

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSNH-729
DA Number	eDA0485/25
LGA	Ku-ring-gai
Proposed Development	Construction of a residential flat building, basement carparking and associated works.
Street Address	46-50 Cown Road, St Ives
Applicant	Traders in Purple
Date of DA lodgement	09/09/2025
Total number of Submissions Number of Unique Objections	16 unique objections
Recommendation	Refusal
Regional Development Criteria: Schedule 6 of the SEPP (Planning Systems) 2021	Estimated development cost of greater than \$30 million
List of all relevant s4.15(1)(a) matters	• Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2021 • Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • State Environmental Planning Policy (Housing) 2021 • Ku-ring-gai Local Environmental Plan 2015 • Ku-ring-gai Development Control Plan
Attachments	1. Location Sketch 2026/037647 2. Zoning Sketch 2026/037650 3. Architectural Plans 2025/279836 4. Landscape Plans 2025/279796 5. Stormwater Plans 2025/279822 6. Detail Survey 2025/279821 7. Statement of Environmental Effects 2025/279804 8. Clause 4.6 Height Request 2025/279843 9. Design Verification Statement 2025/279816 10. Design Report 2025/279810
Summary of submissions	• Incompatible with neighbourhood character. • Excessive bulk and scale. • Unreasonable traffic impacts. • Unreasonable privacy impacts. • Poor landscape outcomes. • Non-compliant landscaped area and deep soil zones
Report prepared by	Brent Pearce
Report date	04/02/2026

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**

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

PURPOSE OF REPORT

To determine Development Application No. eDA0485/25 for construction of a residential flat building, basement carparking and associated works.

Pursuant to Schedule 6 of the State Environmental Planning Policy (Planning and Systems) 2021, the development has an estimated development cost of greater than \$30m being \$102,647,943.20, consequently the application is referred to the Sydney North Planning Panel (SNPP), as the consent authority in accordance with Section 4.5(b) and Clause 9(b) in Schedule 2 of the Environmental Planning and Assessment Act 1979.

Sydney district and regional planning panels are being phased out, transferring decision making for regionally significant developments (typically >\$30m) back to local councils and their local planning panels, effective from 16 January 2026. Under the Environmental Planning and Assessment Amendment (Regionally Significant Development) Regulation 2025, regional panels will continue to determine some matters including but not limited to those under appeal, which is the case in this instance.

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

Incompatible with the desired future character

Failure to comply with ADG/KDCP

Inadequate site analysis

Non-compliant building height

Unclear calculable gross floor area

Inadequate building setbacks

Adverse bulk and scale

Unsatisfactory apartment size and layout

Poor amenity outcomes

Non-compliant common circulation

Non-compliant communal open space

Insufficient tree canopy and deep soil

Poor landscape design/tree removal

Excessive cut and fill
Low quality aesthetics

Land and Environment Court

Deemed refusal appeal filed 07/11/2025

Recommendation

Refusal

HISTORY

Site history

The site has a history of residential use.

Previous applications history

A Pre-DA consultation was not undertaken for the subject proposal. The site is subject to an existing development consent (DA0270/22) and Construction Certificate (0266/23) in respect of which work has already commenced with the demolition of all existing structures on the site. Council's records show a history of applications relating to the site as follows:

Type	Application	Description	Decision	Date
DA	199/00	Additions and alterations	Approved	23/05/2000
BA	92/00997	Addition of a gazebo to rear of property	Approved	06/08/1992
DA	0168/19	Demolition of existing buildings and structures and construction of a 99-bed residential aged care facility and associated works - State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Approved by LEC	14/08/2020
DA	0270/22	Demolition of existing structures and construction of a multi dwelling housing development containing 25 dwellings, basement parking and associated works	Approved by LEC	09/06/2023
MOD	0094/23	Removal of Trees 6, 8 and 33A	Approved	05/10/2023
CC	0266/23	Demolition of existing structures and construction of a multi-dwelling housing (DA0270/22)	Issued	25/08/2023
MOD	0015/23	Various modifications to the approved development	Approved	27/04/2023

Current Development Application History

Date	Action
09/09/2025	Application lodged.
19/09/2025	The application was notified to neighbouring property owners for a period of 30 days.

Land and Environment Court appeal history

Date	Action
07/11/2025	A deemed refusal was filed in the Land and Environment Court.
09/11/2025	Council filed the Statement of Facts and Contentions as the Respondent.
02/04/2026	Date set for a Section 34 conference.

THE SITE



Figure 1 – Aerial view of the subject site (in red outline) source: Google 2025

Site description

The site is identified as Lots 2, 3 and 4 in DP 22368 and is commonly known as Nos 46-50 Cowan Road, St Ives. It is located on the western side of Cowan Road and backs onto Pymble Golf Course and is within walking distance of the St Ives Shopping Village. The site area by survey is 5,901m², it has a splayed frontage of approximately 80.9 metres to Cowan Road and slopes from east to west with a fall (at the site's midpoint) of approximately 6.26 metres from RL170.7 (AHD) at the street frontage to RL164.44 (AHD) adjacent to the golf course.

The site is currently vacant, with all structures on the site having been demolished under existing development consents, construction certificate PCA0266/23 and development application DA0270/22.

Constraint:	Application:
Visual character study category	1945-19681945-19681945-1968.
Easements/rights of way	Yes
Heritage Item - Local	No

Heritage Item - State	No
Heritage conservation area	No.
Within 100m of a heritage item	No.
Bush fire prone land	No
Natural Resources Biodiversity	No
Natural Resources Greenweb	No
Natural Resources Riparian	No
Within 25m of Urban Bushland	Yes
Contaminated land	No

Surrounding development

The residential buildings along Cowan Road are diverse in style, size and character including dwelling houses on large lots, part two, three and four storey seniors housing, multi-dwelling housing and residential flat buildings.

To the north of the site, is No. 52 Cowan Road, a two to three storey stepped residential building with basement parking comprising seniors housing development. Further to the north are residential flat buildings.

To the east of the site, on the opposite side of Cowan Road is William Cowan Oval. Further east is St Ives Village Green, which includes an oval, playground and other recreational facilities.

To the south of the site, is No's 30-32 Cowan Road, which comprises a stepped part four storey development with basement parking (Senior's Housing).

To the west of the site is Pymble Golf Course.

THE PROPOSAL

The application proposes residential flat development, as follows:

- i) tree removal (8 trees),
- ii) bulk excavation (10 metres) to develop three basement levels,
- iii) two seven-storey apartment buildings (a total of 75 apartments),
- iv) new vehicular entry off Cowan Road,
- v) landscaping works,
- vi) New stormwater infrastructure.

Architectural and associated plans and details of the above works are contained in the attachments, as listed on the cover page to this report.

CONSULTATION

Community

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

1. Clive Chandler (on behalf of SP 77357), 1/56 Cowan Road, St Ives
2. Yvonne and Ross Eichorn, 3/30-32 Cowan Road, St Ives
3. Kevin McLintock AM and Akke McLintock, 28 Cowan Road, St Ives

4. Bronwyn Edwards, 7/30-32 Cowan Road, St Ives
5. John and Jenny-Anne Mayne, 10/58 Cowan Road, St Ives
6. Jay Chander (on behalf of SP 80451), 30-32 Cowan Road, St Ives
7. Jay and Linda Chander, 1/30-32 Cowan Road, St Ives
8. Peter Edwards, 7/30-32 Cowan Road, St Ives
9. Cowan Road Action Group
10. Martin Kaplan, (on behalf of SP 80451), 30-32 Cowan Road, St Ives
11. Geoff and Janine Kinghorn, 8/58 Cowan Road, St Ives
12. Allen Coates (on behalf of SP81155) 52 Cowan Road, St Ives
13. Denise Foot, 5/30-32 Cowan Road, St Ives
14. Pymble Golf Club, 4 Cowan Road, St Ives
15. Dinshaw Katrak, 6/30-32 Cowan, Road St Ives
16. Sandra Kaplan, 2/30-32 Cowan, Road St Ives

The submissions raised the following issues:

Incompatible with the local character

It is agreed that the proposed development is incompatible with the local character and this issue forms Reason for Refusal No. 1.

Excessive bulk and scale, due to non-compliant building height and non-compliant wall length.

Agreed. This issue forms Reason for Refusal Nos 1 and 7.

The actual proposed height is 24.5 metres, and the proposed development contains 7 storeys, not six storeys. These attributes are inconsistent with the development standards in Chapter 6, Part 4, Section 175 (2) which states:

“Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.”

Agreed. This issue forms Reason for Refusal No. 4.

A cross-section is required through the various waste storage areas and the storage facility along the southern boundary to confirm whether they are within a ‘basement’ level. The building manager area and adjacent facilities also seem to be incorrectly excluded from GFA calculations.

Agreed. This issue informs Reason for Refusal No. 5.

The proposal will result in inadequate building separation between the two buildings proposed on the subject site.

Agreed. This issue forms part of Reason for Refusal No. 6.

The proposal does not provide sufficient communal open space.

Agreed. This issue forms part of Reason for Refusal No. 11.

Pymble Golf Club recommends that a fence approximately 30 metres high with a mesh finish that doesn’t block the view is warranted for a building of this scale, to protect against errant golf balls potentially entering the property. The cost of

establishment needs to be covered by the proponent and the first refresh after 5-years as well. It is requested that Council further imposes an appropriate condition of development consent (or seeks additional information now), that ensures appropriate security at the common property between the subject site and PGC – 1,800mm in height, to prevent direct entry into our private property.

A low palisade fence is proposed, despite the applicant's acknowledgement of the above request by Pymble Golf Course in their Statement of Environmental Effects (SEE). A 30-metres-high fence is not exempt development and would require development consent. However, this matter should be resolved between the applicant and adjoining property owners in accordance with the Dividing Fences Act 1991, prior to the lodgement of a development application for this structure.

Pymble Golf Club accepts the applicant's proposition that a condition be imposed at the request of the applicant that a restriction be imposed on title of the property informing all future owners of the associated risks of living adjacent the golf course.

The applicant addresses this matter in their SEE. However, it is Council's view that such a restriction on title (to ensure that notice was given to potential purchasers of an important restriction) may not be the proper application of the instrument in this instance. The applicant should obtain legal advice in relation to this matter.

Inadequate building setbacks on side and rear elevations

Agreed. This issue forms part of Reason for Refusal No. 6.

Council should impose an appropriate condition of consent, that ensures appropriate security/fencing at the common property between the subject site and the Pymble Golf Club (1,800mm in height), to prevent direct entry into our private property.

A condition of development consent is not required to prevent trespass.

Unreasonable overshadowing to neighbouring private open space, windows and communal open space

Inadequate solar analysis provided

Agreed, these issues form Reason for Refusal No. 9.

Inadequate landscaping, unacceptable tree removal

Agreed. This issue forms Reasons for Refusal Nos 17, 18, 19 and 20.

Unreasonable traffic impacts, outdated traffic data used in Traffic and Parking Assessment

Additional information is required to determine the impacts, consequently this issue forms Reason for Refusal No. 25.

The basement entry should be relocated into the centre of the site to lessen impacts upon No. 30-32 Cowan Road.

This would require a major design change and has not been raised by Council. Council contends that the impacts of basement/vehicular movements can be managed if reasonable setbacks are achieved.

Incorrect classification of St Ives as a 'Town Centre' in SEPP Housing

The low and mid-rise housing areas (as defined by the SEPP) are residential zoned land within 800 metres walking distance from a town centre or the entrance of a nominated train, metro or light rail station. Within the low and mid-rise housing areas, this policy mandates permissibility and introduces non-discretionary development standards. Together, these provisions provide an overall uplift in development potential greater than under the provisions contained within an LEP. Council cannot ignore or override these development standards.

Neighbouring properties will be de-valued

The impact upon existing property value is not a matter for consideration.

Infrastructure upgrades (in particular to the intersection of Cowan Road and Mona Vale Road) are required

Under NSW legislation, councils are required to prepare local infrastructure contributions plans before seeking contributions towards the provision of supporting local infrastructure. The plans set out the level of contributions payable and a proposed works schedule at the time of adoption. Council's Section 7.1 Plan is applicable in this instance, and it is not considered necessary to implement a Planning agreement in association with the proposal. Therefore, upgrades to local infrastructure will be carried out in accordance with the Section 7.11 Plan schedule of works should a contribution be paid.

The substation, driveway, garage door, garage, plant room, garbage room and exhaust system located along the southern boundary will adversely impact No. 30-32 Cowan Road and inadequate information has been provided in relation to acoustic and odour impacts.

These impacts can be appropriately managed if the proposal is amended to include greater setbacks, which would be supported by appropriate noise attenuation conditions. Nevertheless, given the recommendation of refusal, it is agreed, and this forms Reason for Refusal No. 6.

Excessive excavation will encounter ground water, cause excessive vibration and lead to the destabilisation of adjoining land.

The impacts of day-to-day construction can be managed via condition and compliance action if necessary. The 'potential' for adverse impacts in this regard cannot be used to refuse a development application.

Inadequate privacy treatment to windows and balconies will permit overlooking of adjoining properties.

Agreed. This issue informs Reason for Refusal Nos 6 and 22.

Inadequate consideration of impacts to existing sewerage infrastructure. Sydney Water advised Pymble Golf Club that the sewer line is over 100 years old and cannot cope with the increased flow as a consequence of the new developments along Cowan Road.

Are works necessary within the PGC land to facilitate this proposed new development?

Council defers the management, upgrade and the like of sewerage to Sydney Water. This can typically be managed.

Ground levels were raised under previous approvals, and the proposed development exacerbates this issue.

Agreed. This issue informs Reason for Refusal No. 20.

Inadequate construction management procedures will result in dust, noise, construction traffic etc.

The impacts of day-to-day construction can be managed via condition and compliance action if necessary. The 'potential' for adverse impacts in this regard cannot be used to refuse a development application.

Council should impose a requirement to install an appropriate footpath along the frontage of the site.

This could be conditioned in the event of an approval.

INTERNAL REFERRALS

Landscaping

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

SEPP (Sustainable Buildings) 2022		
Chapter 2	Proposed	Satisfies
<i>To encourage sustainable residential development</i>	<i>Certificate 1803895M_02 dated 01 August 2025 is submitted with the application.</i> <i>The BASIX certificate commits to the provision of 69m² of common lawn area. The landscape plans do not indicate any common lawn areas. Therefore, the application is not consistent with the landscape outcomes specified in the BASIX Certificate.</i>	NO

SEPP (Housing) Chapter 6 Low and mid-rise housing Part 4 Residential flat buildings and shop top housing		
Division 1 Preliminary	Proposed	Satisfies
<i>177 Landscaping—residential flat buildings or shop top housing</i> <i>Tree Canopy Guide for Low- and Mid-Rise Housing</i>	<i>Under the enhanced controls in Table 7 of the Tree Canopy Guide for Low- and Mid-Rise Housing, the proposal must demonstrate compliance with the following minimum requirements:</i> <i>Tree canopy cover: 20% of the site area (1,180.8 m²).</i> <i>Deep soil zone with minimum 3 m dimension: 15% of the site area (885.6 m²).</i>	NO

<i>Table 7</i> <i>Minimum canopy cover 20% of the site</i> <i>Minimum deep soil area of 15% of the site area. (min 3 m)</i> <i>For every 575 m² (or part of) plant at least 2 medium trees or 1 large in the deep soil area.</i> <i>Note: Large trees are trees capable to reach over 13 metres in height, and medium trees those capable for each over 8 metres in height.</i>	<i>Tree planting rate: a minimum of 11 large trees, or an equivalent combination of tall trees and medium trees are required.</i> <i>The applicant's documentation (table 1 in submitted SEE) states the proposal includes a canopy cover provision of 27%, and a deep soil area of 1,292m² (22% of the site area). Based on Council's calculations the deep soil area provision with minimum 3 metre dimensions results in 817.5m² (13.8% of the site area instead of 15%).</i> <i>Several areas included in applicant's deep soil area calculation do not meet the minimum dimension requirement of 3 metres.</i> <i>Canopy cover:</i> <i>The proposal retains two medium size trees; one located in the front setback T1 Chamaecyparis obtusa "Crippsii" (9 metres) and one in the rear of the site T25 Magnolia soulangeana (7 metres).</i> <i>The tall trees proposed as labelled in plant schedule include:</i> <i>Angophora costata x 3, Eucalyptus saligna x 2, Acer buergerianum x 4, Brachychiton acerifolius x 4, Glochidion ferdinandi x 2, Ginkgo biloba x 1,</i> <i>The medium trees proposed include: Banksia integrifolia x 5, Eucalyptus sclerophylla x 3, Waterhousia floribunda 'Green Avenue' x 5</i> <i>The landscape plans are difficult to interpret, particularly regarding the proposed canopy trees. The locations of the proposed trees are not clearly labelled, and inconsistencies are evident between the various plans within the same drawing set, including the master landscape plan, planting plans, tree replacement plan, and detailed plans.</i> <i>Based on the review of the available deep soil areas, it is considered that the proposal does not achieve the minimum required amount of deep soil landscaping or canopy cover necessary to satisfy the Tree Canopy Guide for Low- and Mid-Rise Housing requirements. The proposed tree</i>	
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	<i>planting in deep soil does not meet the required planting rate, which specifies the inclusion of at least 11 large trees, or an equivalent combination of large and medium trees.</i> <i>As a result, the proposal is inconsistent with Table 7 of the Tree Canopy Guide for Low- and Mid-Rise Housing enhanced provisions and fails to deliver the intended landscape outcomes of increased tree canopy, improved amenity, and consistency with the prevailing landscape character of the locality.</i>	
<i>(f) a deep soil zone on at least 15% of the site area, where each deep soil zone has a minimum dimension of 3.0m and, if practicable 65% of the deep soil zone is located at the rear of the site</i> <i>Deep soil zone is defined as a landscaped area with no buildings or structures above or below the ground</i>	<i>The proposal is inconsistent for the minimum 15% deep soil zone area of minimum 3 metres dimension.</i> <i>The rear of the site does not include the required 575.64sqm of deep soil (65% of the total deep soil required).</i>	NO

APARTMENT DESIGN GUIDE		
Part 3E Deep soil zones		
Objectives	Proposed	Satisfies
Objective 3E-1 <i>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve</i>	<i>The proposed deep soil areas do not comply with the requirements of the Apartment Design Guide (ADG).</i> <i>Architectural Drawing No. PLA-DA-10B1 (Revision A) identifies deep soil zones; however, these areas do not achieve the required minimum 15% of the site area with a 6 metres minimum dimension, applicable to sites with an area over 1,500m².</i>	NO

residential amenity and promote management of water and air quality	The minimal dimensions of the proposed deep soil areas, such as the fragmentation of the paths and services prevents the establishment of tall canopy trees and diminishes the environmental and amenity benefits that continuous deep soil areas are intended to deliver. The outcome is inconsistent with the ADG objectives to support landscape character, urban ecology, and residential amenity. The deep soil areas should be redesigned as continuous, unencumbered zones with a minimum 6 metres dimension and represent at least 15% of the site area.	
Part 4O-1 Landscape Design		
Objectives	Proposed	Satisfies
Objective 4O-1 Landscape design is viable and sustainable Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: diverse and appropriate planting, bio-filtration gardens, appropriately planted shading trees, areas for residents to plant vegetables and herbs, composting, green roofs or walls Tree and shrub selection considers size	For a site of this scale, the proposal is required to provide at least twelve tall trees capable of reaching a mature height of 13–18 metres within appropriately sized deep soil areas. While the submitted landscape plan includes several tall trees, their location will result in conflict with various structures in the future or will not allow the tree's ability to achieve full and healthy long-term growth. The current layout cannot adequately support the required number of tall trees for this site. The proposal does not incorporate any Water Sensitive Urban Design (WSUD) elements within the overall site landscape. Under the Apartment Design Guide (ADG), Part 5F, WSUD measures are encouraged to manage stormwater on-site, improve water quality, and contribute to sustainable landscape outcomes. The absence of such measures represents a missed opportunity to align the development with the ADG objectives for environmentally responsive design. Additionally, the landscape plan does not include an ongoing maintenance strategy. Details regarding drainage for planters and irrigation for all planting above structures have not been provided, preventing assessment of the suitability and long-term viability of the proposed landscape design.	NO

