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FRIENDS OF KU-RING-GAI ENVIRONMENT INC.

Department of Planning, Housing and Infrastructure
Locked Bag 5022
PARRAMATTA NSW 2124
Via: NSW Major Projects Portal

Attention: Liam Spinks

19 November 2026

Dear Liam

Re: SSD-78669234-Mod-2 – 27-29 Tryon Road, Lindfield – Design Amendments (section 4.55(2))

Friends of Ku-ring-gai Environment Inc (FOKE) thanks the Department for the opportunity to comment on Modification 2 to the approved residential flat building at 27-29 Tryon Road, Lindfield, lodged by Bridgestone Projects Pty Ltd and exhibited from 13 to 27 November 2026.[1] [2]

FOKE has reviewed the Modification Report and all 22 exhibited documents. We have compared them with the consent of 10 April 2026 (as modified by Mod 1), the Department's Assessment Report, FOKE's submission of 28 January 2026, and Ku-ring-gai Council's advice of 29 January and 16 March 2026. This submission sets out, change by change, whether the modification **responds to**, **partly responds to** or **does not satisfy** the recommendations FOKE and Council made during the original assessment, and where it goes backwards from what was approved.

FOKE objects to Modification 2 in its current form. We acknowledge several genuine improvements: the earthier facade palette, better sunlight to the affordable apartments, ground-floor private gardens and a larger rooftop common area. These are outweighed by a five-fold increase in the height exceedance; additional overshadowing; the loss of a perpetual affordable home; the withdrawal of approved accessibility and Green Star commitments; the removal of facade planting and balcony screens; a deeper basement whose groundwater, stormwater and pump-out impacts have not been reassessed; and gaps and inconsistencies in the supporting documents. We ask the Department to refuse the height-related and "regression" elements, or to require them to be amended, and to impose the conditions listed in section 5.

Summary assessment

1. The table below summarises FOKE's assessment. The evidence for each item is set out in section 3. Sources are footnoted there.

Matter	What MOD 2 proposes	Earlier FOKE / Council recommendation	FOKE assessment
Building height	Maximum height rises from 29.24 m to 31.87 m.	FOKE objected to the height and the rooftop	**Regression.** The approved exceedance of

[1] NSW Department of Planning, Housing and Infrastructure, Notice of Exhibition, 27-29 Tryon Road – Mod 2 – Design Amendments (exhibited 13–27 November 2026), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-154366246%2120261112T130018.150+GMT.

[2] NSW Planning Portal, 27-29 Tryon Road – Mod 2 – Design Amendments, project page, https://www.planningportal.nsw.gov.au/major-projects/projects/27-29-tryon-road-mod-2-design-amendments.

Matter	What MOD 2 proposes	Earlier FOKE / Council recommendation	FOKE assessment
	The main roof (29.91 m) and the plant screen (up to 3.27 m over the 28.6 m standard) now exceed the standard. No new clause 4.6 request.	plant (Jan 2026). Council asked for the height and top level to be reduced for heritage reasons (Jan and Mar 2026).	about 0.62–0.64 m increases roughly five-fold. The reasons the Department relied on for accepting the original variation no longer apply.
Overshadowing	Additional shadow shown at every hour from 9 am to 3 pm on 21 June. The effect is described only qualitatively.	FOKE and Council raised overshadowing of 22 Russell Avenue (local heritage item), 24 Russell Avenue and nearby properties. Council asked for the top level to be redesigned to improve sun to 22 Russell Avenue.	**Does not satisfy.** Shadow increases rather than decreases. There is no hourly, property-by-property quantification.
Facade materials and colours	Cream/beige brick replaced by earthy red/brown brick. Timber-look aluminium removed. Sandstone cladding added to front fencing.	Council sought a darker, earthy brick (Jan 2026) and recorded the palette as resolved after revision (Mar 2026). FOKE raised the heritage context of the Uniting Church and the conservation areas.	**Responds.** This is a welcome change and should be secured by a materials-sample condition. The Heritage Addendum, however, assesses the wrong height increase and provides no new views.
Affordable housing numbers and tenure	Total affordable dwellings fall from 14 to 13. Dwellings held in perpetuity fall from 2 to 1. Conditions E2 (14 affordable apartments), E39(b)(ii) and F13 (two dwellings in perpetuity) are not proposed to be changed.	FOKE sought affordable housing in perpetuity (Jan 2026). Council said the perpetuity units lacked ADG amenity (Jan 2026), then noted improvement (Mar 2026).	**Regression.** One fewer household housed, and one fewer permanent affordable home. Also inconsistent with the conditions that would remain in force.
Affordable housing amenity	Affordable units with more than 2 hours of sun rise from 4 (28.6%) to 7 (53.8%).	FOKE objected that 7 of the 14 affordable units received no solar access (Jan 2026).	**Partly responds.** A real improvement, but 6 of the 13 affordable units still fall short of 2 hours.
Community housing provider	Bridge Housing confirms it will manage all 13 affordable dwellings.	FOKE asked which community housing provider would manage the units and how it would be held accountable.	**Partly responds.** The provider is now named. Equal access to all common areas should be expressly secured by condition.
Livable housing / accessibility	Approved: 10 apartments at Platinum and 55 at Silver (all 65). Proposed: 13 at Silver (20%), including 10 adaptable.	FOKE stressed family and long-term liveability. The Department listed the 100% Livable Housing outcome in its ADG assessment.	**Regression.** Platinum level and Silver coverage for 52 apartments are lost.
Green Star / ESD	Green Star commitment removed. Condition B3 still refers to the Green Star ESD Report.	FOKE sought net zero performance and lower embodied carbon (Jan 2026).	**Regression.** An approved sustainability commitment is withdrawn. It is replaced only by minimum

Matter	What MOD 2 proposes	Earlier FOKE / Council recommendation	FOKE assessment
			BASIX/NCC compliance and measures "to be considered". The new BASIX certificate specifies 0 kW of solar PV.
Deep soil	Deep soil increases on paper from 776 m² (25.8%) to 838 m² (27.8%). This is done by converting eastern-setback paving to gravel. ADG-compliant deep soil moves from the front setback to the eastern setback (300 m², 9.9%); the front setback is still counted, but only as other deep soil.	FOKE: deep soil far below the local 50% control. Council: only about 8.6% met the ADG minimum dimension and asked for 15%.	**Partly responds.** A larger number, but the ADG deep soil zone moves away from the Tryon Road frontage. ADG-compliant deep soil rises only from about 259 m² (8.6%) to 300 m² (9.9%), still below the 15% Council sought, and the gain depends on a gravel path that could easily be paved over later. Its width and area are not given, so it cannot be tested against the ADG and DCP limits on paths in deep soil. Nothing secures it as permanent deep soil.
Facade planting	Planter boxes on Levels 1–7 removed and replaced by pots.	FOKE sought more landscaping in keeping with the garden character. The Department relied on facade landscaping.	**Regression.** Permanent planting is replaced by removable pots.
Trees and substation	Existing Tryon Road substation retained. New substation and blast walls added at Tryon Lane. The corner is described as "south-eastern" in one document and "south-western" in others.	FOKE and Council sought retention of boundary trees. Conditions B9(h) and B10 protect Trees 11–13, Trees 22–24 and Tree 35.	**Does not satisfy.** There is no arborist assessment of the new substation, blast walls or gravel path, and the substation location is inconsistently described. No report considers whether the predicted groundwater drawdown could affect boundary or neighbouring trees.
Corner balcony screens	Full-height screens to corner balconies on Levels 4–7 removed.	The Department relied on these screens for wind mitigation; Conditions B13 and E38 require the approved wind measures. FOKE raised overlooking of neighbours.	**Does not satisfy.** The wind study now records "Business Walking" conditions at some balcony edges. Conditions B13 and E38 are not proposed to be changed. Privacy is not reassessed.
Rooftop and ground communal open space	Plant moved to Level 9; roof communal open space up from 188 m² to 208 m². Ground	FOKE raised rooftop noise and overlooking, and the lack of children's play space. Council	**Partly responds.** Ground-floor private open space responds to Council. Rooftop noise,

