

Statutory Compliance Table

10, 14, 14a Stanhope Road, Killara

Table 1: Statutory Compliance Table

Mandatory Matters for Consideration	Response	Document Reference
Consideration under the Act and Regulation		
<i>Environmental Planning and Assessment Act, 1979</i>	The proposal is consistent with the objects of the EP&A Act. In particular, the proposal: - It will deliver 135 residential apartments which will make a significant contribution to the housing needs in the Ku-Ring-Gai LGA and the Greater Sydney area. - It will generate 609 jobs during the construction stage of the development. This will create a significant employment opportunity within the area. - Seeks to enhance housing supply, including affordable housing, for the community. - Has been evaluated and assessment against the relevant heads of section 4.15(1) of the EP&A Act throughout this statement.	Section 4 of EIS.
<i>Environmental Planning and Assessment Regulation 2021</i>	Section 61(1) prescribes that the consent authority in determining a DA must consider Australian Standard AS 2601 – 2001. Any demolition works will be undertaken in accordance with AS 2601-1991. The Demolition of Structures published by Standards Australia. Section 69 prescribes that any building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA) pursuant to Clause 69 of the EP&A Reg and will be conditioned as part any development consent. Section 193 prescribes that the principles of Ecologically Sustainable Development (ESD) are required to be considered in the assessment of the proposal. An ESD Report is available as Appendix 16a which addresses the principles of ESD.	Section 4 of EIS and Appendix 16a.
Relevant Environmental Planning Instruments		
<i>State Environmental Planning Policy (Housing) 2021</i>	Chapter 2, Part 2, Division 1 of the Housing SEPP applies to the proposed development. An assessment against section 15C of Division 1 is provided in the Table 2 below. Chapter 5 of the Housing SEPP applies to the proposed development. An assessment against Chapter 5 is provided in Table 2 below.	Table 2 of this Statement.
<i>State Environmental Planning Policy</i>	Division 17, Section 2.122 requires the consent authority to provide Transport for NSW (TfNSW) with written notice of	Not applicable to this SSDA.

Mandatory Matters for Consideration	Response	Document Reference
<i>(Transport and Infrastructure) 2021</i>	the development application for 'traffic-generating development' within the meaning of the SEPP, as set out in Schedule 3 of the SEPP. The development is not located with access to, or within 90m of a classified road and the development is not likely to accommodate more than 300 or more dwellings, as such Division 17, Section 2.122 of the SEPP is not relevant.	
<i>State Environmental Planning Policy (Planning Systems) 2021</i>	Schedule 1, Clause 26A of the <i>State Environmental Planning Policy (Planning Systems) 2021</i> 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> <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> The proposal: 1. Is located in the Eastern Harbour City 'region' of the Six Cities Region 2. Has an Estimate Development Value greater than \$75 million, and 3. Does not involve development prohibited under an EPI applying to the land. Therefore, the development is considered an SSD in accordance with Section 26A of the Planning Systems SEPP.	Section 4.1 of the EIS and Estimated Development Cost Report (Appendix 18)
<i>Ku-Ring-Gai Local Environmental Plan 2015 (KLEP)</i>	Zoning and Permissibility The site is zoned R2 Low Density Residential under the KLEP. Residential flat buildings are prohibited under the LEP in the R2 zone. However, the site benefits from the provisions of the Housing SEPP, which identifies the site as a Transport Oriented Development Site. Chapter 5 of the Housing SEPP provides that residential flat buildings are permitted in relevant residential zones (including R2).	Please refer to Table 3 below.

Mandatory Matters for Consideration	Response	Document Reference	
	Objectives of the Zone The proposal is consistent with the objectives of the R2 Zone in the KLEP as follows.		
	Objective		Response
	<i>To provide for the housing needs of the community within a low density residential environment.</i>		The proposal will facilitate the redevelopment of the site for the purposes of residential development comprising 135 apartments, including 26 affordable units, which will contribute to additional housing supply and diversity to support and meet the housing needs of the community.
	<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>		The development relates to a residential flat building.
	<i>To provide for housing that is compatible with the existing environmental and built character of Ku-ring-gai.</i>		The proposed development has been designed to reference the existing environmental and built character of the area, while also optimising the housing capacity on the site. This includes retaining existing areas of biodiversity value on the site, and developing a built form - including generous front set back and stepped massing - that responds to the nearby heritage assets. It is noted that the proposed development is at a higher density than the adjacent properties along Stanhope Road. The scale and design of the development references the higher density residential flat buildings located immediately to the north and east of the site and is consistent with the aims of Chapter 5 and Chapter 2 of the Housing SEPP.
	Table 3 below considers other Ku-Ring-Gai Local Environmental Plan (2015) provisions.		
Consideration under other legislation			

