COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-633
DA Number	eDA0190/25
LGA	Ku-ring-gai
Proposed Development	Demolition of existing structures and construction of a residential flat building with basement car parking and associated works
Street Address	17-21 Shirley Road, Roseville
Applicant/Owner	Applicant: Lindfield Estate Pty Ltd Owners: SA Jackson, S Bramley-Jackson, JE Hanson, RJ Hanson, AF Ren
Date of DA lodgement	17 April 2025
Total number of Submissions **Total Number of Unique Objections**	21 submissions 15 unique objections
Recommendation	Approval
Regional Development Criteria - Schedule 6 of the SEPP (Planning Systems) 2021	General development over $30,000,000
List of all relevant s4.15(1)(a) matters	• SEPP (Planning Systems) 2021 (SEPP PS) • SEPP (Housing) 2021 (SEPP Housing) • SEPP (Resilience and Hazards) 2021 • SEPP (Sustainable Buildings) 2022 • Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015) • Ku-ring-gai Development Control Plan (KDCP) • Ku-ring-gai Contributions Plan 2010
Summary of submissions	• Driveway design and location • Bulk and scale impacts and insufficient building setbacks and site topography • Availability of public transport • Cumulative impacts from additional population including impacts to fauna and sewerage/water/power demands • Privacy and amenity impact to No. 23 Shirley Road • Transition impacts to low density development • Traffic and safety concerns • Inconsistencies with TOD Alternative • Impacts to streetscape and heritage items at Nos. 6, 12, 16 and 33 Shirley Road • Site isolation of No. 23 Shirley Road • Overshadowing impacts to adjoining properties including Nos. 24 and 28 Shirley Road • Privacy impacts from rooftop terrace • Acoustic impacts • Increased potential for crime

	• Impacts to bird life • Increased stormwater runoff • Insufficient carparking
Attachments	1. Architectural Plans - 2025/390308 2. Compliance Diagrams - 2025/390330 3. Landscape Plans - 2025/378369 4. Stormwater Plans - 2025/378375 5. Driveway Plans - 2025/390311 6. Detail Survey - 2025/112803 7. Traffic Impact Assessment - 2025/378376 8. Clause 4.6 variation request (building height) - 2025/319273 9. Clause 4.6 variation request (Floor Space Ratio) - 2025/319263
Report prepared by	Brodee Gregory
Report date	27 November 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 summarised, 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?	**Yes**
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**No**
Conditions Have draft conditions been provided to the applicant for comment?	**Yes**

DEVELOPMENT APPLICATION

ASSESSMENT REPORT

PURPOSE OF REPORT

To determine Development Application No. eDA0190/25 for demolition of existing structure and construction of a residential flat building with basement car parking and associated works.

Pursuant to Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, the application is defined as regionally significant development because the estimated development cost exceeds $30,000,000, being $49,740,885. As a result, the Sydney North Planning Panel (SNPP) is the consent authority, as prescribed under Section 4.5(b) and associated Schedule 2, Clause 9(b) 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	Building height Floor Space Ratio Building setbacks Deep soil area
Submissions	21 submissions 15 unique objections

Land and Environment Court	N/A
Recommendation	Approval

HISTORY

Site history

The site has a history of low-density residential use.

Previous applications history

Council's records show no relevant applications relating to the site.

Current Development Application History

Date	Action
17/04/2025	Application lodged.
16/05/2025 – 17/06/2025	The application was notified to neighbouring property owners for a period of 30 days. A total of 11 submissions was received.
2/07/2025	A preliminary briefing was held with the Sydney North Planning Panel.
9/07/2025	A request for further information (RFI) was sent to the applicant seeking additional information. Concerns were raised in relation to: i. Building setbacks at ground floor level ii. Building entry and accessibility iii. Building separation iv. Building depth and layout v. Affordable housing (Community Housing details required) vi. Aesthetics – full height glazing not acceptable vii. Sustainability – long term impacts viii. Design Verification Statement ix. Storage – schedule required x. Deep soil areas xi. Privatisation of setback areas xii. Tree removal and impacts – Trees 2, 6, 12 and 43 to be retained xiii. Landscape design xiv. Water management xv. Car parking provision xvi. Waste management xvii. Electric Vehicle (EV) charging and car share xviii. Bicycle visitor parking

26/09/2025	Amended plans and documentation were submitted to Council in response to Council's RFI. The amended plans and documentation include the following: i. Increased building setbacks and deletion of private courtyards at ground floor level ii. Amendments to entry and deletion of platform lift iii. Amendments to unit layouts to enhance access to natural daylight and cross ventilation iv. Amendments to building height including deletion of subterranean apartments v. Amendments to communal internal areas to improve amenity vi. Amendments to rooftop terrace to include additional community facilities vii. Amendments to external finishes viii. Revised Clause 4.6 variation request ix. Updated diagrams to demonstrate compliance with cross ventilation requirements x. Updated diagrams to demonstrate compliance with solar access requirements xi. Inclusion of details regarding community housing provider xii. Amended site analysis xiii. Provision of a storage compliance table xiv. Updated Design Verification Statement
7/10/2025-21/10/2025	The application was re-notified to surrounding property owners. An additional 10 submissions were received.
13/11/2025	An amended driveway plan was submitted.
18/11/2025	Amended architectural plans showing top of wall (TOW) and bottom of wall (BOW) heights for planters were submitted.

THE SITE

Figure 1: Aerial photograph of subject site and surrounding properties

Site description

The site comprises three allotments being Lot 1 in DP 973520, Lot 1 in DP 972422 and Lot 1 in DP 972554 and is known as Nos. 17-21 Shirley Road, Roseville (**Figure 1**). The site is situated at a bend in Shirley Road and is located to the north and west of the street. The site has a combined eastern boundary of 60.625 metres, combined western boundary of 60.35 metres, a northern boundary of 60.93 metres and a southern boundary of 48.885 metres. The combined site has an area of 3,340m^2 by survey.

Development on each of the lots is as follows:

- Lot 1 in DP 973520 (No. 17 Shirley Road) – existing development comprises a part single, part two storey dwelling house. Vehicular access to the site is via a shared crossover located at the southern side of the site frontage. There are several canopy trees located on the site within the front and rear setbacks.
- Lot 1 in DP 972422 (No. 19 Shirley Road) - existing development comprises a single storey dwelling house. Vehicular access to the site is via a shared crossover located at the northern side of the site frontage. There is a large canopy tree in the front setback.
- Lot 1 in DP 972554 (No. 21 Shirley Road) - existing development comprises a part single, part two storey dwelling house. Vehicular access to the site is via a crossover located centrally on the southern boundary (secondary street frontage). There is a swimming pool, and several canopy trees located within the rear setback.

A small part of the site, centrally located on the northern boundary, is mapped as comprising vegetation of biodiversity significance.

Constraint:	Application:
Visual character study category	1920-1945
Easements/rights of way	No
Heritage Item - Local	No
Heritage Item - State	No
Heritage conservation area	No
Within 100m of a heritage item	Yes – Nos. 6, 12, 16 and 33 Shirley Road
Bush fire prone land	No
Natural Resources Biodiversity	Yes – part of northern boundary mapped
Natural Resources Greenweb	Yes – part of northern boundary mapped as Landscape remnant'
Natural Resources Riparian	No
Within 25m of Urban Bushland	No
Contaminated land	No

Surrounding development

The site is surrounded by low density residential development. The adjoining property to the north is known as No. 15 Shirley Road. Development on this site comprises a childcare centre ('Roseville Preschool Kindergarten'). The childcare centre comprises a single storey building with an outdoor play space within its front setback. Also located within the front setback are several tall, endemic canopy trees. Further to the north of this site are several low-density residential properties.

Adjoining the site to the west is a property known as No. 23 Shirley Road. Development on this site comprises a single storey dwelling house. To the west is a property known as No. 25 Shirley Road. Development on this site compromises a recently constructed two storey dwelling house. Further to the west, is a heritage item known as No. 33 Shirley Road which comprises a single storey dwelling house adjoining Alston Way. To the west of Alston Way is a heritage conservation area (Shirley Road Conservation Area).

To the south and east of the site, across Shirley Road, are low density residential dwelling houses. Located on the eastern side of Shirley Road are several heritage items at Nos. 6, 12 and 16 Shirley Road. Also on the eastern side of the street is a pedestrian laneway known as The Rifleway. The Rifleway provides pedestrian access to Larkin Street.

Strategic context

The site is located within a Transport Oriented Development (TOD) Area of State Environmental Planning Policy (Housing) 2021 (SEPP Housing) as originally gazetted on 13 May 2024.

On 11 June 2025, Ku-ring-gai Local Environmental Plan (Housing) (Map Amendment No. 1) was made. The Map Amendment No. 1 (the Amendment) commenced when it was published on the NSW Legislation Website on 13 June 2025. This had the effect of pausing the application of this policy within the Ku-ring-gai Local Government Area, except for those sites where a Development Application (DA) or State Significant Development Application (SSDA) had already been lodged or Secretary's Environmental Assessment Requirements (SEARS) issued

The subject site is 'saved' under the Amendment by virtue of the DA being lodged prior to the Amendment being gazetted.

Council's Alternative TOD plan, was gazetted and came into effect on 14 November 2025 via State Environmental Planning Policy Amendment (Ku-ring-gai Station Precincts) 2025 (SEPP Station Precincts).

Clause 1.8A(2) of Ku-ring-gai Local Environmental Plan (KLEP) as amended states as follows:

> *A development application made, but not finally determined, before the commencement of State Environmental Planning Policy Amendment (Ku-ring-gai Station Precincts) 2025 must be determined as if the policy had not commenced.*

Consequently, the application is assessed against the original TOD provisions as a result of the above 'Savings and Transitional' provision in the KLEP.

Under the Alternative TOD the site is zoned R4 High Density Residential **(Figure 2)**. The site has a variable maximum building height of between 18.5 metres to 29 metres and a variable maximum Floor Space Ratio (FSR) of between 1.3:1 and 1.8:1 **(Figures 3 and 4).** The site has a minimum lot size of 790m^2 **(Figure 5)**.

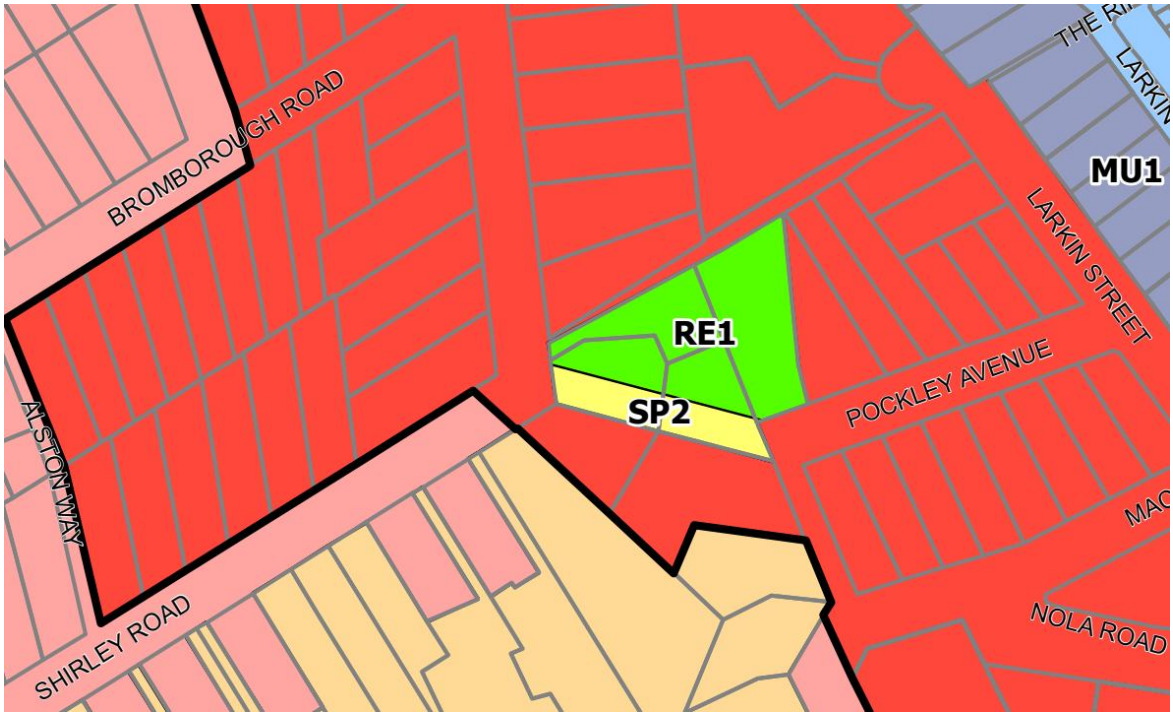

Figure 2: Zoning under Alternative TOD

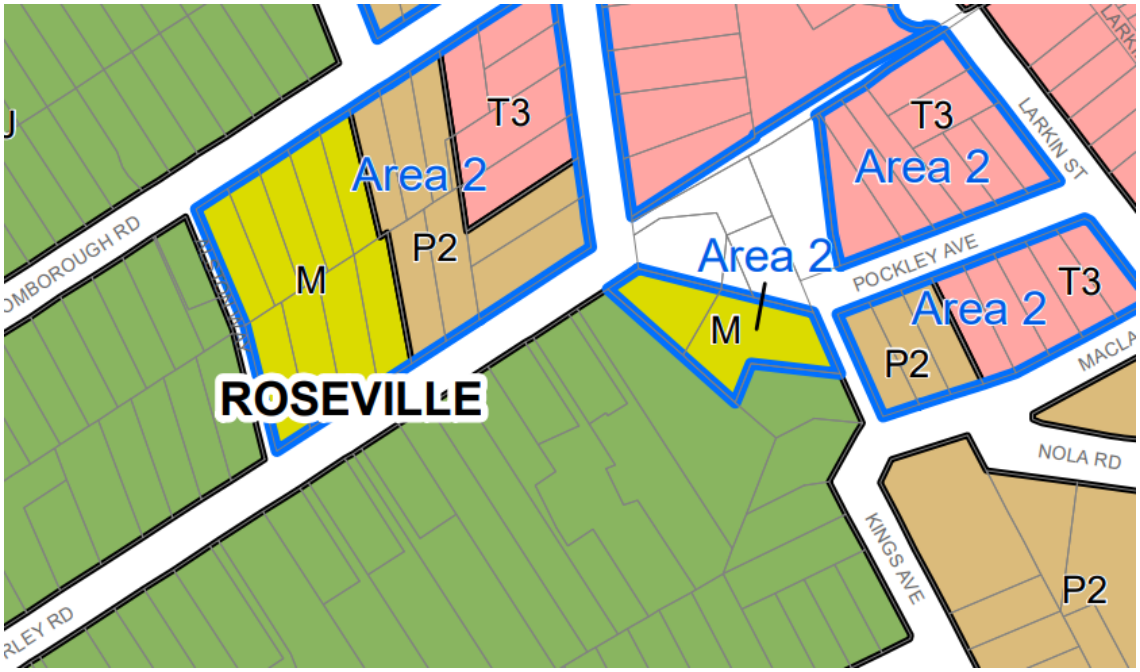

Figure 3: Building height under Alternative TOD (T3 = 29 metres, P2 - 18.5 metres, M = 12 metres)

On the height of buildings map, the site is identified as being within 'Area 2.' Clause 4.3 (2A) of KLEP, which provides a variable height based on site area but does not apply to land within land marked Area 2, as per Subclause (2C). The maximum building height is consequently 18.5 metres to 29 metres, regardless of site area.

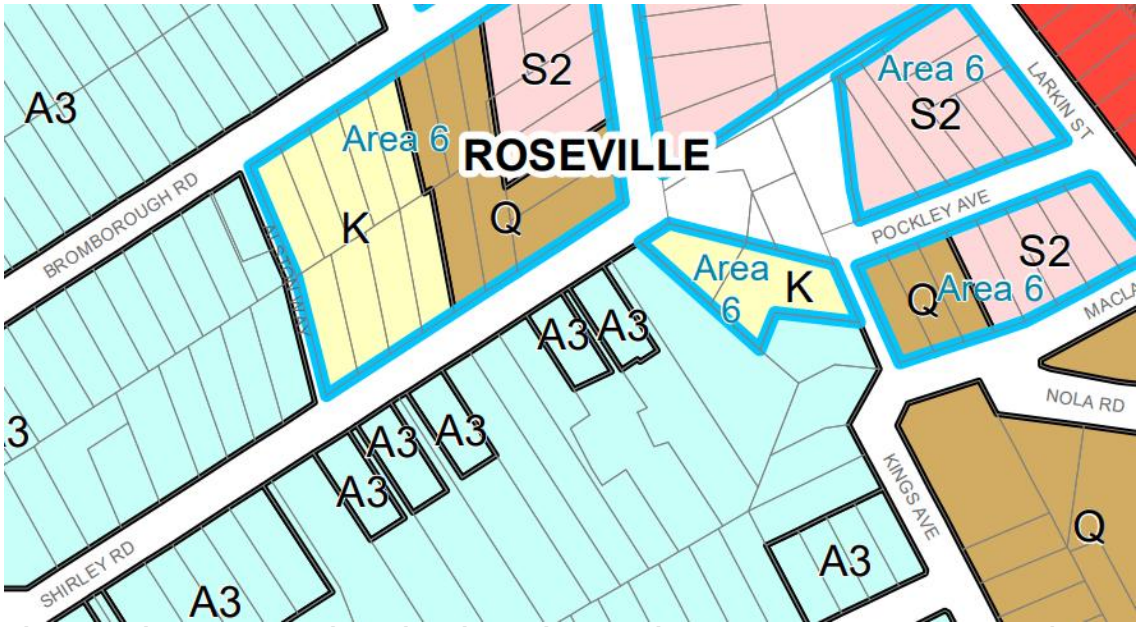

Figure 4: Floor Space Ratio under Alternative TOD (K = 0.85:1, Q = 1.3:1, S2 = 1.8:1)

On the Floor Space Ratio (FSR) map, the site is identified as being within 'Area 6.' Clause 4.4(2C) of KLEP, which provides a variable FSR based on site area, does not apply to land within land marked Area 6, as per Subclause (2G). The maximum FSR is therefore 1.3:1 to 1.8:1, regardless of site area.

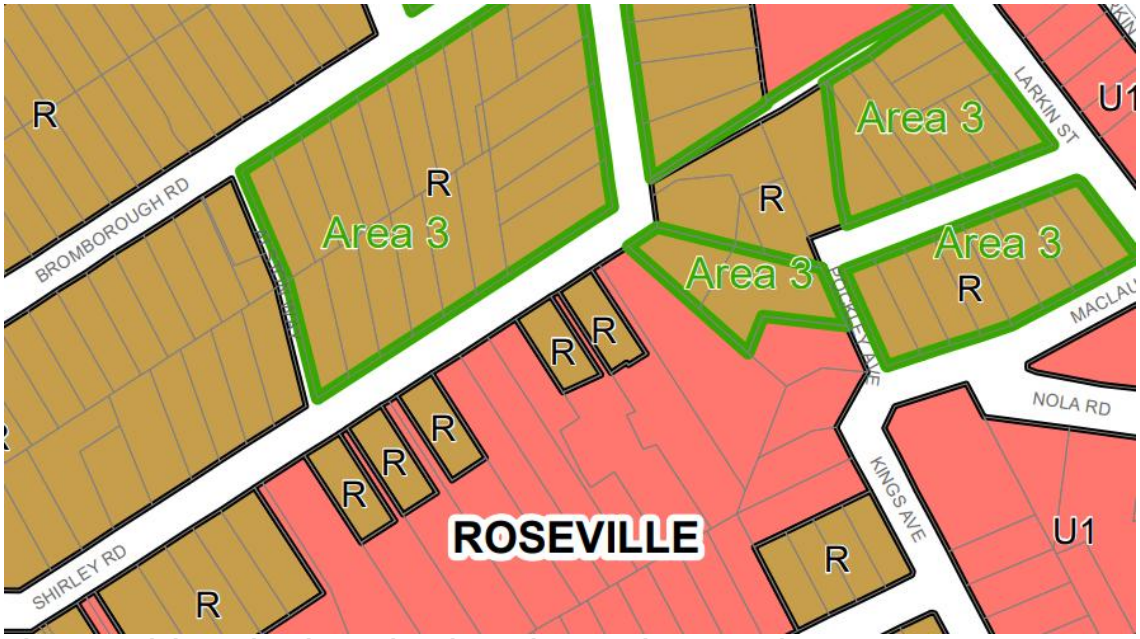

Figure 5: Minimum lot size under Alternative TOD (R = 790m2)

On the Minimum Lot Size map, the site is identified as being within 'Area 3.' Clause 6.6(5) of KLEP, requires the following site area and dimensions for land identified as Area 3:

(a) the lot is at least 1,500m^2, and
(b) the lot is at least 24 metres long and 24 metres wide.

The proposal complies with these requirements.

THE PROPOSAL

The application proposes the demolition of existing dwelling houses and structures and the construction of a residential flat building. The proposed residential flat building includes:

i. three storeys of basement including:
   - 111 x residential car spaces
   - 10 x visitor car spaces
   - 1 x car wash bay
   - 1 x car share bay
   - storage
   - services
   - bulky waste room
   - waste storage rooms

ii. seven storeys of residential apartments including:
   - 5 x two bedrooms apartments
   - 33 x two bedrooms apartments with tv room (internalised)
   - 12 x two bedrooms apartments with tv room (with window)
   - 1 x three bedrooms apartments
   - 9 x three bedrooms apartments with tv room (internalised)

iii. multi-function room, services meeting room, fitness room and change rooms at ground floor level

iv. communal rooftop terrace with swimming pool, deck, sauna, water-closet/shower and dog wash facilities

v. rooftop plant and services

The proposal includes nine apartments designed to Platinum level under the Livable Housing Guidelines (Units L1.04, L1.07, L2.04, L2.07, L3.04, L3.07, L4.06, L5.06 and L6.06).

Two affordable apartments are proposed (Units G.01 and G.02). These units will be managed by Community Housing Provider – Link Wentworth.

External finishes for the proposed development comprise a combination of two types of face-brick with small areas of concrete-look render and aluminium cladding. A combination of glazed and metal balustrades is proposed.

Site works are proposed including removal of 31 trees within the site and along the road reserve. Retention of one significant tree, a *Jacaranda mimosifolia* (Jacaranda) adjacent to the south-western boundary, is proposed. Retention of significant street trees - *Lophostemon confertus* (Brushbox) along the eastern and southern verges, is proposed.

The proposal includes construction of a new driveway crossover on the southern site frontage. Stormwater and landscaping works are also proposed.

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. Submissions were received from the following:

1. *R. Perera – No. 20A Shirley Road, Roseville*
2. *G. and A. Suen – No. 23 Shirley Road, Roseville*
3. *D. van Beek – No. 14 Longford Street, Roseville*
4. *P. Zhao – Shirley Road, Roseville (exact address not provided)*
5. *N. and D. Woodforde – No. 30 Shirley Road, Roseville*
6. *H. Francombe – No. 24 Shirley Road, Roseville*
7. *J. Schwarz – No. 40 Shirley Road, Roseville*
8. *S. Tyerman – address not provided (partial support)*
9. *D. Gresham – address not provided (support)*
10. *A. Arnheim – address not provided (support)*
11. *R. Hale – No. 11 Beaconsfield Parade, Lindfield (support)*

The submissions raised the following issues:

Pedestrian safety; request carpark exit be relocated further from The Rifleway

The proposed driveway is located approximately 40 metres from the intersection and complies with Control 3 of Part 22.2 of Ku-ring-gai Development Control Plan (KDCP) which requires a minimum setback of 10 metres between the intersection and the driveway.

Driveway design; non-compliance with Australian Standard for gradients and sight distances

Council's Team Leader Development Engineers and Strategic Traffic Engineer have reviewed the proposed development and have advised that the proposal complies

with applicable gradients and sight distances. This assessment is agreed with and no objection is raised to the driveway design.

Bulk and scale impacts due to insufficient building setbacks and site topography

The bulk and scale and height of the proposed development is generally consistent with the development standards provided under Chapters 4 and 5 of SEPP Housing. The proposed building separation to adjoining properties complies with the requirements of Part 2F of the Apartment Design Guide (ADG) and the proposed rear and side setbacks comply with the requirements of Part 7A.3 of KDCP. The overall length of the building, when viewed from adjacent properties, also complies with the maximum building length requirements of Part 7C.6 of KDCP.

Request additional public transport due to traffic issues in locality

The TOD program was designed by the NSW Government to deliver housing in locations that have existing infrastructure within 400 metres of railway stations. Provision of additional public transport is not a matter for consideration of this application.

Cumulative impacts from additional population including impacts to fauna and sewerage/water/power demands

The TOD program was designed by the NSW Government to deliver housing in locations that have existing infrastructure including sewer, water and power.

The subject site is not mapped as containing habitat for endangered fauna. The proposed landscape design includes a variety of new plantings which will provide habitat for fauna.

Privacy and amenity impacts to No. 23 Shirley Road

The proposed development is set back a minimum of 6 metres from the shared property boundary with No. 23 Shirley Road and complies with Council's side and rear setback requirements under Control 5 of Part 7A.3 of KDCP. Layered planting is proposed within the western side setback which will filter views to and from the proposed development.

Incompatibility of high-rise building among low density dwelling houses; a better transition should be provided

The proposed development is 'saved' under the current TOD provisions within a low density environment. However, under the TOD Alternative, the adjoining properties to the west and north of the site are zoned R4 High Density Residential development. The TOD Alternative includes site specific building height and FSR requirements to manage transition impacts. The proposed development has been considered against these requirements and is acceptable.

Increase in traffic and safety concerns; impacts to adjoining pre-school

The submitted Traffic Impact Assessment (TIA), prepared by Transport Strategies, dated September 2025, states that the proposed development of 60 units will generate up to 12 and 9 vehicle trips per hour in the AM and PM peak periods respectively. The report states that vehicle movements of this magnitude (one vehicle

trip every 5 minutes) will have no perceptible impact on traffic capacity or safety of the road system. The findings of the TIA are concurred with.

Concerns with traffic report; observations concerning existing traffic do not appear to be accurate; congestion at intersection of Pacific Highway and Glanville Road; existing developments in locality not considered; reliance on modelling use

The submitted TIA acknowledges occasional queues and delays during the AM and PM peak periods in the vicinity of the site. The TIA has been reviewed by Council's Strategic Traffic Engineer who has not raised a concern with the methodology used. The assessment of the Council's Strategic Traffic Engineer is concurred with consequently the proposal is acceptable with respect to traffic impacts.

Inconsistencies with TOD Alternative – height, FSR, deep soil landscaping, corner treatment

Council's Alternative TOD plan was made State Environmental Planning Policy Amendment (Ku-ring-gai Station Precincts) 2025 (SEPP Ku-ring-gai Station Precincts). SEPP Ku-ring-gai Station Precincts amends the Ku-ring-gai Local Environmental Plan by including a 'savings provision' under Clause 1.8A. This savings provision requires the consent authority to consider the application under the original TOD provisions. Nonetheless, consideration has been given to the provisions of the Alternative TOD with respect to the proposed building height. The proposal seeks to vary the maximum building height proposed under the Alternative TOD which is acceptable in the circumstances of the proposal.

Impacts to streetscape and heritage items at Nos. 6, 12, 16 and 33 Shirley Road

The impacts of the proposed development upon heritage items in the vicinity have been considered and are deemed acceptable, as detailed later in this report.

Request additional density be limited to 3-4 storeys and concentrated on the eastern side of the Highway

As noted above, the TOD Alternative is designed to prioritise retention of heritage conservation areas and ecologically sensitive areas. The area immediately to the west of the Pacific Highway in Roseville (including the Shirley Road precinct) was deemed an appropriate area for redevelopment as it is relatively unconstrained. The eastern side of the highway contains numerous heritage conservation areas and is less suitable for high density development. Nevertheless, it is not relevant to this specific application.

Site isolation of No. 23 Shirley Road

No. 23 Shirley Road does not comprise an isolated site as it is capable of being developed with adjacent properties to the west under the TOD Alternative **(Figure 2)**.

Development height and overshadowing impacts to No. 24 Shirley Road

No. 24 Shirley Road is located to the south-east of the proposed development, across the road. The submitted shadow diagrams indicate that 4 hours solar access will be retained to the dwelling house and private open space of this property. The proposal therefore complies with Control 10 of Part 7A.2 of KDCP, which requires retention of 3 hours solar access.