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	communal open space down from 649 m² to 635 m². Ground-floor private gardens and a wellbeing room added.	sought private open space for ground units.	overlooking and play space remain unresolved.
Stormwater and pump-out	No civil or stormwater documents. All four basement levels lowered by 550 to 650 mm. BASIX rainwater tank 5 kL from 532 m² of roof, with no toilet supply.	Council sought a pump-out tank for the 100-year, 2-hour storm and consistent rainwater tank sizing.	**Does not satisfy.** The approved pump-out pit's top water level would sit above the new Basement 04 floor, and the pit is sized with no allowance for groundwater inflow. The rainwater tank and water balance are reduced without a revised calculation. Condition B6 consistency is not shown.
Parking and servicing	Total of 90 residential and 11 visitor spaces unchanged. One TOD space reassigned to in-fill; one motorcycle space added. Basement described as lowered 550 mm, with adjusted ramp grades; the plans show all four basement levels lowered by 550 to 650 mm.	Council required evidence that its 6.7 m waste vehicle could enter and leave the basement in a forward direction. Condition B11(f) requires AUSTROADS swept paths for garbage trucks.	**Partly responds.** The totals are maintained, but the traffic statement uses the wrong unit mix and reverses the affordable and market categories. Its schedule implies 14 affordable dwellings, not 13, its change column does not add up, and it gives three different parking minimums (88, 89 and 90). Its clearance check is a draft that uses the approved, not modified, levels and grades and omits the 6.7 m waste vehicle. No plan-view swept paths are provided.
Basement depth and groundwater	Excavation deepened by about 550 mm to RL 79.93 (about 13.4 m). Drained basement with predicted long-term inflow of 2.08 ML/year.	FOKE raised stormwater, water infrastructure and cumulative impacts. Council's DCP requires fully tanked basements. Public submissions raised an underground stream, which the Department noted had not been identified or confirmed.	**Does not satisfy.** The reports conflict on whether the excavation reaches the water table. The groundwater model appears not to have been re-run for the new depth, and rests on seven months of monitoring. Lift pit and pump-out pit levels, which may go below the modelled level, are not shown. A water access licence exemption is claimed but not demonstrated, and the Water Supply Works

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			Approval the assessment refers to is not in the consent.
Supporting documents	Appendix A has 46 of the 59 sheets on PTW's drawing list. There are no civil or stormwater drawings, and the proposed Condition A1 schedule contains errors. Several reports carry out-of-date or contradictory statements.	Council has previously raised inconsistencies between the applicant's documents, for example in rainwater tank sizing.	**Does not satisfy.** Missing sheets and conflicting figures make it hard for the public and the Department to assess the changes. Re-exhibition may be needed once the documents are corrected.

Detailed comments

Building height: the basis for the original variation no longer holds

2. The approved building is 29.24 m high against a 28.6 m standard (22 m under the TOD provisions plus the 30% in-fill affordable housing bonus). The Department accepted the 0.62 m (2.2%) variation on four express grounds. First, the breach related "only to lift overruns and mechanical exhaust" that were "centrally located on the roof" and "not discernible from the street or public domain". Second, it caused no additional overshadowing, because its shadows fell "solely on the roof". Third, "all habitable floor space is contained below the maximum building height of 28.6 m". Fourth, the building complied with other key built form controls.[3]
3. Modification 2 raises the maximum height to 31.87 m. The main roof is now 29.91 m, which is itself 1.31 m above the standard. The plant screen reaches 3.27 m above the standard, the lift overruns 1.90 m, the service ducts 2.09 m and the service screening 2.19 m.[4] The applicant's sections show the 28.6 m height plane passing through the upper part of Level 8, with the roof slab and parapet above it.[5] The shadow comparison drawing shows additional shadow at every hour from 9 am to 3 pm.[6] Each of the grounds the Department relied on is therefore weakened or no longer applies.
4. Section 4.55(3) of the Environmental Planning and Assessment Act 1979 requires the consent authority to take into consideration "the reasons given by the consent authority for the grant of the consent that is sought to be modified". The Modification Report acknowledges this requirement.[7] It does not, however, engage with the Department's specific reasons for accepting the height variation. FOKE accepts that a clause 4.6 written request is not formally required for a section 4.55 modification. Even so, the height standard and its objectives remain relevant matters under section 4.15(1), and a variation of this size needs a full merit justification, not the brief treatment provided.
5. The documents are also inconsistent about how much higher the building would be. The Modification Report figures show an increase of about 2.63 m (29.24 m to 31.87 m).[8] The cost report addendum

[3] NSW Department of Planning, Housing and Infrastructure, Residential Development with In-fill Affordable Housing – 27-29 Tryon Road, Lindfield (SSD-78669234): Assessment Report (April 2026), 27–28 and Appendix D, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[4] Gyde Consulting, Section 4.55(2) Modification Application: Modification to SSD-78669234, 27-29 Tryon Road, Lindfield (20 October 2026), Table 1 and Table 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[5] PTW Architects, Architectural Plans, Section 4.55 issue (Appendix A, October 2026), including Ground Floor Plan PTW-DA-B1GRD10 Rev H, Section 1, 2 PTW-DA-D110010 Rev G and Shadow Diagrams S4.55 vs Approved DA PTW-DA-Q14A138 Rev A, Section 1, 2 (PTW-DA-D110010 Rev G), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[6] PTW, Architectural Plans (Appendix A), PTW-DA-Q14A138 Rev A, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[7] Gyde, Modification Report, section 6.2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[8] Gyde, Modification Report, Table 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

refers to "an increase in building height by 2.5m".[9] The Heritage Addendum assesses an increase of "roughly 3.6m", which it calls "marginal".[10] A heritage conclusion based on a different height from the one being assessed cannot be relied on without reconciliation.

6. The justification offered is that services coordination requires floor-to-floor heights of 3.2 m (typical), 3.35 m (Level 7) and 3.67 m (Level 8 to roof), compared with the approximately 3.1 m previously designed.[11] FOKE does not question that services need space. But services zones and post-tensioned slab coordination are ordinary design matters that should have been resolved before consent was sought. The consequence of under-designing at the approval stage should not be passed on to neighbours and the heritage setting as extra height. Council recommended twice that the top level be reconfigured and the height reduced for heritage reasons.[12] [13] Modification 2 moves in the opposite direction.
7. **FOKE requests** that the Department not approve any increase in the height of the building envelope above that approved. The applicant should accommodate the services zones within the approved height, for example by reconfiguring or setting back the top level as Council recommended, or by refining floor-to-floor heights. At a minimum, the Department should require a quantified justification measured against the height standard objectives and the original reasons for consent.

Overshadowing of heritage and neighbouring properties

8. FOKE's January 2026 submission objected to overshadowing of 22-26 Russell Avenue, including the private open space and pool at 24 Russell Avenue.[14] Council asked for the top level to be redesigned to improve solar access to 22 Russell Avenue, a local heritage item.[15] The Department's assessment found that the approved building would overshadow the private open space of 22 Russell Avenue until 10 am (leaving sun between 10 am and 2 pm), the private open space of 24 Russell Avenue from 10 am until 1 pm, and 25 Tryon Road until about 12.30 pm, with more than two hours of additional overshadowing for three of its 26 apartments. One of the Department's reasons for accepting these impacts was that the height exceedance "would not cause any additional overshadowing impacts on the surrounding properties".[16] Modification 2 removes the basis for that reason, because the main roof itself would now exceed the height standard.
9. The Modification Report describes the extra shadow as a "narrow sliver", "limited, peripheral and incremental", but comments only on 9 am, 12 pm and 3 pm, in qualitative terms, with no areas and no property-by-property analysis.[17] The PTW comparison drawing shows additional shadow (in red) in every hourly view from 9 am to 3 pm on 21 June.[18] At 9 am and 10 am, the largest additional areas appear on the eastern facade of 25 Tryon Road, west of the site, which the report's description of the 9 am shadow ("principally along its south-eastern extent") does not mention. From 10 am to 3 pm, further

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[9] Mitchell Brandtman, SSD Cost Report Addendum (Appendix K, 14 October 2026), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.377+GMT.

[10] City Plan Heritage, Addendum to Statement of Heritage Impact for Section 4.55 Modification Application (Appendix D, 20 October 2026), 2, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014007.178+GMT.

[11] Surex Consulting, Justification for Increase in Floor-to-Floor Height (Appendix E, 30 September 2026), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014007.495+GMT.

[12] Ku-ring-gai Council, advice on the Response to Submissions and Amendment Report, SSD-78669234 (29 January 2026), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-103586206%2120260129T032951.437+GMT.

[13] Ku-ring-gai Council, advice on the further Response to Submissions, SSD-78669234 (16 March 2026), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-107819207%2120260315T224758.220+GMT.

[14] Friends of Ku-ring-gai Environment Inc (FOKE), submission on SSD-78669234 amended proposal (28 January 2026), SUB-104921957, 5–6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[15] Ku-ring-gai Council, March 2026 advice, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-107819207%2120260315T224758.220+GMT.

