

JOINT REGIONAL PLANNING PANEL
(Sydney West Region)

JRPP No	2010SYW085
DA Number	925/10
Local Government Area	Ku-ring-gai Council
Proposed Development	Demolition of existing dwellings and construction of a residential flat building comprising 43 units, basement car parking, landscaping and associated works.
Street Address	573- 585 Pacific Highway, Killara
Applicant/Owner	Mackenzie Architects/ Richard J Wilson Pty Ltd and Mr & Mrs GP Hutton
Number of Submissions	3
Recommendation	Refusal
Report by	Ku-ring-gai Council Staff

SUMMARY SHEET

WARD:	Gordon
DESIGNER:	MacKenzie Architects
PRESENT USE:	Residential
ZONING:	Residential 2(d3)
HERITAGE:	Yes
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance (KPSO)
COUNCIL'S POLICIES APPLICABLE:	KPSO - LEP 194, DCP 31 - Access, DCP 40 – Construction and Waste Management, DCP - 43 Car Parking, DCP 47 - Water Management, DCP - 55 - Multi-unit Housing, DCP - 56 Notification, Section 94 Contribution Plan
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	SEPP 1 – Development Standards, SEPP 55 – Remediation of Land, SEPP 65 – Design Quality of Residential Flat Development, BASIX 2004, SEPP Infrastructure 2007, SREP 2005 – (Sydney Harbour Catchment)
COMPLIANCE WITH GOVERNMENT POLICIES:	No
DATE LODGED:	8 December 2010
40 DAY PERIOD EXPIRED:	17 January 2011

DEVELOPMENT APPLICATION N^o

PREMISES:

PROPOSAL:

0925/10

573 – 585 PACIFIC HIGHWAY, KILLARA

DEMOLITION OF EXISTING DWELLINGS AND

CONSTRUCTION OF A RESIDENTIAL FLAT

BUILDING COMPRISING 43 UNITS, BASEMENT

CAR PARKING, LANDSCAPING AND

ASSOCIATED WORKS.

APPLICANT:

OWNER:

DESIGNER

MACKENZIE ARCHITECTS

RICHARD J WILSON PTY LTD AND MR & MRS

GP HUTTON

MACKENZIE ARCHITECTS

PURPOSE FOR REPORT

To determine Development Application No.0925/10, for the demolition of existing dwellings and construction of a residential flat building comprising 43 units, basement car parking, landscaping and associated works.

The application is required to be reported to the Joint Regional Planning Panel as the cost of works (CIV) exceeds \$10 million.

EXECUTIVE SUMMARY

Issues:

- front setback
- tree impacts
- building design
- residential amenity

Submissions:

Yes

Land & Environment Court

No

Appeal:

Recommendation:

Refusal

HISTORY

29 September 2010

Pre-DA consultation held for a proposal involving demolition of the existing dwellings and site works and construction of a residential flat building comprising 43 units, with car parking for fifty – nine (59) vehicles, associated site works and landscaping.

Issues discussed at the meeting included compliance with development standards, impact upon significant vegetation within front setback, setback requirements, zone interface, solar access, landscaping and building width.

8 December 2010

DA0925/10 lodged.

22 December 2010 – 21 January 2011	Application notified.
1 March 2011	Council sent a letter to the applicant raising issues with the DA including invalid BASIX certificate, non compliance with SEPP infrastructure, building separation, unit depth and layout, solar access, private open space, aesthetics, non-compliance with deep soil landscape area, number of storeys and storage. landscape concerns relating to front setback, communal open space and landscape screening, insufficient information and inaccuracies between drawings.
14 March 2011	Meeting with the applicant regarding the issues raised by Council's letter, dated 1 March 2011.
17 March 2011	Council Officers brief the JRPP on the application.
15 April 2011	Council wrote to the applicant regarding the submission of amended plans to address the issues raised by Council Officers.
29 April 2011	Applicant submits amended plans deleting the swimming pool and proposing changes to the front setback and building height. A deep soil landscape plan also provided.

THE SITE

Zoning:	Residential 2(d3)
Lot Number:	Lot 1 in DP 650396, Lot B in DP 340744 (585 Pacific Highway), and Lot 1 in DP 666520 (573 Pacific Highway)
Area:	2,995.2m ²
Side of Street:	North-eastern
Cross Fall:	North-west to south-east
Stormwater Drainage:	Easement along north-western boundary to Pacific Highway
Heritage Affected:	Yes – within vicinity of 2 Caithness Street which is a local heritage item.
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	Yes – Sydney Blue Gum High Forest – potential impact
Urban Bushland:	No
Contaminated Land:	No

THE SITE AND SURROUNDING AREA

The site

The site comprises three lots and is located on the north-eastern side of Pacific Highway, approximately 50 metres to the south-east of its intersection with Marian Street. The site is irregular in shape with an area of 2995.2m². The site has a frontage of 59.9 metres to the Pacific Highway, a north-western boundary with a length of 53.71 metres, a stepped north-eastern rear boundary with a total width of 64.155 metres and a south-eastern boundary of 51.81 metres in length.

Along the Pacific Highway, the site falls from the south-west (RL119.54) down to the north-west (RL118.95). While at the rear, it falls from the south-east (RL116.42) down to the north-east (RL116.11).

A drainage easement running parallel with the northern side boundary traverses the site and drains in a south-westerly direction towards the Pacific Highway.

The site presently contains two brick dwellings, both with swimming pools in the rear yards. Other site works include driveways, retaining walls and a detached garage adjacent to the northern side boundary.

Mature existing trees including several large *Eucalyptus saligna* (Sydney Blue Gum) are located along the Pacific Highway frontage, forming a corridor with remnant trees on adjoining sites to the north.

Surrounding development

The site is situated in an area that is undergoing change, with residential flat buildings to the north and south and multi unit housing to the north-east currently under construction. The site is adjoined to the south-east by Caithness Walkway.

The adjoining site to the north-west (No. 32 Marian Street (589-591 Pacific Highway) is a four storey residential flat building comprising 16 units and parking for 29 vehicles. The adjoining property to the south-east, 571 Pacific Highway is a three storey walk up flat building.

The properties to the east which front Caithness Street are zoned Residential 2(d3) which permits multi-unit housing development.

THE PROPOSAL

The application was amended during the assessment process. The proposal as amended comprises:

Construction of a five storey residential flat building containing 43 units (16 x 1 bedroom, 23 x 2 bedroom and 4 x 3 bedroom) and construction of two basement levels providing a total of 58 car spaces.

