

Appendix CC: Statutory Compliance Table

1.0 State Legislation

Statutory Requirement	Comment	EIS Section	Documentation
<i>Environmental Planning and Assessment Act 1979 (NSW)</i>			
Section 1.3 Objective of the Act			
<i>The objects if this Act are as follows</i>	See below.		
<i>(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,</i>	The proposal promotes the social and economic welfare of the community by delivering 220 new homes including 46 affordable dwellings within a short walk of Lindfield station; in a manner that mitigates any unreasonable impacts on the surrounding environment.	Section 7.0	Appendix BB
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	Ecologically sustainable development initiatives are incorporated into both the architectural and operational aspects of the development.	Section 7.11	Appendix D Appendix M Appendix U
<i>(c) to promote the orderly and economic use and development of land,</i>	The proposal promotes the orderly and economical use of the land by providing an additional 220 dwellings within a built form that is generally consistent with the state government's planning policies.	Section 3.0	N/A
<i>(d) to promote the delivery and maintenance of affordable housing,</i>	The proposal involves the provision of 46 affordable housing dwellings. This includes 5 dwellings to remain as affordable housing in perpetuity and 41 dwellings that will remain as affordable housing for a minimum of 15 years.	Section 1.4 Section 4.3	Appendix B Appendix C
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	The proposal will not have any impact on any threatened species of species of native animals and plants, ecological communities and their habitats.	Section 7.10 Section 7.12	Appendix B Appendix D Appendix F Appendix L

Statutory Requirement	Comment	EIS Section	Documentation
			Appendix N
<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	The proposal has undergone a meaningful Connecting with Country co-design process with Traditional Owners. The site does not contain any non-aboriginal heritage items. The site is located within a heritage conservation area and adjoins heritage items. However, the Heritage Impact Statement has assessed and concluded that the proposed development is sensitive to heritage values and acceptable for approval from a heritage perspective.	Section 2.2 Section 4.6 Section 6.1 Section 7.16	Appendix I Appendix J Appendix L Appendix H
<i>(g) to promote good design and amenity of the built environment,</i>	The proposal has ensured good design and amenity of the built environment through the SDRP process and incorporation of the feedback received in this process.	Sections 7.1 – Section 7.4	Appendix B Appendix D Appendix L Appendix T
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The construction and maintenance of the proposed development will be in accordance with the management plans that accompany this SSDA and any relevant future conditions of consent.	Section 4.15 Section 7.3 Section 7.5 Section 7.6 Section 7.8 Section 7.9	Appendix D Appendix O Appendix R Appendix Y Appendix V
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	This application is an SSD relying on the assessment by DPHI.	Section 5.0	N/A
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment.</i>	The proposal has undergone an engagement process with the community.	Section 6.0	Appendix E
Section 4.15 Evaluation			
(1) Matters for consideration—general <i>In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—</i>	See below.		
(a) the provisions of—			
<i>(i) any environmental planning instrument, and</i>	This Statutory Compliance table outlines compliance with relevant provisions of environmental planning	Section 5.0	Appendix CC

Statutory Requirement	Comment	EIS Section	Documentation
	instruments that apply to the project including where it has been addressed in the EIS and supporting documentation.		
<i>(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the 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</i>	Not Applicable. The Ku-ring-gai Council are currently exhibiting the 'Preferred Scenario' for development in the Ku-ring-gai TOD precincts. The Preferred Scenario is not a 'proposed instrument' and is not a legal consideration under Section 4.15(1)(a)(ii).	N/A	Appendix CC
<i>(iii) any development control plan, and</i>	Noted. Development control plans do not apply to State Significant developments under Section 2.10 of the Planning SEPP.	N/A	Appendix CC
<i>(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</i>	N/A	N/A	Appendix CC
<i>(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</i>	Compliance with the EP&A Regulations is detailed in this Statutory Compliance Table.	Section 5.0	Appendix CC
<i>(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	The proposed development will not result in any unacceptable adverse impacts on the surrounding natural and built environment. Mitigation measures are proposed where relevant.	Section 7.0	Appendix D Appendix P Appendix T Appendix W Appendix R
<i>(c) the suitability of the site for the development,</i>	The proposed development is suitable for the site.	Section 7.9 Section 8.6	Appendix O
<i>(d) any submissions made in accordance with this Act or the regulations,</i>	All public submissions through the appropriate channels will be considered and responded in accordance with this Act.	N/A	Appendix CC
<i>(e) the public interest.</i>	The proposed development is in the public interest.	Section 8.7	N/A
Biodiversity Conservation Act 2016 (NSW)			

