

Clause 23 of SEPP 53 identifies the land that is subject to Part 4 of SEPP 53, as land described in Schedule 4 of SEPP 53.

Schedule 4 of SEPP 53 permits multi-unit housing on each of the six identified sites contained within the Ku-ring-gai Reference Plan (KRP) and makes the Minister the consent authority for multi-unit housing.

Clause 26 of SEPP 53, prescribes that the deemed development standards in the Ku-ring-gai Reference Plan (KRP) apply to the six sites despite any development standard in the Ku-ring-gai Planning Scheme Ordinance (KPSO).

However, a number of development standards in the KPSO remain a relevant consideration under section 79C of the Act as they are not inconsistent with the deemed development standards within the SEPP 53 documents.

The SEPP 53 Development Control Design Guidelines (DCDG) and Council's DCPs both apply to the site. If an inconsistency between the two occurs, the provisions of the DCDG would override those of the DCP in accordance with clause 1, sub-clause 5 of Schedule 4 of SEPP 53.

4.3 CONSENT AUTHORITY

The Department has exhibited the Environmental Assessment (EA) in accordance with section 75N of the *Environmental Planning and Assessment Act 1979* (which refers to Section 75H(3) of the Act), as described in section 6 below.

The project meets the requirements of the Major Projects SEPP therefore, the Department has met its legal obligations and the project can be determined.

The Minister for Planning's Instrument of Delegation dated 18 November 2008 was gazetted on 5 December 2008 and delegates the Minister's functions under section 75J of the EP&A Act for project applications to which a statement has been made disclosing a reportable political donation to the Planning Assessment Commission (the PAC). The Project Application is being referred to the PAC for determination as the proponent has disclosed a reportable political donation.

4.4 DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRS)

On 16 March 2009, the Director-General issued additional environmental assessment requirements (DGR's) pursuant to Section 75F of the *Environmental Planning and Assessment Act 1979*. The DGR's issued in respect to the development require the following key issues to be addressed:

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| • Built form; | • Heritage/archaeological; |
| • Urban design | • Drainage; |
| • Environmental and Residential amenity | • Utilities; |
| • Transport and accessibility; | • Staging; |
| • Construction impacts | • Potential isolation of neighbouring properties |
| • ESD; | • Public consultation; and |
| • Contributions; | • Statement of Commitments. |

The DGR's have been addressed in appropriate detail in the EA lodged by the Proponent in April 2009 and deemed to be adequate. The DGR's are contained in **Appendix A**.

4.5 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A Act)

The PAC's consideration and determination of a Project Application under Part 3A must be informed by the relevant provisions of the Act, consistent with objects of the Act. The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the application (discussed further in section 4.6 below). The project does not raise significant issues with regards to the Objects under the Act.

4.5.1 ESD Principles

There are five accepted ESD principles:

- (a) *decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- (b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*

- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the development in relation to the ESD principles and has made the following conclusions:

- (a) **Integration Principle** – The proposal has positive social, environmental and economic impacts and provides a positive reuse of the site for medium density residential dwellings. The environmental impacts of the development are appropriately mitigated as discussed in the report. The Department's assessment has duly considered all issues raised by the community and public authorities, and the proposal as recommended for approval, will not compromise any particular stakeholders or hinder the opportunities of others. The development encourages the sustainable use of existing public transport infrastructure within the vicinity of the site including travel by rail and bus.
- (b) **Precautionary Principle** – There is no threat of serious or irreversible environmental damage as a result of the proposal. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. Although, the drip line of the existing mature (remnant) *Eucalyptus saligna* Sydney Bluegum (located in the neighbouring property) forms part of the subject site. An appropriate level of detail has been provided with regards to the remediation of the site and mitigation measures have been included in the instrument where appropriate. No significant climate change risks are identified as a result of this proposal.
- (c) **Inter-Generational Principle** – The proposal represents a sustainable use of the site as the redevelopment will utilise existing infrastructure and make more efficient use of the site. The redevelopment of this site will also have positive social, economic and environmental impacts.
- (d) **Biodiversity Principle** – Following an assessment of the EA it is concluded that there is no threat of serious or irreversible environmental damage as a result of the proposal. The proposal does not impact upon biological diversity or ecological integrity. The development site has been previously developed and has a low level of environmental sensitivity.
- (e) **Valuation Principle** – the proposal seeks to promote new residential development in existing urban areas by maximising reliance on existing infrastructure, and enabling residents to live near work, leisure and other opportunities.

The proponent is committed to ESD principles and has reinforced this through the Statement of Commitments and the Environmental Assessment which explores key ESD opportunities, including recycling facilities, good architectural designs to ensure high environmental performance is delivered (apartments have good solar access and cross ventilation) and that the proposal complies with the requirements of BASIX.

4.6 SECTION 75I(2) OF THE ACT

Section 75I(2) of the Act and Clause 8B of the *Environmental Planning and Assessment Regulation 2000* provides that the Director-General's report is to address a number of requirements. These matters and the Departments response are set out as follows:

Table 1 – Section 75I(2) requirements for Director-Generals Report

Section 75I(2) criteria	Department Response
Copy of the Proponent's environmental assessment and any preferred project report	The Proponent's EA is located on the assessment file (attached). A Preferred Project Report was not submitted, however, a number of responses from the Proponent have addressed key issues identified during exhibition of the EA.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project application for the Minister's consideration is set out in Section 6 of this report.
Copy of any report of a panel constituted under Section	No statutory independent hearing and assessment panel

75G in respect of the project	was undertaken in respect of this project application.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Each relevant SEPP that substantially governs the carrying out of the development application is identified immediately below.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development relative to the prevailing environmental planning instrument is provided in section 4 of this report.
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate.	The environmental assessment of the development application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment of the development application is this report in its entirety. The proposal adequately complies with the DGR's.
Clause 8B criteria	Department Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in this report.
The suitability of the site for the project	The type of development proposed is consistent with the aims and objectives of the draft North Subregional Strategy, the MP SEPP and SEPP 53 guidelines.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions are provided in Section 6 of this report.

