under chapters 2 or 5 of SEPP Housing – minimum parking rates are as follows:

- (a) for each dwelling containing 1 bedroom—0.4 parking space,
- (b) for each dwelling containing 2 bedrooms—0.5 parking space,

(c) for each dwelling containing 3 or more bedrooms—1 parking space.

Thus: Affordable (10) –

1 bedroom = $0.4 \times 1 = 0.4$

2 bedroom = $0.5 \times 4 = 2$

3 bedroom = $1.0 \times 5 = 5$

Total = 7.4 (8) spaces

If the applicant is providing **non-affordable housing dwellings** under chapters 2 or 5 of SEPP Housing – minimum parking rates are as follows:

(f) the following number of parking spaces for dwellings not used for affordable housing—

(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,

(ii) for each dwelling containing 2 bedrooms—at least 1 parking space,

(iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces.

Thus: Non-affordable (45) –

1 bedroom = $0.5 \times 2 = 1$

2 bedroom = $1.0 \times 7 = 7$

3-4 bedroom = $1.5 \times 36 = 54$

Total = 62 spaces

If you comply with (f) in respect of parking spaces for non-affordable housing, the application cannot be refused on this ground – non discretionary standard.

It is proposed to provide 94 parking spaces in the basement to comply with the DCP requirement. These spaces will include the following:

- 83 x Residents (includes 8 accessible + 1 service bay)
- 11 x Visitors (includes 1 accessible + 1 shared with car wash)

The carparking spaces showing all residential and visitor spaces have been met. The proposal complies with both the DCP and SEPP requirements.

It has been demonstrated that the accessible spaces for both the residential and visitor spaces comply with the dimensions of AS2890.6 (2009).

Furthermore, one of the visitor parking spaces is shared with the carwash bay, which is acceptable. This service / carwash bay. The requirements of Part 7B.1(14) of the Ku-ring-gai DCP have been met.

Access and circulation design

A new vehicle access would be provided at Lorne Avenue for a width of 6.6 metres to allow two-way traffic flows. The driveway width complies with the requirements of Part 22.2 of the DCP.

A driveway longitudinal section shown on the architectural plans (DA 301) has been submitted starting from the centreline of the public road to the carpark entry has been submitted. The driveway gradient of 5% for the first 6m as per AS2890.1:2004 as well

as providing a maximum 20% grade required for Council's waste collection vehicle has been demonstrated.

The minimum sight lines for pedestrian safety as per Figure 3.3 of AS2890.1:2004 has been demonstrated on the exit approach, which is acceptable.

A swept path analysis using AS2890.1:2004 B85 and B99 design vehicle has been submitted within the Appendix of the Traffic Report which demonstrates vehicles can safely enter and exit the carpark as well as the critical spaces in a forward direction.

The internal driveway gradients, aisle widths and car space dimensions are compliant with Australian Standard 2890.1 (2004) "Off-Street car parking".

Traffic generation

The updated Technical Direction TDT 2013/04a provides revised trip generation rates for medium-density residential apartment blocks. The relevant trip rates are as follows:

- *0.39 vehicle trips per hour (vtp) per unit during the AM peak hour*
- *0.37 vehicle trips per hour (vtp) per unit during the PM peak hour*

Having regard to the above, the net traffic generation will likely result in the addition of 20 vehicle movements per hour during the peak periods which equates to an average traffic load of 1 movement every 3 minutes. According to the above guidelines, the vehicle trips is considered minimal and would not be expected to generate any noticeable impacts of the existing local road network.

Construction management

No indicative construction traffic management plan (CTMP) has been submitted with this application. The plan is to show construction vehicles entering and exiting the site in a forward direction. Swept Path analysis is to be submitted showing access and egress for a 12.5m Long Heavy Rigid Vehicle and 19.0m Truck and dog.

If the application was recommended for approval a detailed CTMP will need to be submitted prior to the issue of any Construction Certificate, showing the construction vehicle routes for the southbound and northbound directions, largest vehicle to be used entering and exiting the site for the demolition, excavation and construction stages, stockpiles and all necessary tree protection fencing.

A Works Zone may be required along the site frontage and a condition would be recommended if the application was recommended for approval, including the need for approval by Council's Traffic Committee and the payment of the necessary fees.

Waste management

The development does provide provision to allow a garbage truck to enter and depart the garbage/room recycle storage area in a forward direction. The swept path should include Council's current refuse truck of 6.7 metres rather than the 6 metres as proposed.

According to the Waste Management Report, based on the estimated waste generated by the residential component of this development, the recommended bin quantities are as follows:

- General Waste: 11 x 660L bins
- Cardboard/Paper Recyclables: 6 x 660L bins
- Commingled Recyclables: 6 x 240L bins
- FOGO Waste: 2 x 240L bins
- Service Bins – 2 x 660L bins

The waste garbage and bulk waste room can provide the required number of bins for waste, paper and recycling.

The Driveway Section Plan shown on the architectural plans (DA 301) depicts the height clearance to the basement of 2.6 metres headroom clearance as required by Part 25(18) of the Ku-ring-gai DCP.

Impacts on council infrastructure

An existing footpath along the site's frontage will be retained. If the application were to be approved for the Council trunk drainage system upgrades (connection from interallotment drainage system into Council's drainage system), detailed design drawings for these works will be assessed by Council's Operations Department for approval under the Roads Act. No final certificate would be issued until the works are completed to the satisfaction of Council.

Geotechnical investigation

The geotechnical report has been submitted to assess the subsurface conditions and provide preliminary recommendations for the excavation of the basement.

The fieldwork comprised the drilling of two (2) cored boreholes to depths of 5.0 metres to 12.2 metres below existing ground surface levels respectively. Soil strengths were assessed by undertaking Dynamic Cone Penetrometer (DCP) tests adjacent to each borehole.

Based on the subsurface conditions observed in the boreholes, the proposed basement excavation is expected to encounter fill, residual soils and shale of highly to moderate weathered.

The report states that no groundwater seepage was observed during the drilling of the boreholes BH1 and BH2 in clay or rock profile prior to coring of rock. Some groundwater seepage may be expected following rainfall within defects of the shale bedrock and along the soil/rock interface. The engineer recommends that any seepage that does occur will be able to be controlled by a conventional sump and pump system be used both during construction and for permanent groundwater control below the basement floor slab.

In the event that groundwater will be encountered, it will be conditioned that the basement excavations are to be fully tanked unless it can be demonstrated to the discretion of the certifier that ongoing dewatering will be less than 3ML/year AND the proposal is approved by NSW DPI Office of Water.

The geotechnical engineer also recommends that before commencing excavation to undertake a dilapidation survey of any adjacent structures and road carriageways located within the zone of influence that may potentially be damaged be carried out by a qualified structural engineer prior to commencement of construction. This will provide a reasonable basis for assessing any future claims of damage and can be conditioned.

The geotechnical recommendations regarding excavation support, vibration monitoring, dilapidation reporting of adjoining buildings and foundation design would be carried out during construction as specified within the report if the application was recommended for approval.

Building

Council's Building Surveyor commented on the proposal as follows:

An access report and BCA report were submitted.

The proposal in general would be able to achieve compliance with the BCA requirements.

Detailed BCA assessment will be undertaken by the Certifier at the CC stage.

Environmental health

Council's Environmental Health Officer advised that the air conditioning condensers are located in a plant room on the lower ground floor and on the roof. Conditions of consent could be recommended if the application was recommended for approval.

Strategic traffic engineer

Council's Strategic Traffic Engineer commented on the proposal as follows:

Traffic generation and associated impacts

The Traffic Impact Assessment (TIA) has calculated the traffic generation of the site using the industry accepted traffic generation rate for medium density residential developments (0.39 vehicle trips in AM peak hour and 0.37 vehicle trips in PM peak hour) set out by Transport for NSW in the Guide to Transport Impact Assessments. Removing the existing peak hour trips from the site would result in the following additional peak hour vehicle movements from the site:

- *AM peak hour: 20 vehicle trips (2-way) per hour.*
- *PM peak hour: 16 vehicle trips (2-way) per hour.*

No operational assessment of nearby intersections was carried out in the TIA, because it considered that additional vehicle movements of this magnitude (an average of 1 additional vehicle trip every 3 minutes in the AM peak and an additional vehicle trip every 4 minutes in the PM peak) would have not significant effect on the road network serving the site in terms of road network capacity or traffic-related environmental effect. In addition, assessing the traffic generation as a medium density development is considered to be overestimating the traffic generation, as the proposal is consistent with the definition of a high-density residential development in accordance with Transport for NSW's Guide to Transport Impact Assessment (2024). Applying the traffic generation rate for high density residential developments (0.19 vehicle trips in AM peak hour and 0.15 vehicle trips in PM peak hour) would result in the following additional peak hour vehicle movements from the site:

- *AM peak hour: 9 vehicle trips (2-way) per hour.*
- *PM peak hour: 7 vehicle trips (2-way) per hour.*

Additional vehicle movements of this magnitude (an average of 1 additional vehicle trip every 7 minutes in the AM peak and an additional vehicle trip every 8 minutes in the PM peak) would have even less effect on the road network.

In terms of the wider transport context, Strategic Planning has commissioned transport consultants to assess the cumulative impacts in Killara of the NSW Government's TOD and Council's alternative scenario. The study is still in progress, so no meaningful results can be provided at this stage, but it is unlikely that changes would be required to the intersection of Pacific Highway and Lorne Avenue. While improvements to key intersections in Killara are possible and are being considered as part of Council's assessment of the NSW Government's TOD and Council's alternative scenario, these can be costly and have not been considered or approved by Transport for NSW or Council.

Parking provision and design

Car parking

The following apartment breakdown was provided as part of the TIA:

Use	Market Housing	Affordable Housing
<i>Studio</i>	-	-
<i>1 bedroom</i>	2	1
<i>2 bedroom</i>	7	4
<i>3+ bedroom</i>	36	5
Total	45	10

Car parking provision has been assessed against the requirements of the TOD SEPP and the Ku-ring-gai DCP:

Parking type	TOD SEPP requirement	Ku-ring-gai DCP requirement	Proposed
<i>Residential - Market</i>	62	71-99	83 (breakdown not provided)
<i>Residential - Affordable</i>	7	-	
<i>Visitor</i>	-	9	11
<i>Car Share bay</i>	-	-	-
<i>Car Wash bay</i>	-	1 (shared with visitor parking bay)	shared with visitor parking bay
Total	69	80-108	94

The proposed residential parking provision meets the requirements of the TOD SEPP and the requirements of the Ku-ring-gai DCP.

Car share spaces

The Ku-ring-gai DCP requires car share spaces for residential developments of more than 90 dwellings. Based on this control, there would be no requirement for on-site car share car parking spaces. However, updated guidance from one car share provider suggests the following car share provision:

- *Provide 1 on-site car share vehicle for every 10-15 units without parking.*
- *Provide 3 on-site car share vehicles for every 100 2-bed+ units with one parking space.*

Based on the notional allocation of resident car parking spaces and the number of units with 0 or 1 car parking space, there could be justification for the provision of 1 car share space on-site. This could be provided by way of re-allocation of 1 of the excess visitor car parking spaces.

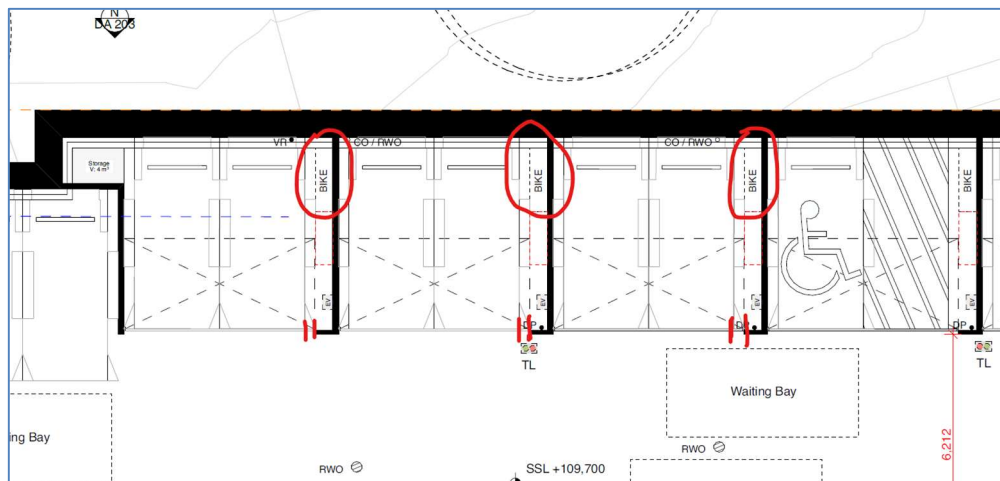
Adequate provision of on-site car share vehicles encourages residents not to purchase a vehicle/s (in the case of an apartment without parking), or to defer the purchase of a 2nd vehicle (in the case of 2 or 3+ bedroom apartments with only one parking space).

If resident car parking was reduced and provided towards the lower end of the Ku-ring-gai DCP requirements, the combination of units without parking and 2+ bedroom units with only 1 car parking space would further justify the provision of 1 car share parking space on-site.

Bicycle parking

The number of bicycle parking facilities for residents and visitors is provided in accordance with the Ku-ring-gai DCP.

Resident bicycle parking is proposed to be located in each dwelling's storage area within the basement car park. The bicycle storage areas within enclosed garages present accessibility issues and are not supported. In these instances, parked vehicles would need to be moved to comfortably access the bicycle parking space as the gap between a parked car and the garage opening would be quite narrow:

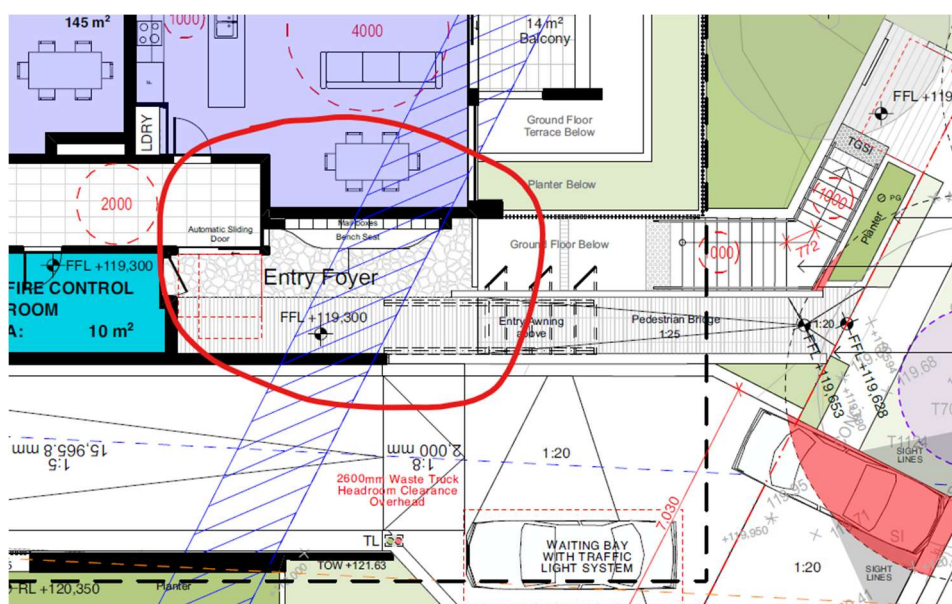


Having to move parked vehicles to access the bicycle parking spaces is not considered practical or convenient and may discourage residents from taking up cycling for travel.