Privacy impacts from rooftop terrace

The proposed rooftop terrace is designed to minimise overlooking impacts to adjoining properties. The terrace is set back 9 metres from the western boundary, which complies with the minimum setback requirements under the KDCP and building separation requirements under the ADG. Additionally, the swimming pool is located at the western most point of the terrace and features non-trafficable coping along its western edge. Consequently, activity associated with the swimming pool will be concentrated in the deck area which is set back 14 metres from the western property boundary.

Acoustic impact assessment does not consider impacts to adjoining properties from construction, additional traffic, sharp braking, additional traffic noise from Link Road

The submitted Acoustic Impact Assessment, prepared by PWNA Rev 2 dated 22 August 2025, is acceptable. The Assessment cannot account for all future scenarios, the impacts of which are unknown.

Request roundabout at Link Road/Shirley Road intersection to manage traffic

The TOD Alternative includes provision of a new road between Shirley Road and Pockley Avenue **(Figure 6)**. Upgrades to this intersection are not proposed currently, though there is nothing preventing such upgrades forming part of a future works programme.

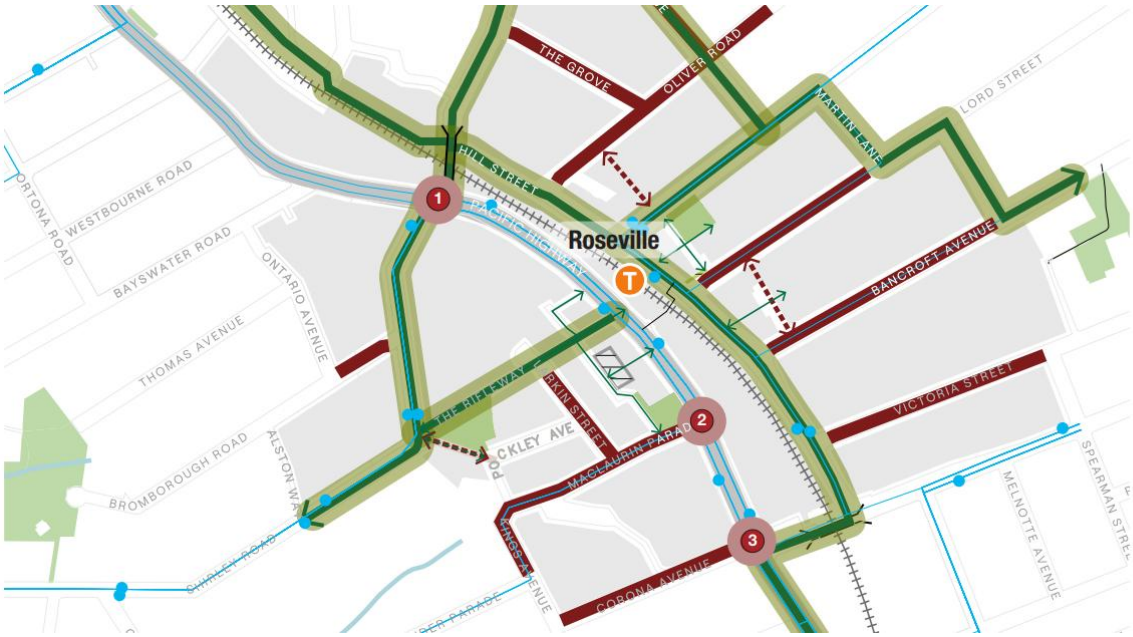

Figure 6: Excerpt from exhibition document 'Preferred Scenario Infrastructure Strategies' (proposed new road shown dashed)

Amended plans received 26 September 2025

The amended plans were also notified. Submissions from the following were received:

1. *E. Chen – Glen Road, Roseville (exact address not provided)*
2. *E. Chen – Glen Road, Roseville (exact address not provided)*
3. *K. Rockey – No.26 Shirley Road, Roseville*
4. *J. Lilley – No. 28 Shirley Road, Roseville*
5. *J. Schwarz – No. 40 Shirley Road, Roseville*
6. *G. Suen – No. 23 Shirley Road, Roseville*
7. *N. and D. Woodforde – No. 30 Shirley Road, Roseville*
8. *E. Carroll (address not provided) (support)*
9. *R. Pedler (address not provided) (support)*
10. *J. Graham (address not provided) (support)*

The submissions in response to the amended plans raised the following new issues:

Increased potential for crime

The proposed development is not of a scale or type which would require provision of a Social Impact Statement under Part 23.1 of KDCP. The proposed development does however incorporate appropriate crime prevention through environmental design (CPTED) measures.

Solar access impacts to No. 28 Shirley Road

No. 28 Shirley Road is located to the south of the proposed development, across the road. The submitted shadow diagrams indicate that more than 3 hours solar access will be retained to the dwelling house and private open space of this property. The proposal complies with Control 10 of Part 7A.2 of KDCP which requires retention of 3 hours solar access.

Overshadowing of neighbourhood

The proposed development complies with the requirements for solar access under Part 4A of the ADG and Part 7A.2 of KDCP.

Impacts to bird life

Whilst the proposed development includes removal of several trees, these trees have not been identified as habitat for any threatened species. The proposed landscape design includes sufficient replacement tree planting which will provide habitat for bird species in the medium to long term.

Increased stormwater runoff

Stormwater runoff generated by the proposed development is capable of being directed to the public system in a controlled manner without adverse impact in accordance with Clause 6.5 of KLEP and Part 24 of KDCP.

Limited parking proposed for units – 0.5 to 2 spaces per unit

The proposed development includes provision for 122 car parking spaces including 111 resident spaces. The proposed number of resident spaces exceeds the TOD

SEPP requirement of 69 car spaces and KDCP requirement of 69-92 car spaces.

Inconsistencies with height requirements under Alternative TOD; alternative massing provided by applicant not supported by Council

The height controls under Alternative TOD are based on the premise that No. 17 Shirley Road will be developed with the adjoining properties to the north, not those to the south. This does not reflect existing environmental site constraints nor market reality. Provision of a stepped building would result in a disjointed built form which would not result in a high quality urban outcome. The proposed development features a more conventional podium style form which delivers a superior streetscape outcome and an appropriate transition to adjacent properties to the west, and across the road to the south and east.

Clause 4.6 variation request for building height is unsatisfactory

The submitted Clause 4.6 variation request demonstrates that compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the proposal and provides sufficient environmental planning grounds to support the departure. The statutory requirements of Clause 4.6(3)(a) and (b) of KLEP are satisfied.

Inconsistencies in date of Council's preliminary assessment letter

There is an error in the date of Council's preliminary assessment letter. The letter was sent to the applicant on 7 July 2025, not 7 June 2025 as indicated on the letter. The letter was sent following the Amendment to the housing maps which came into effect on 13 June 2025. This was a simple typographical error of minimal consequence.

Oversupply of carparking which is not justified

The proposed car parking spaces more than the KDCP requirements are acceptable in this instance. The additional car spaces comprise GFA and the applicant has submitted a well-founded Clause 4.6 variation request to justify the departure from the development standard.

Inconsistencies in traffic report in relation to hourly vehicle movements

Section 5 of the TIA states that the development will result in 12 and 9 vehicle trips per hour in the AM and PM peak periods. The conclusion of the TIA states that the proposal will generate 9 and 6 vehicle trips in the AM and PM, which is correct as it discounts those trips generated by the three existing dwelling houses. Council's Strategic Traffic Engineer has calculated vehicle movements based on the Transport for NSW Guidelines as 10 vehicle trips (two way) in the AM peak and 7 vehicle trips (two way) in the PM peak, which is acceptable.

Concerns relating to encroachment of private driveway onto public road

The proposed bridge crossing is consistent with Council's document 'Construction of Gutter Crossings and Footpath Crossings Information and Specification.' Additionally, a condition is recommended requiring the applicant to obtain the required driveway levels from Council as required under the Roads Act 1993 **(Condition 40)**. This will ensure that the transition between the driveway and the road is compliant and

consistent with Council's expectations for works within the road reserve.

Proposed fourth floor is set back 2 metres from the floor below on the southern and eastern frontages, not 3 metres as claimed

The proposed fifth storey is set back an additional 2 metres from the floor below at the southern and eastern elevations (Shirley Road frontages) resulting in a setback of 8 metres. This is acceptable as the building separation requirements under the ADG apply only where there is (or could be) an adjacent residential building, which is not the case in this instance.

Proposed 6 metre building setbacks for levels 1-3 and 8 metres for upper levels are inadequate

The proposed building setbacks meet the requirements for equitable building separation under Part 2F of the ADG. In addition, the proposed setbacks facilitate provision of compliant deep soil under Part 3E of the ADG. Full compliance with Council's front building setback requirement under Part 7A.3 of KDCP is not possible in this instance due to the misalignment of building height and GFA under SEPP Housing.

Inconsistency in building setbacks on level 5-6 plan between floor plans and section plans

A minimum building setback of 6 metres is proposed for levels 5-6. The sections are taken at discrete points in the building and setbacks may appear varied due to the way they have been drafted.

Setback of roof from southern frontage

The roof is set back 8 metres from the southern frontage, with a small exceedance at the western side where the curved end of the swimming pool sits. This small exceedance does not result in any significant adverse visual bulk impacts and is acceptable on merit.

Internal Referrals

Urban design

Council's Urban Design Consultant commented on the amended proposal as follows (summarised):

1	***Context and Neighbourhood Character*** *<u>Site analysis</u> – is to include an understanding of connected natural systems – water and canopy with topography – not just a site within the TOD SEPP mapping and separate survey - but as broader natural context.* *Initial concerns raised in relation to the site analysis have been resolved. Canopy information has been provided around the site. It is noted separate drawings and the Design Verification Statement (DVS) also include some additional contour information.* *<u>Entries</u> – Proposed pedestrian site entry at the Shirley Road corner is clear and central to the development.*	***Satisfactory***

	Initial concerns raised in relation to accessibility and the site entry have been resolved. Amendments have improved the entry character and sequence and have addressed equitable accessibility through improved coordination with the topography. *<u>Setbacks and streetscape character</u> - Proposed 6 metres setbacks to both street frontages is a reduction from KDCP minimum of 10 metres for a primary street address. While the TOD SEPP provisions will result in a different density character for the Roseville Town Centre than has historically been intended and achieved under the KLEP and KDCP provisions, all applications need to accommodate deep soil and canopy that can achieve the objectives for Ku-ring-gai's urban landscape character.* *Initial concerns relating to deep soil provision have been resolved. Setbacks retain 6 metres of deep soil along all boundaries. It remains noted that this is a reduction from KDCP 10 metres street setbacks. This specific development is acceptable as it is subject to the TOD SEPP non-discretionary standards of poorly aligned FSR and height controls that result in 'fatter' building footprints.* *<u>Privatised terraces</u> – Concerns previously raised in relation to privatised terraces within the building setbacks have been resolved. All private open spaces previously extending into the setback zones have been deleted.*	
2	***Built Form and Scale***	***Satisfactory***
	<u>Building depth</u> – Concerns were raised previously in relation to internal layouts resulting in rooms/habitable spaces with no direct access to natural daylight or ventilation, and/or bedrooms with privacy conflicts and/or located within deep, narrow recesses. These issues are indicative of excessive building depth but have been resolved by the amended proposal. *<u>Building form</u> – the four storey podium form and levels above are clearly defined and expressed. The top floor modulation set inboard of the podium edge, generous eaves and cohesive balcony treatment helps create needed play of light and shadow.* *<u>Building separation</u> – concerns raised previously in relation to building separation above four storeys in height have been resolved. Building separations of 9 metres for levels above four storeys are consistent with ADG provisions.* *<u>Built form and street setbacks</u> – concerns raised previously in relation to privatised setbacks have been resolved.* *<u>Height Floor-to-Floor height</u> – proposed floor to floor heights can achieve compliance with Design and Building Practitioners Act and 2025 NCC waterproofing requirements.*	

3	***Density***	***Satisfactory***
	<u>FSR</u> – consistency with TOD SEPP permitted FSR (as visible above ground) is noted. *<u>Yield</u> – concerns raised previously in relation to amenity have been resolved.*	
4	***Sustainability***	***ADG to be addressed for completeness***
	<u>General comments</u>: *All new developments need to consider and address their carbon footprints.* *Amendments have improved internalised habitable rooms (TV rooms) including some that are now located on external walls or have improved location within the units to improve access to daylight and natural ventilation.* *Further information required: Confirmation of commitments for the following should be included in the Design Verification Statement and annotated on drawings:* - *External shading devices for openings with aspects through east--north-west where not protected by balcony overhangs.* - *rooftop PV* - *no dark-tinted glazing* - *no gas connections – BASIX still includes gas cooktops* - *location and provision of EV charging* - *location for accommodating future battery storage*	*4U Energy efficiency for passive environmental design*
5	***Landscape***	***Clarification required***
	<u>Street setbacks</u> – concerns raised previously in relation to private open space within setback areas have been resolved. *Further information required: on-site detention tanks appear to be located within deep soil setback along the southern boundary to Shirley Road. In context of the significantly reduced street setbacks and available deep soil, these tanks should be relocated under hardstand areas to maximise the available streetscape deep soil.* *<u>Privatised setback zones</u> – all private open spaces previously extending into the setback zones have been deleted.* *<u>Communal open space</u> – rooftop communal open space is supported. Amendments have added Level 6 as a full residential level which has improved the communal amenity through the reconfiguration and dedicated level of Rooftop communal open space.*	*ADG* *3E Deep soil zones* *4O Landscape design* *KDCP* *7A.1 Local Character and Streetscape* *7A.6 Deep Soil Landscaping*
6	***Amenity***	***Satisfactory***

Split lift cores – the proposed split lift cores achieve good communal amenity to lift lobbies and limits the number of units served to five units per core. This also enables dual aspect units at the centre of the development.

Building entry – split cores are supported in principle, noting the intent to provide a single generous entry point at the south-eastern corner as a common address.

Concerns raised previously in relation to entry character, entry sequence and equitable entry have been resolved.

Natural daylight and natural ventilation – Amendments have improved internalised habitable rooms (TV rooms) including some that are now located on external walls or have improved location within the units to improve access to daylight and natural ventilation. Consistency with the ADG relies on their use being retained as a 'TV room' open to the living areas, which is likely given the proposed use of folding or sliding doors to these rooms.

Snorkel bedrooms – Amendments have deleted/designed out all snorkel bedroom/habitable room conditions.

Solar access – concerns raised previously in relation to massing for permitted development on adjacent properties have been resolved.

Three dimensional (views-from-the-sun) solar modelling includes neighbouring permitted development demonstrating satisfactory solar access amenity and acceptable overshadowing impacts.

The DVS states that 45 of 60 units receive 2 hours of solar access. This is supported by the ADG performance table on Cover Sheet AR001 of the architectural plans that identifies each unit's solar performance including all units that receive no solar access (8 of 60).

Natural cross ventilation – concerns raised previously in relation to documentation of cross-ventilation have been resolved.

The architectural plans have included air-flow graphics for each of the units that are naturally cross-ventilated.
The DVS states that 39 of 60 units are naturally cross ventilated. This is supported by an ADG performance table identifying each unit's performance.

Communal rooms – amendments have deleted/designed out previous skylights to the communal multi-function room. Highlight windows are accommodated. While the communal rooms remains largely subterranean, the eastern wall is separated from the retained soil by a separate retaining structure. Likewise, the gym and change rooms are separated

	from the perimeter retaining wall structure. *<u>Unit Layout</u> – concerns raised previously in relation to minimum unit width, internal highlight windows, snorkel bedrooms and habitable rooms with no access to daylight have been resolved.* *Dimensions have been included demonstrating that the minimum width requirement of 4 metres is achieved.* *<u>Bathrooms and kitchens</u> – the inclusion of units with windows to bathrooms and kitchens located on external walls is supported.* *<u>Visual privacy - glazed balconies</u> – it was previously suggested that introduction of moveable, operable screens and or solid upstands to mid-height would allow residents to manage visual privacy comfort as a consistent building performance rather than facilitating conditions for poor quality ad-hoc individual screening that impacts the public domain presentation over the long term.* *The amended proposal includes solid upstands for balconies and has retained the use of metal bar balustrades, which reduce the use of glazed balustrading. This is acceptable.*	
7	***Safety***	***Satisfactory***
	<u>Sightlines</u> – entry sequencing and accessibility concerns have been resolved. Amendments for the basements and ground floor provide satisfactory Crime Prevention Through Environmental Design (CPTED) outcomes.	
8	***Housing Diversity and Social Interaction for completeness***	***ADG to be addressed***
	<u>Affordable Housing</u> – amendments have addressed the amenity issues relating to the affordable units. *<u>Platinum Level housing</u> – Amendments have identified 9 x Platinum Level units consistent with KDCP requirements. Platinum Level units are identified in the table on Cover Sheet AR001 of the Architectural plans and the DVS.* *The Access Report should nominate the Platinum Level units identified on the architectural plans for completeness.* *<u>Accessible car parking</u> – amendments have located all Platinum Level car spaces close to the basement lift lobbies.* *<u>Platform lifts</u> – amendments have deleted the previous platform lift to create an at-grade, equitable accessible building entry with direct access from the street.* *<u>Silver Level housing</u> – Silver Level units are identified in the*	*4Q Universal design* *KDCP Part 7C.4*

	table on Cover Sheet AR001 of the Architectural plans and the DVS confirms all units other than the 9 x Platinum Level units are Silver Level.	
9	***Aesthetics***	***Satisfactory***
	<u>Materials</u> – the restrained palette is durable and generally well-considered, with materials used to clearly express the façade composition and communicate the hierarchy of building elements. The choice of brickwork in warmer tones is consistent with KDCP requirements at Part 23.4 and is an appropriate response for the heritage items and HCAs in the vicinity as regards urban design. *<u>Balustrading</u> – metal bars achieve good durability and higher quality architectural character. Privacy can be managed through design development such as directional orientation particularly at lower levels.*	

The above assessment and relevant provisions have been reviewed. It is agreed that the proposal is satisfactory for the reasons given by Council's Urban Design Consultant.

Whilst the concerns raised by Council's Urban Design Consultant in relation to the Design Verifcation Statement are noted, the Design Verification Statement meets the minimum statutory requirements and is acceptable.

It is recommended that the concerns raised by Council's Urban Design Consultant in relation to nomination of the Platinum units in the Access Report be addressed via **Condition 5** requiring submission of an updated Access report prior to issue of the Construction Certificate. Relocation of the on-site detention tank is also recommended via condition **(Conditions 3, 23 and 24)**.

Landscaping

Council's Team Leader Landscape, Tree and Ecological Assessment commented on the amended proposal as follows:

SEPP (Building Sustainability Index: BASIX) 2004		
Part 3 Aims	***Proposed***	***Complies***
To encourage sustainable residential development	*Certificate 1791231M_02 dated 25/09/2025 is submitted with the application.* *The certificate includes:* • *306.6m^2 of common lawn area* • *1189m^2 of common garden area* *Private areas of garden and lawn for units: G01, G02, G03, L1.09, L1.10 and L608.* *Common taps are provided (6 Star*	***YES***

	The proposal is inconsistent with the landscape outcomes within the BASIX certificate due to: • *No private area of garden and lawn is proposed for units: G01, G02, G03, L1.09, L1.10 and L608.* *The inconsistency favours the Certificate and therefore the inconsistency is not detrimental as a greater water use is considered.*	

SEPP (Housing) 2021		
Schedule 9: Design principles for residential apartment development	***Proposed***	***Complies***
5 Landscape *(1) Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.* *(2) A positive image and contextual fit of well-designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.* *(3) Good landscape design enhances the development's environmental performance by retaining positive natural features*	*The proposal is inconsistent with the landscape design principle due to:* • *Tall tree plantings within limited development setbacks are unviable in the long term due to future and ongoing canopy conflicts.* *The proposal is consistent with ADG medium sized tree planting requirements providing on-site amenity. A condition is recommended deleting the tall tree replenishment plantings within the reduced setbacks* ***(Condition 23)****.*	***NO***

that contribute to the following— *(a) the local context,* *(b) co-ordinating water and soil management,* *(c) solar access,* *(d) micro-climate,* *(e) tree canopy,* *(f) habitat values,* *(g) preserving green networks.* *(4) Good landscape design optimises the following—* *(a) usability,* *(b) privacy and opportunities for social interaction,* *(c) equitable access,* *(d) respect for neighbours' amenity.* *(5) Good landscape design provides for practical establishment and long-term management.*		

Apartment Design Guide (ADG)		
Part 3E Deep soil zones	***Design Criteria***	***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 impervious surfaces	*Deep soil zones are to meet the following minimum requirements:* *Site Area* / *Min dimension* / *Deep Soil Zone (% of Site area)* *Less than 650m^2* / *-* / *7%* *650m^2 – 1500m^2* / *3 metres* *Greater than 1,500m^2* / *6 metres*	***YES***

including car parks, driveways and roof areas.	*Greater than 1,500m^2 with significant existing tree cover*	*6 metres*	
	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 650m^2 - 1,500m^2* • *15% of the site as deep soil on sites greater than 1,500m^2* *For a site area of 3340m^2:* • *7% equates to 234m^2* • *15% equates to 501m^2* *By the applicant's calculations, the proposal will result in a deep soil zone of 983m^2/29% of the site area.* *Ku-ring-gai is characterised by its tree canopy and garden setting. It is assessed that the ADG minimum of 15% should apply due to the site's context within an established low density urban residential zone.*		
	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. Design solutions may include: • *basement and sub-basement car park design that is consolidated beneath building footprints* • *use of increased front and side setbacks* • *adequate clearance around trees to ensure long term health* • *co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil* *The proposal is generally consistent with the design criteria. To further increase*		***YES***

	available deep soil landscape area within the site frontage and to tree protection zone encroachments, conditions are recommended requiring the proposed rainwater tank/on-site detention tank (RW/OSD) and associated works to be entirely located beneath the driveway ***(Conditions 3, 23 and 24).***	
Part 4O-1 Landscape Design	***Design Criteria***	***Complies***
Successful landscape design complements the existing natural and cultural features of a site and contributes to the building's setting	*Tree planting in deep soil zones* *Site area greater than 1500m^2:* • *One large tree or two medium trees per 80m^2 of deep soil zone.* *Large trees are defined as 12-18 metres high. Medium trees are defined as 8-12 metres.* *For a minimum 15% deep soil zone area of 501m^2, a minimum of 6 large trees or 12 medium trees are required.* *The proposal includes:* • *13 x large trees at ground level* • *>20 x Medium trees at ground level* *The proposal is consistent with the numeric requirement, however the location of proposed taller tree plantings within restrictive 6 metre setbacks fails to provide sufficient area for future canopy growth and development consistent with the species selected.* *For example:* • *Angophora costata (Sydney Red Gum) 20 metres x 12 metres* • *Syncarpia glomulifera (Turpentine) 18 metres x 12 metres* • *Corymbia gummifera (Red Bloodwood) 25 metres x 10 metres* *The planting of these locally occurring species within the 6 metres development setback will likely result in future and*	***NO***

	ongoing conflict with the development. It will also require greater area to reach their typical potential growth dimensions. *A condition is recommended requiring the tall tree species within the restricted development setbacks to be deleted. Tall tree plantings can be provided towards site corners where there is a greater development setback that provides suitable air space for future canopy growth* ***(Condition 23).***	
Objective 4O-2 Landscape design contributes to the streetscape and amenity	*Landscape design responds to the existing site conditions including:* • *changes of levels* • *views* • *significant landscape features including trees and rock outcrops* *The proposal satisfies this requirement with provision of medium sized trees within the site's development setbacks. This will provide future amenity and contribute to streetscape character.*	***YES***
Part 4P Planting on structures	***Design Criteria***	***Complies***
Designing soil profiles, irrigation and systems that provide adequate oxygen, water and nutrients is crucial for plant survival.	*Table 5: Minimum soil standards for plant types and sizes.* *Large trees (12-18 metres high, 16 metres crown spread)* *Soil volume – 150m^3* *Soil Depth – 1200 millimetres* *Soil area – 10 metres x 10 metres* *Medium trees (8-12 metres high, 8 metre crown spread)* *Soil volume – 35m^3* *Soil Depth – 1000mm* *Soil area – 6 metres x 6 metres* *Small trees (6- 8 metres high, 4 metres crown spread)* *Soil volume – 9m^3* *Soil Depth – 800 millimetres* *Soil area – 3.5 metres x 3.5 metres or equivalent* *Shrubs* *500-600 millimetres soil depth* *Ground cover*	***YES***

	300-450 millimetres soil depth *Turf* *200 millimetres* *NOTE: Any sub surface drainage requirements are in addition to the above minimum soil depths.* *The proposal generally satisfies the requirements of the ADG.* *One exception is the proposed planter adjacent to the living room of Unit G.05 which proposes 2 x small/medium sized trees within a restricted planter that has a significantly reduced soil volume and area which is insufficient to maintain the viability of the proposed trees in the long term. To ensure the ongoing viability of the proposed tree planting for improved amenity to Unit G.05, a condition is recommended requiring the planter to have a minimum internal dimension of 2 metres x 2 metres x 1 metres for each tree* ***(Condition 23).***	

KDCP COMPLIANCE TABLE		
Control	***Proposed***	***Complies***
Part 7A.6 Deep Soil Landscaping		
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 1.2 metres wide, stormwater pipes of 300 millimetres or less, lightweight fences; has a minimum width of 2 millimetres;* • *not used for car parking;* • *and can be used for water sensitive urban design.* *Site Area* / *Minimum Deep Soil Landscaping* *Less than 1800m^2* / *40% of the site* *1800m^2 or more* / *50% of the site* *For a site area of 3,340m^2 a minimum of 1,670m^2 deep soil area is required.*	***NO***

	By the applicant's calculations, the proposal will result in a deep soil zone of 1,137m^2/34% of the site area which is inconsistent with the KDCP minimum requirement.	
C2. Deep soil zones are to be configured to retain healthy and significant trees on site and adjoining sites where possible.	*The proposal satisfies this control.*	***YES***
C3. 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	*The proposal is inconsistent with the control due to:* • *The lack of appropriate deep soil landscape zones suitable for tall tree planting being provided within the development setbacks due to the consistent 6 metre setback on all boundaries to the basement footprint.* • *The proposed rainwater tank/on-site detention (RWT/OSD) structure within the site frontage which further restricts tree planting within the front setback.* *Tall tree planting can be provided towards the site's corners where there is increased air space for future canopy development. A condition is recommended to this effect* ***(Condition 23).*** *Conditions are also recommended requiring the deletion of the rainwater tank and on site detention (RWT/OSD) from the landscape area within the Shirley Road site frontage* ***(Conditions 3, 23 and 24)****. The RWT/OSD structure is to be limited to the driveway/basement footprint only.*	***NO***
C4. Deep soil landscaping is to be provided in the common areas as a buffer between buildings that softens the bulk	*Where deep soil landscape area is provided it is within common areas.*	***YES***

<table>
<tr><td>and scale of the buildings</td><td></td><td></td></tr>
<tr><td>C7. Tree replenishment and planting.</td><td>Lots with the following sizes are to support a minimum number of tall trees capable of attaining a mature height of at least 18 metres on shale and transitional soils and 15 metres on sandstone derived soils.

<table><tr><td>Lot Size</td><td>Number of Tall Trees</td></tr><tr><td>1,200m^2 (or less)</td><td>1 per 400m^2 of site area or part thereof</td></tr><tr><td>1,201m^2 - 1,800m^2</td><td>1 per 350m^2 of site area or part thereof</td></tr><tr><td>1,801m^2 +</td><td>1 per 300m^2 of site area or part thereof</td></tr></table>
For a site area of 3,340m^2 a minimum of 12 trees capable of attaining a minimum height of 18 metres is required.

While the landscape proposal provides numeric compliance, the inadequate development setback from site boundaries results in the inability for proposed tall tree plantings to grow and develop to the dimensions that typify their species without future and ongoing conflict.

For example:

• Angophora costata (Sydney Red Gum) 20 metres x 12 metres+
• Syncarpia glomulifera (Turpentine) 18 metres x 12 metres
• Corymbia gummifera (Red Bloodwood) 25 metres x 10 metres

The planting of these locally occurring species within the 6 metres development setback at reduced setbacks will likely result in future and ongoing conflict with the development and require greater area to reach their typical potential growth dimensions.