4.7 ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

4.7.1 Application of EPI's to Part 3A projects

To satisfy the requirements of section 75I(2)(d) and (e) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the Environmental Assessment of the project.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy No. 53 (SEPP 53) – Metropolitan Residential Development
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings
- Ku-ring-gai Planning Scheme Ordinance (KPSO) and associated LEPs;

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R(3) Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations for this application as the DGR's and Section 75I(2)(e) of the Environmental Planning and Assessment Act 1979 require the Proponent to address such standards and provisions and the Department to duly consider them.

4.8 COMPLIANCE WITH PRIMARY CONTROLS

4.8.1 State Environmental Planning Policy (Major Development) 2005

The project is a Major Project under the SEPP (MD) as noted above, and the opinion declaring the project under part 3A was made by the Director general, as delegate of the Minister, on 24 February 2009.

4.8.2 State Environmental Planning Policy 53 – Metropolitan Residential Development

SEPP 53 establishes a complex regime of standards, controls and guidelines contained in the provisions of;

- the Ku-ring-gai Reference Plan ("KRP") (deemed development standards); and,
- the Ku-ring-gai Sites Report ("KSR") (Development Control and Design Guidelines - "DCDG").

The "deemed development standards" prescribed under the KRP generally include provisions for height and envelope, setbacks and building separation distances.

Schedule 4 of SEPP 53 states that:

*"Consent must not be granted to a development application unless the consent authority is satisfied that the proposed **development generally conforms to the deemed development standards** set out in the sheets of the Ku-ring-gai Reference Plan that relate to the site."*

The Development Control and Design Guidelines under the Ku-ring-gai Sites Report prescribe the detailed design/amenity provisions, and including consideration of site design, landscaping, urban design, drainage, carparking and amenity.

The guidelines referred to in Clause 5, Schedule 4 of SEPP 53 states as follows:

*"Consent must not be granted to a development application for consent to carry out development for multi unit housing unless the consent authority has considered **the Ku-ring-gai Sites Report**."*

In addition, there are relevant provisions under Schedule 4, Clause 4(a) and (b) of SEPP 53 relating to site isolation and generally prescribes that partial site development is not permissible unless the consent authority is satisfied that the partial development of the site will not have a significantly adverse effect on the ability to develop the remainder of the site in the manner described in the Ku-ring-gai Reference Plan or the Ku-ring-gai Sites Report.

An assessment against all of these considerations and summary of compliance/non - compliance is provided below.

4.8.3 Clause 32 of State Environmental Planning Policy 53

Clause 32 of SEPP 53 establishes the broad criteria for the design of residential development on all SEPP 53 sites, and states that;

"Consent must not be granted to a development unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles contained within Clause 32."

Table 2 below provides an assessment of the application against the principles of Clause 32.

Table 2: Compliance with Part 5, Clause 32 of SEPP 53

Provision	Departments Comment	Compliance
(a) Streetscape	The proposed development fits within the local context of the site with appropriate separation from adjoining properties. The building heights generally comply with the KRP, and have been deemed acceptable. The site layout within the KRP was designed to step buildings down the slope and thus reduce the scale of development. The treatment of the façade, and the balance of materials incorporating masonry, glass, metal and cladding is considered to be appropriate for the locality. The site is located adjacent to a local heritage item, at 7 Pymble Avenue, Pymble. A Statement of Heritage Impact submitted with the application indicated that, the curtilage at 7 Pymble Avenue will be improved due to the demolition of No. 5A Pymble Avenue (as part of the broader redevelopment site) and combined with substantial building setback, landscaping and proposed access road acting as a buffer zone.	Yes
(b) Visual and acoustic privacy	The proposal will have an impact on the visual and acoustic privacy of the dwellings within the SEPP 53 site that do not form part of the subject proposal. This will result in multi unit housing in close proximity to a single residence. The impact of the proposed development has been assessed against the principles of SEPP 53 which also allows partial site development and takes into consideration that redevelopment of the adjoining properties, being 1A and 1 Pymble Avenue, may and most likely will occur in the future. The proposed building is sited in accordance with the approved building envelope for the site and complies with the KRP.	Yes

	Screen planting and an amended landscape plan and amendments to balcony design will be required to enhance the visual and acoustic privacy of the surrounding properties. This issue is addressed through conditions of consent.	
(c) Solar access and design for climate	The apartments will receive good solar access and the siting of the building will ensure that overshadowing impacts are minimised. The building has been designed to comply with the requirements of BASIX and a certificate was provided as part of the Environmental Assessment Report.	Yes
(d) Stormwater	The proposed stormwater drainage system integrates with the approved system for other buildings in the broader development site. The development is designed to accommodate the overland flowpath during heavy storm events. Details were provided in the stormwater plans submitted with the EA. The proponent has indicated that an appropriate stormwater easement from 1 and 1A Pymble Avenue (when developed as a residential flat building) into the drainage system of the broader development site would address concerns regarding isolation of the site and stormwater management. This issue is addressed through conditions of consent.	Yes
(e) Crime Prevention	The proposed design enables general observation of the street and internal spaces within the development. The secure entries to the building will provide a safe residential environment with the ability to visually communicate with visitors. A condition of consent has been imposed to ensure adequate lighting of the proposal in accordance with Australian Standards.	Yes
(f) Accessibility	The proposed development provides a positive interface with pedestrians. All apartments within the development are accessible by people with a disability. All car spaces are accessible and lift access is provided between the basement car park and all dwellings. The proposed road extension and associated footpath will continue the approved design and provide vehicular and pedestrian traffic access to the site from Pymble Avenue.	Yes
(g) Waste Management	The applicant has provided details of waste management for the completed building. Each level contains short term storage for recycling and a garbage chute for waste, with general collection facilities in the basement.	Yes
(h) Visual Bulk	The proposed development is generally in accordance with the SEPP 53 Reference Plan drawings that establish building bulk, height and setback requirements, ensuring that the scale of the development is consistent with the other approved buildings on the broader redevelopment site.	Yes

4.8.4 Ku-ring-gai Reference Plan (KRP)

A. Deemed Development Standards

The Ku-ring-gai Reference Plan (KRP) established the "*deemed development standards*" of each of the SEPP 53 sites.