Statutory Requirement	Comment	EIS Section	Documentation
Section 7.9 Biodiversity assessment for State significant development or infrastructure			
(1) This section applies to—	This section applies as an SSDA for development consent under Part 4 of the EP&A Act. This SSDA is accompanied by a BDAR.	Section 7.10	Appendix G
(a) an application for development consent under Part 4 of the Environmental Planning and Assessment Act 1979 for State significant development, and			
(2) Any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.			
(3) The environmental impact statement that accompanies any such application is to include the biodiversity assessment required by the environmental assessment requirements of the Planning Agency Head under the Environmental Planning and Assessment Act 1979 .			
Section 7.14 State significant development or infrastructure			
(1) This section applies to an application for development consent for State significant development under Part 4 of the Environmental Planning and Assessment Act 1979 , or an application for approval for State significant infrastructure under the Environmental Planning and Assessment Act 1979 , Division 5.2, that is required under Division 2 to be accompanied by a biodiversity development assessment report.	This section applies as an SSDA for development consent under Part 4 of the EP&A Act. This SSDA is accompanied by a BDAR.	Section 7.12	Appendix G
(2) The Minister for Planning, when determining in accordance with the Environmental Planning and Assessment Act 1979 any such application, is to take into consideration under that Act the likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report. The Minister for Planning may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.			
(3) If the Minister for Planning decides to grant consent or approval and the biodiversity offsets scheme applies to the proposed development, the conditions of the consent or approval may require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values (whether of the	N/A	N/A	N/A

Statutory Requirement	Comment	EIS Section	Documentation
<i>number and class specified in the report or other number and class). The residual impact is the impact after the measures that are required to be carried out by the terms or conditions of the consent or approval to avoid or minimise the impact on biodiversity values of the proposed development.</i>			
<i>(4) A condition to retire biodiversity credits is required to be complied with before any development is carried out that would impact on biodiversity values. If the retirement of particular biodiversity credits applies to a stage of the development, compliance with the condition for their retirement is postponed until it is proposed to carry out that stage of the development.</i>	N/A	N/A	N/A
<i>(5) This section does not operate to limit the matters that the Minister for Planning may take into consideration in relation to the impact of proposed development on biodiversity values, the measures that the Minister may require to avoid or minimise those impacts or the power of the Minister to refuse to grant consent or approval because of those impacts.</i>	Noted.	N/A	N/A
Environmental Planning and Assessment Regulation 2021 (NSW)			
Part 8 Infrastructure and environmental impact assessment			
Division 2 Environmental assessment requirements for State significant development, designated development and activities – the Act, s 4.39, 4.64 and Div 5.1	SEARs were received SSD-79276958 dated 16 January 2025. The EIS has been prepared to address the SEARs.	EIS and Appendices	Appendix A EIS and Appendices
Division 5 Environmental impact statements – the Act, s4.12(8), 5.7(1) and 5.16(2)	The EIS contains all the required information in accordance with the <i>State significant development guidelines – preparing an environmental impact statement</i> , dated July 2022.	EIS and Appendices	EIS and Appendices

2.0 Environmental Planning Instruments

Statutory Requirement	Comment	EIS Section	Documentation
State Environmental Planning Policy (Planning Systems) 2021			
Section 2.6 Declaration of State significant development: section 4.36			
(1) Development is declared to be State significant development for the purposes of the Act if— (b) the development is specified in Schedule 1 or 2.	The development is specified as SSD under Section 26A In-fill affordable housing as noted below.		
Schedule 1, Section 26A – In-fill affordable housing			
(1) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 applies if— (a) the part of the development that is residential development has an estimated development cost of— (i) for development on land in the Eastern Harbour City, Central River City or Western Parkland City in the Six Cities Region—more than \$75 million,	The proposed development involves in-fill affordable housing and exceeds the \$75 million threshold and is therefore considered as State significant development.	Section 5.0	Appendix DD
(b) the development does not involve development prohibited under an environmental planning instrument applying to the land.	Residential flat buildings are permissible on the site in accordance with Section 154 under Chapter 5 of the Housing SEPP.		
Section 2.10 Application of development control plans to State significant development			
(1) Development control plans (whether made before or after the commencement of this Chapter) do not apply to— (a) State significant development,	The provisions and requirements under the Ku-ring-gai Development Control Plan 2024 (KDCP) do not apply to this SSDA and therefore not enforceable.	N/A	Appendix CC
State Environmental Planning Policy (Housing) 2021			
Chapter 2, Part 2, Division 1 In-fill affordable housing			
Section 15C Development to which this division applies			
(1) This division applies to development that includes residential development if—	See below.		
(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and	The development is permitted under Chapter 5 of the Housing SEPP.	Section 5.0	Appendix CC