[16] DPHI, Assessment Report, section 5.2.2, pp. 37–38, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[17] Gyde, Modification Report, section 6.2.2, p. 20, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[18] PTW, Architectural Plans (Appendix A), PTW-DA-Q14A138 Rev A, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

slivers fall on Russell Avenue properties south of Tryon Lane, including during the 10 am to 2 pm sun window the Department identified for 22 Russell Avenue. **FOKE requests** hourly shadow analysis (9 am to 3 pm, 21 June). For 22 and 24 Russell Avenue and 25 Tryon Road, it should state the area of private open space and the number of living-room windows receiving sun under the approved and modified schemes. Any loss to a heritage item should be avoided.

Heritage and facade

10. FOKE welcomes the change from cream/beige brick to earthy red and brown tones, the removal of timber-look aluminium, and the natural sandstone cladding to front fencing.[19] [20] These changes respond directly to Council's January 2026 request for a darker, earthy brick so the cream base would not dominate.[21] Council's March 2026 advice recorded the colour palette as resolved after an earlier revision.[22] Even so, the Modification Report describes the approved brick as cream/beige, so Modification 2 goes further towards Council's request.[23] The changes also respond better to the setting of the State-listed Tryon Road Uniting Church at 33 Tryon Road (SHR 01672) and the nearby conservation areas that FOKE identified.[24] [25] Heritage NSW accepted the impact on the church because the separation of some 24 m provides a visual buffer and existing vegetation softens it. It recommended large trees along the Tryon Road frontage.[26] [27] Yet the front setback no longer counts as ADG-compliant deep soil (section 3.7), and the Heritage Addendum does not discuss front-setback landscaping.
11. The Heritage Addendum is otherwise brief. It contains no new views or photomontages from the heritage items or the conservation areas. It does not name any individual heritage item. It does not address 22 Russell Avenue or the additional overshadowing of that item.[28] It also contains statements that appear out of date or wrong: it is headed "Modification 1"; it states that "no modification applications have been made" (Mod 1 was approved on 16 October 2026); and it describes the basement as increasing from 114 to 115 spaces.[29] [30] **FOKE requests** a revised heritage assessment based on the correct height, with views from 33 Tryon Road, 22 Russell Avenue and the Crown Blocks (C22),

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[19] Gyde, Modification Report, section 4.2.5.1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[20] City Plan Heritage, Heritage Addendum, 2, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014007.178+GMT.

[21] Ku-ring-gai Council, January 2026 advice, item 17, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-103586206%2120260129T032951.437+GMT.

[22] Ku-ring-gai Council, March 2026 advice, items 11 and 17, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-107819207%2120260315T224758.220+GMT.

[23] Gyde, Modification Report, section 4.2.5.1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[24] Heritage NSW (as delegate of the Heritage Council of NSW), Advice on Environmental Impact Statement, SSD-78669234, HMS ID 11776 (September 2025), 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-93352956%2120250923T032523.280+GMT.

[25] FOKE submission, 28 January 2026, 5–6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[26] Heritage NSW, EIS advice, 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-93352956%2120250923T032523.280+GMT.

[27] DPHI, Assessment Report, section 5.1.4, pp. 31–33, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[28] City Plan Heritage, Heritage Addendum, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014007.178+GMT.

[29] City Plan Heritage, Heritage Addendum, 1–2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014007.178+GMT.

[30] Gyde, Modification Report, section 3.1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

Trafalgar Avenue (C31) and Middle Harbour Road (C42) conservation areas.[31] We also request a condition requiring the approved materials and colours to be confirmed by physical samples before the construction certificate.

Affordable housing

12. FOKE has consistently sought affordable housing held in perpetuity rather than for only 15 years.[32] The consent requires **a minimum of two** dwellings to be used as affordable housing in perpetuity under the TOD provisions (Conditions E39(b)(ii) and F13), in addition to 12 in-fill affordable dwellings for 15 years (Condition F14).[33]
13. Modification 2 reduces the affordable dwellings from 14 to 13 and the perpetual dwellings from two to one. The applicant's figures show the perpetual (TOD) affordable floor area as essentially unchanged (195.78 m² approved, 195.73 m² proposed), but it would now be in one dwelling instead of two.[34] One fewer household will have a permanent affordable home. The Modification Report proposes changes only to the Schedule 1 description, Condition A1 (plans) and Condition B11 (parking). It does not propose to amend Condition E2, which refers to an Occupation Certificate for "the 14 affordable housing apartments", or Conditions E39(b)(ii) and F13.[35] [36] If approved as lodged, the consent would describe 13 affordable dwellings while still referring to 14 and requiring two perpetual dwellings. In January 2026 Council advised that the two perpetual dwellings then proposed did not comply with any of the ADG amenity requirements for sunlight or ventilation.[37] In March 2026 it noted that the revised scheme had improved this.[38] PTW's apartment schedule shows the single proposed perpetual dwelling (unit 006, a 195.5 m² three-bedroom apartment) receiving more than 2 hours of sun and natural cross-ventilation.[39] **FOKE requests** that the two perpetual dwellings, and the total of 14 affordable dwellings, be retained, with each perpetual dwelling meeting the ADG sunlight and cross-ventilation criteria.
14. FOKE acknowledges the improvement in sunlight to the affordable apartments: those receiving more than 2 hours rise from 4 (28.6%) to 7 (53.8%).[40] This responds in part to FOKE's objection that 7 of the 14 affordable units (50%) received no sun.[41] However, 6 of the 13 still fall short. The report says the

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[31] Ku-ring-gai Council, Submission to SSD-78669234, Attachment 1 (21 May 2025), 21, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-84554733%2120250521T043856.826+GMT.

[32] FOKE submission, 28 January 2026, 4, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[33] NSW Department of Planning, Housing and Infrastructure, Development Consent SSD-78669234, consolidated incorporating Mod 1 (October 2026), Conditions E39, F13 and F14, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[34] Gyde, Modification Report, Table 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[35] Gyde, Modification Report, section 4.3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[36] Consolidated Consent SSD-78669234, Condition E2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[37] Ku-ring-gai Council, January 2026 advice, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-103586206%2120260129T032951.437+GMT.

[38] Ku-ring-gai Council, March 2026 advice, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-107819207%2120260315T224758.220+GMT.

[39] PTW, Architectural Plans (Appendix A), PTW-DA-Y210010, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[40] Gyde, Modification Report, section 6.2.4, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[41] FOKE submission, 28 January 2026, 4, 6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

number with no direct sun has also fallen but does not say by how much.[42] PTW's apartment schedule shows that five of the 13 affordable dwellings (units 007, 107, 108, 208 and 209) would still receive no direct sun at all.[43] Bridge Housing's updated letter confirms its support for 13 affordable dwellings: 12 for at least 15 years and one in perpetuity.[44] Bridge Housing was already named in its earlier letter of 19 March 2025, so the update does not answer FOKE's question about how community housing providers are held accountable.[45] [46] The Modification Report cites the Bridge Housing letter as "Appendix Q",[47] but it is exhibited as Appendix J.[48]

15. **FOKE requests** a condition that residents of the affordable dwellings have the same access as other residents to all communal areas, including the rooftop communal open space and the new wellbeing room.[49]

Accessibility and liveable housing

16. In its ADG assessment, the Department recorded that of the 65 apartments, 10 (15%) achieve Platinum level and 55 (85%) achieve Silver level under the Livable Housing Guidelines.[50] Modification 2 proposes 13 apartments (20%) at Silver level, including 10 adaptable/livable apartments.[51] The approved Liveable Apartments drawing (PTW-DA-Q14J210 Rev E) is one of the plans approved under Condition A1, and Condition B16 requires the adaptable dwellings to comply with the applicable Australian Standards.[52] The report describes the change only as a "revised distribution … including a reduction in Platinum Level adaptable apartments".[53] In fact, 52 of the 65 apartments would no longer have any Livable Housing rating, and no Platinum-level apartments would remain.
17. This development is promoted as family housing: 62 of its 65 apartments have three or four bedrooms. Livable housing features allow families and older residents to stay in their homes as their needs change. **FOKE requests** that the approved Livable Housing outcome (10 Platinum and 55 Silver) be retained and secured by condition.

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[42] Gyde, Modification Report, section 6.2.4, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[43] PTW, Architectural Plans (Appendix A), PTW-DA-Y210010, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[44] Bridge Housing, letter to Bridgestone Projects, Affordable Housing – 27-29 Tryon Road, Lindfield (Appendix J, 8 October 2026), 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.059+GMT.

[45] Bridge Housing letter, 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.059+GMT.

[46] FOKE submission, 28 January 2026, 9, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[47] Gyde, Modification Report, section 6.2.8, 26, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[48] Bridge Housing letter, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.059+GMT.