The KRP for Site 1 (including the subject site) establishes the key standards relating to;

- building height and envelope;
- building setbacks/separation; and,
- building length/width.

A copy of the KRP building height, setback, separation and envelope control drawings for Site 1 (including the subject site) are provided in Figures 3, 4 and 4A below.

The building envelope controls relevant to the proposed development are referred to as "Building E" (refer Figures 3 and 4A), whereas building envelope controls for Buildings A, B, C and D are part of the approved broader development site, and are currently under construction.

Building F is the development envelope contemplated for the land adjacent to the subject site, and that those properties are known as Nos. 1 and 1A Pymble Avenue. A number of issues arise in respect to these two properties and are addressed separately below.

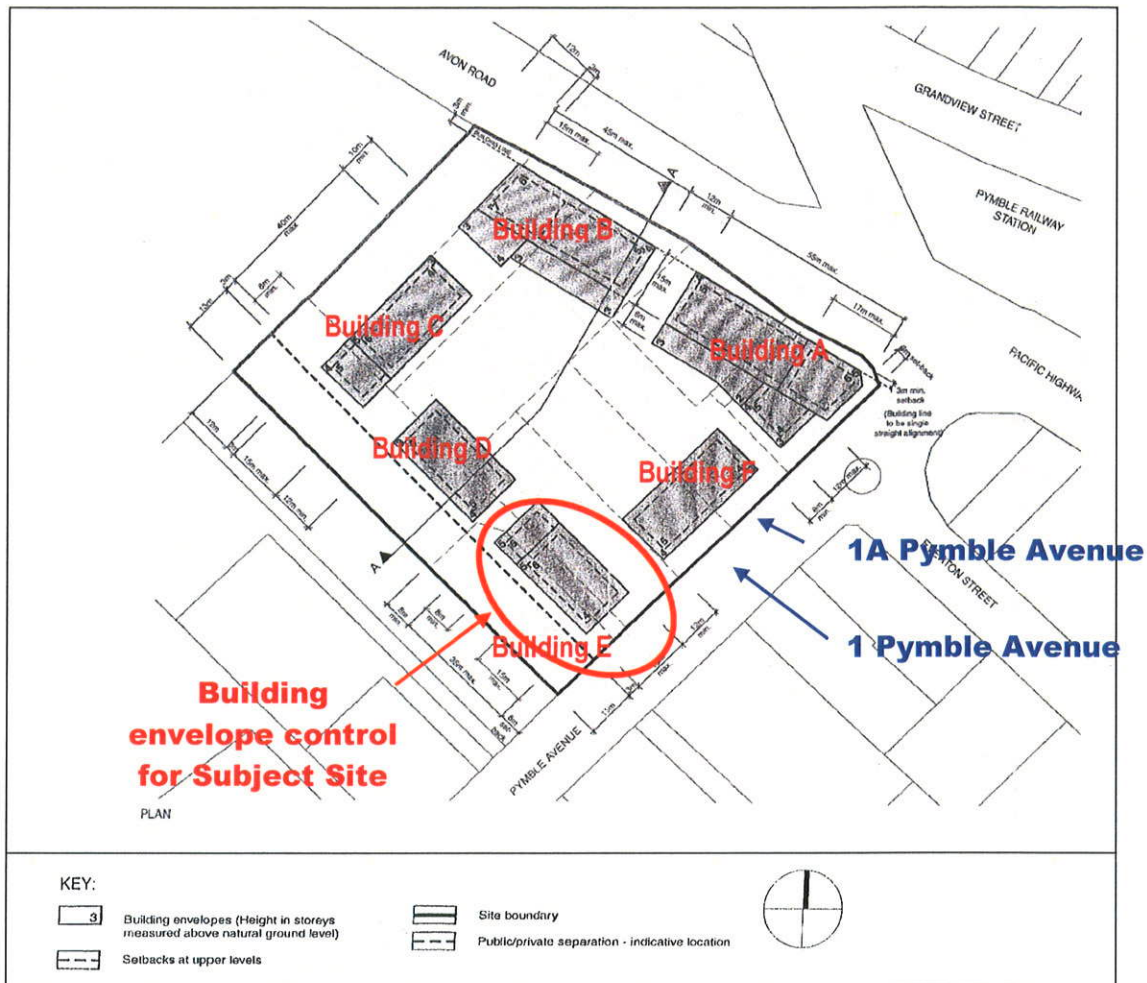


Figure 3 - SEPP 53 Ku-ring-gai Reference Plans – Site 1 Building Envelope Control Drawings