Details of each floor level are as follows:

Basement 2, RL 111.700	31 resident car parking spaces, 2 lifts, stair access, storage and services room
Basement 1 RL114.600	13 resident car parking spaces, 10 visitor spaces, 6 disabled spaces (1 functioning also as the 11 th visitor space), bicycle storage area, 2 lifts, garbage room, caretaker WC and stair access
Ground RL117.500	8 units (5 x 2 bedrooms, 4 x 1 bedroom)
Level 1 RL 120.500	10 units (6 x 2 bedrooms, 2 x 1 bedroom and 2 x 1 bedroom plus study)
Level 2 RL123.500	10 units (6 x 2 bedrooms, 2 x 1 bedroom and 2 x 1 bedroom plus study)
Level 3 RL126.500	10 units (6 x 2 bedrooms, 2 x 1 bedroom and 2 x 1 bedroom plus study)
Level 4 RL129.500	4 units (3 x 3 bedrooms and 1 x 3 bedroom plus study)

Vehicular access to the basement car park is provided from Pacific Highway via a curved entry/exit driveway ramp located at the south-western corner of the site. A main pedestrian entrance is proposed from Pacific Highway with two separate pedestrian entrances to the lifts.

CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP, owners of adjoining properties were given notice of the application on 22 December 2010. In response, Council received three (3) submissions from the following:

1. Mr Craig Nolan 4/32 Marian Street, Killara
2. Natasha and Wilfred Yuen 9/567 Pacific Highway, Killara
3. D A Walls 15/32 Marian Street, Killara

The submissions raised the following issues:

Excessive building height and bulk as viewed from 32 Marian Street

The proposal is compliant with the height and number of storey development standard. The proposal provides for a compliant side setback from the boundary shared with 32 JRPP (Sydney West Region) Business Paper – Item # 1 – 28 July – 2010SYW099

Marian Street. The top storey has a reduced floor space in accordance with the control requirements of LEP 194.

Loss of sunlight to 4/32 Marian Street

The proposal does not result in an unreasonable loss of sunlight to 32 Marian Street. The subject site is located to the south-east and results in limited impact throughout the day.

Loss of privacy to 4/32 Marian Street and 9/567 Pacific Highway

The typical corner apartment A1 is located closest to the boundary and adjoins unit 4/32 Marian Street. The proposal has a finished ground floor level of RL117.50. The proposal contains doors within the living room providing access to the balconies/courtyard which are orientated towards the shared boundary. The south-eastern corner of 32 Marian Street is located closest to the shared boundary. The apartments contain openings which face the proposed development.

The ground floor apartment windows of 32 Marian Street have sill heights at RL118.26 and RL119.6 and a lintel height of RL120.28. The second floor level of the proposal has a finished floor level RL120.50, exceeding the lintel height of the adjoining windows within 4/32 Marian Street and does not result in a privacy impact. The sill height and the provision of a 1.5 metres high fence along the shared boundary in addition to landscaping will ensure the proposal does not result in a loss of visual privacy to the neighbouring property.

The balconies at the upper levels provide for the required 6 metres setback from the shared boundary. This separation, combined with the existing setback of 32 Marian Street and the existing and proposed landscaping will adequately address any privacy issues between the two properties.

The proposal provides for a 12.186 metres setback from the balconies within 571 Pacific Highway. The windows orientated towards the boundary are associated with bedrooms and will not result in an adverse privacy impact on the adjoining development.

The existing ground floor balcony of 571 Pacific Highway is at RL119.4 and the upper level balcony is at RL122.20. The proposal includes provision of a privacy screen along the southern elevation of the balcony associated with unit B11 (RL120.5) which is partially orientated towards the shared boundary. The third level balcony (RL123.50) has a solid balustrade and would prevent downward looking and minimise any impact upon the adjoining property.

The proposal also provides extensive landscaping along the shared boundary and is not considered to result in any adverse impact to the adjoining properties in relation to loss of privacy.

The side setback should be increased to 8m and the front setback to 15m to maintain streetscape amenity

The proposal is compliant with the required side and front setbacks and there are no compelling planning reasons to increase the proposed setbacks.

Noise from Pacific Highway being deflected onto 32 Marian Street

The submission raises concern that the proposed building materials will deflect noise onto the adjoining property and impact their amenity. The acoustic report recommends certain construction requirements in order to mitigate acoustic impact. The report, however, does not address whether there will be an impact upon adjoining properties.

Traffic impact

The proposal has been considered by Council's Engineer who provides the following comments:

"The traffic report submitted predicts a traffic generation potential of approximately 13 vehicle trips per hour during peak periods.

According to the traffic generation rates nominated by the RTA Guidelines the development would generate potential of approximately 3 peak hour vehicle trips which will result in an increase in the level of traffic generated by the site by approx 10 vph. The study does justify that the projected increase in traffic activity is minimal and would not have any unacceptable traffic implications in terms of road network capacity."

Loss of value of adjoining properties

This is not a relevant consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

Loss of mature trees

Council's Landscape Assessment Officer has not raised any concerns with the proposed removal of trees from the site. However, inadequate information is provided regarding the impact upon significant trees within the front setback. This forms one of the reasons in the recommendation for refusal of the application.

The infrastructure is inadequate to support the number of units being erected in the locality

Council has no role or delegation with respect of infrastructure other than to be satisfied that the access to such infrastructure is available. The RTA has not raised concern and conditional requirements can be recommended regarding water and sewerage if the application were to be approved.

CONSULTATION – EXTERNAL TO COUNCIL

Roads and Traffic Authority

The application was referred to Roads and Traffic Authority pursuant to Section 138 of the Roads Act. The RTA granted concurrence, subject to amendments to the submitted traffic and construction management plan. The applicant has submitted an amended traffic and construction management plan which is consistent with the specified requirements of the RTA.

CONSULTATION - WITHIN COUNCIL

Urban Design

Council's Urban Design Consultant, commented on the amended proposal as follows:

"Principle 1 - Context

SEPP 65 : *Good design responds and contributes to its context.....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.*

Satisfactory

Principle 2 – Scale

SEPP 65 : *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 transition proposed bulk and height needs to achieve the scale identified for the desired future character of the area.*

Satisfactory.

Principle 3 - Built Form

SEPP 65: *Good design achieves an appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and the manipulation of building elements..... The built form is a response to both the regulatory controls and the neighbouring built fabric.*

The built form is generally acceptable in terms of height, proportions and articulation. However, some issues of amenity arise from internal planning designs with the proposed built form which are unsatisfactory.

Note: See Principle 7 Amenity for qualifying comments.

Principle 4 - Density

SEPP 65: *Good design has a density appropriate to its site and its context, in terms of floor space yields (or numbers of units or residents)...*

Satisfactory.

Principle 5 - Resources, Energy and Water Efficiency

SEPP 65 : Sustainability is integral to the design process. Aspects include...layouts and built form, passive solar design principle.....soil zones for vegetation and re-use of water. The following is noted in the amended BASIX documentation compared to the original DA submission:

Amended – as Certificate	Original – as Report
<ul style="list-style-type: none">• Certified• Development described as 4 storeys above ground• Alternative water source – 10 units (toilets only)• Heating and Cooling – none indicated any units• Artificial lighting – not indicated to living/dining, bedrooms or kitchens	<ul style="list-style-type: none">• Not certified• Described as 5 storeys above ground• Alternative water source – 26 units (toilets only)• Heating and cooling - to all unit living areas• Artificial lighting – indicated to living/dining, bedrooms and kitchens indicated

Council would need to confirm BASIX compliance. It is noted that some performance achievements have been lowered in the revised BASIX documentation.

