

Senior Planner Liz James
 Department of Planning, Housing, and Infrastructure

Submitted Via the NSW Major Projects Portal

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Dear Liz

RE: FOKE Submission — Montefiore Seniors Housing SSD-98363228
19–25 College Crescent, and 15-19 Link Road, St Ives

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This submission is made by Friends of Ku-ring-gai Environment (FOKE) as a community advocacy organisation with a long-standing interest in planning outcomes in the Ku-ring-gai local government area.

This submission is structured to follow the order of the Secretary's Environmental Assessment

Requirements (SEARs) as tabulated at Appendix A of the applicant's Environmental Impact Statement (EIS) prepared by Urbis. Cross-references are provided to the applicant's Appendix B (Statutory Compliance Table) and Appendix C (Mitigation Measures Table) where relevant.

INTRODUCTION

The application is not lodged as a concept proposal under section 4.22 of the *Environmental Planning and Assessment Act 1979*. It is lodged for full development consent and, if approved, is construction-ready, the applicant is not proposing to return to the Department for a second, detailed-design stage. Every drawing, calculation, technical report and mitigation measure exhibited must therefore be capable of standing as the basis for construction as approved.

Against that standard, FOKE's concerns about the proposal include the inconsistencies between documents, inaccuracies and alleged non-compliances in the applicant's reports. In addition, it is submitted that the EIS does not meet its mandatory obligation to satisfy several of the matters required by the SEARs. FOKE objects to the SSD in its current form.

The body of this submission sets out those concerns issue by issue, in the order of the SEARs Table at Appendix A of the EIS.

SEARs Item 1: STATUTORY CONTEXT

The SEARs require the EIS to address, in particular, two obligations under this item:

- **compliance with applicable development standards and provide a detailed justification for any non-compliances;** and
- **provide an accurate summary of the detailed assessment of the impacts of the project and integrate the findings and recommendations of technical reports into the justification and evaluation of the project as a whole.**

FOKE submits that the EIS has not discharged either obligation.

1.1 Non-compliance with the Housing SEPP: deep-soil standard is not disclosed or justified

The Statutory Compliance Table at Appendix B (pages 18–20) records the proposal as **complying** with:

- Housing SEPP s.107(f) — a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6 metres (residential care facility); and
- Housing SEPP s.108(f) — a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3 metres (independent living units).

Both rows rely on the same headline claim of **"24% deep soil landscaping"**. That is a single, undifferentiated total-area percentage. It says nothing about how much of the shaded area achieves the 6-metre minimum dimension for s.107(f) or the 3-metre minimum dimension for s.108(f), and these are the operative limbs of each provision.

A polygon-by-polygon width analysis of the Deep Soil sheet at Page 55 of the Landscape Design Report (Appendix G by Arcadia), measured against the drawing's stated 1:750 scale bar, discloses four defects in the applicant's headline figure. Each is set out below with the applicant's own numbers.

Defect A — a non-statutory "Supplementary Deep Soil" category is included. The Page 55 legend contains three categories of shading: light green ("ADG Deep Soil Extents — softworks only"), dark green ("Supplementary Deep Soil Areas", 158 m²) and grey ("Non-Deep Soil Areas"). The Housing SEPP and Apartment Design Guide (ADG) define **one** deep-soil category with a minimum-dimension test. "Supplementary Deep Soil Areas" is not a recognised category in the

Housing SEPP, ADG, Ku-ring-gai LEP or KDCP. The applicant has not identified any statutory basis for its inclusion. The 158 m² of dark-green shading should be excluded from any compliance calculation, or, at a minimum, the applicant should be required to justify the basis on which it counts.

Defect B — the site area used in the calculation is understated. Arcadia Page 55 states the site area as **14,497 m²**. This is Lot 3 DP 616326 only. However, the applicant's own **Biodiversity Development Assessment Report (Appendix R by écologique), §1.1.2**, defines the site for the purpose of this SSDA as:

"The (primary) residual land, being 14,480 square metres ... and Part of the adjoining land, being 1,060 square metres (accommodating the proposed access driveway and pedestrian link from the proposed buildings to the Link Road frontage)."

The correct SSD site area is therefore **15,540 m²**. The 1,060 m² Masada driveway strip is where the Link Road driveway, pedestrian link, WSUD swales and drainage connection sit, all essential components of the proposal shown in the architectural, civil and biodiversity plans. That strip is largely hard surfaced. Adding it to the site total (as the SSDA definition requires) increases the total area used in the calculation without adding any meaningful deep soil to the top of the fraction. Recalculated on the correct 15,540 m² site:

- the applicant's claimed 3,435 m² of deep soil becomes **22.1%** (not 24%); and
- the total shaded area on Page 55 measured against the 1:750 scale becomes **23.8%**.

Defect C — the 6-metre minimum-dimension test in s.107(f) is not met. The applicant's Statutory Compliance Table copies the same 24% figure into both the s.107(f) row (6-metre limb, applicable to the 48-bed residential care facility) and the s.108(f) row (3-metre limb, applicable to the ILUs). It does not disaggregate the two tests. On the polygon-by-polygon measurement of Page 55:

- only **766 m²** of the shaded deep-soil area lies inside a zone that is 6 metres wide or wider at every point i.e. **4.9%** of the correct 15,540 m² SSD site;
- the applicable requirement in s.107(f) is 15% at ≥6 metres wide, which for a 15,540 m² site is 2,331 m²;
- the **shortfall against s.107(f) is therefore 1,565 m², or 10.1 percentage points**;
- only two shaded areas carry the ≥6-metre-compliant contribution: the Central Green (P1) and the southern strip along Link Road (P2). Every other shaded area on Page 55 is a narrow perimeter or courtyard strip less than 6 metres wide.

On the same measurement, the s.108(f) 3-metre limb also fails: **1,769 m² (11.4% of the corrected site) sits inside deep-soil zones 3 metres wide or wider**, against the 15% requirement i.e. a shortfall of 3.6 percentage points.

Defect D — underground drainage structures are not deducted. The ADG defines a deep soil zone as "areas of soil not covered by buildings or structures within a development. They exclude basement car parks, **services**, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas." The Ku-ring-gai DCP applies the same principle in more specific terms, excluding areas above any storm-water pipe larger than 300 mm in diameter and above any drainage pit larger than 1 m² in surface area.

The applicant's own **Integrated Water Management Plan (Appendix N by Van der Meer), summarised at EIS §6.9.4 (p.117)**, documents an extensive underground stormwater network located within the site:

- a pit-and-pipe network collecting runoff across all surfaces and draining to the OSD tank;
- an **On-Site Detention (OSD) tank** with orifice attenuation, receiving stormwater from all four buildings and all landscaped podiums;
- a **15-kL rainwater reuse tank** for irrigation;
- an **overland flow path running north-south, starting in the north-west corner of the site**, discharging via a grate drain to College Crescent.

The Drainage Layout drawings at C401, C402 and C403 of Appendix N show a **Ø375 RCP stormwater trunk pipe** (larger than the KDCP 300 mm exclusion threshold) running along the southern site boundary through the strip beside Link Road (which is P2 on Page 55) and up the western site boundary (adjoining P1/P2 vicinity), then continuing through the Masada driveway strip to connect to the existing Masada College stormwater system. Multiple pits (Pit A-1 through A-8, A-6-1, B-2 through B-4) with invert levels more than one metre below surface level sit along the same perimeter.

None of these structures is marked on the Page 55 Deep Soil plan. The applicant has not identified any area of deep soil to deduct on account of underground services. The Panel should require the applicant to overlay the Van der Meer drainage plan onto Page 55 and re-compute the deep-soil calculation with the drainage corridor, tank footprints and pit footprints deducted.

Combined effect on s.107(f) compliance. Even before Defect D is quantified, on the correct 15,540 m² site the compliant ≥6-metre deep-soil area is 766 m² i.e. **4.9%** of the site, a shortfall of **10.1 percentage points** against the 15% s.107(f) requirement. The Statutory Compliance Table treats this as a compliance; it is not. Deducting the drainage-corridor area will further reduce the compliant figure.

1.2 Internal inconsistency within the EIS on the headline deep-soil percentage

The EIS is internally inconsistent about the headline figure:

- EIS **p.139** (Executive Summary — Environmental impact assessment summary): "**26% deep soil landscaping**";
- EIS **p.140** (Ability to deliver high-quality landscaped open space): "**26% deep soil**, retention of 252 trees ...";
- EIS **p.142** (Responds to context): "over 74% of apartments receiving 2 hours of solar access at mid-winter, over 70% cross ventilated apartments, **24% deep soil**, and 42% tree canopy";
- EIS **p.143** (Site Compatibility Statement): "the provision of **24% of deep soil landscaping** is provided, far exceeding the minimum requirement";
- Appendix G Page 55: "**24%**";
- Appendix B Statutory Compliance Table (against both s.107(f) and s.108(f)): "**24%**".