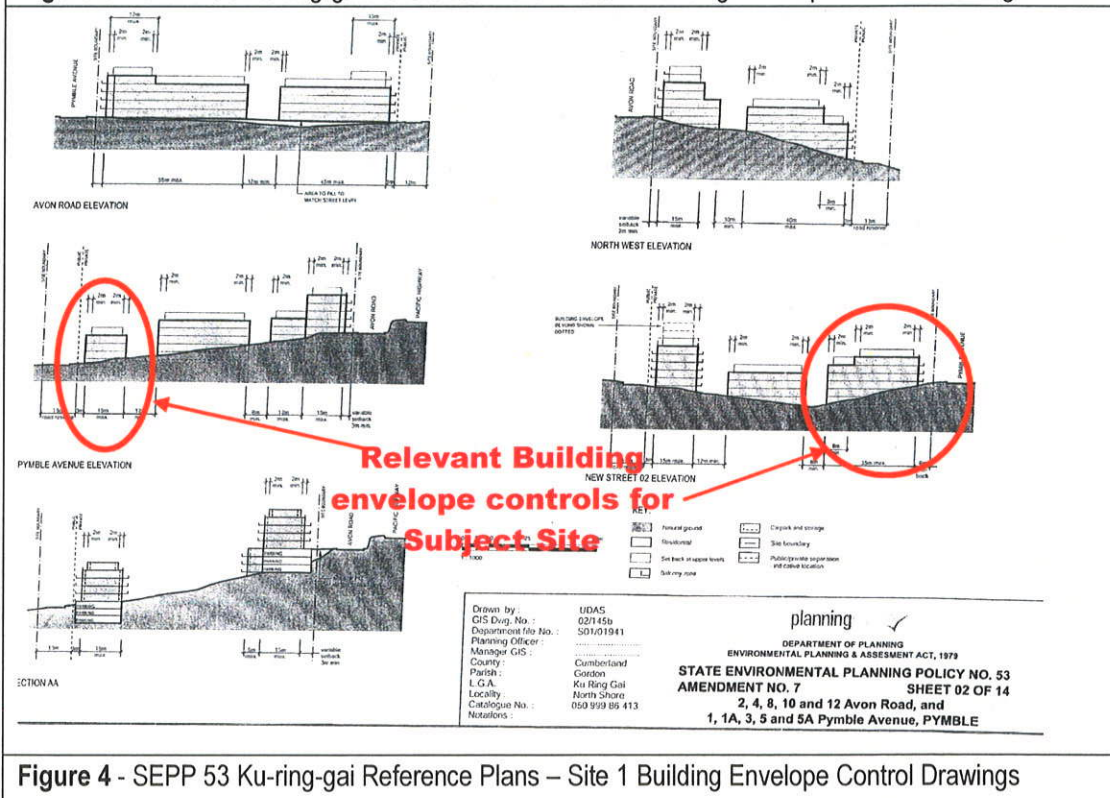


Figure 4 - SEPP 53 Ku-ring-gai Reference Plans – Site 1 Building Envelope Control Drawings

The non-compliances in regards to building height, envelope, setback and dimension (length & width) are considered to be generally minor variations to the controls and do not have an adverse impact on the overall bulk and scale of the proposal, nor upon any adjacent or nearby residential properties.

The variations to the height/envelope controls are partly a function of the steeply sloping site which features falls in the order of 7 metres from front to rear and approximately 3.5 metres from side boundary to side boundary.

"All building heights shown on the building envelope control drawings are given in storeys above finished ground level." and, "A storey is defined as a volume of habitable floor space between a floor and a ceiling" and, "Mezzanines, habitable rooms in roof space, and basements or car parking protruding more than 1.2 metres from finished ground level are to be counted as storey."

Building E envelope control for Subject Site

8m min. 8m min. 35m max. 15m max. 6m set-back 13m 3m 15m max. 12m min.

VENUE

Figure 4A - SEPP 53 Ku-ring-gai Reference Plans – Site 1 Building Envelope Control Drawings

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Table 2 - Building Height compliance

Proposed Building footprint (relevant corner)	Permitted Height (storeys)	Proposed Height (storeys)	Compliance
South (Pymble Ave)	3/4	4/5 (+1)	No*
East (Pymble Ave)	3/4	4/5 (+1)	No*
North (rear)	5/6	5/6	Yes
West (rear)	5/6	5/6	Yes
South - West Mid Block	5/6	5/6	Yes

* At Level 3, a part of Units 315 and 316 extend more than 1.2 metres above ground level which results in the height in this area being 4/5 (refer Diagrams 3 and 5).

Setback, separation and building dimensions

The variations to the setback, separation, building length and width controls are minor. The building length variation relates to the need to extend the basement carpark structure to abutt that of Building D so that both carparks can share a common driveway. The variations to building width/separation are to the extent of exceedences of 0.5 metres to 2.0 metres (max) and relating to a number of minor projecting building elements which improve building design, articulation and modulation, without generating any amenity impacts upon neighbouring properties.

The minor variations to the setback, separation, length and width are detailed in Table 3 below.

Table 3 – Building setback, separation, length and width

Boundary	Required (in metres)	Proposed (in metres)	Compliance
SETBACK - Pymble Avenue	6	6.5	No *
SETBACK - New Street	13 + 3	13 + 3	Yes
SETBACK - To boundary with No. 1 Pymble Avenue	12	10.5 - 12	No**
SETBACK - Approved Building D	8	8	Yes
Building Length	35 (max)	35 - 41	No***
Building Width	15 (max)	15 - 16.5	No**

* there are minor projections beyond the building footprint which include balconies and a small portion of bedroom 2 for units 416, 516 and 615, but generally complies with the DCDG.

** there are only minor projections of up to 1.5m from the face of the building and help to achieve façade modulation.

*** the extent of non-compliance of the building length (41m) at basement parking level is because the basement level protrudes above natural ground level and is designed to abut and meet the levels of the carpark level in Building D.

Overview - Summary

Overall, the minor exceedences in envelope are considered acceptable, and do not result in any adverse amenity impacts on neighboring residential properties, nor do they result in any adverse amenity outcomes for future occupants of the development. In respect of the height variation at the Pymble Avenue frontage, the additional part storey in height does not result in an excessive scale or bulk due to the modest dimensions of the building overall and it's well mannered design, as seen in the streetscape and in the context of the height, scale and form of the buildings under construction on the broader development site.