To resolve the ongoing conflict, a condition is recommended requiring tall replenishment tree plantings to be limited to the site corners where there is borrowed deep soil zone from neighbouring sites and</td><td>NO</td></tr>
</table>

	sufficient air space for future canopy growth ***(Condition 23).***	
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. *At least 50% of all tree plantings are to be locally occurring trees and spread around the site.*	*The proposal is generally acceptable.* *Refer ADG planting on structure and Part 21.2 commentary.*	***YES***
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	*The proposal is inconsistent with the control due to:* • *Inadequate development setbacks for tall tree planting without future and ongoing conflict within the street frontages.* • *Tree plantings at <3 metres from the building façade results in their exemption under KDCP Part 13.* • *The planting of a tall tree at an approximate setback of 1.2-1.5 metres from drainage infrastructure which may lead to future and ongoing conflicts.* *A condition is recommended for tall trees to be planted towards the site corners where there is shared deep soil areas and available air space for future canopy growth and development without conflict* ***(Condition 23).***	***NO***
Part 7C.5 Building Entries		
To soften the impact of hard landscaping within the site. *C12. Building entry paths are to be a minimum 1.2m wide and*	*The proposal is consistent with this control.*	***YES***

located within the common area with a minimum dimension of 1.2m on either side for landscape planting.		
Part 13 Tree and Vegetation Preservation		
To manage Ku-ring gai's tree and vegetation resources in a sustainable manner. *To recognise, protect and enhance the aesthetic and heritage values of trees.*	***Tree removal*** *The proposal includes the removal of all trees and vegetation on the site with the exception of Tree 43. The nominated tree removal is acceptable as a number of the trees proposed for removal are exempt, or of low retention value.* *The removal of the following trees is acceptable subject to viable tree replenishment planting:* ***Tree 13: Cedrus deodar (Himalayan Cedar)** located within the Shirley Road eastern site frontage is the most visually prominent tree for removal. The tree is in moderate to good health. Development encroachment within the Tree Protection Zone (TPZ) will result in adverse impacts beyond viable thresholds. The species is sensitive to development encroachments, therefore its removal is acceptable.* ***Tree 3: Ulmus parvifolia (Chinese Elm)** located within the Shirley Road nature strip is proposed to be removed to accommodate the new driveway. While Tree 3 is of high significance, its removal is accepted in preference for the retention of Tree 2 which is a species consistent with the established avenue tree planting that strongly characterises and defines the streetscape.* ***Tree impacts*** *The following trees are impacted by the proposal:* ***Tree 2: Lophostemon confertus (Brushbox)** located within the Shirley Road nature strip. Tree 2 is in good health and condition and is of high landscape significance and high retention value. The tree is part of an avenue of street tree planting that contributes positively to the streetscape and landscape character. The*	***YES***

	species was typically planted as street tree/avenue plantings at the turn of the twentieth century as part of local patriotism towards federation of the Australian nation. *The tree is present with maturing canopies in the 1943 aerial imagery demonstrating its age.* *The proposed driveway is located within the tree's Notional Root Zone (NRZ)/TPZ, with excavation proposed. A detailed arboricultural assessment of impact and root mapping has been undertaken.* *Council's consultant arborist has reviewed the applicant's arboricultural assessment and has provided the following comments:* • *The resultant root severance for the driveway is unlikely to result in the decline of the health of Tree 2.* • *Development encroachment is approximately 15% and considered 'moderate' when assessed against AS4970-2025.* *Further, initial arboricultural concerns regarding driveway splays, confirmation of retained internal levels on site and trenching associated with the existing Telstra Pit have been clarified and resolved.* ***Tree 43: Jacaranda mimosifolia (Jacaranda)** located adjacent to the south-western site boundary. The tree is in good health and condition, contributing positively to the established landscape setting and providing amenity between properties.* *To minimise impacts and to enable the viable retention of Tree 43, the proposed stormwater drainage works within the TPZ are required to be installed via directional drilling. A condition is recommended to this effect **(Condition 82).***	
Part 21 General Site Design		
21.1 Earthworks and Slope *Landscape cut or fill should not be more than*	*Existing ground levels are generally maintained within the landscape areas beyond the development footprint.*	***YES***

600 millmetres above or below natural ground line. *Existing ground level is to be maintained for a distance of 2 metres from any boundary.*	*Ground level has been maintained for 2 metres from site boundaries.*	***YES***
21.2 Landscape Design *To ensure the landscape design and species selection is suitable to the site, its context and considers the amenity of residents and neighbours.*	*The landscape plan is not acceptable due to:* • *The planting of tree species capable of attaining heights up to 10 metres is ill-conceived for an exposed roof top area, as the trees will be prone to instability and failure within restricted planting areas and in lightweight imported soils. It is recommended that rooftop plantings be limited to shrub and groundcover layers that will tolerate the exposed climatic conditions.* • *The planting of woody species that can aid climbing in proximity to pool safety fencing is inconsistent with AS1926.1 – 2012.* • *The location of tall tree replenishment planting has not adequately considered their future growth potential and future and ongoing conflict with the development proposal impacting their longevity.* • *The planting of a tall tree at an approximate setback of 1.2-1.5 metres from drainage infrastructure is ill advised leading to future and ongoing conflicts.* • *Proposed species within planters on structures may be unviable due to insufficient soil depth and volume. For example: The planting of 2 x small/medium tree species (Pyrus) in reduced soil volumes impacts their ongoing viability and possibly stability due to insufficient soil volume for anchorage.* *A condition is recommended requiring amendments to the landscape plan to address the above matters* ***(Condition 23).***	***NO***

Other issues and comments

Stormwater

The proposal includes an expansive OSD tank within the Shirley Road site frontage. The location of the tank significantly impedes the ability of the proposal to provide tall trees within the site frontage where it is located, adversely impacting the streetscape landscape character and amenity.

The applicant's arborist has also stated the following:

'The proposed stormwater lines must be redesigned at the periphery or outside the TPZ of Trees 4, 6, 7 and 17'.

A condition is recommended requiring relocation of the underground combined OSD/RWT and stormwater lines ***(Condition 24).***

The above assessment and relevant provisions have been reviewed and the proposed non-compliances in relation to deep soil area and canopy tree provision are justified in detail in the DCP section of this report.

In addition, conditions are also recommended concerning tree protection **(Conditions 15-20)** appointment of a project arborist **(Condition 21)**, arborist's inspection and reporting **(Condition 75)**, landscape works near trees **(Condition 76)**, tree removal **(Conditions 77 and 80)**, treatment of tree roots and branches **(Conditions 78 and 79)**, hand excavation **(Condition 81)**, storage of materials **(Condition 83),** canopy replenishment trees **(Condition 85)**, and completion of landscape works **(Condition 98)**.

Engineering

Council's Team Leader Development Engineers commented on the amended proposal as follows:

Water Management

The site has a fall of approximately 7 metres across the site towards the south-western corner. The topography suggests the site is not affected during a 1% AEP flood event. A letter from Stellen Consulting dated 10 April 2025 confirms the site is not affected by 1% AEP flood event. Trunk drainage lines in the vicinity of the subject site are shown in ***Figure 7****.*

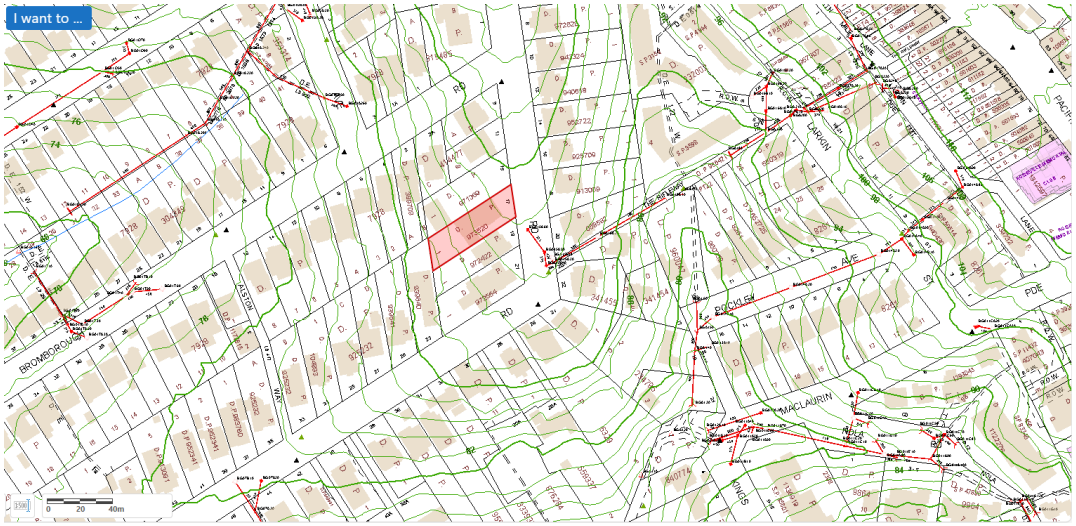

Figure 7: Site topography and drainage infrastructure

The stormwater plans show all roof areas to be collected and conveyed to a combined detention and retention tank of 157m^3 and 20,000 litres respectively located within the front setback area to the Shirley Road frontage. The relocation of this combined detention and retention tank to beneath the driveway to address landscaping concerns is acceptable. The overflow from the detention system is directed to the boundary pit prior to connection into kerb and gutter in Shirley Road. The sizing of the detention system has been based on restricting the kerb outlet flow to 25l/s and sized greater the 60% of the total site area, as per Part 24C.5 of the KDCP, which is acceptable. The access pits to the retention and detention system are readily accessible from within the building common area.

The design also incorporates suitable inlet pits to capture sub-surface water flows from hardstand areas and then direct it to the detention tank with the exception of a small area of 88m^2 of landscaped area in the south-western corner bypassing the detention system.

A pump-out pit of 4m^3 within the basement has been shown. The pump-out tank is to be designed based on the 100 year 2 hour storm, as required under Part 24B.5 of the KDCP. The rising main is shown to be connected to the OSD prior to discharging to the public drainage system, which is acceptable.

A revised BASIX Certificate has been submitted, with water commitments proposing a 4,000 litres rainwater tank to collect 1,010m^2 of roof area to be re-used for 1,495m^2 of landscape irrigation and car washing. The proposed 20,000 litres rainwater tank reduces the site runoff days by 51% which satisfies Council's streamflow objectives under Part 24C.3 of KDCP. The MUSIC model shows rainwater re-use to be provided for garden irrigation and car washing, consistent with BASIX requirements.

The captured stormwater is to be treated by using a proprietary 4 x Ocean Protect 'Psorb' cartridges located within the detention tank as well as 2 x Ocean Protect pit baskets prior to connection into the public drainage system. The revised MUSIC Model results have been provided. The

pollutant load standards set out in Part 24C.6 of the KDCP have been satisfied.

Traffic generation and associated impacts

The updated TIA has calculated the traffic generation of the site, based on TfNSW Guidelines, which results in the following additional peak hour vehicle movements:

- *AM peak hour: 10 vehicle trips per hour (2-way)*
- *PM peak hour: 7 vehicle trips per hour (2-way)*

The TIA notes that vehicle movements of this magnitude, which is 1 additional vehicle trip every 6-8 minutes will have no perceptible impact on traffic capacity or safety of the road system in the vicinity of the site.

In terms of the wider transport context, Council's Strategic Planning unit commissioned transport consultants to assess the cumulative impacts in Roseville of the NSW Government's TOD provisions and Council's Alternative TOD scenario. Early results indicates that the existing 'Level of Service' of the intersection of Pacific Highway/Clanville Road/Shirley Road is D in the AM peak (operating near capacity) and B in the PM peak (good with acceptable average delays & spare capacity).

This development (in isolation) is unlikely to significantly impact on the operation of the intersection

Parking provision and design

Car Parking

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

Use	***Market Housing***	***Affordable Housing***
Studio	*-*	*-*
1 bedroom	*-*	*-*
2 bedroom	*36*	*2*
3+ bedroom	*22*	
Total	***58***	***2***

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***
Residential - Market	*69*	*69-92*	*111 (Breakdown not stated, but effectively 2 spaces per unit)*
Residential - Affordable	*1*		
Visitor	*-*	*10*	*10*
Car Wash Bay	*-*	*can be shared with visitor parking space*	*shared with visitor parking space*
Car Share Bay	*-*	*-*	*1*

Total	***70***	***79-102***	***122***

The proposed parking provision significantly exceeds both the requirements of the TOD SEPP and the KDCP, and is justified in the TIA on the basis that:

i. the provision ensures convenience for those residents who still rely on cars for work, family needs, or mobility challenges, while encouraging the use of other modes of transport wherever possible in a highly accessible public transport area.
ii. the overprovision also ensures no reliance on on-street parking.

To justify the excess parking provision, a Clause 4.6 request seeking a variation to the maximum FSR under Chapter 5 of SEPP (Housing) 2021 has been submitted.

When considering the household vehicle ownership data in the 2021 Census, the following information was obtained for statistical areas in the Roseville TOD precinct with a high proportion of high-density residential apartments:

Vehicle ownership per household - 2021 Census

Statistical Areas with high concentrations of apartments

			Number of vehicles per household		
SA1 Location	**TOD Centre**	**approx address**	**0**	**1**	**2+**
12103140803	Roseville	Pacific Hwy, Shirley Rd, The Rifleway	18%	57%	26%
12103140863	Roseville	Pacific Hwy, Hill St, Victoria St, Bancroft Ave	16%	51%	33%
12103140861	Roseville	Victoria St	7%	70%	23%
12103140832	Roseville	Pacific Hwy, Maclaurin Pde, Alexander Pde, Corona Ave	7%	57%	36%
12103140864	Roseville	Boundary St Roseville	14%	70%	17%
12103140843	Roseville	Hill St, Lord St, Roseville Ave	14%	51%	36%
	Roseville	**Average**	**13%**	**59%**	**28%**

This indicates that 71% of households in the above statistical areas do not own a car or have one car only. The proposed parking provision does align with current vehicle ownership patterns in the area and is considered to be excessive. Clause 9 of Section 7B.1 of the KDCP notes that car parking exceeding the requirements of the parking controls for residential flat buildings within 800 metres walking distance of a railway station entry will not be excluded from the Gross Floor Area as defined in the KLEP.

Car parking provision should be reduced to be in accordance with the KDCP requirement, which will improve affordability, and complying with the KDCP could result in reduced basement excavation, and would give more future residents the option of owning a 2 or 3 bedroom apartment

with only 1 car parking space because of the availability of an on-site car share vehicle (see below).

Car share spaces

The KDCP does not require car share spaces for residential developments of less than 90 dwellings. With the submission of amended plans, an on-site car share vehicle space is proposed, to provide access to additional travel options and reduce reliance on on-street parking. Regardless, the proposed parking provision is considered excessive and should be reduced.

Conditions requiring the following are recommended ***(Condition 92)****:*

1. *At least 1 space on Basement Level 1 is to be reserved for car share operation, with no charge to the car share operator to use the space/s.*
2. *The space/s must be available to verified members of the car share scheme (including members who are not residents of the development) and should be well-lit with safe pedestrian access.*
3. *These spaces must be contracted to an operator (a Car Share Provider that has been approved by the Responsible Authority) with evidence of agreement submitted to Council prior to issuing of the Occupation Certificate.*
4. *Car share vehicles must be operational within 4 weeks of issue of the Occupation Certificate*
5. *The agreement must ensure appropriate insurance and vehicle maintenance is in place, including public liability.*
6. *Since car share spaces are located in the basement, sufficient cellular communications connectivity must available at the location of the carshare spaces to ensure proper car share management/operation.*

Bicycle Parking

*According to the KDCP, 60 resident and 6 visitor bicycle parking spaces are required. The number of bicycle parking facilities for residents provided (48) does not comply with the DCP, and the amended TIA justifies this on the basis of very low local cycling mode share and limited cycling infrastructure in the vicinity of the site. While this may be the case now, planning for transport infrastructure in the Roseville TOD precinct includes cycleway provision on Shirley Road as part of a connected cycleway network. Underproviding of resident bicycle parking would discourage access to the future cycleway network for those units without allocated bicycle parking. This is not acceptable, however can be conditioned to comply (****Condition 44****)*

Resident visitor parking is proposed to be located in individual storage areas spread across Basements 1, 2 and 3. Access to bicycles in some of the storage areas would be impacted by a parked vehicle ***(Figures 8 and 9)****:*

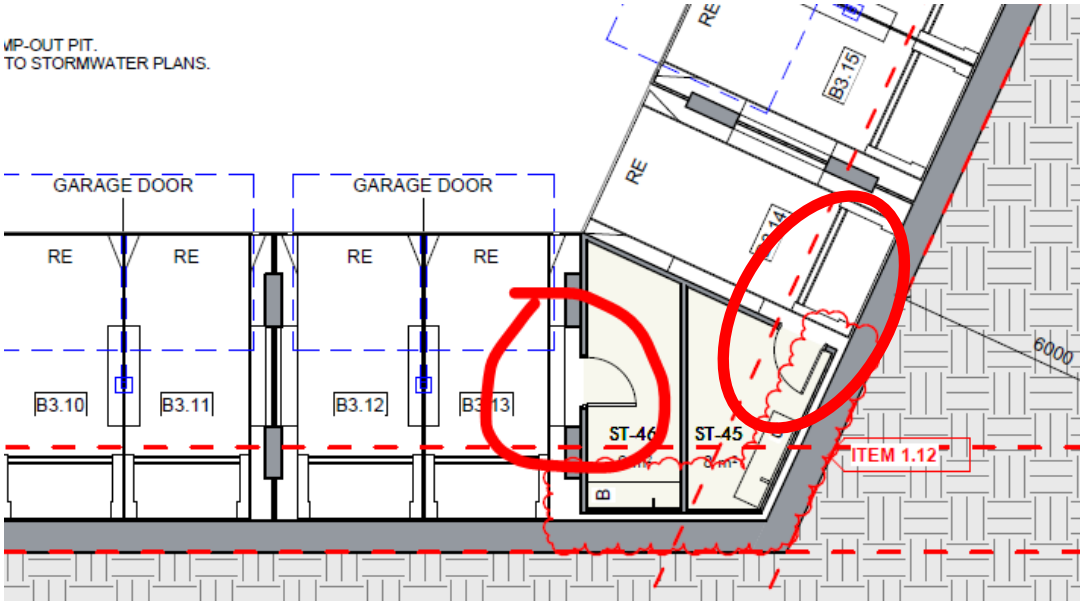

Figure 8: Obstructed storage areas

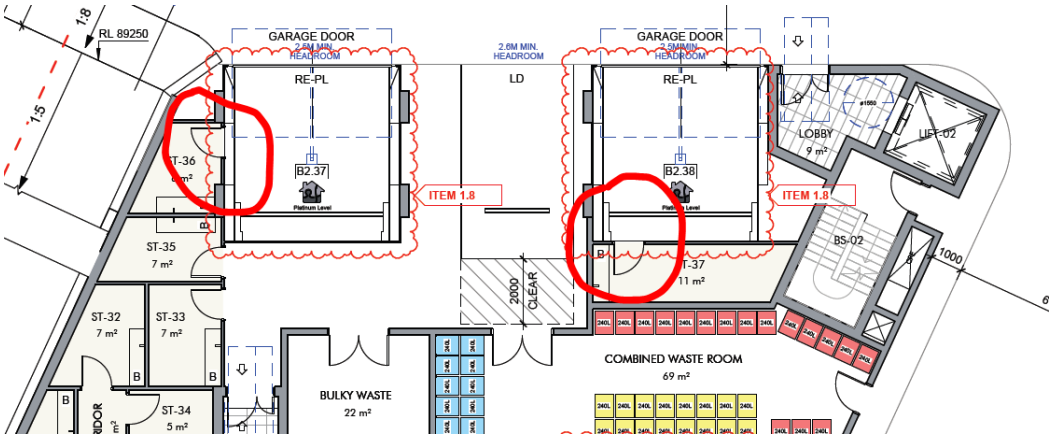

Figure 9: Obstructed storage areas

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. A condition is recommended requiring these access conflicts to be resolved ***(Condition 94)****.*

The entry ramps and the ramps connecting the basement levels have gradients of 1:5 (20%), which generally exceeds the capability of many bicycle users to remain mounted with stability (1:12, or 8% is practical). The TPIA notes that lifts and access pathways have been designed to accommodate bicycles, to provide safe and convenient movement between their storage area and ground/road level without using the internal car park ramps. The proposal therefore provides satisfactory access for bicycle users.

Visitor bicycle parking is proposed at street level, near the pedestrian entry on Shirley Road, and this is acceptable.

Electric Vehicles (EVs)

In accordance with the KDCP, 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. The TPA notes that EV readiness will be provided in accordance with NCC 2022 J1P4 and Council's requirements. A condition is recommended requiring EV readiness ***(Condition 93).***

Access Point

A 6.5 metres wide access point at the property boundary is proposed, which complies with the KDCP and Australian Standards requirements. A 0.6 metres wide central median is proposed approximately 3 metres into the site, to accommodate the access system to the car park. Next to the median island, the entry road width is 3.2 metres wide and the exit road with is 3.4 metres wide, which are acceptable but would need to be reviewed in light of bulky goods waste collection requirements (see below).

The 2 metres x 2.5 metres sight triangle at the property boundary as required by AS2890.1 has been provided, but nearby vegetation must be maintained to avoid encroachment into the sight triangle ***(Condition 113)****.*

To facilitate home deliveries (e.g. groceries), 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 is to be provided to cater for a minimum 6.7 metres long service vehicle. The loading space/s should be line marked and/or signposted as a designated loading area ***(Condition 113)****.*

Waste Management

According to the Waste Management Plan, general waste, recycling, paper and FOGO bins are proposed and located in a central garbage storage area in the basement, which complies with Part 25 of KDCP. Waste and recycling collection for residential development is to be undertaken by Council's waste contractor.

The development allows a garbage truck to enter and depart the garbage/room recycle storage area in a forward direction. Swept paths have been submitted in the traffic report demonstrating that Council's Waste Collection Vehicle of 6.7 metre length can enter and depart the garbage/room recycle storage area in a forward direction.

A longitudinal section has been submitted demonstrating that a clear head height of 2.6 metres and throughout the basement carpark along the path of travel can be provided, as indicated in the Civil Driveway longitudinal

Section CV-103/2 plans. The driveway grade of 20% for the small waste collection vehicle has been shown, which is acceptable.

Construction Management

An indicative Construction Traffic Management Plan has been submitted which provides limited information other than stating the arrival and departure routes being via Shirley Road.

All loading, unloading and construction works are anticipated to occur within the site and will involve 8.8 metres medium rigid vehicle (MRV), 12.5 metres heavy rigid vehicle (HRV) and 18.1 metres Truck and Dog.

A detailed CTMP will need to be submitted prior to the issue of the construction certificate showing the construction vehicle routes for the south-bound and north-bound 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 ***(Condition 11)****.*

A Works Zone may be required along the site frontage and a condition will be recommended to that effect, including the need for approval by Council's Traffic Committee and the payment of the necessary fees ***(Condition 12)****.*

Geotechnical Investigation

A geotechnical report has been submitted to assess the subsurface conditions of the site along with preliminary recommendations for the excavation of the basement.

Construction of the basement will require excavating three levels of basement below the existing ground surface. Localised deeper excavations may also be required to facilitate construction of the footings, lift overrun pits, crane pads and service trenches.

As part of the investigation procedure, four boreholes and associated Standard Penetration Testing (SPT) were put down to determine the relative density of the overlying soil and the depth to bedrock. Two boreholes were converted into groundwater monitoring wells.

The subsurface conditions generally consist of fill material of 1.5 metres in depth, overlying silty clay to clay soils. Beneath this, extremely weathered shale is encountered between approximately 7.7 metres and 13.2 metres, followed by medium strength shale at a depth of around 14 metres. High strength shale is found at approximately 20.36 metres below ground level.

Groundwater was not encountered during drilling, but seepage was observed in monitoring wells. A pump-out facility is recommended for the earthworks phase to manage seepage via a sump at the excavation base, with a capacity to handle expected inflows. Long-term groundwater control should include perforated drainage pipes behind the basement retaining walls, around the perimeter, and below the basement slab, connected to the sump-and-pump system. The

drainage system should be designed to discharge into the on-site stormwater management system, with appropriate flow rates and backflow prevention measures to ensure effective water management and prevent water ingress. Whilst the findings would expect it to be less than the nominated 3ML/year, it will however 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 Department of Primary Industries (DPI) Office of Water ***(Condition 35)****.*

It is recommended that prior to demolition, bulk excavation and construction that a detailed dilapidation survey be carried out on the adjacent building and associated structures within the zone of influence. The purpose of a dilapidation report is to confirm that demolition, excavation and construction works is to assist in determining whether the works, are/ are not causing damage and potential claims of damage arising from the works ***(Condition 9).***

The geotechnical recommendations regarding excavation support, vibration monitoring, dilapidation reporting of adjoining buildings and foundation design shall be carried out during construction as specified within the report ***(Condition 63)****.*

The above assessment and relevant provisions have been reviewed. It is generally agreed that the proposal is satisfactory for the reasons given by Council's Team Leader, Development Engineers. As aforementioned, a condition is recommended requiring relocation of the RWT/OSD tank outside of the soft landscape area **(Condition 24)**. The condition also requires relocation of proposed stormwater lines so they are adjacent to the basement to minimise tree impacts.

In relation to carparking oversupply, this issue was raised with the applicant. The applicant declined to reduce the number of carparking spaces proposed for market reasons. A Clause 4.6 variation request for excess GFA has been submitted which is addressed in detail below.

In addition to the conditions noted above, conditions are also recommended concerning provision of a temporary construction exit **(Condition 13)**, sediment controls **(Condition 14)**, stormwater quality control **(Condition 36)**, driveway crossing levels **(Condition 40)**, driveway grades **(Condition 41)**, basement car parking **(Condition 42)**, car parking allocation **(Condition 43)**, , road opening permits **(Condition 54)**, post construction dilapidation report **(Condition 62)**, temporary disposal of stormwater **(Condition 72)**, Section 73 Compliance Certificate **(Conditions 74 and 110)**, waste collection clearance **(Condition 86)**, no stopping restrictions **(Condition 103)**, easements and positive covenants **(Conditions 104, 105, 109 and 112)**, certification of works **(Conditions 106, 107 and 113)** and basement maintenance **(Condition 108).**

Ecology

Council's Ecological Assessment Officer has reviewed the proposed development and has raised no objections. This assessment has been reviewed and is agreed with.

Environmental Health

Council's Senior Environmental Health Officer has reviewed the proposed development and has raised no objection, subject to imposition of conditions concerning noise and vibration management **(Conditions 22, 39 and 99),** design and certification of mechanical ventilation **(Conditions 48 and 97),** outdoor lighting **(Conditions 29, 100 and 119**), location of air conditioning condensers **(Conditions 28 and 101),** waste and recycling facilities **(Conditions 50 and 117),** control of construction noise **(Condition 59**), swimming pool compliance **(Condition 114 and 126)** and ongoing noise control noise measures **(Conditions 121-124).** This assessment has been reviewed and is agreed with.

Building

Council's Senior Building Surveyor reviewed the proposed development and raised no objection, subject to imposition of conditions concerning accessibility and fire safety **(Conditions 102 and 127)**. This assessment has been reviewed and is agreed with.

STATUTORY PROVISIONS

State Environmental Planning Policy (Planning Systems) 2021

Pursuant to Clause 2.19(1) of the SEPP, development that is specified in Schedule 6 (Regionally significant development) is declared to be regionally significant development.

The SEPP classifies the proposed development as regionally significant because its estimated development cost of $49,740,885 exceeds the $30 million threshold set out in Clause 2 of Schedule 6. This estimate is detailed in the Estimated Development Cost report included in the DA package. Therefore, the SNPP is the consent authority for this application.

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 low-density residential use and as such, it is unlikely to contain any contamination, and further investigation is not warranted in this case

State Environmental Planning Policy (Sustainable Buildings) 2022

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 contains 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 subject application seeks development consent for a residential building on land that is zoned R2 Low Density Residential (the 'relevant residential zone'). The site is located with the TOD Area of Ku-ring-gai, and is now zoned R4 High Density Residential because of the Savings and Transitional provisions inserted into the KLEP following the gazettal of Council's 'Alternate TOD' amendments to the SEPP.

The relevant sections of Chapters 4 and 5 of SEPP Housing are considered below -

Chapter 4 – Design of residential apartment development

The proposed development achieves the aims of this chapter. Consideration is given below to the quality of the design of the residential apartment development when evaluated in accordance with the design principles set out in Schedule 9 of SEPP Housing –

1 Context and neighbourhood character

The proposed development is located within a locality which is likely to undergo transition because of increased density and uplift reflective of the recent rezonings under the SEPP Amendment (Ku-ring-gai Station Precincts) which rezones the subject site and surrounding sites as R4 High Density Residential. The proposed development includes sufficient deep soil areas which will assist in softening bulk impacts and external finishes which will complement the surrounding streetscape.

2 Built form and scale

The proposed development is of an appropriate built form and scale, consistent with the outcomes envisaged by the SEPP Housing, Chapter 5 TOD provisions.