It is also unclear whether there is physically enough space to store a bicycle in those locations, given the bicycle envelope is up to 0.75m wide. This needs to be clarified

Also, the entry ramp and the ramps connecting the basement levels have gradients of up to 1:4 (20%), which generally will exceed the capability of many bicycle users to remain mounted with stability (1:12, or 8% is practical). Bicycles are also unlikely to trigger the proposed traffic signal control system managing the ramp access. Therefore, the lifts and lobbies should be of a suitable size such that residents can transport their bicycles between their storage area and ground/street level without using the internal car park ramps.

Visitor bicycle parking appears to be located on the Lower Ground floor, next to the AC Units room. Similar ramp gradient accessibility issue to residents arise (as noted above), and given the additional practicality of visitors entering the secure parking area to access the bicycle parking from the main entry ramp, it is recommended that the visitor bicycle parking be relocated to somewhere near the Entry Foyer, in accordance with AS2890.3 (circled in red):



Electric vehicles

The Statement of Environmental Effects notes that electric vehicle charging stations will be provided in each basement level. The architectural plans show a symbol denoting EV charging facilities in most but not at all of the basement car parking spaces. In accordance with the Ku-ring-gai DCP, EV readiness is to be provided for all car parking spaces within the development, with design and construction (provision for conduits, switchboards, electrical capacity etc) to enable installation of electric vehicle charging points that are linked to each individual dwelling electricity meter. This could be included as a condition of consent if the application was recommended for approval.

Access point

A 7 metres wide access point at the property boundary is proposed (which is acceptable), reducing to a 3.4 metres wide single lane ramp entry into the lower ground floor level. A waiting bay is provided just behind the property boundary as part of the 6 metres / 1:20 section of roadway. Ramps to the lower levels are also 3.4 metres wide single lane ramps.

The architectural plans propose traffic signal operation to manage access at the access point/street level and between all the internal ramps via the single lane ramps provided to each level.

The location of traffic signal display at the access point for the entry movement indicates that the display could be visible from the street. Traffic signal controls visible from the street detract from high quality outcomes and should be avoided. Alternatives exist such as:

- *amend the access ramp layout*
- *provide a passing bay*
- *consider using on-site convex mirrors to overcome visibility issues.*

To facilitate home deliveries (e.g. groceries, parcels etc), bulky goods waste collection and other service vehicles that cannot access the basement due to the 2.6 metres height clearance, the development should also provide an on-site loading area (a separate hardstand area is not permitted). The position of the loading area must not prevent access to and from the basement level car park, with at least one travel lane to be maintained at all times while loading/unloading takes place on the driveway. At least one on-site loading space which is at least 3.5 metres wide is to be provided to cater for a minimum 6.7 metres long service vehicle. This would require the width of the driveway next to the median to be modified. The loading space/s should be line marked and/or signposted as a designated loading area. The Lorne Avenue frontage of the site is currently signposted with weekday and Saturday 2P restrictions, and requests for an on-street Loading Zone in Lorne Avenue will not be considered.

In accordance with section P of Council's Traffic and Transport Policy, 'No Parking' restrictions for 6 metres on either side of the driveway are to be implemented prior to occupation. The existing 2P parking restrictions are to be adjusted to suit the new No Parking restrictions. Council's fees and charges for referral to the Ku-ring-gai Traffic Committee and installation of signs apply.

External Referrals

External referrals were not required.

STATUTORY PROVISIONS

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of land

The provisions of Chapter 4 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use. A stage 1 preliminary site investigation was submitted with the application. The report concludes that there is a potential for the site to be contaminated and that remediation may be required. The report requires a further assessment including the preparation of a detailed site investigation to be undertaken to determine if the site is suitable for the proposed development.

A Stage 2 Detailed Site Investigation (DSI) has not been provided. The consent authority cannot adequately determine the suitability of the proposed development and any required remediation. The proposal does not adequately demonstrate that the land is suitable for the proposed development, which is contrary to Clause 4.6 of the SEPP (see Reason for Refusal 24).

Draft State Environmental Planning Policy (Remediation of Land)

The draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. New provisions will be added in the SEPP to:

- *require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant*
- *categorise remediation work based on the scale, risk and complexity of the work*
- *require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council*

The site may contain contamination and further investigation is required as detailed above in the comment in relation to SEPP Resilience and Hazards.

State Environmental Planning Policy (Sustainable Buildings) 2022 – Chapter 2 Standards for residential development – BASIX

A valid BASIX certificate has been submitted and the proposal is consistent with commitments identified in the certificate. As per the requirements of Clause 2.1(5) the consent authority is satisfied that the application includes information in which the embodied emissions attributable to the development have been quantified.

State Environmental Planning Policy (Housing) 2021 (SEPP Housing)

SEPP Housing contains a number of principles including the promotion of the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services.

The application seeks development consent for a residential building on land that is zoned R4 High Density Residential (relevant residential zone). The site is located within the Transport Orientated Development Area of Ku-ring-gai. The subject application also seeks to provide in-fill affordable housing in excess of the minimum affordable housing requirements under Chapter 5 of SEPP Housing.

The site is nominated as Transport Orientated Development (TOD) as detailed in Figure 4 below.

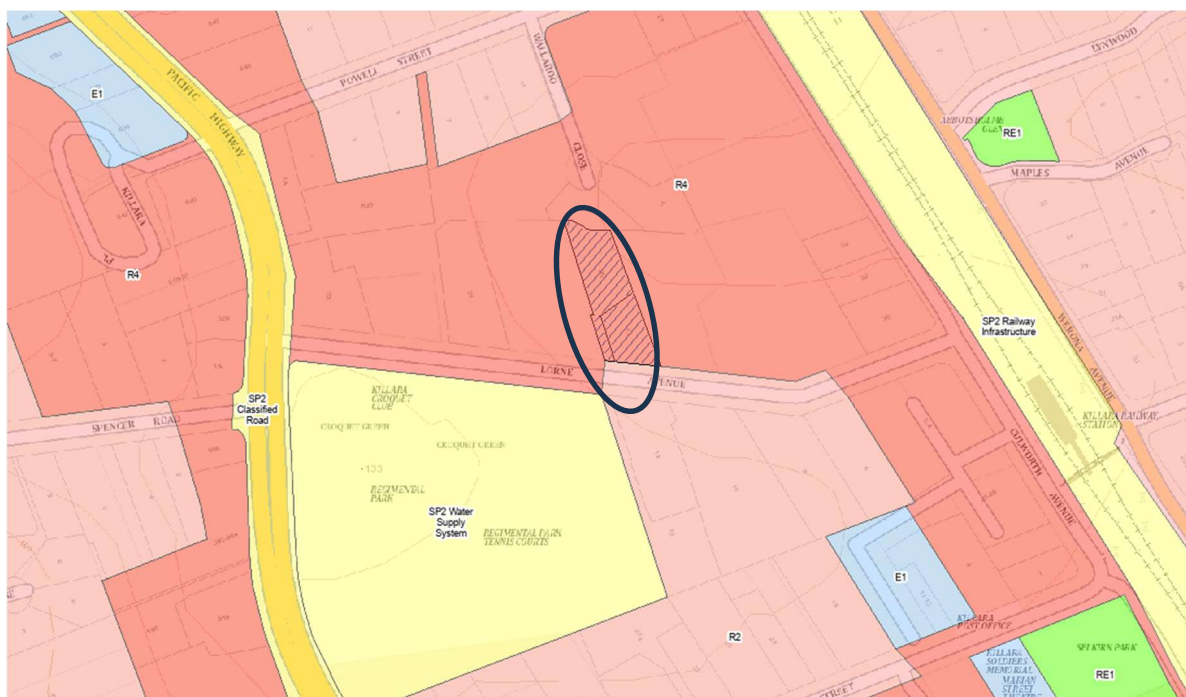


Figure 4: Extract of Transport Oriented Development Sites Map as referenced in Chapter 5 of the SEPP (Housing) 2021. Blue hatching representative of the TOD Area. The Site is the only TOD site in the immediate locality

On 13 June 2025 Department of Planning, Housing and Infrastructure (DPHI) turned off the TOD for new development applications.

On 19 June, DPHI published updated maps under the [Ku-ring-gai Local Environmental Plan \(Housing\) \(Map Amendment No 1\)](#).(PDF, 704KB). These maps identify the locations where local development applications and state significant development applications have been 'saved' and the TOD controls still apply, see Figure 4 above.

The adopted TOD alternative planning controls would affect the site and surrounding sites as follows:

Building height: 18.5 metres
 Floor Space Ratio (FSR): 1.3:1
 Zoning: No change

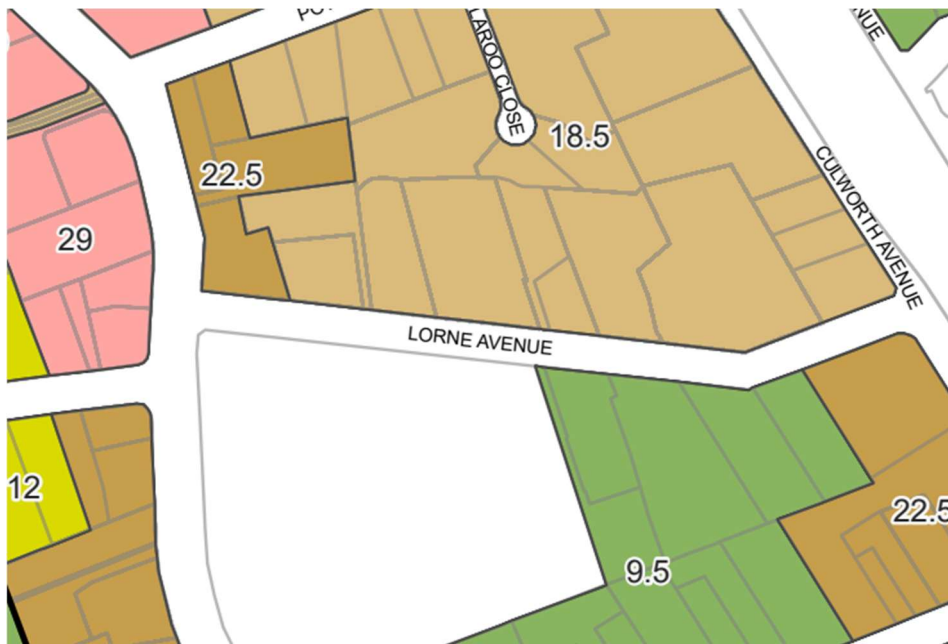


Figure 5: Extract of adopted TOD alternative building height map

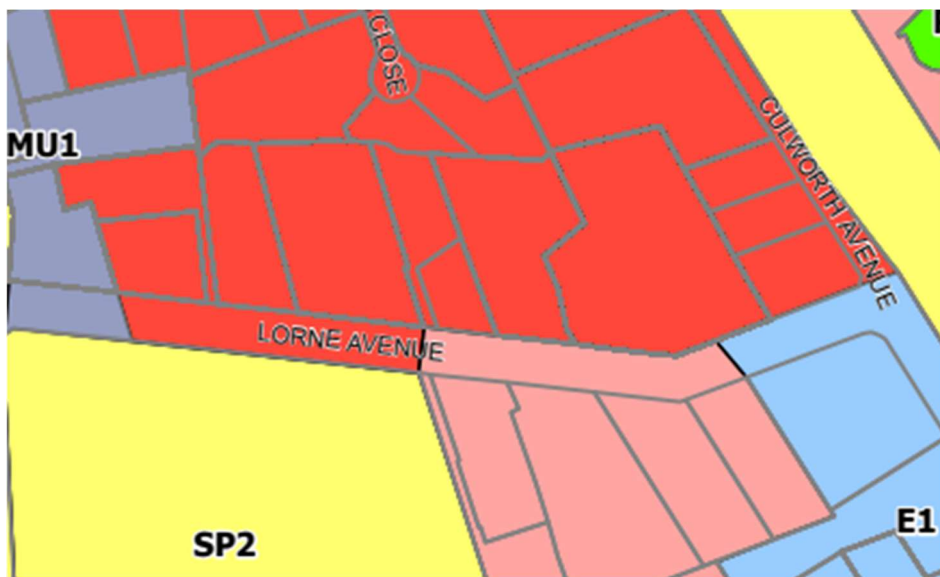


Figure 6: Extract of adopted TOD alternative zoning map

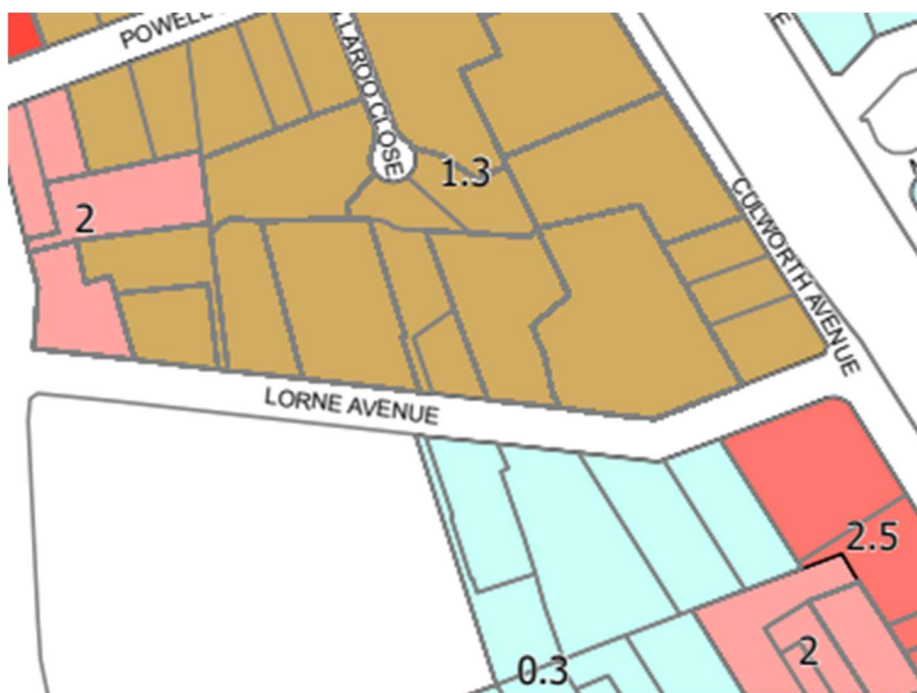


Figure 7: Extract of adopted TOD alternative FSR map

The relevant sections of Chapters 2, 4 and 5 of SEPP Housing are considered below:

Chapter 2 – Affordable housing

The proposal involves residential development in the form of a residential flat building. A residential flat building is permitted on this site under Chapter 5 of SEPP Housing. The affordable housing component of the development is 15%. This affordable housing component that is sought to be provided under Chapter 2 of SEPP Housing is not counted towards the mandatory 2% required under Section 156 (2)(a) of Chapter 5 of SEPP housing. The proposal satisfies Section 15C of SEPP Housing.

