

JRPP No:	2010SYE056
DA No:	2010/113
PROPOSED DEVELOPMENT:	Demolition and new four (4) storey Residential Flat Building comprising 47 units, 61 car parking spaces in one (1) basement level + strata subdivison - 8-12 Marlborough Road, Homebush West
APPLICANT:	Tony Delutiis
REPORT BY:	Thomas Watt, Strathfield Council

Assessment Report and Recommendation

SUMMARY

PROPERTY:	8-12 Marlborough Road, Homebush West
LOT & DP:	Lots 7, 8 and 9 in DP 827 Section 1
DA NO.:	2010/113
APPLICATION TYPE:	Residential flat building
REPORT BY:	Thomas Watt
REFERRED TO JRPP:	Yes (Capital Investment Value >\$10 million)
RECOMMENDATION:	Refusal
SUBMISSIONS:	No written submissions were received.
ZONING:	Residential 2(b)
DATE APPLICATION LODGED:	23 July 2010
APPLICANT:	Mr. Tony Delutiis Lulude Pty Ltd
OWNERS:	Mr. Tony Delutiis, Ms. Lidia Delutiis and Lulude Pty Ltd

INTRODUCTION

Approval is sought for the demolition of three (3) detached single dwellings, consolidation of 8, 10 and 12 Marlborough Road, Homebush West and the construction of a four (4) storey residential flat building comprising two (2) x one (1) bedroom units, forty one x two (2) bedroom units and four (4) x three (3) bedroom units above sixty-one off street car parking spaces in one (1) basement level. The Strata subdivision of the building into (47) allotments and associated landscaping, drainage and site works are also proposed.

The application has failed to address issues regarding contamination, incompatible scale and form, basement setback and deep soil landscape provision on the site. The proposal is therefore unsatisfactory having regard to a number of the applicable Environmental Planning Instruments (EPI's) and development controls that apply.

DESCRIPTION OF THE SITE AND LOCALITY

The site is located on the western side of Marlborough Road in Homebush West. The site comprises three (3) parcels of land legally described as lots 7, 8 and 9 in deposited plan 827 section 1. The site is regular in shape with an eastern frontage to Marlborough Road. The site falls from the south-east to the north-west corner of the property approximately 3.18m.

Site Area (approx.): 2,787m²

Dimensions (approx.): 45.72m x 60.96m

Existing improvements on the site include three (3) detached single dwelling houses of brick, tile and metal construction. Nos. 10 and 12 both accommodate detached ancillary structures to the rear. These ancillary structures are in a dilapidated state.

The site adjoins a four (4) storey residential flat building to the north beyond which is an industrial warehouse building and Parramatta Road. A single storey detached dwelling adjoins the site to the south. Further multi-unit development exists to the west of the site where a residential flat building with loft (attic) is located in addition to two (2) detached single dwellings on separate lots. Beyond Marlborough Road to the east is Centenary Drive and the Sydney Markets development.

The current streetscape of Marlborough Road has been subject to transition. Traditionally characterised by single detached dwelling houses, it was rezoned to permit multiple unit housing in or around 2000. Since then, it has been subject to redevelopment generally in accordance with the built form masterplan under DCP No. 20. The subject site is one (1) of two (2) remaining properties in Marlborough Road, with the potential for redevelopment and consolidation.



Figure 1: Subject site locality map.