3 Density

The proposed development is of an appropriate built form and scale, consistent with the outcomes envisaged by the SEPP Housing, Chapter 5 TOD provisions.

4 Sustainability

The proposed development features compliant cross-ventilation and solar access, which will reduce reliance on mechanical heating and cooling. The proposal also includes a generous number of rooftop solar panels and wide eaves.

5 Landscape

The proposed development includes landscape outcomes consistent with the outcomes envisaged by the SEPP Housing, Chapter 5 TOD provisions.

6 Amenity

The proposed development provides high levels of residential amenity and complies with the relevant ADG requirements for building separation, cross-ventilation and solar access. In addition, the proposal includes high quality areas of communal open space including a rooftop terrace, fitness room and multi-function room. The proposed development will not result in any significant adverse amenity impacts to adjoining properties.

7 Safety

The proposed development satisfies the principles of crime prevention through environmental design (CPTED) principles, providing clear sightlines and areas that are free of entrapment opportunities, lighting, clear way finding, security doors and other suitable measures. Additionally, the proposed areas of communal open space are overlooked by multiple ground floor units and benefit from casual surveillance.

8 Housing diversity and social interaction

The proposed development includes a variety of unit types and includes two dedicated affordable units. The proposal also includes communal facilities, which will encourage interaction including a high-quality rooftop terrace.

9 Aesthetics

The proposed development includes high quality external finishes including a variety of facebrick, cladding, small areas of render and a mixture of glazed and metal balustrades.

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

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
Objective 3A-1 Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	**YES**
Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development	**YES**
Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid-winter	**YES**
Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security	**YES**
Objective 3C-2 Amenity of the public domain is retained and enhanced	**YES**
Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	**YES**
Design criteria	
1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	**YES** **YES**
Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	**YES**

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
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	**YES**
Design criteria	
Deep soil zones are to meet the following minimum requirements: **Site area** / **Minimum dimensions** / **Deep soil zone (% of site area)** greater than 1,500m^2 with significant existing tree cover / 6 metres / 29%	**YES**
Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy	**YES**
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: **Building height** / **Habitable rooms and balconies** / **Non-habitable rooms** / **Proposal** up to 12 metres (4 storeys) / 6 metres / 3 metres / >6 metres up to 25 metres (5-8 storeys) / 9 metres / 4.5 metres / 9 metres **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	**YES**
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	**YES**
Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain	**YES**
Objective 3G-2 Access, entries and pathways are accessible and easy to identify	**YES**

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
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: • 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	**YES**
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	**YES**
Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	**YES**
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	**YES**
Objective 4A-2 Daylight access is maximised where sunlight is limited	**YES**

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months	**YES**
Objective 4B-1 All habitable rooms are naturally ventilated	**NO**
Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation	**YES**
Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	**YES**
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 2 Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line	**YES** **NO**
Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access	**YES**
Design criteria	
Measured from finished floor level to finished ceiling level, minimum ceiling heights are: **Minimum ceiling height for apartment and mixed use buildings** — **Proposal** Habitable rooms — 2.7 metres — > 2.7 metres Non-habitable — 2.4 metres — > 2.4 metres	**YES**
Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms	**YES**
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	**YES**

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
Design criteria	
Apartments are required to have the following minimum internal areas: **Apartment type** / **Minimum internal area** / **Proposal** 2 bedroom / 70m^2 / 96m^2 minimum 3 bedroom / 90m^2 / 116m^2 minimum 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	**YES**
Objective 4D-2 Environmental performance of the apartment is maximised	**YES**
Design criteria	
1 Habitable room depths are limited to a maximum of 2.5 x the ceiling height 2 In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window	**YES** **YES**
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) 2 Bedrooms have a minimum dimension of 3m (excluding wardrobe space) 3 Living rooms or combined living/dining rooms have a minimum width of: • 4 metres for 2 and 3 bedroom apartments 4 The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts	**YES** **YES** **YES** **YES**
Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity	**YES**

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
Design criteria	
All apartments are required to have primary balconies as follows: **Dwelling type** / **Minimum area** / **Minimum depth** 2 bedroom apartments: $10m^2$ / 2 metres 3+ bedroom apartments: $12m^2$ / 2.4 metres Balcony width: 1 metres / 2.4 metres 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	**YES** **NO**
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	**YES**
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 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	**YES** **YES**
Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents	**YES**
Objective 4G-1 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** / **Proposal** 2 bedroom apartments: $8m^3$ / $>8m^3$ 3+ bedroom apartments: $10m^3$ / $>10m^3$ At least 50% of the required storage is to be located within the apartment	**YES** **YES**
Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments	**YES**

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout	**YES**
Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments	**YES**
Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission	**YES**
Objective 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future	**YES**
Objective 4K-2 The apartment mix is distributed to suitable locations within the building	**YES**
Objective 4L-1 Street frontage activity is maximised where ground floor apartments are located	**NO**
Objective 4L-2 Design of ground floor apartments delivers amenity and safety for residents	**YES**
Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area	**YES**
Objective 4M-2 Building functions are expressed by the façade	**YES**
Objective 4N-1 Roof treatments are integrated into the building design and positively respond to the street	**YES**
Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised	**YES**
Objective 4N-3 Roof design incorporates sustainability features	**YES**
Objective 4O-1 Landscape design is viable and sustainable	**YES**
Objective 4O-2 Landscape design contributes to the streetscape and amenity	**YES**
Objective 4P-1 Appropriate soil profiles are provided	**NO**
Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance	**NO**
Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces	**YES**
Objective 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members	**YES**
Objective 4Q-2 A variety of apartments with adaptable designs are provided	**YES**

ADG COMPLIANCE TABLE	
Guideline	**Compliance**
Objective 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs	**YES**
Objective 4U-1 Development incorporates passive environmental design	**YES**
Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	**YES**
Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation	**YES**
Objective 4V-1 Potable water use is minimised	**YES**
Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters	**YES**
Objective 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	**YES**
Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling	**YES**
Objective 4X-1 Building design detail provides protection from weathering	**YES**
Objective 4X-2 Systems and access enable ease of maintenance	**YES**
Objective 4X-3 Material selection reduces ongoing maintenance costs	**YES**

An assessment of the non-compliances noted in the above ADG Compliance Table is detailed below.

Objective 4B-1

Objective 4B-1 states that all habitable rooms are to be naturally ventilated. The proposed development provides natural ventilation to all living rooms and bedrooms, though many the proposed TV rooms do not benefit from a window. Instead, the TV rooms are adjacent to a living room and feature folding doors which allow the room to be partitioned off from the main living area. This condition affects 63% of units. An example is shown circled yellow in **Figure 10** below.

The proposed TV rooms are acceptable for the following reasons:

i. The rooms feature bi-fold which can be opened onto the adjoining living room and will therefore receive sufficient light and ventilation.

ii. The rooms allow for flexibility in use and could be used as TV rooms, sewing rooms, studies, libraries etc. The rooms improve the amenity of the units and would suit a variety of household types.

iii. The rooms do not impact upon ADG compliance with key amenity considerations. The proposed development features 75% of units achieving 3 hours solar access (70% required) and 65% of units achieving natural cross-ventilation (60% required).

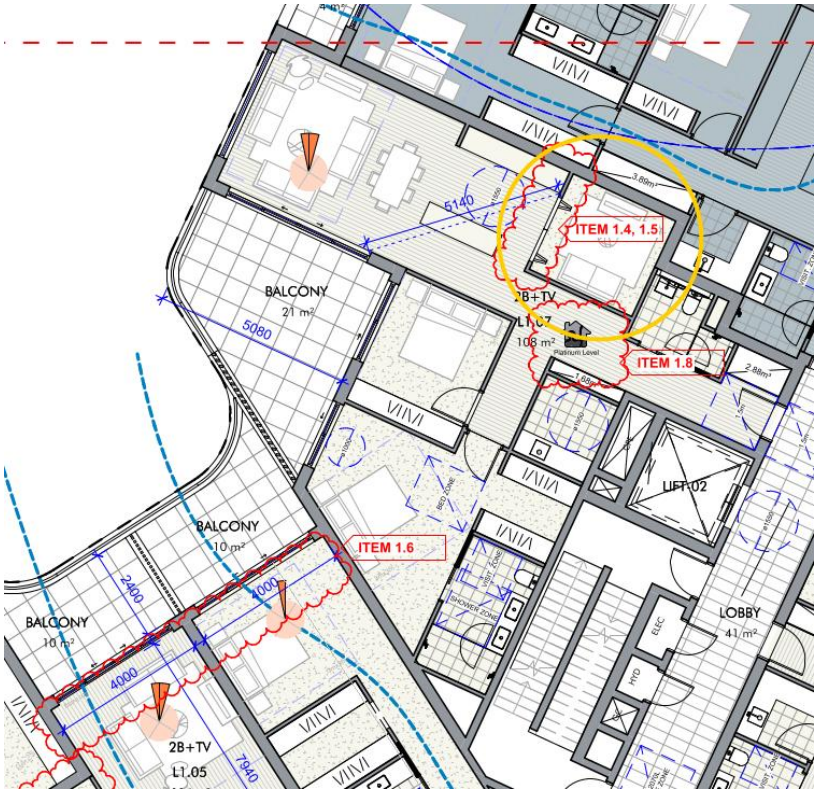

Figure 10: Example of habitable room with no window – Unit L1.07

Objective 4B-3 Natural ventilation

Objective 4B-3 states that the number of apartments with natural cross ventilation is to be maximised to create a comfortable indoor environment. The Design Criteria states that the overall depth of a cross-through apartment should not exceed 18 metres, measured glass line to glass line.

The proposed development includes eight units which exceed 18 metres in depth – see example L1.05 and L1.06 in **Figure 11** below. These units have a depth of 20.6 metres to 21 metres and are situated centrally on Levels 1-4. These units are acceptable for the following reasons:

i. The units are dual aspect units which are capable of receiving cross ventilation.

ii. The units offer good amenity featuring areas of private open space to both aspects.

iii. The units are designed so that habitable rooms receive ventilation with non-habitable rooms being centrally located within the units.

iv. The non-compliance is for only 13% of units and is considered to be a product of the site layout and configuration (corner site).

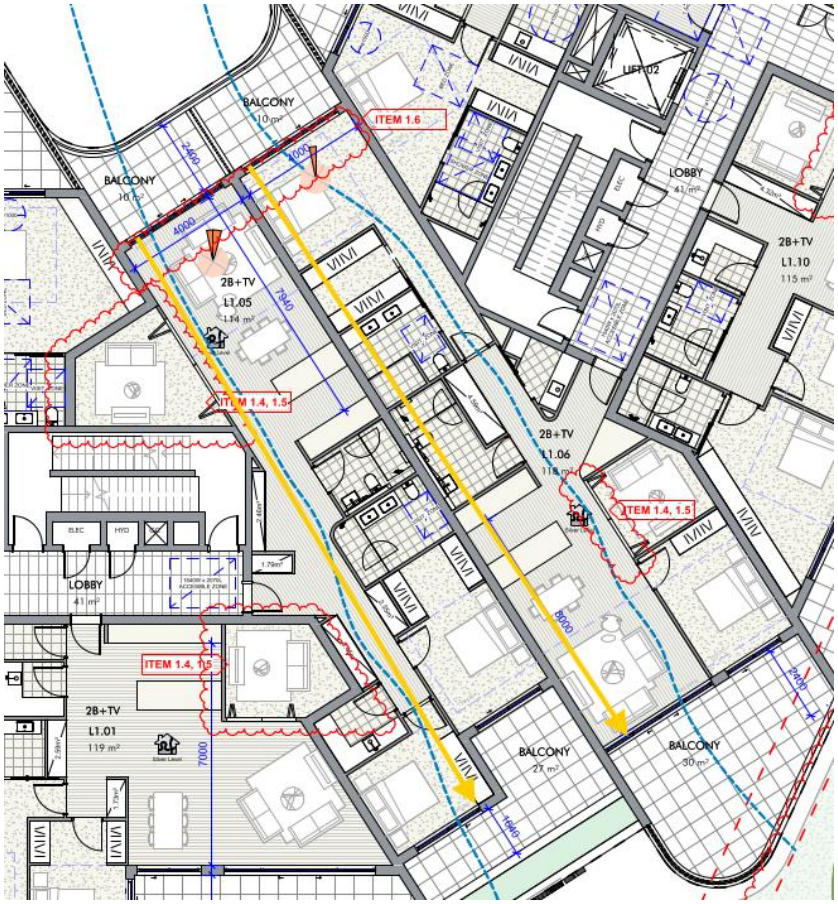

Figure 11: Examples of cross-through apartments exceeding 18 metres in length – Units L1.05 and L1.06

Objective 4E-1 and Objective 4L-1

Objective 4E-1 states that apartments must provide appropriately sized private open space and balconies to enhance residential amenity. The associated Design Criteria states that for apartments at ground floor level, private open space must be provided instead of a balcony.

Similarly, Objective 4L-1 states that street frontage activity should be maximised where ground floor apartments are located. The Design Guidance suggests that direct street access should be provided to ground floor apartments and that activity should be achieved through front gardens, terraces and façade design.

The proposed development includes elevated balconies at ground floor level rather than courtyards. The balconies each comply with the numerical requirement of 10m^2 for 2 bedrooms units and 12m^2 for 3 bedroom units, but are not courtyards as required by the Design Criteria. This was a deliberate design decision to maximise deep soil provision in the setback areas, which is the preferred outcome. A street presence is provided through the entrance, which is inviting and generous in proportion. Consequently, the proposal is acceptable in this regard.

Objective 4P-1

Objective 4P-1 states that appropriate soil profiles must be provided. The Design Guidance associated with this objective states that minimum soil volumes must be provided in accordance with Table 5. Compliant soil volumes have been provided for all

planters except the planter within the ground floor communal open space. As this planter provides valuable amenity to the adjacent residential unit (G.05), the non-compliance is not acceptable. Consequently, a condition is recommended requiring the volume of the planter to be increased for each proposed tree planting **(Condition 23)**.

Objective 4P-2

Objective 4P-2 states that plant growth is to be maxmised with appropriate selection and maintenance. The Design Guidance associated with this objective states that plants should be suited to site conditions. Insufficient space is provided for the proposed tall canopy trees to thrive and grow to maturity. To address this issue, a condition is recommended requiring the proposed tall canopy trees to be provided only where there is adequate space for canopy development **(Condition 23)**.

Chapter 5 – Transport orientated development

The subject application was lodged under the provisions of Chapter 5 of SEPP Housing.

The proposal is permitted with development consent pursuant to Section 154 of SEPP Housing, as the land is located within a 'relevant residential zone.'

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

Development standard	Proposed	Complies
S 155 - Maximum building height Residential flat building – 22 metres	29.26 metres (roof top communal open space facilities)	**NO**
S 155 - Maximum floor space ratio – 2.5:1	2.58:1	**NO**
S 156 – Affordable housing GFA - >2000 sqm 2% of GFA to be used for affordable housing	Required Affordable GFA = 172.6m^2 Proposed Affordable GFA = 217m^2 (more than 2%)	**YES**
S 157 – Affordable housing parking spaces (min) 1 bedroom – 0.4 parking space 2 bedroom – 0.5 parking space 3 or more bedrooms – 1 parking space	Required – 2 x 0.5 parking spaces Proposed – 1 parking space for each affordable apartment (G1.01 and G1.02)	**YES**
S 159 – Minimum lot width 21 metres wide at the front building line	Frontages are 59.4 metres (eastern) and 60.1 metres (southern)	**YES**

S 161 - **Consideration of Apartment Design Guide**	Consideration of the Apartment Design Guide is provided earlier in this report	**YES**

The above non-compliances are addressed under the Clause 4.6 assessment below.

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
Cl 6.6 – Requirements for multi dwelling housing and residential flat buildings: *Whilst the area of the land would be inconsistent with s 158 of SEPP Housing, the minimum dimensions of width and depth would not be inconsistent with S 158 of SEPP Housing and therefore must be considered.* *Width and Depth and measured differently under this Clause as compared to S 159 of SEPP Housing)* Lot width and depth – 30 metres (if site area is greater than 1800sqm)	Site area – 8,263.39m^2 Lot width – 59.4 metres (eastern) Lot depth – and 60.1 metres (southern)	**YES** **YES** **YES**

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 generally consistent with the Aims of the Plan, having regard to the provisions of SEPP Housing which prevail to the extent of any inconsistency with another Environmental Planning Instrument.

Zoning and permissibility:

The site is zoned R2 Low Density Residential. The proposed development is defined as a residential flat building and is permissible in the zone under the provisions of Section 154 of SEPP Housing, as the land is a 'relevant residential zone'.

Zone objectives:

The objectives of this zone are:

- *To provide for the housing needs of the community within a low-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 housing that is compatible with the existing environmental and built character of Ku-ring-gai.*

The development is inconsistent with the objectives of the zone as it comprises a residential flat building, being high density residential development. Nevertheless, the proposed development is permissible under the provisions of Section 154 of SEPP Housing, which prevails to the extent of any inconsistency.

Development standards:

The non-discretionary development standard contained within Chapter 5 of SEPP Housing prevails to the extent of inconsistency with the development standards under KLEP. The proposed development is non-compliant with the following non-discretionary standards in Chapter 5 of SEPP Housing, as detailed earlier in the report:

i. Section 155(2) - Building height
ii. Section 155(4)(a) – Floor Space Ratio

The applicant has submitted Clause 4.6 written requests seeking variations to the building height and FSR non-discretionary standards in Section 155, Subclauses (2) and (4)(a) in SEPP Housing **(Attachments 8 and 9).**

Clause 4.6 Exceptions to development standards

Clause 4.6 provides flexibility in applying certain development standards and an assessment of the request to vary the development standard is provided below:

> *(1) The objectives of this clause are as follows—*
>
> > *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
> > *(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
>
> *(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
>
> *(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
>
> > *(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
> > *(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

<u>Building height</u>

Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827, the Court established five ways to demonstrate that compliance with a development standard is unreasonable or unnecessary. The applicant has adopted the first way (the development meets the underlying objectives of the standard) established in this case to demonstrate that compliance with the building height development standard is unreasonable and unnecessary for the following reasons (summarised):

> *There are no stated objectives associated with Section 155(2) although the aims of Chapter 5 of SEPP Housing are as follows:*
>
> a) *to increase housing density within 400m of existing and planned public transport,*
> b) *to deliver mid-rise residential flat buildings, seniors housing in the form of independent living units and shop top housing around rail and metro stations that—*
> i. *are well designed, and*
> ii. *are of appropriate bulk and scale, and*
> iii. *provide amenity and liveability,*
> c) *to encourage the development of affordable housing to meet the needs of essential workers and vulnerable members of the community.*
>
> *The building height breaching elements do not compromise the development's ability to achieve the aims of the Chapter. Approval of the variation will facilitate the provision of roof top communal facilities and communal open space which will receive exceptional levels of solar access and amenity throughout the day and in doing so contribute to exceptional amenity and liveability.*
>
> *The building height breaching elements will not compromise the development's ability to appropriately increase housing density within 400 metres of the Roseville Station in a building form which is well designed, of appropriate bulk and scale and which provides affordable housing to meet the needs of essential workers and vulnerable members of the community.*
>
> *[It is also appropriate] to assess the proposed building height against the objectives of the height of building standard contained at clause 4.3 of KLEP to the extent that they do not derogate from Chapter 5 provisions of SEPP Housing.*
>
> *The proposed building height is assessed against the objectives of Clause 4.3 of KLEP as follows:*
>
> ***(a) to ensure that the height of buildings is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai centres,***
>
> *All surrounding land is proposed to be zoned R4 High Density residential with the subject development site having a proposed maximum prescribed building height of between 18.5 metres and 29 metres. Development to the north and east has an anticipated building height of 29 metres and development to the south 18.5 metres.*
>
> *The building height breaching elements do not contribute to overall building height to the extent that the development is inconsistent with the height*

provisions or will be perceived as inappropriate or jarring having regard to the desired future high-density residential context in which it is located and the height of development anticipated by the draft LEP.

(b) to establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity

Although the subject property adjoins R2 Low Density Residential zoned land to the west this land is proposed to be up zoned to R4 High Density Residential pursuant to the draft LEP.

The building height breaching elements do not contribute to the scale of the development to the extent that it is rendered inappropriate having regard to its spatial relationship to the adjoining lower density residential zoned land. The building height breaching elements will not give rise to residential amenity impacts in terms of views, shadowing or privacy.

(c) to enable development with a built form that is compatible with the size of the land to be developed.

The building height breaching elements do not contribute to overall building height to the extent that the development will be perceived as inappropriate or jarring having regard to the draft LEP high-density residential context in which it is located.

The applicant's arguments that compliance with the development standard is unreasonable and unnecessary are acceptable for the following reasons:

- In response to the (then) draft controls under the Alternative TOD, the applicant explored several alternative massing arrangements including provision of a staggered height plane on the subject site. The applicant's alternative massing featured an unconventional building form with a diagonal 'step' in height **(Figure 12).** Whilst intended to respond to the Alternative TOD, the applicant's alternative scheme nevertheless relied upon a variation in building height at the south-eastern corner of the site. By contrast, the proposed development features a more conventional podium style form which delivers a superior streetscape outcome and an appropriate transition to adjacent properties to the west, and across the road to the south and east.

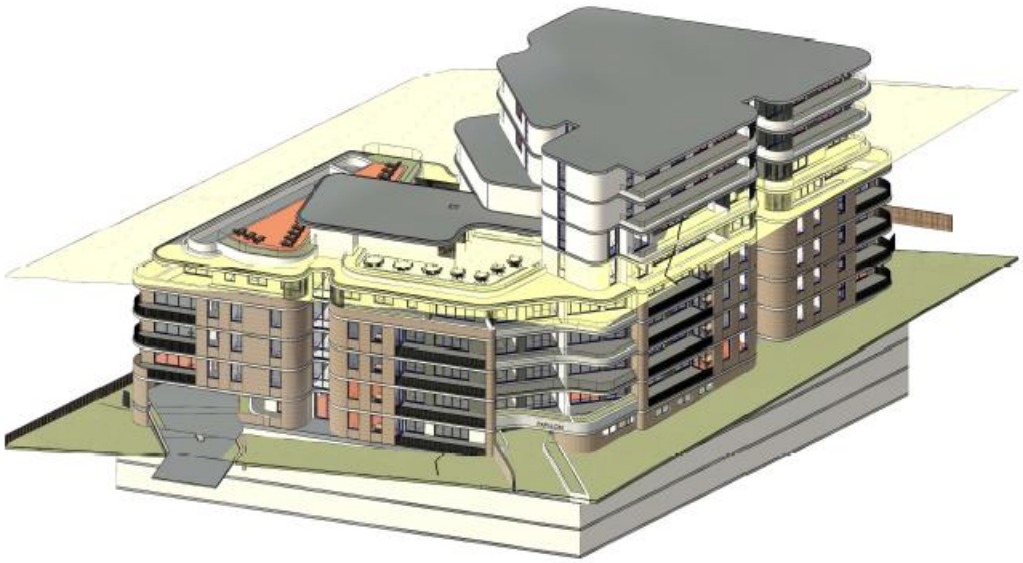

Figure 12: Applicant's alternative massing scheme dated 29 July 2025 (18.5 metre height plane shown in yellow)

- The Alternative TOD has not been gazetted SEPP Station Precincts and is certain and imminent. The building height controls under SEPP Station Precincts are based on the assumption that No. 17 Shirley Road (the northern most allotment) will be re-developed with the adjoining properties to the north, including Roseville Kindergarten at No. 15 Shirley Road. However, this arrangement of building height does not reflect existing environmental site constraints (such as significant endemic trees) and the market reality in which a developer has an option over Nos. 17-21 Shirley Road.
- The proposed height variation is up to 7.26 metres (33%) under the original TOD provisions. Under SEPP Station Precincts, the proposed variation is 0.26 metres (0.8%) at the northern end of the site and 10.76 metres (58%) at the southern end of the site. The proposed height variation is necessary as it is unlikely that the gazetted height controls could be achieved due to site constraints and site ownership patterns. Numerical compliance with SEPP Station Precincts would require provision of a drastically stepped building (as shown in the applicant's alternative scheme above) which is not a desirable urban design outcome.
- The proposed development provides an appropriate transition to adjoining properties and meets the intent of the varied height controls. Under SEPP Station Precincts, the adjacent sites to the west will be developed with a height of up to 18.5 metres. A building with a height of 18.5 metres is likely to have a height of five storeys and would provide an appropriate transition to the proposed development **(Figure 13).**

Figure 13: Southern elevation of proposed development with approximate height of future development to the west marked in yellow

Whether there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant states that the following environmental planning grounds justify contravening the development standard (summarily):

> ***Ground 1 - Topography -*** *The topographical characteristics of the site which falls away towards its south-western corner contribute towards the extent of height breach particularly in relation to the Level 6 floor plate breaching elements.*
>
> ***Ground 2 – Absence of unacceptable impact*** *– [….] The building height breaching elements do not contribute to building height or massing to the extent that the overall building will be incompatible with the desired future character of the precinct as anticipated by the Chapter 5 TOD provisions of SEPP Housing and the draft LEP.*
>
> ***Ground 3 – Aims of Chapter 5 SEPP Housing*** *- The building height breaching elements do not compromise the development's ability to achieve the aims of the Chapter. Approval of the variation will facilitate the provision of roof top communal facilities and communal open space which will receive exceptional levels of solar access and amenity throughout the day and in doing so contribute to exceptional amenity and liveability.*
>
> ***Ground 4- Objectives of the Environmental Planning and Assessment Act 1979*** *- Approval of the variation to the building height standard will enable the development to achieve the FSR anticipated by the TOD provisions and in doing so promote the orderly and economic use and development of the land consistent with Objective1.3(c) of the Act. Approval of the building height breaching elements will promote the delivery of affordable housing consistent with objective 1.3(d) of the Act. Approval of the variation to the building height standard facilitates the provision of communal rooftop facilities and communal open space which will contribute significantly to the design quality and amenity of the overall development.*

The first three environmental planning grounds submitted by the applicant are acceptable. The application as originally submitted featured a more compliant building height than the current proposal but included subterranean units and

privatised setback areas. The applicant's alternative massing scheme **(Figure 12)** was also problematic as it was unlikely to result in a positive streetscape outcome due to its unconventional form. By contrast, the proposed development provides positive streetscape and amenity outcomes. This is demonstrated by the highly compliant design, in accordance with ADG requirements.

Authority to determine variation

The estimated development cost exceeds $30 million, consequently the development constitutes 'regionally significant development,' and the Sydney North planning Panel is the consent authority pursuant to Clause 2, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021.

Development standards that cannot be varied.

The variation to the development standard is not contrary to the requirements in subclauses (6) or (8) of clause 4.6.

Floor Space Ratio

Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant has again adopted the first way established in *Wehbe v Pittwater Council* [2007] NSWLEC 827 to demonstrate that compliance with the FSR standard is unreasonable and unnecessary for the following reasons (summarised):

> *There are no stated objectives associated with Section 155(2) although the aims of Chapter 5 of SEPP Housing are as follows:*
>
> a) *to increase housing density within 400m of existing and planned public transport,*
> b) *to deliver mid-rise residential flat buildings, seniors housing in the form of independent living units and shop top housing around rail and metro stations that—*
> i. *are well designed, and*
> ii. *are of appropriate bulk and scale, and*
> iii. *provide amenity and liveability,*
> c) *to encourage the development of affordable housing to meet the needs of essential workers and vulnerable members of the community.*
>
> *The non-compliant FSR is located within Basement 3 which is subterranean in nature and accordingly the non-compliance does not contribute to the bulk and scale of the development in any discernible manner. Accordingly, the FSR non-compliance does not compromise the development's ability to achieve the aims of the Chapter noting that the additional car parking will contribute to the amenity of the apartments benefiting from the car parking spaces.*
>
> *[It is also appropriate] to assess the proposed building height against the objectives of the FSR standard contained at clause 4.3 of KLEP to the extent that they do not derogate from Chapter 5 provisions of SEPP Housing.*

The proposed building height is assessed against the relevant objectives of clause 4.4 of KLEP as follows:

(a) to enable development with a built form and density that is compatible with the size of the land to be developed, its environmental constraints and its contextual relationship.

The non-compliant FSR is located within Basement 3 which is subterranean in nature and accordingly the non-compliance does not contribute to the bulk and scale of the development in any discernible manner. That is, the conversion of the excess car spaces to storage or plant rooms which are not included in the GFA calculation would bring FSR into compliance without any change to the proposed building form of footprint.