[49] FOKE submission, 28 January 2026, 11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[50] DPHI, Assessment Report, Appendix, ADG 4Q Universal design, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[51] Gyde, Modification Report, Table 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[52] Consolidated Consent SSD-78669234, Conditions A1 and B16, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[53] Gyde, Modification Report, section 4.2.5.3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

Ecologically sustainable development

18. FOKE's January 2026 submission asked for net zero performance and attention to embodied carbon.[54] The consent requires the development to incorporate all measures in the "Green Star ESD Report, prepared by Certified Energy, dated 1 December 2025" (Condition B3).[55] Modification 2 proposes the "removal of the previously proposed commitment to achieving a Green Star rating".[56] The replacement ESD report, prepared by a different consultant, relies on BASIX, NCC Section J, the Sustainable Buildings SEPP and the DCP rather than a rated tool.[57] Green Star is mentioned only as a guide for fixtures and fittings.[58] Many measures are listed only as initiatives "to be considered" during detailed design.[59] The updated BASIX certificate meets its targets (water 41 against 40; energy 65 against 60).[60] However, it specifies a photovoltaic system with a minimum rated output of "0 peak kW".[61] The Department's assessment noted the applicant's commitment to "measures to incorporate renewable energy".[62] The Modification Report does not say whether those measures remain. Condition B3 is not proposed to be amended. Nor is Condition B17, which still requires BASIX Certificate No. 1825163M at Construction Certificate stage.[63] [64] FOKE notes that taller floor-to-floor heights also add structure and facade. **FOKE requests** that the Green Star commitment be retained, or replaced by an equivalent independently verified rating, and that Condition B3 be kept. The applicant should also confirm what on-site renewable energy is now proposed.

Landscape, deep soil and trees

19. The reported deep soil increase, from 776 m² (25.8%) to 838 m² (27.8%), is achieved by replacing concrete paving in the eastern setback with gravel.[65] [66] The Modification Report says the deep soil has been "relocated from the front setback, as originally approved, to the eastern setback", because private open space fencing means the front setback "does not achieve the minimum 6m continuous

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[54] FOKE submission, 28 January 2026, 8, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[55] Consolidated Consent SSD-78669234, Condition B3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[56] Gyde, Modification Report, section 4.2.5.3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[57] Aspire Sustainability Consulting, ESD Report (Appendix I, October 2026), section 1.1, p. 3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014008.734+GMT.

[58] Aspire, ESD Report, p. 15, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014008.734+GMT.

[59] Aspire, ESD Report, Table 8, p. 11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014008.734+GMT.

[60] BASIX Certificate No. 1825163M_03 (Appendix O, 9 October 2026), 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014011.358+GMT.

[61] BASIX Certificate 1825163M_03, 15, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014011.358+GMT.

[62] DPHI, Assessment Report, p. 65, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[63] Gyde, Modification Report, section 4.3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[64] Consolidated Consent SSD-78669234, Conditions B3 and B17, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[65] DPHI, Assessment Report, p. 45, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[66] Gyde, Modification Report, section 6.2.7, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

dimension".[67] The Landscape Soil Depth Diagram clarifies what this means. The front setback is still shaded and counted in the 838 m² total, but only as "Additional Planting Area on Deep Soil" (539 m², 17.9%). The ADG-compliant deep soil (300 m², 9.9%) is now the eastern setback strip alone.[68] So the front setback is not lost as soil, but it is no longer the ADG deep soil zone, and part of it is now fenced private gardens. The ADG deep soil zone is therefore moving away from the street frontage. That is where it matters most for the canopy, the garden-suburb character and the setting of the Uniting Church.

20. Council's March 2026 advice said only about 8.6% of the site met the ADG deep soil dimension and recommended 15%.[69] FOKE pointed to the much higher local control and the need for space for tall canopy trees.[70] Council's 8.6% equates to 259.15 m², so the ADG-compliant area increases by about 41 m², to 300 m². That is still well short of the 15% (451.7 m²) Council recommended.[71] The diagram's components (300 m² plus 539 m²) add to 839 m², not 838 m², and 300 m² is 10.0% of the 3,011.27 m² site rather than 9.9%. These are rounding differences only.
21. **FOKE remains concerned that the gain is not assured.** The ADG-compliant area is the eastern setback strip.[72] The Materials and Finishes Plan shows a "gravel/decomposite path on grade" running through that strip, connecting to the car park fire egress.[73] The increase therefore comes from changing the surface of a path, not from new planting or extra soil. A gravel path is easily replaced with pavers or concrete later for maintenance, access or appearance. Once it is sealed, the deep soil is lost, and that change is unlikely to be noticed or to need approval. A path that people walk on, and that serves a fire egress, is also likely to be compacted and may not support tree roots in practice. The Apartment Design Guide allows pedestrian paths in a deep soil zone only where the paving is "specifically designed for tree root growth", and then for up to 10% of the zone.[74] Council's DCP allows paths in deep soil landscaping only up to 1.2 m wide.[75] The landscape plans do not give the width or area of the gravel path, or show that it is designed for root growth. The landscaped area calculation (989.9 m², 32.9% of the site) also includes "access paths on deep soil".[76] Nothing in the documents, and no proposed condition, secures the path as permanently unsealed and permeable.
22. **FOKE requests** that front-setback deep soil be retained. The applicant should state the width and area of the gravel path and show the ADG deep soil calculation both with and without it. The path should be counted only if it is no wider than 1.2 m, is designed for tree root growth, and, with any other paving, occupies no more than about 10% of the ADG deep soil zone. If it is counted, a condition should require it to stay permanently unsealed and permeable, with no change to its surface without the Department's approval. That requirement should be shown on the approved landscape plans and recorded as an ongoing obligation, for example in the strata by-laws.

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[67] Gyde, Modification Report, section 6.2.7, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[68] 360 Degrees Landscape Architects, Landscape Plans, Section 4.55 issue (Appendix C, October 2026), Landscape Soil Depth Diagram L-DA-9001 Rev H, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014005.779+GMT.

[69] Ku-ring-gai Council, March 2026 advice, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-107819207%2120260315T224758.220+GMT.

[70] FOKE submission, 28 January 2026, 7–8, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[71] Ku-ring-gai Council, March 2026 advice, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-107819207%2120260315T224758.220+GMT.

[72] 360 Degrees, Landscape Plans (Appendix C), Landscape Soil Depth Diagram L-DA-9001 Rev H, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014005.779+GMT.

[73] 360 Degrees, Landscape Plans (Appendix C), Materials and Finishes Plan – Ground Floor L-DA-1000 Rev I, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014005.779+GMT.

[74] NSW Department of Planning and Environment, Apartment Design Guide (2015), Part 3E Deep soil zones and Appendix glossary, Part 3E, Figure 3E.4, https://www.planning.nsw.gov.au/sites/default/files/2023-03/apartment-design-guide.pdf.

[75] Ku-ring-gai Council, Ku-ring-gai Development Control Plan, Part 1 Introduction, Dictionary, definition of "deep soil landscaping", https://www.krg.nsw.gov.au/files/assets/public/v/12/hptrim/information-management-publications-public-website-ku-ring-gai-council-website-ku-ring-gai-development-control-plan/part-1-introduction-preliminary-dictionary.pdf.

[76] 360 Degrees, Landscape Plans (Appendix C), Landscape Area Comparison Diagram L-DA-9004, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014005.779+GMT.

23. The removal of planter boxes on Levels 1 to 7, replaced by pots, is a backward step.[77] [78] The Department described the approved scheme as including "additional landscaping on the building façade".[79] Pots are not permanent, are easily removed and do not provide the same greening or privacy. **FOKE requests** that the approved planter boxes be retained.
24. Condition B9(h) requires retention of Trees 22–24 along the western boundary and Trees 11–13 along the eastern boundary. Condition B10 requires that the substation not involve excavation within the structural root zone of Tree 35 at 31 Tryon Road.[80] Modification 2 keeps the existing substation on the Tryon Road frontage and adds a second substation with blast walls at Tryon Lane. The List of Amendments places it in the "south-eastern corner".[81] The Notice of Exhibition, the Modification Report and the ground floor plan place it in the "south-western" corner.[82] [83] [84] The report also describes the existing substation as being on the "north-western" frontage in one place and in the "north-eastern" corner in another.[85] No updated arborist assessment has been provided. The modification report also states that no further tree removal is proposed.[86] **FOKE requests** that the location be clarified and that a project arborist confirm the new substation, blast walls and gravel conversion are outside the tree protection zones of Trees 11–13, 22–24 and 35. Conditions B9 and B10 should be retained unchanged. The retained front substation should also be screened with planting.
25. The BASIX certificate records 725 m² of "indigenous or low water use" landscaping.[87] This does not necessarily confirm the 361 m² of indigenous planting required by Condition B9(i), which should be retained.