The affordable housing requirements for additional floor space ratio and building height as well as the non-discretionary development standards are discussed in the table below:

Development standard	Proposed	Complies
S 16 (1) - Affordable housing requirements for additional floor space ratio Maximum permissible floor space - 2.5:1 plus additional 30% (based on minimum affordable housing component). Maximum GFA permitted:	As per the applicant's calculation: 6989sqm / 3.25:1 Need to clarify GFA –some internal walls are not included, need LGF overlay, and provide plans	Unclear

5376.5sqm (2.5:1) + 30% 30% = 2096.7sqm Maximum = 6989.45sqm (5376.5sqm + 1612.9sqm) or 3.25:1	showing affordable housing GFA.	
S 16 (2) – Minimum affordable housing component As the additional floor space ratio as a percentage is 30%, the minimum affordable housing component is 15%.	As per the applicant's calculation: 30% = 2096.7sqm (50% = 1048.35sqm affordable housing).	Unclear (As noted above, GFA is unclear and clarification is required)
S 16 (3) – Maximum permissible building height Maximum permissible building height is the same percentage as the additional floor space ratio permitted under 16(2). 22m plus 30% = 28.6m	Unclear	Unclear (an overlay of the roof plan and the survey has not been provided to confirm compliance)
S 19 - Non-discretionary development standards—the Act, s 4.15		
Site area – 450m²	2150.6 sqm.	YES
Minimum landscape area, the lesser of – (i) 35m ² per dwelling, (1925m ²) or (ii) 30% of the site area, (645.18m²)	Approximately 750m ² .	YES
Car parking		
Number of parking spaces for dwellings <u>used for affordable housing</u>— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,	Complies.	YES

7.4 (8) spaces		
Number of parking spaces for dwellings <u>not</u> used for affordable housing – (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces. 62 spaces	Complies.	YES
Minimum internal area – as per ADG	Satisfactory.	YES
S 20 – Design requirements The design of the residential development is compatible with – (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	Unsatisfactory.	NO
S 21 - Must be used for affordable housing for at least 15 years If providing affordable housing component under section 16, 17 or 18 and the affordable housing component will be managed by a registered community housing provider. Please note - Chapter 5 requires perpetuity, but that does not prevail. The mandatory 2% would need to be managed in perpetuity, where the additional affordable housing component under Chapter 2 only needs to be managed for a minimum of 15 years.	Applicant has advised: 1188.13sqm / 10 apartments (17% of GFA – units G.04, G.05, G.06, 1.01, 1.02, 1.03, 1.04, 1.05, 1.06 and 1.07) Of the 17% 2% 139.78m² would need to be managed in perpetuity. Plans have not been provided to show affordable housing GFA. Refer to	Unclear

	Reason for Refusal 3.	
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Chapter 4 – Design of residential apartment development

Consideration was given to the design principles set out in Schedule 9 of SEPP Housing in the urban design referral comments earlier within this report. The proposed development is inconsistent with all nine of the design quality principles which are reflected in recommended Reasons for Refusal Nos 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 25, 29, 30 and 35.

Consideration is also given in the table below to the Apartment Design Guide:

ADG COMPLIANCE TABLE	
Guideline	Compliance
<i>Objective 3A-1</i> Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	NO
<i>Objective 3B-1</i> Building types and layouts respond to the streetscape and site while optimising solar access within the development	NO
<i>Objective 3B-2</i> Overshadowing of neighbouring properties is minimised during mid-winter	NO
<i>Objective 3C-1</i> Transition between private and public domain is achieved without compromising safety and security	NO
<i>Objective 3C-2</i> Amenity of the public domain is retained and enhanced	NO
<i>Objective 3D-1</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	NO
Design criteria	
1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) (537.65m²)	NO
2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a	NO

minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)									
Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	NO								
Objective 3D-3 Communal open space is designed to maximise safety	YES								
Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	NO								
Design criteria									
Deep soil zones are to meet the following minimum requirements: <table><tr><td>Site area</td><td>Minimum dimensions</td><td>Deep soil zone (% of site area)</td></tr><tr><td>greater than 1,500m² with significant existing tree cover</td><td>6m</td><td>7%</td></tr></table> On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: • 15% of the site as deep soil on sites greater than 1,500m² Proposed: 116m ² with a minimum dimension of 6m = 5%.	Site area	Minimum dimensions	Deep soil zone (% of site area)	greater than 1,500m ² with significant existing tree cover	6m	7%	NO		
Site area	Minimum dimensions	Deep soil zone (% of site area)							
greater than 1,500m ² with significant existing tree cover	6m	7%							
Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy	NO								
Design criteria									
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><td>Building height</td><td>Habitable rooms and balconies</td><td>Non-habitable rooms</td><td>Proposal</td></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td><td>Eastern: GF – level 3: 3m (min) Western (side): -LGF-GF: 2.279m (min)</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	Proposal	up to 12m (4 storeys)	6m	3m	Eastern: GF – level 3: 3m (min) Western (side): -LGF-GF: 2.279m (min)	NO
Building height	Habitable rooms and balconies	Non-habitable rooms	Proposal						
up to 12m (4 storeys)	6m	3m	Eastern: GF – level 3: 3m (min) Western (side): -LGF-GF: 2.279m (min)						

up to 25m (5-8 storeys)	9m	4.5m	-level 1: 1m (min) -Level 2-2.279m (min) -Level 3: 2.315m (min) Northern (rear) LGF – level 2: 4.7m (min) Eastern (Side): Levels 4-7: 3m (min) Western (side): Levels 4-7: 2.315m (min) Northern (rear): Levels 3 – 6: 8.5m (min) Eastern: Level 8:6m (minimum) Western (side): Level 8: 3.665m Northern (rear): Level 7 – 8: 11.3m (min)	
over 25m (9+ storeys)	12m	6m		
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties				
Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space				NO
Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain				NO
Objective 3G-2 Access, entries and pathways are accessible and easy to identify				NO
Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes				YES
Design guidance				
Car park access should be integrated with the building's overall facade. Design solutions may include:				YES

- the materials and colour palette to minimise visibility from the street - security doors or gates at entries that minimise voids in the facade - where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed	
Objective 3J-1 1. Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	YES
Design criteria	
1. For development on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	YES
Objective 3J-2 Parking and facilities are provided for other modes of transport	YES
Objective 3J-3 Car park design and access is safe and secure	YES
Objective 3J-4 Visual and environmental impacts of underground car parking are minimised	NO
Objective 4A-1 Optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	NO
Design criteria	
1 Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	YES
2 In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter	YES

3	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	NO
<i>Objective 4A-2</i> Daylight access is maximised where sunlight is limited		NO
<i>Objective 4A-3</i> Design incorporates shading and glare control, particularly for warmer months		NO
<i>Objective 4B-1</i> All habitable rooms are naturally ventilated		YES
<i>Objective 4B-2</i> The layout and design of single aspect apartments maximises natural ventilation		NO
<i>Objective 4B-3</i> The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents		NO
Design criteria		
1	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	YES
2	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	YES
<i>Objective 4C-1</i> Ceiling height achieves sufficient natural ventilation and daylight access		NO
Design criteria		
Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Minimum ceiling height for apartment and mixed use buildings Habitable rooms 2.7m Non-habitable 2.4m		YES
<i>Objective 4C-2</i>		YES

Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms											
Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building	NO										
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	NO										
Design criteria											
Apartments are required to have the following minimum internal areas: <table> <tr> <th>Apartment type</th><th>Minimum internal area</th></tr> <tr> <td>Studio</td><td>35m²</td></tr> <tr> <td>1 bedroom</td><td>50m²</td></tr> <tr> <td>2 bedroom</td><td>70m²</td></tr> <tr> <td>3 bedroom</td><td>90m²</td></tr> </table> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	YES
Apartment type	Minimum internal area										
Studio	35m ²										
1 bedroom	50m ²										
2 bedroom	70m ²										
3 bedroom	90m ²										
Objective 4D-2 Environmental performance of the apartment is maximised	NO										
Design criteria											
1 Habitable room depths are limited to a maximum of 2.5 x the ceiling height	NO										
2 In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	NO										
Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs	YES										

Design criteria		
1	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	YES
2	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	YES
3	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	YES
4	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	YES
Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity		YES
Design criteria		
All apartments are required to have primary balconies as follows:		YES
Dwelling type	Minimum area	Minimum depth
Studio apartments	4m ²	-
1 bedroom apartments	8m ²	2m
2 bedroom apartments	10m ²	2m
3+ bedroom apartments	12m ²	2.4m
The minimum balcony depth to be counted as contributing to the balcony area is 1m		Balconies width 2m
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m		
Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents		YES
Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building		NO
Objective 4E-4 Private open space and balcony design maximises safety		YES
Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments		YES
Design criteria		

1. The maximum number of apartments off a circulation core on a single level is eight	YES
<i>Objective 4F-2</i> Common circulation spaces promote safety and provide for social interaction between residents	YES
<i>Objective 4G-1</i> Adequate, well designed storage is provided in each apartment	YES
Design criteria	
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Dwelling type Storage size volume Studio apartments 4m ³ 1 bedroom apartments 6m ³ 2 bedroom apartments 8m ³ 3+ bedroom apartments 10m ³ At least 50% of the required storage is to be located within the apartment	YES
<i>Objective 4G-2</i> Additional storage is conveniently located, accessible and nominated for individual apartments	YES
<i>Objective 4H-1</i> Noise transfer is minimised through the siting of buildings and building layout	NO
<i>Objective 4H-2</i> Noise impacts are mitigated within apartments through layout and acoustic treatments	NO
<i>Objective 4J-1</i> In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings	YES
<i>Objective 4J-2</i> Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission	NO
<i>Objective 4K-1</i> A range of apartment types and sizes is provided to cater for different household types now and into the future	YES
<i>Objective 4K-2</i> The apartment mix is distributed to suitable locations within the building	NO
<i>Objective 4L-1</i>	YES

Street frontage activity is maximised where ground floor apartments are located	
<i>Objective 4L-2</i> Design of ground floor apartments delivers amenity and safety for residents	NO
<i>Objective 4M-1</i> Building facades provide visual interest along the street while respecting the character of the local area	NO
<i>Objective 4M-2</i> Building functions are expressed by the façade	YES
<i>Objective 4N-1</i> Roof treatments are integrated into the building design and positively respond to the street	YES
<i>Objective 4N-2</i> Opportunities to use roof space for residential accommodation and open space are maximised	NO
<i>Objective 4N-3</i> Roof design incorporates sustainability features	NO
<i>Objective 4O-1</i> Landscape design is viable and sustainable	NO
<i>Objective 4O-2</i> Landscape design contributes to the streetscape and amenity	NO
<i>Objective 4P-1</i> Appropriate soil profiles are provided	YES
<i>Objective 4P-2</i> Plant growth is optimised with appropriate selection and maintenance	NO
<i>Objective 4P-3</i> Planting on structures contributes to the quality and amenity of communal and public open spaces	NO
<i>Objective 4Q-1</i> Universal design features are included in apartment design to promote flexible housing for all community members	YES
<i>Objective 4Q-2</i> A variety of apartments with adaptable designs are provided	NO

<i>Objective 4Q-3</i> Apartment layouts are flexible and accommodate a range of lifestyle needs	YES
<i>Objective 4U-3</i> Development incorporates passive environmental design	NO
<i>Objective 4U-2</i> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer Adequate natural ventilation minimises the need for mechanical ventilation	NO
<i>Objective 4V-1</i> Potable water use is minimised	YES
<i>Objective 4V-2</i> Urban stormwater is treated on site before being discharged to receiving waters	YES
<i>Objective 4W-1</i> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	YES
<i>Objective 4W-2</i> Domestic waste is minimised by providing safe and convenient source separation and recycling	YES
<i>Objective 4X-1</i> Building design detail provides protection from weathering	YES
<i>Objective 4X-2</i> Systems and access enable ease of maintenance	YES
<i>Objective 4X-3</i> Material selection reduces ongoing maintenance costs	NO

Chapter 5 – Transport orientated development

The application was lodged under the provisions of Chapter 5 of SEPP Housing – Transport orientated development. The aims of this chapter are to increase housing within 400m of existing and planned public transport, deliver mid-rise residential flat buildings and shop top housing around rail and metro stations that are well designed, appropriate bulk and scale, provide amenity and liveability while also encouraging affordable housing.

The proposal is permitted with development consent pursuant to s 154 of SEPP Housing as the land is located on land zoned R4 High Density Residential which is a relevant residential zone.

The following table considers the proposal having regard to the development standards referred to in Sections 155, 156, 157, 158, 159 and 160 of SEPP Housing:

Development standard	Proposed	Complies
S 155 - Maximum building height Residential flat building – 22m	Chapter 2 provides greater BH	N/A
S 155 - Maximum floor space ratio – 2.5:1	Chapter 2 provides greater FSR	N/A
Does this or another EPI permit a greater building height or floor space ratio?	Chapter 2 of SEPP Housing	YES
S 156 – Affordable housing GFA - >2000 sqm 2% of GFA to be used for affordable housing Affordable housing under another Chapter or EPI	Statement of environmental effects: 2% / 139.78sqm	Unclear , specific units to meet the 2% have not been nominated.
S 157 – Affordable housing parking spaces (min) (only required if s 156 applies) 1 bedroom – 0.4 parking space 2 bedroom – 0.5 parking space 3 or more bedrooms – 1 parking space	Complies.	YES
S 158 – Exception to minimum lot size No minimum lot size restriction		YES
S 159 – Minimum lot width 21m wide at the front building line	32.3m	YES
S 161 - Consideration of Apartment Design Guide	Not consistent with the Apartment Design Guide (see earlier comments)	NO

Any inconsistencies with other environmental planning instruments

The development standards referred to in the above table prevail to the extent of any inconsistency with another Environmental Planning Instrument including KLEP 2015.

The following development standards under KLEP 2015 are not inconsistent with the above-mentioned SEPP Housing development standards and as such they continue to apply to the assessment of the subject application –

Development standard	Proposed	Complies
CI 6.6 – Requirements for multi dwelling housing and residential flat buildings:	2150.6sqm	YES
	Width <30m	NO

Lot width and depth – 30m (if site area is greater than 1800sqm)	Length: 83.57m (min)	YES
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Clause 6.6 Requirements for multi dwelling housing and residential flat buildings:

Clause 6.6 requires:

(2) Despite any other provision of this Plan, development consent must not be granted for the erection of multi dwelling housing or a residential flat building on a lot in a residential zone unless the lot has an area of at least 1,200 square metres and minimum dimensions (width and depth) of at least—

- (a) if the area of the land is less than 1,800 square metres—24 metres, or*
- (b) if the area of the land is 1,800 square metres or more—30 metres.*

The site does not comply with the development standard because the site has a minimum width of 24.8m which does not comply with Subclause (2)(b) in clause 6.6 of KLEP 2015 which requires a minimum site width of 30m.

S159 of the SEPP ‘minimum allotment width’ states:

159 Development consent must not be granted to development for the purposes of residential flat buildings, independent living units or shop top housing on a lot in a Transport Oriented Development Area, unless the lot is at least 21m wide at the front building line.

S153 of the SEPP states:

153. If there is an inconsistency between this chapter and another provision of this or another environmental planning instrument, whether made before or after the commencement of this chapter, this chapter prevails to the extent of the inconsistency.

Clause 6.6 of KLEP, is a measurement taken across the whole site to ensure it is of adequate width and depth to accommodate the development. In this regard, the requirements of Clause 6.6 are not inconsistent with the requirements of S159 which requires a width of 21m at the front building line and Clause 6.6 of KLEP therefore must be considered. (see reason for refusal 1). It is noted that due to an oversight this reason for refusal was not included as a contention in the Filed Statement of Facts and Contentions.

A Clause 4.6 variation request has not been provided (see Reason for Refusal 1).

Ku-ring-gai Local Environmental Plan 2015

Clause 1.2 Aims of the Plan

The proposal has been assessed against the relevant aims of the plan. The proposal is inconsistent with the aims for the reasons given within the assessment report.

Zoning and permissibility

The site is zoned R4 High Density Residential. The proposed development is defined as a residential flat building and is permissible in the zone.

Zone objectives

The objectives of this zone are:

- ☐ *To provide for the housing needs of the community within a high density residential environment.*
- ☐ *To provide a variety of housing types within a high density residential environment.*
- ☐ *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- ☐ *To provide for high density residential housing close to public transport, services and employment opportunities.*

The proposed development is consistent with the objectives of the R4 High Density Residential zone for the following reasons:

- The proposed works are associated with a residential flat building which contributes to the housing needs of the community.
- The proposed residential flat building contains a variety of housing types.
- The site is located in proximity to Killara Train Station and services.