Natural ventilation

Satisfactory.

Note: The Residential Flat Design Code requires that at least 60% of the apartments are naturally cross-ventilated.

The application proposes the minimum 60%, however, best practice design should be aiming for a much higher level of cross ventilation particularly for new buildings where primary design decisions will drive the level of amenity achieved. It is further noted that windows shown on the units to the SW elevation A3, B2 (typical) appear inadequate to provide sufficient cross ventilation and result in overly deep floor plans of essentially single orientation units. See Principle 7 Amenity.

Passive solar design

Unsatisfactory

Units A2, A3 (typical) and penthouse units provide good solar access.

The RFDC stipulates that a maximum of 10% of the units should not have a single aspect orientated SW-SE. A total of 8 units - 18.6% - have a SW-SE orientation. This is non-compliant and unsatisfactory particularly for new development. It is further noted that internal layout may not be utilising optimised solar amenity to all living rooms with the proposed recessed bedroom/living room configurations. See Principle 7 Amenity.

Water re-use

It is noted in the amended BASIX report that the number of units connected to re-use water (for toilets only) has been reduced from 26 to 10. As per previous SEPP 65 report, it would be preferable for all the toilets to be connected to re-use water.

Water collection on roof

It is noted that no falls appear to have been allowed for in the 'flat roof' area of the penthouses see indicative roof space in the elevations.

Principle 6 – Landscape

SEPP 65 : *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.*

The site has substantial established trees along both the street and rear boundary, which are shown as being retained. The planting to the street frontage significantly contributes to the streetscape, and the character of the area more generally. It is assumed that Council's Landscape Officers will check the tree retention strategies embodied in the DA, and if necessary, provide specific consent conditions to safeguard these trees.

Sufficient landscape area appears to have been provided.

RL information for all the courtyards and landscape is minimal.

Further consideration of the privacy between the ground level units and the communal open space to provide adequate screen planting is required.

The proposed communal spaces have adequate solar access at present prior to any further development of the lots on Caithness Street. It is noted that the proposed pool has been removed from the amended scheme.

These communal areas are accessed from building exits on the south-eastern elevation including an additional exit for building B units. The paths appear to provide accessible access although corridor and path widths are not provided to confirm compliant clearances.

Principle 7 - Amenity

SEPP 65 : *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.*

Note: Best practice primary design decisions will drive the level of amenity achieved.

Noise barrier planning

There appears to have been little consideration at concept design stage to address the noise source of the Pacific Highway other than by reliance on air-conditioning/mechanical ventilation. Together with the decision to rely on essentially single orientation units to the Highway (A8, B6, B11 typical and to a lesser extent A1 typical) results in 19 of the 43 units (44%) having to deal with noise issues. A more considered response to internal planning of A1 typical in particular could address issues to that unit. Noise barrier planning principles should be engaged for development addressing noise sources.

Dimensions

There remains no room dimensions noted on the drawings, we are unable to comment on the adequate sizing of the rooms. Further information still required.

Internal layout

The units have all been planned with open plan kitchen, dining and living rooms. This is an appropriate design approach to maximise natural light and ventilation. However, many of the units propose layouts that still need to be revised.

The amenity of seven units A3, B2, B3, B4 (typical floors G, L1, L2 and L3) (16%) remains compromised by the proposed building depth.

It is noted that there is inconsistency between typical unit layouts in the amended submission that makes full assessment difficult. It is unclear as to the reasoning of these plan differences. Issues raised in the previous SEPP 65 assessment (eg location of internal kitchens) have been solved such that new issues have been created as well as the original issues remaining inadequately addressed.

In particular, problems arising from the proposed building depth in combination with resolution of internal planning layout (see B3/B8 and B4/B9 and A3, B2 (typical) in amended submission). The amended plans indicate that the applicant has addressed previous comments of kitchens being too deep within the proposed units by merely swapping furniture so that dining rooms are now set deep within units with no direct access to external walls while providing a technically compliant kitchen location.

The applicant needs to address basic design shortfalls so that one problem is not addressed by creating another.

Unsatisfactory.

Natural light and ventilation

Units A3, B2, A7, B7, A11, B13, A15, B19 – The window to the second bedroom is orientated SW within a 4.5m recess. The quality of light access and aspect of this room remains poor.

Units B5, B10, B16, B22 – These units continue to propose excessively long corridors linking the entry door to the living space. This corridor has now been placed in the common area rather than being located internally to the unit (B5). All levels remain unsatisfactory. There remains no natural light source, or access to secondary natural light from an adjacent room. The applicant claims this to be unavoidable in the amended submission. Poor primary design decisions result in highly compromised amenity all of which is avoidable. The living space would benefit from more northern solar access if proposed glazing was more generous to the northern elevation – still not addressed.

There has been no proposed change in the amended scheme to address these previously noted issues.

Lift lobbies

The lift lobbies benefit from being naturally lit, with the windows well placed adjacent to the lifts. It is unclear from the information provided if the glazing is operable. This would be preferable, to allow for natural ventilation. The lobbies remain reasonably efficient in terms of area and sufficiently wide outside the lift.

Services

No risers have been shown for mechanical/electrical or hydraulics despite this being identified in previous assessment. These will be required and could end up in wardrobe/storage cupboards, which will affect the storage calculation totals.

Drawing information

Drawings 103, 104, 403,404 need to have location of B17 and B23 balconies above dotted on plans. The amenity of B11 is further eroded by the apparent overhang of the above balconies as is the under croft of the driveway increased.

Solar access

Unsatisfactory. 18.6% units are orientated SE-SW (maximum allowed under RFDC is 10%). Adequately considered new development on similarly oriented sites is to comply with the requirement for basic solar amenity.

Unit A4, B1 - single aspect units facing SW

B6, B12, B18 – single aspect facing SW with small SE windows within a building recess, offering no visual or solar access.

B11, B17 and B23 – corner units facing SW and SE.

Driveway under-croft

The proposed driveway under-croft is significant. It is doubtful that the proposed windows in the ground level lobby would add any amenity to the convoluted internal corridor as it appears to be wholly within the under croft space facing south.

Further general notes

- *Dimensions should be shown on drawings indicating room sizes and accessible clearances for adaptable units.*
- *Drawings should indicate roof thicknesses for falls and insulation*
- *A reasonable number of kitchens and bathrooms are placed on the external walls, allowing for day light and fresh air to these service rooms. All kitchens, bathrooms and laundries on external walls and upper floors should have natural daylight and operable windows/clerestory windows*
- *Ceiling fans should be provided throughout – applicant to show dotted in plan*
- *Cross ventilation should be able to be maintained at night without compromising security. Sliding doors alone to balconies will not provide this and consideration needs to be given to fanlights, windows or other ventilation options. Window operation should be indicated on the elevations*
- *Operable windows should be provided to the ground floor foyers and the upper lobbies to achieve natural light and ventilation*
- *Ventilating top-lights or skylights should be provided to internal rooms on the top floor, wherever possible.*

Principle 8 - Safety and security

SEPP 65: *good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the 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.*

Satisfactory.