<i>at maturity and the potential for roots to compete (see Table 4)</i>		
<i>Objective 4O-2 Landscape design contributes to the streetscape and amenity</i>	<i>The landscape design does not adequately enhance streetscape or residential amenity. Deep soil areas are minimal, limiting the ability to plant tall trees in communal ownership. As a result, the proposal cannot provide sufficient buffer planting to soften the scale of the development or contribute positively to the streetscape.</i>	NO
Part 4P Planting on structures		
Objectives	Proposed	Satisfies
<i>Objective 4P-1</i> <i>Appropriate soil profiles are provided</i> <i>Minimum soil standards for plant sizes should be provided in accordance with Table 5</i>	<i>The submitted landscape and architectural plans provide inconsistent information in relation to soil depths of proposed planting above structures. Compliance with objectives 4P-1, 4P-2 and 4P-3 cannot be determined.</i> <i>The key information is missing, includes top of wall and top of slab levels, which are necessary to confirm whether adequate soil depths and volumes have been provided for planting areas above structures.</i>	NO
<i>Objective 4P-2</i> <i>Plant growth is optimised with appropriate selection and maintenance</i> <i>Plants are suited to site conditions, considerations include:</i> <i>• drought and wind tolerance</i> <i>• seasonal changes in solar access</i> <i>• modified substrate depths for a diverse range of plants</i> <i>• plant longevity</i> <i>A landscape maintenance</i>	<i>The 'link park' presents areas of planting with soil depths that range from 760 to 920 millimetres, excluding any subfloor drainage required. The soil depth provided will only allow the inclusion of small trees, up to 6 metres in height.</i> <i>The proposal does not include any planting around the proposed built form. Therefore, the softening of the building relies purely in the proposed tall trees planted in deep soil.</i> <i>Planting on roof areas in isolated areas represents a poor landscape outcome. It is recommended that peripheral planting be incorporated along the edges of roof areas to provide meaningful greenery visible from the streetscape and adjoining properties.</i> <i>The proposal does not present a genuine green roof that contributes to sustainability or amenity. Instead, the current approach appears tokenistic, offering limited environmental or visual benefits.</i> <i>In relation to rooftop and communal open space considerations, the proposal should explore the possibility of incorporating portions of the roof areas as communal open space for residents,</i>	NO

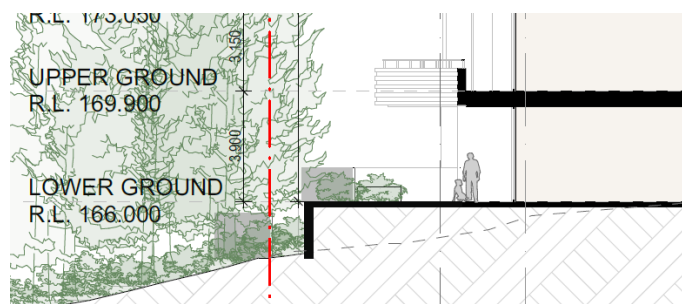
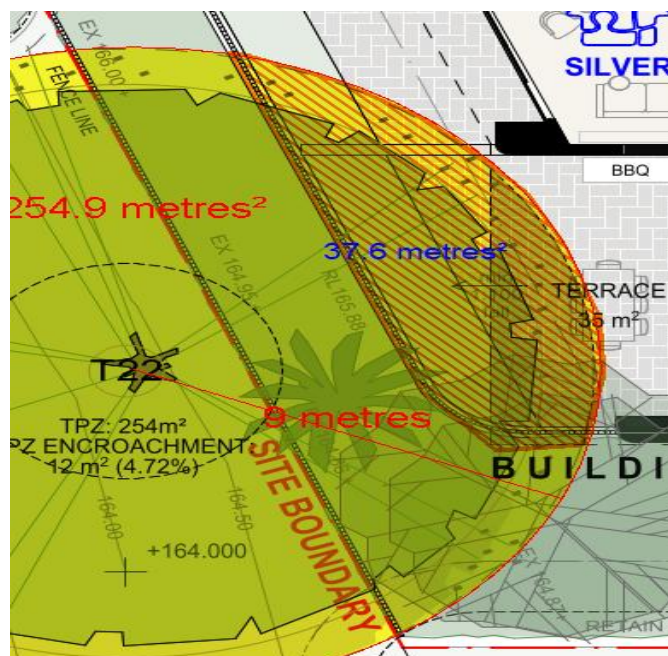
plan is prepared Irrigation and drainage systems respond to: • changing site conditions • soil profile and the planting regime • whether rainwater, stormwater or recycled grey water is used	taking into account the current limitations of the submitted design: • Deep soil provision on the site is currently very limited and should be increased to meet the minimum requirements outlined in the SEPP, ADG, and DCP. • The proposed “link park” primarily functions as a circulation space, providing access to units, letterboxes, and the manager’s office, rather than serving as a meaningful communal area for residents.	
Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces		NO

KDCP COMPLIANCE TABLE								
Control	Proposed	Satisfies						
Part 7A.6 Deep Soil Landscaping and Part 13 Tree and Vegetation Preservation								
C1. Residential flat development is to have a minimum deep soil landscape area:	Deep soil landscaping is defined as the soft landscaped part of the site area that is not occupied by any structure whether above or below the surface of the ground except for minor structures such as: paths to 1.2m wide, stormwater pipes of 300mm or less, lightweight fences; has a minimum width of 2.0m; is not used for car parking; and can be used for water sensitive urban design. The proposal does not satisfy this part: <table><tr><td>Site Area</td><td>Minimum Deep Soil Landscaping</td></tr><tr><td>Less than 1800^{m2}</td><td>40% of the site</td></tr><tr><td>1800^{m2} or more</td><td>50% of the site</td></tr></table> The proposal delivers a total deep soil area of 1,090.4m², equivalent 18.46% of the site area. The proposal does not meet the minimum deep soil requirement of 50% of the site area, as per C1 in Part 7A.6 of the KDCP.	Site Area	Minimum Deep Soil Landscaping	Less than 1800 ^{m2}	40% of the site	1800 ^{m2} or more	50% of the site	NO
Site Area	Minimum Deep Soil Landscaping							
Less than 1800 ^{m2}	40% of the site							
1800 ^{m2} or more	50% of the site							

	As a result: I. The development fails to contribute to the intended garden character of the locality. II. The landscape design is not in scale with the bulk of the proposed development or consistent with the surrounding context. III. The limited deep soil areas do not allow the inclusion and full development of tall canopy trees, particularly within the site frontages (front and rear) where they are critical to achieving streetscape amenity and long-term tree canopy outcomes. IV. The proposal shall be redesigned to reduce POS in ground level, increase deep soil provision, particularly in the front and rear setbacks, to enable planting of tall trees and compliance with the minimum deep soil required.	
C2. Deep soil zones are to be configured to retain healthy and significant trees on site and adjoining sites where possible.	The proposal does not satisfy this part. Tree Removal The proposal includes the removal of T2, T3, T4, T5, T7, T31, T32, and T34. T34, located in the northwestern corner of the site, provides amenity and presents good health. Minor amendments to the proposed envelope will allow the retention of this tree. Removal of T34 should be reconsidered and the design should incorporate this tree as part of the proposal. The removal of T2, T3, T4, T5, T7, T31 and T32 is not objected to. Tree Impacts Proposed structures impact on the existing large Cedar tree located in the Golf Course: T22 Cedrus deodar, located in Pymble Golf Course adjacent to the rear boundary of the site. • The proposed retaining walls, raised terrace and fence around terrace of unit ALG.03 will encroach into the tree protection zone (TPZ) by 37.6m² (14.39%), which is a major encroachment under AS4970-2025. • Amended plans will be required to reduce the encroachment to an acceptable level. This will require the relocation/redesign of the proposed retaining walls and private open space of Unit ALG.03 to reduce the	NO NO

excavation to no more than 10% of the TPZ to retain this tree.

- The submitted Arborist Impact Assessment (AIA) does not identify the proposed works in the ground level as an impact on this tree.



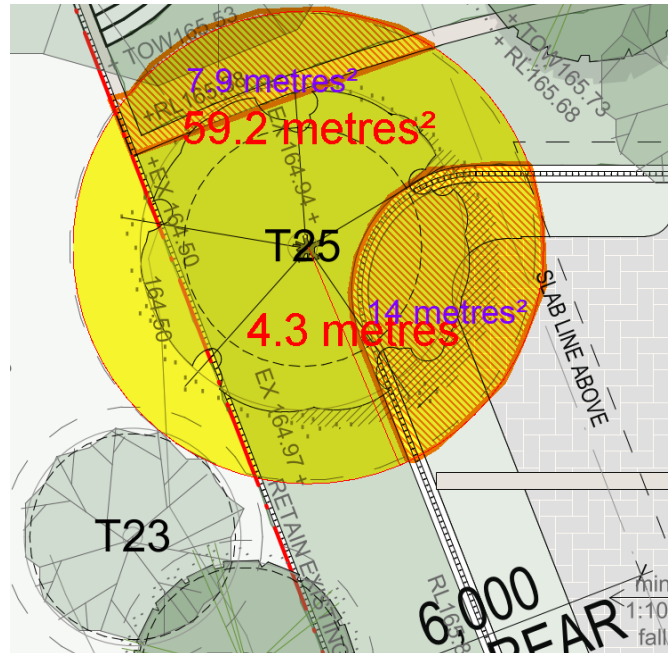
The development proposal proposes two existing trees within the site for retention:

T25 *Magnolia soulangeana*, in the rear of the site, adjacent to the golf course.

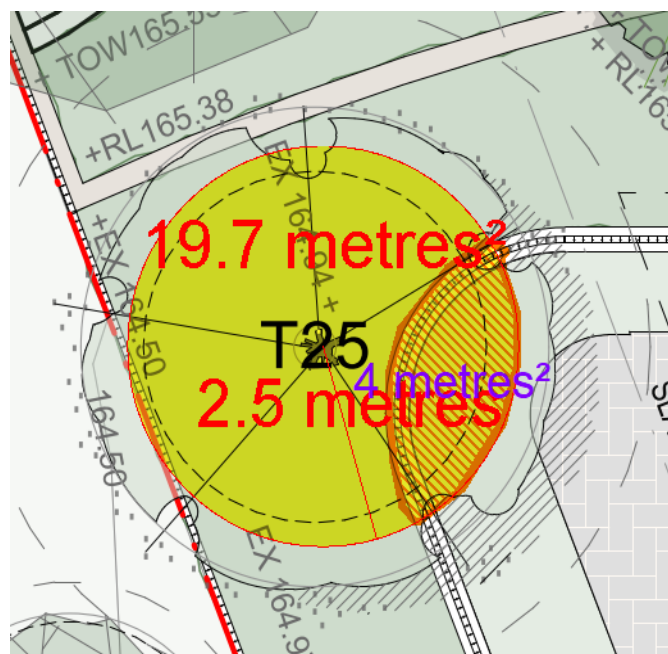
- The proposed retaining wall and fence around terrace of unit ALG.01 will encroach into the TPZ by 21.9m² (37%) and into the structural root zone (SRZ) by 20% which is a major encroachment under AS4970-2025.
- Amended plans will be required to reduce the encroachment to an acceptable level. This will require the relocation/redesign of the proposed retaining walls and private open space of Unit ALG.01 to reduce the excavation to no more than 10% of the TPZ to retain this tree.

- The submitted AIA does not identify the proposed works in the ground level as an impact on this tree.

See below marked up encroachment into TPZ of T25:



See below marked up encroachment into SRZ of T25:



T01 *Chamaecyparis obtusa* "Crippsii" located in the front setback northern of the proposed driveway.

- The proposed driveway will encroach into the TPZ by 8.7% which is an acceptable encroachment under AS4970-2025.

	The encroachment is within acceptable limits.									
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 does not satisfy this requirement. The development provides only limited deep soil areas along the frontages and side setbacks, and structures extend across both side setbacks, further restricting opportunities for deep soil planting.	NO								
C4. Deep soil landscaping is to be provided in the common areas as a buffer between buildings that softens the bulk and scale of the buildings	The proposal includes deep soil areas in common ownership, though the proposed deep soil areas are insufficient to ensure suitable tall tree planting and satisfy deep soil area requirements.	NO								
C7. Tree replenishment and planting.	The proposal does not satisfy this part. 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. <table><tr><th>Lot Size</th><th>Number of Tall Trees</th></tr><tr><td>1,200m² (or less)</td><td>1 per 400m² of site area or part thereof</td></tr><tr><td>1,201m² - 1,800m²</td><td>1 per 350m² of site area or part thereof</td></tr><tr><td>1,801m² +</td><td>1 per 300m² of site area or part thereof</td></tr></table> The development proposal should include at least twenty tall trees capable of attaining a minimum mature height of 18 metres in local conditions. The submitted landscape plan includes 16 tall trees in the plant schedule within the landscape plan. However, the proposed location of all these trees could not be properly identified and assessed and seem to be unsuitable because:	Lot Size	Number of Tall Trees	1,200m ² (or less)	1 per 400m ² of site area or part thereof	1,201m ² - 1,800m ²	1 per 350m ² of site area or part thereof	1,801m ² +	1 per 300m ² of site area or part thereof	NO
Lot Size	Number of Tall Trees									
1,200m ² (or less)	1 per 400m ² of site area or part thereof									
1,201m ² - 1,800m ²	1 per 350m ² of site area or part thereof									
1,801m ² +	1 per 300m ² of site area or part thereof									

	• <i>it is within an inadequate area of deep soil to support the tree's full development,</i> • <i>it is planted too close to site boundaries, and</i> • <i>it is in conflict with proposed structures.</i> <i>To ensure successful establishment and long-term retention, tall trees should be located only within deep soil areas of minimum 6 metres in dimension and must be positioned a minimum of 2 metres from any boundary and 4 metres from any existing or proposed structures.</i> <i>The landscape plan should be amended to:</i> • <i>provide at least 20 tall trees in compliant deep soil areas,</i> • <i>select appropriate species consistent with the local landscape character, and</i> • <i>ensure their placement allows adequate space for mature growth without conflict with structures or services.</i>	
<i>C8. In addition to tall trees, a range of medium, small trees and shrubs are to be selected to ensure that vegetation softens the built form and creates a garden setting.</i> <i>At least 50% of all tree plantings are to be locally occurring trees and spread around the site.</i>	<i>The proposal does not satisfy this part.</i> <i>The deep soil areas provided are unsuitable to support a garden setting that is in scale with the proposed building.</i> <i>The proposal includes only five indigenous trees. To satisfy this part at least 50% of the proposed tall trees shall be part of the local vegetation communities, Blue Gum High Forest and Sydney Turpentine -Ironbark. Recommended tall trees from these communities are: Angophora costata, Syncarpia glomulifera, Eucalyptus saligna, Eucalyptus pilularis, Eucalyptus paniculata.</i>	NO
<i>C9. Trees are to be planted within all</i>	<i>The proposal does not satisfy this part, refer to C7 above for more details in this regard.</i>	NO

setback areas. At least 30% of the required number of tall trees are to be planted within the front setback.		
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 located within the common area with a minimum dimension of 1.2m on either side for landscape planting.	The proposal satisfies this part.	YES
Part 21 General Site Design		
21.1 Earthworks and Slope	The finished floor levels of units and terraces along the front setback are proposed to be below the natural ground levels by 550 millimetres (north) to 800 millimetres (south).	NO
Landscape cut or fill should not be more than 600mm above or below natural ground line.	The finished floor levels of the units and terraces facing the rear of the site -interface with Pymble Golf Course are proposed to be above natural ground levels by 1.05 metres to 1.5 metres.	NO
	The proposed landscape cut and fill exceeds the maximum acceptable and is not justified. Terraces should be reduced, step down, and provide a more integrated design with the existing natural ground levels.	NO
A minimum 0.6m width is required between retaining walls.	The proposed lawn along the path connecting the foyer and link park to the golf course is not suitable for its intended use. The area is shaded and spatially constrained, conditions under which turf is unlikely to establish or be maintained successfully.	NO

Existing ground level is to be maintained for a distance of 2m from any boundary.		
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 submitted landscape plan is not acceptable in its current form. The following key issues should be addressed: • <i>Tree Provision: The proposal does not meet the minimum tree replenishment requirements the Ku-ring-gai DCP. A minimum of twenty tall trees capable of reaching 18 metres at maturity must be provided. Only 16 tall trees are listed in the schedule, with unclear and/ or unsuitable locations.</i> • <i>Garden Character and Scale: The proposal fails to contribute to the intended garden character of the locality and lacks proportionality to the bulk and scale of the development and its surrounding context.</i> • <i>Deep Soil and Setbacks: Deep soil areas are insufficient to accommodate tall canopy trees, particularly within the front setback. Private open spaces, terraces, and other structures (including carpark intake, bin storage, stairs, and retaining walls) occupy setback and deep soil areas. These elements should be removed or redesigned to increase deep soil provision and enable tall tree planting.</i> • <i>Earthworks and Levels: The extent of cut and fill is excessive and unjustified. Terraces and finished floor levels (FFLs) should be redesigned to better integrate with existing natural ground levels. Current FFLs range from 550–800 millimetres below natural ground at the front and 1.05–1.5 metres above natural ground at the rear. The existing ground level has not been maintained within 2 metres of boundaries, further limiting deep soil potential.</i> • <i>Landscape Functionality: The proposed lawn area connecting the foyer and link park to the golf course is unsuitable due to shade and limited space, which will not support healthy turf growth.</i>	NO

	• <i>Documentation Inconsistency: Significant inconsistencies exist between the landscape, stormwater, and architectural plans, particularly regarding levels, wall heights, and tree locations. The plans are difficult to interpret and must be revised for accuracy, clarity, and consistency across all drawing sets.</i>	
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It is agreed that the proposed development is unacceptable for the reasons given above by Council's Senior Landscape Assessment Officer.

Engineering

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

Water management

According to Council mapping system, a stormwater drainage easement bisects the subject site, extending from an existing sag inlet pit within Cowan Road and traversing along the property boundary in a westward direction. The plans show an easement to drain the road water and directed towards the existing channel within the adjoining Pymble Golf Club.

According to Council's records and from inspection, no formal drainage system exists. It is understood that the stormwater network (in 1959) in Cowan Road had road water redirected to Killeaton Street and not through the subject site as presumed. Therefore, no stormwater pipeline was created.

The stormwater design shows the collection and discharge of all roof water directed to a combined below-ground on-site detention tank (OSD) and retention tank (OSR) of 150m³ and 10m³, respectively, located within the rear western landscaped area, which can be accessed externally to the building. The overflow from the detention system is directed by gravity to the existing 1.4 metres wide easement via a 300 millimetres diameter discharge pipe that connects to the easement pit within the Golf Course.

An interallotment drainage easement over the Pymble Golf Club's land exists under DP1296089 which was registered with the LPI on the 27 July /2023. The easement to drain water of 1.4 metres wide is identified as (E1) on the survey plan.

The on-site detention requirements described in Part 24C.5 of the DCP have been satisfied. A high-level overflow pipe however from the OSD is to be provided and connected to the proposed pipe network system as well as an emergency overflow weir constructed within the tank.

Whilst a BASIX Certificate has been submitted, with the water commitments requiring a central water tank of 10,000 litres to collect runoff from at least 1,000m² of roof area and irrigation of 69m² of common landscaped area, there is no supporting hydraulic calculation submitted to demonstrate compliance with Part 24C.3-4 of the Ku-ring-gai DCP that requires rainwater retention and re-use to be provided to achieve a 50% reduction in runoff days. Further, a water balance model has not been submitted.

The captured stormwater is to be treated by using a proprietary pollution device prior to connection into Council's public drainage system. A water quality analysis has been undertaken using MUSIC Modelling. The pollutant load standards set out in Part 24C.6 of the Ku-ring-gai DCP has been satisfied. The following water quality measures have been implemented into the design:

- 10,000 litres rainwater tank
- 11 x OceanGuards
- 9 x 690 NPsorb (MCC) StormFilters within a 5m² chamber from Ocean Protect.

Traffic generation and associated impacts

The Transport Assessment (TA) has calculated the traffic generation of the site. It uses the industry accepted traffic generation rate for high-density residential dwellings located in a sub-metropolitan suburb with low public transport accessibility, as set out by Transport for NSW in the Guide to Transport Impact Assessments. Applying these rates and allowing for the existing traffic generation of the site would result in the following additional peak hour vehicle movements:

- AM peak hour: 36 vehicle trips (2-way) per hour.
- PM peak hour: 36 vehicle trips (2-way) per hour.