Mandatory Matters for Consideration	Response	Document Reference
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	The <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) is federal legislation which provides a legal framework to protect and manage nationally important flora, fauna, ecological communities and heritage places defined as 'matters of national environmental significance' (MNES). The Threatened Ecological Community (TEC) associated with PCT 3136 is the Critically Endangered Blue Gum High Forest (BGHF). This TEC has an equivalent listing under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>, but the federally-listed entity requires certain condition and area of occurrence thresholds to be met. The occurrence on site is far too small and modified to constitute this entity.	Section 4 of the EIS and the BDAR (Appendix 12)
<i>Biodiversity Conservation Act 2016</i>	The <i>Biodiversity Conservation Act 2016</i> (BC Act) identifies and protects threatened species, populations and ecological communities that are under threat of extinction in NSW. Impacts to threatened species and endangered ecological communities listed under the BC Act are required to be assessed in accordance with Section 7.3 of the BC Act. In accordance with the requirements of s.7.9 of the BC Act a biodiversity assessment has been prepared. Pursuant to Section 7.9 of this instrument, SSDAs must be accompanied by a Biodiversity Development Application Assessment Report (BDAR) 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. This determination is referred to as a BDAR Waiver. The site is located in an urban area and will not have significant impact on any biodiversity values. Notwithstanding, a BDAR has been prepared and is submitted with this application in accordance with the relevant requirements.	Section 4 of the EIS and BDAR (Appendix 12)

State Environmental Planning Policy (Housing) 2021

Table 2: Housing SEPP Compliance Table

Provision	Comment
CHAPTER 2 – IN-FILL AFFORDABLE HOUSING	
15C Development to which division applies	
(1) <i>This division applies to development that includes residential development if—</i> (a) <i>the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and</i>	The site is permissible with consent under Chapter 5 of the Housing SEPP. The site is zoned R2 and is classified as a relevant residential zone under section 151.
(b) <i>the affordable housing component is at least 10%, and</i>	The proposal will provide 15% affordable rental housing for a minimum of 15 years.
(c) <i>all or part of the development is carried out—</i> (i) <i>for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area,</i>	The site is in an ‘ <i>accessible area</i> ’ being in the six cities region and within 450m of Killara Train Station.
(2) <i>Affordable housing provided as part of development because of a requirement under another environmental planning instrument or a planning agreement within the meaning of the Act, Division 7.1 is not counted towards the affordable housing component under this division.</i>	An additional 2% affordable housing will be provided in perpetuity as per the requirements of Chapter 5 <i>Transport Orientated Development</i> of the Housing SEPP.
16 Affordable housing requirements for additional floor space ratio	
(1) <i>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 applicable maximum FSR under Chapter 5 (TOD) of the Housing SEPP is 2.5:1. A 30% increase equates to an FSR of 3.25:1. The proposed total FSR is 2:22:1
(2) <i>The minimum affordable housing component, which must be at least 10%, is calculated as follows—</i> $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$	The proposal seeks the full 30% FSR bonus, therefore 17% of the proposed floor space must be for affordable housing purposes (noting that 2% is required to satisfy the provisions of Chapter 5 of the Housing SEPP considered further below). The total proposed affordable floor space is 2,972.8 sqm (17%).

Provision	Comment
(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). 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.	With an additional 30% building height and FSR permitted under Chapter 2 of the Housing SEPP, the maximum permissible building height is 28.6m. The proposed development seeks consent for a building up to 35m in height at its maximum and an FSR of 2.22:1. The exceedance in height directly responds to the site's context and topography. A compliant scheme with a lower maximum height was originally developed, however, this was likely to have unacceptable impacts on the heritage conservation area in which the front portion of the site is located. Reducing the height at the front of the site will enable a design that is more sensitive to the conservation area and nearby listed assets. An increase in height at the rear of the site will maximise the number of residential dwellings possible in response to the current housing crisis with no unacceptable, adverse environmental impacts. In this regard, the height variation is directly consistent with the objectives of the development standards provided within the TOD provisions of the Housing SEPP. A Clause 4.6 Variation Request (Appendix 4) has been prepared and provides justification for the height exceedance.
(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	Not applicable. An FSR control applies to the site.
19 Non-discretionary development standards – the Act, s4.15	
(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.	Noted.
(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	COMPLIES The area of the subject site is 7,864sqm, well above the minimum 450sqm.
(b) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area	The proposal provides 3,035.4sqm (39%) of landscaped area, which is above the required 30%.