A BCA assessment should be undertaken and the recommendations incorporated into the plans.

Principle 9 - Social dimensions

SEPP 65: *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.*

Further information is still required indicating clearances and furnishing of adaptable units.

Principle 10 - Aesthetics

SEPP 65: *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.

Material use – The proposed façade is formed from brick, painted panels, and painted render. The use of brick is encouraged as forming part of the local character. It would be preferable to use more brick and less fibre cement sheeting for main walls. The fibre cement sheeting should be limited to bays and some infill panels.

There is no colour palette provided, we require this to enable full comment. Colours should be muted and harmonise with the landscape character of the area.

There is insufficient information regarding the balustrading. It is noted as being glass, but there is no note of the framing material/finish. It is noted that the rear elevations have clear glass balustrades. There are recognised privacy issues with the whole balustrade being made of clear glass. It is preferable to offer some level of screening, as on the front elevation.

The recessed uppermost level is noted as having metal cladding. If this were a light colour akin to zinc the visual mass of the building would be reduced.

The elevations will need to be developed in line with planning changes suggested in this report. 1:50 scale sections / part elevations need to be prepared for the main street façades, clearly indicating the palette of materials to be employed.

Conclusion

This assessment recommends the following:

More information is required as follows:

- *room dimensions on the plans*
- *colour specification for external finishes*
- *operable windows noted on elevations*

Material use:

- *increase the amount of brick, decrease the amount of painted fibre cement sheeting*
- *balustrading, provide some level of screening to rear elevations*

Internal layout:

- *some minimal changes to internal layout have been proposed in the amended application*
- *further improvement needs to be made to further rationalise spaces and improve efficiency and liveability of the units*

Natural ventilation:

- *glazing is to be reconfigured to offer more opportunity for cross ventilation whilst maintaining apartment security*
- *It is unclear whether all windows are operable nor whether the area of glazing panels that would be operable would be adequate to cross ventilate.*
- *there has been an over reliance on essentially single orientation units in this proposal. While it is noted that the site does present some challenges to maximise permissible developable area*
- *more careful consideration of the site and built form options during concept design could have resulted in more units achieving better general amenity and avoiding some of the issues that have been created in the proposal*

Landscape

Council's Landscape Assessment Officer, commented on the proposal as follows:

Amended plans have been submitted following a preliminary assessment meeting. The principal amendments include:

- *driveway relocation to the north*
- *increased private courtyards to Units A4 and B1*
- *front of the building lowered by 600mm and entry paths lowered by up to 1.3m*
- *the addition of a disabled lift to the entry structure*

In order to preserve the health and condition of the existing trees on site and the existing landscape character of the site, the proposed driveway relocation and excavation in the front setback is not supported.

Deep soil

The proposal has a compliant deep soil landscape area of 52.45%.

Tree & vegetation removal & impacts

An arboricultural assessment, prepared by Advanced Tree Consulting and dated 2/12/10, has been submitted with the application. Tree numbers refer to this report. The following abbreviations have been used to describe the size of existing trees: height (H), canopy spread(S), diameter at breast height (DBH), tree protection zone (TPZ) and structural root zone (SRZ).

A further addendum to the arborist's report dated 29/04/11, has been submitted with the amended plans, however it does not address the issues raised in the proposed modifications, particularly in regard to Tree 27, 30, 32 and 33. To preserve the health and condition of existing trees and existing landscape character of the site, the proposed driveway relocation and the proposed excavation in the front setback is not supported.

Trees to be retained

Lophostemon confertus (Brushbox) Tree 5/18H, 8S, 900DBH, TPZ 10.8m – to be retained as part of south-eastern communal open space.

Jacaranda mimosifolia (Jacaranda) Trees 14/15H, 8S, 700DBH, TPZ 8.4m, – proposed basement is 4.7m from the tree with a proposed encroachment of 16.34% of the tree protection zone. The private courtyard is 1.7m from the tree. The building is 4.75m from the tree. The canopy will require pruning to provide building and scaffolding clearance. Detailed assessment of the required pruning is to be provided.

Ficus microcarpa 'Hillii' (Hills Weeping Fig) Tree 27/18H, 8S, 850DBH, TPZ 10.2m, extensive surface roots - the proposed basement is 8.4m from the tree, excavation for the entry path is 3.5m from the tree, entry structure is 3m from the tree, driveway 2.2m from the tree. The private courtyard is 7.7m from the tree. This would have a significant impact on the long term health of this tree.

Eucalyptus saligna (Sydney Blue Gum) Tree 30/22H, 8S, 750DBH, TPZ 9.0m – the proposed basement is 9.3m from the tree, excavation for the entry path 4.5m from the tree, the private courtyard is 10.3m from the tree. The proposal would have a significant impact on the long term health of this tree.

Ficus microcarpa 'Hillii' (Hills Weeping Fig) Tree 32/20H, 6S, 420DBH, TPZ 5.1m, is suppressed by Trees 30 and 33 – removal is recommended

Eucalyptus saligna (Sydney Blue Gum) Tree 33/22H, 10S, 1200/680DBH, TPZ 15m – the proposed basement excavation is 10m and 10.3m from the tree, approximately 1 metre of excavation for the entry path is 5m from the tree, the private courtyard is 9.5m from the tree. The proposal would have a significant impact on the long term health of this tree.

Ficus microcarpa 'Hillii' (Hills Weeping Fig) Tree 43/19H, 6S, 600/500DBH, TPZ 9.4m – the proposed basement excavation is 14.8m from this tree.

Eucalyptus saligna (Sydney Blue Gum) Tree 47/22H, 10S, 1100/500DBH, TPZ 14.5m – the proposed basement excavation is 12.8m from this tree.

Ficus microcarpa 'Hillii' (Hills Weeping Fig) Tree 48/22H, 10S, 680DBH, TPZ 8.2m – the proposed basement excavation is 9.5m from this tree.

Cedrus deodara (Himalayan Cedar) Tree 51/23H, 6S, 700DBH, TPZ 8.4m – suppressed by Trees 48 and 50 – the proposed basement excavation is 5.0m from this tree.

Trees outside of proposed works to be retained – Trees 13, 46, 49.

Pruning of trees

The Arborist's report states that pruning of Tree 14 is required to clear the building line. Inadequate details have been provided regarding these works.

Trees to be removed

The proposed removal of the following 22 trees and shrubs is supported:

- 4 environmental weeds: T6, 20, 21, 22: *Cotoneaster* sp. (*Cotoneaster*),
- 8 trees exempt from TPO: T4: *Syagrus romanzoffiana* (*Cocos Palm*), T7: *Schefflera* sp. (*Umbrella Tree*), T8,9,10,11, 12, 29 : *Celtis occidentalis* (*Hackberry*)
- 2 trees in poor condition: T17: *Citharexylum spinosum* (*Fiddlewood*), T44: *Taxodium distichum* (*Swamp Cypress*)
- 8 trees in healthy condition: T15: *Sapium sebiferum* (*Chinese Tallow Tree*) of 14 metres height, T16, T23, T24: *Jacaranda mimosifolia* (*Jacaranda*) of 10 metres height, T34, 35, 36, 37: *Chamaecyparis obtusa* 'Crippsii' (*Golden Cripps Cypress*) of 7-9 metres height

No street trees are proposed to be removed as part of this application.