The estimated increase in traffic movements from this development is equivalent to an average of 1 additional vehicle trip every 2 minutes in the AM and PM peaks. Distributing these trips to the surrounding road network would result in an additional 25 vehicle movements at the intersection of Mona Vale Road and Cowan Road, and an additional 16 vehicles per hour at the intersection of Killeaton Street and Cowan Road. No intersection analysis was carried out in the TA, as it was considered that simulation modelling is unlikely to be sensitive to such modest increases in traffic flows.

While this is notionally correct in isolation, there would be cumulative impacts from nearby development proposals. The authors of the TA developed a Transport Impact Assessment for the Pymble Golf Club Planning Proposal (4, 12 and 14 Cowan Road - approximately 100 dwellings). Council is also in receipt of a State Significant Development Application (74 dwellings) opposite the site. A cumulative impact assessment of these 2 other proposals on the intersection of Mona Vale Road and Cowan Road, and the intersection of Killeaton Street and Cowan Road should be undertaken (with particular emphasis on the Cowan Road approaches).

In terms of the wider transport context, Council's Strategic Planning Department commissioned transport consultants to assess the cumulative impacts of development in St Ives, based on the Ku-ring-gai Local Strategic Planning Statement. This allowed for impacts from the Pymble Golf Club Planning Proposal as well as additional development of the St Ives Shopping Village site, but no further growth along Cowan Road. Infrastructure upgrades considered in the St Ives study include:

Intersection Mona Vale Road and Cowan Road/Shinfield Avenue:

- Additional pedestrian protection
- Lane configuration change to allow single diamond overlap
- Remove the filter right turn phase on Cowan Road
- Shared pedestrian/ bicycle crossing facilities on the northern approach
- Consider the inclusion of pedestrian crossing on the southern leg.

Intersection Killeaton Street and Cowan Road:

- Removal of mid-block signals on Killeaton Street (west of Collins Road) and install new traffic signals at Cowan Road
- Western approach configuration: one through lane, one right turn bay
- Eastern approach configuration: 1 left turn lane, 1 through lane
- Shared pedestrian/ bicycle crossing facilities on the eastern leg

Advanced Interactive Microscopic Simulator for Urban and Non-Urban Networks (AIMSUN) analysis of the network produced the following levels of service (ranging from A being good operation and F being unsatisfactory operation with excessive queuing):

Location	Level of Service AM Peak	Level of Service PM Peak
Mona Vale Road and Cowan Road/Shinfield Avenue	Existing - D	Existing - D
	Future - C	Future - C
Killeaton Street and Cowan Road	Existing - C	Existing - E
	Future - B	Future - B

Under the Ku-ring-gai Contributions Plan 2010, it is Council's intent to upgrade of the intersection of Killeaton Street and Cowan Road as outlined in the works program. While the improvements to intersection of Mona Vale Road and Cowan Road/Shinfield Avenue are possible and are being investigated, these can be costly and have not been considered or approved by Transport for NSW or Council.

While this development (in isolation) is unlikely to significantly impact on the operation of nearby intersections, the full roll-out of the NSW Government's Low and Mid Rise component of the Housing SEPP in St Ives is yet to be tested and, at the moment, it is unclear whether additional or modified transport infrastructure is needed to accommodate it.

Parking provision and design

Car Parking Provision

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

Use	Market Housing
2 bedroom	5
3+ bedroom	70
Total	75

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

Parking type	Ku-ring-gai DCP requirement	Housing SEPP requirement	Proposed
Residential - Market	146	n/a	157
Visitor	19	n/a	19
Car Share Bay	-	n/a	1
Car Wash Bay	can be shared with visitor parking	n/a	shared with visitor parking
Total	165	n/a	177

The residential car parking meets the minimum requirements of the Housing SEPP and the Ku-ring-gai DCP. There is a DCP requirement that one visitor parking bay is to be provided with a tap, to make provision for on-site car washing. The TA indicates that the car wash bay will be shared with a proposed visitor car parking space.

Car parking design

Swept paths demonstrate adequate vehicle circulation between all the basement car parking levels for the 85% & 99% vehicle combination. Section 6 of the TA confirms that adequate vertical clearance is provided past the basement entry point to the accessible parking spaces.

Bicycle Parking

The TA notes that the DCP requires 83 bicycle parking spaces (1 per dwelling for residents and 1 per 10 dwellings for visitors) but considers this rate of provision “aspirational” compared to the anticipated bicycle demand. It recommends that provision be made at the rate of 1 per 3 dwellings for residents and 1 per 12 dwellings for visitors, which would result in the requirement for 25 resident bicycle parking spaces and 7 visitor bicycle parking spaces.

The proposal includes 25 bicycle parking spaces in a secure room in the lower ground floor level, and the TA notes that storage cages allocated to each apartment provide practical additional bicycle parking. However, the architectural plans show storage cages to be located at the head of car parking spaces, which effectively rely on moving a parked vehicle to access the storage cage. This is unlikely to be practical. One of the main enablers of cycling is adequate, accessible and safe parking/storage facilities, and the absence of practical access to the majority of the storage cages is unlikely to encourage cycling. The storage cages should be designed to allow access by bicycle without needing to move a parked vehicle.

It is noted from the architectural plans that the car park ramps connecting the basement levels have gradients of up to 1:4 (25%), which generally will exceed the capability of many bicycle users to remain mounted with stability (1:12, or 8% is practical). Therefore, the lifts, lobbies and accessways should be conditioned to be of a suitable size so residents can transport their bicycles between their bicycle parking area and ground/street level without using the internal car park ramps.

*Bicycle parking for visitors is planned to be located on the Cowan Road frontage, between the access point and the southern boundary of the site. This location is considered to offer inadequate passive surveillance. To achieve consistency with Security Level C in AS2890.1, facilities should be located in well-lit areas, where passive surveillance is likely, and as close as practicable to the user's destination. Therefore, it is recommended that the visitor bicycle parking be located within the main/central pedestrian entrance from Cowan Road and close to the lobby, for maximum casual surveillance for example the area marked in red in **Figure 2** below.*

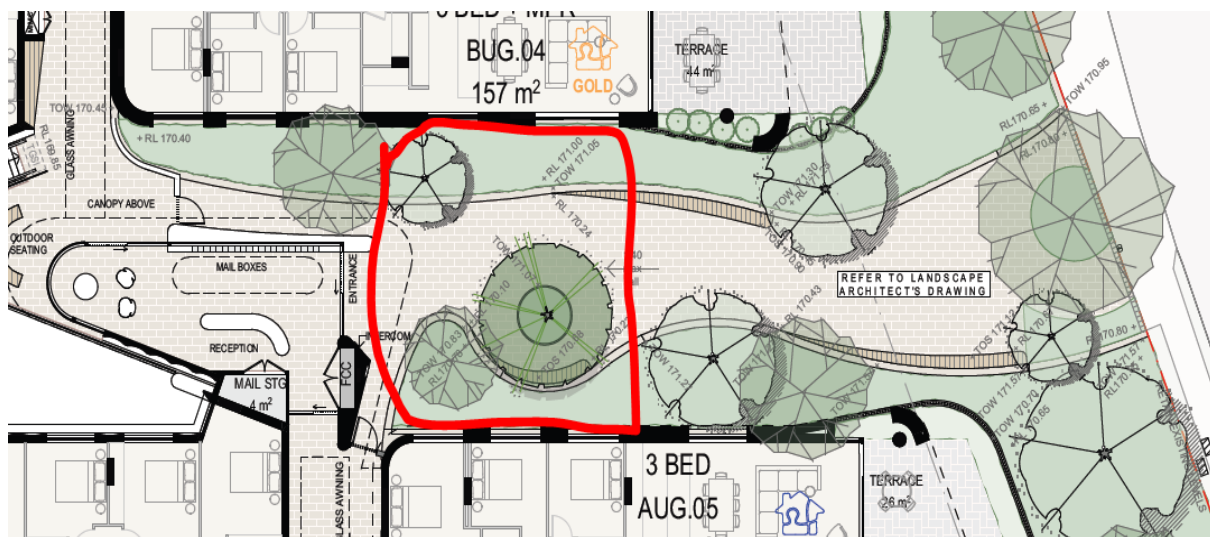


Figure 2: Example of the potential location of visitor bicycle parking.

Electric Vehicles (EVs)

The DCP requires that all car parking spaces within the building to be EV ready, 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 TA states that the proposed parking bays are confirmed to be appropriately prepared for future EV charging provisions. This requirement could be included as a condition of consent.

Car Share

1 car share space is provided, on the lower ground floor level. This is acceptable, and the following conditions would apply, should consent be granted:

1. At least 1 car parking space on the lower ground floor level is to be reserved for car share operation, with no charge to the car share operator to use the space.
2. This space must be available/accessible 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. This space 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. The car share vehicle 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 the car share space is located in the basement, sufficient cellular communications connectivity must be available at the location of the carshare spaces to ensure proper car share management/operation.

Servicing and Loading Bays

The DCP requires a clearly signposted space for temporary parking of service and removalist vehicles to be provided, with minimum dimension of 3.5 metres x 6 metres, and a minimum manoeuvring area 7 metres wide. The proposal includes a dedicated loading area 3.5 metres wide, and 6.4 metres long located between the entry point and the car parking on the lower ground level and is suitable for one small rigid vehicle.

Swept paths in the TA indicate that manoeuvring space is adequate, and there is a nominal clearance of 3.6m (scaled from cross sections in the architectural plans) at the basement entry portal, increasing to up to 4.9 metres at the loading dock. The TA states that the loading dock characteristics are appropriate for the anticipated size and frequency of waste collection services, general servicing, removalist trucks and bulky deliveries. Page 37 of the TA shows the driveway profile and vertical clearance check, and while the driveway profile is adequate, there is no overhead clearance check. This should be provided as part of the overall clearance check.

The dedicated loading bay may also be adequate to facilitate home deliveries (e.g. groceries, parcels etc) since the basement entry portal has a nominal clearance of approximately 3.6 metres, but this would need to be clarified. Should the loading bays have the height clearance capable of accommodating home grocery delivery vehicles, clarification is needed as to whether the loading bays are connected internally to the lower ground floor level, and if practical access for residents to collect larger parcels or groceries is possible from this location. A loading bay and deliveries management plan would be required so that there is coordination between the loading dock/home deliveries/groceries etc and residents.

Clarification is also required as to whether the loading dock can accommodate Council's bulky goods waste collection vehicle. If it cannot, then amendments would be required to the access point to accommodate bulky goods waste collections (see below).

Access point

Driveway longitudinal sections along the northern and southern driveway edges have been provided within the Civil Plans prepared by BG&E showing a maximum grade of 15.38% that tapers down to 8.33%, which is compliant as well complying with Cl3.3(a) of AS2890.1, which requires the 5% maximum grade for a minimum of 6 metres into the site.

The proposal is to provide a 8.7 metres wide combined entry/exit driveway at the Cowan Road boundary. Further into the site, this narrows down to 3.05 metres access roads with a short central median. This complies with the requirements in the DCP but may need to be modified to accommodate larger vehicles (see comments below).

The architectural plans outline the 2.5 metres x 2 metres pedestrian sight triangle on both sides of the driveway, but the landscape plan indicates planting in this area. See the below figure for more details

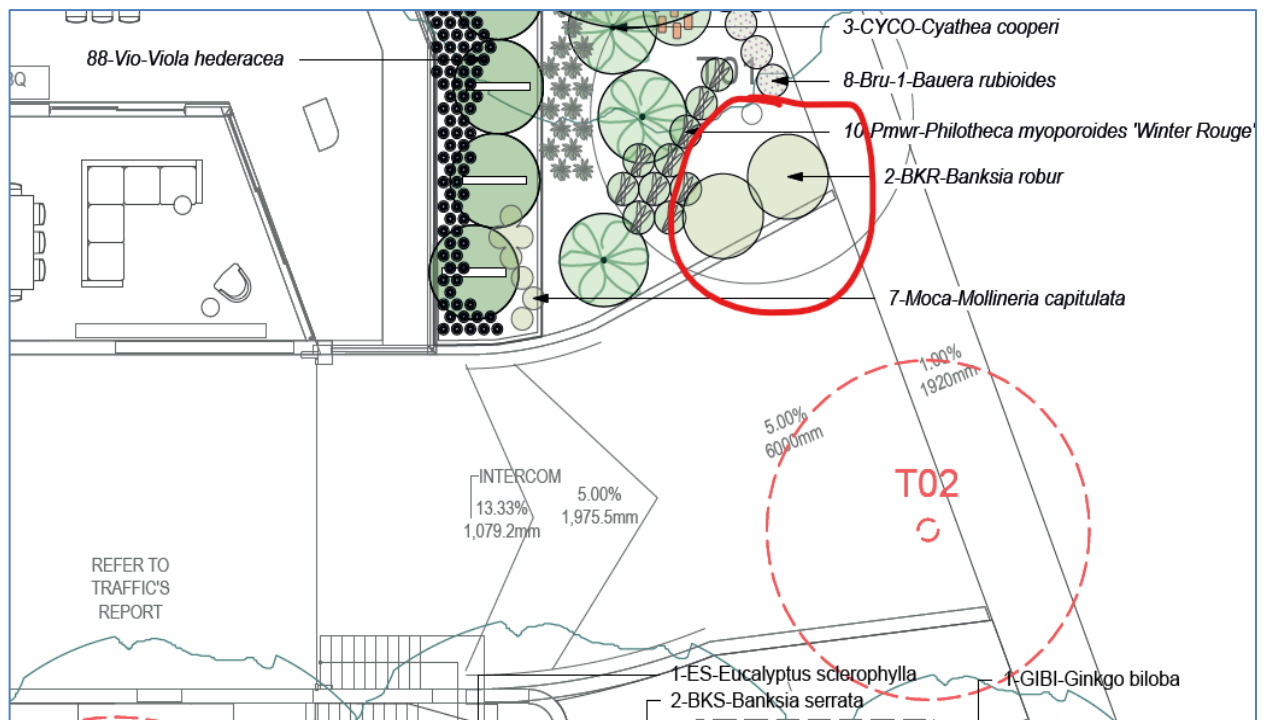


Figure 3: Red outline shows planting within the site lines.

Clarification is needed the planting would not impact on sight lines.

The dimensioned plans in the appendix of the TA show the gradient of the driveway as a 5% fall from the boundary for the first 6 metres into the site, with an additional 2 metres also at 5% gradient. This complies with the DCP requirement.

If larger vehicles (e.g. groceries, parcels etc), bulky goods waste collection and other service vehicles cannot access the loading bay, 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 always maintained while loading/unloading takes place on the driveway. At least one on-site loading space which is at least 3.5 metres wide is to be provided to cater for a minimum 6.7 metres long service vehicle. This would require the width of the driveway to be modified. The loading space/s should be line marked and/or signposted as a designated loading area. Requests for a loading zone in Cowan Road will not be considered.

In accordance with Section P of Council's Traffic and Transport Policy, 'No Parking' restrictions for 6 metres on either side of the driveway are to be implemented prior to occupation. Council's fees and charges for referral to the Ku-ring-gai Transport Forum and installation of signs apply.

It is agreed that the proposed development is unacceptable for the reasons given above by Council's Team Leader Development Engineers.

Urban Design Consultant

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

Design principle 1: context and neighbourhood character

A site analysis prepared following guidelines of pages 44-47 ADG is recommended – to better appreciate and respond to the site opportunities and constraints.

Site Analysis - Sheet 02 illustrates 6 diagrams including: existing conditions, boundary setbacks, a pair of buildings (reflecting the proposed), stepping the form, podia scale and street wall scale. Two of these diagrams indicate what is labelled a “recessive zone” that divides Buildings A & B into half. It is not clear how this is ultimately reflected in the subject proposal and why this solution was not developed further. It would have delivered a total of four building forms on the site, which is arguably a better urban design outcome for the site and such a configuration would also be likely to deliver better levels of internal apartment amenity. The submitted site analysis correctly identifies the need to maintain solar access to neighbouring site to the south, but it is unclear how the proposed design scheme achieves this objective.

The overall design parameters of the site given its size, dimensions and orientation (with respect to north) look to be good and capable of delivering a high-quality ADG compliant residential building. Questions remain as to how this is ultimately achieved. More detailed consideration of first principles governing building footprint and orientation to ensure LEP/DCP and ADG compliance are needed.

The applicant shows an approved development application (DA), which adopts a long unbroken north-south building to the west of site abutting golf course and a 2nd building along Cowan Road with a mid-point separation. But does not indicate why this hasn't been adopted and why their proposed alternative siting strategy delivers a better outcome for neighbours to the south and the amenity of the proposed building.

It is noted that the approved DA was on the basis that it building would be 3-storeys in height. This has doubled in height. It is notable that the approved DA also has a different urban form with respect to the site. The long mid-way open space connection running north-south through the site would likely improve opportunities for sunlight to more dwellings in the development and provide better solar access to the site at 30-32 Cowan Road. Consideration should be given to taking better advantage of good northern orientation of site to deliver ADG solar compliance to apartments, POS and COS. ADG 70% solar just a minimum guide. But with effective site coverage and a stepped façade oriented towards north it might be possible to deliver an improvement on this.

Under the terms of the SEPP (HOUSING) 2021 (SEPPH) Part 20 Design requirements:

- (3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—*
 - (a) the desirable elements of the character of the local area, or*
 - (b) for precincts undergoing transition—the desired future character of the precinct.*

The additional FSR and height allowed under the SEPP Housing is considered a non-discretionary right. But to meet Part 20 (3) (a) and (b) a better outcome might be delivered if the height was reduced in parts of the built form to ensure that it responds better to the local and desired future character. The defining neighbourhood characteristics of a site (including parks and open space and surrounding residential development) need to be given due attention. Lower heights may be justified therefore on key parts of a development site to ensure that surrounding amenity is maintained. Greater boundary setbacks and reductions in height at key corners or frontages should be considered to adequately address these character issues.

It is noted that local residents' group (CRAW) have identified visual, acoustic and odour concerns (to residents of 30-32 Cowan Road) resulting from the proximity of the carpark entry ramp on the south-east of Building A. They have requested that the carpark entry be located at the centre of the site to mitigate these negative effects. Whilst the proposed material treatment (face-brick) of this south-facing wall is supported these concerns, and this associated request seem justified. If such a change were to be made, the least obtrusive location for the relocated carpark entry would be on the south-east of Building B. Given the current configuration of the ramp entry, vehicle waste, and circulation layout of the carpark, this may be difficult to achieve without a substantial re-design. It would however, have been good if the applicant had given due consideration to this aspect as part of the preliminary analysis so that a more effective and equitable solution could have been adopted early on.

Recommendation

1. *Reassess building footprint and orientation to ensure LEP/DCP and ADG compliance.*
2. *Undertake a site analysis aligned with ADG guidelines (pages 44–47) to better understand site constraints and opportunities.*
3. *Make better use of the site's good solar orientation to the north to enhance apartment amenity and exceed minimum 70% solar access targets.*
4. *Consider a stepped façade design oriented towards the north to maximize sunlight penetration.*
5. *Re-evaluate the design logic behind rejecting the current approved DA layout, which included:*
 - I. *A long north-south building next to the golf course (which could be further split into two buildings).*
 - II. *Two buildings fronting Cowan Road with a mid-point COS separation.*
 - III. *A north-south open space bisecting the site that allowed for more sun access and better amenity.*
6. *Include DCP site coverage compliance diagrams—currently omitted.*
7. *Clearly demonstrate how the design maintains solar access to the southern neighbour (30–32 Cowan Road).*
8. *Explain how the proposal achieves a better urban design outcome than the approved DA, especially in terms of amenity and neighbour impact.*
9. *Consider lowering building height in sensitive areas to reduce FSR/height impact on existing residents.*
10. *Address residents' concerns about visual, acoustic, and odour impacts from the current carpark ramp location (south-east of Building A).*
11. *Consider relocating the carpark entry to the centre of the site or the south-east of Building B, even if it requires significant re-design.*
12. *Consider breaking the current building forms into four separate volumes (as suggested by the "recessive zone" diagrams) for better urban design and*

internal amenity.

13. *Consider reduction in height in parts of the building (especially along the southern-most boundary) to better align with the existing and desired future character of the area.*

Design Principle 2: Built form and scale

Site coverage is twice the DCP requirement and more than what is proposed under the approved DA, despite the substantial increase in height and FSR. Compliance with the controls in the DCP is recommended.

