

APPENDIX 3

Statutory Compliance Table



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Statutory Reference	Relevant Considerations	Comment/Assessment	Complies?	Section in EIS
Environmental Planning and Assessment Act 1979				
Section 1.3	<ul style="list-style-type: none"> (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 facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, (c) to promote the orderly and economic use and development of land, (d) to promote the delivery and maintenance of affordable housing, (f) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, (g) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), (h) to promote good design and amenity of the built environment, (i) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, (j) to provide increased opportunity for community participation in environmental planning and assessment. 	The proposal satisfies the relevant objects of the Act.	Yes	Section 4.1.1
Section 4.15	<ul style="list-style-type: none"> (a) the provisions of— <ul style="list-style-type: none"> (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 	<p>The relevant EPIs have been addressed in the EIS.</p> <p>No draft EPIs apply.</p>	<p>Yes</p> <p>N/A</p>	<p>Section 4, 6.1, 6.2, 6.3 and 6.4</p> <p>-</p>

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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	Section 2.10 to State Environmental Planning Policy (Planning Systems) 2021 states that the provisions of a DCP do not apply to SSD. Nevertheless, the relevant DCP controls have been considered.	Yes	Section 6.5
(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	Not proposed,	N/A	-
(iv)	the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Noted.	Yes	Section 4.2 and 4.3.5
(v)	(Repealed) that apply to the land to which the development application relates,		Yes	
(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,	The likely impacts of the proposal have been addressed in the EIS.	Yes	Section 6
(c)	the suitability of the site for the development,	The site is identified as a prime location for additional residential density given its proximity to public transport and established services and infrastructure. The proposal will sit comfortably within the site, compatible with the approved built form and massing for the site.	Yes	Section 6 and 7
(d)	any submissions made in accordance with this Act or the regulations,	Submissions will be considered after the SSD has been on public exhibition and included in a revised Engagement Report and Response to Submissions.	Yes	Section 5 and Appendix 5
(e)	the public interest.	The proposal is considered to be in the public interest for the reasons set out in the EIS.	Yes	Section 6 and 7

Environmental Planning and Assessment Regulation 2021

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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.	Yes	Section 6 and Appendix 2
Biodiversity Conservation Act 2016				
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 has been prepared in accordance to Section 7.9.	Yes	Appendix 17
State Environmental Planning Policy (Planning Systems) 2021				
Clause 2.6	<p>Clause 2.6 states:</p> <p><i>"2.6 Declaration of State significant development: section 4.36</i></p> <p><i>(1) Development is declared to be State significant development for the purposes of the Act if -</i></p> <p><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></p> <p><i>(b) the development is specified in Schedule 1 or 2."</i></p> <p>Schedule 1, Clause 26A of the State Environmental Planning Policy (Planning Systems) 2021 states that the following development is considered to be SSD –:</p> <p><i>(1) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 applies if—</i></p>	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.	Yes	Section 4.3.1 and Appendix 6

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	<p><i>(a) the part of the development that is residential development has a capital investment value of—</i></p> <p><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 Note— The Act, Schedule 9 sets out the local government areas in each city in the Six Cities Region.</i></p> <p><i>(ii) for development on other land—more than \$30 million, and</i></p> <p><i>(b) the development does not involve development prohibited under an environmental planning instrument applying to the land.</i></p>			
State Environmental Planning Policy (Transport and Infrastructure) 2021				
Clause 2.122	<p>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 or capacity.</p> <p>Car parking ancillary to a development with more than 200 spaces identified in the table to schedule 3.</p> <p>In accordance with Clause 2.122(4):</p> <p><i>(4) Before determining a development application for development to which this section applies, the consent authority must—</i></p> <p><i>(a) give written notice of the application to TfNSW within 7 days after the application is made, and</i></p> <p><i>(b) take into consideration—</i></p> <p><i>(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless,</i></p>	<p>As the proposal will likely involve more than 200 parking spaces the application will need to be referred to the TfNSW during the assessment period.</p> <p>The Transport Impact Assessment prepared by JMT Consulting which accompanies the application provides an assessment of the proposal which demonstrates that it will not result in an unacceptable impact in relation to the performance of the surrounding road network.</p>	Yes	Section 6.15 and Appendix 26