Two percentage points on this site is approximately 310 m². The applicant's Executive Summary and its statutory-compliance evidence give **different numbers within the same document**. Neither figure is disaggregated by width. The Panel cannot properly assess compliance against s.107(f) or s.108(f) on the basis of a single, conflated, and internally inconsistent percentage.

1.3 Applicable minimum for the residential care facility

For clarity, we note that:

- the ADG "7% deep soil" figure that appears in some materials applies only to sites under 650 m² and is not applicable here;
- the 20–25% figure that has been referenced in some contexts is drawn from the former Seniors Housing SEPP guideline ("25% of open space as deep soil; more is desirable"). The Statutory Compliance Table itself relies on the **15% at ≥6 metres wide** test in Housing SEPP s.107(f), which is the operative provision for the 48-bed RCF component;
- KDCP §7A.6 requires 40–50% deep soil for residential flat buildings on sites over 1,800 m², but by operation of Planning Systems SEPP cl 2.10 (see Appendix B p.5) KDCP does not apply to SSD. FOKE nonetheless notes the KDCP position as an indicator of the reasonable expectation for a development of this scale in this locality.

The applicable statutory minimum is 15% at ≥6 metres. The proposal delivers 4.9%, approximately one-third of the requirement.

1.4 SEARs Item 1 also requires an accurate integrated summary of impacts

FOKE submits that the EIS narrative repeats the aspirational 24–26% deep-soil figure as evidence that impacts are "manageable" (see EIS pp.139, 140, 143) without integrating either the width test in the operative provision or the extensive underground stormwater network documented at Appendix N-Integrated Water Management Plan. The summary of impacts is therefore not accurate and does not integrate findings from the applicant's own technical reports. The Panel should not accept EIS §7 or Appendix B as a demonstration of compliance.

1.5 Publicly accessible allied-health premises: permissibility and characterisation

SEARs Item 1 requires the applicant to justify the proposed development against the relevant statutory framework. The exhibited documents describe allied-health premises, physiotherapy, hydrotherapy pool and consulting rooms, that are held out for *"the use of residents and the general public"* (EIS p.14). FOKE does not object to a café, lounge or communal amenity genuinely ancillary to residents and their visitors. FOKE does object to the allied-health facilities being open to the general public, for four reasons: (i) that use is not ancillary to seniors housing; (ii) the applicant has in effect conceded it is a health services facility; (iii) it will compete with existing allied-health businesses in the St Ives commercial catchments while sitting on SP2 Infrastructure land not intended for that purpose; and (iv) the Transport Impact Assessment (Appendix L) does not model public patronage as a distinct trip class (see §9.2 below).

1.5.1 What the applicant says the facilities are

The exhibited documents are consistent and unambiguous on the point that the allied- health premises are intended for public use as well as resident use:

- **EIS p.14** (Executive Summary — The Proposal): *"allied health premises including physiotherapy, hydrotherapy and consulting rooms for the use of residents and the general public."*
- **EIS p.42** (Project Description — Proposed uses): *"Senior's housing, including both ILUs and RCF beds, as well as allied health facilities (e.g. physiotherapy, hydrotherapy, consulting rooms) for the use of both residents and the public."*
- **EIS p.49** (Building A description): *"The public spaces include allied health premises including a physiotherapy, consulting rooms and a hydrotherapy pool at Basement Level 1, which can be used by both residents and the public."*

- **EIS p.107** (Assessment of Impacts — Parking): *"the allied health services, which will be accessible to the public and subsequently need to be provided with sufficient on-site parking to avoid impacts on parking on College Crescent and surrounding roads."*
- **EIS p.128** (Social Impact Assessment): *"publicly accessible allied health services."*
- **Architectural Design Report (Appendix E) p.200** (Response to Seniors Housing Design Guide, Principle 12.5.5): *"The Ground floor fronting College Crescent presents a welcoming facade with a high level of glazing and publicly accessible allied health services."*
- **Architectural Design Report pp.87–88** (Access and Movement diagrams): "PUBLIC PEDESTRIAN ENTRY TO ALLIED HEALTH SERVICES THROUGH BASEMENT"; "PUBLIC ENTRY NODES TO ALLIED HEALTH LOBBY" are shown as distinct from resident-only and resident/visitor entries.
- **Architectural Design Report p.24** (Response to GANSW State Design Review Panel 1, comment 16): the SDRP itself described the facilities as *"publicly accessible physio and hydrotherapy facilities"*. The Government Architect's own review panel therefore treats them as publicly accessible.

The proposal is not, as it may be presented, a private residential precinct with an internal wellness room. It is a seniors-housing development that includes a purpose-built, street-facing, publicly accessible allied-health premises with a dedicated public pedestrian entry from College Crescent and it is described that way by the applicant, by the project architect, and by the State Design Review Panel.

1.5.2 The applicant's permissibility argument concedes the problem

Appendix B (Statutory Compliance Table) and EIS p.60 set out the applicant's permissibility argument in two limbs. Both should be tested.

Primary limb: "ancillary" under the Housing SEPP. The applicant relies on Planning System Circular PS21-008 (2 December 2021) and argues the allied-health facilities are subservient to the dominant seniors-housing use (Appendix B, pp.8–10). Several of the applicant's own answers in that ancillary-use test are inconsistent with a subservient characterisation:

- **"Is the component going to serve the dominant purpose of the development or is it independent?"** The applicant answers: *"the allied health facilities will also be available to the general public, thereby providing health services to members of the local community who may not need to move into a seniors housing community yet"* (Appendix B, p.9). Providing health services to members of the community who are not residents and may never become residents is, on its face, an independent purpose.
- **"If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use."** The applicant answers: *"The allied health facilities will be permanent"* (Appendix B, p.10). On the Circular's own test, permanence weighs against an ancillary characterisation.
- **Floor area is not determinative.** The applicant emphasises that the allied-health premises account for approximately 1% of GFA (524 m², of which 290 m² is basement hydrotherapy excluded from GFA) (Appendix B, p.9). Small floor area does not convert an independent commercial use into an ancillary one; a supermarket pharmacy is not made ancillary by being small.
- **The physical relationship works against the applicant.** Appendix B (p.10) explains that access to the allied-health facilities is via "the public entrance to Building B". The applicant's own architect (ADR pp.87–88) shows a dedicated public pedestrian entry from College

Crescent, distinct from resident-only entries. A dedicated public street entrance is not the design language of an ancillary use.

The proper conclusion on the Circular's test is that the allied-health facilities as described are permanent, purpose-built, street-fronted, with a dedicated public entry, marketed for the use of *"the general public"* and members of the community *"who may not need to move into a seniors housing community yet"* go beyond what is reasonably required to implement the dominant purpose of seniors housing and cross into an independent use.

Fallback limb, "community health service facility" under SEPP (Transport and Infrastructure) 2021. The applicant then says at EIS p.60 and Appendix B p.10: *"In any case, putting the ancillary use matter to one side, the proposed allied health facilities can also be accurately defined as 'community health service facilities' which is included as one type of 'health service facility' which is permitted with development consent under Clause 2.60(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021."*

That is a material planning admission. On its face, it says: if we are wrong about "ancillary," the use is a health services facility. That admission has three consequences the applicant does not follow through:

- A stand-alone "community health service facility" on SP2 Infrastructure land is a different use with a different amenity, traffic, hours and management profile from seniors housing. The exhibited assessment does not evaluate the proposal on that basis.
- If the fallback characterisation applies, the proposal is a mixed-use development (seniors housing plus a health services facility) not a single seniors-housing project. The site's absence of KLEP height and FSR controls on SP2 land does not answer the different question of whether a mixed use of this scale is in the character of the locality.
- The applicant should be required to elect its characterisation. It cannot rely on "ancillary" for scale, character and Housing SEPP purposes while relying on "community health service facility" for permissibility as a fallback. The Department should require a single, tested characterisation supported by the evidence.

1.5.3 Commercialisation and character-of-locality

Once the allied-health premises are characterised (either primarily or as a fallback) as a health services facility open to the general public, three consequences follow that the exhibited assessment does not address.

Displacement of existing allied-health providers. The Architectural Design Report itself records that St Ives Shopping Village, within a 10-minute walk of the site, *"provides a range of services, including allied health, a medical centre, a public library, and a neighbourhood centre"* (ADR p.39). Additional allied-health capacity is also present along the Mona Vale Road commercial strip. Adding a subsidised, purpose-built, publicly accessible allied-health premises on SP2 Infrastructure land, delivered through the SSD pathway rather than a commercial development application in the appropriate zone, is not a level competitive field. It has the potential to displace existing small allied-health businesses in the St Ives Shopping Village and Mona Vale Road catchments, the very places the KLEP directs such uses. The applicant has not provided any retail or health-services impact assessment for the publicly accessible allied-health component. Nothing in the exhibited package identifies the expected non-resident client base, appointment volumes, catchment area, or marketing plan.

