

Appendix B - Statutory Compliance Table – 1 and 1a Edward Street and 25 and 27 Rosedale Road, Gordon

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Statutory Compliance Table

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 119 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 299 jobs during the construction and operational 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 table and EIS.	Section 5 of the 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 provided in Appendix AA.	Section 5 of the EIS.

Mandatory Matters for Consideration	Response	Document Reference
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 document.
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	Division 17, Section 2.122 requires the consent authority to provide Transport for NSW (TfNSW) with written notice of 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.	Section 5 of the EIS.
<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 constitutes SSD in accordance with section 26A of the Planning Systems SEPP.	Section 5 of the EIS.

Mandatory Matters for Consideration	Response	Document Reference	
<i>Ku-Ring-Gai Local Environmental Plan 2015 (KLEP 2015)</i>	Zoning and Permissibility The zoned R2 Low Density Residential. RFBs are prohibited in the R2 zone in the KLEP 2015. Notwithstanding, the site benefits from the provisions under Chapter 5 of the Housing SEPP, which make RFBs permissible with consent.	Section 5 of the EIS.	
	Objectives of the Zone The proposal is consistent with the objectives of the 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 119 apartments, including 24 affordable units, which will contribute to additional housing supply and diversity to support an increasing population within a TOD area.
	<i>To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.</i>		The residential proposal does not impact the provision of facilities or services on other suitably zoned sites. The proposed development will facilitate the delivery of a high level of quality, communal open space and amenity areas.
	<i>To provide for housing that is compatible with the existing environmental and built character of Ku-ring-gai.</i>		The proposal aligns with the State Government's strategic approach to TOD by placing high quality residential uses within walking proximity to Gordon Railway Station.
Table 3 below considers other KLEP provisions.			
Consideration under other legislation			
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	The Environment Protection and Biodiversity Conservation Act 1999 (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).	A BDAR has been prepared and provided in Appendix M which assesses the impacts to biodiversity on the site.	

Mandatory Matters for Consideration	Response	Document Reference
<i>Biodiversity Conservation Act 2016</i>	The Biodiversity Conservation Act 2016 (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.	A BDAR has been prepared and provided in Appendix M which assesses the impacts to biodiversity on the site.

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	
<i>(1) This division applies to development that includes residential development if—</i>	The site is zoned R2 Low Density Residential. While the KLEP prohibits RFBs in the R2 zone, Chapter 5 of the Housing SEPP permits RFBs in this relevant residential zone.
<i>(a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and</i>	
<i>(b) the affordable housing component is at least 10%, and</i>	The proposal seeks to provide at least 10% of the total GFA (inclusive of the bonus GFA) for infill affordable housing purposes.
<i>(c) 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 ‘accessible area’ being within 365m of Gordon Railway Station.
<i>(2) 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>	Not relevant.
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 applicable maximum FSR under Chapter 5 (TOD) of the Housing SEPP is 2.5:1. The proposal seeks to provide at least 10% infill affordable housing and is therefore seeking a 20% increase in floor space which equates to a maximum permitted FSR of 3:1. The proposed total FSR is 2.68:1, which is well below the maximum permissible FSR applicable to the site.
<i>(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—</i> $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$	The infill affordable housing component equates to 15%, or 2,384.99sqm of GFA.

Provision	Comment
(3) <i>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> Example— <i>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.</i>	The applicable building height under Chapter 5 (TOD) of the Housing SEPP is 22m. In accordance with section 16(3), the maximum permissible height is to be equivalent to that of the proposed FSR being a 20% above the TOD provision. Therefore, the maximum permissible height is 26.4m. The maximum height of Building A is 30.18m and the maximum height of Building B is 30.81m. The exceedances relate to the top floor of residential accommodation and roof and roof level plant, including lift overrun. A Clause 4.6 statement accompanies this EIS at Appendix D.
(4) <i>This section does not apply to development on land for which there is no maximum permissible floor space ratio.</i>	Not applicable as, under the KLEP, the site has a FSR of 0.3:1.
19 Non-discretionary development standards – the Act, s4.15	
(1) <i>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.</i>	Noted.
(2) <i>The following are non-discretionary development standards in relation to the residential development to which this division applies—</i> (a) <i>a minimum site area of 450m²</i>	Complies The site area is 5,945.7sqm.
(b) <i>a minimum landscaped area that is the lesser of—</i> (i) <i>35m² per dwelling, or</i> (ii) <i>30% of the site area</i>	Complies Provides 2,137.57sqm or 36% of the site area as landscape area.
(c) <i>a deep soil zone on at least 15% of the site area, where—</i> (i) <i>each deep soil zone has minimum dimensions of 3m, and</i> (ii) <i>if practicable, at least 65% of the deep soil zone is located at the rear of the site,</i>	Not applicable – refer to section 19(3) below.
(d) <i>living rooms and private open spaces in at least 70% of the dwellings receive at least</i>	Not applicable – refer to section 19(3) below.