Landscape plan/tree replenishment

Front setback

*The front setback will compromise primarily existing trees, including three mature *Eucalyptus saligna* (*Sydney Blue Gum*). Proposed underplanting should enhance the Blue Gum High Forest community.*

Communal open space/deep soil area

Useable and well designed communal open space is a requirement under SEPP65 and the NSW Residential Flat Design Code. The development should have at least one area of not less than 450m² of deep soil located at the rear or middle of the site (C-1, 4.1, DCP55).

Two areas of communal open space are located to the east of the building. A separate, more formal communal open space of approximately 200m² is located to the south east of the building consisting of lawn area and seating. The two areas are linked by a path. A larger area of deep soil has been provided in the front setback that is sufficient for the retention of large canopy trees on the site. The development complies with the required provision for a large area of deep soil in the middle or rear of the site.

Disabled access to both areas is via ramps from the entry foyers.

Private open space

Most of the courtyards are provided in the form of elevated decks. The decks to the rear ground floor units are approximately up to 0.7m above existing ground level. A privacy fence is indicated on north-western elevation as being only 1m high. This may be a privacy issue for the ground floor units private open space.

To preserve existing trees and allow sufficient space in side setbacks for effective landscape treatment, the private open space for Units A3, B2, B3 and B4 are to be set back minimum 4 metres from the eastern side setback. The proposed access path is to be relocated to be adjacent to the private open space.

Screen planting

- Northern boundary – *Syzygium ‘ Cascade’* 2m, *Persoonia linearis* (Geebung) 2m, *Glochidion ferdinandi* (Cheese tree) 10m
- Southern boundary – *Syzygium luehmannii* (Small-leaved Lillypilly) 5m, *Elaeocarpus reticulatus* (Blueberry Ash) 5-10m
- Eastern boundary – *Acmena smithii ‘Minor’* 5m, *Dodonea viscosa ‘ Purpurea’* 2m, *Ceratopetalum gummiferum* (NSW Christmas Bush) 4-8m

Tree replenishment

A minimum of 10 trees are required for the site, 7 additional canopy trees are proposed.

BASIX

The BASIX Certificate nominates 636.9m² of common area of landscape that is to be indigenous/low water use species. This area of planting along the Pacific Highway frontage has been nominated on the landscape plan. No landscape areas within private courtyards are nominated as indigenous/low water use species under the BASIX Certificate.

Stormwater plan

An OSD tank is proposed to be located within the driveway draining to the south-eastern corner of the site via an easement along the public right of way. The arborist’s assessment with respect to tree impacts resulting from the proposed stormwater line is considered inconclusive and is therefore unsatisfactory.

Front fence

The existing brick fence along the front of the site is to be retained and made good.

CONCLUSION

The proposal is unacceptable for the following reasons:

1. Tree impacts

The proposed driveway relocation, reduced building levels and associated excavation for the front path in the front setback will impact adversely on the following trees:

Tree 27, 30, 32 and 33.

Tree 14 –Details of proposed tree pruning of Tree 14 is to be provided.

2. Private courtyard encroachment into setbacks

To preserve the following existing tree and allow sufficient space in the side setbacks for effective landscape treatment, the private open space for Unit A3, B2, B3 and B4 is to be setback minimum 4 metres from the eastern side boundary. The proposed access path to be relocated to be adjacent to the private open space.

Tree/Location

Tree 14/ Jacaranda mimosifolia (Jacaranda)/ eastern boundary

3. Insufficient information

Arborist assessment

The arborist's assessment of tree impacts resulting from the proposed stormwater line proposed along Caithness Walk is considered to be inconclusive.

Landscape plans to be amended as follows:

- *The location of proposed fences including the type of fencing and retaining walls as shown on Landscape Detail Plan area is to be identified on landscape plan.*
- *The proposed and existing levels are to be shown to communal open space.*
- *Spot levels to the base of existing trees are required to be shown.*
- *The proposed treatment of the triangle of the private courtyard of Unit A2 at the northern end of slab is to be shown. Similarly, the triangles of the basement to north of Unit A2's kitchen and living room that are above natural ground level conflict with the proposed planting shown on Landscape plan. Top of wall heights are to be shown to all areas of on-slab planting with the proposed soil depths.*

Drawing inconsistencies

Revision numbers to be shown in drawing title block on architectural plans."

Ecology

Council's Ecological Assessment Officer, commented on the proposal as follows:

No assessment has been made within the arborist's report on the impacts of the proposed vehicle shakedown area upon trees 30 & 33-Eucalyptus saligna (Sydney Blue Gum). Trees 30 & 33 comprise part of onsite Blue Gum High Forest, a Critically Endangered Ecological Community listed under the Threatened Species Conservation Act 1995.

An amended arborist's report is required addressing impacts of the shakedown area upon Trees 30 & 33. In the event that the impacts from the shakedown area are determined to significantly affect Trees 30 & 33, an impact assessment (7-part test) in accordance with section 5a of the Environmental Planning & Assessment Act 1979 would be required. The impact assessment would need to be prepared by a qualified ecologist.

Conclusion: The application is not supported and further information is required.

Heritage

Council's Heritage Advisor, commented on the proposal as follows:

"Heritage status

The site is not within a Heritage Conservation Area.

Part of the site (Lot Pt1 DP 340744) at No 585 Pacific Highway, is included in DCP 55 as being within the National Trust UCA No 10 – "Culworth Precinct". Council is required to give consideration to the UCA as defined in the DCP.

The site is within the vicinity of several heritage items including:

- *No 1 Caithness Street*
- *Nos 2, 3, 4, 5, 6 & 7 Stanhope Street*
- *Nos 33 & 39 Marion Street*
- *No 558 Pacific Highway*

National Trust UCA No 10 – "Culworth"

The UCA is a relatively small precinct that includes Culworth Avenue, Marian Street, Caithness Street, the first block of Stanhope Road and part of Killara Avenue. The character of the UCA is changing as a result of rezoning and recent medium density residential flat development. As a result, the UCA has been effectively broken into smaller streetscapes containing heritage items and properties that contribute to the UCA.

UCA No 10 was reviewed by Council in 2005. The following is the statement of significance:

The Killara UCA No 10 is one of the residential precincts that distinguish Ku-ring-gai as a municipality of high-quality streetscapes, exhibiting collections of architecturally notable homes set in fine gardens. The subdivision history of the conservation area remains legible and early estate boundaries are still discernible in the present-day block layout and pattern of development. Many of the area's fine houses are the first built on their sites, and are also the work of notable architects. The pervading treed landscape of Ku-ring-gai is maintained by the remnant and later-planted native trees, bolstered by the garden setting of the houses lining its streets.