Development standards

Ku-ring-gai Local Environmental Plan 2015

Part 5 Miscellaneous provisions

Clause 5.10 – Heritage conservation

The site is not listed as a heritage item or within a heritage conservation area.

The site is within the immediate vicinity of the HCA– C25 and 5 heritage listed items at 20 Lorne Avenue, 14 Lorne Avenue, 10 Lorne Avenue, 8 Lorne Avenue and 6 Lorne Avenue.

The proposed large vertical areas of smooth pale render do not conserve the heritage significance of these nearby heritage items and HCA, this is reflected in Reason 9 of the recommended Reason for Refusal.

Part 6 Additional local provisions

Clause 6.1 – Acid sulphate soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The land is mapped as Class 5 Acid sulfate soils. Development consent is required for works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. The proposal is not subject to this clause as the works are more than 500m of adjacent Class 1, 2, 3 or 4 land.

Clause 6.2 - Earthworks

The proposal involves earthworks, including excavation to a depth of approximately 15 metres for the basement/building footprint. Level changes are also proposed around the perimeter of the site.

The proposed excavation facilitates the provision of the stormwater works, storage areas, basement, services, and parts of Units LG.01 and G.06.

Clause 6.2 requires the consent authority to consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposed development does not satisfy Clause 6.2 (d) as the proposed earthworks result in significant adverse impacts on neighbouring amenity due to tree impacts and insufficient planting within the perimeter of the site. The proposed retaining walls and earthworks adversely impact on Trees 27, 26, 39 and 35.

Clause 6.5- Stormwater and water sensitive urban design

This clause sets out matters that must be satisfied prior to the granting of consent:

(2) Before granting development consent to development on any land to which this Plan applies, the consent authority must be satisfied that—

- (a) water sensitive urban design principles are incorporated into the design of the development, and*
- (b) riparian, stormwater and flooding measures are integrated, and*
- (c) the stormwater management system includes all reasonable management actions to avoid any adverse impacts on the land to which the development is to be carried out, adjoining properties, native bushland, waterways and groundwater systems, and*
- (d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, native bushland, waterways and groundwater systems.*

The stormwater design fails to incorporate satisfactory water sensitive urban design principles as detailed in recommended Reason for Refusal 5, 6 and 29.

Ku-ring-gai Development Control Plan

Part 1A.5 General aims of the DCP

The proposed development has been assessed against the general aims of this DCP and is not found to be acceptable in all relevant respects for the reasons given throughout this report.

Part 2: Site analysis

The site analysis is inadequate as detailed in Reason for Refusal 7.

The site analysis is not considered to satisfy the objectives of this part of the DCP and results in a deficient and unsatisfactory proposed site layout. This is evidenced by the proposal's poor relationship with its neighbours and resultant adverse visual and amenity impacts.

Part 3: Land consolidation and subdivision

The proposed development requires the consolidation of the existing allotments.

This consolidation will not result in any irregular lot configurations, result in any isolated sites or result in the creation of remaining allotments that cannot be reasonably developed due to constraints (such as heritage, riparian or bio-diversity).

The survey plan shows that the site is burdened by an easement to drain water (which benefits Lots 1, 2 and 4 in DP 547371) and a restriction on the use of land. There is no documentation to confirm whether the easement and restrictions have been extinguished and whether owners' consent is required for these to be extinguished.

Part 7: Residential Flat Buildings

COMPLIANCE TABLE		
Development Control	Proposed	Complies
Part 7 Residential Flat Buildings		
7A.1 – Local character and streetscape		
All Residential Flat Buildings are to be designed by an architect registered with the NSW Architects Registration Board.	Complies	YES
All residential flat buildings are to demonstrate how they provide a garden setting with buildings surrounded by landscaped gardens, including tall trees, on all sides.	A garden setting is not provided.	NO
Design components of new development are to be based on the existing predominant and high quality characteristics of the local neighbourhood.	The design is not based on the existing high quality characteristics of the neighbourhood.	NO

The appearance of the development is to maintain the local visual character by considering the following elements: i) visibility of on-site development when viewed from the street, public reserves and adjacent properties; and ii) relationship to the scale, layout and character of the tree dominated streetscape of Ku-ring-gai.	The design is not based on the existing characteristics of the neighbourhood.	NO
The predominant and high quality characteristics of the local neighbourhood are to be identified and considered as part of the site analysis.	Inadequate site analysis provided.	NO
Development is to integrate with surrounding sites by: i.being of an appropriate scale retaining consistency with the surrounds when viewed from the street, public domain or adjoining development; ii.minimising overshadowing; and iii.integrating built form and soft landscaping (gardens and trees) within the tree canopy that links the public and private domain throughout Ku-ring-gai.	The design is not integrated with surrounding sites.	NO
Colours of materials used in sites adjoining or in close proximity to bushland areas and Heritage Conservation Areas are to be in harmony with the built and natural landscape elements of the area.	The proposed colours and materials are inconsistent with the adjoining HCA.	NO
7A.2 – Site layout		
The site layout is to demonstrate a clear and appropriate design strategy and arrangement of building mass in response to the Site Analysis in Part 2 Site Analysis of this DCP. Demonstration of design strategies to address opportunities and constraints based on Site Analysis are to include: i.building location and orientation on the site optimising northern aspect; relationship with neighbouring developments; building setbacks; geographical aspect; views; access etc. ii.response of building development in maintaining site characteristics within the subject site, such as topography, vegetation, significant trees, any special features, etc. iii.building separation and internal layouts of buildings that respond to (i) above and be consistent with the requirements of the DCP. iv.limited apartments with no direct sunlight.	Inappropriate site layout.	NO

A drawing and supporting written information is to demonstrate how the building and its layout has applied and responded to the site analysis required by Part 2 of the DCP.	Inadequate site analysis provided.	NO
Development near noise sources is to comply with Section B Part 20 Development Near Rail Corridors and Busy Roads of the DCP.	Acoustic report provided.	YES
Any building with a frontage to the street is to address that street.	Complies.	YES
Soft landscaping, including tall trees, is to be provided between onsite buildings, fences and courtyard walls.	Insufficient tall trees provided.	NO
Hard landscaping is to be minimised and to maximise opportunities for landscape planting	Excessive hard landscaping.	NO
Provide a single pedestrian entry point into the development from the street. Other entries may be permitted where several buildings address the street along an extended street or where there are dual frontage sites.	Complies.	YES
Three hours of direct sunlight between 9am and 3pm on 21st June is to be maintained to the living rooms, primary private open spaces and any communal open spaces within: i. existing residential flat buildings and multi-dwelling housing on adjoining lots, and ii. residential development in adjoining lower density zones.	Does not comply.	NO
Overshadowing should not compromise the development potential of the adjoining yet to be redeveloped sites.	Not demonstrated.	NO
7A.3 – Building setbacks		
Residential flat buildings are to meet the following street setback requirements: i. 10m from the street boundary; ii. on corner sites and sites with multiple street frontages at 10m setback is to be provided on all street frontages. Note: Greater setbacks may be required where the site has significant existing trees. Residential flat buildings are to provide a 2.0m articulation zone behind the street setback, and no more than 40% of this zone (in plan) is to be occupied by the building.	Does not comply.	NO
The building line to any street is to be parallel to the prevailing building line in the streetscape. For angled sites, a stepped façade may be appropriate.	Complies.	YES

Residential flat buildings are to meet the following side and rear setback requirements to ensure deep soil, landscaping and tall trees are accommodated to all sides of the building:	Does not comply.	NO
i) a minimum of 6m from the side boundary for all levels up to the fourth storey. ii) a minimum of 9m to the fifth storey and above.		
Side setback areas behind the building line are not to be used for driveways or for vehicular access into the building.	Complies.	YES
Driveways are to be set back a minimum of 6m from the side boundary within the street setback to allow for deep soil planting.	Setbacks do not respond.	NO
Setbacks are to respond to the attributes identified in the site analysis, conducted as required by Section A Part 2 Site Analysis of the DCP, including consideration of the location of adjoining buildings and views of the site.	Inadequate site analysis provided.	NO
Encroachments i. Basements do not encroach into any setback areas ii. Ground floor terrace/courtyard walls min 8m to street boundary / 4m to rear & side boundaries / 7m adjacent to lower density residential zone iii. No encroachments where site area is < 1800m ² iv. No encroachments are permitted where minimum side setbacks have not been achieved. v. A maximum of 15% of the street setback area occupied by private terraces/courtyards	Does not comply.	NO
7A.4 – Building Separation		
The minimum separation between residential buildings on the development site is to comply with the following controls: Up to 4 th storey: 12m between habitable rooms/balconies 9m between habitable rooms/balconies and non-habitable rooms 6m between non-habitable rooms	Does not comply.	NO

5th storey & above: • 18m between habitable rooms/balconies • 13.5m between habitable rooms/balconies and non-habitable rooms • 9m between non-habitable rooms		
7A.5 – Site coverage		
The site coverage may be up to a maximum of 30% of the site area, provided that the deep soil landscaping requirements in Section A Part 7A.6 Deep Soil Landscaping are met.	Does not comply. (	NO
7A.6 – Deep soil landscaping		
A minimum deep soil landscaping area of 40% for a site area less than 1800m ² and 50% for a site area of 1800m ² or more.	Does not comply.	NO
Deep soil zones are to be configured to retain healthy and significant trees on the site and adjoining sites, where possible.	Does not comply.	NO
Deep soil zones are to be configured to allow for required tree planting including tall tree planting and garden and screen planting at front, side and rear boundaries.	Does not comply.	NO
Deep soil landscaping is to be provided in the common areas as a buffer between buildings that softens the bulk and scale of the buildings.	Does not comply.	NO
Driveways are not to dominate the street setback area. Deep soil landscaping areas in the street setback are to be maximised.	Does not comply.	NO
Lots with the following sizes are to support a minimum number of tall trees capable of attaining a mature height of at least 18m on shale, transitional soils and 15m on sandstone derived soils. i. 1200m² or less – 1 tall tree per 400m² or part thereof ii. 1201m² – 1800m² – 1 tall tree per 350m² or part thereof iii. 1801m² + - 1 tall tree per 300m² or part thereof	Does not comply.	NO
In addition to the tall trees, a range of medium trees, small trees and shrubs are to be selected to ensure that vegetation softens the building form and creates a garden setting. At least 50% of all tree plantings are to be locally occurring trees and spread around the site.	Does not comply.	NO
Trees are to be planted within all setback areas. At least 30% of the required number of tall trees are to be planted within the front	Does not comply.	NO

setback.		
7B – Access and parking		
7B.1 – Car parking provision		
All residential flat developments are to provide on-site car parking within basements.	Complies.	YES
Basement car park areas are to be consolidated under building footprints.	Does not comply.	NO
The use of single lane tunnels and single lane spiral ramps is not permitted. Double lane spiral ramps may be allowed where there are no other options but can only link a maximum of 2 floor levels.	Not demonstrated.	NO
The basement car park is not to project more than 1.0m above existing ground level.	Not demonstrated.	NO
Single lane aisles, straight ramps and tunnels max 12.0m in length.	Not demonstrated.	NO
Direct and continuous internal pedestrian access from basement car park is provided to each level of the building	Complies.	YES
Car park entry is to be integrated within the building and located behind the building line.	Complies.	YES
Car parking design is to be in accordance with requirements for Silver and Platinum Level dwellings as required in this DCP and by the <i>Livable Housing Guidelines</i> . Circulation areas, roadways and ramps are to comply with AS2890.1. Where a conflict occurs, the <i>Livable Housing Guidelines 2012</i> is to take precedence.	Complies.	YES
At least one visitor car space is to be accessible and be provided within the site for every 6 apartments or part thereof and is to comply with the dimensional and locational requirements of AS2890.6.	Complies	YES
A clearly signposted parking bay for temporary parking of service and removalist vehicles is to be provided. The space is to have the following standards: i) a minimum dimension of 3.5m x 6m; ii) a minimum manoeuvring area 7m wide. Note: Where a separate space can not be provided, one of the visitor spaces may be used as the service/removalist parking spaces	Complies	YES

provided it meets the dimensions stated in 13(i) and 13(ii) above.		
One visitor parking bay is to be provided with a tap to make provision for on-site car washing.	Complies	YES
Parking areas are to be designed and constructed so that electric vehicle charging points can be installed.	Not demonstrated.	NO
7B.2 – Bicycle parking and support facilities provision		
Provide on-site, secure bicycle parking spaces and storage at the following rates: i) 1 bicycle parking space per 5 units or part thereof for residents within the residential car park area; and ii) 1 bicycle parking space (in the form of a bicycle rail) per 10 units for visitors in the visitor car park area.	Not demonstrated.	NO
All on-site bicycle parking spaces and storage are to be designed to AS2890.3.	Not demonstrated.	NO
7C – Building design and sustainability		
Part 7C.1 - SEPP 65 and Apartment Design Guide requirements		
All residential flat buildings are to comply with the objectives, Design Criteria and Design Guidance of the following <i>Apartment Design Guide</i> sections: 3F Visual Privacy 4A Solar and Daylight Access 4B Natural Ventilation 4C Ceiling Heights 4D Apartment Size and Layout 4E Private Open Space and Balconies 4F Common Circulation and Spaces 4G Storage	Refer to the ADG compliance table.	NO
7C.2 – Communal open space		
At least 10% of the site area must be provided as communal open space. Each parcel of communal open space is to have a minimum dimension of 5m.	Complies.	YES
At least one single parcel of Primary communal open space with a minimum area of 80m ² and a minimum dimension of 8m is to be provided.	80m ² <8m	NO

The Primary communal open space is to be directly accessible from the internal common circulation areas.	Does not comply.	NO
The Primary communal open space is to be located at or above finished ground level behind the building line. Roof top Primary communal open space may be provided where the ground level cannot meet performance requirements or is undesirable.	Complies.	YES
Secondary communal open spaces are to have a minimum dimension of 5.0m and may be provided on roof tops.	Complies.	YES
Access to and within the Primary communal open space is to be provided for people with a disability Part 2 Section 7 of AS1428.	Further clarification.	NO
The location and design of the Primary communal open space is to optimise opportunities for active and passive social and recreation activities, solar access and orientation, summer shade, outlook, and maintain the privacy of residents on adjoining sites zoned differently for lower density residential development sites.	Does not comply.	NO
At least 50% of the area of the Primary communal open space and any Secondary communal open space are to receive direct sunlight for at least two hours between 9am and 3pm on 21st June.	Not demonstrated.	NO
The communal open space is to have surveillance from at least two onsite apartments for safety reasons.	Complies.	YES
Communal open space design is to avoid creation of concealment or entrapment areas.	Complies.	YES
Shared facilities such as barbecue facilities, shade structures, play equipment and seating, are to be provided within the Primary communal open space.	Does not comply.	NO
Garden maintenance storage areas, drainage and connections to water taps are to be provided with the Primary communal open space. Secondary communal open spaces are to have adequate connections to water for maintenance purposes.	Complies.	YES

