

APPENDIX 3

Statutory Compliance Table



Statutory Compliance Table

Statutory Reference	Relevant Considerations	Comment/Assessment	Section in EIS
Environmental Planning and Assessment Act 1979			
Section 1.3	(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources, (b) to promote the supply, delivery and maintenance of housing, including affordable housing, (c) to promote productivity through the development and management of the State and its resources, (d) to protect the environment, including the conservation of threatened species of native animals and plants and ecological communities and their habitats, (e) to promote resilience to climate change and natural disasters through adaptation, mitigation, preparedness and prevention, (f) to promote the sustainable management of built and cultural heritage, including Aboriginal cultural heritage, (g) to promote good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings, (h) to provide opportunities for participation in environmental planning and assessment, (i) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, (j) to promote a proportionate and risk-based approach to environmental planning and assessment, (k) to promote the orderly and economic use and development of land.	The proposal satisfies the relevant objectives of the Act.	Section 4.1.1
Section 4.15	(a) the provisions of— (i) any environmental planning instrument, and (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the	The relevant EPs have been addressed in the EIS.	Section 4, Section 6.1, Section 6.2, Section 6.3

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	consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and (iii) any development control plan, and (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), (v) (Repealed) that apply to the land to which the development application relates, (b) the significant likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, (c) the suitability of the site for the development, (d) any submissions made in accordance with this Act or the regulations, (e) the public interest.	The significant likely impacts of the proposal have been addressed in the EIS. The site is located within an R3 Medium Density Residential Zone within close proximity to Mona Vale Town Centre and is identified as an area for future delivery of additional housing supply given its proximity to public transport and services and proximity to a myriad of land uses. Submissions will be considered after the SSD has been on public exhibition. The proposal is considered to be in the public interest for the reasons set out in the EIS.	and Section 6.4 Section 6 Section 6 and Section 7 - Section 7.5 and 7.6
Environmental Planning and Assessment Regulation 2021			
Clause 191	Clause 191 of the EP&A Reg provides that environmental assessment requirements will be issued by the Secretary with respect to the proposed EIS.	This EIS has addressed the requirements of the SEARs issued.	Section 6 and Appendix 2
Biodiversity Conservation Act 2016			

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Section 7.9	In accordance with clause 7.9 of the Biodiversity Conservation Act 2016 an application for development consent under Part 4 of the Environmental Planning and Assessment Act 1979 for State significant development is to be accompanied by a biodiversity development assessment report unless that Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.	A BDAR Waiver was granted pursuant to Section 7.9.	Section 6.16 and Appendix 23
State Environmental Planning Policy (Planning Systems) 2021			
Clause 2.6	Clause 2.6 states: <i>"2.6 Declaration of State significant development: section 4.36</i> <i>(1) Development is declared to be State significant development for the purposes of the Act if -</i> <i>(a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without consent under Part 4 of the Act, and</i> <i>(b) the development is specified in Schedule 1 or 2."</i> Schedule 1, Clause 26A of the State Environmental Planning Policy (Planning Systems) 2021 states that the following development is considered to be SSD —: <i>(1) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 applies if—</i> <i>(a) the part of the development that is residential development has a capital investment value of—</i> <i>(i) for development on land in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City in the Six Cities Region—more than \$75 million, or</i>	The proposed development is located within the Eastern Harbour City, contains a residential component with an estimated development cost of more than \$75 million and does not contain any prohibited development under an EPI applying to the land. As such, the development is classified as an SSD pursuant to Clause 26A of Schedule 1 of the Planning Systems SEPP.	Section 4.3.1 and Appendix 6