Two buildings, each measuring approximately 26 metres x 56 metres with one centralised lift core, are proposed for the site with a total of two lift cores. Given the ADG amenity issues associated with such a large floorplate (see section on Amenity below), the partial or full separation of Buildings A and B into two separate buildings (giving a total of 4 buildings on the site) should be explored. This would necessitate the introduction of additional lift cores. Such a solution would be a better fit for the site and more aligned with the diagrams 04- "Stepping the form" 05 "podia scale" and 06 "street wall scale" on Appendix B -Site Analysis – Sheet 2.

Allowing a visual green connection from William Cowan Oval through to Pymble Golf Course is a positive urban design gesture. It is unfortunate that this is obscured by building (entry / reception building). It is recommended that an alternative solution be found to minimise built form at the mid-way point between Buildings A&B to ensure views through to the golf course can be retained from the public domain of Cowan Road. It appears that this is currently obscured by the reception desk attached to Building A and centralised mailboxes serving both buildings. Look at pulling the reception area into the body of the ground floor footprint of Building A and B and locating a separate wall of mailboxes in the lobby for each building.

The permissible SEPP Housing height limit of 22 metres is exceeded. The applicant attributes this to the topography of the site and the fall from street to rear boundary and site works previously undertaken. The applicant claims that the impact will be minimal. It is true that any exceedance to the height of Building B is unlikely to have any impact on surrounding development (whether sun access to units in Building A is negatively affected, should however, be confirmed). The greatest exceedance to the height plane occurs, however, at the top of Building A, which is likely to contribute to over-shadowing to 30-32 Cowan Road. Further information illustrating how the applicant's claims of ADG compliance regarding over-shadowing of neighbours is sought. Arguments associated with perceived topographic constraints and previous site works seem un-warranted urban design justification for an exceedance to the 22 metres height limit.

Floor-to-floor heights vary between 3.95 metres and 3.15 metres over the 6 storeys of the building. The higher floor-to-floor of 3.9 metres is shown for the lower ground floor and the two topmost floors. Introducing a higher floor to floor for the lower ground floor is supported given that this floor is semi-subterranean. In light of recent changes brought about by the Building Design and Practitioners Act (BD&P Act) consideration may, however, need to be given to marginal 50 millimetres increase to the Level 2 floor to floor of 3.15 metres. The floors above this (3,4 & 5) could foreseeably be reduced to the 3.2 metres which most apartment buildings in NSW are now adopting.

There is a rear setback non-compliance. The applicant says that, since the neighbouring golf course is part of RE2 zone, ADG building separation (presumably referring to the mandatory additional 3 metres) is not required. Their interpretation of the ADG is not clear on this matter. Given adjacency of golf course green-open space, however, this non-compliance might be acceptable but only if it would allow for better overall amenity in the development. This could be achieved, for example, by the introduction of more community open space (COS) in the centre of the development like what is provided in the existing approved DA.

Recommendation

1. *Reduce site coverage to comply with the DCP controls.*
2. *Align built form with the approved DA, especially considering increased height and FSR.*
3. *Explore separating Buildings A and B into a total of four smaller buildings.*
4. *Introduce additional lift cores to improve amenity and circulation.*
5. *Ensure revised layout aligns with Appendix B diagrams (e.g. "Stepping the Form", "Podia Scale", "Street Wall Scale").*
6. *Minimise any built form intrusions between Buildings A & B to retain view corridor from Cowan Road to Pymble Golf Course.*
7. *Relocate reception and mailroom areas within each building's footprint to reduce mid-site visual obstruction.*
8. *Comply with the SEPP Housing 22 metres height limit.*
9. *Provide shadow diagrams to confirm ADG compliance, particularly impacts on 30–32 Cowan Road.*
10. *Reliance on topography or previous site works as justification for height exceedance is not supported.*
11. *Increase floor-to-floor height at lower ground level (3.95 metres).*
12. *Consider increasing Level 2 height by 50 millimetres to meet minimum BD&P Act provisions.*
13. *Consider reducing Levels 3–5 floor heights to 3.2 metres for consistency with typical apartment design.*
14. *Clarify ADG interpretation regarding RE2 zoning and building separation.*
15. *Consideration might be given to reduced rear setback but only if it results in improved amenity for the site overall, e.g., the north-south centralised COS in the approved DA might effectively provide justification for buildings to be moved further to rear boundary. Similarly, if dividing Buildings A&B in half -and opening up space in-between- forces this to happen then it might be acceptable.*

Design Principle 3: Density

The proposal is compliant with this principle.

Design Principle 4: Sustainability

The proposal is compliant with this principle.

Recommendation

1. *EV charging: Provide EV charging points for each unit (minimum 15 amp) should be considered*
2. *Consideration should also be given to the inclusion of ceiling fans to all bedrooms and living rooms. They will provide comfort with minimal energy while reducing the need and energy required for air-conditioning.*

Design Principle 5: Landscape

With increased density brought about by the Housing SEPP, retention and enhancement of existing mature landscape is even more important as a civic long-term gesture. The “linear park” proposed as a design concept is a good idea but not it’s not been carried through in resolution of architecture with hard surfaces of the entry and letterboxes and the obstruction of a building at ground floor.

Design Principle 6: Amenity

There are amenity issues presented by a combination of recessed bedrooms and inadequately sized narrow windows. Apartments 02, 05, 06 on some floors. There are no dimensions provided to indicate balcony depths of recess from outer façade line; however, they appear to be approximately 6 metres. Some of the affected bedrooms also have window areas that look too small for the area of room served. ADG provisions for natural light and ventilation need to be complied with.

There are also amenity issues presented by deep floorplans. This chiefly affects apartments 02,04,05 and 06. Compliance with ADG 4D is required. Some apartments may exceed Objective 4D-2. For open plan layouts maximum habitable room depth cannot exceed 8 metres from a window. Deep floorplans generally don’t deliver good amenity nor very good yield on building-area. Some units, for example, have a lot of un-useable space taken up as circulation (corridors).

The depth of apartments in the central east and west-facing parts of each floorplan, (units 02, 04 and 06 in Building A and units 02 & 05 in Building B as well as each of the 4 corner L shaped apartments that extend back to the common circulation), have numerous internalised rooms with no access to natural light or ventilation. It is unclear what all these rooms are. Some appear to be studies, with what look like kidney-shaped sofas. ADG non-compliance is a major issue. If used as a study, then they are possibly acceptable. The ones that look as though they are big enough to accommodate a bed could become habitable rooms so are much more problematic. This is somewhat compounded by the non-complying rear setbacks. Compliance with the rear setback control might require provision of greater number of 2 bedroom or 1-bedroom units. Given the complete absence of 1-bedroom units and limited numbers of 2-bedroom (5 in total) this might deliver a better overall unit distribution.

Consideration could be given to reducing number of these fully internalised rooms and reducing the overall bulk of each building’s floorplan. Mid-block affected apartments should be brought closer to the lift core, resulting in deeper setbacks to building facades. Resulting in better internal apartment amenity. Less wasted GFA in terms of circulation and a larger COS, BLG.03 and 3ALG.01 require improvement in this regard. All 3 bedrooms in these two apartments rely on windows that are approximately 2 metres away from COS, solid walls to stairs and/or services/building manager. More detail needs to be provided to explain compliance with ADG Objectives 4A. Based on preliminary assessment of drawings, compliance does not look possible.

Regarding Objective 4A, direct sunlight to primary windows of living rooms needs to be demonstrated. The primary windows of many apartments are recessed behind deep balconies or rely on narrow side-boundary facing windows therefore negating the benefits of any worthwhile solar orientation. For example, to meet the level of solar compliance shown on Solar Amenity Diagrams - Sheet 01, it would seem likely that 2 out of every 3 west-facing apartments in Buildings A & B relies on solar access

from the west. The living rooms are recessed behind balconies that are between 3-6 metres in depth. The north-west unit of Building A has a balcony that is 6-8 metres depth. This would make it difficult if not impossible for the living spaces in these apartments to achieve the requisite 2 hours. It should also be noted that any sunlight derived through skylights is not recognised under the ADG and cannot be considered as part of any calculations to achieve compliance. The effects of any overshadowing from Building B to A also needs to be demonstrated with regards to any side-facing living room windows that are being relied on in Building A to meet solar compliance.

The provision of useable and amenable communal open space requires further design attention to improve solar access and amenity. COS is not to be confused with left-over space. The COS suffers from a combination of poor useability, low accessibility, insufficient solar access and privacy. A significant proportion of the remaining COS is located along the rear setback, street frontage or at the building entry. This COS is not readily useable. It will be difficult to access and both its narrowness and proximity to adjacent private open space (POS) will diminish its useability. The open space along the rear setback does not achieve minimum ADG dimension and should arguably be greater than the minimum. The principle useable COS appears to be located at the centre of the site between Buildings A and B. None of this space, however, benefits from solar access. Objective 3D-1 (2) of the ADG requires developments to achieve a minimum of 50% direct sunlight to the principle useable part of the COS for a minimum 2 hours between 9 & 3pm mid-winter. Design guidance also calls for COS to have a minimum dimension of 3 metres and larger developments (such as this one) should consider greater dimensions. Direct, equitable access should be provided to COS from common circulation areas, entries and lobbies.

The full extent of overshadowing of the neighbouring property to the south, at 30-32 Cowan Road, requires further documentation to verify that ADG solar access is being provided in line with the ADG.

The applicant claims that: “shadow modelling was undertaken to evaluate solar access impacts to the living rooms, primary private open spaces and any communal open spaces (referred to as units) at the apartment building at 30–32 Cowan Road. The apartment building contains 7 dwellings. The modelling confirmed that:

- I. four out of seven units achieve 2-hour solar access to living areas and balcony/ terraces during the winter solstice.
- II. one out of the seven units achieves 3 hours of solar access to living areas and balcony and terraces during the winter solstice.
- III. Therefore 71% of the apartment block retains a minimum of two hours of direct solar access to their primary living areas and private open spaces between 9am and 3pm on the Winter Solstice (21 June) as shown in Figure 29.”

No drawings (and most critically elevations) are provided to substantiate the above claims. This information should be provided.

Recommendation

1. Provide dimensioned drawings to confirm depth of recessed balconies/windows, particularly in Apartments 02, 05, and 06.
2. Ensure bedroom window sizes and placements comply with ADG natural ventilation and daylight requirements.
3. Verify solar access compliance (ADG Objective 4A) for all units, especially where:
 - I. living rooms are recessed behind deep balconies (3–8m).
 - II. windows are narrow or side-facing, reducing effective solar gain.

- III. skylights are used (not counted toward ADG compliance).
4. Provide overshadowing diagrams and detailed solar modelling to:
 - I. substantiate claims made for 30–32 Cowan Road.
 - II. confirm side-window reliance in Building A doesn't compromise solar access.
5. Reassess deep floorplans in Apartments 02, 04, 05, and 06 – may exceed the 8 metres maximum habitable room depth limit.
6. Address poor amenity due to:
 - I. overly deep units with inefficient circulation space.
 - II. excessive number of internalised rooms with no access to natural light/ventilation.
7. Identify rooms with unclear function (e.g. large enough to be bedrooms) and assess for potential non-compliant habitable use.
8. Reduce internalised rooms to improve amenity and meet ADG compliance.
9. Consider reducing overall building bulk and floorplate depth.
10. Move mid-block units closer to the lift core to:
 - I. improve building setbacks.
 - II. reduce circulation space.
 - III. improve internal daylight and ventilation.
11. Reconsider unit mix:
 - I. add more 1- and 2-bedroom apartments.
 - II. current mix (only 5 x 2-beds, no 1-beds) is insufficient.
12. Redesign COS to improve:
 - I. usability: avoid narrow, leftover, or poorly located spaces.
 - II. solar access: at least 50% of primary COS area should receive 2 hrs sun between 9am–3pm in mid-winter.
 - III. accessibility: provide direct, equitable access from common lobbies and entries.
 - IV. privacy: avoid COS adjacent to private open space (POS) or street frontage.
13. Principal useable COS between Buildings A and B receives no sunlight — redesign needed.
14. Apartments BLG.03 and 3ALG.01 have all bedrooms facing:
 - I. solid walls or
 - II. narrow COS or
 - III. stair/service areas — likely non-compliant with ADG 4A.
15. Provide further documentation on these units to demonstrate compliance with daylight and ventilation standards.
16. Provide detailed solar overshadowing plans, sections, and elevations to:
 - I. confirm claims about overshadowing and solar access for neighbouring properties.

Design Principle 7: Safety

The proposal is compliant with this principle.

Design Principle 8: Housing diversity and social interaction

Provision of 3-bedroom family-oriented apartments and some 4-bedrooms units is commended. The introduction of more 2 bedroom and even 1-bedroom units might improve housing diversity. It is also likely to deliver better overall building amenity, given that it is proving difficult to squeeze so many large apartments into a building form without unduly compromising amenity.

Recommendation

1. Some minor variation to proposed unit mix is recommended.

Design Principle 9: Aesthetics

The use of face brick is supported; however, the proposed development relies on a substantial number of applied finishes, including concrete. Further detail is required. Applied finishes create long-term problems for maintenance and tend to perform less well in terms of sustainability. Consideration should be given to greater use of either face brick or integrated colour-materials in lieu of applied finishes.

Conclusion

The proposed development raises several urban design and amenity concerns, despite its favourable site characteristics, including good solar orientation and adjacency to open space. The site coverage exceeds Ku-ring-gai DCP controls. The proposed two large buildings should be reconsidered as four smaller volumes to improve amenity, circulation and alignment with ADG principles. Visual connectivity to Pymble Golf Course is obstructed by building massing at the centre and height exceedances, particularly on Building A, may impact neighbouring solar access. Floorplate depths, recessed windows, and excessive internalised rooms indicate likely ADG non-compliance, particularly around natural ventilation, daylight, and room usability. Communal open space is poorly designed, lacks solar access, and is not easily accessible or useable. A detailed site analysis per ADG guidelines and further solar modelling are needed. Whilst the provision of larger units is supported, the mix of apartment types lacks 1-bedroom dwellings and may affect over internal amenity. Greater alignment with the existing and desired future character is required to meet SEPP Housing design principles. Sustainability, materiality, and long-term maintenance considerations also need to be addressed. Overall, a more responsive, site-specific and compliant design strategy is recommended.

It is agreed that aspects of the proposed development are unacceptable for the reasons given above by Council's Urban Design Consultant.

Environmental health

Council's Environmental Health Officer commented on the proposal as follows:

Land contamination

The Preliminary Site Investigation (PSI) report dated 16 July 2025, prepared by Environmental Group Australia (EGA), referred to previous contamination assessments, including a Remedial Action Plan (RAP) dated 22 April 2025 and two Asbestos Materials Clearance Inspection Reports dated 19 May 2025 and 6 June 2025.

The PSI found that historical land title searches revealed a low potential for contaminating land uses having occurred on the site. Given that all previously identified asbestos-containing materials have been removed as part of prior remediation works, EGA concluded that the site is suitable for the proposed redevelopment.

Noise

The submitted acoustic report notes that an assessment of the mechanical plant selection and location has not been undertaken; however, it states that satisfactory noise levels can be achieved through appropriate plant selection, location, and, if necessary, standard acoustic treatments such as ducting, lining, silencers, and enclosures.

However, the architectural plans, dated 30 July 2025 (Revision A) prepared by Plus Architecture, and the accompanying Statement of Environmental Effects, both reference mechanical plant proposed to be installed on the rooftops of Buildings A and B. The plans show 38 units proposed on Building A and 40 units on Building B.

Given this specification, an updated acoustic report is required to assess the potential noise impacts associated with the proposed rooftop mechanical plant configuration.

It is agreed that the proposed development has taken the necessary steps to identify the potential for contamination on the site. Furthermore, more information is required in relation to acoustics, before Council can be satisfied of the impacts arising from rooftop mechanical plant and equipment.

STATUTORY PROVISIONS

State Environmental Planning Policy (Planning Systems) 2021

As the estimated development cost exceeds \$30 million, the development constitutes 'Regionally significant development' pursuant to Clause 2, Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*. Consequently, the Sydney North Planning Panel is the consent authority.

Sydney district and regional planning panels are being phased out, transferring decision making for regionally significant developments (typically >\$30m) back to local planning panels, effective from 16 January 2026. Under the Environmental Planning and Assessment Amendment (Regionally Significant Development) Regulation 2025. However, regional panels will continue to determine some matters, including but not limited to those under appeal, which is the case in this instance.

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 potential contamination. The Preliminary Site Investigation (PSI) report, dated 16 July 2025, prepared by Environmental Group Australia (EGA), referred to previous contamination assessments, including a Remedial Action Plan (RAP) dated 22 April 2025 and two Asbestos Materials Clearance Inspection Reports, dated 19 May 2025 and 6 June 2025.

The PSI found that historical land title searches revealed a low potential for contaminating land uses having occurred on the site. Given that all previously identified asbestos-containing materials have been removed as part of prior remediation works, EGA concluded that the site is suitable for the proposed redevelopment.

Based on the applicant's PSI, Council is satisfied that matters relating to previous contamination have been adequately dealt with.

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

A valid BASIX certificate has been submitted; however, several inconsistencies have been identified which require additional information, refer to the reasons for refusal for more information.

State Environmental Planning Policy Housing (2021) – Chapter 6 Low and Mid Rise Housing

Chapter 6 Part 1 Section 163 (a) provides that the sites are subject to the following:

The subject site is located within the State Environmental Planning Policy (Housing) 2021 (SEPP Housing) Low to Medium Rise Housing 'Inner Area' (refer to **Figure 4** below). The site is approximately 97 metres from the St Ives Shopping Village.

Chapter 6 Part 4 Division 1 provides that the sites are subject to the following development standards:

Section 175 Development standards - low and mid rise housing inner area

- 1) *This section applies to land in a low and mid rise housing inner area in Zone R3 Medium Density Residential or R4 High Density Residential.*
- 2) *Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.*
- 3) *Development consent must not be granted for development for the purposes of a building containing shop top housing with a building height of up to 24m unless the consent authority is satisfied the building will have 6 storeys or fewer.*
- 4) *In this section, a storey does not include a basement within the meaning of the standard instrument.*

The proposal includes 7 storeys, rather than 6 storeys and this forms Reason for Refusal No. 4. This non-compliance has also been addressed by the applicant on page 14 of the Clause 4.6 height variation request.

Section 177 Landscaping - residential flat buildings or shop top housing

- 1) *This section applies to land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.*
- 2) *Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing unless the consent authority has considered the Tree Canopy Guide for Low and Mid Rise Housing, published by the Department in February 2025*

This has been considered in the Landscape referral section of this report.

Chapter 6 Part 4 Division 2 provides that the sites are subject to the following non-discretionary development standards:

Section 180 Non-discretionary development standards - residential flat buildings and shop top housing in Zone R3 or R4

- 1) *This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential zone.*

2) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area:

- a) a maximum floor space ratio of 2.2:1,
- b) for residential flat buildings—a maximum building height of 22m,
- c) for a building containing shop top housing a maximum building height of 24m.

SEPP Development Standards	Applicant's calculation	Council's calculation	Complies
Maximum Floor Space Ratio = 2.2:1	12,984m ² 2.2:1	13,170m ² 2.23:1 Refer to Figure 3 below.	NO
Maximum Building Height = 22m	Building A = 24.01m 2.03m / 9.23% variation Building B = 22.39m 390mm / 1.7% variation	Building A = 24.01m 2.03m / 9.23% variation Building B = 22.39m 390mm / 1.7% variation	NO



Figure 4: Extract from Low Mid Rise Housing Viewer illustrating the subject sites (in yellow) walking distance (approx. 97 metres) from the St Ives Town Centre (in blue).