Statutory Requirement	Comment	EIS Section	Documentation
<i>(b) the affordable housing component is at least 10%, and</i>	The affordable housing component for the proposal is 15%.	Section 1.4 Section 4.3	Appendix B Appendix D
<i>(c) all or part of the development is carried out—</i>	See below.		
<i>(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</i>	The development is on land is in an accessible area within the Six Cities Region.	Section 5.0	Appendix CC
<i>(ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.</i>			
<i>(2) Affordable housing provided as part of development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division.</i>	Sections 156 under Chapter 5 of the Housing SEPP requires 2% of proposed GFA as affordable housing. Therefore, including the 15% affordable housing delivered under the provisions of this chapter, the proposal delivers on the provision of 17% affordable housing GFA to satisfy all relevant affordable housing requirements under the Housing SEPP.	Section 1.4 Section 4.3 Section 5.1	Appendix B Appendix D
Section 16 Affordable housing requirements for additional floor space ratio			
<i>(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 land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).</i>	The total GFA for the proposed development is 21,684sqm. The proposal provides sqm as infill affordable housing for a minimum of 15 years, which equates to 15% of the total GFA. Therefore, the development is eligible for an additional amount of GFA and building height equal to 30% above the maximum FSR and maximum building height permissible under Section 155 of the Housing SEPP. Therefore, the resulting maximum permissible FSR for the site is 3.25:1 and the maximum permissible building height is 28.6m. The proposed FSR is 3.25:1 which complies with the maximum FSR. The proposed maximum building height is 33.07m which is a 4.4m (15.6%) variation to the maximum	Section 4.7 Section 7.2	Appendix B Appendix D Appendix P
<i>(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—</i> $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$			
<i>(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 land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).</i>			

Statutory Requirement	Comment	EIS Section	Documentation
	permissible building height. A Clause 4.6 variation is provided.		
Section 19 Non-discretionary development standards – the Act, s 4.15			
<i>(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.</i>	Noted.		
<i>(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—</i>	See below.		
<i>(a) a minimum site area of 450m²,</i>	The site has an area of 6,672 sqm.	Section 2.2	Appendix D Appendix F
<i>(b) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area,</i>	The proposal has a landscaped area of 1,943.8 sqm which is 29.7% of the site area.	Section 4.10 Section 7.10	Appendix D Appendix L
<i>(e) the following number of parking spaces for dwellings used for affordable housing—</i>	The total parking provisions of the proposal comply with the rates under this section.	Section 4.8 Section 7.5	Appendix Q
<i>(i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,</i>			
<i>(ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,</i>			
<i>(iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,</i>			
<i>(f) the following number of parking spaces for dwellings not used for affordable housing—</i>	The total parking provisions of the proposal comply with the rates under this section. Refer to the TIA.	Section 4.8 Section 7.5	Appendix Q
<i>(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,</i>			
<i>(ii) for each dwelling containing 2 bedrooms—at least 1 parking space,</i>			
<i>(iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,</i>			
<i>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,</i>	The proposal complies with minimum internal areas as specified in the ADG.	Section 5.0	Appendix T

Statutory Requirement	Comment	EIS Section	Documentation
<i>(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>	N/A	N/A	N/A
<i>(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—</i>	N/A	Section 5.0	Appendix T
<i>(i) for each dwelling containing 1 bedroom—65m²,</i>			
<i>(ii) for each dwelling containing 2 bedrooms—90m²,</i>			
<i>(iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.</i>			
Section 20 Design requirements			
<i>(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—</i>	See below.		
<i>(b) for precincts undergoing transition—the desired future character of the precinct.</i>	The precinct has been identified as being appropriate for higher density housing in accordance with the TOD and infill affordable housing provisions of the Housing SEPP. The proposed development is generally consistent with the relevant planning controls and therefore compatible with the desired future character of the local area.	Section 7.2.4	Appendix D
Section 21 Must be used for affordable housing for at least 15 years			
<i>(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—</i>	The 15% (3,253 sqm) of affordable housing under the provisions of section 16 under Chapter 2 of the Housing SEPP will be managed by Bridge Housing, a registered community housing provider for a period of at least 15 years.	Section 1.4 Section 4.3	Appendix C
<i>(a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and</i>			
<i>(b) the affordable housing component will be managed by a registered community housing provider.</i>			
Chapter 4 Design for residential apartment development			
Section 144 Application of chapter			