Accordingly, the non-compliant FSR does not prevent the proposed built form and density from being compatible with the size of the land to be developed, its environmental constraints and its contextual relationship. This objective is achieved notwithstanding the non-compliant FSR proposed.

The non-compliant component of the building will achieve the objectives of the standard to at least an equal degree as a development compliant with the standard. Given the development's consistency with the objectives of the FSR standard strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

The applicant's arguments that compliance with the development standard is unreasonable and unnecessary in the circumstances of the proposal is acceptable for the reasons outlined by the applicant. The proposed development, as it appears above ground, is of complying FSR and is of a bulk that is envisaged by the TOD delivery program.

Moreover, the proposed non-compliance is technical in nature resulting from the specific wording of the KDCP which includes excess carparking as GFA. SEPP Housing does not impose a limit on carparking. Rather, Section 148 of this Chapter provides a non-discretionary development standard requiring as follows:

'the carparking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the ADG.'

The proposed additional carparking is therefore not antithetical to the specific requirements of the SEPP, nor is it contrary to the aims of Chapter 5 which do not specifically aim to limit car usage or ownership.

Whether there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant states that the following environmental planning grounds justify contravening the development standard (summarily):

Ground 1 – Minor nature of breach and absence of impact – *The FSR breaching floor space does not contribute to building height, bulk or scale and will not give rise to any streetscape or residential amenity impacts.*

Ground 2 – Aims of Chapter 5 SEPP Housing – *The non-compliant FSR is located in Basement 3 which is subterranean in nature and the non-compliance does not contribute to the bulk and scale of the development.*

Ground 3 – Objectives of the Environmental Planning and Assessment Act 1979 – *Approval of the variation to the building height standard will enable the development to achieve the FSR anticipated by the TOD provisions and in doing so promote the orderly and economic use and development of the land consistent with objective1.3(c) of the Act.*

The second environmental planning ground submitted by the applicant is acceptable. The applicant has clearly identified the excess GFA as car spaces located within Basement 3 **(Figure 14).** It is agreed that technical compliance could have been achieved through the provision of over-sized basement storage areas.

Figure 14: Proposed additional GFA as identified by the applicant

Authority to determine variation

The estimated development cost exceeds $30 million, consequently the development constitutes 'regionally significant development,' and the Sydney North planning Panel is the consent authority pursuant to Clause 2, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021.

Development standards that cannot be varied.

The variation to the development standard is not contrary to the requirements in subclauses (6) or (8) of clause 4.6.

Part 5 Miscellaneous provisions

Clause 5.10 – Heritage conservation

The subject site does not contain a heritage item and is not within a heritage conservation area but is located within 100 metres of heritage items at Nos. 6, 12, 16 and 33 Shirley Road.

The impacts of the proposed development on nearby heritage items have been considered and are deemed acceptable as the development is sufficiently separated from the items, either by adjoining properties to the west or a road to the east.

Moreover, it is noted that the subject site and nearby heritage items are in the SEPP Station Precincts area. The rezonings under SEPP Station Precincts area were deliberately designed to concreate additional density in areas of least impact so more sensitive areas, such as heritage conservation areas, could be conserved.

As a result of these rezonings, the locality is likely to undergo significant changes in the process of urban renewal. Under SEPP Station Precincts, the abovementioned heritage items have the same zoning, building height and FSR potential as adjacent sites and it is envisaged that they will be incorporated into larger development sites.

The proposed works do not affect any known archaeological or Aboriginal objects or Aboriginal places of heritage significance. A condition is recommended requiring appropriate action to be taken should any indigenous relics be uncovered **(Condition 71)**.

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 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water-table 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 500 metres of adjacent Class 1, 2, 3 or 4 land.

Clause 6.2 - Earthworks

The proposed development will not restrict the existing or future use of the site, adversely impact on neighbouring amenity, the quality of the water table or disturb any known relics. Additionally, the fill to be removed will be disposed of appropriately per the submitted Waste Management Plan.

Clause 6.3 - Biodiversity protection

A small portion of land adjacent to the northern boundary is mapped as land comprising biodiversity significance.

Council's Ecological Assessment Officer has considered the proposed development and is satisfied it has been designed to minimise impacts on the diversity and condition of native vegetation, fauna and habitat as per the requirements of the LEP. The assessment of Council's Ecological Assessment Officer is agreed with.

Clause 6.5- Stormwater and water sensitive urban design

Council's Team Leader Development Engineers has considered the objectives of this clause which seeks to minimise the adverse impacts of urban water on the site and within the catchment. The stormwater design adequately manages water quality and control discharge volumes and frequency, subject to conditions **(Conditions 1, 24, 36, 72 and 106-108).** The assessment of Council's Team Leader Development Engineers is agreed with.

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 found to be acceptable in all relevant respects for the reasons given throughout this report.

Part 2: Site analysis

A site analysis which identifies the existing characteristics of the site, and the surrounding area has been provided as part of the development application. The site analysis is considered to satisfy the objectives of this part of the DCP.

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 biodiversity). Therefore, the application is assessed as consistent with this Part of the DCP.

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.	Maxine Mouawad Reg No. 10850	**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 proposed.	**YES**
Design components of new development are to be based on the existing predominant and high quality characteristics of the local neighbourhood.	Materials and finishes are designed to complement the surrounding locality.	**YES**

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 proposed development maintains local character, having regard to the FSR and building height provisions permitted by SEPP Housing.	**YES**
The predominant and high quality characteristics of the local neighbourhood are to be identified and considered as part of the site analysis.	An adequate site analysis has been provided.	**YES**
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 development is of an appropriate scale, having regard to the FSR and building height provisions permitted by SEPP Housing.	**YES**
Development on visually prominent sites is to: i. be of high architectural and aesthetic quality; ii. be integrated into the existing landscape through the site planning process and avoid tall and bulky structures; iii. have a selection of external colours and finishes that are sensitive to the site and locality; iv. retain significant landscape and vegetation elements; v. consider views to the site as well as those from the site; and vi. soften visual impact by extensive landscaping including tall and medium trees and shrubs.	The development is of high architectural and aesthetic quality and retains significant trees.	**YES**
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	The site layout is appropriate.	**YES**

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.		
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.	An adequate site analysis has been provided.	**YES**
Any building with a frontage to the street is to address that street.	The proposed development addresses both frontages of Shirley Road.	**YES**
Where a site has two or more frontages, the buildings are to address and provide building entry points from all street frontages	The site addresses both frontages of Shirley Road.	**YES**
Soft landscaping, including tall trees, is to be provided between onsite buildings, fences and courtyard walls.	Adequate soft landscaping is proposed.	**YES**
Hard landscaping is to be minimised and to maximise opportunities for landscape planting	Hard landscaping is minimised.	**YES**
Long straight driveways are not permitted, except where necessary for battle-axe sites. Driveways are to be designed to be of minimal visual impact.	A long, straight driveway is not proposed.	**YES**
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.	A single pedestrian entry point is proposed at the site corner.	**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.	3 hours sunlight is maintained.	**YES**

Overshadowing should not compromise the development potential of the adjoining yet to be redeveloped sites.	Overshadowing does not compromise adjoining sites.	**YES**
Developments are to allow the retention of a minimum of 4 hours direct sunlight between 9am to 3pm on 21st June to all existing solar collectors and solar hot water services on neighbouring buildings.	3 hours sunlight is maintained.	**YES**
7A.3 – Building setbacks		
Residential flat buildings are to meet the following street setback requirements: i. 10 metres from the street boundary; ii. on corner sites and sites with multiple street frontages at 10 metres setback is to be provided on all street frontages.	A front setback of 6 metres is proposed.	**NO**
Residential flat buildings are to provide a 2 metres articulation zone behind the street setback, and no more than 40% of this zone (in plan) is to be occupied by the building.	Approximately 66% of the articulation zone is occupied.	**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.	The proposed building is parallel to the street boundaries.	**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: i) a minimum of 6 metres from the side boundary for all levels up to the fourth storey. ii) a minimum of 9 metres to the fifth storey and above.	Setbacks of 6 metres (up to the fourth storey) and 8 - 9 metres (fifth storey and above) are proposed.	**NO**
Side setback areas behind the building line are not to be used for driveways or for vehicular access into the building.	Side setbacks are not occupied by driveways.	**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.	The driveway is set back 6 metres.	**YES**

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.	Setbacks respond appropriately to constraints on adjoining sites including trees.	**YES**
Side and rear setbacks at a zone interface Residential flat buildings are to provide the following side and rear setbacks to land which is zoned differently for lower density residential development: i. minimum 9 metres from the side and rear boundary up to the 4th storey ii. minimum 12 metres from the side and rear boundary for the 5th storey and above iii. greater setbacks may be required where residential flat building is located upslope from a lower density zone	The subject site has the same zoning as the adjoining properties.	**YES**
Encroachments i. Basements do not encroach into any setback areas ii. Ground floor terrace/courtyard walls min 8m to street boundary / 4 metres to rear & side boundaries / 7 metres 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	The basement encroaches into the required street setbacks. No ground floor terraces or areas of private open space are proposed.	**NO** **YES**
Eaves, open pergolas, blades, fins and columns may encroach into the setback areas where they do not increase the apparent bulk of the building or create visual clutter:	Architectural elements do not encroach into the setback areas.	**YES**

7A.4 – Building Separation		
The minimum separation between residential buildings on the development site is to comply with the following controls: Up to 4th storey: • 12 metres between habitable rooms/balconies • 9 metres between habitable rooms/balconies and non-habitable rooms • 6 metres between non-habitable rooms 5th storey & above: • 18 metres between habitable rooms/balconies • 13.5 metres between habitable rooms/balconies and non-habitable rooms • 9 metres between non-habitable rooms	The proposed building is setback 6 metres (up to the fourth storey) and 8-9 metres (fifth storey and above). Setbacks of 8 metres are provided to the eastern and southern boundaries where a road is located. Compliant separation is proposed to the west and north.	**YES**
Buildings are to be located so that apartments benefit from views into and through onsite landscaped gardens.	North and west facing apartments benefit from views over communal open space located in the north-western part of the site.	**YES**
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.	52% (1,758m^2).	**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.	Deep soil area of 34% (1,137m^2) is proposed.	**NO**
Deep soil zones are to be configured to retain healthy and significant trees on the site and adjoining sites, where possible.	The proposal retains healthy and significant trees.	**YES**
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.	Deep soil area suitable for large tree plantings is not provided.	**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.	Deep soil area is provided within common areas.	**YES**
Driveways are not to dominate the street setback area. Deep soil landscaping areas in the street setback are to be maximised.	The driveway does not dominate the street setback.	**YES**

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. 1200m^2 or less – 1 tall tree per 400m^2 or part thereof ii. 1201m^2 – 1800m^2 – 1 tall tree per 350m^2 or part thereof iii. 1801m^2 + - 1 tall tree per 300m^2 or part thereof	12 trees are proposed however there is insufficient space to accommodate the canopies of the tall trees.	**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.	A range of vegetation types is proposed.	**YES**
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.	Trees are proposed in all setback areas, with a sufficient number of trees proposed within the front setback areas.	**YES**
7B – Access and parking		
7B.1 – Car parking provision		
All residential flat developments are to provide on-site car parking within basements**.**	Basement car parking is proposed.	**YES**
Basement car park areas are to be consolidated under building footprints.	Basement is consolidated beneath the footprint.	**YES**
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.	A double lane ramp is proposed.	**YES**
The basement car park is not to project more than 1.0m above existing ground level. Note: Basements greater than 1m above the natural existing ground level are counted as a storey for the purposes of the DCP and will be included in the floor space ratio calculation as well as any control based on the number of storeys.	Basement projects more than 1 metre in the north-western corner of the development.	**NO**
Single lane aisles, straight ramps and tunnels max 12 metres in length.	Satisfactory.	**YES**
Direct and continuous internal pedestrian access from basement car park is provided to each level of the building	Lifts propose access from the basement to the apartments.	**YES**

<table>
<tr>
<td>Car park entry is to be integrated within the building and located behind the building line.</td>
<td>Carpark entry is integrated and located behind the building line.</td>
<td>YES</td>
</tr>
<tr>
<td>Car parking design is to be in accordance with requirements for Silver and Platinum Level dwellings as required in this DCP and by the Livable Housing Guidelines. Circulation areas, roadways and ramps are to comply with AS2890.1. Where a conflict occurs, the Livable Housing Guidelines 2012 is to take precedence.</td>
<td>Accessible resident spaces are proposed.</td>
<td>YES</td>
</tr>
<tr>
<td>Car parking rates for residential flat developments on sites within 800 metres walking distance of a railway station entry:

<table>
<tr><th>Type</th><th>Minimum</th><th>Maximum</th></tr>
<tr><td>Studio</td><td>0 spaces</td><td>0.5 spaces</td></tr>
<tr><td>One bedroom</td><td>0.6 spaces</td><td>1 space</td></tr>
<tr><td>Two bedrooms</td><td>0.9 space</td><td>1.25 spaces</td></tr>
<tr><td>Three or more bedrooms</td><td>1.4 space</td><td>2 spaces</td></tr>
</table>
Visitors: 1 per 6 units (at least one is accessible

Min 1 visitor parking space complies with the requirements of AS2890.6

Note: Any spaces provided which exceed the upper range in Control 9 above will be included as gross floor area.

Note: A Traffic Impact Assessment is to accompany Development Applications that seek to vary the parking rates. This includes commercial or strata funded car share schemes in lieu of parking spaces.</td>
<td>111 resident car spaces are proposed, along with 10 visitor spaces.</td>
<td>YES</td>
</tr>
<tr>
<td>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.</td>
<td>2 visitor accessible spaces are proposed (Basement 1).</td>
<td>YES</td>
</tr>
<tr>
<td>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.</td>
<td>A loading bay is proposed (Basement 2).</td>
<td>YES</td>
</tr>
<tr>
<td>One visitor parking bay is to be provided with a tap, to make provision for on-site car washing.</td>
<td>A carwash space is proposed (Basement 1).</td>
<td>YES</td>
</tr>
</table>

At least one car share space is to be provided in the basement per 90 dwellings, or part thereof.	A car share space is proposed (Basement 1).	**YES**
Parking areas are to be designed and constructed so that electric vehicle charging points can be installed.	Capable of compliance **(Condition 34).**	**YES**
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.	Visitor parking for 6 bicycles is located near the building entrance.	**YES**
All on-site bicycle parking spaces and storage are to be designed to AS2890.3.	Capable of compliance **(Condition 44)**.	**YES**
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 *Apartment Design Guide* 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 where there are non-compliances they are acceptable on merit.	**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.	>10% provided at roof level and ground floor level.	**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.	Rooftop communal open space has an area of 423m^2 and compliant minimum dimensions.	**YES**

The Primary communal open space is to be directly accessible from the internal common circulation areas.	Rooftop communal open space has lift access.	**YES**
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.	Rooftop communal open space provided.	**YES**
Secondary communal open spaces are to have a minimum dimension of 5 metres and may be provided on roof tops.	The secondary area of communal open space (ground floor level) has a minimum dimension of 12 metres.	**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.	Compliant access is provided.	**YES**
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.	The primary communal open space facilitates passive recreation and is partially shaded.	**YES**
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.	Compliant solar access is received.	**YES**
Communal open space is to be integrated with any significant natural feature(s) of the site and soft landscaping areas.	Ground floor communal open space has an outlook to neighbouring trees.	**YES**
The communal open space is to have surveillance from at least two onsite apartments for safety reasons.	Passive surveillance is proposed to ground floor communal open space.	**YES**
Communal open space design is to avoid creation of concealment or entrapment areas. Note: Communal open space is to be well lit with an energy efficient lighting system to be used in conjunction with timers or daylight controls. All light spill is prohibited.	Satisfactory.	**YES**

Shared facilities such as barbecue facilities, shade structures, play equipment and seating, are to be provided within the Primary communal open space. Note: Selected items within communal open spaces are to be appropriate to the space and demonstrate consideration of the amenity of nearby apartments.	Shared facilities such as a swimming pool, sauna, terraces and dog wash bay are proposed.	**YES**
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.	Capable of compliance.	**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.	Several ground floor apartments overlook the secondary area of private open space but are separated by balustrades and landscaping.	**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.	Differentiation is provided by planting and balustrades.	**YES**
A gate is to be provided from each ground floor apartment private open space into common areas where practical.	Gates are provided from 2 apartments.	**YES**
No subterranean rooms to any part of any apartment	No subterranean apartments are proposed.	**YES**
No ground floor apartments created as a result of excessive excavation.	No apartments are created because of excessive excavation.	**YES**
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.	No apartments abut soil. Basement storage areas rely on tanking.	**NO**
Tanking may only be provided to basement parking levels. Where basement storage is	A maintenance passage is not	**NO**

located adjacent to external walls, they are to be separated from the tanked wall by an accessible maintenance passage.	provided.	
The internal finished floor level of any part of a ground floor apartment and/or private open space is not to be more than 0.9 metres below existing ground level at the building line.	Floor levels are not below existing ground level.	**YES**
7C.4 – Apartment mix and accessibility		
Range of apartment sizes (one, two, three bedroom) included within the development	A range of 2 and 3 bedrooms is proposed. No 1 bedroom units are proposed.	**NO**
Mix of 1, 2 & 3 bedroom apartments located on the ground level.	2 and 3 bedrooms units are proposed at ground floor level. No 1 bedroom units are proposed.	**NO**
All apartments are to be designed to Silver Level under the Livable Housing Design Guidelines	All apartments designed to Silver level (minimum).	**YES**
At least 15% of the dwellings (or part thereof) are to be designed to Platinum Level under the Livable Housing Design Guidelines.	Nine platinum units are proposed (15% of all units).	**YES**
At least 70% of all dwellings are visitable.	All apartments are visitable.	**YES**
7C.5 – Building entries		
The residential flat building entry is to be clearly expressed using appropriate architectural elements.	Entry is appropriately expressed.	**YES**
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.	The main building entrance is directly accessible from the street.	**YES**
Entry foyers are to be no more than 1 metres 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.	Forecourt level is commensurate with existing ground level.	**YES**

Buildings are to have a clearly visible building entry for each vertical circulation core with clear way-finding signs integrated into the external circulation pathway system.	The proposal includes a shared entry for two circulation cores, however the entry is clearly visible.	**YES**
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.	Entry is articulated with a recess and building identification signage.	**YES**
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.	Foyer design is compliant.	**YES**
Lifts are to be directly visible from the building entry doorway.	Lifts are visible from the entry to each lobby.	**YES**
Lockable mail boxes 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.	Lockable mailboxes are provided adjacent to the entrance path.	**YES**
All entries are to be integrated into the external circulation pattern of the development.	Building entry is integrated into the circulation pattern.	**YES**
Buildings on corner sites are to address both street frontages and provide entry points and direct level access from both street frontages.	The building appropriately addresses the bend in Shirley Road.	**YES**
Building entry paths are to be minimum 1.2 metres 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.	Building entry path is 3 metres wide and includes compliant landscaping on either side.	**YES**
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.	Corridor and lobby widths are 2 metres.	**YES**

7C.6 – Building Form and Facades		
All building facades at ground level are to be designed to avoid the creation of entrapment areas.	No entrapment spaces are proposed.	**YES**
No single wall plane is to exceed 81m^2 in area.	Wall planes are modulated and do not exceed 81m^2.	**YES**
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.	A variety of window openings and materials are proposed to each elevation.	**YES**
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.	Habitable room windows and balconies overlook the street.	**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.	**Condition 30** is recommended to ensure pipes are integrated into the facade.	**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 v) balconies.	Air conditioning condensers are located upon the roof.	**YES**
Screening between adjacent apartments is to be integrated into the overall building design.	Balcony screening is integrated.	**YES**
Notches, slots or indentations in the perimeter of the building are to be at least as wide as they are deep.	Satisfactory.	**YES**
Facade elements that result in poor architectural design outcomes for internal spaces, such as snorkel windows, are not permitted.	No snorkel windows are proposed.	**YES**
All facades are to be designed to minimise on-going maintenance and weathering through measures such as:	Facades comprise facebrick, render, aluminium cladding and metal	**YES**

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.	balustrades.	
Facade Articulation		
All building facades are to be articulated with wall planes varying in depth by not less than 0.6 metres, and supplemented with architectural elements.	All facades are sufficiently articulated.	**YES**
Facade articulation is to be well composed with attractive proportions and coherent rhythms and integrated into the building form and structure. Methods of achieving articulated facades include: i) defining a base, middle and top relating to the overall proportion of the building; ii) expressing the internal building layout or structure, such as vertical bays or party walls; iii) using a variety of window types to create rhythm or express the building uses; iv) using recessed balconies and deep windows to add visual depth; v) use of eaves, louvres and sun shading devices to openings. vi) using elements that cast shadow and accentuate the appearance of depth; vii) using changes of material, texture and colour integrated with the building articulation to break down large or repetitive facades and reduce the bulk and scale of the building.	Facades include a podium level, a variety of window types and architectural screening.	**YES**
Blade walls are not to be the sole element used to provide articulation.	Blade walls are not proposed.	**YES**
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;	Vertical screens are proposed to select balconies on the eastern elevation.	**YES**

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.		
Building Length		
The continuous length of a single building on any elevation is not to exceed 36 metres.	The building has a length of 46 metres (southern elevation).	**NO**
The length of a single building elevation facing the side or rear boundary may exceed 36 metres 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).	Elevations to the rear and side boundaries feature recessed façades which reduce visual impact.	**YES**
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.	Select balconies include metal screens which do not completely enclose the balcony.	**YES**
Balconies that run the full length of the building facade are not permitted.	Balconies do not run the length of the façade.	**YES**
Continuous transparent or translucent balustrades are not permitted to balconies or terraces.	Continuous transparent balustrades are not proposed.	**YES**
Balconies are not to project more than 1.5 metres from the outermost wall of the building facade.	Balconies do not project beyond outermost walls.	**YES**
Corner Sites		
Street corners are to be emphasised architecturally by accentuating parts of the building facade. This may be through: i) changes in height, colour or facade materials; ii) changes at the corner; iii) change in building articulation;	The site functions as a corner site at the bend of Shirley Road. The proposal appropriately articulates the	**YES**

iv) facade orientation; v) change in roof expression; vi) splayed setbacks or curves; vii) providing corner building entries.	building for its 'corner' presence.	
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.	The GFA of the top storey (communal facilities) comprises 7% of the floor below.	**YES**
The top storey of a building is to be set back a minimum of 2.4 metres from the outer face of the floors below on all sides (roof projection is allowed beyond the outer face of the top storey).	The top floor (communal facilities) are set back 5 metres from the floor below.	**YES**
The upper storeys of residential buildings are to be articulated with differentiated roof forms, maisonettes or mezzanine penthouses and the like.	The upper storeys are subject to a greater setback and varied materials.	**YES**
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.	**Condition 120** is recommended concerning screening of air conditioning condensers.	**YES**
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 0.6 metres	Roof design responds to solar access and includes wide eaves.	**YES**
Where solar panels are provided they are to be integrated into the roof line or elevation.	Solar panels are integrated within roof design.	**YES**
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.	Lightweight planters and roofing are proposed upon the roof and do not increase the visual bulk of the building.	**YES**
Roof top gardens for private or communal use are encouraged.	A communal rooftop terrace with	**YES**

	planters is proposed.	
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.	A condition is recommended requiring provision of a clothes drying area or pull-out clotheslines within the laundries **(Condition 96)**.	**NO**
Storage volume calculation within laundries is to exclude the space required to accommodate a washing tub, washing machine and dryer.	ADG required storage is not proposed within laundries.	**YES**
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) 0.9 metres if of closed construction (such as masonry, lapped and capped timber or brushwood fences); or ii) 1.2 metres if of open construction (such as open paling and picket fences).	A front fence is shown within the eastern and southern setbacks, however sufficient detail is not provided. **Condition 23** is recommended limiting the height of the fence to 1.2 metres.	**YES**
Fences and walls are to step down and follow the natural contours of the site.	The proposed fence follows natural contours.	**YES**
Hedges and shrub planting are preferred to the street frontage, but no higher than 1.2 metres along the entire front boundary, or 1.8 metres on a site fronting a busy road.	Shrub planting is proposed along the street frontage which is capable of being hedged at 1.2 metres in height.	**YES**
All fencing is to be designed to highlight entrances and be compatible with buildings and letterbox areas.	Front fence highlights building entrance.	**YES**
External finishes for fencing are to be robust and graffiti resistant.	Metal fencing is proposed.	**YES**
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.	Capable of compliance.	**YES**

7A.3 – Building setbacks

Front setback

Control 1 of Part 7A.3 states that residential flat buildings are to be set back 10 metres from all street frontages. The objectives of this requirement are to ensure that buildings are situated in a garden setting, soften the built form, provide effective deep soil areas and reduce the visual bulk of buildings from the street.

For the purposes of this assessment, the site is considered a corner allotment, notwithstanding the fact that it is technically located on a sharp bend along Shirley Road. The site fronts Shirely Road to the east and south.

The proposed development is setback a minimum of 6 metres from both street frontages and does not comply with Council's numerical requirement. As outlined by Council's Urban Design Consultant earlier, compliant setbacks cannot be achieved in this instance due to the poor alignment between the SEPP Housing permitted FSR and building height development standards. Of note, the proposal complies with the deep soil requirements of the ADG which prevail to the extent of any inconsistency.

In relation to the objectives of the requirement, the proposed development is acceptable for the following reasons:

i. The proposed development is situated within a garden setting with layered planting situated in both street frontages. The layered planting includes sporadic tall trees, small and medium trees such as Magnolias, screen planting and groundcovers.

ii. Landscaping within the site will be complemented by established and significant street tree planting located on both street frontages.

iii. The proposed setbacks are sufficient to soften the bulk of the built form which has been designed to minimise bulk impacts to the street and adjoining properties. For example, the proposed development features a podium at the lower four levels with the upper levels differentiated by changes in materials. The top floor communal facilities are set well back and are softened by planter boxes.

iv. The subject site is effectively a corner allotment, and the proposed development will emphasise the corner of the road, which is desirable from an urban design perspective. As the site is a corner allotment, the proposed variation will not result in an obvious discrepancy in the setback alignment along either section of Shirley Road.

For the reasons outlined above, the proposed development meets the objectives of the control and is acceptable.

Articulation zone

Control 3 of Part 7A.3 states that an articulation zone of 2 metres is to be provided behind the street setback and that no more than 40% of this zone (in plan) is to be occupied. The objective of this requirement is to reduce the visual bulk of the building from the street.

The proposed development includes an articulation zone, however approximately 66% of the articulation zone is occupied by the building. The proposed departure from Council's requirement is acceptable in this instance as the building is sufficiently articulated and is of high architectural merit, featuring curved brickwork and aluminium screens which add visual interest from the street.

Side and rear setbacks

Control 5 of Part 7A.3 states that a minimum setback of 9 metres is required to the fifth storey and above. The proposed upper levels are set back a minimum of 8 metres from the eastern and southern boundaries and do not comply this requirement. The proposed non-compliance is acceptable as the objectives of the requirement, which relate to minimising bulk and scale impacts to neighbouring development, are met. Complying setbacks are provided to the north and west, where residential development is, or will be, located.

Encroachments

Control 14 of Part 7A.3 states that no encroachments into setback areas are permitted where minimum setbacks have not been achieved. As detailed above, minimum setbacks have not been achieved and the proposed basement (which is set back 6 metres from the site boundaries) is considered an encroachment. The proposed basement encroachment is acceptable as the objectives of the control, which relate to provision of appropriate space for landscaping, are met, as detailed earlier in the report.

7A.5 - Site coverage

Control 1 of Part 7A.5 states that site coverage may be up to a maximum of 30% of the site area, provided that deep soil landscaping requirements are met. The objectives of this requirement are to:

1. *To ensure development is consistent with the desired future landscape and built character of the area.*
2. *To protect and improve the tree canopy within Ku-ring-gai.*
3. *To provide viable deep soil landscaping within developments and between residential developments on neighbouring sites.*
4. *To minimise impervious surfaces that generate stormwater runoff.*
5. *To provide adequate spaces between buildings for common areas that support quality gardens around the building*

The proposed development results in a site coverage of 52% (1,758m^2) and does not meet Council's maximum numerical requirement of 30%. As with building setbacks, it is not possible to achieve compliance with the KDCP site coverage requirement which is typically based on a permitted FSR of 1.3:1.

Having regard to the objectives of the control, the proposed development is acceptable for the following reasons:

i. The proposed development is broadly consistent with the desired future landscape and built character of the area. The subject site and surrounds are zoned for high density residential development under the Alternative TOD, which has now been adopted.

ii. The proposed development maintains existing significant trees located upon the site and within the street verge.

iii. The proposed development makes provision for viable deep soil area within each of the setback areas.

iv. The proposed development includes high quality communal landscaped areas within all setback areas which will soften the appearance of the development when viewed from adjoining properties and the street.