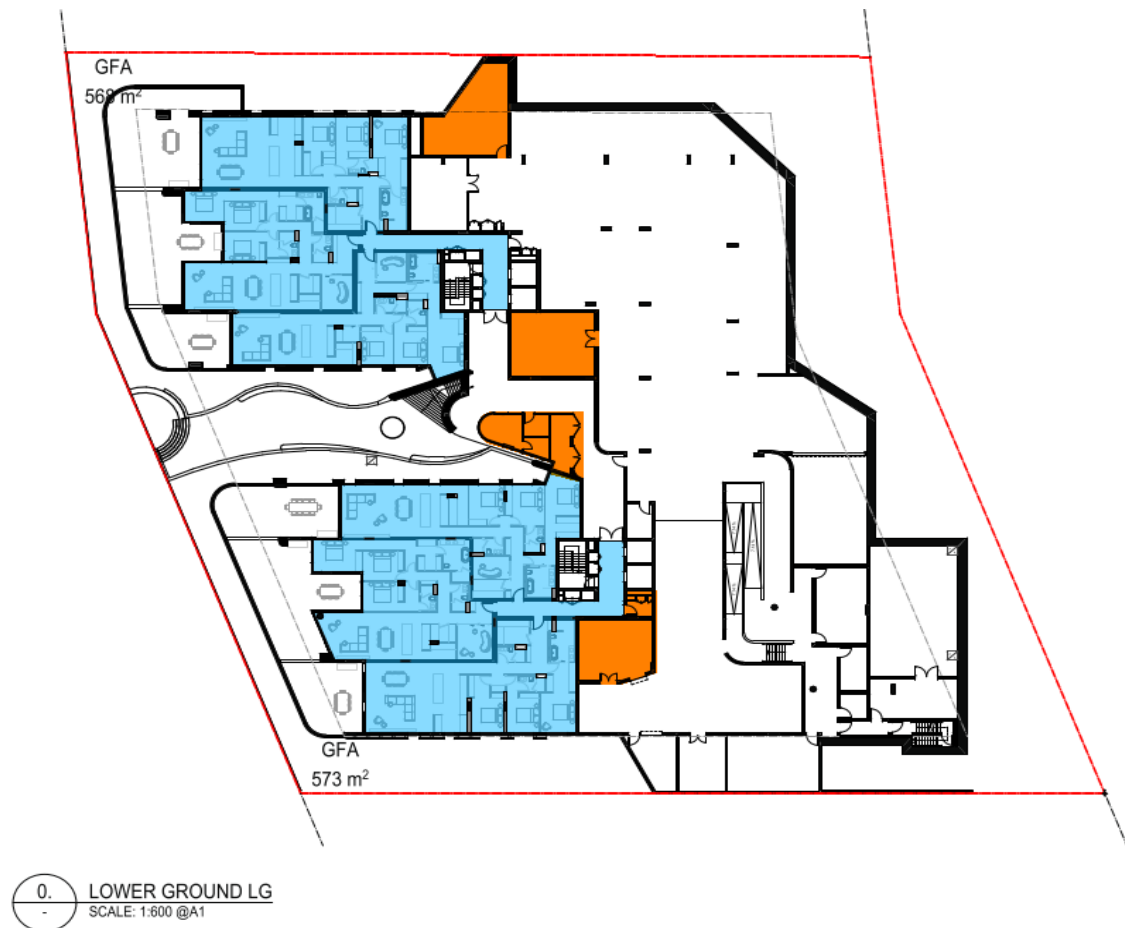


Figure 5: Lower Ground Floor GFA calculations (orange highlights depicts additional GFA)

Schedule 9 Design Principles for residential apartment development

Refer to the comments provided by Council's Urban Design Consultant above under the 'referral' section of this report regarding the assessment against this schedule.

Apartment Design Guide

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
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	NO
Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development	NO
Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid-winter	NO
Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security	NO
Objective 3C-2 Amenity of the public domain is retained and enhanced	NO

ADG COMPLIANCE TABLE			
Guideline			Compliance Y/N
Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping			NO
Design criteria			
1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)			NO
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)			
Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting			NO
Objective 3D-3 Communal open space is designed to maximise safety			NO
Objective 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality			NO
Design criteria			
Deep soil zones are to meet the following minimum requirements:			NO
Site area	Minimum dimensions	Deep soil zone (% of site area)	
greater than 1,500m ² with significant existing tree cover	6m		
Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy			NO
Design criteria			
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			NO (5 th storey does not comply)
Building height	Habitable rooms and balconies	Non-habitable rooms	
up to 25m (5-8 storeys)	9m	4.5m	
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			

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space	NO
Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain	NO
Objective 3G-2 Access, entries and pathways are accessible and easy to identify	NO
Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	NO
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	NO
Objective 3J-1 1. Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	YES
Objective 3J-2 Parking and facilities are provided for other modes of transport	YES
Objective 3J-3 Car park design and access is safe and secure	YES
Objective 3J-4 Visual and environmental impacts of underground car parking are minimised	NO
Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised	YES
Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised	NO
Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	NO

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
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	NO
3 A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	NO
Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months	YES
Objective 4B-1 All habitable rooms are naturally ventilated	YES
Objective 4B-2 The layout and design of single aspect apartments maximise 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	YES
2 Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	YES
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 Habitable rooms 2.7m Non-habitable 2.4m For 2 storey apartments 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area Attic spaces 1.8m at edge of room with a 30 degree minimum ceiling slope If located in mixed used areas 3.3m for ground and first floor to promote future flexibility of use.	YES

ADG COMPLIANCE TABLE							
Guideline	Compliance Y/N						
Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms	YES						
Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building	YES						
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	YES						
Design criteria							
Apartment Minimum internal area <table> <tr> <th>Apartment type</th><th>Minimum internal area</th></tr> <tr> <td>2 bedroom</td><td>70m²</td></tr> <tr> <td>3 bedroom</td><td>90m²</td></tr> </table> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Apartment type	Minimum internal area	2 bedroom	70m ²	3 bedroom	90m ²	YES
Apartment type	Minimum internal area						
2 bedroom	70m ²						
3 bedroom	90m ²						
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	YES						
2 In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	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)	YES						
2 Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	YES						
3 Living rooms or combined living/dining rooms have a minimum width of: 4m for 2 and 3 bedroom apartments	YES						

ADG COMPLIANCE TABLE														
Guideline	Compliance Y/N													
Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity	YES													
Design criteria														
All apartments are required to have primary balconies as follows:	YES													
<table><tr><td>Dwelling type</td><td>Minimum area</td><td>Minimum depth</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr><tr><td>The minimum Balcony depth to be counted as contributing to the balcony area is 1m</td><td></td><td>Balconies width 2m</td></tr></table>	Dwelling type	Minimum area	Minimum depth	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	The minimum Balcony depth to be counted as contributing to the balcony area is 1m		Balconies width 2m		
Dwelling type	Minimum area	Minimum depth												
2 bedroom apartments	10m ²	2m												
3+ bedroom apartments	12m ²	2.4m												
The minimum Balcony depth to be counted as contributing to the balcony area is 1m		Balconies width 2m												
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m														
Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents	YES													
Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building	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 8	YES (max 7)													
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:	YES													
<table><tr><td>Dwelling type</td><td>Storage size volume</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>	Dwelling type	Storage size volume	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³								
Dwelling type	Storage size volume													
2 bedroom apartments	8m ³													
3+ bedroom apartments	10m ³													
At least 50% of the required storage is to be located within the apartment														
Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments	YES													

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

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<i>Objective 4Q-3</i> Apartment layouts are flexible and accommodate a range of lifestyle needs	YES
<i>Objective 4S-2</i> Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	YES
<i>Objective 4T-1</i> Awnings are well located and complement and integrate with the building design	YES
<i>Objective 4T-2</i> Signage responds to the context and desired streetscape character	YES
<i>Objective 4U-1</i> Development incorporates passive environmental design	YES
<i>Objective 4U-2</i> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	YES
<i>Objective 4U-3</i> Adequate natural ventilation minimises the need for mechanical ventilation	YES
<i>Objective 4V-1</i> Potable water use is minimised	YES
<i>Objective 4V-2</i> Urban stormwater is treated on site before being discharged to receiving waters	NO
<i>Objective 4V-3</i> Flood management systems are integrated into site design	NO
<i>Objective 4W-1</i> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	NO
<i>Objective 4W-2</i> Domestic waste is minimised by providing safe and convenient source separation and recycling	YES
<i>Objective 4X-1</i> Building design detail provides protection from weathering	NO
<i>Objective 4X-2</i> Systems and access enable ease of maintenance	YES
<i>Objective 4X-3</i> Material selection reduces ongoing maintenance costs	NO

Local Content

Ku-ring-gai Local Environmental Plan 2015

Clause 1.2 Aims of the Plan

The proposal has been assessed against the relevant Aims of the Plan. The proposal is inconsistent with the Aims as outlined in the recommended Reasons for Refusal.

Zoning and permissibility

The site is zoned R3 Medium Density Residential. The proposed development is defined as a residential flat building and is made permissible in the R3 Zone pursuant to Housing SEPP - Chapter 6.

Zone objectives

The objectives of this zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide a transition between low density residential housing and higher density forms of development.*

The development is inconsistent with the relevant objectives of the zone for the following reasons:

- I. The proposal fails to achieve an acceptable transition of scale from the existing senior housing and the height of the proposal.
- II. The proposal doesn't provide a sufficient variety of housing types, particularly in relation to 1-bedroom units.

Development standards:

Clause 4.6 Exceptions to development standards – Floor Space Ratio

Contrary to the applicant's claim, the proposal exceeds the maximum permissible floor space ratio (FSR) for the site. This is based on the additional highlighted areas (in orange) illustrated above in **Figure 5**, which were not included in the FSR calculation. Further information in the form of an additional section plan is required in order to determine the extent of additional gross floor area. This issue forms Reason for Refusal No. 5.

There is a non-compliance with the FSR control, being a development standard contained within the Housing SEPP, the Panel do not have the power to grant consent without the requisite Clause 4.6 Variation Request to consider the merits of the variation.

Clause 4.6 Exceptions to development standards – Height

The proposed development breaches the maximum height of buildings development standard as follows:

- 1) State Environmental Planning Policy Housing (2021) Chapter 6 Part 4 Division 1 Section 175 (2)
- (2) *Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.*

2) State Environmental Planning Policy Housing (2021) Chapter 6 Part 4 Division 2
Section 180 (2) (b)

(2) *The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area;*

(b) for residential flat buildings—a maximum building height of 22m,

The applicant has made a submission pursuant to Clause 4.6 seeking to vary the maximum height development standard. 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 for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention by demonstrating:*

(a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

(b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

The applicant states that compliance with the development standard is unreasonable or unnecessary for the following reasons:

Clause 162 To encourage the development of low and mid rise housing in areas that are well located with regard to goods, services and public transport

The proposed development aligns with the aim for Chapter 6 of the Housing SEPP by delivering mid-rise housing in a well-connected location, within 350m walking distance of St Ives Town Centre. The proposal supports much-needed housing supply by offering a mix of dwelling types that cater to the specific demographic of the area while promoting sustainable urban growth through efficient land use and reduced reliance on private vehicles.

By integrating high-quality design, façade articulation, and strategic setbacks, the development ensures compatibility with the evolving character of the area while

enhancing the streetscape. The proposal is consistent with this chapter and aim, encouraging well-designed, higher density living in well-served locations. The elements that breach the 22m height are limited to mechanical plant and a lift overrun which supports accessibility by removing steps in the floor plate and lift access to all levels. The seventh storey of the development is a result of the stepping of the site and does not provide a perceptible variation to the 6 storeys requirement.

If this minor height variation is not supported, it will ultimately lead to either less housing being provided in an area well-suited for residential intensification, or redistribution of the density elsewhere on the site where it will have greater impacts, directly undermining the objective of the chapter and the LEP height objectives discussed below.

Objective 4.3(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

The St Ives Centre is an identified Low and Mid Rise (LMR) centre under the Housing SEPP. The LMR area applies to the north and south of the site, with the reforms to catalyse a shift in the physical context and built form of residential developments in proximity to St Ives Shopping Centre.

As part of the LMR controls there is a development standard for residential development within the Inner Area to have a maximum of 6 storeys and a non-discretionary standard of 22m. As such, the revised controls will enable a transition from predominantly low-rise detached housing to mid-rise apartment and townhouse developments. This will introduce a more urban built form along Cowan Road with greater building heights, higher yields, and increased population density within walking distance of retail, services, and public transport.

The building follows the topography of the land which slopes approximately 5m from east to west and is uneven as a result of the demolition of the existing development and remediation works undertaken under the previous approval (DA0270/22). The buildings, step in the middle of the site and present as 6 storeys to both frontages. The seventh storey occurs for a small portion in the middle of the site where the buildings step down in response to the sloping and irregular existing ground level and is not perceptible from Cowan Road.

Therefore, the building presents at a scale that has been determined as appropriate for the St Ives Centre, despite the minor variation to the 22m non-discretionary standard that occurs due to the sloping topography of the site.



Figure 10 in Clause 4.6 Height Request



Figure 11 in Clause 4.6 Height Request

Objective 4.3(b) To establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity

The site is located within the St Ives Town Centre LMR housing area. The designation of the site as being within this area is reflective of the capacity of the site to support additional height and density. It is noted the project represents the first 6 storey development on Cowan Road but is consistent with the desired future character of the centre and the adjacent sites could develop to a similar scale in the future.

The proposed variation is a result of the sloping topography of the site and does not discernibly increase the scale of the buildings or their impacts and is therefore not relevant in the consideration of whether the development achieves a transition in scale to lower density residential or open space. Solar modelling undertaken by Plus Architecture has confirmed that the portion of the building which protrudes above the height plane does not contribute to additional overshadowing to the neighbouring residences, with the overshadowing a result of the massing contained within the 22m height plane.

The amenity of the neighbouring Pymble Golf Course has been protected, with only minor overshadowing of the fairway occurring at 9:00am during midwinter. However, by approximately 10:00am, the shadows largely recede from the fairway. Any overshadowing that persists beyond 10:00am primarily affects the bunkers and vegetated areas. As a result, the proposal is not anticipated to have any adverse

impact on the health of the fairway grass or player amenity which receive uninterrupted solar access for the remainder of the day.

As identified in the photomontage below, the areas of the development that extend above the height plane are not visible from the public domain.



Figure 12 in Clause 4.6 Height Request



Figure 13 in Clause 4.6 Height Request

Notwithstanding this, effort has been made to reduce the perceived bulk and scale of the building and ensure appropriate transition to the adjoining residences and open space by implementing the following architectural strategies:

- *Topography and Site Integration: The site exhibits a natural fall of approximately 5 metres from Cowan Road toward the Pymble Golf Course. The built form has been sensitively modulated to follow the topography, with a split-building arrangement and stepped massing that minimises visual bulk and integrates the development into the landscape.*
- *Neighbourhood Character and Built Form Compatibility: Efforts have been made to reduce the perceived bulk and scale of the building by providing*

an appropriate street setback and landscaped frontage to suit the streetscape, maintaining appropriate setbacks to adjoining neighbours and stepping the built form to maintain a maximum height of six storeys. The built form steps to the east and west to provide a sympathetic interface with adjoining residences and a combination of horizontal and vertical articulation and material variation ensures visual interest and reinforces a contemporary, high-quality built form outcome.

- *Scale Transition and Built Form Articulation: The proposal comprises two buildings of up to six storeys, carefully articulated to reduce perceived bulk and scale. Upper storeys are set back to create a recessive form. Lower podium elements (4–5 storeys) address Cowan Road, providing a human-scale interface and a respectful transition to neighbouring 1–3 storey development.*
- *View Sharing and Visual Connectivity: The design preserves key visual corridors, maintaining northward views to William Cowan Oval and southward views to Pymble Golf Course. These view lines are reinforced through the separation of built forms and strategic siting, enhancing visual permeability across the site.*
- *Solar Access and Amenity: Building orientation and separation have been optimised to maximise solar access to both the development and adjoining properties. Recesses between the buildings allow for daylight penetration, cross ventilation, and enhance residential amenity. The configuration ensures compliance with ADG solar access objectives and minimises overshadowing impacts. Solar analysis has confirmed that the height variation does not contribute to additional overshadowing of neighbouring residences.*
- *Landscape and Setback Strategy: Generous setbacks to all boundaries have been provided to enable deep soil planting, reinforce the landscape character of the locality, and provide a vegetated buffer to neighbouring dwellings. These setbacks also support the integration of communal open space at ground level, contributing to residential amenity.*

Objective 4.3(c) to enable development with a built form that is compatible with the size of the land to be developed.

The proposed development has been informed by the LMR controls whilst having regard to Council's DCP and the relevant objectives. The proposed variation has no discernible impact on the proposal's compatibility with the size of the land it has been developed on, noting it presents the required 6 storeys to the street, achieves full compliance with the applicable Floor Space Ratio (FSR) control of 2.2:1, and satisfies the setback requirements to Cowan Road and the adjoining residential properties.

The LMR controls were based on the presumption the 2.2:1 would be accommodated in 6 storey buildings. If the proposal is required to comply with the height control, it would force the floor area on the 6th level to be accommodated at the lower levels of the development, which would undermine the achievement of this objective as it would result in a form that is less compatible with the size of the land through putting pressure on compliance with the setbacks and have associated effects on the achievement of internal and external residential amenity.

Furthermore, the proposed development (inclusive of the proposed height exceedance) is consistent with the objectives of the R3 Medium Density Residential land use zone, as presented in Table 2.

Objective	Alignment
<i>To provide for the housing needs of the community within a medium density residential environment.</i>	The proposal contributes 75 units, in a mid-rise form, directly addressing the community's housing needs.
<i>To provide a variety of housing types within a medium density residential environment.</i>	A mix of 2-bedroom, 3-bedroom and 4-bedroom units are proposed, however the majority of the dwellings are proposed to be 3-bedroom units which suits the demographic of the area which largely comprises of families and down sizers.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The development is purely residential, maintaining the intended zoning characteristics. A range of services are located within the St Ives Town Centre which is within walking distance of the site.
Objective	Alignment
<i>To provide a transition between low density residential housing and higher density forms of development.</i>	The proposed development provides a considered and sensitive transition between the adjoining low-density residential dwellings (comprising 1–3 storeys) and the proposed higher-density built form. The development comprises two buildings of up to six storeys, designed with a strong emphasis on articulation and modulation to reduce visual bulk and scale. A four-storey podium has been incorporated along Cowan Road, establishing a human-scaled interface that responds sympathetically to the existing residential character of the area. The upper levels are progressively set back, creating a recessive built form that minimises visual impact when viewed from the street and adjoining properties. These setbacks reduce the perceived height of the buildings and contribute to a well-considered transition in scale. The design ensures that the built form steps down appropriately towards lower-density dwellings and maintains amenity, privacy, and solar access for neighbouring properties. In doing so, the development achieves a graduated and respectful transition between low-density housing and higher-density residential development, consistent with the planning intent for this locality.

Table 2 in Clause 4.6 Height Request

In light of the above, it is clear that the proposed height variation achieves the objective of the Height of Building development standard as well as the R3 zone objectives notwithstanding the non-compliance.

The applicant has not demonstrated that compliance with the maximum building height development standard is unreasonable and unnecessary, as specified in the recommended Reasons for Refusal Nos 4 and 8.

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:

Clause 4.6(3)(b) of the LEP requires the contravention of the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify the contravention. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole.

Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (Initial Action at [24]). In Four2Five, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 Variation Request must be particular to the circumstances of the proposed development on that site at [60].

In this instance, the relevant aspect of the development is the proposed exceedance of the 11.5m height limit under the LEP, and the 22m non-discretionary height and the exceedance of the 6 storeys development standard under Chapter 6 of the Housing SEPP. There are sufficient environmental planning grounds to justify this contravention, as described below.

Sloping Topography and Irregular Existing Ground Level

The site was cleared and remediated as part of DA0270/22. As shown in Figures 3-4 and reproduced again in Figures 10 and Figure 11, these works have resulted in a partially benched and highly irregular existing ground level, which is then used for the purposes of measuring the maximum height. Therefore, whilst the proposal presents a 6 storey form to both Cowan Road and the Golf Course consistent with the LMR controls, the sloping topography combined with the irregular existing ground level results in unavoidable numerical variations to the controls if a 6 storey building consistent with the LMR's intent is located on the site.



Figure 14 in Clause 4.6 Height Request



Contribution to Housing Supply in a Well-Located Location

The development directly responds to the need to provide more housing in the Kuring-gai LGA in close proximity to the St Ives Town Centre, which contains numerous community facilities, services, green spaces, and public transport options, all within walking distance. The proposal aligns with the Department's vision for well-connected urban areas, taking advantage of the Low- and Mid-Rise Housing Reforms to increase the provision of well-located homes, noting that this site in particular experience exceptional amenity and outlook due to its position between the golf course and public open space. The proposed variation is also consistent with sustainable urban development principles, reducing car dependence and supporting a transit-orientated community.