7C.3 – Ground floor apartments		
Ground floor apartments are to be separated from noise sources such as common areas, communal open space and the public domain.	Complies.	YES
Ground and podium level apartments are to have private outdoor areas differentiated from communal areas by at least one of the following: i) a change in level; ii) walls to deflect noise; iii) planting, such as hedges and low shrubs; iv) a fence/wall to a maximum height of 1.8m. Any solid wall component is to be a maximum height of 1.2m with at least 30% transparent component above.	Complies.	YES
A gate is to be provided from each ground floor apartment private open space into common areas where practical.	Does not comply.	NO
No subterranean rooms to any part of any apartment	Does not comply.	NO
No ground floor apartments created as a result of excessive excavation.	Does not comply.	NO
No part of any wall used to accommodate any residential apartment uses, including storage areas outside the apartment, is to be in direct contact with soil or rely on any form of tanking including spaces that act as tanking.	Complies.	YES
Tanking may only be provided to basement parking levels. Where basement storage is located adjacent to external walls, they are to be separated from the tanked wall by an accessible maintenance passage.	Complies.	YES
The internal finished floor level of any part of a ground floor apartment and/or private open space is not to be more than 0.9m below existing ground level at the building line.	Does not comply.	NO
Where the internal finished floor level of a ground floor apartment and/or private open space is not more than 0.9m below the existing ground level at the building line, the ground level adjacent to the building is to be levelled to the finished floor level for a distance of 3.0m from the building line.	Does not comply.	NO
All obstructions, such as retaining walls or fences, are to be located below a 45° control plane, drawn from the finished ground level at the building line. Landscaping plants may	Does not comply.	NO

project beyond the 45° control plane.		
7C.4 – Apartment mix and accessibility		
Range of apartment sizes (one, two, three bedroom) included within the development	Complies.	YES
Mix of 1, 2 & 3 bedroom apartments located on the ground level.	Mix proposed.	YES
All apartments are to be designed to Silver Level under the Livable Housing Design Guidelines	Complies.	YES
At least 15% of the dwellings (or part thereof) are to be designed to Platinum Level under the Livable Housing Design Guidelines.	Does not comply.	NO
At least 70% of all dwellings are visitable.	Complies.	YES
7C.5 – Building entries		
The residential flat building entry is to be clearly expressed using appropriate architectural elements.	Does not comply.	NO
Buildings are to address the street by providing visible entry points with the following: i) main building entrances that are level and directly accessible from the street; or, ii) where site configuration is conducive to having a side entry, the path to the building entrance is readily visible from the street, and the building entrance is signalled with appropriate architectural elements.	Does not comply.	NO
Entry foyers are to be no more than 1m above ground level. Any ramped access required is to be integrated into the design of the building or landscape. Mechanical chairlifts and the like will not be accepted.	Does not comply.	NO
The building entry is to be legible and integrated with horizontal and vertical building facade architectural elements. At street level, the entry is to be articulated with awnings, porticos, recesses or projecting bays for clear identification.	Does not comply.	NO
All entry areas are to be well lit and designed to avoid any concealment or entrapment areas and avoid dog leg entry foyers. All light spill is prohibited.	Does not comply.	NO

Lifts are to be directly visible from the building entry doorway.	Does not comply.	NO
Lockable mailboxes are to be: provided close to the street; and be at 90 degrees to the street and to Australia Post standards; and integrated with front fences or building entries.	Complies.	YES
Building entry paths are to be minimum 1.2m wide and located within the common area with a minimum dimension of 1.2m on either side for landscape planting. Paths are to provide extra width at building entries to allow easy passing between pedestrians and to allow effective turning.	Do not comply.	NO
All common circulation corridors are to be at least 1.5m wide, and the area outside lifts is to be at least 1.8m wide.	Complies.	YES
7C.6 – Building Form and Facades		
All building facades at ground level are to be designed to avoid the creation of entrapment areas.	Does not comply.	NO
No single wall plane is to exceed 81m ² in area.	Does not comply.	NO
The following are to be avoided on all building elevations: i) large flat walls; ii) undifferentiated window openings; iii) applied treatments; iv) one single predominant finish or material.	Does not comply.	NO
All facades are to place entries, habitable room windows, and balconies so that they maximise outlook and passive surveillance of the street and to common areas surrounding the building.	Complies.	YES
All building elements including shading devices, signage, drainage pipes awnings/colonnades and communication devices are to be coordinated and integrated into the overall facade design.	Complies.	YES
Air conditioning condensers are to be located within the basement or within the roof structure of the upper most roof. Air conditioning condensers are not to be located on: i) the building façade; ii) the top of a flat roof; iii) terraces; iv) private or communal open spaces; or	Insufficient information.	NO

v) balconies.		
Screening between adjacent apartments is to be integrated into the overall building design.	Insufficient information.	NO
Notches, slots or indentations in the perimeter of the building are to be at least as wide as they are deep.	Does not comply.	NO
Facade elements that result in poor architectural design outcomes for internal spaces, such as snorkel windows, are not permitted.	Does not comply.	NO
All facades are to be designed to minimise on-going maintenance and weathering through measures such as: i) selecting appropriate robust materials/finishes; and ii) including appropriate building edge, balcony edge, sill, head and parapet detailing that demonstrates protection from prevailing weather and harsh solar aspects.	Does not comply.	NO
<i>Facade Articulation</i>		
All building facades are to be articulated with wall planes varying in depth by not less than 0.6m, and supplemented with architectural elements.	Complies.	YES
Facade articulation is to be well composed with attractive proportions and coherent rhythms and integrated into the building form and structure.	Does not comply.	NO
All developments are to utilise shading/glare control devices to articulate the facade and contribute to the streetscape. Design solutions can include: i) providing external horizontal shading to north-facing windows, such as eaves, overhangs, pergolas, awnings, colonnades, upper floor balconies, and/or deciduous vegetation; ii) providing vertical shading to east and west windows, such as sliding screens, adjustable louvres, blinds and/or shutters; iii) providing shading to glazed and transparent roofs; iv) integration of shading devices with solar energy collection technology.	Does not comply.	NO
<i>Building Length</i>		

The continuous length of a single building on any elevation is not to exceed 36m.	Does not comply.	NO
The length of a single building elevation facing the side or rear boundary may exceed 36m provided that: i) the façade is recessed in depth and width to appear as distinctive and separate building bays or wings; and ii) the recess is retained as common area with landscaping which includes at least one medium tree (at least 8m canopy diameter at maturity).	Does not comply.	NO
Balconies		
Balcony or terrace design may incorporate building elements such as pergolas, sun screens, shutters, operable walls and the like to respond to the street context, building orientation and residential amenity. The use of such building elements are not to enable the balcony or terrace to be used as a habitable room.	Does not comply.	NO
Balconies that run the full length of the building facade are not permitted.	Complies.	YES
Continuous transparent or translucent balustrades are not permitted to balconies or terraces.	Does not comply.	NO
Balconies are not to project more than 1.5m from the outermost wall of the building facade.	Complies.	YES
7C.8 – Top storey design and roof forms		
The top storey of a building is to be designed so that: i) the GFA of the top storey of a residential flat building does not exceed 60% of the GFA of the storey immediately below it; and ii) for the purposes of this section, the top storey applies to the building as a whole and does not apply to the top level of each part of a stepped building.	Complies.	YES
The top storey of a building is to be set back a minimum of 2.4m from the outer face of the floors below on all sides (roof projection is allowed beyond the outer face of the top storey).	Does not comply.	NO
The upper storeys of residential buildings are	Complies.	YES

to be articulated with differentiated roof forms, maisonettes or mezzanine penthouses and the like.		
Service elements are to be integrated into the overall design of the roof and not be visible from the public domain or any surrounding development. These elements include lift overruns, plant equipment, air conditioning units, chimneys, vent stacks, water storage, communication devices and signage.	Insufficient information.	NO
Roof design is to respond to solar access and prevailing weather with the use of eaves, skillion roofs, awnings and the like with a minimum overhang of 0.6m	Does not comply.	NO
Lightweight pergolas, sun screens, privacy screens and planters are permitted on the roof or podium, provided they are integrated with the building and facade design and do not increase the bulk of the building, create visual clutter or impact on significant views from adjoining properties.	Does not comply.	NO
Roof top gardens for private or communal use are encouraged.	Complies.	YES
7C.9 – Laundry and air clothes drying facilities		
Each apartment is required to have access to an external air clothes drying area, such as a screened balcony, a terrace or clothes lines within the common area.	Not demonstrated.	NO
All external air clothes drying areas are to be screened and not be visible from any public domain area.	Not demonstrated.	NO
Where clothes drying is provided within private open space within a communal open space, its area is to be additional to that required for the private open space or communal open space.	Not demonstrated.	NO
7C.10 – Fencing		
Front boundary fences and walls (to a public street) and side boundary fences within the street setback are not to be higher than: i) 0.9m if of closed construction (such as masonry, lapped and capped timber or brushwood fences); or ii) 1.2m if of open construction (such as open	Not demonstrated.	NO

paling and picket fences).		
Closed front fences with a maximum height of 1.8m may be considered where the site fronts a busy road or other sources of undesirable noise. These fences are to be set back at least 2m from the front boundary and screened by landscaping.	Not demonstrated.	NO
Fences and walls are to step down and follow the natural contours of the site.	Not demonstrated.	NO
Hedges and shrub planting are preferred to the street frontage, but no higher than 1.2m along the entire front boundary, or 1.8m on a site fronting a busy road.	Complies.	YES
External finishes for fencing are to be robust and graffiti resistant.	Not demonstrated.	NO
7C.11 – Acoustic Privacy		
Noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, other mechanical ventilation systems and other plant are to comply with the requirements in Part 23.8 of the DCP.	Insufficient information.	NO

Ku-ring-gai Development Control Plan

Section B

Part 15 – Land Contamination

The subject site has a history of residential use. A Stage 1 Preliminary Site Investigation was submitted with the application. The report concludes that there is a potential for the site to be contaminated and that remediation may be required. A further assessment including the preparation of a detailed site investigation is required to determine if the site is suitable for the proposed development.

A Stage 2 Detailed Site Investigation (DSI) has not been provided. The consent authority cannot adequately determine the suitability of the proposed development and the impacts of any required remediation. The proposal does not adequately demonstrate that the land is suitable for the proposed development, contrary to Clause 4.6 of the SEPP.

Part 19 – Heritage and Conservation Areas

The site is not listed as a heritage item or within a heritage conservation area.

The site is within the immediate vicinity of the HCA– C25 and 5 heritage listed items at: 20 Lorne Avenue, 14 Lorne Avenue, 10 Lorne Avenue, 8 Lorne Avenue and 6 Lorne Avenue.

The proposed large vertical areas of smooth pale render do not conserve the heritage significance of these nearby heritage items and HCA, which is reflected in Reason 9 of the

recommended Reasons for Refusal.

Part 20 – Development near Road or Rail noise

An Acoustical report prepared by Koikas Acoustics Pty Ltd has been provided which provides recommendations for traffic noise. If the application was recommended for approval conditions would form part of the consent.

Section C

Development Control	Proposed	Complies
Part 21 General Site Design		
21.1 – Earthworks and slope		
Development consider site topography, drainage, soli landscapes, flora, fauna and bushfire hazard by: - Stepping buildings down the site - Locate finished ground level as close to the natural ground level as practicable - Level changes to occur primarily within building footprint - Minimum 0.6 metres width between retaining walls - Maintain existing ground level within 2m from any boundary - Limit slope for embankments to 1:6 (grassed) and 1:3 (soil stabilising vegetation) - No fill and excavation within sensitive environments - Minimise altered groundwater flows	Does not comply.	NO
21.2 – Landscape Design		
Appropriate and sensitive site planning and design Existing appropriate screen planting is retained	Inappropriate landscape design.	NO
Part 22 - General access and parking		
22.1 – Equitable Access		
Compliance with DDA demonstrated Entry access ramps located within the site and does not dominate the front façade Access ways for pedestrians and for vehicles are separated.	The access paths dominate the front façade including setback areas.	NO
Residential only Multi Dwelling Housing, Residential Flat Buildings and Shop Top Housing within Mixed Use developments provide access to, and between, dwellings and parking in	Complies.	YES

accordance with the Livable Housing Guidelines as stipulated in Part 6 Multi Dwelling Housing, Part 7 Residential Flat Buildings and Part 8 Mixed Use Development.		
22.2 – General vehicle access		
- Minimise width and number of vehicle access points - Access driveways set back at least 10m from street intersections and 3m from pedestrian entrances - Vehicle and pedestrian access to buildings clearly distinguished and separated at l - Vehicle crossing width is acceptable for intensity of use proposed - Vehicles must exit in a forward direction - Vehicle entries are integrated into the external façade and are finished in a high quality material - Retaining walls associated with driveways maximum height of 1.2m - No driveways are longer than 30m unless a passing bay is provided	Further rationalisation of the basement could be undertaken. Refer to referral comments.	NO
22.3 – Basement car parking		
Logical and efficient basement design AS2890.1	Refer to Engineering comments.	NO
Appropriate ceiling floor to ceiling heights and ventilation provided: 2.5m for parking area for people with a disability; 2.6m for residential waste collection and manoeuvring area 4.5m for commercial waste collection and manoeuvring area	Complies.	YES
Basement is fully tanked.	Basement is tanked per the statement of effects.	YES
Unimpeded access to visitor parking and waste recycling rooms.	Complies.	YES
Ventilation grilles and screening devices are integrated into the landscape design.	Complies.	YES
Vehicles access ways are not in close proximity to doors and windows of habitable rooms	Not demonstrated.	NO

Safe and accessible intercom access provided.	Can be conditioned if the application was recommended for approval.	YES
22.4 – Visitor parking		
Visitor parking located behind a security grille with an intercom system to gain entry. At least one visitor space is accessible and designed in accordance with AS2890.6	Complies.	YES
22.5 – Parking for people with a disability		
Accessible spaces are signposted and have a continuous path of travel to the principal entrance or a lift.	Complies.	YES
22.6 – Pedestrian Movement within Car Parks		
Pathways designed in accordance with AS1428.1	Complies.	YES
Marked pedestrian pathways have clear sightlines, appropriate lighting, are visible, conveniently located and constructed of non-slip material.	Complies.	YES
22.7 – Bicycle Parking and facilities		
Bicycle parking and storage facilities satisfy AS2890.3	Not demonstrated.	NO
Bicycle access paths have a minimum width of 1.5metres.	Not demonstrated.	NO
Part 23 – Building Design and Sustainability		
23.3 – Sustainability of Building Materials and 23.4 – Materials and Finishes		
External walls constructed of high quality and durable materials.	Does not comply.	NO
Use of materials and colours creates well-proportioned facades and minimises visual bulk.	Does not comply.	NO
23.5 – Roof Terraces and Podiums		
Podiums and roof terraces are trafficable and support landscaping.	Not demonstrated.	NO
23.6 – Building Services		
Services and related structures are appropriately located to minimise streetscape impact.	Insufficient information.	NO

Air-conditioning units are well screened and do not create adverse noise impacts.	Insufficient information.	NO
23.7 – Acoustic Privacy		
Design minimises impact of internal and external noise sources.	Insufficient information.	NO
Noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, or other mechanical ventilation systems and plant either as an individual piece of equipment or in combination shall not be audible within any habitable room in any residential premises before 7am and after 10pm. Outside of these restricted hours noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, or other mechanical ventilation systems and plant either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the boundary of the nearest potentially affected neighbouring properties. The background (LA90, 15 min) level is to be determined without the source noise present.	Insufficient information.	NO
23.8 – Visual Privacy		
Visual privacy maintained for occupants and for neighbouring dwellings.	Visual privacy not maintained.	NO
23.9 – Construction, Demolition and Disposal		
Satisfactory Environmental Site Management Plan.	Provided.	YES

Part 24 – Water management

The proposed development has not been designed to manage urban stormwater as per the requirements of the DCP, the specific issues are detailed in Reasons for Refusal 2, 5 and 6.

Ku-ring-gai Contributions Plan 2010

If the application were recommended for approval contributions would be payable per the requirements of this plan.

Housing and Productivity Contribution

A condition requiring payment of these contributions would be required, were the application to be approved.

The HPC cannot be determined as the allocation of 2% in perpetuity of affordable housing has not been specified in the application documentation.