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	<p><i>before the 21 days have passed, TfNSW advises that it will not be making a submission), and</i></p> <p><i>(ii) the accessibility of the site concerned, including—</i></p> <p><i>(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</i></p> <p><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></p> <p><i>(iii) any potential traffic safety, road congestion or parking implications of the development.</i></p>			
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. In accordance with clause 4.6 of the SEPP a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and 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.	A Preliminary Site Investigation has been conducted by EI Australia.	Yes	Section 6.20 and Appendix 12
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 Ku-ring-gai Council and requires approval for removal of trees on the site.	The proposal is accompanied by an Arborist Report and a BDAR to determine the extent of tree removal and impact on the locality.	Yes	Section 6.14, 6.16 and Appendix 17 and 18
Chapter 6 Water Catchments	The site is located within the Sydney Harbour Catchment and therefore Chapter 6.2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies.	The proposal will not have any adverse impact on the water catchment.	Yes	Appendix 21
State Environmental Planning Policy (Sustainable Buildings) 2022				

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Chapter 2 Standards for residential development - BASIX	State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the development and aims to encourage sustainable residential development.	A BASIX certificate accompanies this submission.	Yes	Appendix 19
State Environmental Planning Policy (Housing) 2021 – Chapter 2 Affordable Housing				
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% of the total residential floor space of the development as affordable housing to be managed by a Community Housing Provider for a period of 15 years. The proposal triggers the bonus height and FSR clauses in Chapter 2. The provisions of Chapter 2 are addressed in detail at Section 6.2 of the EIS.	Yes	Section 6.2
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 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</i>	The design quality of the development is addressed within the Architecture Design Statement prepared by <i>DKO Architecture</i> . The Statement includes a Design Verification Statement, an assessment of the proposal against the ADG design criteria and details how the proposal has been designed in accordance with the design principles for residential apartment development.	Yes	Appendix 10

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	<i>the development application or modification application to the panel.</i>			
Clause 148	<p>Pursuant to clause 148 of SEPP Housing if an application for a development application to which the Policy applies the consent authority must not refuse the application because of those matters:</p> <ul style="list-style-type: none"> if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide. if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide, if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide. 	<p>The proposed development is capable of accommodating parking in line with the requirements provided in the ADG.</p> <p>Internal areas of apartments achieve the requirements.</p> <p>Ceiling heights comply with the requirements.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Section 6.15 and Appendix 10</p> <p>Appendix 9 and 10</p> <p>Appendix 9 and 10</p>
State Environmental Planning Policy (Housing) 2021 – Chapter 5 Transport oriented development				
Clause 155	Pursuant to Clause 155 the maximum building height for a residential flat building in a Transport Oriented Development Area is 22m and the maximum floor space ratio is 2:5:1.	The proposal seeks to apply the bonus 30% height and FSR available under Chapter 2 of the Housing SEPP.	Yes	Section 6.2 and Appendix 31
Clause 156	Pursuant to Clause 156 development for the purposes of residential flat buildings in a Transport Oriented Development Area if the building has a gross floor area of at least 2000m ² it must provide at least 2% of the gross floor area of the building will be used for affordable housing to be managed by a registered community housing provider in perpetuity.	The proposal will provide 2% of the total GFA as affordable housing to be managed in perpetuity by a registered community housing provider.	Yes	Appendix 9
Clause 157	<p>Pursuant to Clause 157, development to which section 156 applies must provide the following number of parking spaces for each affordable housing dwelling required under that section—</p> <p>(a) for each dwelling containing 1 bedroom—0.4 parking space,</p>	Based on the concept apartment numbers and mix the proposal would require 18 parking spaces for the affordable housing units and 142 parking spaces for the market apartments.	Yes	Section 6.15 and Appendix 26

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	(b) for each dwelling containing 2 bedrooms—0.5 parking space, (c) for each dwelling containing 3 or more bedrooms—1 parking space.	A total residential parking provision of 259 can be accommodated with the concept scheme provided which achieves the SEPP requirement of at least 160 parking spaces.		
Clause 159	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 width of 73m as per the Survey Plan prepared by <i>Norton Survey Partners</i> .	Yes	Appendix 8
Clause 161	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 Architecture Design Statement prepared by <i>DKO Architecture</i> includes an assessment of the proposal against the ADG design criteria.	Yes	Appendix 10
Ku-ring-gai Local Environmental Plan 2015				
2.3 Zone objectives and Land Use table	<p>Zone R2 Low Density Residential</p> <ul style="list-style-type: none"> • 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. 	The proposed concept development will result in the provision of a residential flat building development which will offer a variety of dwelling types to meet the needs of the community within an environment of varying densities. Whilst not a low density environment, this is anticipated to vastly change as a result of the TOD amendments. The subject site is also located in an accessible area with good access to public transport, services and facilities and will serve the needs of future residents. The proposal has been designed to be compatible with the future character of the locality as envisaged by the changes in the Housing SEPP.	Yes	Section 6.4.1