The proposal will contribute 75 new dwellings to the market, where the NSW Government has set a target of 7,500 new dwellings in the Ku-ring-gai LGA by 2029. Removal of the 6th storey to achieve technical compliance would reduce the number of dwellings by 5 (noting the upper level apartments are all large in nature). Shifting the core to the Cowan Road frontage in order to fall below the height plane was considered but would then result in an excessive distance from the lifts to the majority of apartments and present a larger form at the street frontage rather than the centre of the site.

The loss of dwellings is contrary to the objectives of the Ku-ring-gai Local Strategic Planning Policy, to:

- *Provide housing close to transport, services and facilities to meet the existing and future requirements of a growing and changing community*
- *Provide a range of diverse housing to accommodate the changing structure of families and households and enable ageing in place.*

The height variation enables the development to maximise the potential of this well-connected and highly accessible site, aligning with the principles of sustainable urban development, and contributing to a transit-orientated area.

No Perceptible Environmental Impacts

The proposed height and storey variation does not result in any material environmental impacts, as the built form has been carefully designed to integrate

seamlessly with the surrounding context while maintaining solar access, privacy, and streetscape character.

- *No excessive bulk or scale – The development includes upper-level setbacks, façade articulation, and varied materials to reduce visual dominance and ensure a human-scaled streetscape.*
- *Solar access maintained – The variation has a negligible impact on the solar access of the adjacent residential building.*
- *Landscaping and streetscape integration – The podium aligns with the existing built form, while generous landscaping and street setbacks soften the building's presence.*

In light of the above, it is clear that the planning framework for Ku-ring-gai provides sufficient environmental planning grounds to justify the contravention to the height of building standard.

The environmental planning grounds advanced by the applicant are not sufficient to justify the proposed breach to the maximum building height development standard.

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 State Environmental Planning Policy (Planning Systems) 2021.

Sydney district and regional planning panels are being phased out, transferring decision making for regionally significant developments (typically >\$30m) back to local planning panels, effective from 16 January 2026. Under the Environmental Planning and Assessment Amendment (Regionally Significant Development) Regulation 2025, regional panels will continue to determine some matters including but not limited to those under appeal, which is the case in this instance.

Development standards that cannot be varied

The variation to the development standard is not contrary to the requirements of Clause 4.6(6) and (8).

Part 6 Additional local provisions

Clause 6.2 - Earthworks

The proposed development would involve considerable excavation, albeit upon a site that has already been subject to significant earthworks as part of demolition and associated site works approved under a previous consent. The extent of excavation proposed is not supported and this forms the Reason for Refusal No. 20.

Clause 6.5- Stormwater and water sensitive urban design

Council's Development Engineer has requested additional information in this regard and the failure to provide sufficient information to enable a fulsome assessment forms Reason for Refusal No. 25.

Policy Provisions (DCPs, Council policies, strategies and management plans)

Ku-ring-gai Development Control Plan

Part 1A.5 General aims of the DCP

The proposed development has been assessed against the general aims of this DCP and is not acceptable in all relevant respects, as outlined in the recommended Reasons for Refusal.

Part 2: Site analysis

The submitted site analysis is inadequate, and this forms Reason for Refusal No. 3.

Part 7: Residential Flat Buildings

COMPLIANCE TABLE		
Development Control	Proposed	Complies
Part 7 Residential Flat Buildings		
7A.1 – Local character and streetscape		
All Residential Flat Buildings are to be designed by an architect registered with the NSW Architects Registration Board.	Complies	YES
All residential flat buildings are to demonstrate how they provide a garden setting with buildings surrounded by landscaped gardens, including tall trees, on all sides.	Does not comply	NO
Design components of new development are to be based on the existing predominant and high quality characteristics of the local neighbourhood.	Does not comply	NO
The appearance of the development is to maintain the local visual character by considering the following elements: i) visibility of on-site development when viewed from the street, public reserves and adjacent properties; and ii) relationship to the scale, layout and character of the tree dominated streetscape of Ku-ring-gai.	Does not comply	NO
The predominant and high quality characteristics of the local neighbourhood are to be identified and considered as part of the site analysis.	Does not comply	NO
Development is to integrate with surrounding sites by: i.being of an appropriate scale retaining consistency with the surrounds when viewed from the street, public domain or adjoining development; ii.minimising overshadowing; and integrating built form and soft landscaping (gardens and trees) within the tree canopy	Does not comply	NO

that links the public and private domain throughout Ku-ring-gai.		
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.	Does not comply	NO
Colours of materials used in sites adjoining or in close proximity to bushland areas and Heritage Conservation Areas are to be in harmony with the built and natural landscape elements of the area.	Complies	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 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.	Does not comply	NO
A drawing and supporting written information is to demonstrate how the building and its layout has applied and responded to the site analysis required by Part 2 of the DCP.	Unacceptable site analysis	NO
Any building with a frontage to the street is to address that street.	Complies	YES
Soft landscaping, including tall trees, is to be provided between onsite buildings, fences and courtyard walls.	Does not comply	NO

Hard landscaping is to be minimised and to maximise opportunities for landscape planting	Does not comply	NO
Long straight driveways are not permitted, except where necessary for battle-axe sites. Driveways are to be designed to be of minimal visual impact.	Complies	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.	Complies	YES
Three hours of direct sunlight between 9am and 3pm on 21st June is to be maintained to the living rooms, primary private open spaces and any communal open spaces within i. existing residential flat buildings and multi-dwelling housing on adjoining lots, and ii. residential development in adjoining lower density zones.	Does not comply	NO
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.	Does not comply	NO
7A.3 – Building setbacks		
Residential flat buildings are to meet the following street setback requirements: - 10m from the street boundary	10 metres from Cowan Road	YES
Residential flat buildings are to provide a 2m articulation zone behind the street setback, and no more than 40% of this zone (in plan) is to be occupied by the building.	Does not comply	NO
The building line to any street is to be parallel to the prevailing building line in the streetscape. For angled sites, a stepped façade may be appropriate.	Complies	YES
Residential flat buildings are to meet the following side and rear setback requirements to ensure deep soil, landscaping and tall trees are accommodated to all sides of the building: i) a minimum of 6m from the side boundary for all levels up to the fourth storey. ii) a minimum of 9m to the fifth storey and above.	Does not comply	NO
Side setback areas behind the building line are not to be used for driveways or for vehicular access into the building.	Complies	YES
Driveways are to be set back a minimum of 6m from the side boundary within the street setback to allow for deep soil planting.	Complies	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.	Does not comply	NO
Encroachments i. Basements do not encroach into any setback areas ii. Ground floor terrace/courtyard walls min 8m to street boundary / 4m to rear & side boundaries / 7m adjacent to lower density residential zone iii. No encroachments where site area is < 1800m² iv. No encroachments are permitted where minimum side setbacks have not been achieved. v. A maximum of 15% of the street setback area occupied by private terraces/courtyards	Does not comply	NO
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:	Complies	NO
7A.4 – Building Separation		
Residential buildings on the same development site are to include areas of deep soil in between the buildings that are capable of housing substantial vegetation and tall trees.	Does not comply	NO
The minimum separation between residential buildings on the development site is to comply with the following controls: Up to 4th storey: • 12m between habitable rooms/balconies • 9m between habitable rooms/balconies and non-habitable rooms • 6m between non-habitable rooms 5th storey & above: • 18m between habitable rooms/balconies • 13.5m between habitable rooms/balconies and non-habitable rooms • 9m between non-habitable rooms	Does not comply	NO
Buildings are to be located so that apartments benefit from views into and through onsite landscaped gardens.	Does not comply	NO
7A.5 – Site coverage		
The site coverage may be up to a maximum of 30% of the site area, provided that the deep soil landscaping requirements in Section A Part 7A.6 Deep Soil Landscaping are met.	Does not comply	NO

Note: Site coverage is not the inverse of deep soil landscaping. Refer to Part 1B Dictionary for clarification of site coverage.		
7A.6 – Deep soil landscaping		
Deep soil zones are to be configured to retain healthy and significant trees on the site and adjoining sites, where possible.	Does not comply	NO
Deep soil zones are to be configured to allow for required tree planting including tall tree planting and garden and screen planting at front, side and rear boundaries.	Does not comply	NO
Deep soil landscaping is to be provided in the common areas as a buffer between buildings that softens the bulk and scale of the buildings.	Does not comply	NO
Driveways are not to dominate the street setback area. Deep soil landscaping areas in the street setback are to be maximised.	Does not comply	NO
Lots with the following sizes are to support a minimum number of tall trees capable of attaining a mature height of at least 18m on shale, transitional soils and 15m on sandstone derived soils. - 1801m ² +: 1 tall tree per 300m ² or part thereof	Does not comply	NO
In addition to the tall trees, a range of medium trees, small trees and shrubs are to be selected to ensure that vegetation softens the building form and creates a garden setting. At least 50% of all tree plantings are to be locally occurring trees and spread around the site.	Complies	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.	Does not comply	NO
7B – Access and parking		
7B.1 – Car parking provision		
All residential flat developments are to provide on-site car parking within basements.	Complies	YES
Basement car park areas are to be consolidated under building footprints.	Complies	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.	Complies	YES
The basement car park is not to project more than 1m above existing ground level.	Does not comply (northern elevation)	NO
Single lane aisles, straight ramps and tunnels max 12m in length.	Complies	YES

Direct and continuous internal pedestrian access from basement car park is provided to each level of the building	Complies	YES
Car park entry is to be integrated within the building and located behind the building line.	Complies	YES
Car parking design is to be in accordance with requirements for Silver and Platinum Level dwellings as required in this DCP and by the <i>Livable Housing Guidelines</i> . Circulation areas, roadways and ramps are to comply with AS2890.1. Where a conflict occurs, the <i>Livable Housing Guidelines 2012</i> is to take precedence.	Complies	YES
Residential – Market = 146 Visitor = 19 Car share = 1 Car wash = Can be shared Total = 165	177	YES
At least one visitor car space is to be accessible and be provided within the site for every 6 apartments or part thereof and is to comply with the dimensional and locational requirements of AS2890.6.	Complies	YES
A clearly signposted parking bay for temporary parking of service and removalist vehicles is to be provided. The space is to have the following standards: i) a minimum dimension of 3.5m x 6m; ii) a minimum manoeuvring area 7m wide.	Complies	YES
One visitor parking bay is to be provided with a tap, to make provision for on-site car washing.	Complies	YES
At least one car share space is to be provided in the basement per 90 dwellings, or part thereof.	Complies	YES
Parking areas are to be designed and constructed so that electric vehicle charging points can be installed.	Complies	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.	Proposed = 25 Required = 83	NO
All on-site bicycle parking spaces and storage are to be designed to AS2890.3.	Complies	YES

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.	The proposal includes the delivery of 1,510m ² of Communal Open Space on the ground floor, which equates to 26% of the site area.	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.	Complies	YES
The Primary communal open space is to be directly accessible from the internal common circulation areas.	Complies	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.	Complies	YES
Secondary communal open spaces are to have a minimum dimension of 5m and may be provided on roof tops.	Complies	YES
Access to and within the Primary communal open space is to be provided for people with a disability Part 2 Section 7 of AS1428.	Does not comply	NO
The location and design of the Primary communal open space is to optimise opportunities for active and passive social and recreation activities, solar access and orientation, summer shade, outlook, and maintain the privacy of residents on adjoining sites zoned differently for lower density residential development sites.	Complies	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.	Complies	YES
Communal open space is to be integrated with any significant natural feature(s) of the site and soft landscaping areas.	No natural features on site.	NO
The communal open space is to have surveillance from at least two onsite apartments for safety reasons.	Complies	YES
Communal open space design is to avoid creation of concealment or entrapment areas.	Complies	YES
Shared facilities such as barbecue facilities, shade structures, play equipment and seating, are to be provided within the Primary communal open space.	Does not comply	NO

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

7C.4 – Apartment mix and accessibility		
Range of apartment sizes (one, two, three bedroom) included within the development	Inadequate provision of 1-bedroom units	NO
Mix of 1, 2 & 3 bedroom apartments located on the ground level.	No 1-bedroom apartments provided	NO
All apartments are to be designed to Silver Level under the Livable Housing Design Guidelines.	56 apartments are of silver level whilst, 7 achieve gold and 12 (16%) achieve platinum level.	YES
At least 15% of the dwellings (or part thereof) are to be designed to Platinum Level under the Livable Housing Design Guidelines.	Complies	YES
At least 70% of all dwellings are visitable.	Complies	YES
7C.5 – Building entries		
The residential flat building entry is to be clearly expressed using appropriate architectural elements.	Complies	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.	Complies	YES
Entry foyers are to be no more than 1m above ground level. Any ramped access required is to be integrated into the design of the building or landscape. Mechanical chairlifts and the like will not be accepted.	Complies	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.	Complies	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.	Complies	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.	Complies	YES
Lifts are to be directly visible from the building entry doorway.	Complies	YES
Lockable mailboxes are to be: provided close to the street; and be at 90 degrees to the street and to Australia Post standards; and integrated with front fences or building entries.	Complies	YES

On large development sites comprising multiple separate buildings, each building is to have its own clear entry with good sightlines. Way-finding signs are to be provided.	Insufficient information	NO
All entries are to be integrated into the external circulation pattern of the development.	Complies	YES
Building entry paths are to be minimum 1.2m wide and located within the common area with a minimum dimension of 1.2m on either side for landscape planting. Paths are to provide extra width at building entries to allow easy passing between pedestrians and to allow effective turning.	Complies	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.	Does not comply	NO
7C.6 – Building Form and Facades		
All building facades at ground level are to be designed to avoid the creation of entrapment areas.	Complies	YES
No single wall plane is to exceed 81m ² in area.	Does not comply	NO
The following are to be avoided on all building elevations: i) large flat walls; ii) undifferentiated window openings; iii) applied treatments; iv) one single predominant finish or material.	Does not comply	NO
All facades are to place entries, habitable room windows, and balconies so that they maximise outlook and passive surveillance of the street and to common areas surrounding the building.	Complies	YES
All building elements including shading devices, signage, drainage pipes awnings/colonnades and communication devices are to be coordinated and integrated into the overall facade design.	Complies	YES
Air conditioning condensers are to be located within the basement or within the roof structure of the upper most roof. Air conditioning condensers are not to be located on: i) the building façade; ii) the top of a flat roof; iii) terraces; iv) private or communal open spaces; or v) balconies.	Does not comply	NO
Telecommunication structures are to be located within roof structures or basements and not be visible from any road or public domain area.	Complies	YES
Screening between adjacent apartments is to be integrated into the overall building design.	Does not comply	NO

Notches, slots or indentations in the perimeter of the building are to be at least as wide as they are deep.	Complies	YES
Facade elements that result in poor architectural design outcomes for internal spaces, such as snorkel windows, are not permitted.	Complies	YES
All facades are to be designed to minimise on-going maintenance and weathering through measures such as: i) selecting appropriate robust materials/finishes; and ii) including appropriate building edge, balcony edge, sill, head and parapet detailing that demonstrates protection from prevailing weather and harsh solar aspects.	Does not comply.	NO
<i>Facade Articulation</i>		
All building facades are to be articulated with wall planes varying in depth by not less than 0.6m, and supplemented with architectural elements.	Complies	YES
Facade articulation is to be well composed with attractive proportions and coherent rhythms and integrated into the building form and structure. 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.	Does not comply	NO
Blade walls are not to be the sole element used to provide articulation.	Complies	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,	Complies	YES

upper floor balconies, and/or deciduous vegetation; ii) providing vertical shading to east and west windows, such as sliding screens, adjustable louvres, blinds and/or shutters; iii) providing shading to glazed and transparent roofs; iv) integration of shading devices with solar energy collection technology.												
Building Length												
The continuous length of a single building on any elevation is not to exceed 36m.	Does not comply	NO										
The length of a single building elevation facing the side or rear boundary may exceed 36m provided that: i) the façade is recessed in depth and width to appear as distinctive and separate building bays or wings; and ii) the recess is retained as common area with landscaping which includes at least one medium tree (at least 8m canopy diameter at maturity).	Does not comply	NO										
Balconies												
Balcony or terrace design may incorporate building elements such as pergolas, sun screens, shutters, operable walls and the like to respond to the street context, building orientation and residential amenity. The use of such building elements are not to enable the balcony or terrace to be used as a habitable room.	Complies	YES										
Balconies that run the full length of the building facade are not permitted.	Does not comply	NO										
Continuous transparent or translucent balustrades are not permitted to balconies or terraces.	Does not comply	NO										
Balconies are not to project more than 1.5m from the outermost wall of the building facade.	Does not comply	NO										
7C.7 – Building storeys												
Sites with the following maximum building heights under the KLEP are to have a maximum number of storeys above the basement as in the table below: <table><tr><th>Maximum building height</th><th>Maximum number of storeys</th></tr><tr><td>11.5m</td><td>3</td></tr><tr><td>14.5m</td><td>4</td></tr><tr><td>17.5m</td><td>5</td></tr><tr><td>20.5</td><td>6</td></tr></table>	Maximum building height	Maximum number of storeys	11.5m	3	14.5m	4	17.5m	5	20.5	6	Housing SEPP permits 6 - storeys.	NO
Maximum building height	Maximum number of storeys											
11.5m	3											
14.5m	4											
17.5m	5											
20.5	6											

23.5m	7		
On steep sites, the size of the floor plate is to reflect the topographic constraints.		Does not comply	NO
7C.8 – Top storey design and roof forms			
The top storey of a building is to be designed so that: i) the GFA of the top storey of a residential flat building does not exceed 60% of the GFA of the storey immediately below it; and ii) for the purposes of this section, the top storey applies to the building as a whole and does not apply to the top level of each part of a stepped building.		Complies	YES
The top storey of a building is to be set back a minimum of 2.4m from the outer face of the floors below on all sides (roof projection is allowed beyond the outer face of the top storey).		Complies	YES
The upper storeys of residential buildings are to be articulated with differentiated roof forms, maisonettes or mezzanine penthouses and the like.		Complies	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.		Complies	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 0.6m		Complies	YES
Where solar panels are provided they are to be integrated into the roof line or elevation.		Complies	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.		Complies	YES
Roof top gardens for private or communal use are encouraged.		Does not comply	NO
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.		Does not comply	NO

All external air clothes drying areas are to be screened and not be visible from any public domain area.	Insufficient information	YES
Storage volume calculation within laundry's is to exclude the space required to accommodate a washing tub, washing machine and dryer.	Compiles	YES
Where clothes drying is provided within private open space within a communal open space, its area is to be additional to that required for the private open space or communal open space.	Does not comply	NO
7C.10 – Fencing		
Front boundary fences and walls (to a public street) and side boundary fences within the street setback are not to be higher than: i) 0.9m if of closed construction (such as masonry, lapped and capped timber or brushwood fences); or ii) 1.2m if of open construction (such as open paling and picket fences).	Does not comply	NO
Closed front fences with a maximum height of 1.8m may be considered where the site fronts a busy road or other sources of undesirable noise. These fences are to be set back at least 2m from the front boundary and screened by landscaping.	Complies	YES
Fences and walls are to step down and follow the natural contours of the site.	Does not comply	NO
Hedges and shrub planting are preferred to the street frontage, but no higher than 1.2m along the entire front boundary, or 1.8m on a site fronting a busy road.	Complies	YES
All fencing is to be designed to highlight entrances and be compatible with buildings and letterbox areas.	Complies	YES
External finishes for fencing are to be robust and graffiti resistant.	Complies	YES
Ground floor private open space, courtyard and terrace wall and fence heights are not to exceed i) 1.2m to any street frontage ii) 1.8m to any side or rear boundary with a maximum 1.2m high solid component and a minimum 30% transparent component above.	Complies	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.	Does not comply	NO

Section B

Part 15 – Land Contamination

The Preliminary Site Investigation (PSI) report, dated 16 July 2025, prepared by Environmental Group Australia (EGA), referred to previous contamination assessments, including a Remedial Action Plan (RAP) dated 22 April 2025 and two Asbestos Materials Clearance Inspection Reports, dated 19 May 2025 and 6 June 2025.

The PSI found that historical land title searches revealed a low potential for contaminating land uses having occurred on the site. Given that all previously identified asbestos-containing materials have been removed as part of prior remediation works, EGA concluded that the site is suitable for the proposed redevelopment.