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	<i>Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.</i> <i>(ii) for development on other land—more than \$30 million, and</i> <i>(b) the development does not involve development prohibited under an environmental planning instrument applying to the land.</i>		
State Environmental Planning Policy (Transport and Infrastructure) 2021			
Clause 2.122	Clause 2.122(1)(a) of State Environmental Planning Policy (Transport and Infrastructure) 2021 applies to development specified in Column 1 of the Table to schedule 3 that involves a new premises of the relevant size of capacity. Residential accommodation with access to a classified road with 75 or more dwellings identified in the Table in Schedule 3. In accordance with Clause 2.122(4): <i>(4) Before determining a development application for development to which this section applies, the consent authority must—</i> <i>(a) give written notice of the application to TfNSW within 7 days after the application is made, and</i> <i>(b) take into consideration—</i> <i>(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and</i> <i>(ii) the accessibility of the site concerned, including—</i> <i>(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</i>	The proposed development only involves 53 apartments and is more than 90m from the closest classified road, being Barrenjoey Road and therefore Clause 2.122 does not apply.	Not applicable

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	<i>(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</i> <i>(iii) any potential traffic safety, road congestion or parking implications of the development.</i>		
State Environmental Planning Policy (Resilience and Hazards) 2021			
Clause 4.6	Chapter 4 'Remediation of Land' in State Environmental Planning Policy (Resilience and Hazards) 2021 applies to the whole of the State. (1) A consent authority must not consent to the carrying out of any development on land unless— (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	A Preliminary Site Investigation has been provided.	Section 6.20 Appendix 16
State Environmental Planning Policy (Biodiversity and Conservation) 2021			
Chapter 2 Vegetation in Non-Rural Area	Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the Northern Beaches Council and requires approval for removal of trees on the site.	The proposal requires the removal of 37 trees.	Section 6.16 Appendix 34
State Environmental Planning Policy (Sustainable Buildings) 2022			
Chapter 2 Standards for residential development - BASIX	State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the development and aims to encourage sustainable residential and commercial development.	A BASIX certificate, Nathers Certificate and ESD Report have provided.	Appendix 24, Appendix 24a, Appendix 24b and Appendix 25

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State Environmental Planning Policy (Housing) 2021 – Chapter 2

Chapter 2 Affordable Housing	Chapter 2 of State Environmental Planning Policy (Housing) 2021 applies to the State and seeks to facilitate the delivery of new affordable housing to meet the needs of very low, low and moderate income households. The Chapter contains bonus density incentives for the provision of affordable housing.	The proposed development seeks to provide 15.5% of the total floor space of the development as affordable housing for a period of 15 years. The provisions of Chapter 2 are addressed in detail at Section 6.2 of the EIS.	Section 6.2
15A Objective of division	The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.	The proposal will deliver new in-fill affordable housing to meet the needs of very low, low and moderate income households.	Yes
15C Development to which division applies	(1) This division applies to development that includes residential development if— (a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5, Chapter 6 or another environmental planning instrument, and (b) the affordable housing component is at least 10%, and (c) all or part of the development is carried out— (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.	The development is permitted with consent under Chapter 6 (LMR housing policy). The affordable component is 15.5% which equates to 9 apartments. The site is located in the Eastern Harbour City region as identified under the Six Cities Region, being in the Northern Beaches Local Government Area. The site is within an accessible area being less than 400m walking distance to a regular bus service. Not applicable.	Yes Yes Yes N/A

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16 Affordable housing requirements for additional floor space ratio	(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	The maximum permissible floor space ratio for the development on the land is 2.2:1, plus 30% is 2.86:1. The proposal will result in a FSR of 2.86:1.	Yes
	(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— $\text{affordable housing component} = \frac{\text{additional floor space ratio (as a percentage)}}{2}$	The proposal exceeds the minimum affordable housing component of 10%. The proposal provides 15.5% affordable housing component.	Yes
	(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1). Example— Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.	Maximum permissible building height for the site is 22m under LMR policy, plus an additional building height of 30% for the 15% affordable housing component provided. Permitted height = 28.6m Proposed height = 28.6m	Yes
	(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	Applies.	Yes