Privacy and wind: corner balcony screens

26. In approving the development, the Department relied on "full-height screens to exposed eastern and western perimeter edges of private corner balconies on Levels 04 to 07" as wind mitigation.[88] Conditions B13 and E38 require the wind mitigation measures in the Windtech Pedestrian Wind Environment Statement of 4 December 2025 to be incorporated before the construction and occupation certificates.[89] Modification 2 removes the screens but does not propose to amend those conditions. The new wind

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[77] Gyde, Modification Report, section 6.2.7, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[78] 360 Degrees, Landscape Plans (Appendix C), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014005.779+GMT.

[79] DPHI, Assessment Report, 45, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[80] Consolidated Consent SSD-78669234, Conditions B9 and B10, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[81] PTW Architects, List of Amendments (16 October 2026), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014014.193+GMT.

[82] DPHI, Notice of Exhibition, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-154366246%2120261112T130018.150+GMT.

[83] Gyde, Modification Report, section 4.2.5.2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[84] PTW, Architectural Plans (Appendix A), Ground Floor Plan PTW-DA-B1GRD10 Rev H, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[85] Gyde, Modification Report, sections 4.2.5.2 and 6.2.9, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[86] Gyde, Modification Report, section 6.1.2.5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[87] BASIX Certificate 1825163M_03, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014011.358+GMT.

[88] DPHI, Assessment Report, 46–47, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[89] Consolidated Consent SSD-78669234, Conditions B13 and E38, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

study finds "Business Walking" conditions at the perimeter of the eastern corner balconies. It concludes the screens are unnecessary because at least half of each balcony remains suitable for sitting.[90] The Modification Report says visual privacy has "no change from approved" but provides no analysis of overlooking towards 25 and 31 Tryon Road.[91] **FOKE requests** that the screens be retained, or that a privacy assessment demonstrate no additional overlooking. Conditions B13 and E38, and the Tryon Lane privacy measures in Condition B1, should remain.

Communal open space, noise and children's play

27. Relocating plant to the Level 9 roof increases the rooftop communal open space from 188 m² to 208 m². Ground-floor communal open space falls from 649 m² to 635 m², mainly to create ground-floor private gardens.[92] FOKE supports the private gardens and the new wellbeing room. The gardens respond to Council's request for private open space for ground-floor units.[93] FOKE's concerns about rooftop noise and overlooking of neighbours are not addressed.[94] Neither is the absence of any children's play space in a building of mainly three-bedroom family apartments.[95] **FOKE requests** that Condition B9(g) (dense landscaping around the rooftop common area) be retained, that hours of use be set for the rooftop area, and that a designated children's play area be provided within the ground-level common area.

Basement excavation and groundwater

28. The basement is lowered and the bulk excavation level drops to RL 79.93, up to about 13.4 m below ground.[96] [97] The groundwater assessment retains a drained, not tanked, basement. It predicts long-term inflows of 2.08 ML/year, below the 3 ML/year threshold. It notes that actual inflow "will only be known once the excavation is completed".[98] This is an ongoing groundwater take that adds to the cumulative impact of the many deep basements now proposed around Lindfield station.
29. FOKE compared the Modification Report, the updated geotechnical report and the groundwater assessment with each other and with the plans. They conflict on matters that go to whether the deeper excavation has actually been assessed:
    - **Whether the excavation reaches the water table.** The Modification Report says the excavation "is not anticipated to intersect the permanent groundwater table" and that "permanent groundwater dewatering is not expected to be required".[99] The geotechnical report says the same.[100] The groundwater assessment, however, logged groundwater at about 5.2 to 6.5 m below ground (RL

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[90] CPP, Wind Comfort Study for 27-29 Tryon Road, Lindfield, CPP 23850 Rev R00D00 (Appendix H, 10 August 2026), 2, 9, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014008.399+GMT.

[91] Gyde, Modification Report, sections 6.1.2.1 and 6.2.4, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[92] Gyde, Modification Report, Table 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[93] Ku-ring-gai Council, January 2026 advice, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-103586206%2120260129T032951.437+GMT.

[94] FOKE submission, 28 January 2026, 7, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[95] FOKE submission, 28 January 2026, 9–11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-104921957%2120260129T004926.196+GMT.

[96] Gyde, Modification Report, section 6.2.11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[97] Elite Geosciences, Groundwater Impact Assessment (Appendix N, October 2026), p. 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[98] Elite Geosciences, Groundwater Impact Assessment, p. 9, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[99] Gyde, Modification Report, section 6.2.11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[100] Elite Geosciences, Geotechnical Investigation Report, Rev1 updated report (Appendix M, 6 October 2026), p. 8, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.019+GMT.

86.86 to RL 88.08) over seven months, adopts a design groundwater level of RL 88.87, and states that the excavation "is expected to be crossing the measured groundwater level at both sides".[101] On those figures the excavation goes about 7 to 8 m below the measured groundwater level. The drained basement then relies on a permanent take of about 2.08 ML each year.

- **Conflicting water levels in the geotechnical report.** Section 2.5 reports standing water at 9.3 to 12.3 m below ground after purging in May 2024 and says the permanent water table was "not intersected". Table 2-2 in the same section records standing water at 5.5 to 5.9 m below ground in June 2024.[102]
- **Modelling not re-run for the new depth.** The seepage model outputs are dated 24 January 2025 and assume a bulk excavation level of RL 80.00. The drawdown model also assumes RL 80.0 "including over excavation".[103] The modified level of RL 79.93 is lower than the modelled level. The memorandum is headed "Updated Report Rev1" (6 October 2026), but its signature block is still dated 5 February 2025, and it does not say whether any analysis was re-run.[104] By contrast, the geotechnical sections have been relabelled to RL 79.93.[105]
- **How much deeper.** The Modification Report says "approximately 500mm" but compares an approved level of RL 80.7 with the new RL 79.93, a difference of 770 mm.[106] Elite Geosciences and PTW say 550 mm.[107] [108] PTW shows the modified Basement 04 floor at FRL 80.150.[109] RL 80.7 therefore appears to be the approved Basement 04 floor level, so the report may be comparing a floor level with an excavation level.
- **Drawdown next to neighbouring buildings.** The drawdown model lowers groundwater at the shoring wall to about RL 82, a drop of about 7 m, while elsewhere describing inflows as "minor seepage". Neighbouring buildings were "not discretely simulated".[110] The building to the west is a five-storey apartment building with two basement levels.[111] The predicted settlement of about 2.3 mm therefore rests on a free-field model at the superseded depth.
- **Water access licence.** Condition A15 requires a water access licence for the maximum predicted take unless an exemption applies.[112] The groundwater assessment says the excavation "is exempt"

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[101] Elite Geosciences, Groundwater Impact Assessment, pp. 4–5, 7, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[102] Elite Geosciences, Geotechnical Report, p. 7, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.019+GMT.

[103] Elite Geosciences, Groundwater Impact Assessment, pp. 11, 73–74, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[104] Elite Geosciences, Groundwater Impact Assessment, pp. 1, 13, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[105] Elite Geosciences, Geotechnical Report, pp. 17–18, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.019+GMT.

[106] Gyde, Modification Report, section 6.2.11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[107] Elite Geosciences, Groundwater Impact Assessment, p. 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[108] PTW, List of Amendments, item 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014014.193+GMT.

[109] PTW, Architectural Plans (Appendix A), Basement 04 Plan PTW-DA-B1B0710 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[110] Elite Geosciences, Groundwater Impact Assessment, p. 11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[111] Elite Geosciences, Geotechnical Report, p. 6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.019+GMT.

[112] Consolidated Consent SSD-78669234, Condition A15, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

and "only requires a Water Supply Works Approval".[113] The predicted 2.08 ML/year is about 70 per cent of the 3 ML/year threshold and comes from a model at a shallower level. Condition A15 should be retained unchanged, and any exemption should be tested against measured inflows.

- **Council's tanking control.** Part 22.3 of the Ku-ring-gai Development Control Plan 2024 requires basements "to be fully tanked to prevent unnecessary subsurface or groundwater extraction". The applicant's compliance table marks Part 22.3 as complied with, but its response does not address this control.[114] Development control plans do not strictly apply to State significant development. However, the applicant claimed compliance, and the control reflects Council's policy on groundwater extraction. FOKE could not find any consideration of this control in the Department's assessment, which records only that a tanked basement is not required.[115]
- **Dewatering Management Plan.** The groundwater assessment says a Dewatering Management Plan "has been prepared", including baseline groundwater quality.[116] It is not exhibited with Mod 2, and nothing shows it has been updated for the deeper excavation.
- **Short monitoring record.** Groundwater levels were logged only from 18 June 2024 to 23 January 2025, about seven months, and no later readings are reported.[117] The assessment says its design groundwater level of RL 88.87 is "1 m higher than the recorded highest" level.[118] The highest recorded level is RL 88.08 (BH04), so the margin is about 0.8 m, not 1 m.[119] Seven months of data, with no readings in the 21 months before the October 2026 update, is a thin basis for a permanent drained basement of this depth.
- **Underground stream.** Public submissions on the original application raised concern that an underground stream flows beneath nearby properties. The Department noted that no report had "identified or confirmed" such a stream, and relied on the technical reports to conclude that risks could be managed.[120] Those reports assessed a shallower excavation. Mod 2 deepens the excavation without re-running the groundwater model, so this concern has not been considered for the modified design.
- **Water Supply Works Approval.** The groundwater assessment says construction dewatering "only requires a Water Supply Works Approval".[121] The consent does not appear to refer to this approval; Condition A15 deals only with a water access licence.[122] Whether the approval is needed, and who will issue it, should be confirmed before Mod 2 is determined.