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		<p>Notably, SSDA 82900461 seeks to provide for additional residential housing ideally located as evidenced by Ku-ring-gai Council's LSPS and Housing Strategy, both which target higher density residential development within close proximity to existing centres and stations, like Lindfield. Not only will the proposal contribute to the general residential housing supply within the locality, but it will also introduce affordable housing on the site, which aligns with Council's strategic planning and the wider State strategic vision to increase affordable housing across NSW.</p>		
4.3 Height of buildings	<p>(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. 9.5m</p>	<p>The proposal seeks to apply the base building height permitted under Chapter 5 of the Housing SEPP.</p>	N/A	-
4.4 Floor Space Ratio	<p>(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. 0.3:1</p>	<p>The proposal seeks to apply the base FSR permitted under Chapter 5 of the Housing SEPP.</p>	N/A	-
4.6 Exceptions to Development Standards	<p>(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.</p> <p>(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—</p> <p>(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and</p>	<p>The proposal is accompanied by a Clause 4.6 variation request for building height under Chapter 2 and 5 of the Housing SEPP. Refer to the Clause 4.6 prepared by Planning Ingenuity at Appendix 31.</p> <p>Importantly, the development standards for building height under Chapter 2 and 5 of the Housing SEPP are not expressly excluded from the function of Clause 4.6.</p>	Yes	Appendix 31

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(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—

The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note.

When this Plan was made it did not include all of these zones.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5.

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5.10 Heritage Conservation	<p>(5) Heritage assessment The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>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.</p>	<p>The subject site is not listed as an individual heritage item, nor is located within a heritage conservation area, however, it is located within proximity to a number of sites identified as local and state heritage items and heritage conservation areas.</p> <p>A Heritage Impact Statement has been prepared by <i>Urbis</i>.</p>	Yes	Section 6.18 and Appendix 16
6.1 Acid Sulfate Soils	<p>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.</p> <p>Class 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.</p>	<p>The site is identified as containing Class 5 Acid Sulfate Soils.</p> <p>The Geotechnical Investigation in Appendix 13 concludes that the site is suitable for development and may be carried out without detrimental impact to the regional groundwater regime.</p> <p>The Geotechnical Investigation Prepared by Morrow concluded that an Acid Sulfate Soils Management Plan was not required for the site.</p>	Yes	Section 6.20 and Appendix 13
6.2 Earthworks	<p>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p>	<p>As demonstrated in the submitted plans, earthworks will be required to accommodate basement parking, building pads and any future public domain improvements. However and as discussed, the proposal will only seek consent for the footprint and envelopes of the basement and envelopes, with physical demolition and earthworks forming part of the subsequent detailed DA.</p> <p>The proposal is not likely to disrupt soil stability as per the Geotechnical Report prepared by Morrows.</p>	Yes	Section 6.21 and Appendix 13

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	<p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The use of the site for residential purposes will not affect future use.</p> <p>Quality of fill and soil to be excavated will be dealt with at the detailed DA stage.</p> <p>Earthworks will be setback from the site boundaries to minimise impacts.</p> <p>To be dealt with at the detailed DA stage.</p> <p>The proposal will not disturb any relics.</p> <p>The proposal will not adversely impact any nearby drinking water catchments.</p> <p>To be dealt with at the detailed DA stage.</p>		
6.5 Stormwater and water sensitive urban design	<p>(2) Before granting development consent to development on any land to which this Plan applies, the consent authority must be satisfied that—</p> <p>(a) water sensitive urban design principles are incorporated into the design of the development, and</p> <p>(b) riparian, stormwater and flooding measures are integrated, and</p> <p>(c) the stormwater management system includes all reasonable management actions to avoid any adverse impacts on the land to which the development is to be carried out, adjoining properties, native bushland, waterways and groundwater systems, and</p> <p>(d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, native bushland, waterways and groundwater systems.</p>	<p>This will be dealt with at the detailed DA stage.</p> <p>Refer to the Integrated Water Management Plan and Flood Impact Risk Assessment prepared by S&G Consulting.</p> <p>Refer to the Integrated Water Management Plan prepared by S&G Consulting.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>-</p>	Section 6.22 and Appendix 21
6.6 Requirements for multi dwelling housing and residential flat buildings	<p>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—</p>			

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	(a) if the area of the land is less than 1,800 square metres—24 metres, or (b) if the area of the land is 1,800 square metres or more—30 metres.	The site has a width of more than 30m.	Yes	Appendix 8
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