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17 Additional floor space ratio for relevant authorities and registered community housing providers	(1) This section applies to residential development to which this division applies that is carried out— (a) by or on behalf of a relevant authority or registered community housing provider, and (b) on land with a maximum permissible floor space ratio of 2:1 or less.	The development is not by a registered community housing provider; The maximum permissible FSR is 2.86:1.	N/A N/A
	(2) The maximum floor space ratio for the development is— (a) the maximum floor space ratio calculated in accordance with section 16, or (b) the maximum floor space ratio calculated in accordance with subsection (3).	The maximum floor space ratio is calculated in accordance with section 16.	-
	(3) The maximum floor space ratio for subsection (2)(b) is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of— (a) if the affordable housing component is at least 50%—0.5:1, or (b) if the affordable housing component is between 20% and 50%—Y:1, where— AH is the affordable housing component. Y is $\frac{AH}{100} + 100$	Noted.	-
	(4) If development to which this section applies uses the maximum floor space ratio under subsection (2)(a), section 16(3) also applies to the development.	Noted.	-

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18 Affordable housing requirements for additional building height	(1) This section applies to development that includes residential development to which this division applies if the development— (a) includes residential flat buildings or shop top housing, and (b) does not use the additional floor space ratio permitted under section 16.	The proposal uses the additional floor space ratio permitted under Section 16.	N/A
	(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).	Maximum permissible building height for the site is 22m under the LEP plus an additional building height of 30% based on the 15% affordable housing component provided. Total height = 28.6m	Yes
	(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows— affordable housing component = additional building height ÷ 2 (as a percentage)	The proposal provides 15% affordable housing component.	Yes
19 Non-discretionary development standards—the Act, s 4.15	(1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.	Applies.	-

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(2) The following are non-discretionary development standards in relation to the residential development to which this division applies— (a) a minimum site area of 450m², (b) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area, (c) a deep soil zone on at least 15% of the site area, where— (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site, (d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter, (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development, (h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide, (i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m², (ii) for each dwelling containing 2 bedrooms—90m², (iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.	The site has an area of 2,679m².	Yes
	Not applicable.	N/A
	36% (909.6m²) of the site area is provided as landscaped area.	Yes
	(2)(c) does not apply as Chapter 4 of the Housing SEPP applies, per (3).	N/A
	(2)(d) does not apply as Chapter 4 of the Housing SEPP applies, per (3).	N/A
	All apartments meet the minimum internal area as required by the ADG.	Yes
	Not applicable. A residential flat building is proposed.	N/A
	ADG applies	N/A
	ADG applies	N/A
	ADG applies	N/A

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	(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Not applicable. Chapter 4 applies.	N/A
20 Design requirements	(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy. (2) Subsection (1) does not apply to development to which Chapter 4 applies. (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.	Note applicable The site is located within an R3 Medium Density Residential area that is undergoing transition as part of the newly introduced NSW Government's Low and Midrise (LMR) Housing Policy. Mona Vale Town Centre is identified as an area for future delivery of additional housing supply, due to its accessible location with good access to public transport and services and as a result the area is expected to have a rise in density. Overall, the proposed development, providing 53 new apartments is compatible with the desired future higher density character of the precinct.	N/A Yes
21 Must be used for affordable housing for at least 15 years	(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider. (2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	It is acknowledged that a condition of consent will be imposed to give effect to this requirement. A letter has been provided from a registered CHP in Appendix 33 of EIS.	Yes