Demolition of existing houses

The house at No 573 Pacific Highway is two storey brick residence with a pool. The house at No 585 is built over two lots with a garage and pool on Pt Lot 1 and the dwelling on Lot B. A subdivision plan, dated 1938, indicates that Lot B was re-subdivided with part of its back garden going to the adjoining property at No 4 Caithness Street. The house at No 585 is considered to be contributory to the UCA. However, given rezoning of the site, demolition of the existing structures is acceptable provided photographic archival recording undertaken before any works commence.

DCP 55

Council has prepared specific design objectives and design controls to assist applicants in preparing applications for medium density development within a UCA and within the vicinity of heritage items. Chapter 3.4 and 3.5 of DCP 55 applies.

Heritage Impact Statement HIS)

A HIS was prepared by a recognised heritage consultant. The HIS finds that the existing houses are contributory to the National Trust UCA and that the proposed development accords with the desired future character, is permissible and its impact on the UCA is acceptable.

It is considered that the information in the HIS is helpful in providing an understanding of the site but the document has limited ability to assist Council in making a decision.

Design Controls for development within an UCA– Chapter 3.4 of DCP 55

C – 1 New development should respect the predominant architectural character of the UCA and be designed with reference to it. Major issues are massing, style, roof pitch and complexity of roof shapes, proportions of doors and windows, materials and colours

The UCA is predominantly characterised by Inter War architectural designs and some one and two storey Federation houses. The proposed development is a contemporary design and does not reflect the predominant architectural character of the UCA. The main façade is continuous relieved by entrances and articulated bays. The roof is a low pitched, presenting as a flat roof punctuated by the service cores. Openings are horizontal reinforced with horizontal balustrades. Colours include a range from bark face brick to white painted and rendered masonry walls.

C – 2 Facades well articulated to avoid long continuous facades.

The overall length of the front façade is about 48m which exceeds the maximum façade length of 36m stipulated in DCP 55. There is considerable articulation in the Pacific Highway elevation. No concern has been raised by Council's Urban Designer regarding this issue.

- C – 3 Scale and massing should be proportioned to respect and enhance character of adjacent development.*

This development fills in a site between a 4 storey and 3 storey residential flat building. It is larger in height and length than the adjoining development.

- C – 4 Form and outline of new development to respect existing development, particularly roof forms.*

The roof shape is similar to the site directly adjacent to the north but contrasts with the more traditional form of the building to the south.

- C – 5 Setback should not be located forward of existing development.*

The proposed development is forward to the existing buildings on the site but the front setback complies with the DCP requirement for the zone.

- C – 6 Not orientated across site contrary to existing pattern.*

The development is orientated across 3 existing lots and does not reflect the existing lot pattern or pattern of development.

- C – 7 Development should be good contemporary design sympathetic to existing UCA.*

The design is contemporary and not related to the predominant architectural period in the UCA.

- C – 8 Several building materials to be chosen and colour range should blend with existing development.*

There is a range of different materials and colours chosen.

- C – 9 Colours and building textures to be complimentary to UCA*

The materials and colours are commonly found in the UCA.

- C – 10, 11 & 12.*

Front fences to be compatible with existing and neighbouring sites. If existing fences contribute to overall UCA, they should be retained. If the existing fences are unsympathetic they should be removed and replaced with more appropriate type.

The development proposes repairing/reconstructing part of an existing front fence. It is unclear what is proposed on the southern street frontage as a brick fence is shown on the architectural drawings and a timber fence on the landscape drawings. However, the new fence is set back from the boundary with landscaping in front and is considered to be acceptable.

Development “Within the Vicinity of a Heritage Item” Chapter 3.5 of DCP 55

Design Controls

C – 1 – Setbacks.

The development does not directly adjoin a heritage item and thus the minimum setbacks do not apply to this site.

C- 2 – Screen plantings should achieve screening between sites

The site does not adjoin a heritage item and thus this control does not apply. However, the development proposed retaining many existing trees and proposed new plantings. Council’s Landscape Officer will comment on this aspect of the development.

C – 3 – Respect aesthetic character of heritage items

The proposed development does not dominate existing items due to the physical separation but would be seen in the background and would have minor impact.

C – 4 – Colours should be complimentary to heritage items

Due to the separation of the site from the items, this issue is considered to be of minimal consequence.

C – 5 – Fences should be no higher than the fence of the item.

Does not apply to this site.

C – 6 – Heritage impact statement to discuss impacts on the item including its garden and setting.

The HIS considers impacts on the nearby items to be minor due to the physical separation.

Comments

The proposed building is of a contemporary design and it would relate to the recently completed development to the north and future development in the area rather than the established character of the nearby heritage items and the UCA. The desired future character of the area is for new medium density development to be screened by trees so that the trees provide the dominant impression. New development is to be designed so that the integrity of the nearby items and UCAs is protected.

The site is physically detached from the nearby heritage items. The closest item is No 1 Caithness Street with is an elegant, low scaled Georgina Revival style house set in an established garden characterised by lawn and is separated by adjoining

houses and a roadway. The development would have minimal impacts on “Dormie House” which is located on the opposite side of the Pacific Highway. Dormie House is a 1940s flat development built by the Killara Golf Club for its members and has a 2 to 3 storey scale. The group of items in Stanhope Road are relatively isolated from the subject site and there would be little impact on them.

The UCA has seen a lot of recent change due to rezoning and new development but parts of it are still highly intact, particularly the streetscape in Stanhope Road. Despite being articulated, the proposed development does not comply with a number of the controls in DCP 55, particularly the maximum building length control which results in an excessively long presentation to the Pacific Highway.

Conclusions and recommendations

Demolition of the existing houses is considered acceptable provided archival photographic recording is undertaken.

The site is not within the direct vicinity of a heritage item but part of the site is within a UCA.

There are non-compliances in the design including the building length. More consideration needs to be given to the colours and the design of the building to provide a complementary relationship with the UCA.

Engineering

Council's Senior Development Engineer, commented on the proposal as follows:

The following documents were used for the assessment:

- *Statement of Environmental Effects dated 7 December 2010 prepared by Chapman Planning Pty Ltd;*
- *Architectural plans Revision B dated 29 April 2011 prepared by Mackenzie Architects;*
- *Site Survey Plan 2542 prepared by AC Gilbert and Co.;*
- *Stormwater Plans DA00 to DA05 rev. '2' prepared by Northrop Consulting Engineers;*
- *Traffic and Parking Report Ref 10206 dated 29 April 2011 Ref:10206 prepared by Varga Traffic Planning Pty Ltd;*
- *Landscape Plan dated April 2011 prepared by Conzept Landscape Architects;*
- *Geotechnical Report Ref: 24344Lrpt dated 29 October 2010 prepared by Jeffrey and Katauskas Pty Ltd;*
- *BASIX Certificate No. 338270M, dated 27 April 2011.*

Water management

The stormwater plans submitted detail a system which complies with Council's Water Management DCP No.47 in relation to on-site detention and retention, water quality

and discharge from the site. The design incorporates separate detention and retention tanks comprising 62m³ and 10m³, respectively, which have been designed to Council's site storage requirements and BASIX commitments.