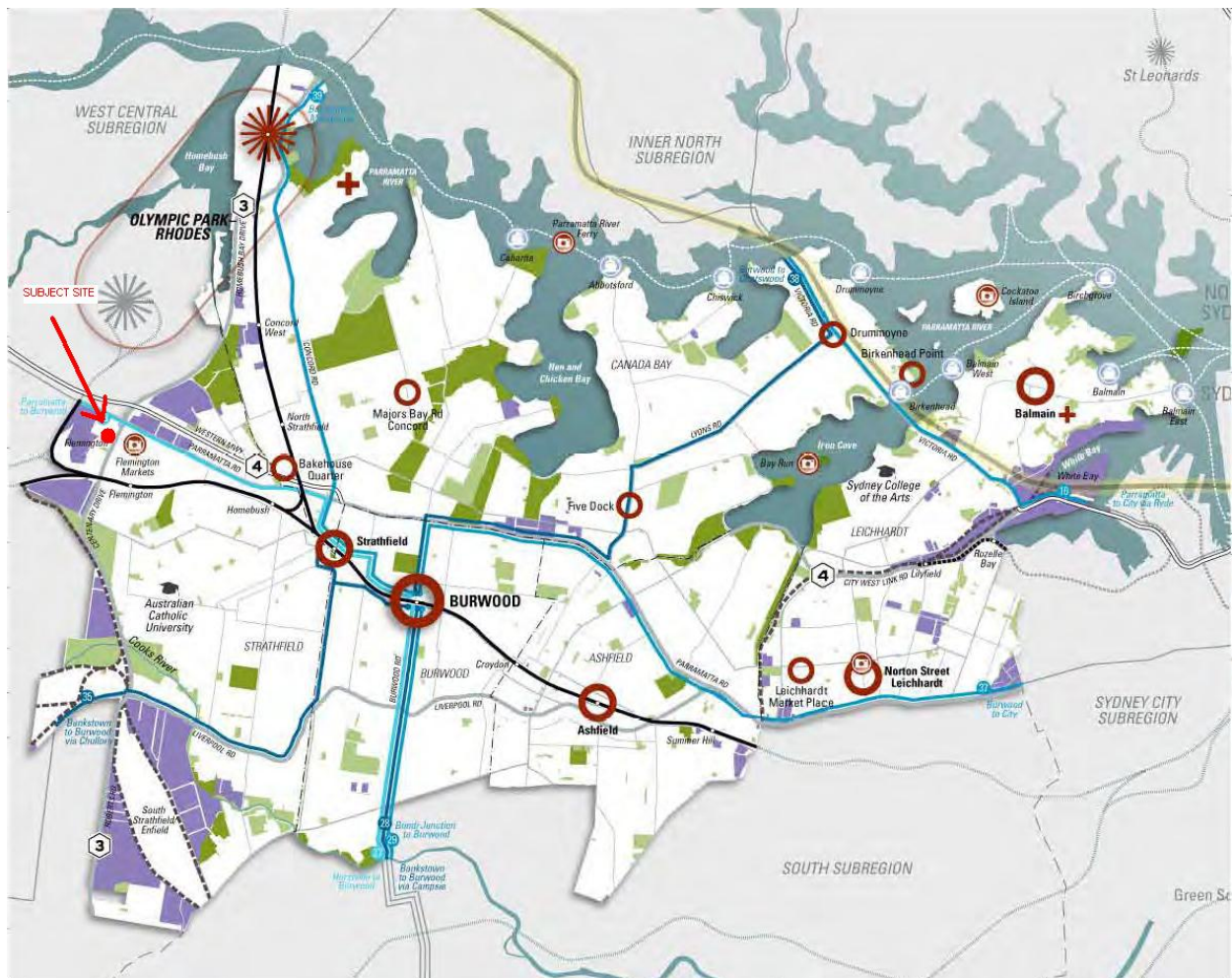


Figure 2: Sub-regional context (Inner West Sub-regional Strategy, Dept. of Planning).

PROPOSAL

The application seeks Council approval for the demolition of three (3) detached single dwellings, consolidation of 8, 10 and 12 Marlborough Road, Homebush West and the construction of a four (4) storey residential flat building comprising two (2) x one (1) bedroom units, (41) x two (2) bedroom units and four (4) x three (3) bedroom units above a sixty-one space single level basement car park, strata subdivision of the building into forty-seven allotments and associated landscaping, drainage and site works.

A site plan and elevations are attached (2).

BACKGROUND

There are no previous applications relevant to the subject proposal. A pre-lodgement development application meeting was held with Council officers on 24 September 2009.

ASSESSMENT - Pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979

The application has been assessed pursuant to the heads of consideration of Section 79C of the Environmental Planning and Assessment Act and the relevant matters described in Sub-section (1)(a), (b), (c), (d) and (e) of Section 79C have been considered within this report.

(a) (i) **Environmental Planning Instruments:**

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The site is located in an area of investigation identified in Figure 2 of Part K of the Strathfield Consolidated Development Control Plan 2005 (SCDCP 2005). A preliminary environmental site assessment carried out by Aargus Australia (September 2010) has been considered by Council in accordance with Clause 7 of SEPP 55.

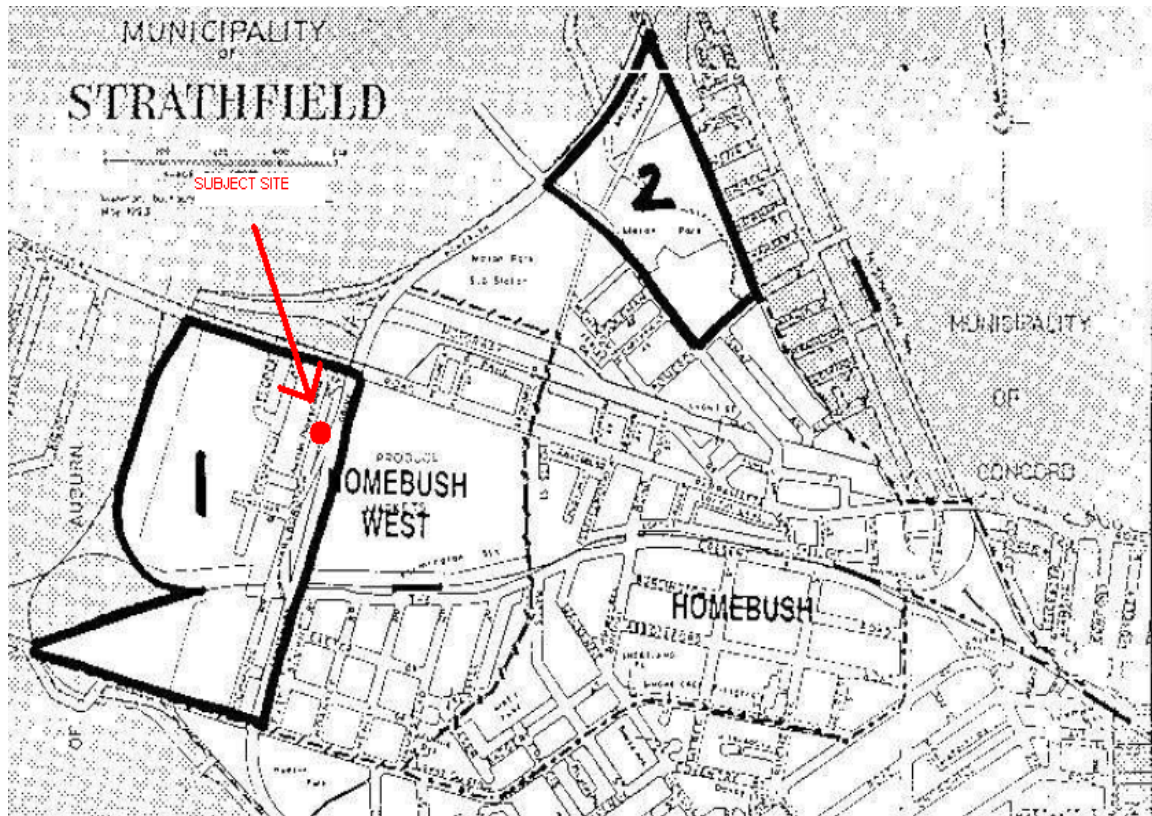


Figure 3: Excerpt of map identifying areas of investigation under Part K of the SCDCP 2005.

Historical evidence suggests that shallow groundwater is potentially contaminated. The assessment undertaken by Aargus Australia is based on bore holes drilled to a depth of 0.7m at several locations across the subject site. This depth is insufficient to determine whether the land is suitable in its current state for the purpose for which development is proposed to be carried out, in particular, in relation to the excavation, construction and future use of the basement.