Building height and envelope

Pymble Avenue Frontage

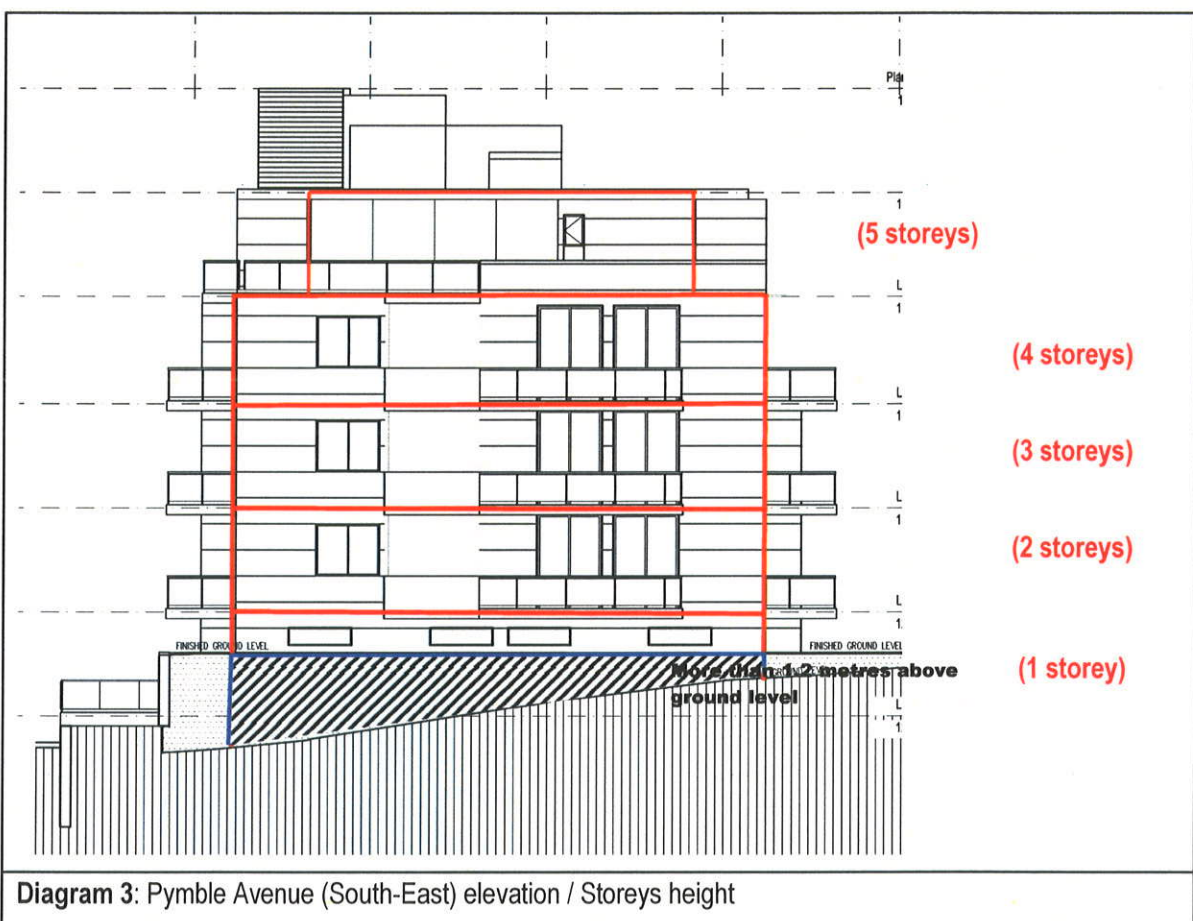
The only non - compliance occurs at the Pymble Avenue frontage in respect of Level 3, Units 315 and 316 where the ceilings project more than 1.2 metres above ground level at the southern and eastern corners (by 2.4 metres and 800mm respectively), resulting in a 1 storey non - compliance (see Diagram 3 and 5 below).

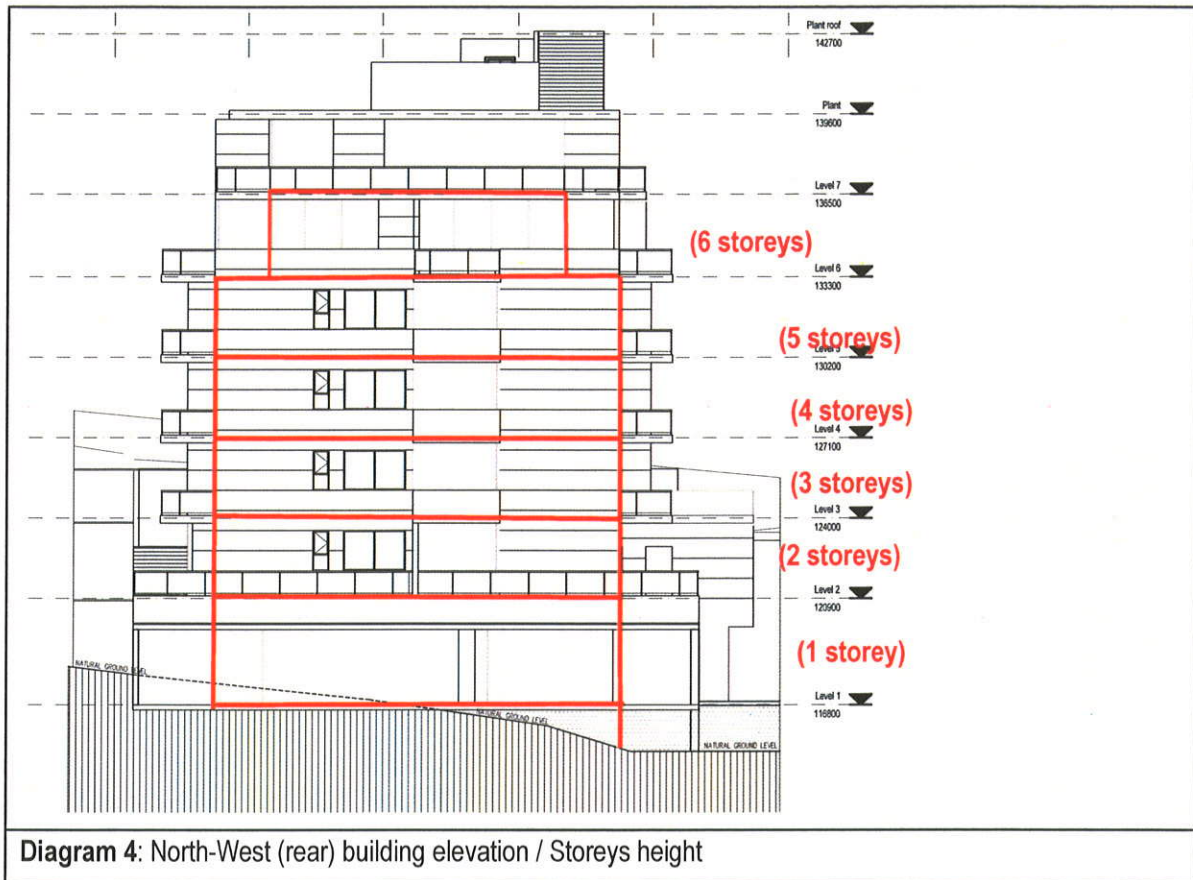
The non-compliance at the eastern corner is "carried around" onto the north-eastern elevation fronting the side boundary with the adjacent residential property, No. 1 Pymble Avenue (refer Diagram 5).