The site has a good natural fall towards the rear. The stormwater design proposes to have the overflow from the storage facility draining freely to Council's existing junction pit located in Caithness Street.

No easement is required over Caithness Walk as it is a road reserve and not community land. When the additional arborist's report regarding this work is received, Council's Landscape officer will comment on the proposed pipe laying.

A basement pump-out system with minimum storage capacity of approx. 3 cubic metres has been provided. Dual alternative pumps have been provided with the rising main directed to the on-site detention tank. It is preferable that the connection be downstream of the detention tank. This could be conditioned.

A 10m³ rainwater tank within basement carpark 1 is proposed, which is to have the overflow pipeline suspended /strapped along the underside of the ground floor slab to drain to the OSD system. The design in principle is considered an acceptable approach.

The BASIX commitments are for 10,000 litres of rainwater retention, collecting runoff from at least 400 square metres of roof area, with reuse for toilet flushing in Units A1 to A10.

It is noted on the plan that the captured stormwater is to be treated by using a proprietary pollution device downstream from the detention system prior to connection into Council's public drainage system. Details could be shown on the Construction Certificate plans.

The stormwater disposal system for the site is considered a satisfactory system for this type of development.

Traffic generation

The traffic report submitted predicts a traffic generation potential of approximately 13 vehicle trips per hour during peak periods.

According to the traffic generation rates nominated by the RTA Guidelines, the development would generate potential of approximately 3 peak hour vehicle trips which will result in an increase in the level of traffic generated by the site by approximately 10 vph. The study justifies that the projected increase in traffic activity is minimal and would not have any unacceptable traffic implications in terms of road network capacity.

Vehicle access and accommodation arrangements

The site has access from the Pacific Highway only.

The proposed development comprises 43 units. The site is greater than 400m from the Killara railway station hence under Ku-ring-gai Planning Scheme Ordinance (KPSO), the following is required:

- 1 car space is provided per dwelling and, if the site is not within 400m of a pedestrian entry to a railway station, 1 additional space is provided for each dwelling with 3 or more bedrooms, and*
 - At least 1 additional visitor car space is provided for every 4 dwellings, or part thereof, that will be on the site.*
-
- 16 x 1 bedrooms- 16*
 - 23 x 2 bedrooms - 23*
 - 4 x 3 bedrooms – 8*
 - Total residential = 43*
 - Visitors - $43/4 = 11$*

The plans submitted show a total of 58 cars, 47 resident spaces (including 5 disabled spaces) and 11 visitor spaces (including 1 disabled space and 1 loading bay) in a two-level basement carparking area which satisfies Council's requirement for 58 spaces.

Vehicle access to the basement is proposed via a new 6m wide entry / exit driveway located towards the southern end of the Pacific Highway site frontage. The RTA require the design of the gutter crossing to be in accordance with their requirements, which will probably mean a splay at the kerblane. The driveway gradients comply with Australian Standard 2890.1 (2004) "Off-Street car parking" as do the dimensions of the parking bays, ramp grades and aisle widths.

It is recommended that the disabled parking spaces (between No. 24, 25 and 26, 27) be designed as having 2 parking spaces with a common shared area in accordance with Section 2 'Parking space layout and access' of Australian Standards AS 2890.6:2009 'Off-street parking for people with disabilities'.

Waste collection

The layout of the basement allows a garbage truck to enter and depart the garbage/room recycle storage area located on basement 1. The loading bay/visitor space is acceptable to be used as a turning area. The driveway grade of 20% maximum is suitable for the small waste collection vehicle. A clear head height of 2.6m has been provided to access the basement area as per Councils DCP No.40.

Construction management

The RTA requested that an amended Construction Traffic Management Plan be submitted prior to determination of the development application. The traffic report by Varga Traffic Planning now includes a Section 5. Construction Traffic Management Plan, which appears to have addressed the RTA concerns (subject to further comment from RTA on the amended plans).

A final CTMP would have to be submitted prior to commencement of any works on the site.

Geotechnical investigation

The applicant's geotechnical report is a review of available subsurface information from nearby sites and provides recommendations on excavation methods, retaining structures, ground slabs and footings..

The finished floor level for the basement carpark will result a maximum of about 6.5 metres of excavation. The report has been based on nearby subsurface investigations carried out on 26-30 Marian Street and 32 Marian Street. The subsurface conditions generally comprise of variable fill and residual silty clays and weathered shale bedrock at depths to about 6m with possible groundwater to be encountered within the depth of the excavation.

Conclusion

There are no engineering objections to the proposed development.

STATUTORY PROVISIONS

State Environmental Planning Policy (Infrastructure) 2007

The property has a frontage to a classified road, being the Pacific Highway, and consideration is required pursuant to Division 17 Clause 101 of the SEPP. The objectives of Clause 101 of the SEPP states:

101 Development with frontage to classified road

(1) The objectives of this clause are:

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

*(ii) the emission of smoke or dust from the development, or
(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The proposal is consistent with the objectives of this clause. The application is supported by a traffic and construction management plan to ensure the operation and function of the Pacific Highway is not compromised during construction of the development.

The site does not have an alternate street frontage. The vehicular access is provided in a similar position to the existing driveway access to the property. A traffic impact assessment has been considered by Council's Development Engineers and no concerns are raised regarding traffic impact.

The proposal is also supported by an acoustic report, prepared by Vipac Engineers, which indicates that, subject to mitigation measures, the noise levels to dwellings will meet the requirements contained within clause 87(3) of the SEPP. However, the mitigation measures compromise the internal amenity of the units. The units predominantly fronting the Highway are single aspect (A8, B6, B11 typical and to a lesser extent A1 typical) which results in 19 of the 43 units proposed having noise issues. This is unacceptable and occurs as a result of poor design. These units rely upon air conditioning/mechanical ventilation to maintain their amenity as it is required for windows to be closed to meet the noise levels stipulated in clause 87(3) of the SEPP.

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of SEPP 55 require consideration of the potential for a site to be contaminated. The subject site has a history of residential use and, as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development RFDC)

SEPP65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing 'good design'.

Clause 50(1A) of the EPA Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation has been submitted and is satisfactory.

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9-18 and Council is required to consider the matters contained in the publication "Residential Flat Design Code".

As such, the following consideration has been given to the requirements of the SEPP and Design Code.

Residential Flat Design Code Compliance Table

Pursuant to Clause 30(2) of SEPP 65 in determining a development application for a residential flat building the consent authority is to take into consideration the Residential Flat Design Code (RFDC). The following table is an assessment of the proposal against the guidelines provided in the RFDC.

	<i>Guideline</i>	<i>Consistency with Guideline</i>
PART 02 SITE DESIGN		
Site Configuration		
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	YES
<i>Open Space</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent.	YES
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² .	YES
<i>Planting on Structures</i>	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes: Medium trees (8 metres canopy diameter at maturity) - minimum soil volume 35 cubic metres - minimum soil depth 1 metre - approximate soil area 6 metres x 6 metres or equivalent	NO Refer to discussion below.
<i>Safety</i>	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	YES
<i>Visual Privacy</i>	Refer to Building Separation minimum standards - up to four storeys/12 metres - 12 metres between habitable rooms/balconies	NO Refer to discussion below.