Accordingly, the proposed development has failed to satisfy the relevant provisions of State Environmental Planning Policy No. 55 – Remediation of Land.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)

Strathfield Council is not subject to a Design Review Panel under Clause 30 (2) (a) of SEPP 65. In the absence of such a panel, an assessment of the proposal against the design quality principles and the *Residential Flat Design Code* has been undertaken as follows:

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Comment

Since 2000, Marlborough Road has been subject to redevelopment in accordance with the built form masterplan under DCP No. 20. DCP No. 20 has been responsible for changing the built form of the locality from one characterised by single detached dwellings on individual lots to consolidated sites accommodating four (4) storey residential flat buildings. Recently constructed residential flat buildings located in Marlborough Road, have generally conformed to the built form masterplan under DCP No. 20. The proposed development is inconsistent with these recently constructed residential flat buildings as it exceeds the prescribed building footprint established under DCP No. 20.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Comment

The established scale of the surrounding buildings consists of a four (4) storey height and an 'L' shaped building footprint. As this has been consistently imposed through the built form masterplan under DCP No. 20, it is deemed to be the appropriate and established scale in the area. The proposed 'U' shaped building footprint is therefore contrary to the established scale.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment

Notwithstanding the previous comments in relation to context and scale, the proposed development is of a high quality architectural design. The use of exposed face brick work and feature panelling in conjunction with the architectural expression created in

the design of the balcony elements means that the proposal would otherwise provide a visually appealing contribution to the streetscape.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Comment

The proposed density is similar to that existing in the vicinity of the site. However, the proposed 'U' shaped building footprint distributes this density across the site contrary to the development controls under DCP No. 20. The 'U' shaped design is also inconsistent with other similar four (4) storey residential flat buildings which achieve comparable and in some cases greater densities as well as compliance with DCP No. 20 (this is discussed in greater detail under Context & Setting in the Likely Impacts section of this report).

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Comment

The proposed development has been certified by a BASIX Certificate which identifies the sustainability commitments for the project. Furthermore, a waste management plan has identified materials for re-use, re-cycling and disposal in accordance with Part H of the Strathfield Consolidated DCP 2005.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Comment

The proposed development reduces the ability of the site to accommodate established landscaping including large trees contrary to other similar developments in the vicinity of the site. The proposed 'U' shaped design requires a larger basement which considerably restricts the provision of deep soil landscaping on the site.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Comment

The proposed development does not establish a similar amenity to other similar four (4) storey residential flat buildings that have been built in the vicinity of the site. The proposed 'U' shaped building footprint encloses the site whereas other compliant development follows the prescribed 'L' shaped footprint under DCP No. 20. This significantly reduces the sense of openness of the common open space within the site and reduces the solar access of this space when considered in light of the adjacent four (4) storey residential flat building to the north of the site. Accordingly, the proposed development will not achieve the high quality amenity provided by other similar residential flat buildings in the vicinity of the site that demonstrate greater compliance to the built form masterplan under DCP No. 20.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment

Whilst exact details have not been supplied, the proposed development has the potential to satisfy the above principle.

Principle 9: Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

Comment

The proposed mix of units is sufficient in meeting the demands of the local community including provision of adaptable housing options.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Comment

From a streetscape perspective, the proposed development comprises building elements, textures, materials and colours that would integrate and contribute positively to the Marlborough Road streetscape.

Further to the design quality principles, the proposal has been considered against the various provisions of the *Residential Flat Design Code* in accordance with Clause 30 (2) (c) of SEPP 65. The proposal fails to satisfy the following 'Rules of Thumb' of the design code:

- Minimum separation of 7.5m contrary to the desired 12m between habitable rooms and balconies (Part 1 Local Context);
- Solar access to units and common open space and opportunity for deep soil landscaping could be improved where the proposed 'U' shaped building footprint is modified in accordance with the prescribed 'L' shaped footprint under DCP No. 20 (Part 2 Site Design); and
- Although minor, the minimum unit size of 88m² fails to comply with the required 89m² for two (2) bedroom cross through units (Part 2 Site Design).

The proposed development fails to satisfy the design principles under SEPP 65 and does not demonstrate full compliance with the 'Rules of Thumb' development standards contained in the *Residential Flat Design Code*. Accordingly, the proposed development is inconsistent with State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application has been accompanied by a BASIX Certificate (No. 315392M issued 21 July 2010), which confirms the sustainability targets for the proposed development thereby satisfying the abovementioned planning policy.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The site is located adjacent to Marlborough Road and Centenary Drive, both classified roads under the Roads Act, 1993. Clause 101 of the Infrastructure SEPP requires a consent authority to consider vehicle access to and from the site, the

impact of access on the classified road in terms of safety, efficiency and ongoing operation and the design of the development so as to ameliorate potential traffic noise or vehicle emission impacts.

A traffic impact assessment carried out by Traffic Solutions Pty Ltd stipulates that the proposed development is satisfactory having regard to the driveway location, sight distance, traffic generation, car space dimensions, ramp grades, ramp widths, on site manoeuvring and car parking provision. Accordingly, the proposed development has satisfied the abovementioned provision of the Infrastructure SEPP.

The Infrastructure SEPP further requires the consent authority to consider the impact of noise as a result of the location of the proposed development adjacent to a road with an annual daily traffic volume of more than 40,000 vehicles.

The 2005 converted statistics published on the RTA's website identify Marlborough Road as having capacity to carry an annual daily traffic volume of 39,340 vehicles. Centenary Drive immediately adjacent to Marlborough Road and in close proximity to the site, carries an annual daily traffic volume of 90,538 vehicles. In accordance with Clause 102 of the Infrastructure SEPP, the applicant has been required to demonstrate that measures can be implemented to ensure the following LAeq levels prescribed in the subject clause can be achieved:

- (a) in any bedroom in the building – 35 dB(A) at any time between 10pm and 7am; and
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(A) at any time.