Character-of-locality. St Ives is not a commercial-services precinct. Public-facing health premises belong in the B2 Local Centre at St Ives Shopping Village or the equivalent commercial nodes on Mona Vale Road and not on SP2 Infrastructure land. Approving publicly accessible allied-health premises here would establish a precedent for future SP2 sites (schools, places of worship, retirement villages) to obtain de facto commercial permissibility through the SSD pathway when the same use in the same neighbourhood would require a commercial development application in a business zone.

Traffic and parking are unmodelled, not zero. The trip volumes generated by public patronage are unlikely to be large, but the Transport Impact Assessment (Appendix L) does not model them, and the point of principle is that they should be modelled and disclosed, not assumed away. This is developed further at §9.2 below.

1.5.4 Amenity, security and the applicant's own limits

The EIS acknowledges that public access must be limited and identifies its own risks:

- **EIS p.70** (Community Engagement, Security and Access): *"Public access will be limited to specific areas, with residential and recreational facilities remaining private."*
- **EIS pp.131–132** (Social Impact Assessment, Security): *"The proposal includes secure fencing, controlled entry, and security systems. Public access is at risk given the site's proximity to Masada College... residential and recreational areas remain private."*

Two things follow. First, the applicant itself accepts that unmanaged public access is a risk in this location, next to a school, a preschool and daycare. Second, "limited," "controlled" and "private" are aspirational descriptions unless they are written into conditions of consent. The exhibited draft does not fix the boundary between the publicly accessible allied-health premises and the private residential and recreational areas, does not cap public patronage volumes or hours, does not identify the operator, and does not prevent third-party leasing of the allied-health rooms as a stand-alone clinic in the future.

1.5.5 Relief sought on the public-facilities issue

FOKE asks the consent authority to:

- **Refuse** the publicly accessible component of the allied-health premises. Grant consent, if applicable, only on the basis that the allied-health facilities (physiotherapy, hydrotherapy pool and consulting rooms) are restricted to residents of the seniors-housing development, their visitors, and site staff.
- **In the alternative** should the publicly accessible component be retained, impose enforceable conditions of consent that:
 - require the applicant to elect a single planning characterisation of the allied-health premises (either ancillary to seniors housing under the Housing SEPP, or a "community health service facility" under SEPP (Transport and Infrastructure) 2021 cl 2.60(1)) and assess the proposal on that basis;
 - require a retail and health-services impact assessment addressing displacement of existing operators in the St Ives Shopping Village and Mona Vale Road catchments before determination;
 - require a supplementary Transport Impact Assessment that models public patronage of the allied-health facilities as a distinct trip class, disclosing appointment volumes, non-resident trip generation, dedicated public visitor parking (separate

from the RACF pool), and peak overlap with Masada College and Chabad preschool traffic on Link Road and College Crescent;

- cap the gross floor area, operating hours (weekday daytime only), and non-resident appointment throughput of the publicly accessible allied-health premises;
- prohibit third-party commercial tenancy of the allied-health rooms and prohibit external advertising or signage that identifies a stand-alone clinic or medical centre;
- require a plan of management, exhibited before determination, that fixes the boundary between publicly accessible areas and private residential and recreational areas, and specifies the operator, staffing model, security arrangements, and interface with Masada College;
- require DPHI concurrence for any change of use, expansion, or increase in public patronage of the allied-health premises.

The applicant asks the consent authority to accept that the allied-health premises are subservient enough to seniors housing to be permissible as ancillary under the Housing SEPP, and independent enough that if the ancillary limb fails, they are still permissible as a stand-alone community health service facility. The proposal cannot be both. On the applicant's own evidence a dedicated public street entry, a facility *"for the use of residents and the general public"*, a *"publicly accessible"* design language endorsed by the State Design Review Panel, and unmodelled public trip generation, is not ancillary. Approving it on the ancillary limb would set a precedent that any seniors-housing SSD in NSW can include a publicly accessible health services facility on SP2 land, delivered outside the commercial planning framework that would otherwise apply.

SEARs Item 4: ENGAGEMENT

The SEARs require the applicant to *"demonstrate that engagement and consultation activities have been undertaken in accordance with the Undertaking Engagement Guidelines for State Significant Projects and identify how issues raised, and feedback received have been considered in the design of the project"* (SEARs, p.2). The applicant's response is at Appendix I (Engagement Outcomes Report by Urbis, May 2026).

FOKE submits the engagement program was materially inadequate:

4.1 The consultation was overwhelmingly a desk-top exercise

Appendix I records the following engagement activities (p.23):

- 2 near-neighbour letters delivered to 29 of the closest properties;
- 27 emails to stakeholders including MPs, Councillors, places of worship, schools and community groups;
- 1 doorknock of 16 properties;
- 1 community newsletter posted to approximately 1,516 properties;
- 1 drop-in session attended by **approximately 5 residents**;
- 2 webinars — the community webinar attended by **4 community members**, the Masada parents' webinar attended by **21 people**;
- 3 briefings with 6 near neighbours; and
- **4 responses to the online Social Impact Assessment survey.**

The activity list is dominated by one-way distribution (letters, newsletters, emails). The two-way opportunities that were offered generated a total of $5 + 4 + 6 + 4 = 19$ **interactions with**

community members across a project affecting a landholding of over 1.5 hectares in a densely settled residential area. That is not proportionate engagement for a State Significant Development of this scale and social impact.

4.2 The engagement list includes community groups that received no substantive consultation

The stakeholder list at Appendix I p.18 identifies four community groups as consulted:

- St Ives Progress Association (SIPA)
- STEP Inc

The only engagement recorded in respect of these groups (Appendix I p.57) is that **an email with the community newsletter attached was sent on 17 February 2026**. No meeting, briefing, focus session, submission or feedback from any of these organisations is recorded anywhere in the 125-page report. The "What we heard" table therefore contains nothing from any of the community groups the applicant claims to have consulted. Sending a newsletter is not engagement within the meaning of the Undertaking Engagement Guidelines.

4.3 Alcove Apartments is not mentioned anywhere in the Engagement Outcomes Report

The most directly affected multi-unit residential building is **Alcove Apartments at 132-138 Killeaton Street**, immediately adjoining the northern boundary of the site who,. according to a number of resident accounts, were never consulted yet north-facing living rooms and balconies look across the SSD site.

The word "Alcove" does not appear anywhere in the 125 pages of the Engagement Outcomes Report. The distribution-record maps at Appendix I pages 65 and 70 (for letter #1 and letter #2 respectively) show a walk-track that runs along College Crescent, Killeaton Street, Yarrabung Road and Lawson Parade but does not turn into the Alcove Apartments driveway. There is no record of any briefing, focus session or feedback capture at Alcove — despite Alcove being the closest R4 building to Building A (the 5-storey element proposed at the northern end of the site) and directly affected by privacy and visual-bulk impacts.

For a SEARs response to be adequate under the Undertaking Engagement Guidelines, the consultation record must show how the applicant identified and consulted its most-affected sensitive receivers. The omission of Alcove is not consistent with the Guidelines and calls into question the reliability of the engagement outcomes summary at Table 5 and the impact assessment at EIS §6.

4.4 Consequence

The applicant has not *"identified how issues raised, and feedback received have been considered in the design of the project"* for the community groups it purports to have consulted or for the most-affected adjoining apartment building. SEARs Item 4 is not satisfied.

SEARs Item 6: BUILT FORM AND URBAN DESIGN

The SEARs require the applicant to *"demonstrate how the proposed built form (layout, height, bulk, scale, separation, setbacks, interface and articulation) addresses and responds to the context, site characteristics, streetscape and existing and future character of the locality"* (SEARs, p.3).

FOKE's principal objection under this item is to **the scale, height and bulk of the development and its impact on streetscape, adjacent properties, and particularly the R2 properties across College Crescent.**

6.1 Height exceeds the adjacent R2, R3 and R4 buildings

The proposed 8-storey height at Building A and D exceeds the height of Alcove Apartments to the north, an existing R4 residential flat building against which the transition should be tapered *downward*, not stepped *upward*. The SEARS does not acknowledge that residents currently enjoy uninterrupted southerly views from living areas, balconies and terraces looking across the oval.

The proposed 5-storey buildings B and C on College Crescent (despite the 4th floor set back) will severely impact the single and double level homes in the R2 zone across College Crescent and also affect the amenity of the 3-storey townhouse at 17 College Crescent. The full visual impact and overshadowing on the R2 zoned individual properties is increased as the SSD site is elevated along its length and by up to 4-metres in the SE corner.