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[113] Elite Geosciences, Groundwater Impact Assessment, p. 12, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[114] Statutory Compliance Table, 27-29 Tryon Road, Lindfield, Table 4: Ku-ring-gai Development Control Plan 2024 Compliance Table (applicant's Response to Submissions documentation, March 2026), p. 26, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054252.059+GMT.

[115] DPHI, Assessment Report, p. 48, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[116] Elite Geosciences, Groundwater Impact Assessment, pp. 12–13, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[117] Elite Geosciences, Groundwater Impact Assessment, pp. 1, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[118] Elite Geosciences, Groundwater Impact Assessment, p. 7, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[119] Elite Geosciences, Groundwater Impact Assessment, p. 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[120] DPHI, Assessment Report, pp. 47–48, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234%2120260410T040221.610+GMT.

[121] Elite Geosciences, Groundwater Impact Assessment, p. 12, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[122] Consolidated Consent SSD-78669234, Condition A15, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

- **Lift pits and pump-out pit below the excavation level.** The PTW plans show the lift cores serving Basement 04, with a floor level of FRL 80.150.[123] That is only about 220 mm above the bulk excavation level of RL 79.93.[124] Lift pits normally extend below the lowest floor served, often by more than a metre, but no exhibited drawing gives a lift pit level, and the sections FOKE reviewed do not show the pits.[125] The approved pump-out pit had a base at about RL 77.48 under the approved Basement 04 floor of RL 80.70.[126] If similar pits are kept under the lowered floor, local excavation would go well below RL 79.93, and below the level used in the seepage and drawdown models. FOKE asks the applicant to confirm the lowest excavation level for lift pits, sumps and the pump-out pit, and whether they are included in the groundwater modelling.

30. **Question for the Department: neighbouring trees.** The drawdown model predicts groundwater at the shoring wall falling by about 7 m, to about RL 82.[127] FOKE could not find any assessment of whether a drawdown of this size, sustained over the life of the building, could affect retained trees on the site boundary or trees on neighbouring land. Has the Department considered this, and will it seek arborist advice on the modified excavation?
31. **FOKE requests** that the Department require groundwater modelling re-run at the modified excavation level, and a corrected Modification Report statement on the water table. The reconciled documents should be referred to DCCEEW Water, which advised in January 2026 on the earlier, shallower design.[128] We also request at least 12 months of further groundwater monitoring, including a wet season, before the model is re-run; confirmation of the lowest excavation level for lift pits, sumps and the pump-out pit; confirmation of whether a Water Supply Works Approval is required; conditions for groundwater monitoring before, during and after construction, and a trigger for tanking if measured inflows approach 3 ML/year. Conditions A15, D21 and D23 should be retained. Conditions D21 and D23 require written EPA approval before seepage or groundwater is pumped to the street stormwater system, and separate Council approval before groundwater is discharged into Council's drainage system.[129]

Stormwater, on-site detention and basement pump-out

32. Mod 2 includes no stormwater or civil engineering documents. None of the Modification Report's appendices is a civil plan, integrated water management plan or water management plan.[130] Condition B6 requires the final stormwater system to be "generally in accordance with the conceptual design in the RtS".[131] That concept is the Xavier Knight Integrated Water Management Plan and civil drawings, which

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[123] PTW, Architectural Plans (Appendix A), Basement 04 Plan PTW-DA-B1B0710 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[124] Elite Geosciences, Groundwater Impact Assessment, p. 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[125] PTW, Architectural Plans (Appendix A), Sections PTW-DA-D110010 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[126] Xavier Knight Consulting Engineers, Integrated Water Management Plan, Project 240608, with civil engineering drawings Rev D (Response to Submissions Appendix 8, 26 February 2026), p. 27, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054255.247+GMT.

[127] Elite Geosciences, Groundwater Impact Assessment, p. 11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[128] NSW Department of Climate Change, Energy, the Environment and Water, Water Group, advice on the RTS and Amended Report, SSD-78669234 (14 January 2026), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-103581716%2120260114T033225.917+GMT.

[129] Consolidated Consent SSD-78669234, Conditions D21 and D23, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[130] Gyde, Modification Report, Appendices list, p. 4, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[131] Consolidated Consent SSD-78669234, Condition B6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

are based on the approved basement levels.[132] FOKE compared that concept, and the approved Water Management Plan, with the Mod 2 plans:

- **All four basement levels are lower, not just Basement 04.** The approved plans set Basements 01 to 04 at FRL 89.700, 86.700, 83.700 and 80.700.[133] The Mod 2 plans set them at FRL 89.150, 86.050, 83.100 and 80.150, which are drops of 550, 650, 600 and 550 mm.[134] PTW's revision note says only "FTF heights revised for B01–B04. LB04 RLs lowered by 550 mm".[135] Neither that note, the List of Amendments nor the Modification Report says that Basements 01 to 03 are lowered.
- **Pump-out pit.** The approved concept places the basement pump-out tank in Basement 04. Its lid is at RL 80.70 (the approved floor level), its top water level is RL 80.20 and its base is about RL 77.48.[136] The modified Basement 04 floor, at FRL 80.150, is 50 mm below that approved top water level. The pit would need to drop by about 550 mm, taking its base to about RL 76.9. That is about 3 m below the modified bulk excavation level, and roughly 10 m below the groundwater levels logged on the site.[137] No exhibited drawing shows the revised pit, and the groundwater modelling does not consider it.
- **Pump-out sizing does not allow for groundwater.** The pump-out calculation adopts a catchment of 0 m² and provides the minimum 3 m³ wet well under AS 3500.3 (3.17 m³).[138] The drained basement will rely on pumping for the life of the building. The groundwater assessment predicts about 2.08 ML/year, an average of about 5.7 m³ a day, with higher inflows early on. It suggests "an automatic pump-out system with back up pump".[139] No exhibited document checks pump capacity, storage or failure (for example, during a power outage) against those inflows. In May 2025, Council sought a pump-out tank designed for the 100-year, 2-hour storm under DCP Part 24B.5.[140]
- **On-site detention tank.** The detention tank sits under the ground floor along Tryon Road, with a base at about RL 91.43 and a top water level of RL 92.53. The concept says its lowest part will keep vehicle headroom below it "in accordance with AS2890.6".[141] The ground floor stays at RL 93.30, so the tank levels and its gravity outlet to Tryon Road need not change. Lowering Basement 01 increases the space below the tank, so FOKE has not identified a conflict. However, no civil plan confirms the tank against the amended Basement 01 layout and services.
- **Rainwater tank and runoff-day target.** The approved Water Management Plan relies on a 6 kL tank collecting from 1,050 m² of roof. Its water balance assumes the tank supplies irrigation of 1,400 m² and toilet flushing for 130 toilets (described as "if adopted"), giving a 67.8 per cent

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[132] Xavier Knight, Integrated Water Management Plan, pp. 8–9 and drawings C000–C900, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054255.247+GMT.

[133] PTW Architects, Architectural Plans (Response to Submissions Appendix 3, February 2026), basement plans Rev F as approved under Condition A1, PTW-DA-B1B1010, B1B0910, B1B0810 and B1B0710 Rev F, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054255.864+GMT.

[134] PTW, Architectural Plans (Appendix A), PTW-DA-B1B1010, B1B0910, B1B0810 and B1B0710 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[135] PTW, Architectural Plans (Appendix A), PTW-DA-B1B1010 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[136] Xavier Knight, Integrated Water Management Plan, drawing C900, p. 27, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054255.247+GMT.

[137] Elite Geosciences, Groundwater Impact Assessment, p. 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[138] Xavier Knight, Integrated Water Management Plan, drawing C900, p. 27, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054255.247+GMT.

[139] Elite Geosciences, Groundwater Impact Assessment, pp. 9, 11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014010.705+GMT.

[140] Ku-ring-gai Council, May 2025 submission, p. 15, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SUB-84554733%2120250521T043856.826+GMT.