REGULATION

If the application were recommended for approval a condition requiring that demolition works be in accordance with *Australian Standard AS 2601-2001: The demolition of structures* would be recommended.

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and are deemed to be unacceptable for the reasons discussed throughout this report.

SUITABILITY OF THE SITE

The site is not suitable for the proposed development.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by the Panel ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and is deemed to be unacceptable. On this basis, approval of the proposal is contrary to the public interest.

CONCLUSION

Having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory for the reasons detailed throughout this report.

RECOMMENDATION

PURSUANT TO SECTION 4.16(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Sydney North Planning Panel, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, refuse development consent to eDA0157/25 for demolition of existing structures, lot amalgamation and construction of a residential flat building with basement parking on land at 23 – 25 Lorne Avenue Killara, for the following reasons:

1. Failure to comply with Clause 6.6 ‘Requirements for multi dwelling housing and residential flat buildings’ of Ku-ring-gai LEP 2015

The site does not meet the minimum dimensions specified in Clause 6.6 (2)(b) in Ku-ring-gai LEP 2015.

Particulars:

- a) Subclause (2) in Clause 6.6 in KLEP 2015 states the following –
 - (2) *Despite any other provision of this Plan, development consent must not be granted for the erection of multi dwelling housing or a residential flat building on a lot in a residential zone unless the lot has an area of at least 1,200 square metres and minimum dimensions (width and depth) of at least—*
 - (a) *if the area of the land is less than 1,800 square metres—24 metres, or*
 - (b) *if the area of the land is 1,800 square metres or more—30 metres.*

The Development Application is for a residential flat building on a site with a total area of 2150.6m².

- b) Given the site has an area greater than 1800 square metres, it must meet the minimum dimensions of 30 metres for both width and depth.
- c) The site has a minimum width of 24.8m which does not comply with Subclause (2)(b) in Clause 6.6 of KLEP 2015 which requires a minimum width of 30m.
- d) The proposal is inconsistent with the objectives of Clause 6.6 of KLEP as the proposed allotment does not:
 - a. maintaining the local character
 - b. allow for generous landscaped areas and setbacks to ensure the amenity of adjoining properties and to support the desired future character of these areas.
- e) Consent is unable to be granted to the development because:
 - a. The words 'Despite any other provision of this Plan' in subclause (2) of Clause 6.6 suggest that this clause does not contain a development standard capable of variation per Clause 4.6 'Exceptions to development standards' of the LEP.
Or
A request for vary the development standard per the requirements of Clause 4.6 has not been provided with the application, therefore consent is unable to be granted as a Clause 4.6 request must be upheld by the consent authority prior to development consent being granted.

2. Owner's consent has not been provided as required by Section 23(1) of the Environmental Planning & Assessment Regulation 2021 (Regulation).

Particulars:

- a) Section 23(1) of the Regulation requires the written consent of the owner(s) of the land to which the development application relates.
- b) Boundary fencing, rock mattress and retaining wall structures are shown on or over the common boundary with No. 25A-29 and the adjoining properties to the east and north at No. 9 Lorne Avenue and No. 8 Wallaroo Close, Killara (respectively) (see on drawings D04, revision C, 14/3/2025 prepared by Smart Structures Australia, DA, 100, 100a, 101, 101a, DA310, 311 revision A, 14/03/2025, prepared by BKA Architecture and LP01, LP02 revision A, 18/03/2025, prepared by Conzept Landscape Australia).
- c) It is also proposed to remove Tree 33 Cordyline australis, which is located at No. 8 Wallaroo Close, Killara.
- d) As the works proposed under the Development Application propose works on adjoining properties at No. 9 Lorne Avenue and No. 8 Wallaroo Close, Killara, owners' consent is required to be provided from the owners of each such property, pursuant to Section 23(1) of the Regulation.
- e) It is unclear whether demolition of fencing is proposed on the common boundaries of the site and the retaining wall / fence structure within 8 Wallaroo Close.

3. The gross floor area of the development is unclear.

Particulars:

- a) The maximum floor space ratio is 2.5:1 as specified in Chapter 5, Section 15 (4) of SEPP Housing (SEPP). Section 16 of the SEPP provides for Affordable housing requirements for additional floor space ratio (FSR) and specifies at s16(1) that the maximum FSR for such development, "is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2)". In this case the maximum FSR for the site is 3.25:1 (including the affordable housing bonus').
- b) The GFA / FSR is shown on DA002, issue A, as 6989m² / 3.25:1, which is 15% In-fill Affordable Housing (Chapter 2) and 2% Affordable Housing (Chapter 5).
- c) Accordingly, the proposed GFA and allowable FSR of the proposed development is unclear. The applicant should provide GFA diagrams (that comply with the definition for GFA under the KLEP) that include such details as:
 - i) The thickness of walls to common vertical circulation such as lifts and stairs (where not external) and the thickness of walls to risers, which should be included in the calculation GFA.
 - ii) A survey is to be overlayed onto the floor plans to demonstrate that the areas that are excluded from the GFA calculation are classified as "basement" areas and where the ground floor level is 1m or more above existing ground level. For example, the storage area on the western elevation of the LGF is close to this threshold.
- d) A plan has not been provided which delineates what portion of each floor of the building is allocated to the affordable housing component under Chapter 2 and Chapter 5 of the SEPP. The applicant must also confirm the affordable housing calculations on the Site Calculation Plan.
- e) Insufficient information has been provided to determine the full extent of GFA, however it would appear that the proposed development exceeds the allowable GFA.
- f) A variation request under Clause 4.6 has not been provided in respect of any non-compliance with the GFA development standards.

4. The proposal is inconsistent with the desired future character, contrary to Section 20(3) of SEPP Housing.

Particulars:

- a) Section 20(3) of SEPP Housing provides that 'development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with... for precincts undergoing transition, the desired future character of the area' [Council's emphasis]
- b) Council's draft alternative planning controls for the TOD areas, which have been adopted by Council and forwarded to the Department of Planning for endorsement (TOD Alternative Scheme), envisage a future character similar to the existing character which permits a maximum building height of 18.5m and FSR of 1.3:1. Currently under KLEP 2015 a maximum building height of 17.5m and FSR of 1.3:1 are permitted on the Site. Notwithstanding the TOD Alternative Scheme is in draft form, they should be taken into consideration in the assessment of the Development Application.

- c) The architectural analysis prepared by BKA Architecture (Figure 8) describes the proposed development in the context of existing and future development. Future developments have been extrapolated by the applicant to show future TOD developments based on the TOD controls pursuant to SEPP Housing rather than the TOD Alternative Scheme, so this is not reflective of the future character of the area.

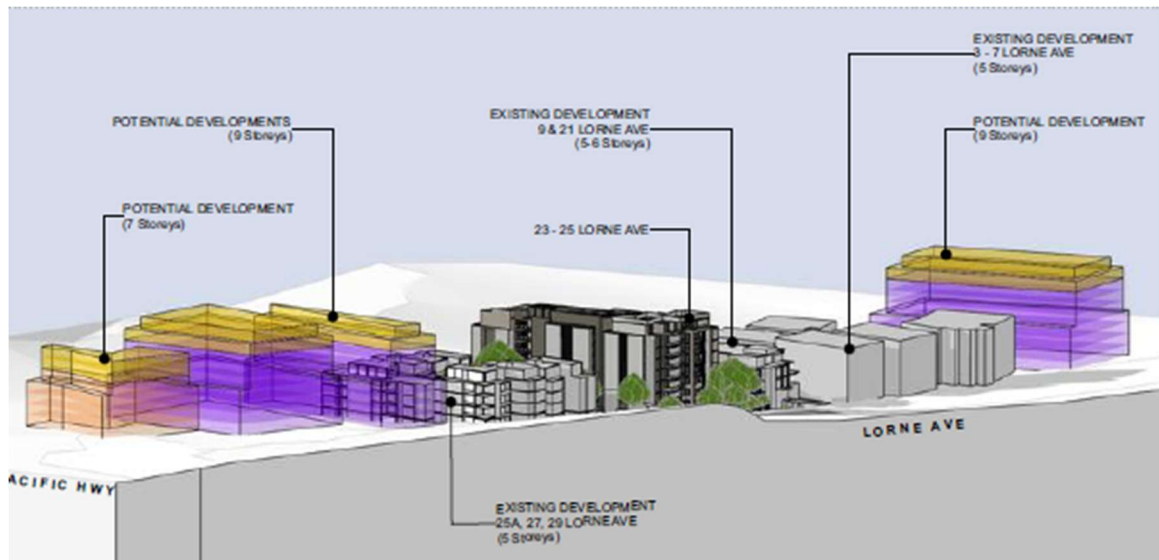


Figure 8: Extract Architectural analysis Future Character prepared by the applicant based on TOD policies.

- d) The proposal fails to achieve consistency with the desired future character because:
- i) The site is surrounded by R4 High Density, R2 low density zones and the HCA. Under the proposed TOD Alternative Scheme, the adjoining sites to the south retain their R2 zoning, and HCA / heritage item status, in order to retain and maintain the character and low density scale on the southern side of Lorne Avenue. As such, the Site abuts a zone interface to the south.
 - ii) The Marian Street HCA includes dwellings with single detached houses from the Federation, Inter-war and Post-war periods. These buildings make an important contribution to the character and significance of the HCA as they have a key historical layer, most are true to an architectural type, style or period and some are substantially intact including their garden setting.
 - iii) While a higher-density and larger-scale development is permitted on the Site via the TOD, due to its interface with the adjoining HCA and R2 Low Density Residential zoned land and the TOD Alternative Scheme, the maximum potential indicated by the applicable development standards may not be able to be achieved.
 - iv) The proposed 8-9 storey residential flat building, which has insufficient landscaping and setbacks and non-compliant FSR would be juxtaposed with the existing residential character and the future desired character as espoused by the TOD Alternative Scheme. The scale of the proposed building is further exacerbated by the use of light coloured brick work.
 - v) Deep soil landscaping is significantly less than that of other sites in the locality with limited landscaping proposed and insufficient space for canopy tree planting in scale.
- e) Section 20(3) of SEPP Housing requires the consent authority to consider whether the “design of the residential development is compatible with (a)... (b) for precincts

undergoing transition, the desired future character of the precinct" [Council's emphasis].

- f) The Proposal is inconsistent with the planning principle established in *Seaside Properties v Wyong Council* (2004) 136 LGERA 111 at [25] (**Seaside Planning Principle**).

5. Failure to provide required information

The Council or the Court on appeal, cannot undertake a full and proper assessment of the Development Application as further information is required to be provided. Council reserves its position in respect of matters which may arise upon the provision of the necessary information.

Particulars:

- a) A new stormwater pipeline needs to be provided with an associated drainage easement over the downstream property of No. 9 Lorne Avenue. Owners' consent is required to be provided from all burdened properties (which are all the subject of strata schemes).
- b) The survey plan shows that the site is burdened by rights of carriageway, an easement to drain water (which benefits Lots 1, 2 and 4 in DP547371) and a restriction on the use of land. T. There is no documentation to confirm whether the easement and restrictions have been extinguished and whether owners' consent is required for these to be extinguished.

6. Water management

The proposal will not avoid, minimise or mitigate adverse impacts to adjoining properties, contrary to Clause 6.5 'Stormwater and water sensitive urban design' of the KLEP. In the alternative, the Development Application is not accompanied by sufficient particulars to enable an assessment against Clause 6.5 of the KLEP.

Particulars:

- a) Clause 6.5 of the KLEP provides that, before granting development consent to development on any land to which the KLEP applies, the consent authority must be satisfied that, relevantly:
 - i. *the stormwater management system includes all reasonable management actions to avoid any adverse impacts on the land to which the development is to be carried out, adjoining properties, native bushland, waterways and groundwater systems; and*
 - ii. *if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, native bushland, waterways and groundwater systems.*
- b) It is proposed to discharge stormwater from the site via a headwall, to connect into an existing open channel within the neighbouring property of 9 Lorne Avenue. As such, any uncontrolled flows will not be able to be captured and conveyed to a legal point of discharge. A private easement must be created through the downstream property of No. 9 Lorne Avenue to connect into Council's existing trunk drainage system.
- c) There is insufficient information to enable assessment of the inter-allotment drainage design proposed through No. 9 Lorne Avenue, including but not limited to civil design

of the pipeline and any potential impacts on trees and vegetation on No. 9 Lorne Avenue and upon any other adjoining properties. A survey including location of existing trees and a report from a suitably qualified arborist is required, should there be any identified impacts to trees and vegetation.

- d) A detailed survey has not been carried out to show the accurate location of the headwall which is proposed to connect with Council's trunk drainage system. It is not clear as to the exact location of the headwall according to Council GIS mapping system. This location will define the location of any private easement required for this development.



- e) The condition of the pipeline within Council's Easement (in 7 Wallaroo Close; LD4174) has not been verified through a report prepared by a licensed plumber. The proposed drainage design does not demonstrate that the existing pipe, within 7 Wallaroo and downstream drainage pipe network is functional and in good working condition. There is no CCTV footage or any accompanying report demonstrating the current condition of the pipeline.

7. The site analysis has not adequately identified or considered the site and its surrounds.

Particulars:

- a) The site analysis has not been prepared to comply with Part 3A of the ADG or Part 2.1 of KDCP.
- b) The site analysis fails to adequately describe the site's surrounding urban context and does not adequately consider the site character and amenity of future users of the site or current occupants of adjoining properties. The site analysis fails to adequately demonstrate that the design response proposed in the Development Application is well founded and responsive to the specific site context contrary to KDCP Part 2.1, Objectives 2, 5, 7 and 8:
 - i) The site analysis does not include an understanding of connected natural systems – water and canopy with topography.
 - ii) The proposal does not include studies of the streetscape including setbacks and deep soil more widely within the local context.

- iii) The provided *Architectural Analysis* has focused on the immediate neighbours but is silent on the wider streetscape implications expected to demonstrate a sensitive design approach and heritage response.
- iv) Site analysis should include alternative testing scenarios of arranging building form on the site in response to specific site context and conditions including achieving Ku-ring-gai's deep soil landscape character.

Accordingly, the proposed site layout does not provide a clear conceptual design strategy in response to the opportunities and constraints of the specific site conditions. In particular, the accompanying drawings and documentation do not adequately demonstrate how the proposed arrangement of building mass has responded to the site analysis, contrary to KDCP Part 7A.2, Control 1 and 2 and Objectives 1, 3, 6, 7 & 8.

- c) For the reasons set out above, the proposal fails to identify and respond to the attributes and constraints of the site and the surrounding area. This results in a proposed development, which has an unsatisfactory relationship with neighbouring sites to the west, the adjoining HCA, and heritage items, and does not satisfactorily address the perceived bulk of the proposed development and its visual impact. The proposal thus fails to satisfy aims i, ii, iii, iv, v of Part 7 of KDCP.

8. Excessive building bulk

The non-compliances with the applicable FSR and building setback controls under 7A.3 of KDCP and Part 3F.1 of the ADG, would result in a development of excessive building bulk when viewed from Lorne Avenue and from 25A-29 Lorne Avenue. The excessive building mass and bulk are further accentuated by the blank walls, lack of deep soil and canopy trees.