6.2 View loss from R2 residences in College Crescent and R4 Alcove properties

The R2 properties along the eastern side of College Crescent are located below the level of the oval and enjoy views onto medium sized trees, the open sky and the oval. In addition, under existing conditions they benefit from the westerly sun in the afternoon. The proposed 5-storey buildings interrupt those views and overshadow the College Crescent front yards.

For the Alcove, the building adjoining the site's northerly boundary and facing the oval consists of a 6-storey element and 5-storey component to the east side. Both top floors are penthouses with large terrace. The penthouse and all apartments below the top floor of the 5-storey section have balconies with uninterrupted views looking south over the oval which will be completely lost. Furthermore, the lower-level units particularly will receive less light and breeze.

None of these factors are acknowledged in the report. The applicant identifies the building as 6-stories but does not address the 5-storey component most affected by the 8 and 5 storey development. In fact, the Visual Impact Assessment (Appendix K) does not provide any photos from the properties most impacted visually by the proposal, namely the College Crescent properties and the Alcove building. (see also §8 below).

6.3 Required transition distances between zones are not met

The Apartment Design Guide (page 37) proposes minimum separation distances for buildings 5-storeys to 8-storeys to be **18m between habitable rooms/balconies.**

It also notes, **“at the boundary between change in zone from apartment buildings to a lower density area, increase the building setbacks from the boundary by 3m.”**

On the northern boundary the built-form transition between the proposed 8-storey and 5-storey buildings with the adjoining R4 and R3 zones is 18 metres (interface with Alcove and Townhouse). The distance from the proposed built form to the neighbouring buildings should be increased to comply with the ADG. Notwithstanding an increased separation, the height of the buildings adjoining Alcove exceeds Alcove itself by 3-storeys and should be reduced.

An increased separation between the built form on the site and Alcove would also reduce the visual and acoustic impacts on Alcove and improve solar access and light to the dwellings below. A reduction in height would provide a better transition.

The transition is even more abrupt between the proposed 5-storey building and the 1-2 storey residences across College Crescent (interface with R2). The proposed 5-storey buildings should be reduced in height by at least one level with the top floor set back.

6.4 The College Crescent frontage transition is abrupt

The dramatic transition from **5 storeys (with 4th floor set back) directly to the R2 residential character of College Crescent** is accentuated by the fact that **the oval sits at a higher elevation than the R2 lots opposite**. That elevation difference amplifies the perceived height of the proposal from the west side of the street. To mitigate the impact:

- the College Crescent frontage building should be **reduced by at minimum one full storey**; and
- the 3rd or 4th floor (now the top floor after that reduction) should be **set back** from the College Crescent frontage.

This is a substantive design change, not a request for further articulation. The proposed reduction is consistent with the character of the existing R2 streetscape and with a proportionate transition down.

SEARs Item 7: ENVIRONMENTAL AMENITY

The SEARs require the applicant to "assess amenity impacts on the surrounding locality, including solar access, visual privacy, acoustic privacy, wind, reflectivity and overlooking" (SEARs, p.3).

FOKE identifies the following unaddressed or under-addressed amenity impacts:

7.1 Overshadowing of front yards across College Crescent

The overshadowing analysis in the Architectural Design Report does not adequately quantify the impact of the proposal on the **front yards of R2 properties across College Crescent**.

Overshadowing extends beyond front yards and, in at least one case, extends across a **swimming pool located in a front yard**. These impacts occur on the eastern side of College Crescent during the morning shadow envelope and should be individually quantified in a residence-by-residence table with mid-winter (21 June) shadow diagrams at at least three time-points (9 am, 10 am, 11 am).

7.2 Loss of street trees

The proposal involves the loss of street trees on College Crescent and along the Link Road interface. The applicant's Arboricultural Impact Assessment (Appendix S) should be required to itemise street-tree losses and demonstrate that replacement plantings will provide equivalent canopy cover at maturity within an acceptable timeframe.

7.3 Loss of trees in the Link Road frontage development

The proposed Link Road access and pedestrian link development results in additional tree removals within the driveway corridor. These losses should be quantified against the applicant's claim that 97% of existing trees are retained — a claim which, on FOKE's reading, applies only to trees on Lot 3 and excludes the tree losses on the Masada driveway strip that forms part of the SSD site (see §1.1, Defect B, above).

7.4 Impact of the new driveway

The proposed driveway from Link Road will cut through approximately 43sqm of critically endangered Sydney Turpentine Ironbark Forest. The ecological significance of the remnant lies not only in its area but its connectivity to remnant vegetation on adjacent sites. Preventing tree loss and habitat fragmentation is critical as the existing vegetation provides connectivity for microbats, other bat species and birds moving between the St Ives Turpentine Forest, Bedes Forest and other bushland.

SEARs Item 8: VISUAL IMPACT AND PHOTOMONTAGES

The SEARs require photomontages or perspectives "from key viewpoints" showing the proposed and likely future development (SEARs, p.4).

FOKE submits the Visual Impact Assessment (Appendix K, as updated 28 July 2026) is inadequate:

8.1 All photomontages are taken from long-range public-domain locations

The photomontage viewpoints are taken from public-domain locations at distances of approximately **150 metres to 360 metres from the site**. At those distances the vertical angle of a 8-storey and 5-storey building is small, and the visual impact is materially understated compared with the near-field experience of adjoining and near-adjoining residents.

8.2 The closest public domain, Bedes Forest Visual Impact Assessment viewpoint is not representative

One of the photomontages taken from **Bedes Forest** (currently master planned for upgrade with a play area and seating and community garden was taken facing west to Chabad House, but not toward the SSD site. A photomontage from a viewpoint that is not a sightline toward the site is not a "key viewpoint" for the purpose of SEARs Item 8.



Photo taken 3 August 2026 from Stanley Street facing north across Bedes Park showing the 5-storey Alcove building visible to the north of the oval site

Any 8-storey building on the oval would clearly mask the existing residential flat building, dominate the site and impact on the environmental amenity.

8.3 No photomontages from directly affected neighbours

The VIA does not include photomontages from the living rooms, balconies or private open space of any directly affected neighbouring property, including the Alcove Apartments building (see §4.3 above) and the R2 properties across College Crescent (see §6.2 above). The applicant should submit near-field photomontages from at least:

- balcony viewpoints inside Alcove Apartments;
- living-room and front-yard viewpoints on the eastern side of College Crescent opposite the site.
- photos from Bedes Forest to the proposal site

Until those photomontages are provided, the VIA does not discharge SEARs Item 8.

SEARs Item 9: TRANSPORT

The SEARs require a Transport Impact Assessment (Appendix L).

9.1 On-street parking impact not resolved

Parking in College Crescent is an existing constraint for residents. The proposal introduces **two new driveways to the underground carpark** further reducing available on street carparking by 6 spaces. The TIA does not offer a credible mitigation for that loss. The proposal will worsen an existing amenity issue for surrounding residents.

9.2 Publicly accessible allied-health facilities, unmodelled trip class and parking pool

This section reinforces the permissibility and characterisation issues raised at §1.5 with the specific transport-assessment defects.

The applicant's own EIS (p.107) states that "the allied health services, which will be accessible to the public and subsequently need to be provided with sufficient on-site parking to avoid impacts on parking on College Crescent and surrounding roads." Notwithstanding that, the Transport Impact Assessment (Appendix L, Ason Group, June 2026) does not model public patronage as a distinct trip class:

- **Table 13 (Appendix L, p.26): Adopted Trip Rates.** The TIA models only two trip classes: Residential Aged Care Facility (0.15 trips/bed AM peak; 0.21 trips/bed PM peak) and Independent Living Units (0.20 trips/dwelling AM peak; 0.20 trips/dwelling PM peak). No trip rate is adopted for public patronage of the allied-health facilities. Public appointment volumes, walk-up trips, and non-resident driver trips are not disclosed and not modelled.
- **Parking pool disclosure (Appendix L, p.25, Table footnote 1).** The 15-space RACF visitor pool is described as including "RACF visitor parking, allied health visitor parking and 1 ambulance space". Public allied-health visitor parking is bundled inside a pool that is nominally for RACF visitors. The number of spaces reserved for public patronage is not separately disclosed, and no operational plan prevents the RACF visitor pool from being consumed by public appointments during the working day.
- **School-peak overlap.** Public allied-health appointments would typically occur across weekday daytime hours, overlapping with the Masada College and Chabad preschool traffic on Link Road and College Crescent addressed at §9.3 below. The overlap is not identified or quantified in the TIA.

The consequence is that the transport case for the publicly accessible allied-health component and the basements parking spaces for students is not made. FOKE asks the consent authority to require, before determination:

- a supplementary TIA that adopts a trip rate for public patronage of the allied-health facilities as a distinct trip class and models AM/PM/interpeak movements accordingly;
- disclosure of the number of on-site parking spaces reserved for non-resident allied-health visitors, separate from the RACF visitor pool;
- overlay of public appointment throughput on the school-peak modelling for the shared Masada entrance and the College Crescent frontage; and
- if the publicly accessible component is retained, conditions of consent capping non-resident appointment volumes and operating hours consistent with the modelled scenario (see §1.5.5).