[141] Xavier Knight, Integrated Water Management Plan, p. 8 and drawing C401, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054255.247+GMT.

reduction in runoff days against the 50 per cent required by DCP Part 24C.3.[142] The Mod 2 BASIX certificate commits instead to a 5,000 L tank collecting from 532 m² of roof for irrigation of 1,007 m². The tank is connected only to irrigation, and the certificate lists "No alternative water" for every dwelling, so there is no toilet flushing.[143] The toilet demand made up about 27 per cent of the daily reuse the approved water balance relied on (1,820 of 6,820 L/day).[144] The ESD report also refers to 5 kL.[145] No revised water balance is exhibited for these lower figures. Council has previously raised inconsistencies in rainwater tank sizing. In January 2026 it noted that the water management report then recommended a 37,000 L tank to achieve the 50 per cent reduction, while the civil plans showed 6,000 L.[146]

33. **FOKE requests** updated civil and stormwater plans and a revised water balance for the modified basement levels and BASIX commitments. These should show the pump-out pit levels and its capacity for the predicted groundwater inflows, and demonstrate consistency with Condition B6, before the modification is determined.

Traffic, parking and servicing

34. The Modification Report states that total parking is unchanged at 90 residential and 11 visitor spaces. One residential space would move from the perpetual (TOD) affordable dwellings to the in-fill affordable dwellings, and one motorcycle space would be added. The basement is lowered by 550 mm "with associated adjustments to ramp gradients and transitions".[147] Condition B11(g) currently requires two spaces for the TOD affordable dwellings "to be retained in perpetuity", 11 for the in-fill affordable dwellings and five motorcycle spaces.[148] The reallocation follows from the loss of one perpetual affordable dwelling (section 3.4).
35. The Turner Traffic statement relied on for these changes contains errors that go to the parking calculation itself:
    - It describes in-fill and TOD dwellings as "Non-Affordable Housing" and build-to-sell dwellings as "Affordable Housing", which reverses the categories.[149]
    - Its apartment schedule has 13 in-fill affordable dwellings (three two-bedroom and ten three-bedroom), 51 three-bedroom build-to-sell apartments and no four-bedroom apartments.[150] With one TOD dwelling, that schedule totals 14 affordable dwellings, not the 13 proposed. Its "Change" column also shows no change for build-to-sell three-bedroom apartments, although the number rises from 50 to 51.[151] PTW's development data sheet shows 12 in-fill affordable dwellings (two two-bedroom and ten three-bedroom) and 52 build-to-sell apartments, including one two-bedroom and three four-bedroom apartments.[152] The required-parking table on the same PTW sheet repeats

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[142] Surex Consulting, Water Management Plan, SUR24104-MD-WMP-001 Rev 4 (Response to Submissions Appendix 10, 20 February 2026), p. 12, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054251.853+GMT.

[143] BASIX Certificate 1825163M_03, pp. 9, 12, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014011.358+GMT.

[144] Surex, Water Management Plan, p. 12, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054251.853+GMT.

[145] Aspire, ESD Report, p. 12, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014008.734+GMT.

[146] Ku-ring-gai Council, January 2026 advice, p. 10, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-103586206%2120260129T032951.437+GMT.

[147] Gyde, Modification Report, section 6.2.6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[148] Consolidated Consent SSD-78669234, Condition B11, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[149] Turner Traffic, letter re traffic and parking (Appendix L, 19 October 2026), 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[150] Turner Traffic letter, 3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[151] Turner Traffic letter, 3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[152] PTW, Architectural Plans (Appendix A), Development Data Sheet PTW-DA-A100010 Rev I, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

the traffic statement's schedule, not the sheet's own unit mix. The parking demand has therefore been calculated on a unit mix that is not the one proposed.

- It gives the minimum residential requirement as 88, 89 and 90 spaces in successive paragraphs.[153]
- It states that there are "no changes to the … motorcycle parking".[154] The Modification Report and the Basement 01 plan add a sixth motorcycle space.[155] [156]
- It states that the modification does not alter the "basement configuration" or "internal circulation arrangements".[157] The Modification Report repeats this but, in the same section, describes "adjustments to internal walls and vehicle circulation areas".[158]

36. The traffic statement says the basement was lowered to give headroom for "service vehicles and trucks". The vertical clearance drawing attached to it (SKT003 Issue D) is marked "Draft" and tests only a B99 car and a 6.4 m small rigid vehicle.[159] The approved design moved waste collection into Basement 1 and relied on swept paths for Council's 6.7 m rigid waste collection vehicle.[160] Council accepted this on that basis.[161] Condition B11(f) requires the swept path of the longest vehicle, including garbage trucks, to comply with AUSTROADS.[162] **FOKE requests** a corrected traffic statement based on the proposed unit mix, with final (not draft) vertical clearance and swept-path analysis for Council's 6.7 m waste collection vehicle on the revised ramp grades.
37. FOKE compared the clearance drawing with PTW's plans and sections. They do not match:
    - **Levels.** Turner's ramp profile runs from RL 93.342 at the top to RL 89.700 at Basement 01.[163] PTW's Ground Floor Plan shows RL 92.895 and RL 92.645 at the head of the ramp. Section 4 shows the ramp landing at RL 89.300, and the Basement 01 Plan gives a floor level of FRL 89.150.[164] Turner's RL 89.700 is the approved Basement 01 floor level.[165] This indicates the clearance drawing shows the approved levels, not the modified ones.

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[153] Turner Traffic letter, 3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[154] Turner Traffic letter, 4, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[155] Gyde, Modification Report, Table 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[156] PTW, Architectural Plans (Appendix A), Basement 01 Plan PTW-DA-B1B1010 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[157] Turner Traffic letter, 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[158] Gyde, Modification Report, section 6.2.6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[159] Turner Traffic letter, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[160] Gyde Consulting, Response to Submissions, SSD-78669234 (4 December 2025), 35, 40, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-82595456%2120251218T045531.257+GMT.

[161] Ku-ring-gai Council, January 2026 advice, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=PAE-103586206%2120260129T032951.437+GMT.

[162] Consolidated Consent SSD-78669234, Condition B11(f), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[163] Turner Traffic letter, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[164] PTW, Architectural Plans (Appendix A), Ground Floor Plan PTW-DA-B1GRD10 Rev H; Section 3, 4 PTW-DA-D110011 Rev G; Basement 01 Plan PTW-DA-B1B1010 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[165] PTW, approved Architectural Plans, Basement 01 Plan PTW-DA-B1B1010 Rev F, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054255.864+GMT.

- **Grades.** Turner shows grades of 1:20 over 1.8 m, 1:7.9 over 4 m and 1:6.5 over 18.2 m, with 1:13.3 and 1:8 transitions at the foot.[166] PTW's Ground Floor Plan shows 1:20 over 6 m from the lane, then 1:8.0 over 4 m and 1:6.5 for the main ramp.[167]
- **Headroom.** Section 4 marks "2.6m CLEAR" over the ramp.[168] The small rigid vehicle in Turner's drawing has an overall body height of 2.6 m.[169] Ku-ring-gai DCP 2024 Part 22.3 sets 2.6 m as the minimum for residential waste collection and manoeuvring areas.[170] Because the clearance drawing appears to use pre-lowering levels, it does not show that 2.6 m is achieved on the modified ramp, and neither drawing tests Council's 6.7 m waste collection vehicle.
- **Swept paths.** The drawing is titled "Swept paths / Vertical clearance" but contains only vertical profiles.[171] No plan-view swept paths for the Basement 01 loading area and waste bin holding room are exhibited.
- **Which basement is lowered.** PTW's List of Amendments and section 4.2.1 of the Modification Report say that Basement 04 is lowered by about 550 mm.[172] [173] The traffic statement, and section 6.2.6 of the Modification Report, say "the basement levels" were lowered by 550 mm to give headroom for "service vehicles and trucks".[174] [175] Service vehicles use the Basement 01 loading area, not Basement 04. The plans show that all four basement levels are lower (section 3.11). The applicant should confirm the changes and show how the ramp and loading-area headroom are affected.

Quality and consistency of the documents

38. A modification of this scope needs accurate supporting material. FOKE notes the following errors and gaps, in addition to those identified above:
    - The Heritage Addendum is titled "Modification 1" and states that no modifications have been made. The Turner Traffic letter likewise states that "No modification applications have been made" and labels the proposed scheme "MOD1".[176] [177]
    - The traffic statement reverses the affordable and market housing categories, uses an incorrect unit mix that implies 14 affordable dwellings rather than 13, has a change column that does not add up, and gives three different parking minimums (see section 3.12).
    - Height increase stated as about 2.5 m, about 2.63 m and about 3.6 m in different documents.
    - The substation location is described inconsistently (see section 3.7).