For the reasons outlined above, the proposed development meets the objectives of the control and is acceptable.

7A.6 – Deep soil landscaping

Design

Control 1 of Part 7A.3 states that sites of more than 1,800m^2 in area must support minimum deep soil landscaping of 50% of the site area. The objectives of this requirement relate to ensuring landscape areas contribute to the garden character of the locality, providing landscaped areas which are appropriate to the scale and context of the development, creating high quality landscaped areas through retention and/or planting of tall and medium sized trees (particularly at the street frontage) and infiltration of rainwater.

The proposed development includes a deep soil area of 34% of the site area (1,137m^2) and does not comply with Council's numerical requirement. Nonetheless, the proposed departure is acceptable due to the aforementioned misalignment between the SEPP Housing FSR and building height controls. The proposed development would comply with the FSR provisions of the SEPP if not for the proposed excess carparking spaces. The proposal also complies with the deep soil requirements of the ADG which prevail over the DCP controls in this instance.

In relation to the objectives of the requirement, the proposed development is acceptable for the following reasons:

i. The proposed development includes sufficient area for medium sized trees within the eastern and southern setbacks. Taller trees can be accommodated at the corners of the site where there is more room for growth.

ii. The proposed development maintains existing significant trees located upon the site and within the street verge. These street trees will assist in, although not relied on to soften the appearance of the development when viewed from the street.

iii. The proposed development makes provision for high quality deep soil area within common property within each of the setback areas. As the deep soil area is situated within common property, its retention is protected in the long term.

iv. The proposed development includes high quality communal landscaped areas within all setback areas which will soften the appearance of the development when viewed from adjoining properties and the street.

v. The proposed development includes a satisfactory stormwater design which

will ensure that runoff from the site is dealt with appropriately without over-reliance on rain-scaping.

For the reasons outlined above, the proposed development meets the objectives of the control and is acceptable.

Tree replenishment and planting

Control 7 of Part 7A.6 states that sites with an area of more than 1,801m^2 are to provide one tall tree per 300m^2 of site area of part thereof. For the subject site, this equates to a minimum of 12 trees capable of attaining a minimum height of 18 metres. The objective of this requirement is as per deep soil landscaping above.

The proposed development includes provision for 12 canopy trees, however there is insufficient space for the proposed tree plantings to grow and development without future conflict. This is a product of the development standards under TOD Housing which are misaligned and result in larger building footprints. For the reasons outlined elsewhere in this report, the proposed front setback variations are acceptable. It is recommended that the proposed tall trees be replaced with medium sized trees, except where they are located at the corners of the site **(Condition 23)**.

7B.1 – Car parking provision

Car parking design

Control 4 of Part 7B.1 states that the basement is not to project more than 1 metre above existing ground level. The objective of this requirement is to ensure that carparking is integrated into the development and does not increase the bulk of the building.

The proposed basement is largely compliant but is approximately 300 millimetres above ground in the western part of the site **(Figure 15).** The proposed non-compliance is acceptable as it is minor in nature and will not result in any discernible increase in visual bulk. A garden is proposed along the western side of the building which will conceal the above ground component of the basement.

It is also noted that the proposed non-compliance does not result in any increase in technical GFA as the uses within the elevated part of the basement (vehicle access, plant rooms, services etc.) are otherwise excluded from calculation.

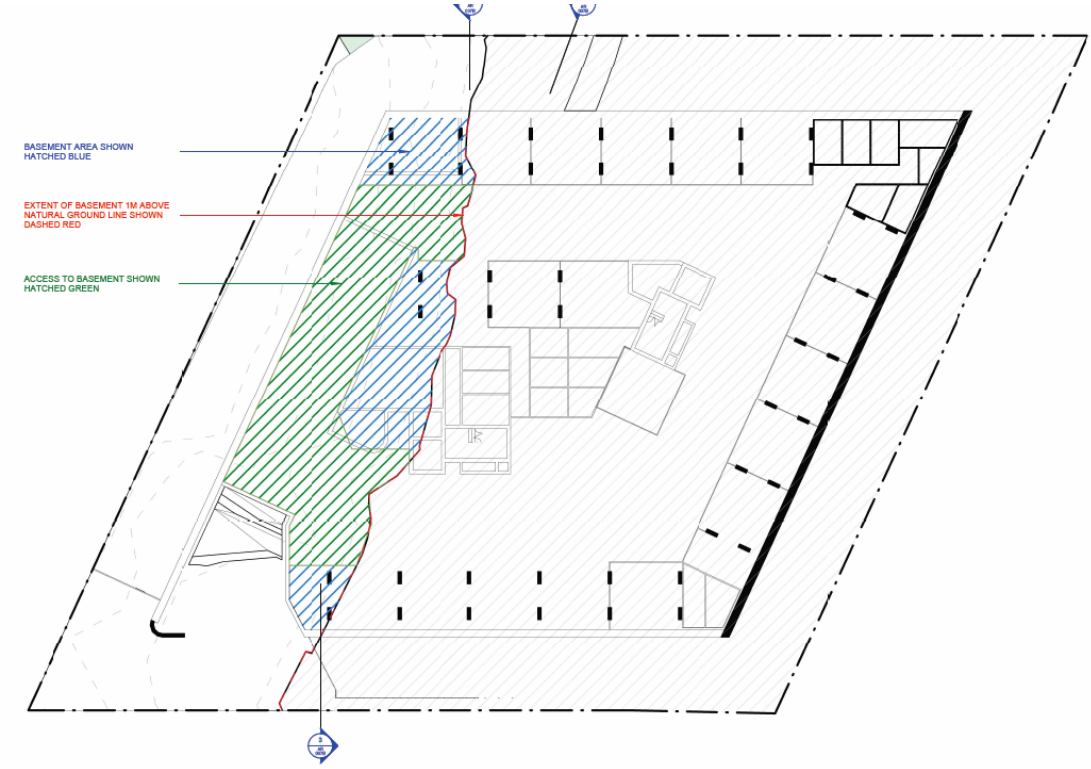

Figure 15: Extent of basement encroachment (extent of basement 1 metre above natural ground level demarcated in red. Green hatching indicates vehicle access and blue hatching indicates spaces excluded by the definition of GFA)

Car parking rates

Control 9 of Part 7B.1 requires carparking to be provided at the following rate:

Apartment size	***Minimum number of parking spaces per dwelling***	***Maximum number of parking spaces per dwelling***
Two bedrooms	*1 space*	*1.25 spaces*
Three or more bedrooms	*1.4 spaces*	*2 spaces*

The objective of the above requirements seeks to provide adequate carparking for the development's residents and visitors. Importantly, the DCP includes a note which states:

> *Car parking exceeding the requirements of the parking controls in the above table will not be excluded from the Gross Floor Area as defined in the KLEP.*

Applying the above breakdown in the table, the required carparking for the proposed development comprises 69-92 resident spaces for units with 2 bedrooms and 3 or more bedrooms respectively. However, 111 resident spaces are proposed. The applicant has justified the overprovision on the basis that it will minimise on-street parking and provide a high level of residential amenity. In addition, it is noted that the proposed development comprises 2 and 3 bedrooms units and the occupancy rate for these units is typically 1.7 persons (2 bedroom) and 2.1 persons (3 bedrooms). Consequently, it is accepted that the proposed carparking provision is consistent with

the stated objective to provide adequate carparking for residents and visitors.

Per the note in the DCP, the additional car parking in excess of the upper range (i.e. 20 spaces) has been included in the GFA calculation (refer Clause 4.6 variation request discussion above).

7C.3 Ground floor apartments

Control 7 of Part 7C.3 states that where basement storage is located adjacent to external walls, they are to be separated from the tanked wall by an accessible maintenance passage. The objective of this requirement is to assist in preventing dampness and water ingress into buildings.

The proposed development does not include a maintenance passage between basement storage and tanked walls. Nevertheless, the objective of the control is met as an internal wall is provided between the storage areas and the tanked wall which will assist in reducing dampness.

7C.4 – Apartment mix and accessibility

Control 1 of Part 7B.1 states that a range of apartment sizes (1, 2 and 3 bedroom) and a mix of unit types is to be included in the development. The objectives of this requirement are to increase housing diversity and choice within Ku-ring-gai and to increase the housing choice for seniors, people with disabilities and families.

The proposed development includes a wide mix of unit types including:

- 2 bedrooms units
- 2 bedrooms + tv room units
- 3 bedrooms + tv room units

Whilst no 1 bedroom units are proposed, it is understood that the market demand for 1 bedroom units in the Ku-ring-gai Local Government Area is low. The proposed development includes a wide range of unit types, and all units are designed to a minimum Platinum standard under the Livable Housing Guide. In addition, the proposal includes 9 apartments designed to Platinum level and 2 affordable apartments. Therefore, there is sufficient diversity within the development to meet the objectives of the control.

7C.5 – Building entries

Control 11 of Part 7C.5 states that buildings on corner sites are to address both street frontages through the provision of an access point to each frontage. The objective of this requirement is to provide direct legible, safe and pleasant entry to internal circulation spaces.

The subject site is effectively a corner site as it is located at a sharp junction of Shirley Road. Whilst the control requires provision of an access point from both street frontages, only 1 access point is provided in this instance. Nonetheless, the proposed access point is at the junction of the 2 street frontages and is visible and accessible from both street frontages. The provision of 2 separate access paths is therefore unnecessary in this instance and would likely result in a reduction in deep soil area, which would have a detrimental impact. The proposed singular entrance results in a superior design outcome and is acceptable.

7C.6 – Building Form and Facades

Control 15 of Part 7C.6 states that the continuous length of a single building on any elevation is not to exceed 36 metres. The objective of this control is to limit the unarticulated length of buildings.

The proposed building has a length of 44 metres along its eastern elevation and 46 metres along the southern elevation and does not comply with the above requirement. The non-compliance is attributed to the FSR enabled by SEPP Housing, which is substantially greater than that envisaged by the KDCP.

In relation to the objectives of the requirement, the proposed development is acceptable for the following reasons:

i. The proposed residential flat building is highly articulated. Both the eastern and southern façades are broken into bays which reduce the visual bulk of the development. Curved brickwork is proposed to provide visual interest, along with a variety of materials including curved metal balustrades **(Figure 16)**.

ii. The 'L' shaped form of the proposed residential flat building minimises impacts to adjoining properties at Nos. 15 and 23 Shirley Road and No. 2 Bromborough Road with complying elevations of 32 metres provided to each the western and northern boundaries. Additionally, an at grade area of communal open space is proposed in the north-western part of the site which provides visual relief and a partially green outlook from adjoining properties **(Figure 17)**.

iii. The ‘L’ shaped form the of the proposed residential flat building results in superior amenity outcome for the proposed development than would otherwise be achieved. A complying built form would necessitate two parallel buildings which would result in greater bulk impacts to adjoining properties and reduced solar amenity for the proposed units.

For the reasons outlined above, the proposed development meets the objectives of the control and is acceptable.

Figure 16: Proposed perspective view showing architectural relief

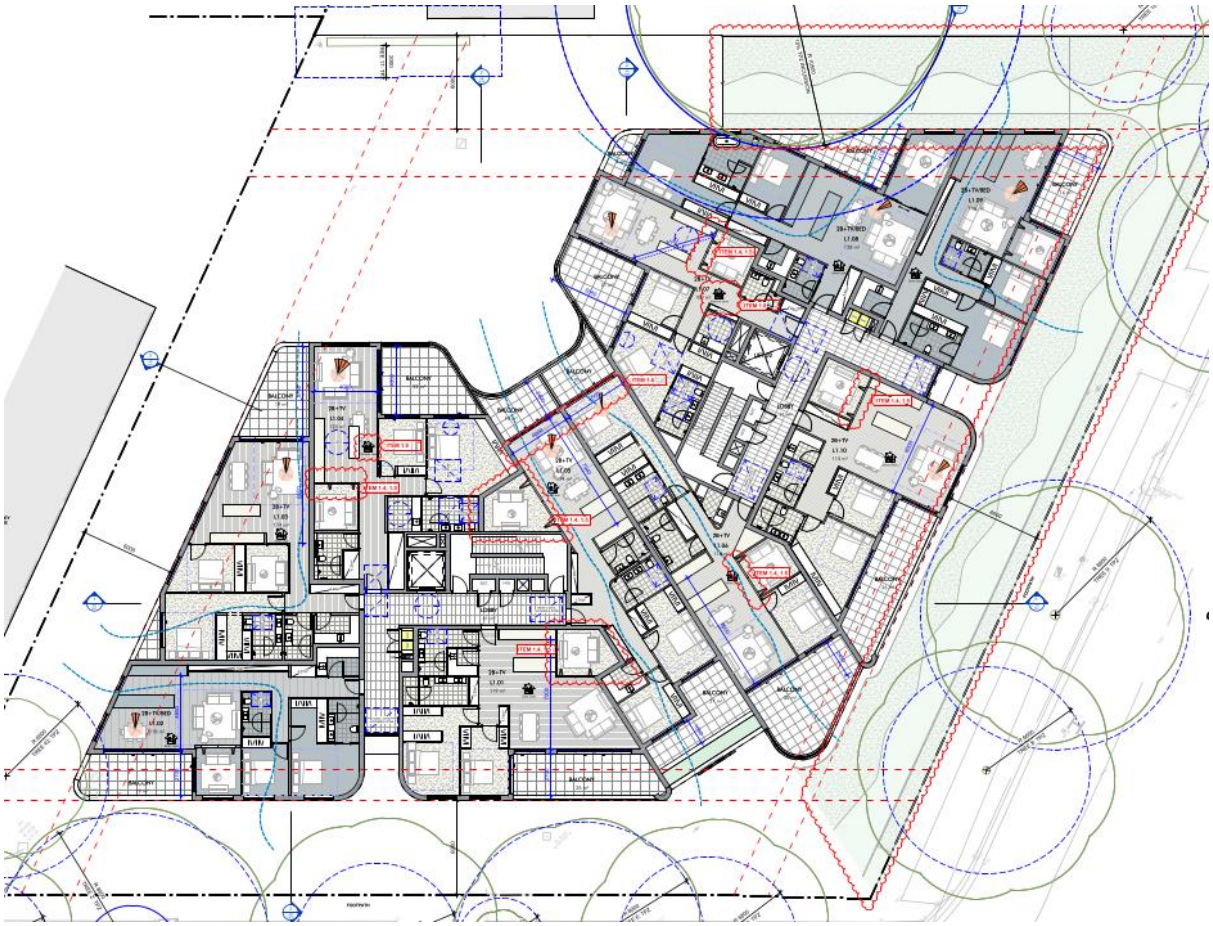

Figure 17: Proposed Level 1 plan showing relationship of proposed building to adjacent existing development

7C.9 – Laundry and air clothes drying facilities

Control 1 of Part 7C.9 states that each unit is required to have access to external air clothes drying area such as a screened balcony, terrace or clothes line within the common area. The objective of this requirement is to ensure buildings maximise opportunities for sun and wind drying of clothes and to reduce the use of electric dryers.

The proposed development does not comply with the above requirement as screened balconies are not proposed to all units. Nonetheless, the proposed laundries are of sufficient size to accommodate a pull-out wall mounted clothesline. A condition is recommended requiring provision of such a clothesline to each laundry, or alternatively provision of a clothes drying area in common property **(Condition 96).**

7C.10 Fencing

Control 1 of Part 7C.10 states that front boundary fences and walls are not to be higher than 1.2 metres in height if of open construction. The objectives of this requirement relate to ensuring fencing design responds to streetscape character, ensuring that fencing design does not detract from overall visual amenity and ensuring that fencing is integrated with built form.

The proposed architectural plans show a notation for fencing within the eastern and southern setback areas but do not provide any detail in relation to the fencing type or

height. Conditions are recommended requiring the architectural and landscape plans to be amended to show additional detail prior to issue of the Construction Certificate. The fences are to be of open palisade design with a maximum height of 1.2 metres above ground level **(Conditions 3 and 23).**

Ku-ring-gai Development Control Plan

Section B

Part 18 – Biodiversity

A small portion of land adjacent to the northern boundary is mapped as land comprising biodiversity significance.

The proposed development will not result in a significant detrimental impact contrary to the objectives of these provisions in relation to the diversity and condition of native vegetation, fauna and habitat.

Part 19 – Heritage and Conservation Areas

The subject site does not contain a heritage item and is not within a heritage conservation area but is located within 100 metres of heritage items at Nos. 6, 12, 16 and 33 Shirley Road.

The impacts of the proposed development on nearby heritage items have been considered and are deemed acceptable.

Ku-ring-gai Development Control Plan

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	Proposed development considers site topography.	**YES**

21.2 – Landscape Design		
Appropriate and sensitive site planning and design Existing appropriate screen planting is retained	Proposed landscape design is appropriate and site sensitive. No existing screen planting is capable of being retained.	**YES**
Planting more than 300 metres from bushland • 25% of trees and shrubs local native species	Appropriate provision of native species is made.	**YES**
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 submitted Access Report indicates that compliance is capable of being achieved.	**YES**
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 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.	The submitted Access Report indicates that compliance is capable of being achieved.	**YES**
22.2 – General vehicle access		
• Minimise width and number of vehicle access points • Access driveways set back at least 10 metres from street intersections and 3 metres from pedestrian entrances • Vehicle and pedestrian access to buildings clearly distinguished and separated • 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 1.2 metres • No driveways are longer than 30 metres unless a passing bay is provided	The vehicle access point is located 40 metres from the intersection and is integrated into the external façade. The driveway has a length of 7 metres and is compliant.	**YES**

22.3 – Basement car parking		
Logical and efficient basement design AS2890.1	Satisfactory.	**YES**
Appropriate ceiling floor to ceiling heights and ventilation provided: • 2.5 metres for parking area for people with a disability; • 2.6 metres for residential waste collection and manoeuvring area	A ceiling height of 2.6 metres is proposed to each basement level.	**YES**
Basement is fully tanked	A condition is recommended requiring the basement to be tanked **(Condition 35).**	**YES**
Unimpeded access to visitor parking and waste recycling rooms	Unimpeded access is provided.	**YES**
Vehicles access ways are not in close proximity to doors and windows of habitable rooms	Satisfactory.	**YES**
Safe and accessible intercom access provided	Safe and acceptable intercom access is provided.	**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	Intercom access is capable of being provided. 2 accessible visitor spaces are proposed.	**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	Accessible paths are provided and are capable of being signposted.	**YES**
22.6 – Pedestrian Movement within Car Parks		
Pathways designed in accordance with AS1428.1	Capable of compliance.	**YES**
Marked pedestrian pathways have clear sightlines, appropriate lighting, are visible, conveniently located and constructed of non-slip material	Capable of compliance.	**YES**

22.7 – Bicycle Parking and facilities		
Bicycle parking and storage facilities satisfy AS2890.3	Satisfactory.	**YES**
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	External walls primarily comprise facebrick, which is a high quality finish.	**YES**
Use of materials and colours creates well-proportioned facades and minimises visual bulk	External finishes create well proportioned facades.	**YES**
23.5 – Roof Terraces and Podiums		
Podiums and roof terraces are trafficable and support landscaping	A rooftop terrace with landscaped planters is proposed.	**YES**
Roof & terrace common areas design encourage usage	The proposed rooftop terrace offers high amenity and includes communal facilities and landscaping.	**YES**
23.6 – Building Services		
Services and related structures are appropriately located to minimise streetscape impact	**Condition 30** is recommended to ensure services do not detract from the streetscape.	**YES**
Air-conditioning units are well screened and do not create adverse noise impacts	**Condition 120** is recommended to ensure the condensers are appropriately screened.	**YES**
23.7 – Acoustic Privacy		
Design minimises impact of internal and external noise sources	Satisfactory.	**YES**
Noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, or other mechanical ventilation systems and	Conditions are recommended to ensure that noise	**YES**

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.	levels do not exceed the permitted acoustic requirements **(Conditions 121-124).**	
23.8 – Visual Privacy		
Visual privacy maintained for occupants and for neighbouring dwellings	Visual privacy outcomes are commensurate with the outcomes envisaged under SEPP Housing.	**YES**
23.9 – Construction, Demolition and Disposal		
Satisfactory Environmental Site Management Plan	Provided.	**YES**

Part 24 – Water management

The proposed development has been designed to manage urban stormwater as per the requirements of the DCP, subject to conditions **(Conditions 1, 24, 36, 72 and 106-108).**

Ku-ring-gai Contributions Plan 2010

The subject site is located outside the Local Centre Catchment area of Roseville. The proposed development includes:

- 5 x 2 bedrooms apartments
- 33 x 2 bedrooms apartments with tv room (internalised)
- 12 x 2 bedrooms apartments with tv room (with window)
- 1 x 3 bedrooms apartments
- 9 x 3 bedrooms apartments with tv room (internalised)

Bedroom is defined by the Plan as follows:

> *"bedroom" means, for the purposes of this Contributions Plan any room which is, in the opinion of Council, by its physical design, capable of being used as a bedroom. Separately accessible rooms designated a bedroom, study, studio, den, attic, home office or the like, including in some*

circumstances partially enclosed spaces or mezzanine levels, may be classified as bedrooms for the purposes of this plan.

Based on the above definition, the proposed breakdown is as follows:

- 37 x 2 bedrooms units
- 23 x 3 bedrooms units

The development attracts a section 7.11 contribution of **$1,200,000.00** which is required to be paid prior to the issue of the Construction Certificate (**Condition 53).**

It is noted that Section 1.21 of the Contributions Plan states that development contributions are applicable to affordable housing, except in respect of the provision of housing by social housing providers. Accordingly, a contribution is required for the proposed affordable units and is included in the above calculation.

Housing Productivity Contribution

A Housing and Productivity Contribution (HPC) applies to the proposed development as it is for residential development. The contribution will assist in delivering essential state infrastructure such as schools, hospitals, major road and public transport infrastructure. The proposed development generates a contribution rate of **$609,806.62** which is required to be paid at Construction Certificate stage. A condition requiring payment has been included in the recommendation **(Condition 4).**

REGULATION

Section 61(1) of the Environmental Planning & Assessment Regulation 2021 requires the consent authority to consider the provisions of *Australian Standard AS 2601-2001: The demolition of structures.* Demolition of the existing structure(s) will be carried out in accordance with a work plan and statement of compliance that will be required to be submitted to the Principal Certifier prior to the commencement of any works. A condition to this effect has been included in the recommendation section of this report **(Condition 90).**

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and are deemed to be acceptable, subject to conditions.

SUITABILITY OF THE SITE

The site is 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 acceptable. On this basis, the proposal is not considered to raise any issues that are 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 satisfactory.

RECOMMENDATION

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

A. THAT the Sydney North Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, is satisfied that the request submitted under clause 4.6 to vary the building height development standard meets the requirements of Clause 4.6(3). The Panel is also of the opinion that strict compliance with the development standard is not unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the variation to the development standard.

B. THAT the Sydney North Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, is satisfied that the request submitted under clause 4.6 to vary the Floor Space Ratio development standard meets the requirements of Clause 4.6(3). The Panel is also of the opinion that strict compliance with the development standard is not unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the variation to the development standard.

C. THAT the Sydney North Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, being satisfied that the proposed development would be in the public interest, grant development consent to **eDA0190/25** for demolition of existing structure and construction of a residential flat building development with basement car parking and associated works at 17-21 Shirley Road, Roseville subject to conditions. Pursuant to Section 4.53 of the Environmental Planning and Assessment Act 1979, this consent lapses if the approved works are not physically commenced within five years of the date of the Notice of Determination.

The conditions of the consent are set out as follows:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation (new development)

The development must be carried out in accordance with the plans and documentation listed below, except as amended by other conditions of this Development Consent:

Plan no.	Drawn by	Dated
Architectural Plans		
AR 001 Cover page, Rev 4	MX Architects	22 September 2025
AR 002 Site plan, Rev 4	MX Architects	22 September 2025
AR 003 Demolition plan, Rev 4	MX Architects	22 September 2025

AR 001 Excavation plan, Rev 3	MX Architects	22 September 2025
AR 012 Environmental Site Management Plan Rev 3	MX Architects	22 September 2025
AR 100 Basement 3 GA Plan, Rev 11	MX Architects	22 September 2025
AR 101 Basement 2 GA Plan, Rev 11	MX Architects	22 September 2025
AR 102 Basement 1 GA Plan, Rev 12	MX Architects	22 September 2025
AR 103 Ground floor GA Plan, Rev 12	MX Architects	18 November 2025
AR 104 Level 1-3 (typical) GA Plan, Rev 10	MX Architects	18 November 2025
AR 105 Level 4 GA Plan, Rev 10	MX Architects	18 November 2025
AR 106 Level 5-6 (typical), Rev 10	MX Architects	18 November 2025
AR 107 Roof terrace GA Plan, Rev 10	MX Architects	18 November 2025
AR 108 Roof plan, Rev 4	MX Architects	22 September 2025
AR 400 Elevations North & East, Rev 4	MX Architects	22 September 2025
AR 401 Elevations South & West, Rev 4	MX Architects	22 September 2025
AR 410 Scheule of finishes, Rev 3	MX Architects	22 September 2025
AR 601 Building section, Rev 5	MX Architects	22 September 2025
AR 610 Loading dock & parking entry, Rev 4	MX Architects	22 September 2025
AR 900 Glazing type schedule, Rev 4	MX Architects	22 September 2025
AR 950 Storage schedule, Rev 2	MX Architects	22 September 2025
Landscape Plans		
L-101 Ground floor planting, Rev B	Jane Britt Design	13 September 2025
L-102 Level 1 plan and typical planter detail, R B	Jane Britt Design	13 September 2025
L-103 Levels 4, 5 & 6 Planting plan, Rev B	Jane Britt Design	13 September 2025
L-104, Roof terrace planting plan, Rev B	Jane Britt Design	undated
L-201 Ground floor tree & area plan, Rev B	Jane Britt Design	13 September 2025
L-202 Level 1 tree & area plan & typical planter levels 1-3, Rev B	Jane Britt Design	13 September 2025
L-401A Landscape details, Rev A	Jane Britt Design	10 April 2025
L-402A Landscape details, Rev A	Jane Britt Design	10 April 2025
L-403A Landscape details, Rev A	Jane Britt Design	10 April 2025
L-301 Landscape planting schedule, Rev B	Jane Britt Design	10 April 2025
L-501 Landscape specification, Rev A	Jane Britt Design	10 April 2025
Engineering plans		
SW-000 Cover sheet, Rev 3	Stellen Consulting	25 September 2025
SW-001 Stormwater layout, Rev 2	Stellen Consulting	25 September 2025
SW-002 Stormwater layout, Rev 4	Stellen Consulting	25 September 2025
SW-003 Stormwater layout, Rev 3	Stellen Consulting	25 September 2025
SW-100 Drainage details sheet 1, Rev 1	Stellen Consulting	3 September 2025
SW-101, Drainage details sheet 2, Rev 1	Stellen Consulting	12 September 2025
SW-200 Area Calculation, Rev 1	Stellen Consulting	12 September 2025
SD-001 Sediment & Erosion control plan, Rev	Stellen Consulting	12 September 2025
CV-101 Driveway layout, Rev 3	Stellen Consulting	12 November 2025
CV-102 Driveway longitudinal section & detail Sheet 1, Rev 2	Stellen Consulting	12 September 2025
CV-103 Driveway longitudinal section & detail Sheet 2, Rev 2	Stellen Consulting	12 September 2025
CV-200 Swept path analysis, Rev 2	Stellen Consulting	12 September 2025

Document(s)	Dated
Accessibility Report prepared by Purple Apple Access, Ref PAA_25042, Rev 3	4 September 2025
Basix certificate No. 1791231M_02	25 September 2025
Design Verification Statement prepared by MX Architects, Rev B	25 September 2025
Geotechnical Report prepared by Geo-Environmental Engineering, Ref: G25014ROS-R01F, Rev 0	1 April 2025
Noise Impact Assessment, prepared by PWNA, Ref 250107	22 August 2025
NatHERS Certificate 0011852070	25 September 2025
Transport and Parking Impact Assessment, Ref 25037, prepared by Transport Strategies, Rev B	September 2025
Waste Management Plan prepared by MX Architects, Rev A	8 April 2025

Reason: To ensure that the development is in accordance with the Development Consent.

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this Development Consent prevail.

Reason: To ensure that the development is in accordance with the Development Consent.

3. Amended architectural plans

Prior to the issue of a Construction Certificate, the Certifier shall be satisfied that the approved plans listed in Condition 1 above, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

(a) The combined OSD/RWT located within the southern front setback is to be redesigned and relocated so it is not located within a soft landscape area (refer to Condition No. 24).