There will be a loss of car parking spaces in the Masada grounds to allow construction of the new driveway from Link Road. In addition, at grade parking spaces will be lost on College Crescent. These lost car spaces are proposed to be provided in the underground basement. There is no evidence of how the student parking, allied health parking and staff parking will be managed. In any case, the number of car spaces provided exceeds recommendations for Senior's Living and the Council DCP. It causes heavier traffic loads when the SSD proposal is located within walking distance of bus stops and the Shopping Centre.

9.3 Queuing at the shared Masada entrance and Mona Vale Road impact

The Link Road driveway is proposed as the primary access for **ambulances and delivery vehicles**. That driveway shares an entry with Masada College. The existing shared entrance is already slowed at peak times by security bollards and manned gates. Introduction of a new vehicle stream, including emergency-service vehicles that require immediate access, will further slow the shared entrance and may result in queuing back to Mona Vale Road and impacts on the signalised intersection at Mona Vale Road. Queuing also impacts on the vehicles in the school and preschool drop zone adjacent the Masada gates.

The TIA should be required to model the queue length at the shared Masada entrance under the following scenarios:

- morning peak school drop-off + ambulance movement;
- afternoon peak school pick-up + delivery-vehicle movement; and
- peak visitor arrival (family visiting hours) at the RCF.

Until modelled queue lengths are provided and demonstrated not to reach Mona Vale Road, the traffic impact is not adequately assessed.

9.4 Access pathways and bus stop standards

Access pathway and bus stop standards for a seniors housing SSD are governed by, at minimum, Housing SEPP 2021 cl. 93 and 94 and Schedule 8 cl. 6(a); Seniors Housing Design Guide 2023 §§6.3 and 6.5; the Disability Standards for Accessible Public Transport 2002 (Cth) (DSAPT) and AS 1428.2 for bus-stop compliance; AS 1428.1 (2021) for the continuous accessible path of travel; and the TfNSW *Guide to Transport Impact Assessment* (GITA) §5.2. FOKE understands these standards should have been incorporated at the SEARs stage and demonstrated on the exhibited documents. Neither has occurred.

Deficiency at the SEARs stage. The Industry-Specific SEARs (Housing) issued on 10 November 2025 do not expressly require the applicant to provide (i) a continuous accessible path of travel, certified against AS 1428.1, from each building lobby to every bus stop within 400 metres, (ii) a DSAPT / AS 1428.2 audit of each nominated bus stop, or (iii) TfNSW and Council concurrence on any resulting pathway or bus-stop works. Item 9 requires only a TIA per TfNSW GITA; Item 23 (Public Space) applies only if public space is proposed; Item 6 points to the Housing SEPP and the Seniors Housing Design Guide without requiring a discrete access-pathway or bus-stop assessment. Given that Seniors SSD of 126 ILUs and 48 RACF beds are the ones for whom these standards exist, FOKE believes this may be an omission.

Deficiency in the exhibited EIS — Transport Impact Assessment. Appendix L records that College Crescent has no existing footpaths along the site frontage, and that Link Road has no pedestrian crossing for 450 metres between Mona Vale Road and Stanley Street (Appendix L §4.1.1). Table 5 concedes that the northbound Route 194/194X stop on Link Road is at the 400-metre statutory limit, reached only via the Mona Vale Road signalised crossing. Section 7.1 proposes an “approximately 1.5 metre” wide external footpath on the western side of College Crescent along the site’s eastern boundary, but nominates no design standard — no gradient limit, no crossfall, no kerb-ramp specification, no treatment of the two proposed driveway crossings, no AS 1428.1 commitment, and no dedication to Council. Section 7.2 concludes that no changes are proposed to the existing bus stop outside Masada College, with no DSAPT / AS 1428.2 audit. The TIA also omits a pedestrian level-of-service assessment, a wayfinding plan connecting the two site entries to the four nearest bus stops, and a crossing-demand analysis at Mona Vale Road / Link Road, all standard scope under GITA §5.2.

Deficiency in the exhibited EIS — Access Report. Appendix DD concedes, on the applicant’s own evidence, that (a) the Link Road **return** stop (Routes 194 / 194X to the City) *exceeds a 400 metre safe pedestrian route to the site due to the need to walk to signalised crossing at Mona Vale Road and Link Road*, and (b) the Mona Vale Road stops serving Routes 195, 196, 197 and 591 *marginally exceed 400 metres* walking distance. Appendix DD then pivots to Housing SEPP cl. 93 limb 3 — the on-site transport service — as its compliance path. It is understood this substitution is not valid based on the words of cl. 93, which requires either a compliant pedestrian route to a public bus service or an on-site service at the specified frequency to the same destinations. The EIS publishes no operator, hours, days, routes, capacity, booking arrangements or long-term contractual commitment for the on-site service, and does not propose these matters as enforceable conditions. Appendix DD applies AS 1428.1 to internal elements but does not apply AS 1428.2 or DSAPT to the bus stops themselves and does not certify the external pedestrian routes to each stop against AS 1428.1.

The consequence is that for a seniors housing SSD of this scale, the applicant’s compliance with the accessibility limb of the Housing SEPP has not been demonstrated on the exhibited documents. This deficiency intersects with SEARs Item 6 Built Form because the transition between the site and the streetscape is defined by the pedestrian environment on College Crescent and Link Road, and SEARs Item 7 Environmental Amenity because pedestrian amenity for the resident cohort is the operative amenity question for this land use.

FOKE asks the consent authority to require the applicant, before determination, to provide:

- a continuous accessible path of travel plan from each building lobby to every bus stop within 400 metres, certified against AS 1428.1 and identifying every kerb ramp, crossing, driveway crossing, gradient and crossfall;
- a DSAPT / AS 1428.2 audit of each nominated bus stop with a scheduled upgrade programme;

- TfNSW and Ku-ring-gai Council concurrence on those pathway and bus-stop works; and
- a full operator, frequency, capacity, hours, days, destinations and long-term contractual specification for the on-site transport service, expressed as enforceable conditions.

In the alternative, if the Panel is disposed to proceed, FOKE asks the Panel to impose conditions of consent requiring, prior to any construction certificate: dedication of a compliant AS 1428.1 footpath along the College Crescent site frontage (including treatment of both driveway crossings); upgrade of the Masada College Link Road bus stop and the Route 194 return stop to DSAPT and AS 1428.2 at the applicant's cost; kerb ramp and crossing upgrades at the Mona Vale Road / Link Road signalised crossing; a binding on-site transport service condition tied to the operational life of the development; and a wayfinding, lighting and signage plan connecting the two site entries to the four nearest bus stops.

9.5 Basement parking is oversized and includes third-party and public-use allowances that should not be in this SSD

Appendix L Table 11 (p.20) discloses that the proposed basement provides **260 car parking spaces** against a Housing SEPP minimum of **192 spaces** and a Ku-ring-gai DCP minimum of **134 spaces** i.e.an oversupply of **68 spaces above SEPP (35%)** and **126 spaces above KDCP (94%)**. On the applicant's own evidence, three components of the 260-space count should be removed or scrutinised.

Masada College displaced spaces. Appendix L p.21 states: *"the proposed access road between Link Road and the development will impact some of these [Masada's 116] parking spaces, however any shortfall will be considered in the future Masada College Site Masterplan which is currently being prepared."* No such masterplan is exhibited with this SSD. It has no DA number, no exhibition period, no timeline and no enforceable delivery mechanism. EIS §1.3.2 (p.35) describes only an *"intention to explore options for a new masterplan"* under a 2024 Montefiore–Masada contractual agreement. It is not open to the applicant to size the Montefiore basement in part to accommodate parking that is the subject of a private future planning intention on adjoining land. Any Masada displacement should be quantified on the record, netted from the Montefiore basement count, and either resolved through an exhibited Masada application or secured through a Voluntary Planning Agreement before consent, not deferred.

Allied-health public-use allowance. Appendix L p.20 states expressly: *"additional visitor parking has been included for visitors of the allied health services (physio and hydrotherapy), given that both will be available to the general public"* and *"additional staff parking has been included for ... allied health staff."* Table 11 footnotes 1 and 2 confirm that the 15 visitor and 39 staff space provisions each include an allied-health public-use component. FOKE's primary request on the allied-health premises (see §1.3 above) is refusal of the public component. If the Panel accepts this request or restricts the allied-health premises to residents and their visitors only, the allied-health public-use component of the visitor is not required. The Assessors should require the applicant to disaggregate Table 11 and identify the specific number of spaces attributable to public allied-health use, so those spaces can be removed from the basement if the public component is not approved.