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22 Subdivision permitted with consent	Land on which development has been carried out under this division may be subdivided with development consent.	Subdivision is not proposed.	Yes
22A Requirement to provide car parking	Development consent must not be granted to development under this division unless— (a) the consent authority is satisfied the development will result in— (i) the following number of parking spaces for dwellings used for affordable housing— (A) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (B) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (C) for each dwelling containing at least 3 bedrooms— at least 1 parking space, and (ii) the following number of parking spaces for dwellings not used for affordable housing— (A) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (B) for each dwelling containing 2 bedrooms—at least 1 parking space, (C) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces, or (b) the consent authority has considered the <i>Guide to Transport Impact Assessment</i> published by Transport for NSW on 4 November 2024.	5 x 2 bedroom affordable units proposed = 2.5 spaces 4 x 3 bedroom affordable units proposed = 4 spaces 21 x 2 bedroom non-affordable apartments = 21 spaces 18 x 3 bedroom non-affordable apartments = 27 spaces A total of 124 parking spaces are provided which well exceeds the minimum requirement of the Housing SEPP. The guide has been considered in the Traffic and Parking Assessment.	Yes Yes Yes Yes Appendix 31
State Environmental Planning Policy (Housing) 2021 – Chapter 4– Design Quality of Residential Apartment Development and the Apartment Design Guide			
Clause 147	<i>(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment</i>	The design quality of the development is addressed within the Design Report prepared by Plus Studio to accompany this submission. A Design Verification Statement is also provided which includes an assessment of the proposal against the ADG design criteria and details how the proposal has been	Appendix 13 Appendix 14

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	<i>development must not be modified, unless the consent authority has considered the following—</i> <i>(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,</i> <i>(b) the Apartment Design Guide,</i> <i>(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.</i>	designed in accordance with the design principles for residential apartment development.	
Clause 148 Non-discretionary development standards for residential apartment development—the Act, s 4.15	(1) The object of this section is to identify development standards for particular matters relating to residential apartment development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with. (2) The following are non-discretionary development standards— (a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide, (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide, (c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.	The proposed development provides parking in excess of the requirement provided in the ADG. Internal areas of apartments achieve the requirements. Ceiling heights comply with the requirements.	Appendix 31 Appendix 13 Appendix 13

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149 Apartment Design Guide prevails over development control plans	(1) A requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter— (a) visual privacy, (b) solar and daylight access, (c) common circulation and spaces, (d) apartment size and layout, (e) ceiling heights, (f) private open space and balconies, (g) natural ventilation, (h) storage. (2) This section applies regardless of when the development control plan was made.	Noted.	-
State Environmental Planning Policy (Housing) 2021 – Chapter 6– Low and mid rise housing			
Part 4 Residential flat buildings and shop top housing			
164 Land to which chapter applies	(1) This chapter applies to the whole of the State, other than the following— (a) bush fire prone land, (b) land identified as a coastal vulnerability area or a coastal wetlands and littoral rainforests area within the meaning of State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2, (c) land to which Chapter 5 applies, (d) land that is a heritage item or on which a heritage item is located, (e) the following local government areas— (i) Bathurst Regional,	The site is not identified as bushfire prone. The site is not identified as within the coastal vulnerability area or a wetland or littoral rainforest. The site is not within a Transport Orientated Development area. The site does not contain a heritage item. The site is not identified in any of the listed LGAs.	N/A N/A N/A N/A N/A

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	(ii) City of Blue Mountains, (iii) City of Hawkesbury, (iv) Wollondilly, (f) flood prone land in the Georges River Catchment and Hawkesbury-Nepean Catchment under <u>State Environmental Planning Policy (Biodiversity and Conservation) 2021</u> , Chapter 6, (g) land in a flood planning area in the following local government areas— (i) Armidale Regional, (ii) Ballina, (iii) Bellingen, (iv) Byron, (v) City of Cessnock, (vi) Clarence Valley, (vii) City of Coff's Harbour, (viii) Dungog, (ix) Goulburn Mulwaree, (x) Kempsey, (xi) Kyogle, (xii) City of Lismore, (xiii) City of Maitland, (xiv) Nambucca Valley, (xv) City of Newcastle, (xvi) Port Stephens, (xvii) Queanbeyan-Palerang Regional, (xviii) Richmond Valley, (xix) City of Shoalhaven, (xx) Singleton, (xxi) Tweed, (xxii) Upper Hunter Shire, (xxiii) Walcha,		The site is not located in these catchments.	N/A	
	(h) land in an ANEF contour of 25 or greater or ANEC contour of 20 or greater,		The site is not in any of the listed LGAs.	N/A	