An acoustic report prepared by Acoustic Solutions P/L dated 6 July 2010 and revised 13 October 2010 has confirmed that subject to recommendations specifying building materials to be used in construction, the proposed development will meet the abovementioned LAeq levels in accordance with the Infrastructure SEPP

Accordingly, the proposed development has satisfied the relevant provisions of the Infrastructure SEPP and is satisfactory.

State Environmental Planning Policy (Major Development) 2005

The proposed development has a capital investment value in excess of \$10 million and is defined as 'Regional Development' pursuant to Clause 13B of the Major Development SEPP.

Therefore, the Sydney East Joint Regional Planning Panel (JRPP) has the function of determining the subject application in accordance with Clause 13F of the abovementioned planning policy.

Strathfield Planning Scheme Ordinance, 1969

The proposed development is defined as multiple-unit housing under the Strathfield Planning Scheme Ordinance, 1969 (SPSO, 1969). The subject site is zoned Residential 2(b) under the deemed planning instrument wherein development for the purposes of multiple-unit housing is permissible with consent pursuant to Clause 22.

The proposed development is satisfactory in terms of its aesthetic appearance as viewed from Parramatta Road, Centenary Drive and Marlborough Road and satisfies Clause 32 (a). Access to and from the site is adequate and sufficient off street

parking facilities have been provided to accommodate the demand generated by the proposed development in accordance with Clause 32 (b) (i) and (ii) respectively.

The proposed development relies on access to the arterial road network by way of a road that is classified under the Roads Act, 1993 and is therefore advertised development for the purposes of Clause 33 of the SPSO.

The site has a width of 45.72m and an area of 2,787.1m² which satisfies the minimum standards for the erection and subdivision of a residential flat building in accordance with Clause 41.

The proposed 'U' shaped building footprint is inconsistent and therefore incompatible with other development that is likely to be carried out in the vicinity of the site contrary to Clause 41B (a). Although minor, the proposed footprint is such that it would increase overshadowing and overlooking, contrary to Clause 41B (c).

Clause 41C and 61GA require the consent authority to consider development adjoining land in a residential zone. The proposed 'U' shaped footprint is inconsistent with existing building footprints approved in the vicinity of the site contrary to Clause 41C (a) and 61GA (a). The inconsistency will reduce the internal amenity afforded to future residents as well as increase overshadowing and the potential for overlooking contrary to Clauses 41C and 61GA.

Overall, the proposed development is unsatisfactory having regard to the relevant Clauses of the Strathfield Planning Scheme Ordinance, 1969 (SPSO, 1969).

Section 94 Contributions

Section 94 Contributions are applicable to the proposed development in accordance with the Strathfield Direct Contributions Plan.

(ii) Draft Environmental Planning Instruments:

Draft Strathfield Local Environmental Plan, 2008

The proposed development is situated in the Residential 2B zone, which permits multiple-unit housing with consent pursuant to Clause 15 of the draft instrument.

The proposed development does not satisfy Objective 2(b) of the subject zoning as it fails to provide a compatible scale contrary to the existing residential development. It is therefore incompatible with the character and amenity of adjoining land contrary to Clause 17.

The proposal satisfies the minimum development standards under Clause 18 for the erection and subdivision of multiple-unit housing and Clause 20 in respect of the provision of adaptable housing units.

The proposed development has been considered in relation to opportunities for community safety under Clause 56, was advertised in accordance with Clause 58 and has satisfied the provisions for waste management, ecologically sustainable development and landscaping and biodiversity under Clauses 75, 76 and 77 respectively.

The proposed development is contrary to Clause 62 as it has failed to demonstrate whether the subject land is suitable for its intended use, specifically in relation to the potential ground water contamination affecting the site.

The proposed development is unsatisfactory having regard to the applicable Clauses of the Draft Strathfield Local Environmental Plan, 2008.

Draft Local Environmental Plan No. 105

The subject property is not identified as an item of heritage significance and is not located within a heritage conservation area under Council's Draft LEP No. 105.

(iii) Development Control Plans:

Strathfield Development Control Plan No. 20 – Parramatta Road Corridor Area

Section	Development Control	Required	Proposed	Compliance
2.2	Building Footprint	Proposal to conform to the building footprint shown in figure 10.	The proposed development exceeds the building footprint established in figure 10.	No
	Land Consolidation	Proposal to conform to the consolidation pattern identified in figure 13.	The proposal conforms to the consolidation pattern in figure 13.	Yes
	Basement Setbacks	The outer walls of basements shall comply with the setbacks required in this section.	Basement setbacks exceeds the building footprint exceeds that permitted in figure 10.	No
2.3	Building Height	Proposal to conform to building height identified in figure 10.	The proposed development is four (4) storeys in height.	Yes
2.4	Built Form	Proposal to conform to the built form guidelines illustrated in figure 17.	The proposal generally complies with Figure 17.	Yes
		Front setback 5.0m	5.0m setback provided.	Yes
		Avg. building width 16.0m	14.76m	Yes
		Cantilevered balconies no more than 1.5m into front setback.	Ground floor courtyards extend 3.2 to 3.5m into front setback. Balconies to 1 st , 2 nd and 3 rd floors comply.	No
		Basement parking to extend no more than	Extends 49.7m exceeding this control by 27.7m.	Yes