Based on the applicant's PSI, Council is satisfied that matters relating to previous contamination have been dealt with

Section C

Development Control	Proposed	Complies
Part 21 General Site Design		
21.1 – Earthworks and slope		
Development consider site topography, drainage, soli landscapes, flora, fauna and bushfire hazard by: - Stepping buildings down the site - Locate finished ground level as close to the natural ground level as practicable - Level changes to occur primarily within building footprint - Minimum 0.6 metres width between retaining walls - Maintain existing ground level within 2m from any boundary - Limit slope for embankments to 1:6 (grassed) and 1:3 (soil stabilising vegetation) - No fill and excavation within sensitive environments - Minimise altered groundwater flows	Does not comply	NO
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	Complies	YES
22.2 – General vehicle access		
Minimise width and number of vehicle access points	Complies	YES

• Access driveways set back at least 10m from street intersections and 3m from pedestrian entrances • Vehicle and pedestrian access to buildings clearly distinguished and separated. • Vehicle crossing width is acceptable for intensity of use proposed • Vehicles must exit in a forward direction • Vehicle entries are integrated into the external façade and are finished in a high quality material • Retaining walls associated with driveways maximum height of 1.2m • No driveways are longer than 30m unless a passing bay is provided		
22.3 – Basement car parking		
Logical and efficient basement design AS2890.1	Complies	YES
Appropriate ceiling floor to ceiling heights and ventilation provided: • 2.5m for parking area for people with a disability; • 2.6m for residential waste collection and manoeuvring area • 4.5m for commercial waste collection and manoeuvring area	Complies	YES
Basement is fully tanked	Complies	YES
Unimpeded access to visitor parking and waste recycling rooms	Complies	YES
Ventilation grilles and screening devices are integrated into the landscape design	Complies	YES
Vehicles access ways are not in close proximity to doors and windows of habitable room	Complies	YES
Safe and accessible intercom access provided	Complies	YES
22.4 – Visitor parking		
Visitor parking located behind a security grille with an intercom system to gain entry At least one visitor space is accessible and designed in accordance with AS2890.6	Complies	YES
22.5 – Parking for people with a disability		
Accessible spaces are signposted and have a continuous path of travel to the principal entrance or a lift	Complies	YES
22.6 – Pedestrian Movement within Car Parks		
Pathways designed in accordance with AS1428.1	Complies	YES
Marked pedestrian pathways have clear	Complies	YES

sightlines, appropriate lighting, are visible, conveniently located and constructed of non-slip material		
22.7 – Bicycle Parking and facilities		
Bicycle parking and storage facilities satisfy AS2890.3	Complies	YES
Bicycle access paths have a minimum width of 1.5metres	Complies	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	Does not comply	NO
Use of materials and colours creates well-proportioned facades and minimises visual bulk	Complies	YES
23.5 – Roof Terraces and Podiums		
Podiums and roof terraces are trafficable and support landscaping	Complies	YES
Roof & terrace common areas design encourage usage	Does not comply	NO
23.6 – Building Services		
Services and related structures are appropriately located to minimise streetscape impact	Complies	YES
Air-conditioning units are well screened and do not create adverse noise impacts	Complies	YES
23.7 – Acoustic Privacy		
Design minimises impact of internal and external noise sources	Does not comply	NO
Noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, or other mechanical ventilation systems and plant either as an individual piece of equipment or in combination shall not be audible within any habitable room in any residential premises before 7am and after 10pm. Outside of these restricted hours noise levels associated with air conditioning, kitchen, bathroom, laundry ventilation, or other mechanical ventilation systems and plant either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the boundary of the nearest potentially affected neighbouring properties. The background (LA90, 15 min) level is to be determined without the source noise present.	Does not comply	NO

23.8 – Visual Privacy		
Visual privacy maintained for occupants and for neighbouring dwellings	Does not comply	NO
23.9 – Construction, Demolition and Disposal		
Satisfactory Environmental Site Management Plan	Complies	YES

Part 24 – Water management

The application does not include sufficient information to satisfy Part 24 of the KDCP.

Housing and Productivity Contribution

If the Panel is of a mind to approve the application a Housing and Productivity Contribution would be required to be paid via condition.

Ku-ring-gai Contributions Plan 2010

If the Panel is of a mind to approve the application, a contribution is payable per the requirements of this plan.

REGULATION

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

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is not suitable for the proposed development for the reasons given throughout this report.

PUBLIC INTEREST

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

CONCLUSION

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

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, refuse development consent to eDA0485/25 for construction of a residential flat building, basement carparking and associated works on land at 46-50 Cowan Road, St Ives for the following reasons:

1. Inconsistency with the existing and desired future character

The development application does not satisfy Section 147(1)(a) of SEPP Housing. Section 147(1)(a) requires consideration of the quality of the design of the development, which is evaluated in accordance with the design principles for residential apartment development set out in Schedule 9, thereto.

Particulars

- a. Inadequate consideration of the 'range of scales' that apply to the Site and its local context, contrary to Part 1B of the ADG.
- b. The proposal fails to achieve Design Principle 1 'Context and Neighbourhood Character' in Schedule 9 of SEPP Housing. Schedule 9 (1) context and neighbourhood character (2) & (4) require proponents for development to consider:
 - (2) *Responding to context involves identifying the desirable elements of an area's existing or future character.*
 - (4) *Consideration of local context is important for all sites, including sites in the following areas—*
 - (a) *established areas,*
 - (b) *areas undergoing change,*
 - (c) *areas identified for change.*
- c. The proposal fails to achieve consistency with the desired future character because the site forms a bridge between land zoned RE2 to the west and RE3 to the east. Views currently afforded between the green space in both zones are critical for the retention of the heavily treed garden setting of St Ives.
- d. While a higher-density and larger-scale development is permitted on the site under Chapter 6 of SEPP Housing, due to its excessive bulk and in-efficiencies of internal planning and amenity, the maximum development potential indicated by the applicable development standards cannot be achieved whilst satisfying the relevant objectives of those standards.
- e. Inconsistency between stated design objectives and outcomes. 'Site Analysis - Sheet 02' illustrates 6 diagrams including: 01 Existing conditions, 02 Boundary setbacks, 03 A pair of buildings, 04 Stepping the form, 05 Podia scale and 06 Street wall scale. Three of these diagrams (04, 05 & 06) show Buildings A & B each divided into two separate buildings, thereby delivering a total of 4 buildings to the site. 04 'Stepping the Form' labels the in-between space a 'recessive zone'. This zone crosses Building A from the north to the south, dividing the building in half. The same zone marking is shown on Building B. As the diagram shows, this is more than a recessive zone. It is

a complete break. The provision of this mid-block north-south through-way also references the approved development proposal. It is unclear how the directions identified in these 3 key diagrams are not reflected in the subsequent built-form outcome. The resulting urban form of 4 buildings on the site might deliver a better urban scale and greater internal amenity. It would deliver smaller building forms and greater permeability for solar access, ventilation and visual relief.

2. Design quality and Apartment Design Guide

The Development Application fails to comply with Section 147(1)(a) and Section 175(2) in SEPP Housing, the Apartment Design Guide and the Design Principles in Schedule 9 in SEPP Housing.

Particulars

- a. Section 147(1)(a) of SEPP Housing requires consideration of the quality of the design of the development, which is evaluated in accordance with the design principles for residential apartment development set out in Schedule 9, thereto.
- b. Section 175(2) of SEPP Housing requires the consent authority to be satisfied that development for the purposes of a residential flat building with a height of up to 22m must have 6 storeys or fewer. The proposal is 7 storeys, the top floor level being Level 5 which exceeds the 22m height standard. The proposal must not exceed 6 storeys.
- c. The proposal fails to achieve Design Principle 8 'Housing diversity and social interaction' in Schedule 9 of SEPP Housing. Schedule 9 (8) Housing diversity and social interaction (1) & (2) require proponents for development to consider:
 - (1) *Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets*
 - (2) *Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.*
- d. The proposal fails to achieve consistency with housing diversity and social interaction because:
 - i. The development is likely to cater exclusively to an upper-level socio-economic demographic. A total of 75 dwellings are proposed in two buildings. This includes the following mix of apartments: five 2-bedroom apartments, sixty five 3-bedroom apartments, and five 4-bedroom apartments. The development makes no provision for 1-bedroom apartments. 93% of all dwellings in the 2 buildings, therefore, are made up of larger family-oriented apartments.
 - ii. The development does not provide adequate housing choice for lower-income singles or couples, be they younger generations looking to enter the housing market or older generations looking to down-size but with insufficient financial capacity for a large dwelling.

3. Inadequate site analysis

The site analysis prepared in support of the Development Application is inadequate to permit a fulsome assessment of the application, which is contrary to Part 1B and 3A of the ADG and Part 2.1 Objectives 2, 5, 7 in KDCP.

Particulars

- a. The site analysis lacks detail and fails to describe the high quality characteristics of the locality. The site analysis fails to:
 - i. adequately describe the site's surrounding urban context and does not adequately consider the site's character or the amenity of the site's future occupants or for the current occupants of adjoining properties;
 - ii. encourage good site planning informed by an understanding of the site's context, fails to adequately consider the amenity of users of the site and adjoining sites including the potential zone interface impacts and fails to adequately ensure that the design response is well founded and responsive to the context of the site (KDCP Part 2.1, Objectives 2, 5, 7 and 8;
 - iii. adequately demonstrate that the design response proposed in the Development Application is well founded and responsive to the specific context of the site, contrary to KDCP Part 2.1, Objectives 2, 5, 7 and 8;
 - iv. include studies of the streetscape including depictions of existing setbacks, with specific reference to areas of deep soil planting, which characterise the local context.
 - v. properly identify and respond to key view corridors and visual connections between William Cowan Oval, the Site and Pymble Golf Club. Visual connection between is promoted as being a key design feature of the development (part of the SEE). In reality, any visual connections will be obscured by the placement of the common building entry between Buildings A & B. The provision of a visual green connection from William Cowan Oval (WCO) through to Pymble Golf Club is a positive urban design gesture. It does not achieve the stated objective, however. Sightlines from the public domain of the street and WCO are obscured by the mid-block entry and reception between Buildings A&B. Views through to the Pymble Golf Club should be retained from the public domain of Cowan Road (and its adjacent open space) in line with the Applicant's stated objectives;
 - vi. identify the local character and the areas under transition. The proposal fails to adopt the recommendations in Planning Circular PS 21-026 that encourage new development to respond to local character in areas where the existing character is valued by the community, where "there are opportunities to plan for the enhancement of that character for the enjoyment of existing and future residents".

The site analysis correctly identifies the need to maintain solar access to the neighbouring site at No 32 Cowan Road. But it is unclear how the proposed design scheme achieves this objective (See Reasons 9 and 12).

4. Excessive building height

The proposed development contravenes the maximum height of buildings development standards in Clause 4.3 Height of buildings of the Ku-ring-gai Local Environmental Plan 2015 (**KLEP 2015**) and the non-discretionary height standard in Chapter 6 of State Environmental Planning Policy (Housing) 2021 (**Housing SEPP**), and the Clause 4.6 written request does not satisfy Clause 4.6 of KLEP 2015 or clause 35B of the *Environmental Planning and Assessment Regulation 2021*.

Particulars

- a. Clause 4.3 of KLEP 2015 prescribes a maximum building height of 11.5 metres for the site, as shown on the Height of Buildings Map.
- b. Chapter 6 of the Housing SEPP applies to the site as “low and mid rise housing inner area” in Zone R3 Medium Density Residential and provides, for residential flat buildings, a non-discretionary maximum building height development standard of 22 metres and an associated development standard that buildings up to 22 metres must have six storeys or fewer.
- c. The Clause 4.6 variation request acknowledges that, as a result of the site’s topography and the irregular existing ground levels following prior site preparation works, the proposed development has a maximum height of 24.03 metres at Building A, being a variation of 12.53 metres above the LEP standard and 2.03 metres (approximately 9.2 per cent) above the Housing SEPP non-discretionary standard, and that Building B exceeds the 22 metre standard by 0.39 metres (about 1.7 per cent) due to the lift overrun and mechanical plant. It further acknowledges that, because of the stepping of the built form, a minor portion of the buildings presents as seven storeys.
- d. The Clause 4.6 variation request does not demonstrate that compliance with the 11.5 metre and 22 metre height development standards is unreasonable or unnecessary in the circumstances of the case.
- e. The Clause 4.6 variation request does not identify sufficient environmental planning grounds that are particular to this site to justify the contravention of the height standards, as required by Clause 4.6(3)(b).
- f. The Clause 4.6 variation request does not demonstrate consistency with the objectives of Clause 4.3 of KLEP 2015 and the Chapter 6 aim of the Housing SEPP notwithstanding the contravention.
- g. The Proposal fails to achieve the relevant objective in Clause 4.4(1a) of the Ku-ring-gai LEP, which states:

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.
- h. The failure to satisfy the Housing SEPP non-discretionary standard means that the consent authority retains its full discretion to refuse the application on height grounds, and Clause 4.6 cannot be used to confer a non-refusal obligation where the non-discretionary standard is not met.
- i. In these circumstances, neither the consent authority nor the Court on appeal can be satisfied for the purposes of Clause 4.6(4) of KLEP 2015 and Clause 35B of the Regulation that:
 - i. compliance with the height of buildings development standards is unreasonable or unnecessary in the circumstances of the case; or
 - ii. there are sufficient environmental planning grounds to justify the extent of the contraventions; or
 - iii. the proposed development is consistent with the objectives of the height of buildings development standards in KLEP 2015 and the aim of Chapter 6 of the Housing SEPP notwithstanding the non-compliance.

- j. Accordingly, the Development Application must be refused because there is no valid basis to grant consent to development that contravenes both the LEP and Housing SEPP height of buildings and number of storeys development standards in reliance on an inadequate Clause 4.6 variation request.
- k. A section plan needs to be provided through the lift core and lobby to further clarify the maximum height of the building.

5. Gross floor area is unclear

The floor space ratio exceeds the maximum specified in the SEPP (Housing) and no Clause 4.6 variation request has been submitted in this respect. Further, inadequate detail has been provided to support excluded areas from the GFA diagrams.

Particulars

- a. Rooms dedicated to building manager, toilets and generic storage on level Lower Ground should be included in GFA.
- b. Common circulation space at Lower Ground and Upper Ground levels should be included in GFA.
- c. The proposed car parking projects more than 1 metre above ground level. This design is contrary to KDCP Part 7B.1 Control 1, as the car parking (or access to that car parking) is not located within a basement and Council's position is that this means this component of the parking is not parking provided "to meet any requirements of the consent authority" per the definition in KLEP, given that it is inconsistent with those requirements, it is not excluded from GFA.

6. Inadequate building setbacks and building separation

The proposal fails to comply with the numerical setback controls in Part 7A.3 of KDCP, the consideration guidance in part 2G in the ADG and the building separation controls in Part 7A.4 of KDCP and Part 2F in the ADG.

Particulars

- a. The setback lines are not clearly shown and/or are missing from the basement, lower ground and upper ground floor plans.
- b. The basement levels encroach significantly into the front setback and side setback areas which does not comply with Control 11 in Part 7A.3 in KDCP. No justification has been provided to support this variation.
- c. The ground floor terraces encroach significantly into the 8m front setback area. The justification provided for this variation is not accepted as the proposal fails to achieve sufficient deep soil, high quality landscape outcomes and does not comply with Control 12(i) in Part 7A.3 KDCP.
- d. The front elevation fails to provide a 2 metres articulation zone behind the 10 metres street setback. The 2 metres articulation zone must be provided to each building in accordance with Figure 7A.1-1 in Part 7A.5 KDCP. No justification has been provided to support this variation.

- e. The rear boundary adjoins Pymble Golf Club which is zoned RE2 'Private Recreation'. The objectives of this zone are:
 - *To enable land to be used for private open space or recreational purposes.*
 - *To provide a range of recreational settings and activities and compatible land uses.*
 - *To protect and enhance the natural environment for recreational purposes.*
- f. The proposal fails to identify the relevant Controls (Controls 9 and 10) in Part 7A.3 in KDCP which require a rear setback to a zone interface to be 9 metres up to the fourth storey and to be 12 metres from the fifth storey and above. Therefore, the justification provided for this variation on page 39 of the SEE is unacceptable.
- g. The maximum variation proposed on the rear setback is 3 metres up to the fourth storey and 3 metres from the fifth storey and above. These variations are not acceptable as the bulk and scale presented toward the Pymble Golf Club will result in the following adverse impacts:
 - i. derogation from the scale of existing adjoining buildings,
 - ii. unreasonable privacy impacts to future residents of the proposed development,
 - iii. high reflectivity and inability to blend into the existing landscape character and tree dominated threshold that defines the eastern border of Pymble Golf Club,
 - iv. compromised deep soil and tree canopy outcomes,
 - v. all of which prevent the development from satisfying objective 3 in the RE2 Zone.
- h. The rear setback must be increased in order to satisfy objective 3 in the RE2 Zone '*To protect and enhance the natural environment for recreational purposes*'.
- i. The proposal fails to comply with Control 2 (iv) in Part 7A.4 of KDCP and Part 2F of the ADG which requires 18 metres of separation between habitable rooms/balconies from Level 5 and above. The proposed 6 metres (33.33%) variation is not acceptable nor is the reliance on screening an acceptable solution.
- j. The proposed setback to Cowan Road fails to achieve high quality landscape outcomes and is therefore inconsistent with the existing character of the neighbourhood. Additional articulation is required in order to create a transitional threshold from the public domain to the ground floor terraces that encroach into the front setback area. This reliance on fencing/screening is not acceptable.

7. Adverse bulk, scale and building form

The proposal fails to respond to the topography of the site and does not present a built form that is sympathetic to the local context. The cumulative impact of these design failures results in a building that is incompatible with the sites' constraints.

Particulars

- a. The proposal fails to consolidate the basement beneath the building footprint and within the required setback areas. Basement projections more than 1m above ground level contribute to unreasonable bulk and scale that is unable to be adequately screened from the neighbouring properties.
- b. The relationship between the proposal and development within the neighbouring development in terms of the number of storeys, streetscape presentation, bulk and scale has not been adequately considered. This results in a failure to adequately achieve a high standard of amenity for future residents, a failure to adequately

minimise impacts on the amenity of neighbouring sites and a failure to adequately ensure that visual amenity is preserved to neighbouring developments (KDCP Part 7A.2, Objectives 7, 8).

- c. Control 15 in Part 7C.6 in KDCP specifies a maximum continuous wall length of 36 metres. Walls that exceed 36 metres include:
 - i. Southern elevation, Building A (levels UG, 01, 04)
 - ii. Northern elevation, Building B (levels 04, 05)

8. Unsatisfactory apartment sizes and layouts

The proposal contravenes ADG Objective 4D-2.

Particulars

- a. ADG Objective 4D-2 (2) states that: *in open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.* Apartments A0102, A0104, A0105, A0202, A0204 & A0206, A0302, A0305, A0405, B0102, B0105, B0202, B0205, B0302, B0305, B0401, B0404 appear to exceed the maximum habitable room depth. To ensure that this dimension allows adequate daylight to the furthest most point of a floorplan, the window should ideally be located on the building façade. Windows that are set back on the inside of balconies and/or have a south-facing orientation will make compliance even harder to achieve.
- b. MPR (understood to be Multi Purpose Room) and/or study with no natural light or ventilation. Insufficient information to describe size and use. The rooms appear to be big enough to be converted/used as (non-compliant) bedrooms.
- c. In Building A, 26 apartments (nominally 70% of total) have fully internalised rooms that receive no natural light or ventilation. This includes ALG01, ALG02, ALG03.
- d. In Building B, 25 apartments (nominally 70% of total) have fully internalised rooms that receive no natural light or ventilation. This includes BLG01, BLG02, BLG03, BUG01, BUG02, BUG03, BUG04, BUG06, B0101, B0102, B0103, B0104, B0106, B0201, B0202, B0203, B0204, B0206, B0301, B0302, B0303, B0304, B0306, B0403, B0405.

9. Inadequate residential amenity and solar access

The proposal contravenes ADG Objective 4A.

Particulars

- a. Insufficient information to verify compliance with ADG Objective 4D-1 (2)
 - i) *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.*
- b. The proposed development includes bedrooms with small narrow windows that are recessed inside from the building façade (at the rear of balconies).
- c. A total of 22 apartments (29% of the total number of 75) have windows (including very narrow slot windows) that are recessed on the inside of deep balconies up to 6m from the façade (and source of daylight).