The remainder of the north-eastern (side) elevation complies with the height envelope control (refer Diagram 5).

In respect of the Pymble Street elevation, compliance could be achieved by requiring a step in the building across its short dimension; however, such a requirement would have a serious effect on layout, design and dwelling yields. Alternatively, the building could be lowered further into the ground, however, the common access driveway and basement levels between Building's D and E would not match.

The remainder of the building envelope to the other alignments generally comply with the height control.





Building Separation/Setback

The proposed building does not comply with the building separation requirements prescribed in the KRP specifically in regards to:

- the setback from Pymble Avenue and with the boundary of No. 1 Pymble Avenue (non compliance of 1 metre for a small portion of bedroom 2 for units 416, 516 and 615, which are above ground level); and

- the building length and width controls (see Tables 2 and 3).

Whilst compliance with the control is not achieved, the departure is considered to be acceptable for the following reasons:

- the projections are minor, generally comprising a small part of the façade and limited to 1.5 metres or less;
- that strict compliance with the standard is unnecessary as it will inhibit the achievement of façade modulation and articulation;
- it will ensure an efficient layout and internal design of the proposed apartments; and
- that the proposal is generally consistent with the aims and objectives of the standards as it will contribute to an attractive residential environment, involve site planning and appropriate dwelling design.

Building length/width

The building length for the basement level car park is 41 metres (6 metres greater than the permitted building length of 35 metres) and this non-compliance is related to the car park level being greater than 1.2m above natural ground level and adds to the bulk and scale of the development. The building length above the basement car park is 35m and is consistent with the SEPP 53 building envelope.

It is considered that strict compliance to the standard is unreasonable as a complying scheme would severely impact on efficient use of the car park which has been designed to extend beneath buildings D (of the broader development site) and E, in order to provide a single vehicle entry and exit point from the driveway to Pymble Avenue.

B. Planning controls under the Ku-ring-gai Sites Report (KSR)

The Ku-ring-gai Sites Report (KSR) provides detailed planning controls for the six SEPP 53 sites. The Minister must consider the KSR in the determination of an application. The following table contains an assessment of the proposal against the specific design guidelines within the KSR for Site 1.

Table 4: Compliance with Ku-ring-gai Sites Report for Site 1

Control	Departments Comment
Building Heights	The height of the proposed development (storeys above ground level) generally complies with the KRP control drawings (Table 2), areas of non-compliance are discussed above.
Building Footprints	The proposed building is sited within the building footprint area shown on the building envelope diagrams.
Building Envelopes, floor space 80% rule	For each of the Site 1 building envelopes, the floor space of each resulting development may only occupy a maximum 80% of the nominated building envelope. This control encourages the articulation and modulation of building facades. The proposed development has a GFA 2,376sq.m with a maximum footprint of 3,030sq.m which equates to 78% of the building envelope.
Building Depth and Length	The proposed building has a maximum width of 15 metres and generally complies with the building length provisions (35 metres) of the building envelope control drawings. However, the building length at basement parking level (41m) does not comply as the basement level is greater than 1.2m above natural ground level.
Building Setbacks	The proposal complies with the building setbacks of the building envelope control drawings as demonstrated in the EA Report. The proposal contains encroachments into the setback area (for floors above ground level) in the form of balconies, bay windows and other minor architectural elements of 0.5m to 2m (max) and are considered appropriate and beneficial as they contribute to the articulation and modulation of the building. The minor variations do not result in any adverse shadowing or overlooking impacts, and are modest in terms of bulk and scale. As noted above, the proposal complies with the max 80% floor space control.
Building Separation and Privacy	The proposal complies with building separation distances with minor encroachments of balconies, bay windows and other minor architectural elements that are considered appropriate. A number of habitable room windows on the north eastern elevation of the building overlook the neighbouring properties at 1 and 1A Pymble Avenue and the balcony of proposed unit 414 is adjacent to a bedroom of the neighbouring property. Appropriate screening of these areas will be included as a condition of consent and an amended landscape plan has been requested to ensure that appropriate mid and upper canopy shrubs and trees are introduced to the setback.