		22.0m into the site. Enclosed balconies to rear extend no more than 2.5m from building.	Enclosed balconies to the rear are all set into the western elevation wall.	Yes
	Minimum Unit Sizes	Proposal to comply to the following min. unit sizes: 1 bed – 75m ²	The two (2) x one (1) bedroom units are greater than 75m ² .	Yes
		2 bed - 85m ²	The forty-one two (2) bedroom units are greater than 85m ² .	Yes
		3 bed - 100m ²	The four (4) x three (3) bedroom units are greater than 100m ² .	Yes
2.5	Roof Form	Lift and service plant concealed within roof structure.	Lift and service plant concealed within the roof form.	Yes
		Provide an interesting skyline and enhance views from adjoining developments.	The proposed development will contribute to an architecturally interesting skyline, complementing existing development nearby and enhancing views.	Yes
2.6	Façade Composition	Entrance should be distinguishable in the façade.	The entrance is architecturally distinguished through the use of orange feature panelling above.	Yes
		Facades should maintain a human scale to the street by incorporating appropriate architectural features.	The façade incorporates a good mix of materials comprising face brick work and rendered balcony elements to create a compatible façade appearance appropriate to Marlborough Road.	Yes
		Materials and finishes should blend together with min. 30% to incorporate face brickwork.	The proposal incorporates extensive use of face brickwork as well as rendered and feature materials.	Yes

		Consider the use of glass in facades on northern and western elevations in terms of glare impacts.	The glazing proposed will not result in adverse glare impacts to adjoining properties.	Yes
2.8	Visual and Acoustic Privacy	Visual privacy to be provided by separation or screening – refer figures 21 and 22.	The privacy to the adjoining building to the west of the site is adequately treated through the installation of fixed louvers to the balconies and fixed obscure glazing to windows.	Yes
		Main living areas oriented to the street or rear garden to prevent overlooking.	Main living areas are generally oriented to the street and rear gardens thereby limiting unacceptable opportunities for overlooking.	Yes
		Acoustic privacy must be considered in relation to proposal and surrounding environment.	The proposal is subject to an acoustic assessment which recommends attenuation measures to ensure compliance with the minimum noise levels for development adjacent to busy roads under SEPP infrastructure.	Yes
		Buildings designed and sited to minimize transmission of noise to adjoining developments.	The building has been adequately designed to minimise the transmission of noise.	Yes
		Developments adjoining major road or railway line to consider potential noise impacts and refer to AS 2107:2000 and 3671:1989.	The acoustic assessment has considered AS2107:2000 and 3671:1989 and satisfactorily addressed noise impacts from nearby noise sources.	Yes
		Utilise noise barrier planning techniques – refer figure 23.	An acoustic assessment has confirmed that the proposed development will be constructed of materials that will achieve an acceptable LAeq level in accordance with the Infrastructure SEPP.	Yes
		Shared pedestrian entries shall be capable of being	Entries access a limited number of units.	Yes

		locked and serve a limited number of dwellings		
		Casual surveillance maintained of public streets and spaces with at least one habitable room window facing that area.	Habitable rooms face public space and road increasing the amount of casual surveillance.	Yes
2.9	Private Open Space	Proposal to provide 35% deep soil landscape area on the site.	708m ² / 2787.10m ² = 25.4%	No
		Retain and protect existing significant trees.	There are no significant trees located on the site.	Yes
		Each contiguous landscape area shall provide large trees.	Additional opportunities would be available for the planting of large trees where the proposal complies with the building footprint control.	No
		Trees and pergolas to shade external areas and control sunlight into buildings.	Pergolas provided to balconies and paved footpath through the common open space.	Yes
		Proposal to provide common open space to the following dimensions: 278.71m ² required. Min dimensions of 7m; Positioned to receive sunlight, be conveniently located for residents with good opportunities for passive surveillance and contain durable children's play equipment;	285.64m ² 13.8m x 16.5m min. Positioned to the north however will be overshadowed during mid-winter due to existing adjacent development to the north.	Yes. Yes Yes

		Located behind front setback.	Located behind front setback.	Yes
	Balconies	<p>Dwellings without ground level open space shall have balconies to the following requirements:</p> <p>12m² up to 2 bed;</p> <p>15m² for 3 or more bed;</p> <p>Min. dimension of 2.0m;</p> <p>Located off living areas and with good solar access; and</p> <p>Balustrades designed to provide privacy and conceal service areas whilst allowing passive surveillance.</p>	<p>12m²</p> <p>15m²</p> <p>2.0m min provided.</p> <p>Main balconies are located off living areas with sufficient solar access.</p> <p>Adequate privacy measures are provided.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	Front Gardens	Promote positive setting for proposal with appropriate security lighting.	Positive landscaped setting consistent with the overall character and context of the site.	Yes
	Front Fences	1.8m height permitted along Marlborough Road due to high traffic levels.	1.2m high front fence proposed.	Yes
		Match streetscape character with 50% transparent where height is 1.8m.	The front fence will have a compatible design having regard to the existing streetscape.	Yes
2.10	Energy Efficiency	Energy performance statement shall accompany application.	A BASIX Certificate and ABSA assessment confirms the sustainability requirements for the proposed development in accordance with the BASIX SEPP.	Yes
		Achieve 3.5 star rating on NaTHERS.	Refer above.	
2.10.2	Solar Access	Main living and 50% of private open space receives min.	Solar access could be improved where the proposal complies with the	No

		3 hours solar access.	building footprint control.	
		Min. 3 hours solar access maintained to habitable rooms and private open space of adjoining development.	Solar access generally maintained from midday to 3pm.	Yes
2.10.7	Water Management	5,000 litre rain water tank for the first 10 units plus an additional 250 litres per unit above ten (10) units. 14,250L required	3000 litres proposed in accordance with BASIX.	No, however complies with BASIX SEPP which overrides Council's development controls.
2.11	Stormwater, Sewerage and Drainage	Site to be adequately serviced by stormwater, sewerage and drainage in accordance with Council's Stormwater Management Code.	Stormwater drainage disposal remains outstanding and unsatisfactory.	No.
2.12	Disabled Access	One main entrance barrier free and accessible.	Main entrance from street available with door only.	Yes
		Access to public areas should be convenient and without barriers.	Stairs restrict access to common open space.	No
		Adequate and convenient amenities for disabled access.	Not provided.	No
		Accessible parking provided with access to units above provided.	Lift access to adaptable units above.	Yes
		15% of units designed to allow occupation by older people and people with disabilities.	47 x 15% = 7.05 units: The proposed development provides seven (7) adaptable units.	Yes
2.13	Vehicle Access and Car Parking	Car parking to be provided on the following basis: Up to 2 bed – 1 space 3 bed or more – 1.5 spaces Visitor – 1 space per 5 units	 43 x 1 = 43 4 x 1.5 = 6 47 / 5 = 9.4 Total req: 59 spaces Provided: 61 spaces	 Yes