- d. Bedroom windows of BLG 03 and ALG01 front onto COS, 1-2m distant from solid walls to stairs (exterior common use) and/or services. Acoustic and visual amenity is inadequate.
- e. Insufficient information has been provided to demonstrate compliance with ADG Objective 4A. Direct sunlight to primary windows of living rooms needs to be demonstrated. The primary windows of many apartments are recessed behind deep balconies or rely on narrow side boundary-facing windows therefore negating the benefits of any worthwhile solar orientation. For example, to meet the level of solar compliance shown on *SOLAR AMENITY DIAGRAMS - SHEET 01* it would seem likely that 2 out of every 3 west-facing apartments in Buildings A & B rely solely on solar access from the west. The living rooms are recessed behind balconies that are between 3-6m in depth. The north-west unit of Building A has a balcony that is 6-8m deep. This would make it difficult if not impossible for the living spaces in these apartments to achieve the requisite 2 hours. It should also be noted that any sunlight derived through skylights is not recognized under the ADG and cannot be considered as part of any calculations to achieve compliance. The effects of any overshadowing from Building B to A also need to be demonstrated with regard to any side-facing living room windows that are being relied on (in Building A) to meet solar compliance.

10. Non-compliant common circulation

The proposal contravenes ADG Objective 4F-1.

Particulars

- a. Windows are to be provided in common circulation areas and preferably adjacent to stair and lift core. The common areas of Buildings A & B on the Lower Ground and Upper Ground levels receive no natural light.

11. Non-compliant Communal Open Space provision

The proposal contravenes ADG Objective 3D-1 (2).

Particulars

- a. The development appears to equate COS with what might be otherwise be referred to as left-over space (at the periphery of the development and on top of a basement at the middle) or what is left after site coverage is deducted from the site area. These spaces are not considered high quality communal open spaces and would better serve the site by incorporating landscape elements.
- b. The COS suffers from a combination of poor useability, accessibility, solar access and privacy. A significant proportion of the COS is located along the rear setback (which is nominally 2m wide), street frontage or at the building entry. This COS is not readily useable. The COS located at the rear and side will be difficult to access and its narrowness and proximity to adjacent POS will diminish its useability. The open space along the rear setback does not achieve minimum ADG dimension (3m) and for a development of this scale and size it should arguably be greater than the minimum.
- c. The principle useable COS appears to be located at the centre of the site, between Buildings A and B. This space, however, does not benefit from solar access. Objective 3D-1 (2) of the ADG requires developments to achieve a minimum of 50% direct

sunlight to the principle useable part of the communal open space for a min 2hrs between 9&3pm mid-winter.

- d. Design guidance also calls for COS to have a minimum dimension of 3m and larger developments (such as this one) should consider greater dimensions.
- e. Direct, equitable access should be provided to COS from common circulation areas, entries and lobbies.

12. Unsatisfactory neighbour amenity impacts due to height exceedance, over shadowing and vehicular carpark access

Adequate solar modelling has not been provided to compare a compliant building envelope with the proposed building envelope, and because the vehicular access is not substantially integrated into the building design and fails to accommodate utilities, services and staircases that encroach into the southern setback.

Particulars

- a. Sufficient information has not been provided regarding overshadowing impacts. The full extent of overshadowing of the neighbouring property to the south at 30-32 Cowan Road requires further documentation to verify that ADG solar access is being provided in line with the ADG. The applicant notes that: *“Shadow modelling was undertaken to evaluate solar access impacts to the living rooms, primary private open spaces and any communal open spaces (referred to as units) at the apartment building at 30–32 Cowan Road. The apartment building contains 7 dwellings. The modelling confirmed that...71% of the apartment block retains a minimum of two hours of direct solar access to their primary living areas and private open spaces between 9am and 3pm on the Winter Solstice (21 June).”* Drawings (and most critically elevations of the neighbouring building) are to be provided to substantiate the above claims.
- b. The residents’ action group (CRAW) have identified visual, acoustic and odour concerns (to residents of 30-32 Cowan Road) resulting from the proximity of the carpark entry ramp on the south-east of Building A. The entry ramp serves a 3-level basement carpark and 178 car spaces. In addition, it provides access to Small Rigid Vehicles (SRVs) for waste servicing and deliveries. The blank wall presented to the neighbouring property to the south is approximately 30m long. This distance corresponds to the total length of the neighbouring building along this side of the property, so for all residents of 30-32 Cowan Road who have windows facing north, their outlook will be to a brick wall. Some of this wall provides ventilation to the carpark. At its highest point it is 3 storeys high. The ramp rises 2.5m in height parallel to this boundary wall, from the loading dock to the street. SRV loading bay as well as waste storage and loading are located on this boundary wall. There is the potential for noise and fumes from accelerating vehicles.
- c. The length of the driveway fails to comply with Control 8 in Part 7A.2 of KDCP which prohibits long straight driveways.
- d. The car park entry is not sufficiently integrated within the building, due to the large retaining wall on the southern elevation and the encroachment into the 10 metres front setback zone on the south eastern corner. The design fails to comply with Controls 12 and 14 in Part 22.2 of KDCP.

- e. The location of the driveway prevents the development from achieving deep soil landscaping in the southern side setback. Due to the presence of car-park exhaust vents, sub-stations and staircases. The driveway design/location is not capable of satisfying Objectives 6, 7, 11, 14 (the key objectives) and in lieu of compliance with Control 8 in Part 7A.2 cannot be accepted.

13. Insufficient tree canopy and deep soil

The consent authority cannot be satisfied that proper regard has been had to the Tree Canopy Guide for Low and Mid Rise Housing, as required by clause 177(2) of Part 4, Chapter 6 of SEPP (Housing) 2021. In particular, the proposal is inconsistent with the minimum tree canopy and landscaping outcomes identified in Table 7 of the Guide and fails to deliver the intended increases in tree canopy, improved amenity and a landscape character that is consistent with the prevailing character of the locality.

Particulars

- a. The deep soil area provision with minimum 3 metres dimensions results in 817.5sqm (13.8% of the site area instead of 15%.)
- b. Based on the review of the available deep soil areas, it is considered that the proposal does not achieve the minimum required amount of deep soil landscaping or canopy cover necessary to satisfy the SEPP requirements. The proposed tree planting in deep soil does not meet the required planting rate, which specifies the inclusion of at least 11 large trees, or an equivalent combination of large and medium trees in suitable size deep soil areas.

14. Deep soil zones - ADG

The proposed deep soil areas do not comply with the requirements of Part 3E Deep soil zones of the Apartment Design Guide (ADG).

Particulars:

- a. Architectural Drawing No. PLA-DA-10B1 (Revision A) identifies deep soil zones; however, these areas do not achieve the required minimum 15% of the site area with a 6 metre minimum dimension, applicable to sites with an area over 1,500 m².
- b. The minimal dimensions of proposed deep soil areas and the fragmentation with services, below ground structures, the paths, and protrusion of private open spaces on available deep soil areas along the rear of the site prevents the establishment of tall canopy trees and diminishes the environmental and amenity benefits that continuous deep soil areas are intended to deliver. The outcome is inconsistent with the ADG objectives to support landscape character, urban ecology, and residential amenity.

15. Deep soil area: KDCP

The proposal fails to meet the minimum deep soil required of 50% of the site area as per Clause 1 in Part 7A.6 of the KDCP:

Particulars

- a. The proposal delivers a total deep soil area of 1,090.4m², equivalent to 18.46% of the site area as per KDCP landscape definition:

Deep soil landscaping is defined as the soft landscaped part of the site area that is; not occupied by any structure whether above or below the surface of the ground except for minor structures such as: paths to 1.2m wide, stormwater pipes of 300mm or less, lightweight fences; has a minimum width of 2.0m; is not used for car parking; and can be used for water sensitive urban design.

- b. The deficit in deep soil provision results in the following issues:
 - i. The development fails to contribute to the intended garden character of the locality.
 - ii. The landscape design is not in scale with the bulk of the proposed development or consistent with the surrounding context.
 - iii. The limited deep soil areas do not allow the inclusion of tall canopy trees, particularly within the site frontage where they are critical to achieving streetscape amenity and long-term tree canopy outcomes.
 - iv. The inclusion of Private Open Spaces, ground structures and underground services within the provided deep soil areas would diminish the area for deep root development.

16. Tree retention and layout

The configuration of the proposal layout fails to retain healthy and significant trees on the site and adjoining sites and thereby fails to meet with Clause 2 in Part 7A.6 of the KDCP.

Particulars

- a. The impacts of the proposed structures on T25 *Magnolia x soulangiana* (Magnolia), and on T22 *Cedrus deodara* (Himalayan Cedar) present major encroachment and are not acceptable for retention under AS4970-2025.
- b. The removal of Tree 34 *Ginkgo biloba* (Maiden-hair Tree), located in the north-western corner of the site, is not supported. The tree is in good health and provides amenity to neighbouring properties and the Pymble Golf Club. As it is situated at the periphery of the site, minor amendments to the proposed building envelope would allow its retention. The design should be revised to incorporate Tree 34 *Ginkgo biloba* (Maiden-hair Tree) into the proposal.

17. Deep soil and landscaped buffers

The proposal does not provide sufficient deep soil with landscaping in common areas to provide a buffer between buildings and soften their bulk and scale. The proposal does not satisfy C3 and C4. in Part 7A.6 of the KDCP.

Particulars

- a. Several identified deep soil areas appear to be located within private open spaces, with fencing and potentially retaining walls subdividing these zones. This limits the available space for meaningful tree planting.
- b. Trees intended to provide amenity and act as a buffer between the building and the streetscape should be positioned within areas of communal ownership, ensuring proper maintenance and the long-term viability of the planting.

18. Inadequate tree replenishment

The proposal fails to provide the minimum tree replenishment for this development site to satisfy C7-C9 in Part 7A.6 of the KDCP.

Particulars

- a. The development proposal shall include at least twenty tall trees capable of attaining a minimum mature height of 18 metres in local conditions. The submitted landscape plan includes sixteen tall trees in the plant schedule within the landscape plan; however, the proposed location of all these trees could not be properly identified and assessed due to the poor graphic of the submitted documentation. The proposed tree planting seems to be unsuitable because:
 - i. Proposed trees are proposed to be planted within an inadequate area of deep soil to support the tree's full development,
 - ii. New trees are proposed to be planted too close to site boundaries, and
 - iii. The located of new trees are in conflict with proposed structures.
- b. To ensure successful establishment and long-term retention, tall trees need to be located only within deep soil areas of minimum 6 metres in dimension and must be positioned a minimum of 2 metres from any boundary and 4 metres from any existing or proposed structures.
- c. The landscape plan should detail:
 - i. provide at least twenty tall trees in compliant deep soil areas,
 - ii. select appropriate species consistent with the local landscape character, and
 - iii. ensure their placement allows adequate space for mature growth without conflict with structures or services.
- d. The deep soil areas provided are unsuitable to support a garden setting that is in scale with the proposed building. (refer to C8 in Part 7A.6 of the KDCP). The proposal includes only five indigenous trees. To satisfy C8 at least 50% of the proposed tall trees shall be part of the local vegetation communities, Blue Gum High Forest and Sydney Turpentine -Ironbark. Recommended tall trees from these communities are: *Angophora costata*, *Syncarpia glomulifera*, *Eucalyptus saligna*, *Eucalyptus pilularis*, and *Eucalyptus paniculata*.

19. Inadequate Landscape design

The proposal fails to satisfy Objectives 4O-1 and 4O-2 of the ADG.

Particulars

- a. For a site of this scale, the proposal is required to provide at least twelve tall trees capable of reaching a mature height of 13–18 metres within appropriately sized deep soil areas. While the submitted landscape plan includes a number of tall trees, the location between numerous structures will present conflict with these structures in the future or will not allow the tree's ability to achieve full, healthy development. The current layout cannot adequately support the required number of tall trees for this site.
- b. The proposal does not incorporate any Water Sensitive Urban Design (WSUD) landscape elements within the overall site. Under the Apartment Design Guide (ADG), Part 5F, WSUD measures are encouraged to manage stormwater on-site,

improve water quality, and contribute to sustainable landscape outcomes. The absence of such measures represents a missed opportunity to align the development with the ADG objectives for environmentally responsive design.

- c. The landscape plan does not include an ongoing maintenance strategy. Details regarding drainage for planters and irrigation for all planting above structures have not been provided, preventing assessment of the suitability and long-term viability of the proposed landscape design.
- d. The landscape design does not adequately enhance streetscape or residential amenity. Deep soil areas are fragmented rather than consolidated, limiting the ability to plant tall trees in deep soil. As a result, the proposal cannot provide sufficient buffer planting to soften the scale of the development or contribute positively to the streetscape.

20. Excessive cut and fill

The proposal does not satisfy Part 21.1 of the KDCP.

Particulars

- a. The proposed landscape cut and fill exceed the maximum acceptable and are not justified. Terraces need to be reduced, stepped down, and to provide a more integrated design with the existing natural ground levels:
 - i. The finished floor levels of units and terraces along the front setback are proposed to be below the natural ground levels by 550mm (North) to 800mm (South).
 - ii. The finished floor levels of the units and terraces facing the rear of the site - interface with Pymble Golf Club are proposed to be above natural ground levels by 1.05m to 1.5m.
- b. The existing ground level has not been maintained within 2 m of the boundary, further limiting the potential for suitable deep soil landscaping.
- c. Several structures are proposed within the setbacks, including the carpark intake air supply (northern setback), extensive bin storage (southern setback), raised private open spaces and terraces of ground-level units along both frontages and stairs and retaining walls to access the link park. These structures are not to be located within the setbacks.
- d. The proposed lawn along the path connecting the foyer and link park to the Pymble Golf Club is not suitable for its intended use. The area is shaded and spatially constrained, conditions under which turf is unlikely to establish or be maintained successfully.

21. Inadequate assessment of tree impacts

The proposed development will have unacceptable impacts on Tree 25 on the site and Tree 22 on the Pymble Golf Club land, and the submitted Arboricultural Impact Assessment understates and fails to adequately address such impacts.

Particulars

- a. T25 *Magnolia x soulangiana* (Magnolia), located in the rear of the site, adjacent to the Pymble Golf Club.

- i. The proposed retaining wall and fence around the terrace of Unit ALG.01 will encroach into the TPZ by 21.9 sqm (37%) and into the SRZ by 20% which is a major encroachment and unsuitable for retention under AS4970-2025. The submitted AIA does not identify the proposed works in the ground level as an impact on this tree. Reduce the encroachment to an acceptable level. This will require the relocation/redesign of the proposed retaining walls and private open space of Unit ALG.01 to reduce the excavation to no more than 10% of the TPZ to retain this tree.
- b. T22 *Cedrus deodara*, located in the fairways of Pymble Golf Club adjacent to the rear boundary of the site.
 - i. The proposed retaining walls, raised terrace, and fence around terrace of unit ALG.03 will encroach into the TPZ by 37.6 sqm (14.39%) which is a major encroachment and unsuitable for retention under AS4970-2025. The submitted AIA does not identify the proposed works in the ground level as an impact on this tree.
 - ii. Redesign is required to reduce the encroachment to an acceptable level. This will require the relocation/redesign of the proposed retaining walls and private open space of Unit ALG.03 to reduce the excavation to no more than 10% of the TPZ to retain this tree.

22. Poor aesthetics and maintenance

The proposed elevations fail to satisfy key Apartment Design Guide and Ku-ring-gai DCP provisions.

Particulars

- a. Balustrade materials and finishes
 - i. Translucent balustrades are unacceptable. This is inconsistent with Apartment Design Guide requirements at Part 4E.3 where fully glazed balcony balustrades are not supported due to impacts on resident visual privacy when viewed to and from the development from the public domain (Pymble Golf Club) and neighbouring properties.
 - ii. Operable screens and/or elements of partially solid upstands with glazing and handrails are to be demonstrated.

23. Poor water proofing and accessibility

The proposal fails to demonstrate that waterproofing measures for wet areas and access routes have been designed to meet current requirements and anticipated NCC 2025 amendments in an integrated way with accessibility requirements, resulting in an unacceptable risk of non-compliance and future building performance issues.

Particulars

- a. Floor-to-floor height
 - i. Current industry advice is that 3.2 metres floor-to-floor heights are the minimum needed to meet new requirements where wet areas are vertically aligned through the building. Additional height may be required where extensive areas of terraces are above habitable rooms below and where accessible paths of travel are required, such as for Platinum Level units, access to communal open spaces, and storeys significantly set in from the building edge of floors below.

24. Public interest

The proposal is not in the public interest for the reasons outlined above.

Particulars

- a. The proposed development was notified in accordance with the Ku-ring-gai Community Participation Plan.
- b. The proposed development should be refused on the basis of the submissions that have been received by Council to the extent that such submissions are consistent with the reasons set out above.

25. Insufficient information

Insufficient information has been provided in the application to enable a comprehensive assessment.

Particulars

Acoustic amenity

- a. Insufficient information has been provided in the Development Application to enable a proper assessment of the likely noise impacts from the proposed rooftop mechanical plant on surrounding sensitive receivers. An updated acoustic report is required that specifically assesses the proposed rooftop plant layout and its cumulative noise impact at all surrounding sensitive receivers.

Landscaping

- b. The link park has soil depths ranging from 760 to 920mm (excluding subfloor drainage), which only allows for small trees up to 6 metres in height.
- c. No planting is proposed around the built form, so the softening of the development relies solely on the tall trees in deep soil.
- d. Planting on roof areas in isolated locations is ineffective; peripheral planting along roof edges is recommended to provide meaningful greenery visible from the streetscape and neighbouring properties.
- e. The proposed roof planting does not constitute a true green roof, offering limited sustainability or amenity benefits.
- f. Rooftop and communal open space should be explored, considering current limitations:
- g. Deep soil provision is very limited and should be increased to meet SEPP, ADG, and local DCP requirements.
- h. The “link park” primarily serves as a circulation path rather than a usable communal space for residents.
- i. Stormwater details shown on the landscape plans are not consistent with the structures and design elements depicted in the stormwater plans.
- j. Additionally, the top of walls and finished surface levels indicated in the landscape plans are inconsistent with the levels and details provided in the architectural drawings.
- k. The submitted landscape plans present information that is difficult to interpret, particularly regarding the proposed canopy trees. The location of proposed trees is not clearly labelled, and there are inconsistencies between the various plans within the same drawing set, including the master landscape plan, planting plans, tree replacement plan, and detailed plans. Consistency and clarity for assessment is required for proper assessment.

Water management

- l. Detailed design and longitudinal section of the OSR tank must be provided.
- m. The OSD site storage requirement on the plan states volume provided is 150m³ whilst the conclusion within the report states the volume is 186m³. Clarification is sought.
- n. A high level overflow pipe from the OSD is to be provided and connected to the proposed pipe network system as well as an emergency overflow weir constructed within the tank.
- o. No supporting hydraulic calculation submitted to demonstrate compliance with Part 24C.3-4 of the Ku-ring-gai DCP that requires rainwater retention and re-use to be provided to achieve a 50% reduction in runoff days. A water balance model has not been submitted.
- p. No stormwater disposal system has been submitted for the basement levels.
- q. 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. Design details of the tank and supporting calculations must be shown on the stormwater plan with the rising main conveyed to the OSD tank.
- r. Water quality measures are to be indicated on the drawings showing the Ocean Protect 'Oceanguards'.
- s. Provide invert levels and surface levels of all stormwater pits within the site.

Parking and traffic

- t. A cumulative impact assessment of this application, the State Significant Development Application for 5-9 Cowan Road (SSD-88948458) and the Pymble Golf Club Planning Proposal shall be undertaken for the intersection of Mona Vale Road and Cowan Road/Shinfield Avenue, and the intersection of Killeaton Street and Cowan Road, with particular attention to delays and queue lengths on the Cowan Road approaches.
- u. Clarification is to be provided regarding the proposed construction vehicle routes to support the Construction Management Plan.
- v. Clarification is to be provided as to whether the loading bays are connected internally to the Lower Ground Floor level, and if practical access for residents to collect larger parcels or groceries is possible from this location. A Loading Bay and Deliveries Management Plan would be required so that there is coordination between the loading dock/home deliveries/groceries etc., and residents.
- w. Clarification is to be provided that the planting next to the access point in the area of the sight triangles to pedestrians will not impact on sight lines.
- x. Basement wall thickness should be specified to demonstrate capability to accommodate a wet wall, separated cavity to an internal dry wall. Section drawings do not demonstrate realistic structural allowances and excavation area for required wall thickness and external drainage.