The 35% oversupply above SEPP minimum is not evidence that the site works. The applicant frames the 260-space provision (Appendix L p.19) as a response to community concerns about on-street overspill. But the basement is a primary driver of the deep-soil non-compliance identified in §1.1 above, the 8,903 m² basement extent recorded on Appendix G p.55 already precludes compliance with Housing SEPP s.107(f) before Defects A–E are applied. A parking supply set 35% above the SEPP minimum is evidence that the built form has been oversized to a traffic-generating catchment beyond seniors housing alone.

The applicant should (i) quantify the number of basement spaces attributable to Masada displacement and either remove them or secure them by VPA; (ii) disaggregate Table 11 so that the allied-health public-use component of visitor and staff parking is identified and removed if the public component is refused or restricted; and (iii) re-run the deep-soil calculation on the resulting smaller basement footprint.

9.6 Reducing traffic on both Link Road and College Crescent through scale reduction

FOKE does not seek to close the Link Road access or to redirect resident, service and emergency vehicles onto College Crescent. Appendix L §5.4 (p.22) establishes that the loading dock is designed at the lower Link Road ground level in the south-western corner of the site, accessed exclusively from Link Road for waste, deliveries and 8.8 metre Medium Rigid Vehicle (MRV) movements. Appendix L §5.6 directs bariatric ambulances to Link Road *“not College Crescent”*. College Crescent’s eight-metre carriageway (Appendix L p.7) cannot physically accommodate an 8.8 m MRV in a two-way configuration with kerbside parking. The Link Road access is required for those service and emergency movements and FOKE does not oppose its retention for that purpose.

FOKE also does not accept that residential amenity on College Crescent should be preserved by shifting traffic from Link Road onto College Crescent. Any solution that increases College Crescent volume is unacceptable to the residents most directly affected by the proposal.

The only measure that reduces both College Crescent and Link Road traffic simultaneously, without redistributing between them, is a reduction in the total trip generation at source. The applicant’s own Appendix L Table 13 rate (0.20 trips per hour per ILU) and Table 15 split (approximately 59%/41% AM, 61%/39% PM) make this arithmetic straightforward.

A reduction of ILUs (consistent with the height reduction of Buildings B/C/D sought at §6 above), combined with refusal or restriction of the publicly accessible allied-health premises (§1.3 and §9.2 above), reduces total peak-hour trips.

The applicant should model a reduced-scale scenario at Appendix L §6 on the applicant’s own Table 13 rate and Table 15 split and demonstrate that peak-hour volumes on **both** College Crescent and Link Road under that scenario are lower than the currently proposed 19 AM / 22 PM (College Crescent) and 13 AM / 14 PM (Link Road). No redistribution between the two accesses is proposed or accepted.

SEARs Item 11: WATER MANAGEMENT

See §1.1 Defect D above. The Integrated Water Management Plan (Appendix N) documents an extensive underground stormwater network that the applicant has not overlaid on the Deep Soil plan at Appendix G Page 55, and that has not been deducted from the deep-soil calculation. This point sits under both SEARs Item 1 (statutory context — compliance with development standards) and SEARs Item 11 (water management — drainage design and servicing infrastructure).

SEARs Item 14: TREES AND LANDSCAPING

As set out in detail under §1.1 above, the deep-soil landscaping is **overstated**, and once the four defects are addressed the proposal does not meet the 15% requirement in Housing SEPP s.107(f) for the RCF component. The 42% tree-canopy claim at EIS pp.142–143 also requires scrutiny,

since it relies on the same 14,497 m² denominator as the deep-soil calculation and should be recomputed against the correct 15,540 m² SSD site.

SEARs Item 20: BUSH FIRE RISK

The SEARs require: "If the development is on mapped bush fire prone land, **or a bush/grass fire threat is identified on or adjoining the site**, provide a bush fire assessment that details proposed bush fire protection measures and demonstrates compliance with Planning for Bush Fire Protection." (SEARs, p.7, emphasis added.)

The applicant's response (Appendix Z) is a **three-page letter** by Building Code & Bushfire Hazard Solutions Pty Limited dated 21 May 2026. Its entire reasoning is that "Ku-ring-gai Council's Bushfire Prone Lands Map does not identify the subject site as containing Vegetation Category 1, 2 or 3 or the Vegetation Buffer. The subject site is subsequently not considered to be 'Bushfire Prone Land'. ... As the subject site is not located on bushfire prone land a Bushfire Assessment is not required."

That conclusion misapplies the prescribed Planning for Bush Fire Protection (PBP) framework. FOKE's analysis of the applicable framework, the second limb of PBP Step 1, the Special Fire Protection Purpose (SFPP) status of the development in its entirety, and the construction standard for the residential care facility follows.

Bushfire — Applicable Framework, Step 1 Second Limb, SFPP Status and Construction Standards

1. The applicable version of Planning for Bush Fire Protection for a 2026 assessment

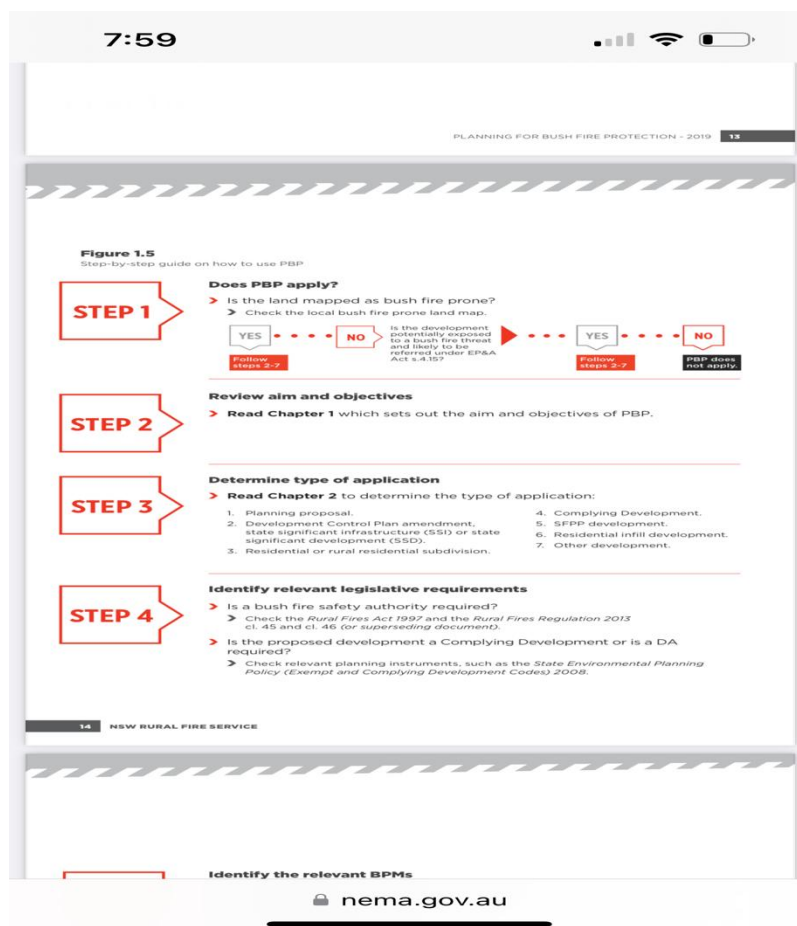
For a State Significant Development assessed in 2026, the "Planning for Bush Fire Protection" prescribed under section 4.14(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW) is the version prescribed by clause 271 of the Environmental Planning and Assessment Regulation 2021 (NSW): **Planning for Bush Fire Protection 2019 (PBP)**, as amended by the addendum published in November 2022 and the addendum published in January 2025. That composite instrument has been in force since 4 April 2025.

Neither addendum amends Chapter 1 or Figure 1.5 of PBP 2019. The November 2022 Addendum is confined to Appendix B specific requirements for Special Fire Protection Purpose (SFPP) Class 9 buildings, aligning PBP with Specification 43 of National Construction Code 2022 (NCC). The January 2025 Addendum is narrower still, addressing only Class 9B primary and secondary school buildings. Chapter 1, Figure 1.5 and the Step 1 gateway therefore continue to operate as originally published in PBP 2019.

2. Step 1 of PBP is triggered by two independent limbs and only limb (a) has been addressed

Step 1 of PBP 2019 at page 14 (Figure 1.5, "Does PBP apply?") sets two independent triggers:

- **Limb (a):** Is the land mapped as bush fire prone? Check the local bush fire prone land map.
- **Limb (b):** Is the development "potentially exposed to a bush fire threat and likely to be referred under EP&A Act s.4.15"?