Statutory Requirement	Comment	EIS Section	Documentation
(2) This chapter applies to the following—	See below.		
(a) development for the purposes of residential flat buildings,	The proposal is for residential flat buildings.	Section 4.0	Appendix B
(3) This chapter applies to development only if—	See below.		
(a) the development consists of— (i) the erection of a new building, or	The proposal is for the erection of new buildings	Section 4.0	Appendix B
(b) the building is at least 3 storeys, not including underground car parking storeys, and	Each pavilion of the proposed development is 9-storeys.	Section 4.0	Appendix B
(c) the building contains at least 4 dwellings.	The proposal contains 220 dwellings	Section 4.0	Appendix B
Section 144 Application of chapter			
(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following— (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, (b) the Apartment Design Guide	DKO have comprehensively addressed the design principles and the ADG. Refer to Design Verification Statement.	Section 7.2	Appendix T
Section 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.	Noted.		
(2) The following are non-discretionary development standards—	See below.		
(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,	The car parking provision for the proposal is compliant with the recommended car parking in Part 3J of the ADG.	Section 7.5	Appendix T Appendix Q
(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,	The internal areas for each apartment of the proposal are compliant with minimums specified in Part 4D of the ADG.	Section 5.0	Appendix T

Statutory Requirement	Comment	EIS Section	Documentation
<i>(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.</i>	The ceiling heights for the proposal are compliant with minimum ceiling heights specified in Part 4C of the ADG.	Section 5.0	Appendix T
Chapter 5 Transport oriented development			
Section 150 Aim of chapter			
<i>The aims of this chapter are as follows—</i>	See below		
<i>(a) to increase housing density within 400m of existing and planned public transport,</i>	The proposal is consistent with the aims of this chapter in that: - It will deliver a residential flat building within 400m of Lindfield train station. - Has undergone an SDRP process - The proposed bulk and scale is an appropriate site-specific design response to the existing and future context. - The proposal has been designed to achieve the ADG design criteria or otherwise, design guidance. - It is delivering 46 affordable housing dwellings.	Section 5.0	Appendix D Appendix CC Appendix T
<i>(b) to deliver mid-rise residential flat buildings, seniors housing in the form of independent living units and shop top housing around rail and metro stations that—</i>			
<i>(i) are well designed, and</i>			
<i>(ii) are of appropriate bulk and scale, and</i>			
<i>(iii) provide amenity and liveability,</i>			
<i>(c) to encourage the development of affordable housing to meet the needs of essential workers and vulnerable members of the community.</i>			
Section 154 Development permitted with development consent in Transport Oriented Development Areas			
<i>(1) Development for the purposes of residential flat buildings is permitted with development consent on land in the following zones in a Transport Oriented Development Area—</i> <i>(a) a relevant residential zone,</i>	The site is zoned R2 Low Density Residential in a TOD area, which is a ‘relevant residential zone’ under Section 151 Definitions for Chapter 5.	Section 5.0	Appendix CC
Section 155 Maximum building height and maximum floor space ratio			
<i>(2) The maximum building height for a residential flat building in a Transport Oriented Development Area is 22m.</i>	The site is subject to the infill affordable housing provisions under Section 16 of the Housing SEPP (refer above). The proposed development is subject to a maximum permissible building height of 28.6m. The proposed maximum building height of the proposal is 33.07m which is a 15.6% exceedance to the development standard. A Clause 4.6 Variation has been prepared for the variation to the building height development standard.	Section 4.7 Section 7.2	Appendix B Appendix D Appendix P