Site drainage and stormwater control	The proposed stormwater drainage system integrates with the approved system for the broader development site and is designed to accommodate the overland flowpath during heavy storm events. Details were provided in the stormwater plans submitted with the EA. An appropriate stormwater easement from 1 and 1A Pymble Avenue (when developed as a residential flat building) into the drainage system of the broader development site has been included as a condition of consent.
Solar access and overshadowing	The shadow diagrams submitted with the Environmental Assessment report indicate that the shadow cast are generally consistent with those anticipated by development on the site. In response to Council's comments/concerns regarding solar access and overshadowing, the proponent revised the calculations for living rooms receiving solar access and 72% of units receive more than 3 hours of direct sunlight at mid winter, compliant with the requirements of SEPP 65.
Public, private and communal open space	Council indicated that the proposed communal areas for the site are not considered functional for outdoor recreation, and that the partial development of the site compromises the achievement of an integrated communal open space once the remainder of the site is developed. The proponent indicated that the communal open space for the site has been provided in the context of the broader development site, and is in accordance with the control drawings. There is no SEPP 53 requirements regarding the amount of communal open space that should be made available to residents of the proposed development. The central area of the broader development site provides a large area of communal landscaping that is accessible to all residents', including the future occupants of Building E. Further, suitable areas of private open space are to be provided in the form of ground level courtyards and upper level balconies.
Landscape Design	Landscape plans have been submitted with the EA report and show how the design responds to the characteristics of the site, with the appropriate location of trees, vegetations and setbacks. Council raised concerns regarding: the potential impact of the proposed development on the mature <i>Eucalyptus saligna</i> (Sydney Bluegum) located in the northwest corner of No1 Pymble Avenue. Also, that the landscape plan was considered inadequate with insufficient detail regarding proposed plantings (including endemic species consistent with the Bluegum community) and screening, and an amended landscape plan has been requested by condition to ensure that appropriate mid and upper canopy shrubs and trees are introduced to the setback. Conditions of consent have been recommended to protect the existing Bluegum.
Deep Soil Zones	The central area of the broader development site is to be retained to accommodate the deep soil area. The deep Soil Plan submitted with the EA provides for 677sq.m of deep soil for the site, and the plan is consistent with the requirements of the Building Envelope drawings.
Fences and Walls at Boundaries	Generally complies. The proposed development includes fencing and balustrades to ensure appropriate security and division of private and public space, the proposal does not include any fencing greater than 1.2 metres in height.
Visual Privacy	A number of habitable room windows on the north eastern end of the building overlook the neighbouring properties at 1 and 1A Pymble Avenue and the balcony of proposed unit 414 is adjacent to a bedroom of the neighbouring property. Appropriate screening and planting to these areas will be included as a condition of consent.
Safety	The proposed building has 2 security entrances that are glazed to allow good visual access and the building has been designed appropriately.
Access and Parking	The proposal will use the existing approved vehicular access point below Building D for access to the basement level car parking. The building includes 2 pedestrian access points a ramp lead directly from Pymble Avenue to the upper ground floor lobby and a second entrance addresses the new street frontage. The level of proposed car parking (26 basement level spaces) included in the proposal is compliant with the SEPP 53 Development Controls and Guidelines for access and parking. Car parking and bicycle parking numbers (12 spaces including 9 resident and 3 visitor spaces) in accordance with the KSR have been included as a condition of consent.
Building Entries	Generally complies.
Streets and public domain design	The remaining half of New Street 01 is to be constructed as part of this proposal and is consistent with the building envelope control drawings. "New Street" is a new roadway required by the KSR extending along the south-western alignment of the site to provide access to Buildings C, D and E, and is currently under construction as part of the approved

	development. Council consent is required in relation to the design of pathways and kerb and guttering for the development, with details provided with the Construction Certificate.
Public lighting	Street lighting details will be provided with the Construction Certificate
Public artwork	The overall site is to be developed with well designed buildings in a landscaped setting appropriate for the public domain and built environment of Pymble.
Apartment layout	The development is designed to provide solar access and cross ventilation compliant with SEPP 65, and to comply with the requirements of BASIX.
Apartment mix	No studio units proposed. The proposal includes a mix of 1, 2 and 3 bedroom apartments, designed to accommodate the potential future residents of the locality.
Balcony Design	Generally Complies. Each apartment has access to a courtyard or balcony immediately adjoining the living space. The wrap-around design of the balconies on the northern corner of the building (refer Diagram 2 above) provides privacy issues for the neighbouring dwellings and it is proposed to limit the width of the north - eastern prolongation of these balconies to 1.0 metre in width (by condition) to restrict any extensive usage and access to provide improved visual and aural privacy to adjoining properties.
Ceiling Heights	The slab to slab height is 3.1m with a floor to ceiling height greater than 2.7m.
Flexibility	There is a mix of apartment types and sizes provided.
Ground level activity	Generally complies. All apartments offer good casual surveillance from the street with 75% of the building frontage occupied by habitable rooms. The sites topography is not conducive to having direct access to ground floor apartments from the street.
Internal Circulation	Complies. The maximum number of apartments served by a single corridor is 5.
Storage	The proposal generates a total of 198m ³ of storage requirements. Level 2 provides 148m ³ of storage area. A condition of consent will be included to ensure compliance.
Noise attenuation & acoustic privacy	Where possible, bedrooms have been grouped and zoned away from living spaces. An acoustic report was submitted with the EA Report.
Natural Light	72% of units receive the required solar access and the development contains no single aspect south facing apartments.
Natural Ventilation	80% of apartments are cross ventilated.
Building Signage	None proposed.
Building expression and articulation	The proposed building contains extensive articulation and modulation to provide relief in the presentation of its elevations. The proposal has a flat roof design that provides a contemporary appearance and matches that of the approved building of the broader redevelopment site. The rooftop structure integrates plant, the lift overrun and an access stair.
Building construction & materials selection	Generally complies. Materials considered acceptable.
Water conservation & solar energy use	Complies. The proposal has been designed to meet the energy and water saving requirements of BASIX. Conditions of consent will further enforce these principles.
Waste Management	Complies. An appropriate waste management plan was included with the EA report.

4.8.5 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land will be remediated before the land is used for the intended purpose.

The most recent use of the site was for residential purposes. Dwelling houses most recently occupied the site, but they have since been demolished. All indications are that the site has only ever been used for residential purposes. On this basis, it is considered that the site can be made suitable for the proposed development and thus satisfactorily meet the requirements of SEPP 55.

To ensure the subject sites are appropriately remediated for the proposed land uses, the approvals have been conditioned accordingly.

4.8.6 State Environmental Planning Policy No. 65 (SEPP 65) – Design Quality of Residential Flat Buildings

SEPP 65 aims to improve the design quality of residential flat development in NSW as it is of significance to providing economic, social, cultural and environmental factors benefits.

SEPP 65 contains 10 design quality principles which guide the consideration of a proposed residential flat building to ensure that it achieves an appropriate level of design quality. A Design Verification Statement has

been provided by Meriton Apartments stating that the subject development addresses the design quality principles set out in Part 2 of SEPP 65.

Additionally, the scheme in the EA has been appraised against the SEPP 65 guideline, Residential Flat Design Code (RFDC).