A "YES" to either limb triggers Steps 2–7 of PBP. The applicant's bushfire material (Appendix Z and the three-page bushfire letter) addresses only limb (a) and concludes that the site is not mapped as bush fire prone land. **It does not address limb (b), notwithstanding classified bushfire-prone vegetation on adjoining land opposite the south-east corner of the site — Bedes Forest (PCT 3262 Sydney Turpentine Ironbark Forest, a Critically Endangered Ecological Community), mapped as Category 1 vegetation for the purposes of PBP.**

The consent authority's independent obligation under section 4.15 of the EP&A Act to consider PBP, as prescribed under section 4.14, is not extinguished by the absence of on-title BFPL mapping. Limb (b) is the mechanism by which PBP applies to off-BFPL land that is nonetheless exposed to bush fire threat from adjoining land. Treating the mapping question as the end of the analysis misapplies the prescribed PBP framework.

3. The development is a Special Fire Protection Purpose development in its entirety

Section 100B (6) of the *Rural Fires Act 1997* (NSW) defines "special fire protection purpose" to include, at paragraph (f), "seniors housing within the meaning of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*". Although the 2004 Seniors SEPP has been repealed, the successor instrument, *State Environmental Planning Policy (Housing) 2021* (Chapter 3), supplies the operative content for that definition.

Under Chapter 3 of the Housing SEPP 2021 and the NSW Department of Planning's published guidance, "seniors housing" expressly includes both:

- **residential care facilities** (also known as nursing homes or aged care homes), and

- **independent living units** (previously referred to as "self-contained dwellings" under the repealed 2004 Seniors SEPP and re-named to align with current industry terminology).

Both components are therefore SFPP within the meaning of section 100B(6)(f) of the *Rural Fires Act 1997*.

PBP 2019 confirms this in policy terms. Chapter 6 identifies nursing homes as an archetypal SFPP example and defines SFPP developments at page 112 as "developments where the vulnerable nature of the occupants means that a lower radiant heat threshold needs to be accommodated for in order to allow for the evacuation of occupants and emergency services". **The SFPP characterisation is functional and operates at the development level, not at the individual-building level.**

The exhibited proposal, 126 independent living units and 48 residential care facility beds, is accordingly an SFPP development in its entirety. Chapter 6 obligations (emergency management planning, evacuation planning, Asset Protection Zones, access, water supply and internal tenability) attach to the whole site, engaged by the nature of the use rather than by BFPL mapping alone.

4. Construction standard for the residential care facility: BAL-19 or greater under Appendix B, Table 2

Table 2 of Appendix B of the November 2022 Addendum to PBP 2019 (page 9), titled "SFPP Development Construction Standards – Specific requirements for hospitals, schools, child care centres and residential care buildings", prescribes a single acceptable solution for construction:

Performance criterion: "The proposed building can withstand bush fire attack in the form of wind, embers, radiant heat and flame contact."

Acceptable solution: "A construction level of BAL-19 or greater under AS 3959 and section 7.5 of PBP is applied."

This standard applies uniformly to Class 9a health-care buildings, Class 9b childcare centres and schools, and Class 9c residential care buildings, the class relevant to the RACF component of Montefiore. The RFS's Practice Note dated 6 May 2024 confirms that this prescribed document is "PBP 2019 as amended by the PBP Addendum" (i.e. Appendix B has statutory force under section 4.14 of the EP&A Act), and that any departure requires demonstration that the "relevant performance criteria in 'Planning for Bush Fire Protection' are satisfied" — not mere assertion.

5. Building-by-building consequences for the SE-corner Class 9c RCF and the SW-corner ILU building

The applicant's own architecture (EIS §3.5, pp.49–51) confirms the following layout:

- **Building B - south-east corner - dedicated 48-bed Residential Care Facility (Class 9c under the NCC).** This is the building that directly faces the Bedes Forest vegetation on the opposite side of College Crescent (PCT 3262 Sydney Turpentine Ironbark Forest, mapped as Category 1 vegetation for PBP purposes).
- **Building A — south-west corner — 36 Independent Living Units (typically Class 2 or Class 3 under the NCC).**
- **Buildings C and D** occupy the north-east and north-west corners respectively and are ILU buildings.

The framework consequences follow directly from this layout.

5.1 The south-east corner Building B (Class 9c RCF) and primary Bushfire Category 1 vegetation nearby

- Building B is not located on mapped Bushfire prone land but it is within about 30metres of the main bushfire hazard Bedes Forest, mapped as Category 1 vegetation on the Ku-ring-gai Bush Fire Prone Land Map. PBP Step 1 limb (b) is unambiguously triggered.
- Building B is a Class 9c residential care building. **Table 2 of Appendix B of the November 2022 PBP Addendum applies directly to Building B:** the acceptable solution is "a construction level of BAL-19 or greater under AS 3959 and section 7.5 of PBP".
- Where the radiant-heat modelling from the Category 1 vegetation opposite returns a BAL higher than BAL-19, the higher BAL applies. SFPP status floors the standard; it does not cap it.
- Any departure from the BAL-19 acceptable solution requires demonstration on evidence that the relevant PBP performance criteria are satisfied, consistent with the RFS Practice Note of 6 May 2024. Non-BFPL mapping of the site polygon does not answer this question.

5.2 The south-west corner - Building A (36-ILU building)

- Building A is not a Class 9c building. On the text of Table 2, its BAL-19 acceptable solution does not apply directly to Building A.
- However, Building A remains SFPP residential accommodation. Independent living units are seniors housing under Chapter 3 of the Housing SEPP 2021 and therefore fall within paragraph (f) of the SFPP definition in section 100B (6) of the *Rural Fires Act 1997*.
- Building A cannot be assumed to sit outside Table 2 by virtue of its NCC class alone. Two source-text pathways draw Building A back within, or up to, the Table 2 standard:
 - **NCC G5D4(b) — "immediately adjacent or connected" structures.** Where a Class 10a building or deck is "immediately adjacent or connected" to a Class 9c residential care building, it must comply with AS 3959 (as amended by PBP) and Specification S43C13. Building A shares a ground floor with Building B (EIS §3.5, p.51: "Building A shares a ground floor level with the adjoining Building B") and shares back-of-house, communal, allied-health and basement circulation. A composite construction assessment therefore engages G5D4(b), and the reach of Table 2 into Building A must be determined on the record rather than assumed away.
 - **The performance-criteria route under the 6 May 2024 Practice Note.** The RFS "may consider issuing a BFSa on terms that differ from the acceptable solutions in Appendix B of the PBP Addendum. However, any request by an applicant will need to demonstrate that relevant performance criteria in 'Planning for Bush Fire Protection' are satisfied." An applicant advancing a lower BAL for Building A must therefore demonstrate that the relevant performance criteria in PBP are satisfied on evidence, not by assertion.
- The residual baseline for Building A, as SFPP residential accommodation on land engaged by PBP through its adjacency to Building B and shared ground floor and basement is BAL-12.5 under section 7.5 of PBP 2019 and AS 3959-2018, subject to actual radiant-heat modelling. If the modelled BAL for Building A exceeds BAL-12.5, the higher standard applies as of right.

5.3 What applies site-wide, irrespective of NCC class

- The development is SFPP in its entirety. Chapter 6 obligations of PBP 2019, emergency management planning, a Bush Fire Emergency Management and Evacuation Plan, APZ

analysis, access, water supply and internal tenability, apply to the whole site, engaged by the nature of the use rather than by BFPL mapping alone.

- Evacuation planning must include the ILU cohort. ILU residents are, by definition, able to live independently, but they are seniors and people with disability whose evacuation via a single Link Road (Regional Road RR2043) exit or single road College Crescent exists warrants specific planning scrutiny under Chapter 6.8.4 of PBP 2019.
- The Bush Fire Evacuation Risk map applies to all seniors housing in the Ku-ring-gai area, ILU included, as noted in the NSW Department of Planning's Seniors Housing guidance.
- Per-building BAL determination is required for every occupied building (Buildings A, B, C and D), based on verified survey distance, slope and vegetation classification, not desktop assumption.