(b) A notation is to be added to the plans indicating that the existing services line adjacent to Tree 2 will not be utilised.

(c) A notation is to be added to the plans indicating that the proposed front fence in the eastern and southern setbacks is of open palisade design with a maximum height of 1.2m.

Reason: To ensure that the development is in accordance with the Development Consent.

4. Housing and productivity contribution

Before issue of the Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	**$609,806.62**

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* **(HPC Order).**

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Reason: To require contributions towards the provision of regional infrastructure.

5. Universal and accessible housing

Prior to the issue of a Construction Certificate, evidence from an appropriately qualified Livable Housing Accredited Assessor is to be submitted to and approved by the Certifier, demonstrating compliance with the following requirements:

(a) Platinum Level Housing

At least 15% of the units are designed to Platinum Level under the *Liveable Housing Design Guidelines.*

(b) Silver Level Housing

All units are designed to Silver Level under the *Liveable Housing Design Guidelines.*

(c) Visitable dwellings

At least 70% of units are a visitable housing unit as defined in AS 4299-1995 Adaptable Housing.

Reason: To ensure universal and accessible housing is provided.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:

6. Asbestos works

All work involving asbestos products and materials, including asbestos-cement-sheeting (ie. fibro), must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

Reason: To ensure public safety.

7. Notice of commencement

At least 48 hours prior to the commencement of any demolition, excavation or building works, a notice of commencement of building works or subdivision lodgement form and appointment of the Principal Certifier form shall be submitted to Council.

Reason: Statutory requirement.

8. Notification of builder's details

Prior to the commencement of any works, the Principal Certifier shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

9. Dilapidation survey and report (public infrastructure)

Prior to the commencement of any works, the Applicant must obtain a dilapidation report on the public infrastructure and the Principal Certifier shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure has been completed and submitted to Council:

Public infrastructure includes:

- the full road pavement width, including kerb and gutter, of Shirley Road over the site frontage, including the full intersection, and
- all driveway crossings and laybacks opposite the subject site

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

The Applicant may be held liable for any recent damage to public infrastructure in the vicinity of the site caused by the carrying out of the development, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier prior to the commencement of any excavation works.

Reason: To record the structural condition of public infrastructure before works commence.

10. Dilapidation survey and report (private property)

Prior to the commencement of any works, the Applicant must obtain a dilapidation report on the identified private property/ies below and the Principal Certifier shall be satisfied that a dilapidation report on the visible and structural condition of all structures on the following properties has been completed and submitted to Council:

Address:
- 15 Shirley Road

The dilapidation report must include a photographic record of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a qualified structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report**.**

In the event that access for undertaking the dilapidation survey is denied by a property owner, the Applicant must demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

A copy of the dilapidation report is to be provided to Council prior to the commencement of any works. The dilapidation report is for record keeping purposes only and may be used by the Applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

Reason: To record the structural condition of likely affected properties before works commence.

11. Construction traffic management plan

A construction traffic management plan (CTMP) is to be submitted to Council and approved prior to the commencement of any works.

The plan is to consist of a report with traffic control plans attached.

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development.

The report is to contain the following:

- construction vehicle routes for approach and departure to and from all directions, showing loaded and empty vehicles
- a site plan showing entry and exit points
- swept paths on the site plan showing access and egress for a 12.5 metres long heavy rigid vehicle and 19.0 metres articulated vehicle
- swept path analysis plans showing the existing trees being retained and their tree protective fencing requirements (consistent with this Development Consent). These plans shall be to scale to ensure that truck access and tree fencing requirements do not conflict

- show locations for site offices and materials storage areas which are to be located outside the tree protection zones

The traffic control plans are to be prepared by a RMS accredited consultant. One traffic control plan must be provided to Council for each of the following stages of the works:

- demolition
- excavation
- concrete pour
- construction of vehicular crossing and reinstatement of footpath
- traffic control for vehicles reversing into or out of the site

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.

When a satisfactory CTMP is received and the relevant fees paid in accordance with Council's adopted fees and charges, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as any conditions in the letter issued by Council. No works may be carried out unless Council has approved the CTMP.

Reason: To ensure that appropriate measures have been made to minimise impacts upon surrounding roads during the construction phase.

12. Work zone

Prior to the commencement of any works, a works zone is to be provided in Shirley Road, subject to the approval of the Ku-ring-gai Local Traffic Committee.

No loading or unloading must be undertaken from the public road or nature strip unless within a works zone which has been approved and paid for.

In the event the work zone is required for a period beyond that initially approved by the Ku-ring-gai Local Traffic Committee, the Applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

Reason: To ensure that appropriate measures have been made to minimise impacts upon surrounding roads during the construction phase.

13. Temporary construction exit

A temporary construction exit, together with necessary associated temporary fencing, shall be provided prior to commencement of any work on the site and shall be maintained throughout the duration of construction works.

Reason: To reduce or prevent the transport of sediment from the construction site onto public roads.

14. Sediment controls

Prior to any works commencing, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the Landcom manual '*Managing Urban Stormwater: Soils and Construction*'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site is fully stabilised. Sediment shall be removed from the sediment and erosion control measures following each heavy or prolonged rainfall period.

Reason: To protect and enhance the natural environment.

15. Tree protection fencing

Prior to the commencement of any works, the tree protection zone of the listed trees is to be fenced off at the specified radius from the trunk/s to prevent any activities or storage of material within the fenced area. The fence/s shall remain in place and be kept intact until the completion of all demolition/building work.

Tree/Location	**Radius in metres**
Trees: 1: Ulmus parvifolia (Chinese Elm) & 2: Lophostemon confertus (Brushbox) Shirley Rd nature strip	Top of kerb; western edge of proposed driveway; southern edge of pedestrian path; 4.5m elsewhere; Enclosing nature strip area.
Tree 4: Ulmus parvifolia (Chinese Elm) Shirley Rd nature strip	Top of kerb; eastern edge of proposed driveway; southern edge of pedestrian path; 5.0m elsewhere. Enclosing nature strip area.
Trees: 5: Ulmus parvifolia (Chinese Elm), 6: Lophostemon confertus (Brushbox), & 7: Ulmus parvifolia (Chinese Elm) Shirley Rd nature strip	Top of kerb; 6.0m east of tree 7; southern edge of pedestrian path; 3.0m west of tree 5. Enclosing nature strip area
Trees: 8 & 9 Lophostemon confertus (Brushbox) Shirley Rd nature strip	Top of kerb; 6.0m south of tree 8; eastern edge of pedestrian path; 8.0m north of tree 9; Enclosing nature strip area.
Trees 10 & 11 Lophostemon confertus (Brushbox) Shirley Rd nature strip	Top of kerb; northern edge of existing driveway; eastern edge of pedestrian path; 5.0m north of tree 11; Enclosing nature strip area.
Tree 12: Jacaranda mimosifolia (Jacaranda) Adjacent to northern site boundary in neighbouring site	4.5m
Tree 14 Eucalyptus saligna (Sydney Blue Gum) Adjacent to northern site boundary within neighbouring site	2.0m northern setback from development footprint; 15.0m elsewhere. After demolition works and prior to bulk excavation works.
Tree 43 Jacaranda mimosifolia (Jacaranda) Southwest site corner/western site boundary	2.0m western setback from development footprint; 6.0m elsewhere.

Reason: To protect existing trees.

16. Tree protective fencing type galvanised mesh

Tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres.

Reason: To protect existing trees.

17. Tree protection signage

Prior to the commencement of any works, tree protection signage is to be attached to the tree protection fencing, displayed in a prominent position and repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

The words:

- Tree protection zone/No access.
- This fence has been installed to prevent damage to the tree/s and their growing environment both above and below ground.

and the following information:

- The name, address, and telephone number of the developer/builder and project arborist

Reason: To protect existing trees.

18. Tree protection mulching

Prior to the commencement of any works, the tree protection zone is to be mulched to a depth of 100mm with composted organic material.

The mulch is to be replenished so as to be consistent with the above requirement throughout the duration of construction works.

Reason: To protect existing trees.

19. Ground protection - avoiding soil compaction

Prior to the commencement of any works, temporary measures, to avoid root damage and soil compaction, are to be installed in accordance with Section 4.5.3 (figure 4) of the current version of **Australian Standard** AS 4970 - *Protection of trees on development sites*, within the specified radius of the following listed tree/s if ANY vehicular access is required:

Tree/Location
All retained trees / 12 x trunk diameter On site and within 6.0m of site boundaries

Reason: To protect existing trees.

20. Inspection of tree protection measures

Upon installation of the required tree protection measures, an inspection is to be conducted by the project arborist or the Principal Certifier to verify that tree protection measures comply with all relevant conditions of this Development Consent.

Reason: To protect existing trees.

21. Project arborist

Prior to the commencement of any works, a project arborist shall be engaged to ensure all tree protection measures and works are carried out in accordance with the conditions of this Development Consent.

The project arborist shall have a minimum AQF Level 5 qualification with a minimum of 5 years experience. Details of the arborist including name, business name and contact details shall be provided to the Principal Certifier and a copy shall be provided to Council.

Reason: To protect of existing trees.

22. Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifier. The management plan is to identify amelioration measures to achieve the best practice objectives of Australian Standard 2436-2010 - *Guide to noise and vibration control on construction, demolition and maintenance sites* and NSW Department of Environment and Climate Change *Interim Construction Noise Guidelines*. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The management plan shall address, but not be limited to, the following matters:

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

Reason: To protect the amenity of surrounding residents during construction.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE:

23. Amendments to approved landscape plan

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the approved landscape plan(s), listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

Plan no.	Drawn by	Dated
DA L-101 Rev B DA L-102 Rev B DA L-103 Rev B DA L-104 Rev B DA L-2-1 Rev B DA L-202 Rev B DA L 301 Rev B	Jane Britt Design	13/09/2025

The above landscape plan(s) shall be amended as follows:

a) The planting of tree species capable of attaining heights up to 10m on the rooftop terrace shall be deleted and replaced with shrub species.
b) The planting of woody species that can aid climbing in close proximity to pool safety fencing is inconsistent with AS1926.1 - 2012 and shall be deleted.
c) The planting of a tall tree at an approximate setback of 1.2-1.5m from drainage infrastructure is ill-advised and shall be relocated so that it has a minimum 5.0m setback from the OSD/RWT structure.
d) Proposed top of wall heights and bottom of wall heights shall be detailed for all on-structure planters consistent with the architectural plans.
e) Proposed tall tree plantings of *Angophora costata* (Sydney Red Gum), *Syncarpia glomulifera* (Turpentine), and *Corymbia gummifera* (Red Bloodwood) shall be deleted within the 6m development setbacks and all relocated towards the site corners where there is adequate space for future canopy development.
f) The proposed on-structure island planter located to the west of Unit G.05 shall be amended to provide a minimum 2.0 x 2.0 x 1.2m planting area/volume for each proposed tree planting of Pyrus 'Capital' with the tree centrally located.
g) The plant schedule shall be amended for consistency.
h) The front fence within the eastern and southern setbacks is to be an open, palisade style fence with a maximum height of 1.2m.

An amended plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifier.

Reason: To ensure adequate landscaping of the site.

24. Amendments to approved engineering plans

Prior to the issue of a Construction Certificate, the Certifier shall be satisfied that the approved engineering plan(s), listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

Plan no.	Drawn by	Dated
SW-000 Cover sheet, Rev 3	Stellen Consulting	25 September 2025
SW-001 Stormwater layout, Rev 2	Stellen Consulting	25 September 2025
SW-002 Stormwater layout, Rev 4	Stellen Consulting	25 September 2025
SW-003 Stormwater layout, Rev 3	Stellen Consulting	25 September 2025

SW-100 Drainage details sheet 1, Rev 1	Stellen Consulting	3 September 2025
SW-101, Drainage details sheet 2, Rev 1	Stellen Consulting	12 September 2025
SW-200 Area Calculation, Rev 1	Stellen Consulting	12 September 2025
SD-001 Sediment & Erosion control plan, Rev 2	Stellen Consulting	12 September 2025

The above engineering plan(s) shall be amended as follows:

- The combined OSD/RWT located within the southern front setback is to be redesigned and relocated so it is not located within a soft landscape area. The tank is to be relocated beneath the driveway, or within the basement. If accommodated within the basement, compliant vehicle head heights must be demonstrated and the number of resident car spaces may not be reduced below a minimum of 92 spaces. If located beneath the driveway, compliant gradients must be demonstrated.
- The location of proposed drainage lines shall be located immediately adjacent to the basement structure to the greatest extent possible to minimise disturbance to the root zones of retained trees, particularly Trees: 4, 6, 7 and 17.

An amended engineering plan, prepared by a qualified engineer shall be submitted to the Certifier.

25. Compliance with BASIX Certificate

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that all commitments listed in the approved BASIX Certificate (referred to under Condition 1) are detailed on the plans forming the Construction Certificate.

Reason: Statutory requirement.

26. Statement of compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The applicant must provide work plans required by AS2601: 2001 and a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to and approved by the Certifier prior to the commencement of any demolition works.

Reason: To ensure compliance with the Australian Standards.

27. Long service levy

A Construction Certificate shall not be issued until any long service levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such levy is payable by instalments, the first instalment of the levy) has been paid. In order to pay your levy, you will need to register an account with The Long Service Corporation on the online portal at www.longservice.nsw.gov.au.

Reason: Statutory requirement.

28. Builder’s indemnity insurance

The Applicant, builder, developer or person who does the work on this development, must arrange builder’s indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Certifier for endorsement of the plans accompanying the Construction Certificate.

It is the responsibility of the Applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of $20,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than $20,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

Reason: Statutory requirement.

29. Outdoor lighting

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that all outdoor lighting will comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 *Lighting for roads and public spaces.*

Details demonstrating compliance with these requirements are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To provide high quality external lighting for security without adverse impacts on public amenity from excessive illumination.

30. Prohibition of external service pipes and the like

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building. Details confirming compliance with this condition must be shown on Construction Certificate plans and detailed with Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on Construction Certificate plans and detailed with Construction Certificate specifications. External vents or roof vent pipes must not be visible from any place unless detailed upon development consent plans. Where there is any proposal to fit external service pipes or the like, this must be detailed in an application to modify this Development Consent (in accordance with S4.55 of the EPA Act) and submitted to Council for determination.

Vent pipes required by Sydney Water must not be placed on the front elevation of the building or front roof elevation. The Applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed on the Development Consent plans.

Reason: To protect the streetscape and the aesthetic integrity of the approved development.

31. Certification of external materials, colours and finishes - major development

The Certifier shall not issue any Construction Certificate unless the external materials, colours and finishes specified in the Construction Certificate application are consistent with the approved plans and documents referred to in Condition No. 1 of the Development Consent.

Reason: To ensure that the works are carried out in accordance with the Development Consent.

32. Access for people with disabilities (residential)

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that access for people with disabilities to and from and between the public domain, residential units and all common open space areas is provided. Dignified and equitable access shall be provided.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided prior to the issue of any Construction Certificate. All details shall be prepared in consideration of the *Disability Discrimination Act*, and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

33. Liveable housing guidelines- platinum and silver level

Prior to the issue of any Construction Certificate, detailed plans and construction drawings shall be prepared as follows:

Apartments identified as Silver - showing compliance with the Silver Level requirements of the Livable Housing Australia Livable Housing Guidelines and as detailed in the access report prepared by Purple Apple Access listed in Condition 1 of the consent.

Apartments (L1.04, L1.07, L2.04, L2.07, L3.04, L3.07, L4.06, L5.06 and L6.06) identified as Platinum - showing compliance with the Platinum Level requirements of the Liveable Housing Australia Liveable Housing Guidelines and as detailed in the access report prepared by Purple Apple Access listed in Condition 1 of the consent.

The detailed plans and construction drawings showing full compliance with the requirements of each standard within the Liveable Housing Guidelines and as identified within the access report prepared by Purple Apple Access listed in Condition 1 of the consent shall be certified as compliant by an accredited Liveable Housing Australia assessor and provided to the Certifier for inclusion with the Construction Certificate documentation.

Reason: Equitable access.

34. Electric vehicle charging points

Prior to the issue of any Construction Certificate, the Certifier is to be satisfied that the Construction Certificate plans show that parking areas are constructed so that electric vehicle charging points can be installed, as required under Part 7b.1 of Ku-ring-gai DCP.

Reason: Provision of electric vehicle charging points.

35. Basement excavation to be fully tanked

Prior to the issue of any Construction Certificate, the Certifier is to be satisfied that the basement has been designed as a fully tanked structure as per the requirement of Part 24 C.3(8) of the Ku-ring-gai DCP, unless the Certifier is satisfied that ongoing dewatering will be less than 3ML/year and the proposal does not require approval by NSW DPI Office of Water. The Certifier shall consult with a geotechnical engineer before making their decision.

Reason: To protect the environment.

36. Stormwater quality control

Prior to issue of any Construction Certificate, the Certifier is to be satisfied that Stormwater Treatment Measures for the proposed development have been designed in accordance with the requirements of Part 24C.6 of the Ku-ring-gai DCP and is to be included with the plans and specifications accompanying any Construction Certificate. Any variation to the approved proprietary device as shown on the stormwater management plans listed in condition 1 of the consent will require lodgement of a Section 4.55 application to Council to modify the consent and the approval of that application.

Reason: To protect the environment.

37. Excavation for services

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under the Ku-ring-gai Development Control Plan, located on the subject allotment and adjoining allotments.

Reason: To protect existing trees.

38. Location of air conditioning condensers (residential flat buildings)

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that architectural plans display that all air conditioning condensers will be located on the roof and will be supplied with an acoustic enclosure as specified in Part 6 of the Noise Impact Assessment by Pulse White Noise Acoustics Pty Ltd dated 22 August 2025 Project Number 250107 Revision 2. The operation of an individual piece of equipment or operation of equipment in combination will comply with the following acoustic requirements:

(a) during peak time (7am to 10pm) - noise from air conditioning condensers will not exceed 5dB(A) above the ambient background noise (LA90, 15 min) level when measured at any property boundary, and
(b) during off peak time (10pm to 7am) - noise from air conditioning condensers will not be audible in habitable rooms of any residence.

The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To minimise noise impacts on surrounding properties.

39. Acoustic design report

An acoustic design report shall be prepared by an appropriately qualified acoustic consultant and submitted to the Certifier with the application for any Construction Certificate. The acoustic design report shall identify all mechanical ventilation equipment and other noise generating plant including, but not limited to air conditioners, car park exhaust, bathroom/toilet and garbage room exhaust, roller shutter doors, lifts and pumps associated with rain water reuse systems proposed as part of the approved development.

The acoustic design report shall provide acoustic design detailing and recommendations to address any potential noise impacts to ensure that the operation of an individual piece of equipment or operation of equipment in combination will not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary.

A Construction Certificate shall not be issued unless the Certifier is satisfied that the acoustic design report satisfies the requirements of this condition and that the proposal will be constructed in accordance with its requirements.

Reason: To comply with best practice standards for acoustic amenity.

40. Driveway crossing levels

Prior to issue of any Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Council’s Customer Services counter and payment of the assessment fee. When completing the request for driveway levels application from Council, the Applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the Applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

Reason: To provide suitable vehicular access without disruption to pedestrians and vehicular traffic.

41. Driveway grades - basement carparks

Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifier. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The civil/traffic engineer shall provide specific written certification on the plans that:

- vehicular access ramp along the path of travel to the garbage loading/unloading area can be obtained using grades of 20% (1 in 5) maximum,
- vehicular access can be obtained using grades of 25% (1 in 4) maximum, and
- all changes in grade (transitions) comply with Australian Standard 2890.1 -"Off-street car parking" (refer clause 2.5.3) to prevent the scraping of the underside of vehicles

If a new driveway crossing is proposed, the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

Reason To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

42. Basement car parking details

Prior to issue of any Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Certifier. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 *"Off-street car parking"*
- a clear height clearance of **2.6 metres** (required under Part 23.7 *'Waste Management'* for waste collection trucks is provided over the designated garbage collection truck manoeuvring areas within the basement and all other areas within the basement required for garbage collection truck manoeuvring
- Council and its contractor can have unimpeded access to the waste storage facility within the development for the purpose collecting waste and recycling materials.Security doors or gates installed leading to the waste storage area are to be keyed to Council's master key to allow unimpeded access.
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

Reason: To ensure that parking spaces are in accordance with the Development Consent.

43. Car parking allocation

Car parking within the development shall be allocated as follows:

residential car spaces - Market	109
resident car spaces - Affordable	2
visitor spaces	10
loading bay	1

car wash bay	1
car share	1 (shared with 1 visitor space)
Total	123

Each adaptable dwelling must be provided with car parking complying with the dimensional and location requirements of AS2890.1 - *parking spaces for people with disabilities*. The car parking allocated within the basement must be amended to demonstrate accessible spaces are allocated to units (designated accessible units).

At least one visitor space shall also comply with the dimensional and location requirements of AS2890.1 - *parking spaces for people with disabilities*.

The car parking shall be dedicated for the use of the corresponding units based on bedroom numbers as approved and cannot be sold separately.

Access from disabled car parking spaces to other areas within the building and to footpath and roads shall be clearly shown on the plans submitted with any Construction Certificate.

Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with federal legislation.

44. Number of bicycle spaces

The basement car park shall be adapted to provide 60 bicycle spaces in accordance with the Ku-ring-gai DCP. The bicycle parking spaces shall be designed in accordance with AS2890.3. Details shall be submitted to the satisfaction of the Certifier prior to the issue of any Construction Certificate.

Reason: To provide for alternative modes of transport to and from the site.

45. Ausgrid requirements

Prior to issue of any Construction Certificate, Ausgrid must be contacted regarding the power supply for the subject development. A written response, detailing the full requirements of Ausgrid (including any need for underground cabling, substations or similar within or in the vicinity of the development) shall be submitted and approved by the Certifier prior to issue of any Construction Certificate.

Any structures or other requirements of Ausgrid shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Certifier and Ausgrid. The requirements of Ausgrid must be met in full prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with the requirements of Ausgrid.

46. Utility provider requirements

Prior to issue of any Construction Certificate, the Applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifier, must be obtained. All utility services or appropriate conduits for the same must be provided in accordance with the specifications of the utility providers.

Reason: To ensure compliance with the requirements of relevant utility providers.

47. Underground services

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met is to be provided to the Certifier prior to the issue of any Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed.

Reason: To provide infrastructure that facilitates the future improvement of the streetscape by location of service lines below ground.

48. Design and construction of mechanical ventilation

Prior to the issue of any Construction Certificate the Certifier shall be satisfied that plans and specifications demonstrate that the installation of mechanical ventilation systems will comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

Reason: To protect the amenity of occupants and neighbouring properties.

49. Consolidation of lots

Prior to issue of any Construction Certificate, the Applicant must consolidate the existing lots (Lot 1 in DP 973520, Lot 1 in DP 972422 and Lot 1 in DP 972554) which will form the development site into a single lot. Evidence of lot consolidation, in the form of a plan registered with NSW Land Registry Services, must be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure that the legal property description is consistent with the proposed site layout and that continuous structures will not be placed across separate lots.

50. Waste and recycling storage facilities - residential flat building

Prior to the issue of a Construction Certificate, the Certifier must be satisfied that the waste storage room shall be located within the basement and will be of adequate size to contain the waste and recycling bins. The waste storage room shall be covered and all internal walls rendered and coved at the floor/wall intersection. The floor is to be graded and appropriately drained to the sewer and a tap with hot and cold water is to be located in close proximity to facilitate cleaning.

Details of the waste storage room demonstrating compliance with the requirements of this condition shall be provided to and approved by the Certifier prior to the issue of any Construction Certificate.

Reason: To protect amenity and to prevent environmental pollution

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE, OR PRIOR TO DEMOLITION, EXCAVATION OR BUILDING WORKS (WHICHEVER COMES FIRST):

51. Infrastructure damage security bond and inspection fee

To ensure that any damage to Council property as a result of construction activity is rectified in a timely manner:

(a) All work or activity undertaken pursuant to this development consent must be undertaken in a manner to avoid damage to Council property and must not jeopardise the safety of any person using or occupying the adjacent public areas.

(b) The applicant, builder, developer or any person acting in reliance on this consent shall be responsible for making good any damage to Council property and for the removal from Council property of any waste bin, building materials, sediment, silt, or any other material or article.

(c) The Infrastructure damage security bond and infrastructure inspection fee must be paid to Council by the applicant prior to both the issue of any Construction Certificate and the commencement of any earthworks or construction.

(d) In consideration of payment of the infrastructure damage security bond and infrastructure inspection fee, Council will undertake such inspections of Council Property as Council considers necessary and will also undertake, on behalf of the applicant, such restoration work to Council property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure damage security bond payable pursuant to this condition.

(e) **Release of the bond** – Upon receipt by Council of an Occupation Certificate, Council will undertake an inspection of Councils Infrastructure and release the bond if no damage is found.

For development relating to more than 2 dwellings, there will be a six months holding period after the receipt by Council of the final occupation certificate, after which you may request Council to return any bond monies.

If there is damage found to Council property the bond will not be released until the damage has been rectified to Council's satisfaction.

(f) In this condition:

"Council property" includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

"Infrastructure damage security bond and infrastructure inspection fee" means the Infrastructure damage security bond and infrastructure inspection fee as calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council property associated with this condition.

Reason: To maintain public infrastructure.

52. Construction Certificate plans

The Construction Certificate plans must be consistent with the approved plans and documents referred to in Condition No. 1 of this Development Consent, as modified by any conditions of consent.

Reason: To ensure that the works are carried out in accordance with the Development Consent.

53. Section 7.11 development contributions - other than identified centres

This development is subject to a development contribution calculated in accordance with Ku-ring-gai Contributions Plan 2010, being a Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

Key Community Infrastructure	**Amount**
Local recreation and cultural facilities; Local social facilities	$138,248.40
Local parks and local sporting facilities	$1,061,751.60
Total:	**$1,200,000.00**

The contribution specified above is subject to indexation and will continue to be indexed to reflect changes in the Consumer Price Index (All Groups Sydney) and Established House Price Index (Sydney) until paid in accordance with Ku-ring-gai Contributions Plan 2010 subject to the requirement of any Ministerial Direction in effect under s7.17 which limits the maximum amount of local infrastructure contributions payable in this area.

Prior to payment, please contact Council directly to verify the current contribution payable.

The contribution shall be paid to Council prior to the issue of any Construction Certificate, Linen Plan, Subdivision Certificate or Occupation Certificate, whichever comes first in accordance with Ku-ring-gai Contributions Plan 2010.

Note: Copies of Council's Contributions Plan can be viewed at Council Chambers at 818 Pacific Hwy Gordon or on Council's website at www.krg.nsw.gov.au.

Reason: To ensure the provision, extension or augmentation of the Key Community Infrastructure identified in Ku-ring-gai Contributions Plan 2010 that will, or is likely to be, required as a consequence of the development.

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:

54. Road opening permit

The opening of any footway, roadway, road shoulder or any part of the road reserve (excluding where a Driveway Application and Roads Act Approval is required) shall not be carried out without a road opening permit being applied for and obtained from Council (and upon payment of any required fees) beforehand.

Reason: Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

55. Prescribed conditions

The work shall comply with any relevant prescribed conditions of development consent under Sections 69, 70, 71,72, 73, 74 and 75 of the Environmental Planning and Assessment Regulation 2021. For the purposes of section 4.17 (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989

1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the *Building Code of Australia*.

2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the *Home Building Act 1989*, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.

3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the *Building Code of Australia*.

4) In subsection (1), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.

5) In subsection (3), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.

6) This section does not apply -

   (a) to the extent to which an exemption from a provision of the *Building Code of Australia* or a fire safety standard is in force under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, or

   (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

7) ***relevant date*** has the same meaning as in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 19.

Erection of signs

1) This section applies to a development consent for development involving building work, subdivision work or demolition work.

2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out -

   (a) showing the name, address and telephone number of the principal certifier for the work, and

   (b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and

(c) stating that unauthorised entry to the work site is prohibited.

3) The sign must be -

(a) maintained while the building work, subdivision work or demolition work is being carried out, and

(b) removed when the work has been completed.

4) This section does not apply in relation to -

(a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or

(b) Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Notification of Home Building Act 1989 requirements

1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.

2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following -

(a) for work that requires a principal contractor to be appointed -

i. the name and licence number of the principal contractor, and

ii. the name of the insurer of the work under the *Home Building Act 1989*, Part 6,

(b) for work to be carried out by an owner-builder -

i. the name of the owner-builder, and

ii. if the owner-builder is required to hold an owner-builder permit under the *Home Building Act 1989* - the number of the owner-builder permit.