Provision	Comment
(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,	Not applicable. Refer to 19(3) below.
(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,	Not applicable. Refer to 19(3) below.
(e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space,	195 car parking spaces are proposed in total for the development. Of these, 24 are allocated for the affordable dwellings which complies with the Housing SEPP requirements.
(f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	The proposal provides 166 car parking spaces for dwellings not used for affordable housing which complies with the Housing SEPP requirements.
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development	The proposal complies with the minimum internal areas of apartments. Refer to the Design Report (Appendix 5b) for further details
(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Chapter 4 applies to this development. Accordingly, subsection (2)(c) and (d) do not apply. Compliance with ADG Chapter 4 is set out in the Design Report (Appendix 5b).
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.	Not applicable. Refer to 20(2) which identifies that subsection (1) does not apply to development to which Chapter 4 applies.
(2) Subsection (1) does not apply to development to which Chapter 4 applies.	Chapter 4 applies to the development. Accordingly, subsection (20)(1) does not apply.
(3) Development consent must not be granted to development under this division unless the consent authority has considered	The building has evolved through a consideration of existing site constraints including setbacks, solar access, landscaping and local context. The

Provision	Comment
<i>whether the design of the residential development is compatible with—</i> <i>(a) the desirable elements of the character of the local area, or</i> <i>(b) for precincts undergoing transition—the desired future character of the precinct.</i>	development results in a high-quality built form that responds to the desired future character of the area by delivering greater density in proximity to Killara station. This is discussed further in the Design Report in Appendix 5b.
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> <i>(a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and</i>	The in-fill affordable housing component of the development will be managed as such for at least 15 years.
<i>(b) the affordable housing component will be managed by a registered community housing provider.</i>	The affordable housing will be managed by a registered community housing provider (being Echo Realty) for a minimum of 15 years commencing on the day an occupation certificate is issued. This is discussed in Appendix 13.
<i>(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.</i>	Not applicable.
22 Subdivision permitted with consent	
<i>Land on which development has been carried out under this division may be subdivided with development consent.</i>	N/A
CHAPTER 5 – TRANSPORT ORIENTATED DEVELOPMENT	
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> <i>(b) Zone E1 Local Centre or an equivalent land use zone,</i> <i>(c) for land in the Canterbury-Bankstown local government area—Zone B2 Local Centre.</i> <i>(2) Development for the purposes of shop top housing is permitted with development consent on land in a relevant employment</i>	The proposed development is located within a relevant residential zone being with the R2 Low Density Residential zone, as defined in Section 151.

Provision	Comment
zone in a Transport Oriented Development Area.	
155 Maximum building height and maximum floor space ratio	
(1) <i>This section identifies development standards for development under this chapter that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i> 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) <i>The maximum building height for a residential flat building in a Transport Oriented Development Area is 22m.</i> (3) <i>The maximum building height for a building containing an independent living unit or shop top housing in a Transport Oriented Development Area is 24m.</i> (4) <i>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—</i> (a) <i>a residential flat building,</i> (b) <i>a building containing an independent living unit or shop top housing.</i> (5) <i>This section does not apply to the extent a provision of another chapter of this policy or another environmental planning instrument permits a greater maximum building height or floor space ratio for a residential flat building or building containing shop top housing on the land.</i>	This Section allows for a maximum building height for a residential flat building on the site of 22m with an FSR of 2.5:1.
156 Affordable housing	
(1) <i>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> (2) <i>Development consent must not be granted unless the consent authority is satisfied that—</i>	The development proposes to provide 2% of the total GFA as affordable housing in perpetuity (equivalent to 195.9sqm). The affordable housing component of the proposal will be managed by a registered community housing provider (being Echo Realty) in perpetuity commencing on the day an occupation certificate is issued. This affordable housing provision is in addition to the 15% in-fill affordable housing provision.