The Department has considered the architect's design verification statement and the assessment against the RFDC Guidelines, and generally accepts that the indicative built form, density, landscape and amenity of the proposed development are considered acceptable and has been designed in accordance with SEPP 65 design principles.

The proposal is consistent with the aims and objectives SEPP 53 and generally complies with the height, bulk and scale requirements.

The bulk and scale of the development within the existing streetscape will be somewhat exaggerated in the short term until Nos. 1 and 1A Pymble Avenue are developed. However, overall the presentation of Building E to Pymble Avenue is well - mannered and consistent with the desired future character for the locality as contemplated by SEPP 53. This has been the case since 2003, when the Ku-ring-gai "Targeted Sites" were incorporated into SEPP 53.

4.8.7 Ku-ring-gai Planning Scheme Ordinance and any relevant DCPs

The subject site is zoned Residential 2(c) under the KPSO which prohibits residential flat buildings on the site, however given that SEPP 53 prevails over the KPSO, multi unit housing is permissible on the site with the consent of the relevant consent authority.

Schedule 9 of the KPSO sets out the general aims and objectives in relation to land within all residential zones, which are:

- (a) *to maintain and, where appropriate, improve the existing amenity and environmental character of residential zones; and*
- (b) *to permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.*

Clause 53 of the KPSO contains development standards for car parking which requires one parking space for each apartment. These standards override the car parking controls in the DCDG, however, only if the proposed car parking is less than the permitted amount of parking within the KPSO. The proposal includes 26 basement level parking spaces and is more than 1 space per dwelling, and therefore complies with the KPSO standard.

The Department has assessed the proposal in relation to the relevant KPSO controls and considers that it is generally consistent and compliant with the KPSO objectives and relevant Development Standards.

Ku-ring-gai Development Control Plan (DCP) No.31 – Access

The DCP applies to all residential flat buildings and indicates accessibility requirements for all facilities, car parks and signage. The proposed development has been designed to provide accessible areas and accessible entry via a ramp from Pymble Avenue. A condition has been included in the Instrument requiring compliance in accordance with the relevant Australian Standard.

The Ku-ring-gai DCP No.43 – Car Parking,

While the provisions of DCP 43 apply, the KPSO is the more relevant control, being a Environmental Planning Instrument, and as noted above, the proposal complies.

4.8.8 Ku-ring-gai Councils draft Town Centre's LEP

The subject site is zoned R4 High Density Residential under the draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008. The draft LEP imposes a 7 storey height limit and a maximum FSR of 1.3:1 on the subject site (and the adjacent sites - 1 and 1A Pymble Ave), and has the potential to achieve a higher development yield than that evident under SEPP 53.

The Council has raised concerns that the potential future development of the remaining adjoining sites (1 and 1A Pymble Avenue) is likely to result in a different development form under the draft LEP due mainly to the 7 storey height limit. SEPP 53 contemplates a part 3/part 4/part 5 storey building form on Nos. 1 and 1A Pymble

Avenue (refer Figure 7 below). However, it is considered that this would only become an issue if the current provisions under SEPP 53 were repealed and SEPP (MD) 2005 amended when the draft LEP was gazetted.

5.0 ASSESSMENT OF ENVIRONMENTAL IMPACTS

The DGR's and following key issues were considered in the Departments assessment of the Environmental Assessment:

- Built form and Urban design;
- Environmental and Residential Amenity;
- Partial site Development and Isolation;
- Landscape design
- Transport and Accessibility;
- Construction Impacts;
- ESD Measures; and
- Developer Contributions.

All of the above matters have been considered in the assessment. The Environmental Assessment adequately addresses the DGR's and the proposal is considered satisfactory in respect of these requirements, subject to the imposition of conditions of approval.

5.1 BUILT FORM AND URBAN DESIGN

The proposal generally complies with the height and building envelope requirements in the SEPP 53 deemed development standards prescribed in the Ku-ring-gai Reference Plan (KRP), regarding setback, building envelope and height. This ensures that the development has an appropriate scale and will relate well to the approved buildings on the broader development site.

Ku-ring-gai Council raised concerns regarding elements of non-compliance with the prescribed standards specified in the KRP, including building heights (including lift over-runs), building setback, length and width, which have all been considered in chapter 4 of this report.

In response to Council's comments regarding the building height non-compliance, the proponent submitted additional detail outlining that the building height of the proposed development is consistent with the SEPP 53 KRP building envelope control drawings and compliant with the number of storeys **above ground level**.

In this instance the non-compliance regarding building setback, length and width were considered appropriate as:

- the projections are minor, comprising a small part of the façade (ie bay windows) and limited to 2 metres or less;
- that strict compliance with the standard is unnecessary as it will inhibit the achievement of façade modulation and articulation; and
- it will ensure an efficient layout and internal design of the proposed apartments.

It is noted that under the planning guidelines identified in the Ku-ring-gai Sites Report (KSR) Development Control Design Guidelines (DCDG) plant and lift over-runs are not considered as a storey, therefore, the inclusion of the plant room and lift over-run on the roof of the building with appropriate setbacks are considered acceptable.

The site layout within the KRP for Site 1 was designed to step buildings down the slope and therefore reduce the scale of development from a maximum on Avon Road, to a lesser scale and height along the Pymble Avenue elevation. The design of the proposal is generally consistent with the planning controls and results in a built form that follows the steep topography of the site thus reduces the scale of development and will provide for minimal overshadowing impacts.

The proposal has been designed to provide a well articulated façade with projecting balconies and regular placement of windows. The treatment of the façade, and the balance of materials incorporating masonry, glass, metal and cladding is considered to be appropriate for the locality.

5.2 ENVIRONMENTAL AND RESIDENTIAL AMENITY

The proposal is sited in accordance with the building footprint area (Building E) shown on the building envelope diagrams (Figures 2 and 3) to ensure that the apartments receive good solar access and ventilation.

The proposal offers a high level of amenity for future occupants, and has been designed so that all balconies have suitable privacy and are separated adequately to ensure acoustic privacy.