Particulars:

- a) The minimum setbacks to Lorne Avenue are 6 metres at ground floor, 7.9 metres at first floor and 7.2m from the second floor and above. Control 1 ii) in Part 7A.3 of KDCP requires a street setback of 10 metres and does not comply. The Ground Floor egress stair (below the Site boundary ground line) impacts on landscaping within the front setback resulting in a separate First Floor level entry bridge, driveway and additional basement egress.
- b) The proposed development does not comply with the side and rear setbacks detailed in Part 7A.3 of KDCP and Part 3F.1 of the ADG:

Building height	ADG requirement (Part 3F-1)	KDCP (Part 7A.3)	Proposal (Minimum)
Basement		Basements are not to encroach into the street, side and rear setbacks	Eastern (side): Basement and LGF floor: 3m Western (side): 700mm (min) Northern (rear): 5.2m (min)

Up to 12m (4 storeys)	6m (hab rooms/balconies) 3m (non hab)	6m	Eastern: GF – level 3: 3m (min) Western (side): -LGF-GF: 2.279m (min) -level 1: 1m (min) -Level 2-2.279m (min) -Level 3: 2.315m (min) Northern (rear) LGF – level 2: 4.7m (min)
Up to 25m (5-8 storeys)	9m (hab rooms/balconies) 4.5m (non hab)	9m (5 th storey and above)	Eastern (Side): Levels 4-7: 3m (min) Western (side): Levels 4-7: 2.315m (min) Northern (rear): Levels 3 – 6: 8.5m (min)
Over 25m (9+ storeys)	12m (hab rooms/balconies) 6m (non hab)		Eastern: Level 8:6m (minimum) Western (side): Level 8: 3.665m Northern (rear): Level 7 – 8: 11.3m (min)

- d) The proposed non-compliant front setback accentuates the built form adjoining the zone interface and HCA to the south. The proposed setbacks and structures within the front setback do not provide adequate space between the landscaping and the building to achieve a landscape setting which is characteristic of the area and as such, is contrary to Part 7A.3, Objectives 1, 2, 3, 4, 7, 9, 10, 14 and 15 of KDCP.
- e) The proposal results in unacceptable building setbacks with no meaningful landscaping along the western and eastern site boundaries. This results in impacts to the built form interface (and amenity) with reliance on blank walls along the western boundary and the lack of meaningful deep soil landscaping around the perimeter of the site.
- f) The aim at subparagraph (b)(ii) of Section 150 of Chapter 5 of SEPP Housing is to deliver residential apartment buildings that *“are of appropriate bulk and scale”*.

Objectives 1, 2, 3 4, 7, 11, 12, 13, 14, 15 and 16 of Part 7A.3 ‘Building Setbacks’ in KDCP seek to ensure that there are suitable setbacks to enable appropriate massing and spaces between buildings, to protect trees and allow for deep soil landscaping (including tall and medium trees), so as to maintain the character and minimise

impacts to neighbouring development. In particular:

- i) The building bulk is excessive and not appropriate for this site.
 - ii) The proposed arrangement of the building form on the site is inefficient and contributes to setback non-compliances. For instance, locating lift, egress and service cores along the proposed building perimeter in combination with unit configurations with large areas with little to no direct natural daylight and ventilation results in units with poor amenity and inadequate setback and deep soil layered planting around the perimeter of the site, and a reliance on blank walls as the western interface character which exacerbates the visual impact.
 - iii) The Level 8 footprint is not rationalised and results in large, uninterrupted walls along the western and eastern boundaries of the site. For example, the terrace length and extent of the wall for Unit 8.01 and extension of the wall from LG level to Level 8 of Unit 8.02 will contribute to the excessive scale of the built form.
 - iv) The proposed top storey does not step in 2.4m from the outer face of the floors below, contrary to Control 2 and Objectives 1 and 4 of Part 7C.8 of KDCP.
 - v) The large expanse of painted rendered wall finishes proposed along the western and eastern facades and light coloured brick work add to the visual dominance of the built form, which is inconsistent with Part 23 of KDCP.
 - vi) The proposed building is not situated within a garden setting that is dominated by tall trees. The garden character of the area is not preserved on the site under the Development Application. There are insufficient building setbacks proposed in conjunction with basement encroachments and ancillary structures within the northern, western, eastern and southern sides of the proposed development, which limit viable deep soil landscaping to create the required garden setting. This therefore increases the perception of building bulk when viewed from the public domain and neighbouring properties.
- g) The proposed development fails to achieve a bulk that is appropriate to the existing or future character of Lorne Avenue. The bulk is excessive, and this is evident by the FSR and building setback non-compliances. This bulk reduces opportunities for the establishment of an appropriate garden setting which is inconsistent with the context and character of Lorne Avenue. The proposed development is therefore inconsistent with Design Principles 1, 2, 5 and 6 in Schedule 9 of SEPP (Housing) 2021.

9. Adverse impacts on the HCA and heritage items in the vicinity of the site

The proposed development is a dominant structure with vertical proportions and materials which adversely impact on the heritage significance of the Marian Street HCA and heritage items within the vicinity of the site.

Particulars:

- a) The site is located within the immediate vicinity of the HCA– C25 and 5 heritage listed items at: 20 Lorne Avenue, 14 Lorne Avenue, 10 Lorne Avenue, 8 Lorne Avenue and 6 Lorne Avenue, all of which are prescribed under Schedule 5 of KLEP 2015.

- b) The proposed development, uses extremely large vertical areas of smooth pale render resulting in a development that will visually dominate the nearby HCA and all 5 heritage items.
- c) The proposed pale render in extremely large vertical areas of 8 storeys or 30 m in height will have adverse impacts on the heritage significance of the HCA and the 5 heritage items in the vicinity of the site, contrary to:
 - i. Clause 5.10 (1) (a) and (b) of KLEP 2015, and
 - ii. Objective 5 in 19F.1 in KDCP *'To ensure that new development does not visually dominate the adjoining or nearby HCA'*; and
 - iii. Control 2 in 19F.1 in KDCP *'Development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA is to have regard to:*
 - i) *materials and colours'*.
 - iv. Control 2 in Part 19F.1 in KDCP *'Development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA is to have regard to:*
 - ii) *dominant architectural language such as horizontal lines and vertical segmentation'*
 - v. *Objective 1 in Part F.2 to ensure new work in the vicinity of a Heritage Item or HCA respects and contributes to the established streetscape patterns through careful siting of new buildings.*
 - vi. *Objective 2 in Part F.2 To ensure new development provides an interface of scale and bulk to preserve the amenity to the adjacent Heritage Item or building within a HCA.*
 - vii. *Objective 3 in Part.2 To ensure new medium and high density development does not visually dominate the Heritage Item or building within the HCA.*

10. Design and location of building entries

The main entry to the proposed building is not clear nor identifiable from Lorne Avenue.

Particulars:

- a) The main building entry is proposed over a bridge at the first floor. The pedestrian entry point at the street is clear, although the main entry to the building is tucked to the side of the vestibule with little entry presence or clear visual cues to or from the street and inconsistent with ADG objective 3G-2.
- b) The movement sequence beyond the main entry is long with indirect sightlines.
- c) The building entry design is non-compliant with Controls 4, 7, 10 and inconsistent with Objectives 1, 2, 3 and 6 in Part 7C.5 in KDCP.
- d) The building entry is inconsistent with Design Quality Principle 7 in Schedule 9 of SEPP (Housing) 2021.
- e) The ground floor egress stair (below the site boundary ground line) impacts on the landscape setting resulting with the separate first floor level entry bridge, driveway and additional basement egress.

11. Housing diversity, apartment mix and accessibility

Particulars:

- a) Proposed Platinum Level units should be representative of the unit mix being offered and their location should achieve equitable access to high amenity. Most units achieve this, however, Unit LG.06 is significantly subterranean, single aspect, has a deep footprint and set low within the natural ground plane across the site.
- b) Platinum Level clearances has not been demonstrated on the plans.
- c) An additional Platinum level unit is required to satisfy KDCP Part 7C.4(3) that requires a minimum of 15% of units to be Platinum Level.
- d) Further consideration of the apartment mix may be required to rationalise the built form to assist with addressing particulars at Contention No. 8 'Excessive Building Bulk'.

12. Solar access

There would be unacceptable solar access impacts for the proposed residents of the development and on those of the adjoining property at No. 9 Lorne Avenue and an excessive number of proposed units receiving no solar access.

Particulars:

- a) Part 7A.2, control 10 of KDCP requires that three hours of direct sunlight between 9am and 3pm on 21st June is to be maintained to the living rooms, primary private open spaces and any communal open spaces within: i) existing residential flat buildings and multi-dwelling housing on adjoining lots; ii) residential development in adjoining lower density zones.
- b) Objective 3B.2 Orientation of the ADG requires that overshadowing impacts to neighbouring properties is minimised. Building separation should be increased beyond minimums contained in Part 3F Visual Privacy or other mitigation strategies consistent with guidance at Part 2F of the ADG is required to minimise overshadowing.
- c) The *Statement of Environmental Effects* prepared by Planning Ingenuity notes the following regarding existing solar performance of the neighbouring property at 9 Lorne Avenue:
31 of 46 units (67%) of units achieving solar access to main living and POS areas. Of the existing 15 non-compliant apartments, approximately 10 along the [subject site's] eastern boundary will be impacted... the sunlight hours to these units will be reduced between 15-45 minutes depending on the location. If these apartments (as existing) achieved compliant solar access, the overshadowing impact in the late afternoon would be inconsequential.
- d) The application is dependent on the acceptability of impacts to the neighbouring units at No 9 Lorne Avenue on the basis of a hypothetical scenario 'if' their solar amenity was already compliant, which it is not. The ADG at ADG 3B.2 requires a design to mitigate (if not avoid) impacts from a proposed development.

Part 4A.1 of the ADG specifies living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9

am and 3 pm at mid winter in the Sydney Metropolitan Area.

- e) Units to the east at 9 Lorne Avenue are significantly impacted by overshadowing after 1pm which is when they currently start to receive some solar amenity. Their poorer performance is a direct result of the bulk of the proposed development and arrangement of building mass on the site.
- f) Extrapolating from the *Eye of the Sun Diagrams* (1-hr increments) it appears will provide possibly 15mins to 30mins maximum solar amenity to the neighbouring units during winter months.
- g) *Eye of the Sun Diagrams* are to include the modelling of existing apartment developments to the north of the site in the vicinity and TOD Alternative Scheme or current TOD undeveloped sites. This information is required to assess the solar amenity achieved for some units and the primary communal open space on the Site.
- h) The submitted solar access diagrams do not appear to accurately reflect development on site:
 - i. The accompanying SEE states that there are 46 units at 9 Lorne Avenue, however it appears that there are 32 units.
 - ii. The applicant is to verify the layout of the adjoining development via site survey or otherwise.
- i) ADG Part 4A.1 (3) permits a maximum of 15% of units to receive no solar access. The proposed development results in 25% of units on the site receiving no solar access.

13. Solar shading and glazing

There is insufficient information relating to solar shadowing and the proposed glazing design for balustrades.

Particulars:

- a) Objective 4A.3 of the ADG requires that the design incorporate shading and glare control design features.
- b) Solar shading is to be shown on all plans, sections and elevations. All unprotected glazing within the east-north-west range is to include operable external shading devices.
- c) Floor-to-ceiling glazing unprotected by external shading devices or deep balcony recesses is unacceptable as it increases heat loads and adversely impacts on the privacy of adjoining properties.
- d) The proportion of window to wall ratio is unacceptable as it will not reduce heat loads on the building and amenity of adjoining properties. This is also needed to avoid the use of tinted glass types due to their impacts to streetscape/urban character, amenity for outlook and beneficial solar amenity in cooler months.
- e) The proposed winter gardens are unacceptable as they will increase the area of exposed glazing across eastern facades, will adversely affect amenity due to

increased heat loads and are not required due to site constraints, such as exposure to busy roads or railway lines.

14. Apartment amenity

The proposal provides inadequate ventilation, natural daylight and functionality to the proposed units.

Particulars:

- a) The proposed development does not maximise natural ventilation and natural daylight opportunities inconsistent with Objectives 4A-1, 4B.1 and 4D.1(2) of the ADG:
 - i. Units LG. 01, G.01, 1.01, 2.01, 3.01, 4.01, 5.01 and 8.01 have large living areas set deep into the building with inadequate access to daylight and natural ventilation.
 - ii. Units 1.05, 2.06, 3.05, 3.01, 4.01, 5.01, 6.01 bedrooms would benefit with an additional opening onto the large balconies.
 - iii. Unit 1.07 layout should be reconsidered so natural daylight and ventilation of the bedroom(s) are not impacted by mitigating vehicle noise and headlights from the adjacent driveway.
- b) There appears to be further opportunities for providing increased windows to some kitchens and bathrooms on external walls.
- c) Units G.03 and G.04 include bedrooms and bathrooms that open directly into living rooms inconsistent with Objective 4D.3 of the ADG.
- d) Unit G.05 snorkel bedroom provides poor amenity due to the combination of the awkward carpark ramp geometry and deep location of the bedroom from the building perimeter inconsistent with Control 9 of Part 7C.6 of KDCP.

15. Safety

The building entry does encourage passive surveillance as it does not provide clear and unobstructed sightlines contrary to the CPTED Principles and ADG.

Particulars:

- a) CPTED seeks to ensure building entries and entry sequence demonstrates lobbies have clear unobstructed sightlines to provide adequate passive and active surveillance. The entry sequence should achieve a direct path from the street to the lifts that avoids dog-legs and mitigates excessively long corridors for lifts deep into the building.
- b) While generally each lift lobby serves 4 units/floor, sightlines at the Ground Floor could be improved, particularly the long corridors at the entry for consistency with ADG Part 3G.2.
- c) The western landscape area provides little opportunities for views into the space given the dominance of blank walls.

16. Subterranean rooms

The proposal includes "subterranean rooms" which creates poor amenity and long-term maintenance concerns.

Particulars:

- a) The proposal includes Units LG.01 and G.06 with rooms that have a floor level located below the external finished ground level or planters above the internal floor level.
- b) The use of "subterranean rooms" should not form any part of a residential flat building, in accordance with Control 4, 5 and 6 of Part 7C.3 of KDCP.
- c) The use of "subterranean rooms" is also undesirable, as it inhibits the effective long-term maintenance and servicing of the units and does not assist with the prevention of water ingress into buildings. This is contrary to Objective 5.
- d) The use of subterranean rooms creates poor amenity outcomes for future residents Part 7C.3, Objectives 1 and 5.

17. Communal open space

The communal open space is inadequate and does not relate to the lift lobbies.

Particulars:

- a) The primary COS is located at ground level at the lowest part of the site to the north and inconsistent with objective 3D-1 of ADG.
- b) The area provided appears inadequate for the scale of the development and has no relationship to the lift lobbies. Access is convoluted which further discourages its use inconsistent with Objective 3D-1 of the ADG and Part 7C.2 Objectives 1, 2, 3, 4, 5, 7 and Controls (3), (4), (6), (7) of KDCP.
- c) In context of a development resulting in 25% of units receiving no solar access amenity, there is a greater need for all residents to have equitable opportunities to easily accessible and high quality communal open space.

18. Unacceptable privacy impacts to the adjoining property

The proposed development will result in unreasonable privacy impacts for the adjoining development at 9 Lorne Avenue and 8 Wallaroo Close.

Particulars:

- d) Full-height floor-to-ceiling glazing is unacceptable due to privacy impacts to-and-from habitable rooms towards 9 Lorne Avenue and 8 Wallaroo Close.
- e) Full-height glazed balustrading is inconsistent with the ADG Objective 3F-2 and 4E.3 and Part 23.8 Control 3 of KDCP.
- f) Fully glazed balustrading requires continuous maintenance/cleaning adding to lifecycle building costs.

- g) The lack of layered deep soil landscaping and tall canopy trees around the perimeter of the site results in inadequate landscape screening of the built form contrary to Control 1 of Part 23.8 of KDCP.

19. Excessive site coverage

The site coverage is excessive which is not consistent with the desired future and landscape character of the locality.