3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.

4) This section does not apply in relation to Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Shoring and adequacy of adjoining property

1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.

2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense -

(a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and

(b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

3) This section does not apply if -

(a) the person having the benefit of the development consent owns the adjoining land, or

(b) the owner of the adjoining land gives written consent to the condition not applying.

Fulfilment of BASIX commitments

It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled -

a) BASIX development,

b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

Reason: Statutory requirement.

56. Hours of work

Demolition, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Demolition and/or excavation using machinery of any kind must be limited to between 7.00am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm. No demolition and/or excavation using machinery of any kind is to occur on Saturdays, Sundays or public holidays.

Where it is necessary for works to occur outside of these hours (ie placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by Transport for NSW (TfNSW) from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site), approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Failure to obtain a permit to work outside of the approved hours will result in regulatory action.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

57. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifier.

Reason: To ensure that the development is in accordance with the determination.

58. Combustibility of external walls and cladding

External walls, including attachments, must comply with the relevant requirements of the Building Code of Australia (BCA) and the Building Products (Safety) Act 2017.

Prior to the issue of any Construction Certificate the Certifier must:

1. Be satisfied that suitable evidence has been provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and cladding such as synthetic or aluminium composite panels, comply with the relevant requirements of the BCA and the Building Products (Safety) Act 2017; and
2. Ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built and does not include a building product listed as unsafe or banned under the Building Products (Safety) Act 2017.

Prior to the issue of any Occupation Certificate the Principal Certifier must:

1. Be satisfied that suitable evidence has been provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and cladding such as synthetic or aluminium composite panels, comply with the relevant requirements of the BCA and the Building Products (Safety) Act 2017; and
2. Ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built and does not include a building product listed as unsafe or banned under the Building Products (Safety) Act 2017.

Reason: To ensure the safety of occupants.

59. Control of construction noise (Noise and vibration management plan)

During any demolition, excavation or building works, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

60. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifier and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice

- be mounted at height of 1.6 metres above natural ground on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

61. Dust control

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out at least daily
- no advertising or signage is permitted to be attached to dust cloth material.

Reason: To protect the environment and the amenity of surrounding properties.

62. Post-construction dilapidation report

A suitably qualified person shall prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifier. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifier must:

- compare the post-construction dilapidation report with the pre-construction dilapidation report
- have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads

A copy of this report is to be forwarded to Council at the completion of construction works.

Reason: Management of records.

63. Compliance with submitted geotechnical report

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified consulting geotechnical engineer must oversee the excavation.

Geotechnical aspects of the development work, namely:

- appropriate excavation method and vibration control
- support and retention of excavated faces
- hydro-geological considerations

must be undertaken in accordance with the recommendations of the Geotechnical Investigation Report prepared by Aargus dated 1 April 2025

Prior approval must be obtained from all affected property owners, including Council, where rock anchors (both temporary and permanent) are proposed below adjoining properties.

Reason: To ensure the safety and protection of property.

64. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The footpath shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost of rectification against the applicant/owner/builder or any other responsible person, as the case may be.

Reason: To ensure safety and amenity of the area.

65. Toilet facilities

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed. One toilet, plus one additional toilet for every 20 persons working at the site are to be provided. Each toilet must:

a) be a standard flushing toilet connected to a public sewer, or
b) have an on-site effluent disposal system approved under the Local Government Act 1993 <https://www.legislation.nsw.gov.au/>, or
c) be a temporary chemical closet approved under the Local Government Act 1993 <https://www.legislation.nsw.gov.au/>.

Reason: Statutory requirement.

66. Recycling of building material (general)

During demolition and construction, the Principal Certifier shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

Reason: To facilitate recycling of materials.

67. Garbage receptacle

1. A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.
2. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
3. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.

Reason: To ensure appropriate construction site waste management and to avoid injury to wildlife.

68. Construction signage

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m^2
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

69. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2009) “Manual for Uniform Traffic Control Devices for Work on Roads”. If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may take actions to stop work, which may include the bringing of proceedings.

Reason: To ensure safe public footways and roadways during construction.

70. Services

Where required, the adjustment or inclusion of any new utility service facilities must be carried out in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicant’s responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

71. Discovery of Aboriginal object or place

The National Parks & Wildlife Act 1974 provides statutory protection for all Aboriginal ‘objects’ and Aboriginal places under Section 84. It is an offence to harm either an Aboriginal object or Aboriginal Place in NSW. The Act defines an Aboriginal ‘object’ as:

‘any deposit, object or material evidence (not being a handicraft for sale) relating to indigenous and non-European habitation of the area that comprises New South Wales, being habitation before or concurrent with the occupation of that area by persons of non-Aboriginal European extraction, and includes Aboriginal remains.’

The Act defines aboriginal places as “a place that in the opinion of the minister is or was of special significance with respect to Aboriginal culture.” Where there is a suspected discovery of an Aboriginal ‘object’ or place, all works must cease and the applicant must notify the Secretary of the Department of Climate Change, Energy, the Environment and Water of the discovery. An Aboriginal Heritage Impact Permit (AHIP) may be required under Section 90 of the Act.

Construction works may recommence following submission of the AHIP (or written advice advising that an AHIP is not required) to the Certifier. A copy of the AHIP or written advice must also be provided to Council.

Reason: Statutory requirement

72. Temporary disposal of stormwater

During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Certifier.

Reason: To protect the natural environment.

73. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifier and Council.

Reason: To protect the environment from erosion and sedimentation.

74. Sydney Water Section 73 Compliance Certificate

An application for a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994* shall be made through an authorised Water Servicing Co-ordinator. The applicant should refer to Sydney Water’s web site at www.sydneywater.com.au <http://www.sydneywater.com.au> or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Reason: Statutory requirement.

75. Arborist's inspection and reporting

The tree/s to be retained shall be inspected and monitored by an AQF Level 5 arborist in accordance with the current version of **Australian Standard** AS 4970 - *Protection of trees on development sites* during and after completion of development works to ensure their long term survival.

The Principal Certifier must be provided with reports by the project arborist within 7 days of the inspection detailing the date of inspection, identifying the trees by their number, the location and species, tree health, compliance with conditions of the Development Consent, description of the works inspected, description of any impacts to trees and any rectification and/or mitigation works prescribed and/or undertaken.

Regular inspections and documentation shall be given by the arborist to the Principal Certifier. These are required, at the following times or phases of work, but may be given more regularly:

Tree/location	Time of inspection
All retained trees on site and within 6.0m of site boundaries	*Site inspection and certification of tree protection fencing and requirements as per the consent conditions. *At the completion of bulk excavation works and prior to construction works. *Site inspections every two months during development works. *On site supervision during excavation within the tree protection zone (TPZ) of any retained tree. *At the completion of all works on site.

All works as recommended by the project arborist are to be undertaken by an experienced arborist with a minimum AQF Level 3 qualification.

Reason: To ensure protection of existing trees.

76. Landscape works near trees

To avoid tree impacts, all landscape works such as soil preparation, soil spreading, mulching and planting shall be carried out by hand within the specified radius of the following trees.

Tree/location	Radius in metres
All retained trees On site and within 6m of site boundaries	12 x trunk diameter

Reason: To protect existing trees.

77. Trees on nature strip

Removal or pruning of the following tree/s on Council's nature strip shall be undertaken at no cost to Council by one of Council's approved tree contractors. A list of contractors is available from Council's Supervisor Streetscapes, who are in Council's Operation's Department.

Council's Supervisor Streetscape must be advised via email, within a minimum of 48 hours prior to commencement of the works, with the following detail:

- selected contractor,
- the item code
- associated rate provided.

You and/or the contractor will be responsible for the reporting and/or repair of any services damaged because of works undertaken.

Tree/location	Tree works
Tree 3: Ulmus parvifolia (Chinese Elm) Shirley Rd nature strip / proposed driveway	Removal
Tree 5: Lophostemon confertus (Brushbox) Shirley Rd nature strip	Root pruning as specified within Part 3 Tree 2 Root Survey of the Arboricultural Impact Assessment Report by Bradshaw Consulting Arborists Revision 2 dated 18/09/2025.

Reason: To protect existing trees.

78. Cutting of tree roots and branches

Where it is unavoidable, tree roots and branches severed for the purposes of constructing the approved works shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum AQF Level 3 qualification. All pruning works shall be undertaken as specified in current version of **Australian Standard** AS 4373 - *Pruning of amenity trees*. The arborist/horticulturalist shall provide a report to the Certifier confirming compliance with this condition.

Reason: To protect existing trees.

79. Retention of tree roots

No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall be severed or injured in the process of any works during the construction period. All pruning of roots less than 50mm in diameter shall be undertaken by an experienced arborist/horticulturalist, with a minimum AQF Level 3 qualification.

Tree/location	Radius in metres
Trees: 1, 4, 5, 6, 7, 8, 9, 10, and 11. Shirley Rd nature strip	12 x trunk diameter
Tree 12: Jacaranda mimosifolia (Jacaranda) Adjacent to northern site boundary within neighbouring site.	5.0m
Tree 14 Eucalyptus saligna (Sydney Blue Gum) Adjacent to northern site boundary within neighbouring site	11.0m south; 15.0m elsewhere
Tree 43: Jacaranda mimosifolia (Jacaranda) Southwest site corner	5.0m east, 6.5m elsewhere

Reason: To protect existing trees.

80. Approved tree works

Prior to the commencement of any works, the following is to be undertaken to the specified trees:

Tree/location	Approved tree works
Tree 3: Ulmus parvifolia (Chinese Elm) Shirley Rd nature strip	Removal
Trees:13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, and 45 On site	Removal

1. All trees are to be clearly tagged and identified in accordance with the specifications in the arborist report prior to the removal or pruning of any tree/s .
2. Canopy and/or root pruning shall be undertaken by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification.
3. All root or canopy pruning works shall be undertaken as specified in current version of **Australian Standard** AS 4373 - *Pruning of amenity trees*.

Removal or pruning of any other tree on the site is not approved, excluding species and works exempt under Council's Development Control Plan.

Reason: To ensure that the development is in accordance with the Development Consent.

81. Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s shall be carried out by hand digging and/or by an air knife and shall be supervised by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification. The arborist /horticulturalist shall provide a report to the Principal Certifier confirming compliance with this condition:

Tree/Location	Radius in metres
All retained trees On site and within 6m of site boundaries	12 x trunk diameter

Reason: To protect existing trees.

82. Thrust boring/directional drilling

Excavation for the installation of any services within the specified radius of the trunk/s of the following tree/s shall utilise the thrust boring or directional drilling method and comply with the following:

1. The tunnelling shall be carried out at least 600mm beneath natural ground level.
2. The launching pit for the tunnelling machine shall be located outside the tree protection zone (defined in the current version of **Australian Standard** AS 4970 - *Protection of trees on development sites*) of any tree unless approved in writing by the project arborist.

Tree/location	Radius in metres
Tree 43: Jacaranda mimosifolia (Jacaranda) Western site boundary / southwest site corner	6.5m

Reason: To protect and minimise damage to existing trees.

83. No storage of materials beneath trees

No activities, soil compaction, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Development Control Plan at any time unless specified in other conditions of this consent.

Reason: To protect existing trees.

84. Removal of refuse

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Reason: To protect the environment.

85. Canopy replenishment trees to be planted

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5 metres when they will be protected by Council's Development Control Plan. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain the treed character of the area.

86. Survey and inspection of waste collection clearance and path of travel

At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, a registered surveyor is to:

1. Ascertain the reduced level of the underside of the slab at the driveway entry.
2. Certify that the level is not lower than the level shown on the approved DA plans.
3. Certify that the minimum headroom of 2.6 metres will be available for the full path of travel of the small waste collection vehicle from the street to the collection area.

This certification is to be provided to the Principal Certifier prior to any concrete being poured for the ground floor slab.

No work is to proceed until Council has undertaken an inspection to determine clearance and path of travel.

At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, Council's Waste Contract Coordinator to carry out an inspection of the site to confirm the clearance available for the full path of travel of the small waste collection vehicle from the street to the collection area and that unimpeded access to the garbage collection point has been provided. This inspection may not be carried out by a private certifier because waste management is not a matter listed in Clause 73 of the Environmental Planning and Assessment Regulation (Development and Fire Safety Certification) 2021.

Reason: To ensure access will be available for Council's contractors to collect waste from the collection point.

87. On site retention of waste dockets

All demolition, excavation and construction waste dockets are to be retained on site, or at suitable location, in order to confirm which facility received materials generated from the site for recycling or disposal.

- each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing
- this information is to be made available at the request of an authorised Council officer.

Reason: To protect the environment.

88. Maintenance of site

All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:

- all vehicles entering or leaving the site must have their loads covered, and
- all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site must be left clear of waste and debris.

Reason: To ensure the site is appropriately maintained.

89. Vibration

Vibration emitted from activities associated with the demolition, excavation, construction and fitout of buildings and associated infrastructure shall satisfy the values referenced in Table 2.2 of the Environment Protection Authority Assessing Vibration - a Technical Guideline.

Reason: To protect residential amenity during construction.

90. Control of construction noise (Australian Standard)

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with best practice objectives of AS 2436-2010 and NSW Environment Protection Authority Interim Construction Noise Guidelines.

Reason: To protect the amenity of neighbouring properties

91. Site fencing

The site must be secured and fenced prior to works commencing. All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

If the work involved in the excavation, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place (note that separate approval is required prior to the commencement of works to erect a hoarding or temporary fence on public property).

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

The site shall be secured/locked to prevent access at the end of each day.

Any hoarding, fence or awning is to be removed when the construction work has been completed.

Reason: To ensure public safety.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:

92. Car sharing

Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:

1. At least 1 space on Basement Level 1 has been reserved for car share operation, with no charge to the car share operator to use it.
2. The space must be available to all members of the car share scheme (including members who are not residents of the development) during the operating hours of the car park, and should be well-lit with safe pedestrian access.
3. These spaces must be contracted to an operator (a Car Share Provider that has been approved by the Responsible Authority) with evidence of agreement submitted to Council prior to issuing of the Occupation Certificate.
4. Car share vehicles must be operational within 4 weeks of issue of the Occupation Certificate
5. The agreement must ensure appropriate insurance and vehicle maintenance is in place, including public liability.
6. Since car share spaces are located in the basement, sufficient cellular communications connectivity must available at the location of the carshare spaces to ensure proper car share management/operation.

Evidence from a qualified and experienced consulting professional documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate car share operation/ management.

93. EV Charging

Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that EV readiness has been provided for all car parking spaces within the development.

Reason: To ensure compliance with Council's DCP requirements.

94. Bicycle Parking

Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:

1. 60 resident bicycle parking spaces have been provided.
2. Access doors to individual storage areas containing bicycle parking have been designed so as not be obstructed by parked vehicles.
3. The lifts and lobbies are to be of a suitable size such that residents can transport their bicycles between their storage area and ground/road level without using the internal car park ramps.
4. The lifts and lobbies are to be of a suitable size such that residents can transport their bicycles between their storage area and ground/road level without using the internal car park ramps.

Reason: To ensure compliance with the KDCP requirements.

95. Compliance with BASIX Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that all commitments listed in approved BASIX Certificate (referred to under Condition No 1) have been complied with.

Reason: Statutory requirement.

96. Clotheslines and clothes dryers

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the units either have access to an external clothesline located in common open space or a pull-out wall-mounted clothesline within each laundry. A mechanical clothes dryer shall also be provided for each unit.

Reason: To provide access to clothes drying facilities.

97. Mechanical ventilation

Following completion, installation and testing of all the mechanical ventilation systems the installation and performance of these systems must comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

The Principal Certifier shall be satisfied of the above prior to the issue of any Occupation Certificate.

Reason: To protect the amenity of occupants and neighbouring properties.

98. Completion of landscape works

Prior to the issue of an Occupation Certificate, the Principal Certifier is to be satisfied that all landscape works have been undertaken in accordance with the approved plan(s) and conditions of this development consent.

Reason: To ensure that the landscape works are consistent with the Development Consent.

99. Mechanical noise control

Prior to the issue of an Occupation Certificate, the Principal Certifier must be satisfied that the mechanical ventilation systems and other plant, including but not limited to air conditioners, car park and garbage room exhaust, roller shutter doors lifts and pumps associated with rain water reuse systems when in operation either as an individual piece of equipment or in combination with other equipment will not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination must not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present. Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifier.

Reason: To protect the amenity of the occupants and neighbouring residents**.**

100. Outdoor Lighting

Prior to the issue of the Occupation Certificate, the Principal Certifier shall be satisfied that all outdoor lighting will comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and is mounted, screened and directed in a way that does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 *Lighting for roads and public spaces*.

Reason: To provide high quality external lighting for security without adverse impacts on public amenity from excessive illumination.

101. Location of air conditioning condensers

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that all air conditioning condensers are on the roof and are supplied with an acoustic enclosure as specified in Part 6 of the Noise Impact Assessment by Pulse White Noise Acoustics Pty Ltd dated 22 August 2025 Project number 250107 Revision 2. The operation of an individual piece of equipment or operation of equipment in combination must comply with the following acoustic requirements:

(a) during peak time (7am to 10pm) - noise from air conditioning condensers will not exceed 5dB(A) above the ambient background noise (LA90, 15 min) level when measured at any property boundary, and

(b) during off peak time (10pm to 7am) - noise from air conditioning condensers will not be audible in habitable rooms of any residence.

The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To minimise noise impacts on surrounding properties.

102. Accessibility

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 - 2009 and the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

Reason: To facilitate disabled access.

103. No stopping restrictions

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that signage stating 'No Parking' restriction has been installed for 6m on either side of the driveway.

Where the restrictions and signage are approved by the Ku-ring-gai Traffic Committeel, the necessary signage shall be installed (at the cost of the Applicant) prior to the issue of an Occupation Certificate.

Reason: To ensure that appropriate measures have been made for the operation of the site at all times.

104. Easement for waste collection

Prior to the issue of an Occupation Certificate, an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

Reason: To permit legal access for Council, Council's contractors and their vehicles over the subject site for waste collection.

105. Retention and re-use positive covenant/restriction

Prior to issue of an Occupation Certificate, the positive covenant and restriction on the use of land under Section 88D/88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property shall be created.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to 24R.8.2 of the Ku-ring-gai Development Control Plan). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifier prior to issue of an Occupation Certificate.

Reason: To ensure appropriate storm-water management.

106. Certification of drainage works

Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:

1. The stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
2. The minimum retention and on-site detention storage volume requirements of Ku-ring-gai DCP Part 24 ‘Water Management’ have been achieved. Council’s 'On-Site Detention and Retention Certification sheet' shall be completed.
3. Retained water is connected and available for use.
4. All grates potentially accessible by children are secured.
5. Components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 and the Building Code of Australia.
6. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate stormwater management.

107. Works as executed plans for stormwater management and disposal

Prior to issue of an Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifier prior to issue of an Occupation Certificate. The survey must indicate:

- as built (reduced) surface and invert levels for all drainage pits
- gradients of drainage lines, materials and dimensions
- as built (reduced) level(s) at the approved point of discharge to the public drainage system
- as built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site
- the achieved storage volumes of the installed retention and detention storages and derivative calculations

- as built locations of all access pits and grates in the detention and retention system(s), including dimensions
- the size of the orifice or control fitted to any on-site detention system
- dimensions of the discharge control pit and access grates
- the maximum depth of storage possible over the outlet control
- top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system

The works as executed plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked in red on a copy of the Certifier stamped construction certificate stormwater plans.

Reason: To ensure appropriate stormwater management.

108. Basement pump-out maintenance

Prior to issue of an Occupation Certificate, the Principal Certifier shall be satisfied that a maintenance regime has been prepared for the basement stormwater pump-out system.

The maintenance regime (which must be provided to the Principal Certifier prior to the issue of an Occupation Certificate) must (at a minimum) specify that the system is to be regularly inspected and checked by qualified practitioners, and is to be prepared by a suitably qualified professional.

Reason: To ensure appropriate stormwater management.

109. OSD positive covenant/restriction

Prior to issue of an Occupation Certificate, a positive covenant and restriction on the use of land under Section 88B/88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot shall be created.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to the Water Management Part 24R.8.1 of the relevant Ku-ring-gai Development Control Plan 2015). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifier prior to issue of an Occupation Certificate.

Reason: To ensure appropriate stormwater management.

110. Sydney Water Section 73 Compliance Certificate

Prior to issue of an Occupation Certificate, the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifier.

Reason: Statutory requirement.

111. On-site detention system marker plate

A marker plate is to be permanently attached and displayed within the immediate vicinity of the On-Site Detention System prior to the issue of the Occupation Certificate.

This marker plate can be purchased from Council.

Reason: To prevent unlawful alteration.

112. Stormwater quality control positive covenant/restriction

Prior to issue of an Occupation Certificate, a positive covenant and restriction on the use of land under Section 88B of the Conveyancing Act 1919 shall be created, burdening the owner with the requirement to maintain the stormwater quality control devices on the lot (i.e. Bio-retention, Stormfilter devices, enviropods).

The terms of the instruments are to be to the satisfaction of Council. For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services. The relative location of the stormwater quality control devices, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

The registered title documents showing the creation of the covenants and restrictions, must be submitted to and approved by the Principal Certifier prior to issue of an Occupation Certificate.

Reason: To ensure appropriate stormwater management.

113. Certification of as-constructed driveway/carpark

Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:

1. The as-constructed car park complies with the approved Construction Certificate plans.
2. The completed vehicle access and accommodation arrangements comply with Australian. Standard 2890.1 - 2004 “Off-Street car parking" in terms of minimum parking space dimensions.
3. Finished driveway gradients and transitions will not result in the scraping of the underside of cars.
4. No doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
5. The development complies with vehicular headroom requirements of Australian Standard 2890.1 - “Off-street car parking”,
6. 2.6 metres height clearance for waste collection trucks (refer Part 25 of the Ku-ring-gai DCP) are met from the public street into and within the applicable areas of the basement carpark.
7. Provision is to be made for 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.
8. At least one on-site loading space 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.
9. Vegetation adjacent to the 2m x 2.5m sight triangle at the property boundary must be maintained to avoid encroachment into the sight triangle as required under Australian Standard 2890.1 - “Off-street car parking”.

Evidence from a suitably qualified and experienced traffic/civil engineer demonstrating compliance with the above is to be provided to and approved by the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure that vehicular access and accommodation areas are compliant with Australian Standards and the Development Consent.

114. Swimming pool

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that:

1. Access to the swimming pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992.
2. All mechanical equipment, including filters, pumps and heaters associated with the swimming pool and/or spa are housed within an enclosure. The enclosure is to be sound-proofed to the extent that noise from the operation of the mechanical equipment does not exceed 5dB(A) above the background noise (LA90, 15 min) level during the day when measured at the nearest adjoining property boundary and is not audible in habitable rooms of any adjoining residences at night (from 8.00pm to 7.00am). The background (LA90, 15 min) level is to be determined without the noise source present.
3. The swimming pool/spa shall be registered on the NSW Swimming Pool Register (<http://www.swimmingpoolregister.nsw.gov.au>) in accordance with the Swimming Pools Act 1992.

Reason: Statutory requirement to ensure the safety of children and to protect the amenity of surrounding properties.

115. Fire safety certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that a fire safety certificate for all the essential fire or other safety measures forming part of this Development Consent has been completed and provided to Council.

Reason: To ensure suitable fire safety measures are in place.

116. Restriction on title - affordable rental properties

Prior to the issue of an Occupation Certificate, a restriction is to be registered on the title of the property in accordance with Section 88B of the *Conveyancing Act 1919* that ensures the apartments identified as G.01 and G.02 on the approved architectural plans are retained as affordable rental properties for a period of ten years in accordance with the requirements of Section 82 of the Environmental Planning and Assessment Regulations 2021.

Reason: To satisfy the requirements of SEPP (Housing) 2021.

117. Waste and recycling storage facilities- residential flat building

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the waste storage room has been installed in the basement and is of adequate size to contain the waste bins. The waste storage room must be covered and all internal walls must be rendered and coved at the floor/wall intersection. The floor must be graded and appropriately drained to the sewer and a tap with hot and cold water must be located in close proximity to facilitate cleaning.

Reason: To protect amenity and to prevent environmental pollution.

118. Prescribed condition - Affordable housing in perpetuity

It is a condition of the development consent that before the issue of an Occupation Certificate for the development-

(a) a restriction must be registered, in accordance with the Conveyancing Act 1919, section 88E, against the title of the property relating to the development, which will ensure the requirements of subsection (3)(a) and (b) are met, and
(b) evidence of an agreement with a registered community housing provider for the management of the affordable housing must be given to the Registrar of Community Housing, including the name of the registered community housing provider, and
(c) evidence that the requirements of paragraphs (a) and (b) have been met must be given to the consent authority.

It is a condition of the development consent that-

(a) the gross floor area required to be used for affordable housing under State Environmental Planning Policy (Housing) 2021, section 156 must be used for affordable housing in perpetuity, and
(b) the affordable housing must be managed by a registered community housing provider in perpetuity, and
(c) notice of a change in the registered community housing provider who manages the affordable housing must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change, and
(d) the registered community housing provider who manages the affordable housing must apply the Affordable Housing Guidelines.

Reason: Statutory requirement per Section 86A 'Residential flat buildings and shop top housing in Transport Oriented Development Areas' of the Environmental Planning and Assessment Regulation 2021.

CONDITIONS TO BE SATISFIED AT ALL TIMES:

119. Outdoor lighting

All external lighting must:

1. Comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting* and
2. Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set: 2010 *Lighting for roads and public spaces.*

Reason: To protect the amenity of surrounding properties.

120. Screening of air conditioning condenser units

The air conditioning condenser units located on the roof level are to be adequately screened to ensure they cannot be seen from the adjoining properties.

Reason: To ensure the air conditioning condenser units are screened to minimise visual impacts.

121. Noise control - mechanical plant

Noise levels associated with mechanical plant installed on the premises must not be audible within any habitable room in any other neighbouring residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with mechanical plant installed on the premises either as an individual piece of equipment or in combination must not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of neighbouring residential occupants and neighbouring properties.

122. Noise control - rainwater re-use system

Noise levels associated with rainwater re-use system(s) installed on the premises must not be audible within any habitable room in any other neighbouring residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with rainwater re-use system(s) installed on the premises either as an individual piece of equipment or in combination must not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of neighbouring residential occupants and neighbouring properties.

123. Noise control - air conditioning

Noise levels associated with air conditioning units installed on the premises must not be audible within any habitable room in any neighbouring residential occupancy between the hours of 10.00pm and 7.00am. Outside of these restricted hours noise levels associated with air conditioning units installed on the premises either as an individual piece of equipment or in combination must not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of neighbouring residential occupants and neighbouring properties.

124. Noise Control - mechanical exhaust ventilation

Noise levels associated with mechanical exhaust ventilation installed on the premises must not be audible within any habitable room in any other neighbouring residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with mechanical exhaust ventilation installed on the premises either as an individual piece of equipment or in combination must not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of neighbouring residential occupants and neighbouring properties.

125. Loading and unloading

At all times, all loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site.

Reason: To ensure safe traffic movement.

126. Swimming pool

1. Access to the swimming pool/spa must be restricted by a child resistant barrier in accordance with the Swimming Pools Act 1992.
2. Noise levels from the operation of mechanical equipment, including filters, pumps and heaters associated with the swimming pool/spa, shall not exceed 5dB(A) above the background noise (LA90, 15 min) level during the day when measured at the boundary of the nearest affected residential occupancies and not be audible in habitable rooms of any adjoining residences at night (from 8.00pm to 7.00am). The background (LA90, 15 min) level is to be determined without the source noise present.
3. Devices or structures used for heating swimming pool/spa water must not be placed where they are visible from a public place.
4. The disposal of backwash and/or the emptying of a swimming pool/spa into a reserve, watercourse, easement or storm water drainage system is prohibited. These waters are to discharge via a permanent drainage line into Sydney Water's sewer in accordance with Australian Standard AS3500.2 section 10.9.
5. Lighting from the swimming pool/spa and other communal facilities shall not detrimentally impact the amenity of other premises and adjacent dwellings.

Reason: To ensure the safety of children and protect the environment and amenity of surrounding properties.

127. Annual fire safety statement

Each 12 months after the installation of essential fire or other safety measures, the Owner of a building must provide the Council with an Annual Fire Safety Statement for the building. In addition, a copy of the Statement must be given to the NSW Fire Commissioner and a third copy must be displayed prominently in the building.

Reason: To ensure maintenance of essential statutory fire safety measures.