Statutory Requirement	Comment	EIS Section	Documentation
<i>(4) The maximum floor space ratio for the following in a relevant residential zone or relevant employment zone in a Transport Oriented Development Area is 2.5:1— (a) a residential flat building,</i>	The site is subject to the infill affordable housing provisions under Section 16 of the Housing SEPP (refer above). The proposed development complies with the maximum permissible FSR of 3.25:1.	Section 4.7 Section 7.2	Appendix B Appendix D
Section 156 Affordable housing			
<i>(1) This section applies to development for the purposes of residential flat buildings, independent living units or shop top housing in a Transport Oriented Development Area if the building has a gross floor area of at least 2000m².</i>	The proposal has a gross floor area (GFA) of 21,684sqm.	Section 4.2	Appendix B Appendix D
<i>(2) Development consent must not be granted unless the consent authority is satisfied that—</i>	See below.		
<i>(a) at least 2% of the gross floor area of the building will be used for affordable housing, and (b) the affordable housing will be managed by a registered community housing provider in perpetuity.</i>	The proposal includes 434sqm of affordable housing GFA to be managed in perpetuity by Bridge Housing, a registered community housing provider. This equates to 2% of the total GFA.	Section 1.4 Section 4.3	Appendix C
<i>(3) A requirement under a provision of another chapter of this policy, another environmental planning instrument or a planning agreement that requires the development to provide more affordable housing prevails over this section.</i>	The proposal relies on Section 16 under Chapter 2 of the Housing SEPP. The infill affordable housing provided under Section 16 is in addition to the 2% required under Section 156. The 2% affordable housing required under Section 156 is not counted in the calculation of infill affordable housing under Section 16.	Section 4.3 Section 5.1	Appendix C
<i>(4) Affordable housing provided as part of the development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing required under this section.</i>			
Section 157 Affordable housing parking spaces			
<i>(1) This section identifies a development standard for development under this chapter that, if complied with, prevents the consent authority from requiring more onerous standards for the matters.</i>	See below.		
<i>(2) Development to which section 156 applies must provide the following number of parking spaces for each affordable housing dwelling required under that section—</i>	See below		
<i>(a) for each dwelling containing 1 bedroom—0.4 parking space,</i>	The total parking provisions of the proposal comply with the rates under this section. Refer to the TIA.	Section 7.5	Appendix B Appendix Q
<i>(b) for each dwelling containing 2 bedrooms—0.5 parking space,</i>			

Statutory Requirement	Comment	EIS Section	Documentation
(c) for each dwelling containing 3 or more bedrooms—1 parking space.			
(3) This section prevails over a provision in another chapter of this policy or another environmental planning instrument to the extent that other provision permits a lower number of parking spaces for dwellings used for affordable housing on the land.			
Section 158 Exception to minimum lot size			
(1) This section applies if another environmental planning instrument applying to the land specifies a minimum lot size for development for the purposes of residential flat buildings or shop top housing (a minimum lot size restriction).	Clause 4.1 of the KLEP imposes a 790 sqm minimum lot size control on the site. Site amalgamation will result in a lot size of 6,672 sqm.	Section 5.2	Appendix CC
(2) Development consent may be granted to development for the purposes of residential flat buildings or shop top housing on land in a Transport Oriented Development Area, despite a minimum lot size restriction.			
Section 159 Minimum lot width			
Development consent must not be granted to development for the purposes of residential flat buildings, independent living units or shop top housing on a lot in a Transport Oriented Development Area, unless the lot is at least 21m wide at the front building line.	The site has a front building line of at least 21m wide.	Section 4.0	Appendix B
Section 161 Consideration of Apartment Design Guide			
Development consent must not be granted for development for the purposes of residential flat buildings, independent living units or shop top housing on land in a Transport Oriented Development Area unless the consent authority has considered the Apartment Design Guide.	The proposal has considered the Apartment Design Guide (ADG). Refer to the Design Verification Statement for assessment of compliance of key ADG criteria. Any non-compliances are assessed in the EIS.	Section 7.2	Appendix D Appendix T
State Environmental Planning Policy (Transport and Infrastructure) 2021			
Chapter 2, Part 2.3, Division 17, Subdivision 2 Development in or adjacent to road corridors and road reservations			
2.119 Development with frontage to classified road			
(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that— (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and	N/A	N/A	Appendix Q