		Bicycle parking facilities should be provided.	Bicycle parking facilities provided.	Yes
2.14	Site Facilities and Services	Garbage – refer to requirements of Part H of SCDCP 2005. 18.8m ² area for general waste storage.	No dedicated general waste storage area has been provided.	No
		Electricity and telecommunication supplies shall be undergrounded.	The application acknowledges this matter in the Statement of Environmental Effects.	Yes
		Letterbox provision; Master TV antenna provided; Clothes drying facilities provided;	No details.	No, however could be dealt with by way of condition of consent in the event of an approval.
2.16	Excavation	Comply with BCA and submit dilapidation report for all adjoining development.	No details.	No, however could be dealt with by way of condition of consent in the event of an approval.

iiia) Planning Agreements (or Draft Agreements)

The proposed development is not subject to a planning agreement pursuant to Section 93F of the Environmental Planning and Assessment Act 1979.

iv) Matters Prescribed by the Regulations

The *Government Coastal Policy* does not apply to the site and the operation of AS2601-1991 for the demolition of structures could be dealt with by way of a condition of consent in the event of an approval.

(b) Likely Impacts:

Context & Setting

The proposed development is likely to adversely affect the context and setting of the site due to the building footprint non compliance. The proposed 'U' shaped footprint significantly exceeds the 'L' shape prescribed for the site under DCP No. 20. As a result, the proposed basement exceeds the setbacks for a compliant building footprint and reduces the availability of deep soil landscaping on the site.

The proposed development will adversely reduce the site's capacity to accommodate deep soil landscaping and detrimentally impact on the overall amenity of the area.

The applicant's justification in support of the proposal can be summarised on the following grounds:

- There are no specific objectives relating to the building footprint on this land;

- DCP No. 20 has not been consistently applied in terms of its prescribed building footprint and therefore should not be given determining weight;
- The proposed 'U' shaped facilitates a density of development commensurate with that of other contemporary development in this precinct; and that
- The proposed development will not result in undue or unreasonable effects on the amenity enjoyed by residents of surrounding properties.

In response to the applicant's justification, Council Officers contend that:

- DCP No. 20 is based on a masterplan redevelopment strategy which encompasses objectives, standards and controls. Clause 1.3 of the DCP lists the objectives of the plan, which rely on the operation of the built form masterplan and building footprint. Accordingly, the intent of the building footprint control is governed by relevant objectives.
- Contrary to the applicant's assertion, DCP No. 20 has been consistently applied since its commencement date on 9 February 2000. The building footprint control, whilst varied slightly with respect to building width and basement setbacks, has consistently achieved an 'L' shape along Marlborough Road (with the exception of Nos. 34-36 and 38-40 in which the consolidation patterns were varied yet an 'L' shaped footprint imposed).
- The applicant contends that they are seeking a similar density outcome to that achieved by existing development along Marlborough Road based on comparable floor space ratios. Whilst this may be the case, density should also be measured in persons per hectare. The two (2) sites of identical dimensions and area, Nos. 20-26 and 28-32 Marlborough Road both achieve a higher development density of 460 persons per hectare than the 410 persons per hectare achieved by the proposed development. Nos. 20-26 and 28-32 Marlborough Road both comply with the 'L' shaped footprint subject to a variation to building depth and provide a high quality architectural and open space outcome consistent with the overall objectives of the plan. By comparison, the proposed development does not achieve an optimal development outcome.
- In light of the above comparison, it is evident that both future residents and adjoining property owner's will be adversely affected by the scale of the development proposed as it is inconsistent and contrary to the controls and objectives of DCP No. 20.