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	(i) land within 200m of a relevant pipeline within the meaning of <u>State Environmental Planning Policy (Transport and Infrastructure) 2021</u>, section 2.77, (j) (Repealed) (k) land within 800m of a public entrance to a railway, metro or light rail station listed in Schedule 12, (l) land identified as “Accelerated TOD Precinct” on the <u>Accelerated Transport Oriented Development Precincts Rezoning Areas Map</u>, (m) land identified as “exclusion area” on the <u>Low and Mid Rise Housing Exclusion Map</u>. (2) (Repealed)	The site is not within an ANEF or ANEC contour area. Not applicable. The site is not identified within a ‘Deferred Transport Orientated Development Area’. The site is not in an ‘Accelerated TOD Precinct’. The site is not within the LMR ‘exclusion area’.	N/A N/A N/A N/A N/A
165 Non-discretionary development standards – the Act s4.15	Sections 168, 169, 172, 173, 179, and 180 identify non-discretionary development standards for the Act, section 4.15(2).	Noted. Refer to Part 4 below.	-
174 Development permitted with development consent	Development for the purposes of residential flat buildings is permitted with development consent on land to which this chapter applies in a low and mid rise housing area in Zone R2 Low Density Residential or R3 Medium Density Residential.	The subject site is located on R3 zoned land.	Yes
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.	The development is within the low and mid rise housing inner area as it is located within 400m walking distance of land identified as “Town Centre” being Mona Vale Town Centre. The proposed development has a maximum building height of 28.6m as it utilises the 30% height and FSR bonus applicable under Chapter 2 of the Housing SEPP	Yes Yes

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	(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.	Not applicable. Noted. Basement levels are not included as a “storey”.	Yes N/A
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 <i>Tree Canopy Guide for Low and Mid Rise Housing</i>, published by the Department in February 2025.	Satisfied. The proposed development provides a deep soil area of 312.5m² tree canopy cover of 413.3m² (15.4%) in line with the LMR Tree Canopy Guidelines.	Yes Yes
178 Minimum lot size for residential flat buildings or shop top housing	(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. (2) A requirement specified in another environmental planning instrument or development control plan in relation to the following does not apply to development that meets the standards in section 180(2) or (3)— (a) minimum lot size, (b) minimum lot width.	Noted.	N/A
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. (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. (3) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing outer area—	The site is located in the LMR inner area. The proposal utilises the 30% bonus that can be applied to the maximum building height and FSR provisions under Chapter 2 of the Housing SEPP. When the 30% bonus is applied to the building height and FSR controls, the proposal complies.	Yes

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	(a) a maximum floor space ratio of 1.5:1, (b) a maximum building height of 17.5m.														
Apartment Design Guide															
3D Communal Open Space	1. Communal open space has a minimum area equal to 25% of the site. 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).	Communal open space (COS) is provided at ground level and equates to 670.4m² or 25% of the total site area. The COS area achieves at minimum 50% direct sunlight between 9am and 11pm during the winter solstice.	Yes Yes												
3E Deep Soil Zones	1. Deep soil zones are to meet the following minimum requirements <table><tr><th>Site Area</th><th>Minimum Dimension</th><th>Deep Soil Zone</th></tr><tr><td>Less than 650m2</td><td>-</td><td rowspan="4">7% of the site area</td></tr><tr><td>650m2 to 1,500m2</td><td>3m</td></tr><tr><td>Greater then 1,500m2</td><td>6m</td></tr><tr><td>Greater than 1,500m2 with significant existing tree cover</td><td>6m</td></tr></table>	Site Area	Minimum Dimension	Deep Soil Zone	Less than 650m2	-	7% of the site area	650m2 to 1,500m2	3m	Greater then 1,500m2	6m	Greater than 1,500m2 with significant existing tree cover	6m	The subject site has an area of 2,679.4m² and therefore a minimum 7% deep soil area is required, with a minimum dimension of 6m. The proposal provides a deep soil area of 313.6m² which equates to 11.7% of the site.	Yes
Site Area	Minimum Dimension	Deep Soil Zone													
Less than 650m2	-	7% of the site area													
650m2 to 1,500m2	3m														
Greater then 1,500m2	6m														
Greater than 1,500m2 with significant existing tree cover	6m														
3F Visual Privacy	1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	The site contains a single frontage to Darley Street East. Given this boundary adjoins a road reserve, the visual separation requirements of part 3F are not applied to this boundary. The proposed built form provides a podium tower form in line with the visual privacy setbacks of the ADG.	On Merit (refer to Section 6.2.2)			
Building height	Habitable rooms and balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													