6. Requested actions before determination

FOKE requests that the consent authority require the applicant to complete a PBP-compliant Step 1 limb (b) analysis and SFPP-consistent construction analysis before determination. Specifically:

- **Verified survey distance and slope** from the site boundary measured to each proposed building envelope (Buildings A, B, C and D) to the Bedes Forest classified vegetation edge on the opposite side of College Crescent.
- **Vegetation classification consistent with PBP Table A1.12.1**, supported by field survey rather than desktop classification alone, expressly recording that Bedes Forest (PCT 3262 Sydney Turpentine Ironbark Forest) is mapped as Category 1 vegetation for PBP purposes.
- **Per-building BAL determination** for every occupied building on the site (Buildings A, B, C and D), including radiant-heat and Asset Protection Zone modelling. Where the modelled BAL exceeds the applicable baseline, the higher standard applies as of right.
- **Construction-standard justification for Building B** (Class 9c RCF, SE corner) calibrated against Table 2 of Appendix B, PBP Addendum 2022 (p.9), namely, "a construction level of BAL-19 or greater under AS 3959 and section 7.5 of PBP". Any lower standard for Building B must be demonstrated to satisfy the relevant performance criteria in PBP, consistent with the RFS Practice Note of 6 May 2024.
- **NCC classification statement and adjacency assessment for Building A** (36-ILU building, SW corner) expressly identifying its NCC class (Class 2 or Class 3) and whether, through its shared ground floor, communal spaces, back-of-house and basement circulation with Building B, it is "immediately adjacent or connected" to a Class 9c residential care building within the meaning of NCC G5D4(b), so the reach of Table 2 into the Building A envelope is determined on the record rather than assumed away.
- **Bush Fire Emergency Management and Evacuation Plan** addressing the specific evacuation constraints of frail-aged and dementia residents (Building B RCF cohort) and mobility-limited seniors (Building A, C and D ILU cohort) via Link Road (RR2043), including weekly waste-vehicle windows, bariatric ambulance access, and heavy-vehicle swept paths on the shared corridor.
- **RFS engagement pathway** — either a referral under the second limb, or a documented performance-solution pathway with formal RFS review. The absence of on-title BFPL mapping is not a substitute for engagement with the RFS where limb (b) is triggered.

7. In summary

The prescribed framework in 2026 is PBP 2019 as amended by the November 2022 and January 2025 Addenda. Step 1 of that framework has two limbs. Limb (b) is triggered by the Bedes Forest Category 1 vegetation opposite the south-east corner of the site (facing Building B, the Class 9c

RCF). The proposal is an SFPP development in its entirety, seniors housing includes both residential care facilities and independent living units. Chapter 6 obligations attach to the whole site. Table 2 of Appendix B applies directly to Building B at BAL-19 or greater; and Building A cannot be assumed to sit outside Table 2 by virtue of its NCC class alone, the reach of Table 2 into the Building A envelope through NCC G5D4(b) adjacency and shared ground floor with Building B, and Building A's own baseline under section 7.5 of PBP subject to radiant-heat modelling, must be determined on the record. Non-BFPL mapping of the site polygon is not the end of the bushfire analysis, and the consent authority is respectfully asked to require completion of the analysis before determination.

REQUESTED ACTIONS

FOKE requests the consent authority to:

1. **Refuse or defer** determination of SSD-98363228 pending the applicant addressing the defects identified in this submission.
2. Require the applicant to:
 - re-compute the deep-soil percentage on the correct 15,540 m² SSD site;
 - remove the non-statutory "Supplementary Deep Soil" category;
 - overlay the Van der Meer Drainage Layout (Appendix N sheets C401–C403) onto the Deep Soil plan (Appendix G Page 55) and deduct the drainage-corridor, OSD tank, rainwater tank and pit footprints from the deep-soil area;
 - separately disaggregate the s.107(f) 6-metre test and the s.108(f) 3-metre test with individual polygon compliance tables;
 - reconcile the internal EIS inconsistency between the 24% and 26% deep-soil figures.
3. Require the applicant to:
 - identify Alcove Apartments at 132-138 Killeaton Street as a directly affected sensitive receiver and undertake substantive consultation with its residents;
 - undertake substantive consultation (not newsletter distribution) with the community groups it has named; SIPA, STEP Inc, Ku-ring-gai Living and Ku-ring-gai Historical Society;
 - record and respond to feedback from those consultations in a revised Engagement Outcomes Report.
4. Require the applicant to:
 - prepare near-field photomontages from terraces, balconies and living rooms at Alcove Apartments along the site's northern boundary and R2 properties along College Crescent, at mid-winter and equinox conditions;
 - reduce the College Crescent frontage building by at least one storey and set back the (new) top floor from the frontage.
 - reduce the height of the 8-storey building D adjoining the northern boundary and increase the separation by +3m between building facades to Alcove.
5. Require the applicant to:
 - separate the parking and trip-generation demand of the publicly accessible facilities from the RCF/ILU demand and demonstrate that on-site parking is sufficient;

- model queue lengths at the shared Masada entrance under peak scenarios and demonstrate no queue-back to Mona Vale Road/Link Road intersection impacting traffic lights.
6. Require the applicant to:
- complete a **PBP Step 1 limb (b) analysis** — the applicant has addressed only limb (a) and has not addressed the second, independent, off-BFPL trigger notwithstanding vegetation on adjoining land at the south-east corner;
 - treat the development as **SFPP in its entirety** (RCF and ILU) under section 100B(6)(f) of the *Rural Fires Act 1997* and Chapter 3 of the Housing SEPP 2021, so that Chapter 6 obligations of PBP 2019 (emergency management, evacuation, APZ, access, water supply, internal tenability) apply site-wide;
 - undertake **verified survey distance and slope** from every building envelope (RCF and ILU) to the classified vegetation edge on adjoining land, and vegetation classification consistent with PBP Table A1.12.1;
 - deliver a **per-building BAL determination** for every occupied building, including radiant-heat and Asset Protection Zone modelling;
 - justify the construction standard against **Table 2 of Appendix B of the November 2022 PBP Addendum (p.9)** — BAL-19 or greater for the RACF — with any lower standard demonstrated to satisfy the relevant performance criteria in PBP consistent with the RFS Practice Note dated 6 May 2024;
 - provide an **NCC classification statement and adjacency assessment** for the south-west corner building, expressly identifying whether it is "immediately adjacent or connected" to the RACF within the meaning of NCC G5D4(b);
 - prepare a **Bush Fire Emergency Management and Evacuation Plan** addressing the specific evacuation constraints of frail-aged and dementia residents and mobility-limited seniors via Link Road (RR2043); and
 - complete a **documented RFS engagement pathway** — either a referral under the second limb or a formal performance-solution review — before determination.

CONCLUSION

Because this application is lodged for full development consent and not as a concept proposal, the exhibited documents must be capable of supporting construction as approved. On the evidence set out above they are not.

The proposal does not comply with the operative deep-soil provisions of the Housing SEPP 2021; the headline deep-soil percentage is internally inconsistent within the EIS and does not survive the six-metre width test in section 107(f); the engagement program did not reach the residents most directly affected and the community groups it names; the built form exceeds adjacent R4 heights at the northern boundary and does not comply with the ADG transition building separation and it does not deliver the transition to R2 that the SEARs require; the visual impact material is drawn from long-range public-domain viewpoints rather than the R2 dwellings most affected and the balconies and living rooms in the Alcove complex that will actually lose amenity; the transport assessment does not model public patronage of the allied-health premises as a distinct trip class, and the shared Masada entrance is not modelled against school-peak conditions and access pathway and bus stop standards under Housing SEPP cl. 93–94 and DSAPT / AS 1428.1–2 have not been incorporated at the SEARs stage or demonstrated in the exhibited EIS and the applicant concedes that at least two nominated public transport routes fall outside the 400 metre safe pedestrian route required by cl. 93; the basement is oversized at 260 spaces against the Housing SEPP minimum of

192 and KDCP minimum of 134, with the applicant expressly attributing part of the oversupply to displaced Masada College parking (to be considered in an unexhibited “future Masada Site Masterplan”) and to the publicly-accessible allied-health premises; and on the applicant’s own Table 13 rate and Table 15 split, a reduction in ILU count together with refusal or restriction of publicly-accessible allied-health reduces traffic on both College Crescent and Link Road without any redistribution between the two accesses; the publicly accessible allied-health facilities are held out for use by the general public but characterised in the alternative as either ancillary to seniors housing or as a stand-alone community health service facility, and the proposal cannot be both; and the bushfire assessment addresses only limb (a) of PBP Step 1 and does not address limb (b), notwithstanding classified vegetation on adjoining land opposite the south-east corner where the Class 9c residential care facility is proposed.

Each of these matters is a SEARs obligation, a statutory provision, or both. Taken individually, they are unresolved. Taken together, they mean the exhibited EIS does not discharge the SEARs and the proposal, as exhibited, is not in a form the consent authority can lawfully or safely approve. The development contrary to the applicant’s claims results in unreasonable negative Amenity impacts on neighbouring properties and the streetscape.

FOKE requests that the application be **refused** in its current form. In the alternative, if the Panel is disposed to proceed, FOKE asks the Panel to require the applicant to address the matters set out in the Requested Panel Actions above, by supplementary information, amended reports and, where necessary, redesign and to re-exhibit the amended application for public comment before determination

Yours faithfully

Kathy Cowley

Kathy Cowley

PRESIDENT

cc Mayor and Councillors Ku-ring-gai Council

cc Matt Cross MP Member for Davidson

cc The Hon Alister Henskens SC MP Member for Wahroonga

cc The Hon Chris Rath MLC Shadow Minister for Planning and Public Spaces

cc Nicolette Boele MP Member for Bradfield