Provision	Comment
<i>3 hours of direct solar access between 9am and 3pm at mid-winter,</i>	
<i>(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,</i>	Complies The number of car parking spaces required for the affordable housing component has been assessed in the TIA prepared by Traffix. 15 car parking spaces are required for the affordable housing component of the proposed development. 15 car parking spaces will be provided, thereby complying with the affordable housing parking requirement.
<i>(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,</i>	Complies The number of car parking spaces required for the non-affordable housing component has been assessed in the TIA prepared by Traffix. 117 car parking spaces are required for the non-affordable housing component. 120 car parking spaces are proposed, which exceeds the requirement.
<i>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development</i>	Complies The minimum internal apartment areas are achieved. Refer to SSDA Design Report prepared by PMDL Architects.
<i>(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</i>	Noted – Chapter 4 applies to this development. Accordingly, subsection (2)(c) and (d) do not apply.
20 Design requirements	
<i>(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.</i>	Not applicable – refer to section 20(2) which identifies that subsection (1) does not apply to development to which Chapter 4 applies.
<i>(2) Subsection (1) does not apply to development to which Chapter 4 applies.</i>	Noted.
<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— (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.</i>	This is considered in Section 7 of the EIS.

Provision	Comment
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— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and</i>	Noted, capable of compliance The Proponent commits to this outcome, and it is their expectation this will be conditioned by the Department at the consent stage.
<i>(b) the affordable housing component will be managed by a registered community housing provider.</i>	Capable of compliance The affordable housing component will be managed by a social housing provider. An agreement has been made with EchoRealty to manage the affordable housing units, of which their letter of support has been provided at Appendix Q.
<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>	Not applicable.
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— (a) a relevant residential zone, (b) Zone E1 Local Centre or an equivalent land use zone, (c) for land in the Canterbury-Bankstown local government area—Zone B2 Local Centre. (2) Development for the purposes of shop top housing is permitted with development consent on land in a relevant employment zone in a Transport Oriented Development Area.</i>	Consistent RFBs are permitted with development consent in the R2 zone in an identified TOD area.

Provision	Comment
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>	Noted. As per earlier in this table, a 30% height and FSR bonus has been applied to these base TOD development standards.
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> (a) <i>at least 2% of the gross floor area of the building will be used for affordable housing, and</i> (b) <i>the affordable housing will be managed by a registered community housing provider in perpetuity.</i>	Complies 2% of the GFA will be utilised for affordable housing in perpetuity to satisfy the TOD provisions.

Provision	Comment
(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.	Complies Achieves the minimum parking requirements, as discussed earlier.
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.	Complies The site has a width of approximately 82.5m therefore complying with s159.

Provision	Comment
161 Consideration of Apartment Design Guide	
<i>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.</i>	Complies Refer to the ADG Compliance Table prepared by PMDL Architects in the Design Report in Appendix H.

Ku-ring-gai Local Environmental Plan 2015

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

Provision	Comment	Complies
<u>2.2 Zoning of the land to which this Plan applies</u>	The site is zoned R2 Low Density Residential. RFBs are prohibited in the R2 zone in the KLEP. Notwithstanding, the site benefits from the provisions under Chapter 5 of the Housing SEPP, which make RFBs permissible with consent.	Yes – permissible through Chapter 5 of Housing SEPP.
<u>2.3. Zone objectives and Land Use Table</u> - 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 development will deliver additional housing, including 17% affordable housing. This will contribute to meeting the housing needs of the community. The residential proposal does not impact the provision of facilities or services on other suitably zoned sites. The proposal is compatible with the future environmental and built character of Ku-ring-gai and particularly Gordon, being close to the Gordon Railway Station.	Yes
<u>4.3 Height of Building</u> (2) <i>The height of a building on any land is not to exceed the maximum height shown for the land on the <u>Height of Buildings Map</u>.</i> The applicable building height is 9.5 metres.	Not applicable See discussion earlier in this document.	N/A
<u>4.4 Floor Space Ratio</u> (2) <i>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 <u>Floor Space Ratio Map</u>.</i>	Not applicable See discussion earlier in this document.	N/A

Provision	Comment	Complies
The applicable FSR is 0.3:1.		
<u>5.10 Heritage Conservation</u> (a) to conserve the environmental heritage of Ku-ring-gai, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. The site is located within a heritage conservation area (HCA #C13 – Roberts Grant Conservation Area).	This SSDA is supported by an Aboriginal Due Diligence Assessment and Statement of Heritage Impact. Section 7.1.9 of the EIS provides a detailed assessment on the heritage item of the proposal. The site is not affected by Aboriginal heritage, see section Error! Reference source not found. of the EIS.	Yes
<u>6.1 Acid sulfate soils</u> (2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. Class 5	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
<u>6.2 Earthworks</u> (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The Geotechnical Investigation prepared by Morrow Geotechnics considers the excavation and filling required on site to facilitate the proposed development.	Yes
<u>6.5 Stormwater and water sensitive urban design</u> (1) The objective of this clause is to avoid or minimise the adverse impacts of urban stormwater on the land on which development is to be carried out, adjoining properties, native bushland, waterways and groundwater systems.	A detailed stormwater management plan supports the proposal. The stormwater report confirms the development does not result in adverse stormwater impacts on the subject land or the adjoining land and groundwater systems.	Yes
<u>6.6 Requirements for multi dwelling housing and residential flat buildings</u> 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	Complies with requirements for RFBs.	Yes

Provision	Comment	Complies
<i>1,200 square metres and minimum dimensions (width and depth) of at least—</i> <i>(a) if the area of the land is less than 1,800 square metres—24 metres, or</i> <i>(b) if the area of the land is 1,800 square metres or more—30 metres.</i>		