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	<table><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> 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	Over 25m (9+ storeys)	12m	6m	Ground Floor - minimum 6m setback is achieved to side and rear boundaries with the exception of POS areas. Level 1-3 - 6m habitable setback is largely maintained to side and rear boundaries. - Exception being the angled windows that protrude into the 6m setback. These angled windows achieve an approx. 4.5m setback. However, the angled windows are orientated away from neighbouring buildings or provide sufficient screening effectively rendering these features non-habitable. Level 4 - Approx. 6.8m habitable setback provided to rear and side boundaries. Level 5-7 - 9m habitable setback to all windows and balconies. The non-compliance with regard to visual privacy includes L1-3 and refers is a result of the angled windows that protrude within the 6m setback. Whilst the deletion of the angled windows would achieve compliance, it would result in a reduced privacy outcome given the separation distances achieved by the neighbouring buildings (in the range of 3-4m). The angled windows and privacy screening effectively create a non-habitable façade that provides in excess of 4.5m separation. The other non-compliance is in relation to the balconies across L4.	
Over 25m (9+ storeys)	12m	6m				
3J Bicycle and Car Parking	1. For development in the following locations: • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre	The proposed development incorporates affordable housing in accordance with Chapter 2 Division 1 of the Housing SEPP. These parking rates have been applied.	Refer to infill affordable housing assessment table			

Statutory Compliance Table

	the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments (GTTGD), or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.												
4A Solar Access and Daylight	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 3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	38 of 53 apartments (67.9%) will achieve 2+ hours of solar access during mid-winter. This represents a deficit of one (1) apartment in achieved adequate solar access which is addressed in Section 6.2.4. 6 of 53 apartments (11.3%) will not achieve direct sunlight during mid winter.	Yes Yes										
4B Natural Ventilation	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	32 of 53 apartments (60.4%) achieve cross ventilation as shown on the architectural plans. Refer to architectural plans.	Yes										
4C Ceiling Height	1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable rooms</td><td>2.4m</td></tr><tr><td>Two storey apartments</td><td>2.7m for main living area and 2.4m for second floor where its area does not exceeds 50% of the apartment area.</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable rooms	2.4m	Two storey apartments	2.7m for main living area and 2.4m for second floor where its area does not exceeds 50% of the apartment area.	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	At minimum 3.2m floor to floor ceiling heights are provided for the building which is sufficient in facilitating 2.7m ceiling heights.	Yes
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable rooms	2.4m												
Two storey apartments	2.7m for main living area and 2.4m for second floor where its area does not exceeds 50% of the apartment area.												
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope												

Statutory Compliance Table

	<table><tr><td>If located in mixed use areas</td><td>3.3m for ground and first floor to promote future flexibility of use.</td></tr></table> These minimums do not preclude higher ceilings if desired.	If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use.										
If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use.												
4D Apartment Layout	1. Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 Bedroom</td><td>70m²</td></tr><tr><td>3 Bedroom</td><td>90m²</td></tr></table> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each. 2. 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. 1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height. 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. 1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space) 2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 Bedroom	70m ²	3 Bedroom	90m ²	All apartments exceed the requirement as shown on the architectural plans. The proposal complies with this requirement per the architectural plans. The proposal complies with this requirement per the architectural plans. Each habitable room has a sufficiently sized windows for solar access and natural ventilation. Dimensions provided on the submitted plan set demonstrate that rooms are appropriately proportioned to comply with the numeric requirements of the ADG and to permit entry of sunlight and natural ventilation throughout internal spaces.	Yes Yes Yes Yes
Apartment type	Minimum internal area												
Studio	35m ²												
1 bedroom	50m ²												
2 Bedroom	70m ²												
3 Bedroom	90m ²												