Statutory Requirement	Comment	EIS Section	Documentation
<i>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—</i> <i>(i) the design of the vehicular access to the land, or</i> <i>(ii) the emission of smoke or dust from the development, or</i> <i>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i> <i>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i>			
2.120 Impact of road noise or vibration on non-road development			
<i>(1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—</i> <i>(a) residential accommodation,</i> <i>(b) a place of public worship,</i> <i>(c) a hospital,</i> <i>(d) an educational establishment or centre-based child care facility.</i>	N/A	N/A	Appendix Q Appendix Y
2.122 Traffic-generating development			
<i>(1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—</i> <i>(a) new premises of the relevant size or capacity, or</i> <i>(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</i>	N/A	N/A	Appendix Q
<i>(3) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this section applies that this Chapter provides may be carried out without consent unless the authority or person has—</i>			

Statutory Requirement	Comment	EIS Section	Documentation
(a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and (b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.			
(4) Before determining a development application for development to which this section applies, the consent authority must— (a) give written notice of the application to TfNSW within 7 days after the application is made, and (b) take into consideration— (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 (ii) the accessibility of the site concerned, including— (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and (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 (iii) any potential traffic safety, road congestion or parking implications of the development.			
State Environmental Planning Policy (Resilience and Hazards) 2021			
Section 4.6 Contamination and remediation to be considered in determining development applications			
(1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration— (a) residential accommodation, (b) a place of public worship, (c) a hospital,	Section 4.6 provides a State-wide approach to the remediation of contaminated land. It requires a consent authority to assess the potential for land to be contaminated and the works required to remediate the land to ensure it is suitable for its intended use. The PSI concludes that the land is suitable for the proposed development in accordance with the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.	Section 7.9	Appendix O

Statutory Requirement	Comment	EIS Section	Documentation
(d) an educational establishment or centre-based child care facility.			
(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.			
State Environmental Planning Policy (Sustainable Buildings) 2022			
Chapter 2 Standards for residential development - BASIX			
Section 2.1 Standards for BASIX development and BASIX option development			
(1) Schedule 1 sets out the standards that apply to BASIX development referred to in paragraphs (a) and (b) of the definition of BASIX development in the Environmental Planning and Assessment Regulation 2021 .	The proposed development is considered a BASIX development referred to in paragraph (a) of the definition of BASIX development in the EP&A Regulations as below. The development has been designed to incorporate the standard specified in Schedule 1.	Section 7.8	Appendix M Appendix U
(5) Development consent must not be granted to development to which the standards specified in Schedule 1 or 2 apply unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.			
Ku-ring-gai Local Environmental Plan 2015			
Clause 2.3 Zone objectives and Land Use Table			
Zone R2 Low Density Residential	The site is zoned R2 Low Density Residential Zone under the KLEP. Chapter 5 of the Housing SEPP permits residential flat buildings with consent on land zoned R2 Low Density Residential within a TOD area. The proposal is consistent with the aims of Chapter 5 of the Housing SEPP.	Section 5.2	Appendix CC
1 Objectives of zone - To provide for the housing needs of the community within a low density residential environment. - To enable other land uses that provide facilities or services to meet the day to day needs of residents. - To provide for housing that is compatible with the existing environmental and built character of Ku-ring-gai.			
2 Permitted without consent Home occupations			
3 Permitted with consent			

Statutory Requirement	Comment	EIS Section	Documentation
<i>Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture</i> 4 Prohibited Any development not specified in item 2 or 3			
Clause 2.7 Demolition requires development consent			
<i>The demolition of a building or work may be carried out only with development consent.</i>	The proposal seeks consent for the demolition of all existing buildings on the site.	Section 4.5	Appendix B
Clause 4.3 Height of buildings			
<i>(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.</i>	• The maximum permissible building height under the KLEP is 9.5m. • Notwithstanding, the site is subject to a maximum height of building control of 22m under the provisions of Chapter 5 of the Housing SEPP. • Under the provisions of section 16 under Chapter 2, Part 2, Division 1 of the Housing SEPP, the proposal is subject to an additional height of 30% which equates to a maximum permissible height limit of 28.6m. • The maximum height of building proposed is 33.07m which exceeds the maximum permissible height by 4.4m (15.6%). A Clause 4.6 Variation Request for Building Height has been prepared.	Section 4.7 Section 7.2	Appendix B Appendix D Appendix P
Clause 4.4 Floor space ratio			
<i>(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.</i>	• The maximum permissible FSR under the KLEP is 0.3:1.	Section 4.7 Section 7.2	Appendix B Appendix D