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[166] Turner Traffic letter, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[167] PTW, Architectural Plans (Appendix A), PTW-DA-B1GRD10 Rev H, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[168] PTW, Architectural Plans (Appendix A), PTW-DA-D110011 Rev G, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[169] Turner Traffic letter, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[170] Statutory Compliance Table (March 2026), p. 26, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=EXH-103001714%2120260302T054252.059+GMT.

[171] Turner Traffic letter, 5, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[172] PTW, List of Amendments, item 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014014.193+GMT.

[173] Gyde, Modification Report, section 4.2.1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[174] Turner Traffic letter, 4, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

[175] Gyde, Modification Report, section 6.2.6, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[176] City Plan Heritage, Heritage Addendum, 1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014007.178+GMT.

[177] Turner Traffic letter, 2, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.709+GMT.

- The proposed Condition A1 schedule lists the Livable Apartments drawing PTW-DA-Q14J210 as Rev D. That is earlier than both the approved Rev E and the exhibited Rev F.[178] [179] [180]
- The proposed Condition A1 schedule lists a single "Level 04-06 Plan" (PTW-DA-B1L0410 Rev F). The exhibited set now has separate Level 04, Level 05 and Level 06 plans, so PTW-DA-B1L0510 Rev A and PTW-DA-B1L0610 Rev A are missing from the schedule.[181] [182]
- PTW's drawing list for the Section 4.55 set has 59 sheets, but Appendix A contains 46. The following listed sheets are not exhibited:[183]
  - Site Analysis (PTW-DA-A200030)
  - Building Height Overlay Plans (PTW-DA-Q12C011)
  - shadow diagrams comparing the proposal with existing conditions and with the LEP envelope (PTW-DA-Q14A130 to Q14A137)
  - the 25 Tryon Road elevation and sun-eye shadow comparisons (PTW-DA-Q14A372 and Q14A373)
  - Typical Apartments (PTW-DA-Q14J220 to Q14J240)
- Two exhibited sheets are not on the drawing list: the GFA Diagrams, which the proposed Condition A1 schedule includes as PTW-DA-Q12D010 Rev H, and the Communal Open Space diagram (PTW-Q13D110 Rev G).
- In the landscape set, the drawing register and the proposed Condition A1 schedule number the Level 7 and Level 8 plans LA-DA-1007, LA-DA-1008, L-DA-2007 and L-DA-2008. The exhibited sheets are numbered L-DA-1005, L-DA-1006, L-DA-2005 and L-DA-2006. Sheet L-DA-0006 (Planting Schedule) is exhibited but not registered. Sheet L-DA-5001 (Typical Planting Detail) is registered but not exhibited.[184]
- The Bridge Housing letter is cited as "Appendix Q"[185] but exhibited as Appendix J.[186] Appendix P (owner's consent) is not among the exhibited documents.[187]

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[178] Gyde, Modification Report, section 4.3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[179] Consolidated Consent SSD-78669234, Condition A1, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[180] PTW, Architectural Plans (Appendix A), PTW-DA-Q14J210 Rev F, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[181] Gyde, Modification Report, section 4.3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[182] PTW, Architectural Plans (Appendix A), Drawing List PTW-DA-A000010 Rev H, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[183] PTW, Architectural Plans (Appendix A), Drawing List PTW-DA-A000010 Rev H, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014003.688+GMT.

[184] 360 Degrees, Landscape Plans (Appendix C), L-DA-0001 and sheets as listed, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014005.779+GMT.

[185] Gyde, Modification Report, section 6.2.8, 26, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[186] Bridge Housing letter, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014009.059+GMT.

[187] NSW Planning Portal, Mod 2 project page, https://www.planningportal.nsw.gov.au/major-projects/projects/27-29-tryon-road-mod-2-design-amendments.

- The Modification Report attributes its landscape figures to "Land + Form". However, Appendix C, and the approved landscape plans listed in Conditions A1 and B9(a), were prepared by 360 Degrees Landscape Architects.[188] [189] [190]
- The Modification Report states that Ku-ring-gai DCP 2024 does not apply to SSD.[191] The Department nevertheless considered local controls and Council's advice in its original assessment, and should do so here.

Substantially the same development

39. Each change, taken alone, may be capable of being described as minor. Taken together, however, they include: a five-fold increase in the height exceedance; one fewer affordable home and one fewer perpetual affordable home; the loss of most approved accessibility features; the withdrawal of the Green Star commitment; less effective landscaping; the removal of wind and privacy measures; and a deeper excavation below the measured groundwater level that has not been remodelled. Many of these are the very features the Department relied on in granting consent. FOKE asks the Department to assess carefully, both quantitatively and qualitatively, whether the development as modified remains substantially the same as the development approved, and whether the modification is consistent with the reasons for the original consent.

Requested outcomes and conditions

40. FOKE requests that the Department:
    (a) Refuse any increase in the approved building envelope height or require the applicant to accommodate services within the approved height, including reconfiguring or setting back the top level as Council recommended.
    (b) Require quantified hourly shadow analysis for 22 and 24 Russell Avenue and 25 Tryon Road, and avoid any additional overshadowing of the heritage item at 22 Russell Avenue.
    (c) Require a revised Heritage Addendum based on the correct height, with views from 33 Tryon Road, 22 Russell Avenue and the C22, C31 and C42 conservation areas.
    (d) Retain 14 affordable dwellings, including two in perpetuity, and retain Conditions E2, E39(b)(ii) and F13 unchanged.
    (e) Impose a condition guaranteeing affordable housing residents equal access to all communal areas and facilities.
    (f) Retain the approved Livable Housing outcome (10 Platinum and 55 Silver apartments).
    (g) Retain the Green Star commitment and Condition B3, or substitute an equivalent independently verified rating. Require the applicant to confirm what on-site renewable energy is proposed, and update Condition B17 if a revised BASIX certificate is accepted.
    (h) Retain the approved planter boxes on Levels 1 to 7 and front-setback deep soil. Require the width and area of the gravel path and an ADG deep soil calculation with and without it. Count the path only if it is no wider than 1.2 m, is designed for tree root growth and, with other paving, occupies no more than about 10% of the ADG deep soil zone; if counted, require by condition and strata by-law that it stay permanently unsealed and permeable.
    (i) Clarify the new substation location and require a project arborist's report confirming that the new substation, blast walls and gravel conversion do not encroach on Trees 11–13, 22–24 and 35, and advising on any effect of groundwater drawdown on retained and neighbouring trees. Retain Conditions B9 and B10 unchanged, and screen the retained Tryon Road substation with planting.
    (j) Retain the full-height corner balcony screens on Levels 4 to 7, or require a privacy assessment, and retain Conditions B1, B13 and E38.
    (k) Retain Condition B9(g), set hours of use for the rooftop common area, and require a designated children's play area at ground level.
    (l) Require a corrected traffic statement based on the proposed unit mix and the exhibited basement levels. It should include final vertical clearance and plan-view swept-path analysis for Council's 6.7

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[188] Gyde, Modification Report, section 6.2.7, Figures 17–20, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

[189] 360 Degrees, Landscape Plans (Appendix C), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014005.779+GMT.

[190] Consolidated Consent SSD-78669234, Conditions A1 and B9(a), https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-1%2120261016T000107.669+GMT.

[191] Gyde, Modification Report, section 6.1.3, https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-78669234-MOD-2%2120261026T014013.860+GMT.

m waste collection vehicle on the revised ramp and in the Basement 01 loading area. Retain Condition B11(f).

(m) Require groundwater modelling re-run at the modified excavation level and a corrected statement on the water table. Require at least 12 months of further groundwater monitoring, confirmation of lift pit, sump and pump-out pit levels, and confirmation of whether a Water Supply Works Approval is required. Refer the reconciled documents to DCCEEW Water, impose groundwater monitoring and tanking-trigger conditions, and retain Conditions A15, D21 and D23.

(n) Require updated civil and stormwater plans, pump-out pit levels and capacity for the predicted groundwater inflows, and a revised water balance for the modified basement levels and BASIX commitments, consistent with Condition B6.

(o) Require complete drawing sets and a corrected Condition A1 schedule and require the applicant to correct and reconcile the inconsistencies in the exhibited documents and to re-exhibit if material changes result.

FOKE would welcome the opportunity to discuss this submission with the Department.

Yours sincerely
Kathy Cowley
Kathy Cowley
PRESIDENT
cc:
Mayor and Councillors, Ku-ring-gai Council
General Manager, Ku-ring-gai Council
Matt Cross MP, Member for Davidson
The Hon Chris Rath MLC, Shadow Minister for Planning
Nicolette Boele MP Member for Bradfield