Statutory Compliance Table

	3. Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments 4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Dimensions indicated on plans demonstrate that living area depths comply with numeric requirements, as measured from an opening. Refer to plan set which demonstrates that each bedroom is sized to comply with the numeric requirements of the AGD. Each living room has a minimum dimension which accords with the ADG to allow for varied furniture layouts. Refer to architectural plans which demonstrates compliance.	Yes Yes Yes Yes															
4E Private open space and balconies	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m2</td><td>2m</td></tr><tr><td>2 Bedroom</td><td>10m2</td><td>2m</td></tr><tr><td>3 Bedroom +</td><td>12m2</td><td>2.4m</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m. 2. 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 15m² and a minimum depth of 3m	Dwelling type	Minimum area	Minimum depth	Studio	4m2	-	1 bedroom	8m2	2m	2 Bedroom	10m2	2m	3 Bedroom +	12m2	2.4m	Each apartment is provided with an area of private open space in the form of a balcony/terrace that meets the minimum area requirements of the ADG. All private open space areas are in excess of the minimum area and depth requirements for 2- and 3-bedroom apartments. The ground floor POS is far larger than the minimum 15m² requirement with a depth greater than 3m.	Yes Yes Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4m2	-																
1 bedroom	8m2	2m																
2 Bedroom	10m2	2m																
3 Bedroom +	12m2	2.4m																
4F Common Circulation Space	1. The maximum number of apartments off a circulation core on a single level is eight. Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.	A maximum of 9 apartments are provided from a single circulation core.	Yes															

4G Storage	1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	The proposal is compliant as shown in the architectural set.	Yes										
	<table><tr><th>Dwelling type</th><th>Storage volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 Bedroom</td><td>8m³</td></tr><tr><td>3+ Bedroom</td><td>10m³</td></tr></table>			Dwelling type	Storage volume	Studio	4m ³	1 bedroom	6m ³	2 Bedroom	8m ³	3+ Bedroom	10m ³
	Dwelling type			Storage volume									
	Studio			4m ³									
	1 bedroom			6m ³									
	2 Bedroom			8m ³									
	3+ Bedroom			10m ³									
At least 50% of the required storage is to be located within the apartment.													
	Storage is provided across all basement levels.	Yes											

Pittwater Local Environmental Plan 2014

2.3 Zone objectives and Land Use table	Zone R3 Medium Density Development The specific objectives of the Zone are stated as follows: • 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.	The proposed development provides a high-quality, high-density residential flat building with affordable housing to provide housing for the community within a locality of varying densities. The proposed development will provide a mix of 2 and 3 bedroom market and affordable units which cater for different community needs. The proposal has been designed to be compatible with the future character of the locality as envisaged by the changes in the Housing SEPP. The proposed residential flat building will not preclude the use of other land that provides facilities or services to meet the day to day needs of residents. The Mona Vale Town Centre is within 400m of the site which provides suitable facilities and services.	Section 6.4.1
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Statutory Compliance Table