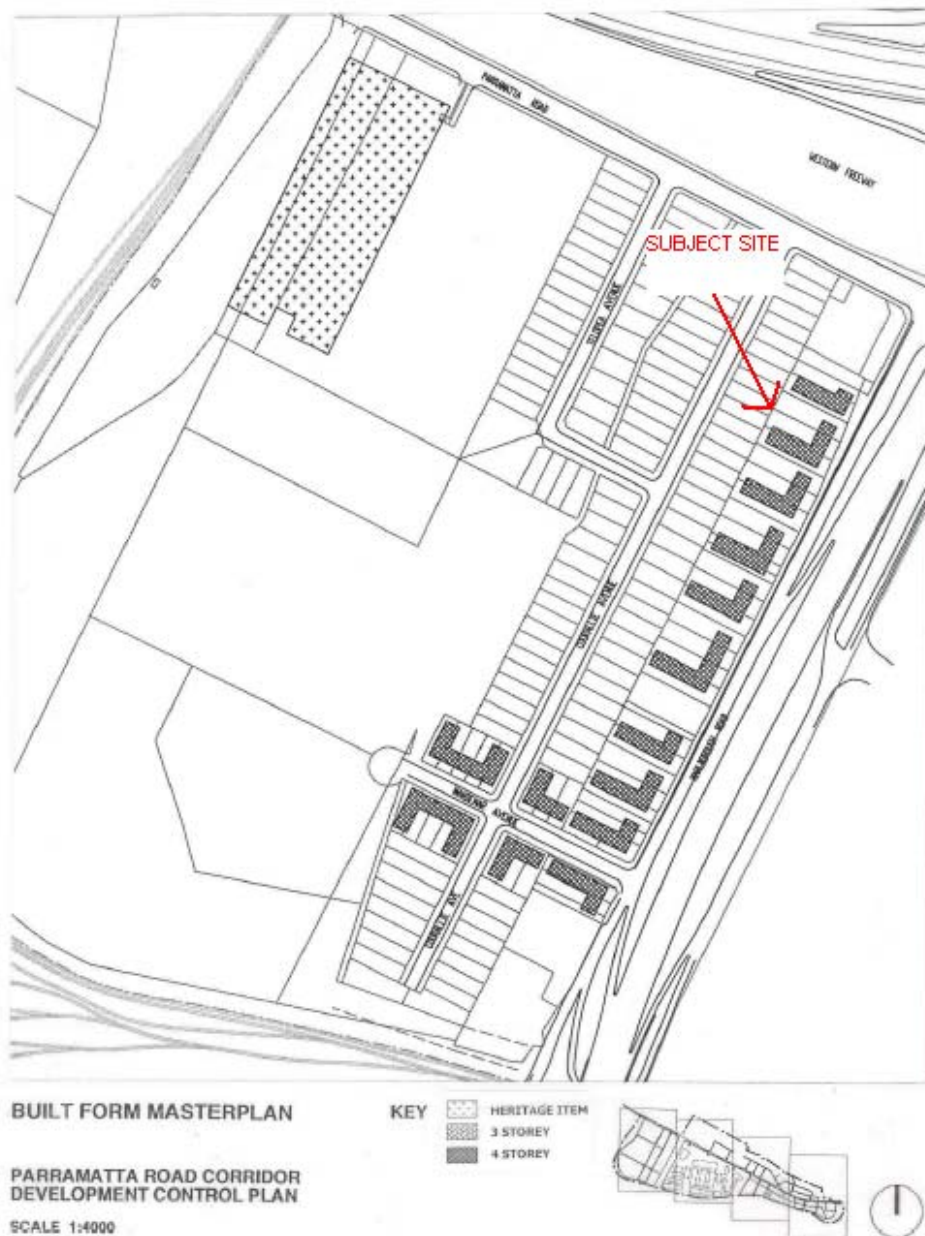


Figure 10 – Parramatta Road Corridor Built Form Masterplan (cont)

Access, Transport & Traffic

The application has been supported by a traffic impact assessment which confirms that the proposed development is adequately supplied with off street car parking and is unlikely to adversely affect the local and arterial road network by way of traffic generation and capacity.

Water

The proposed development has sought to rely on an existing drainage easement which benefits the adjoining property, 4-6 Marlborough Road and burdens 16 Courallie Avenue. Council Officers have requested the legal instrument confirming that the site benefits from the existing easement, however this information remains

outstanding at the time that this report was written. Accordingly, the proposed development is likely to result in adverse impacts on the surrounding environment as it has been unable to present a satisfactory design for the disposal of stormwater from the site.

Site Design and Internal Design

The proposed development exceeds the size and form of existing similar buildings that have been constructed along Marlborough Road. This will adversely reduce the potential for the provision and quality of deep soil landscaping which is designed to benefit the future residents as well as contribute to the overall amenity of adjoining owners.

The proposed development is likely to affect the health and safety of occupants as it has been unable to demonstrate that egress in the event of an emergency from the storage area underneath the basement driveway will comply with the Building Code of Australia (Refer comments from Building Surveyor further in this report).

Noise & Vibration

The proposed development is unlikely to be adversely impacted by noise and vibration as a result of its location adjacent to a classified road.

Technological Hazards

Council's historical records and past development applications on adjoining sites indicate that the site is potentially affected by contaminated groundwater. The environmental assessment submitted in support of the proposed development has failed to satisfactorily address this potential impact. The proposal is therefore likely to result in risk to people and property.

(c) Suitability of the Site:

The site in its current form is not suitable for multi-unit housing; in particular, basement excavation as the applicant has been unable to demonstrate that the site is not affected by contaminated groundwater.

The numerous non compliances to the relevant EPI's and development controls discussed in this report are indicative that the proposal is an overdevelopment of the site and is unsuitable.

(d) Submissions:

The application and plans were notified in accordance with Part L of the Strathfield Development Control Plan 2005 from 26 August 2010 to 27 September 2010. No written submissions were received. A site notice was placed on site on 25 August 2010.

(e) Public Interest:

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments (EPI's), development control plans and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. As the proposed development has failed to satisfy a number of these matters, approval of the application is not in the public interest.

INTEGRATED DEVELOPMENT

The proposed development is 'Integrated Development' pursuant Section 91 of the Environmental Planning and Assessment Act, 1979 as it requires a new vehicular crossover and access to a classified road under the Roads Act, 1993.

At the time of compilation of this report, the RTA's General Terms of Approval had not yet been received.

Nonetheless, Council may still determine the application pursuant to Clause 70 of the Environmental Planning and Assessment Regulation, 2000.

INTERNAL REFERRALS

The application was referred to Council's Building Surveyor, Development Engineer, Drainage Engineer, Environmental Health Officer, Landscape Officer and Manager Engineering and Works for comment.

Building Surveyor

The proposed development fails to ensure that egress in the event of an emergency from the storage area located underneath the basement driveway will comply with the Building Code of Australia Volume 1 Section D.

Air conditioning units on balconies should be located off the floor level so as to prevent them from acting as a climbing aid. This could be dealt with through a condition of consent should the application be approved.

Development Engineer

The proposed development seeks to rely on an easement which drains stormwater from 4-6 Marlborough Road and burdens 16 Courallie Avenue. The applicant was requested to submit to Council the legal instrument to confirm that the subject site does benefit from the existing easement.

It is also noted that modifications to the driveway grade as well as the incorporation of a 150mm hump at the crest of the driveway is necessary, however these matters were to be dealt with through the imposition of conditions of consent.

As the requested information regarding the easement remains outstanding, the proposed development is unacceptable.

Drainage Engineer

The proposed vehicular crossing conflicts with Council's lintel inlet pit located in Marlborough Road. Whilst it is possible to relocate the lintel pit, details of the new pit and connection to the street drainage system were to be submitted to Council for further review.

Despite Council's request for lintel pit details by letter dated 15 September 2010, no further particulars were received.