Provision	Comment
(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. (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. (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.	
157 Affordable housing parking spaces	
(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. 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) Development to which section 156 applies must provide the following number of parking spaces for each affordable housing dwelling required under that section— (a) for each dwelling containing 1 bedroom—0.4 parking space, (b) for each dwelling containing 2 bedrooms—0.5 parking space, (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.	The proposed development provides 195 parking spaces altogether and meets the minimum parking standards of this clause. 24 parking spaces are required for the affordable housing component of the dwelling and the development complies with this.
158 Exception to minimum lot size	

Provision	Comment
(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). (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.	The site has a lot size of 7,864sqm which adheres to the minimum lot size in the KLEP.
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 lot width of 30.18m on 14 Stanhope Rd frontage and 5.49m frontage on 10 Stanhope Rd as shown in the Survey Plan in Appendix 6.
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.	An assessment against the ADG is provided within the Architectural Design Report at Appendix 5b.

Table 3: Consistency with the Ku-Ring-Gai Local Environmental Plan 2015

Provision	Comment	Complies
Clause 2.3. Zone objectives and Land Use Table <i>R2 Low Density Residential</i> <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <i>To provide for housing that is compatible with the existing environmental and built character of Ku-ring-gai.</i>	The subject site is within land use zone R2 Low Density Residential. Residential flat buildings are prohibited under the LEP in the R2 zone. However, the site benefits from the provisions of the Housing SEPP, which identifies the site as a Transport Oriented Development Site. Chapter 5 of the Housing SEPP provides that residential flat buildings are permitted in relevant residential zones (including R2). Objectives The proposed development will deliver additional housing, including 17% affordable housing. This will contribute to meeting the housing needs of the community. The proposed development has been designed to reference the existing environmental and built character of the area, while also optimising the housing capacity on the site. This includes retaining existing areas of biodiversity value on the site, and developing a built form - including generous front set back and stepped massing - that responds to the nearby heritage assets. It is noted that the proposed development is at a higher density than the adjacent properties along Stanhope Road. The scale and design of the development references the higher density residential flat buildings located immediately to the north and east of the site and is consistent with the aims of Chapter 5 and Chapter 2 of the Housing SEPP.	Yes
Clause 4.3 Height of Building 17.5m	The applicable building height under the KLEP is 9.5m. The proposed maximum building height is 35m (RL 146.3) at its highest point. The exceedance is a result of additional height provisions enabled by the amended Housing SEPP 2021 (being In-fill Affordable Housing and TOD bonuses). There is a further 6.4m height exceedance which has been outlined in the Clause 4.6 Written Request (Appendix 4).	No – Clause 4.6 Variation Request attached.
Clause 4.4 Floor Space Ratio 1.3:1	The applicable FSR under the KLEP is 0.3:1. The total site area of 7,864m² allows for a permissible GFA of 2,359.2m² under these controls. The proposed FSR is 2.22:1. The proposed FSR is in accordance with the Housing SEPP amendments (being In-fill Affordable Housing and TOD bonuses). The proposed FSR complies with Clause 4.4 plus the bonus FSR provisions.	No

Provision	Comment	Complies
Clause 5.10 Heritage Conservation	A portion of the site is within a heritage conservation area as shown in Section Error! Reference source not found. . The portion of the site fronting Stanhope Road forms part of the Stanhope Road Conservation Area (Item C25 under Part 2, Schedule 5 of the KLEP). The proposal has been designed to maintain and respect the HCA and surrounding heritage items. The Heritage Impact Statement (HIS) (Appendix 21) confirms that the inter-war dwelling to be demolished at 14 Stanhope Road (within the HCA) <i>“has limited integrity due to successive and extensive contemporary alterations to the primary façade which have highly compromised the dwelling’s ability to contribute to the local HCA.”</i>	Yes
Clause 6.1 Acid sulfate soils Class 5	The site is classified as Class 5 on the Acid Sulfate Soils Map. Works are not within 500m of adjacent Class 1, 2, 3 or 4 land.	Yes
Clause 6.2 Earthworks	A Detailed Site Investigation has been prepared for the site.	Yes
Clause 6.6 Requirements for multi dwelling housing and residential flat buildings Minimum dimensions: if the area of the land is 1,800 square metres or more—30 metres.	The site has a total area of 7,864m ² . The site measures 90.5m from east to west and has a length of 130.8m from north to south. Excluding the access handle and 14 Stanhope Road, the site is still compliant, measuring 60.96m wide by 130.8m long. The site is therefore compliance with Clause 6.6 of the KLEP.	Yes