	To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.	The proposal provides a residential land use that is compatible with the surrounding streetscape of residential uses and the future character of the locality. The proposal is not for a low intensity development.	
2.7 Demolition requires development consent	The demolition of a building or work may be carried out but only with development consent.	Development consent is sought for the proposed demolition of the existing residential apartment building and associated structures.	N/A
4.3 Height of Buildings	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. 8.5m	The proposed development is subject to a bonus height incentive of 30% as permitted under the Housing SEPP. The proposed maximum building height is 28.6m which complies with the bonus 30% height permitted.	Section 6.2 and Appendix 12
4.4 Floor Space Ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. N/A	There is no stipulated maximum FSR for the site. The proposed FSR for this site is 2.2:1 as the site relies on the LMR controls for RFBs located in an inner area. Further, the proposed is seeking a bonus FSR of 30% applicable under the In-fill affordable housing provisions.	Section 6.2 and Appendix 12
4.5A Density Controls for Certain Residential Accommodation	(2) Development consent must not be granted to development for a purpose specified in Column 1 of the table to this clause on land in the zone or area shown opposite that development in Column 2 of that table unless the development complies with the density requirements specified in Column 3 of that table. (3) This clause does not apply to the following land— (a) land in the Warriewood Valley Release Area, (b) Lots 1–5, DP 11108, 159–167 Darley Street West, Mona Vale. Residential flat buildings R3 Medium Density Residential A maximum of 1 dwelling per 200 square metres of site area.	The site contains an area of 2,679.4m². A total of 13.39 apartments is permitted at the site. A total of 53 apartments is proposed which represents an exceedance of 39.61. A Clause 4.6 Variation Statement has been prepared to address the proposed contravention.	See Appendix 5

Statutory Compliance Table

4.6 Exceptions to development standards	(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.	A Clause 4.6 Variation Statement in relation to Clause 4.5A has been provided.	Appendix 5
5.10 Heritage Conservation	(5) Heritage assessment The consent authority may, before granting consent to any development— (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	The site is not identified as containing heritage items and is not located within a heritage conservation area. The site is located opposite to No. 22 Darley Street East, a dwelling house which is identified as an item of local heritage significance (Refer below).  Figure 1 Heritage Mapping (Source: NSW Planning Portal) A Heritage Impact Statement by <i>Architectural Projects</i> that assesses the impact of the proposal on the nearby heritage item, and any other items within the locality is provided in Appendix 22.	Appendix 22
5.21 Flood Planning	(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and	The s10.7 certificate states that the site is within a flood planning area and subject to flood related development controls. A Flood Impact and Risk Assessment (FIRA) has been prepared by <i>SGC Consulting</i> which makes the following conclusions: The site is not part of the flood planning area. The stormwater design has incorporated hydrological measures to control stormwater runoff.	Appendix 28

Statutory Compliance Table

	(d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.		
7.1 Acid Sulfate Soils	(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. Class 5 Soil: Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land	The site is located within class 5 Acid Sulfate Soils on the Acid Sulfate Soils Map. A Preliminary Site Investigation has been prepared by <i>EI Australia</i> which confirms there is a low likelihood for acid sulfate soils to exist on the site.	Appendix 16
7.2 Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.	Consent will be sought for the earthworks required to undertake the proposed development. An assessment against the proposed earthworks is provided within the Geotechnical Assessment by <i>EI Australia</i> at Appendix 16.	Section 3.1.2, Appendix 16
7.10 Essential services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required— (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access.	The site contains existing connections to essential services. Essential service providers including Sydney Water and Ausgrid have been engaged with as part of pre-lodgement engagement.	Appendix 7

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7.14 Affordable housing	(2) Development consent must not be granted unless the consent authority is satisfied that the proportion of the gross floor area of the building used for affordable housing is not less than the amount shown on the <u>Affordable Housing Contributions Scheme Map</u> .	The site is not within the current Affordable Housing Contribution map. A Planning Proposal is currently under assessment (at gateway determination) which seeks to increase requirements for the provision of affordable housing contributions to meet targets set by Council's Local Housing Strategy through the inclusion of new and amended local provisions in the various LEPs within the Northern Beaches Local Government Area, including PLEP 2014, to enable the collection of affordable housing contributions in accordance with proposed amendments to Council's Affordable Housing Contributions Scheme. Specifically, it is proposed that all residential development within the LMR inner and outer area to which Chapter 6 of the Housing SEPP applies will require the collection of an affordable housing contribution. This would apply comprising 3% of the GFA of the development. The contribution would be specified in the AHCS at a flat rate of \$16,150 per sqm.	Section 6.6
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