Environmental Health Officer

Council's Environmental Health Officer has advised that the acoustic aspect of the proposal is satisfactory however the environmental assessment is unsatisfactory as it has failed to investigate the impact of potentially contaminated groundwater affecting the proposed development.

Landscape Officer

Subject to the recommendations made in the submitted arborist report, the proposed development is acceptable having regard to the trees located in close proximity to the basement excavation on the southern adjoining property. However, the failure to provide the minimum required 35% deep soil landscaping on the site is unacceptable and the proposal is not supported.

CONCLUSION

The application has been assessed against the heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979 and all relevant instruments and policies.

The outcome of this assessment is that the application has been unable to satisfactorily resolve potential contamination issues that affect the site and demonstrate compliance with the built form masterplan. It is therefore inconsistent with a number of environmental planning instruments and development controls, is likely to result in adverse impacts on the existing character and residential amenity, site context and setting of the locality and is overall unsatisfactory. Accordingly, the application is recommended for refusal.

RECOMMENDATION

That DA2010/113 for the demolition of three (3) detached single dwellings, consolidation of 8, 10 and 12 Marlborough Road, Homebush West and the construction of a four (4) storey residential flat building comprising two (2) x one (1) bedroom units, (41) x two (2) bedroom units and four (4) x three (3) bedroom units above (61) off street car parking spaces in one (1) basement level, strata subdivision of the building into (47) allotments and associated landscaping, drainage and site works at 8-12 Marlborough Road, be «DA» for the following «DA»:

REASONS FOR REFUSAL

1. The proposed development has failed to demonstrate that the land is suitable for its intended residential use and is therefore contrary to Clause 7 (1) of State Environmental Planning Policy No. 55 – Remediation of Land and Clause 62 of the Draft Strathfield Local Environmental Plan, 2008 (*Section 79C 1(a) (i) and (ii) of the Environmental Planning and Assessment Act, 1979 respectively*). The proposal is therefore likely to present an unacceptable risk to persons and property (*Section 79C 1(b) of the Environmental Planning and Assessment Act, 1979*).
2. The proposed development has failed to meet the design quality principles of Context, Scale, Density, Landscape and Amenity as well as the minimum standards of the *Residential Flat Design Code* contrary to Clause 30 (2) (b) and (c) of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (*Section 79C 1(a) (i) of the Environmental Planning and Assessment Act, 1979*).
3. The proposed development is incompatible with other development that is proposed or likely to be carried out in the vicinity of the site as it fails to comply with the built form

masterplan, in particular, the prescribed building footprint under DCP No. 20 contrary to Clause 41B (a) of the Strathfield Planning Scheme Ordinance, 1969 (*Section 79C 1(a) (i) of the Environmental Planning and Assessment Act, 1979*).

4. Owing to its 'U' shaped building footprint, the proposed development, would result in a minor increase in overshadowing and overlooking adversely affecting the amenity of existing surrounding residential development contrary to Clause 41B (c) of the Strathfield Planning Scheme Ordinance, 1969. The 'U' shape footprint is also incompatible with the scale, siting and character of existing buildings within the residential zone and is contrary to Clauses 41C (a) and 61GA (a) of the Strathfield Planning Scheme Ordinance, 1969 (*Section 79C 1(a) (i) of the Environmental Planning and Assessment Act, 1979*).
5. The proposed development fails to demonstrate a compatible scale having regard to existing residential development and is therefore contrary to Objective 2(b) of the Residential 2B zone under the Draft Strathfield Local Environmental Plan, 2008 (*Section 79C 1(a) (ii) of the Environmental Planning and Assessment Act, 1979*).
6. The proposed development is contrary to the following development controls contained in the Strathfield Development Control Plan No. 20:
 - a. The proposed development significantly exceeds the prescribed building footprint specified for the site under Clause 2.2;
 - b. As a result of the building footprint non compliance, the proposed development is unable to demonstrate compliance with the basement setback requirements under Clause 2.2;
 - c. The proposed development features ground floor courtyards extending up to 3.5m into the front setback of the site contrary to the maximum 1.5m protrusion permitted under Clause 2.4;
 - d. The proposed development provides 708m² (25.4%) deep soil landscaped area contrary to the 975.45m² (35%) minimum deep soil landscaped area required on the site under Clause 2.9;
 - e. As a result of the above, the proposed development reduces opportunities for the planting of large trees contrary to Clause 2.9;
 - f. The proposed development has been unable to provide a satisfactory design for the disposal of stormwater from the site contrary to Clause 2.11; and
 - g. The proposed development fails to provide a general waste storage area of 18.8m² contrary to Clause 2.14.

(Section 79C 1(a) (iii) of the Environmental Planning and Assessment Act, 1979)

7. The proposed development is likely to adversely affect the context and setting of the site as it fails to provide a consistent and compatible scale and form and is therefore contrary to the prevailing form of existing development in terms of the building footprint control under DCP No. 20. This is also likely to adversely affect the site context and setting as the proposed development is unable to provide a compatible and complementary deep soil landscape contribution to other existing residential

development (*Section 79C 1(b) of the Environmental Planning and Assessment Act, 1979*).

8. The proposed development is likely to adversely affect the surrounding environment as it has been unable to provide a satisfactory design for stormwater disposal from the site (*Section 79C 1(b) of the Environmental Planning and Assessment Act, 1979*).
9. The proposed development fails to demonstrate that egress in the event of an emergency from the storage area located underneath the basement driveway will comply with the Building Code of Australia (*Section 79C 1(b) of the Environmental Planning and Assessment Act, 1979*).
10. The numerous non compliances with the relevant environmental planning instruments and development controls discussed in this report are indicative that the proposal is an overdevelopment of the site and is unsuitable (*Section 79C 1(c) of the Environmental Planning and Assessment Act, 1979*).
11. The proposed development is contrary to the public interest as it has been unable to satisfactorily demonstrate compliance with the applicable environmental planning instruments and development control plan (*Section 79C 1(e) of the Environmental Planning and Assessment Act, 1979*).