Particulars:

- a) By the applicant's calculations the proposed site coverage is 1063sqm or 49.4% and non-compliant with the maximum site coverage control of 30% specified in Control 1 in Part 7A.5 in KDCP. However, the applicant has incorrectly excluded the area above the driveway, which should be included in the site coverage, as that term is defined under KLEP. This is because that area is not within a basement.
- b) The proposed Site coverage is excessive and fails to:
 - i) provide for viable deep soil landscaping within the development; and
 - ii) ensure consistency with the desired future landscape and built character of the area.
- c) The proposed site coverage is inconsistent with Objectives 1, 2, 3 and 5 in Part 7A.5 in KDCP.

20. Tree impacts

The proposal results in unacceptable impacts on trees contrary to Part 13 and AS4970-2009.

Particulars:

- a) Tree removal is not consistent between the plans with Trees 19, 33 and 35 shown as being retained on the Demolition Plan and in the Arborist Report. However, those trees are indicated for removal on Landscape Plans. Trees 33 and 35 are indicated for retention and whether Tree 19 can be removed or retained, must be annotated consistently across plans.
- b) The tree numbering on the survey and architectural plans does not correspond with the Arborist and Landscape Plans. Tree numbering from the background survey or clearly should be deleted from the Architectural plans and tree numbering must be consistent with the corresponding references in the Arborist report. Note that the Demolition Plan does indicate the correct tree numbering.
- c) Major encroachments will occur within Structural root Zone (SRZ) to neighbouring Tree 27 Tristaniopsis (Water Gum) to the western boundary from the proposed retaining wall to the boundary and stormwater works. The applicant's Arborist has not assessed the stormwater proposal in the Arborist Report.
- d) The retaining wall to the western boundary and proposed stormwater works are a major encroachment on neighbouring Tree 26 Eucalyptus saligna (Sydney Blue Gum) to the western boundary.
- e) The proposed stormwater drainage system will result in a major encroachment within

SRZ of Tree 39 *Jacaranda mimosifolia* (Jacaranda) to the eastern Site boundary.

- f) The existing walling is to be retained or the proposed planter wall to be located along the line of existing wall adjacent to Tree 39 *Jacaranda mimosifolia* (Jacaranda) to the eastern Site boundary, to retain existing levels within the TPZ.
- g) Tree 33 *Cordyline australis* (NZ Cabbage tree) to the rear Site boundary is located within the neighbouring property (at the rear of 8 Wallaroo Close) and indicated for removal. Owner's consent has not been provided for the removal of that Tree.
- h) Tree 35 *Phoenix canariensis* (Canary Island Date Palm) is a significant tree that is not supported for removal. It could be retained with an amended stormwater design and compliant building setbacks for building in consultation with the applicant's Arborist.

21. Deep soil

The proposal fails to satisfy the relevant deep soil objectives and controls under ADG Objective 3E-1 and Part 7A.6 of the KDCP.

Particulars:

- a) The deep soil calculation is inconsistent across the plans and reports. The SEE and architectural Deep Soil Plan states that the proposal provides 217m² of appropriate deep soil planting, while the Hardscape Landscape plan indicates 250m². However, the Hardscape Plan calculation is incorrect as it includes the areas to the rear of the Site that are proposed to be covered by decks contrary to the definition of 'Deep soil zones' which requires that such areas of soil are not covered by structures and only permits a total of 10% permeable structures to be included within the calculation.
- b) In addition, both plans include the area to the rear which is less than 6m in width due to the terraces and building within the 6m setback. The actual deep soil provided is limited to the front area of the site, of approximately 116m² with a minimum dimension of 6m, which is only 5%. Due to the existing trees on site and on neighbouring properties in the immediate vicinity of the site boundaries plus the landscape character of the area, a minimum 15% (322.59m²) deep soil should be provided as required under the ADG.
- c) 50% deep soil (1075.3m²) with a minimum width of 2m has not been provided to comply with Part 7A.6 of the KDCP. Actual deep soil provided with minimum 2m width is approximately 407m². This is incorrectly stated on the Deep Soil Plan as 540m² as it includes areas less than 2m in width due to walling or structures or paths wider than 1.2m, which results in a deep soil shortfall of 668.3m².
- d) There are insufficient deep soil zones to allow for planting of tall, medium and small tree and screen planting to western side boundary and tall trees to eastern boundary, contrary to Control 3 and 8 of Part 7A.6 of the KDCP.
- e) Insufficient setback widths and paths against boundaries do not allow for sufficient deep soil landscaping as a buffer between the site and adjoining properties, to comply with Control 4 Part 7A.6 of the KDCP.
- f) A minimum of 7 trees, capable of reaching 18m in height, is required for a site with an area of 2150.6m². The proposal retains 3 trees and no additional trees capable of reaching 18m in height are proposed. The proposal does not comply with Control 7 of Part 7A.6 of the KDCP.

22. Landscape design

The proposal fails to satisfy the relevant objectives and controls under Objective 3F-2 of the ADG, Part 7A.6, 7C.2, 7C.5, 19F.3, 21.1, 21.2 and 23.9 of the KDCP. An amended architectural and landscape plan must be submitted to resolve the following issues:

Particulars:

- a) The proposal does not provide pergola or shading devices to communal open space to limit overlooking from rear units in accordance with Objective 3F-2 of the ADG and Part 7C.2 of the KDCP.
- b) A minimum of 7 trees, capable of reaching 18m in height, is required for a site with an area of 2150.6m². The proposal retains 3 trees and no additional trees capable of reaching 18m in height and does not comply with Control 7 of Part 7A.6 of the KDCP.
- c) A minimum of two tall trees have not been planted within the front setback in accordance with Control 9 of Part 7A.6.
- d) Insufficient setback, deep soil and paths against boundaries do not allow for sufficient landscaping as a buffer between properties contrary to Control 4 of Part 7A.6 and 19F.3 of the KDCP.
- e) Insufficient tree planting is proposed to eastern and western boundary due to limited setback, contrary to Control 8 and 9 of Part 7A.6 and 19F.3 of the KDCP.
- f) The Communal Open space does not provide sufficient facilities with only one table and BBQ area which is contrary to Part 7C.2 of the KDCP which requires shared facilities such as barbecue facilities, shade structures, play equipment and seating within the primary communal open space.
- g) Building entry paths do not provide a minimum 1.2m of landscape planting either side of path in accordance with Part 7C.5 and 19F.3 of the KDCP. Steps and ramp should be consolidated to provide one entry and increase landscaping to frontage.
- h) Existing ground level has not been maintained for 2m from the boundary with a proposed wall and path to the western boundary, less than 2m basement setback to western boundary and proposed wall to steps to front setback 1m from front boundary, contrary to Control 5 of Part 21.1 of the KDCP.
- i) Access to rear lawn unresolved with existing sewer manhole RL set at 112.71 and adjacent path landing at RL 113.152.
- j) Planters to Level 8 adjacent Unit 8.01 are not incorporated into parapet and are movable free-standing planters that can be removed if plants are not maintained.
- k) Existing levels indicated on landscape plans do not correspond with existing levels on survey. Levels to be updated to reflect survey levels.
- l) An Environmental Site Management Plan has not been submitted in accordance with Part 23.9 of the KDCP. Plan to include tree protection and location of storage and facilities outside of the TPZ of trees to be retained.

23. Excessive excavation

The proposed development is inconsistent with the earthworks and slope requirements of Part 21.1 of the DCP.

Particulars:

- a) Landscape fill of up to 1.5m is proposed along the western Site boundary to accommodate the paths / stairs and cut of up to 2.35 within the front setback and does not comply with Control 3 and 5 and Objectives 1, 7 and 9 of Part 21.1 of the DCP.
- b) The existing ground level will not be maintained for 2 metres from the southern and western boundaries with retaining walls and the basement along the western boundary and entry stairs within the front setback inconsistent with objectives 1, 7 and 9 and Control 5 of part 21.1 of KDCP.

24. The proposed development does not comply with State Environmental Planning Policy (Resilience and Hazards) 2021

Particulars:

- a) A Stage 1 Preliminary Site Investigation was submitted with the application. The report makes the following conclusions and recommendations:

The site can be made suitable for the proposed development, subject to the following recommendations:

- Preparation of a Detailed Site Investigation (Phase 2 Environmental Site assessment) by a suitably qualified Environmental Consultant.
 - A hazardous materials assessment is recommended to be completed prior to the demolition of the site.
 - Any soil requiring removal from the site, as part of future site works, should be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW EPA (2014).
- b) The report concludes that there is a potential for the site to be contaminated and further assessment is required to determine if the site is suitable for the proposed development and that remediation may be required.
- c) The proposal does not adequately demonstrate that the land is suitable for the proposed development, contrary to Clause 4.6 of the SEPP.
- d) A Stage 2 Detailed Site Investigation (DSI) has not been provided. The consent authority cannot adequately determine the suitability of the proposed development and any required remediation.

25. Inadequate energy efficiency

The proposal does not adequately manage thermal performance and will increase energy costs.

Particulars:

- a) External clothes drying facilities are to be provided in accordance with Objective 4A-2 of the ADG and Part 7C.9 Control 1 of KDCP.
- b) Insufficient information has been provided in relation to sun shading to demonstrate compliance with ADG Objective 4U-2 (refer to Contention No. 9).
- c) Over the long term the use of large expanses of painted render have been demonstrated to weather poorly, requiring more frequent maintenance and use of scaffolding, inconsistent with ADG Objectives 4X.1, 4X.2 and 4X.3.
- d) A significant proportion of glazing is proposed and which is unprotected from solar loads during hotter months which results in poor long-term building performance.

26. Public interest

The development proposal is not in the public interest and should be refused.

Particulars:

- a) The cumulative adverse impacts outweigh any public or private benefits associated with the development proposal.
- b) The development proposal is also unsatisfactory pursuant to Sections 1.3(f) and 1.3(g) of the EP&A Act, as it does not promote good design and amenity of the built environment.

27. The height of the building is unclear

Particulars:

- a) A roof plan was not provided which includes ridge, pergola and balustrade heights overlayed with the survey detail (spot heights and contours). RLs for the floor levels of the units including finished levels of the base of the existing swimming pool have not been identified.
- b) A building height blanket has not been provided with RLs at ground level and roof elements in order to demonstrate the maximum height of the building.

28. Air conditioning condensers

Particulars:

- a) The floor plans do not display the location of all proposed air conditioning condensers. Air conditioning condensers must be located either:
 - i. within the basement; and or
 - ii. within the proposed lower ground plant room; and or
 - iii. within the roof structure of the upper most roof
- b) Where air conditioners are to be located within the roof structure, an updated acoustic report must be provided confirming the required enclosure or screening needed to meet Council's noise requirements. Plans must be updated to display the height and construction of any acoustic enclosure(s) required.

- c) Where air conditioners are to be located in the basement or within the proposed lower ground plant room certification from a mechanical engineer is to be provided confirming the nominated area/plantroom will be large enough to accommodate the number of proposed condenser units. This certification is also to indicate the likely required supply/extraction air flow within the plant room to demonstrate that ventilation requirements have been sufficiently incorporated into the design.
- d) There is to be sufficient service ducting incorporated into the development so that the systems operate efficiently.

29. Floor to floor heights

The proposed floor to floor heights should be reconsidered to address the requirements of the *Design and Building Practitioners Act*.

Particulars:

- a) The proposed development includes 3.1 metres (floor to floor height) that will comply with industry minimum requirements; however, 3.2 metres (floor to floor height) is more commonly seen as the new industry practice.
- b) Additional clearances should be accommodated both for conditions where wet areas are above habitable rooms of units below (implications for ziggurat building forms); and to deliver Ku-ring-gai's requirements for 15% Platinum Level units under the Liveable Housing Design Guidelines which need to accommodate flush threshold between internal and external areas.

30. Storage

The proposal does not demonstrate compliance with objectives under 4G (Storage) of the ADG.

Particulars:

- a) Objective 4G.1 of the ADG specifies storage requirements for apartments in excess of storage in kitchens, bathrooms and bedrooms.
- b) ADG minimum storage needs to be demonstrated in every unit. Locating storage will need to demonstrate Ku-ring-gai's requirement for the development to demonstrate 100% Liveable Housing Silver Level needs is satisfied.
- c) An ADG compliance diagram is required that demonstrates minimum storage within each unit is accommodated.

31. Water management

Insufficient information has been provided with respect to the terms of Council's drainage easement.

Particulars:

- a) Should No. 23 and No. 25 Lorne Avenue not benefit from Council's drainage easement, then the terms of the easement to allow private connection is to be provided.

32. Waste collection

The Proposal does not comply with the waste collection requirements required by Part 25A.5 'Residential Buildings' of the Ku-ring-gai DCP.

Particulars:

- a) No swept paths analysis demonstrating that Council's current Waste Collection Vehicle of 6.7m Mitsubishi Canter can enter and depart the garbage/room recycle storage area in a forward direction.

33. Construction management

A Construction Traffic Management Plan has not been provided.

Particular:

- a) No indicative construction traffic management plan (CTMP) has been submitted (required under Council's DA Guide). The CTMP is to show the largest vehicle to be used entering and exiting the site for the demolition, excavation and construction stages, stockpiles and all necessary tree protection fencing. Consultation with a consulting arborist is recommended in preparation of any CTMP.

34. Parking provisions and access

There is insufficient information regarding the proposed the parking provisions and vehicular access.

Particulars:

- a) The bicycle storage areas within enclosed garages present accessibility issues and are not supported. In these instances, parked vehicles would need to be moved to comfortably access the bicycle parking space. Access to bicycle parking/storage needs to be resolved.
- b) It has not been demonstrated that there is physically enough space to store a bicycle in the bicycle storage areas located within enclosed garages.
- c) Traffic signal controls visible from the street are not considered appropriate. The following options be thoroughly investigated and exhausted:
 - i) amend the access ramp layout
 - ii) provide a passing bay
 - iii) consider using on-site convex mirrors to overcome visibility issues.
- d) Resident car parking provision should be reduced towards the lower end of the Ku-ring-gai DCP range and supplemented with an on-site car share vehicle.
- e) The plans do not show at least 1 car parking space on the Lower Ground Floor is to be reserved for car share operation, with no charge to the car share operator to use the spaces.

- f) The plans do not demonstrate that the lifts, lobbies and hallways have been designed as a suitable size such that residents can transport their bicycles between their allocated storage areas and street level.
- g) The visitor bicycle parking spaces have not been designed in accordance with AS2890.3 and should be relocated to somewhere near the entry foyer.
- h) The basement plans do not show EV readiness is to be provided for all car parking spaces within the development.
- i) No on-site loading area has been provided. The position of which must not prevent access to and from the basement level car park, with at least one travel lane to be maintained at all times while loading/unloading takes place on the driveway. At least one on-site loading space which is at least 3.5m wide is to be provided to cater for a minimum 6.7 m long service vehicle. The loading space/s should be line marked and/or signposted as a designated loading area. The width of the driveway in the vicinity of the median would need to be modified to accommodate the on-site loading area.

35. Insufficient information

Particulars:

- a) The design (verification) statement must combine the Part 3 and 4 ADG compliance tables with the submitted design intent document in accordance with section 29 of the EP and A Regulation.
- b) The substation is not identified in accordance with Part 23.6 of KDCP.
- c) The location of the clothes drying area for the apartments have not been identified.
- d) Details of any pool/spa structures are to be provided.
- e) The non trafficable roofs appear to be in some instances trafficable to enable servicing of planter boxes. Roof areas should not be accessible.
- f) Elevations including RLs of proposed fencing are required.
- g) It is unclear whether demolition of fencing on the common boundaries and the retaining wall / fence structure within 8 Wallaroo Close are proposed for demolition.
- h) All documentation must be consistent.