Statutory Requirement		Comment	EIS Section	Documentation				
(2A) Despite subclause (2), the floor space ratio for a building on land in Zone R2 Low Density Residential where the site area is within a specified range in Column 1 of the table to this subclause must not exceed the ratio specified opposite in Column 2 of the table. <table><tr><th>Column 1</th><th>Column 2</th></tr><tr><td>More than 1,700 square metres</td><td>0.3:1</td></tr></table>		Column 1	Column 2	More than 1,700 square metres	0.3:1	- Notwithstanding, the site is subject to a maximum FSR control of 2.5:1 under the provisions of Chapter 5 of the Housing SEPP. - Under the provisions of section 16 under Chapter 2, Part 2, Division 1 of the Housing SEPP, the proposal is subject to an additional of 30% which equates to a maximum permissible FSR of 3.25:1. - The total GFA proposed is 21,684 sqm which equates to an FSR of 3.25:1 and complies with the maximum permitted FSR.		
Column 1	Column 2							
More than 1,700 square metres	0.3:1							
Clause 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. (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that— (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.		A Clause 4.6 Variation Request for building height has been prepared by Planning & Co.	Section 7.2	Appendix P				
Clause 5.10 Heritage conservation								
(2) Requirement for consent Development consent is required for any of the following— (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— (iii) a building, work, relic or tree within a heritage conservation area, ... (e) erecting a building on land—		The site is located in the Middle Harbour Heritage Conservation Area under Schedule 5 of the KLEP and does not contain any heritage items. We note the following heritage items are identified in adjoining the site: - Dwelling House, 34 Middle Harbour Road (Item I452) - Dwelling House, 32A Middle Harbour Road (Item I453) - Dwelling House, 1 Valley Road (Item I479)	Section 7.17	Appendix J Appendix K				

Statutory Requirement	Comment	EIS Section	Documentation				
(i) on which a heritage item is located or that is within a heritage conservation area, or (4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6). (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.	Dwelling House, 3 Valley Road (Item I480) A Heritage Impact Statement has been prepared to address the impact and management of the proposal on heritage values.						
Clause 6.1 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. <table><tr><th>Class of land</th><th>Works</th></tr><tr><td>5</td><td>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.</td></tr></table>	Class of land	Works	5	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.	Acid sulfate soils are unlikely to be present on-site.	Section 7.12 Section 7.15	Appendix O Appendix V
Class of land	Works						
5	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.						
Clause 6.2 Earthworks							
(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—	Excavation is proposed to facilitate basement car parking. The Geotechnical Report addresses the considerations under clause 6.2(3).	Section 7.12 Section 7.15	Appendix O Appendix V				

Statutory Requirement	Comment	EIS Section	Documentation
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.			
Clause 6.3 Biodiversity protection			
(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider— (a) the impact of the proposed development on the following— (i) any native vegetation community, (ii) the habitat of any threatened species, population or ecological community, (iii) any regionally significant species of plant, animal or habitat, (iv) any biodiversity corridor, (v) any wetland, (vi) the biodiversity values within any reserve, (vii) the stability of the land, and (b) any proposed measure to be undertaken to ameliorate any potential adverse environmental impact, and (c) any opportunity to restore or enhance remnant vegetation, habitat and biodiversity corridors.	The BDAR attached concludes that the proposal is supported subject to the implementation of the recommended mitigation measures.	Section 7.10	Appendix G

Statutory Requirement	Comment	EIS Section	Documentation
<i>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</i> <i>(a) is consistent with the objectives of this clause, and</i> <i>(b) is designed, and will be sited and managed, to avoid any potentially adverse environmental impact or, if a potentially adverse environmental impact cannot be avoided—</i> <i>(i) the development minimises disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations, and</i> <i>(ii) measures have been considered to maintain native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors, and</i> <i>(iii) the development avoids clearing steep slopes and facilitates the stability of the land, and</i> <i>(iv) measures have been considered to achieve no net loss of significant vegetation or habitat.</i>			
Clause 6.6 Requirements for multi dwelling housing and residential flat buildings			
<i>(2) Despite any other provision of this Plan, development consent must not be granted for the erection of multi dwelling housing or a residential flat building on a lot in a residential zone unless the lot has an area of at least 1,200 square metres and minimum dimensions (width and depth) of at least—</i> <i>(b) if the area of the land is 1,800 square metres or more—30 metres.</i>	The site has an area greater than 1,800 sqm and minimum dimensions of more than 30m (width and depth).	Section 2.2 Section 4.1	Appendix B Appendix F