	<ul style="list-style-type: none"> - 9 metres between habitable/balconies and non-habitable rooms - 6 metres between non-habitable rooms - five to eight storeys/up to 25 metres - 18 metres between habitable rooms/balconies - 13 metres between habitable rooms/balconies and non-habitable rooms - 9 metres between non-habitable rooms 	
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	YES
	<p>Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	YES
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	YES
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	NO Refer to discussion below.
PART 03 BUILDING DESIGN		
Building Configuration		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	YES
	The back of a kitchen should be no more than 8 metres from a window.	YES
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	NO Refer to discussion below.
	<p>If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> - 1 bedroom apartment 50m² - 2 bedroom apartment 70m² - 3 bedroom apartment 95m² 	NO Refer to discussion below.
<i>Apartment Mix</i>	Include a mixture of unit types for increased housing choice.	YES
<i>Balconies</i>	<p>Provide primary balconies for all apartments with a minimum depth of 2 metres.</p> <p>Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.</p>	YES

<i>Ceiling Heights</i>	<p>The following recommended minimum dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL).</p> <ul style="list-style-type: none"> - in residential flat buildings or other residential floors in mixed use buildings: - in general, 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. 	YES
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	NO Refer to discussion below.
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	YES
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	YES
<i>Storage</i>	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> - studio apartments 6m³ - one-bedroom apartments 6m³ - two-bedroom apartments 8m³ - three plus bedroom apartments 10m³ 	NO Refer to discussion below.
<i>Acoustic Privacy</i>	Ensure a high level of amenity by protecting the privacy of residents within residential flat buildings both within the apartments and in private open spaces.	NO Refer to discussion below.
Building Amenity		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter.	YES
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.	NO Refer to discussion below.
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	YES
	Sixty percent (60%) of residential units should be naturally cross ventilated.	Yes However, refer to discussion below regarding merit.
Building Performance		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES

<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	YES
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Planting on structures

Insufficient details are provided on the landscape plan to establish the soil depths above the basement slab.

Visual privacy

The proposal at the fifth storey does not provide the required 18 metres separation between habitable rooms and balconies. The proposal is set back a minimum of 14.9 metres from the property to the north (32 Marian Street), 12.6 metres to 26 – 30 Marian Street and 12 metres to the property to the south (571 Pacific Highway).

There is concern regarding the spatial separation at the top storey and specifically with respect to Apartment A17's balcony. The plans nominate a planter box along the northern side of the balcony. No details are provided regarding the proposed planting or to what height. The apartment also contains a window associated within Bedroom 2 that is orientated towards the shared boundary with 32 Marian. However, given the use of the room it is not considered to result in any adverse impact upon the adjoining residential flat building.

Similarly, a planter box is proposed along the full length and width of the balcony associated with Apartment B25 adjoining 571 Pacific Highway. There is concern regarding the inadequate separation distance. At this height, the separation distance appears reduced and therefore it is considered necessary to provide the compliant separation. A site inspection has been undertaken of 26 – 30 Marian Street in relation to the adjoining residential flat building at 32 Marian Street and the subject site. There is no vegetation of a height comparable to provide further screening between properties. There will be limited privacy available to occupants at this height given the nature of existing surrounding development and the future development of properties fronting Caithness Street. Better design consideration is required to provide visual privacy. A planter box is not an adequate solution in this circumstance.

Apartment layout

The proposal has been designed with open plan kitchens, dining and living rooms. However, the apartment layouts give rise to concerns regarding internal amenity in relation to size, sunlight and ventilation.

The proposal utilises long building depths which compromises the internal amenity of 16% of units being A3, B2, B3, B4 (typical floors G, L1, L2 and L3) which could be better improved through redesign. The proposal has a depth of 17 metres and proposes an opening to the second bedroom within a 4.5 metres recess in order to achieve cross ventilation. This is an unacceptable design response and occurs due to poor layout design.

The proposal includes 15 one bedroom units equating to 34.8% of the development. Nine units (A4, B3, B4, B8, B9, B14, B15, B20 and B21) of the proposed single aspect units are 50m² in size. As these apartments are single aspect their amenity is compromised in terms of solar access, acoustic privacy and cross ventilation. The rules of thumb state that buildings not meeting the minimum standards listed above (which requires single aspect one bedroom units to have an internal area of 63.4m²) must demonstrate how satisfactory daylight and natural ventilation can be achieved. It is not considered appropriate to permit a reduced floor area for an apartment with already compromised internal amenity.

Ground floor apartments

The control requires separate entries to ground floor units. The proposed ground floor units A2, A4 and B1 are not provided with separate entries. Apartments A4 and B1 are centrally located and are positioned in close proximity to the main pedestrian entrances into the building. Apartment A2 is located in the north-eastern corner where there is a change in topography and is also located closest to the rear pedestrian entrance to the communal open space. On merit, this element is considered acceptable.

Storage

The proposal does not provide the minimum storage areas to Units A10, B15, A6, A14 and this is considered unsatisfactory.

Building amenity and acoustic privacy

The rules of thumb limit the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. The proposal incorporates 8 apartments, A4, B1, B6, B12, B18, B11, B17 and B23 with a southerly orientation (SE/SW) which equates to 18.6% and therefore does not comply. This is unacceptable for a new development and occurs as a result of the poor internal layout design which does not optimise solar amenity to all living rooms with proposed recessed bedroom/living room configurations.

The proposal has not been designed to address the noise source of the Pacific Highway other than through the reliance upon mechanical equipment. An unacceptably high proportion of units are single aspect that are exposed to the Highway (A8, B6, B11 typical and to a lesser extent A1). This equates to 44% or 19 of the 43 units proposed.

Additionally, there is concern regarding acceptable cross ventilation given the acoustic report requires all windows and doors to be closed in order to meet acceptable acoustic levels within apartments. The submitted plans do not identify which windows are openable. Based on the accompanying acoustic report, it is considered that the windows will not be openable to meet acoustic standards and would therefore fail to satisfy the cross ventilation requirements. The acoustic report requires mechanical ventilation to apartments as the doors and windows must be kept shut. This is contrary to the purpose of requiring a minimum of 60% of units to be naturally cross ventilated.

The design relies upon excessively long corridors linking the entry door to the living spaces of units B5, B10, B16 and B22. These corridors have no natural light or access to a secondary natural light source from an adjacent room which is required by the control.

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

A valid BASIX certificate 338270M dated, 27 April 2011, has been submitted.

SREP (Sydney Harbour Catchment) 2005

Matters for consideration under SREP 2005 include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal is not in close proximity to, or within view, of a waterway or wetland and is considered satisfactory.

KU-RING-GAI PLANNING SCHEME ORDINANCE (KPSO)

Zoning, permissibility and aims and objectives for residential zones

Under Clause 25B (definitions) of KPSO – LEP 194, a residential flat building is defined as ‘*a building containing three or more dwellings*’. The residential flat buildings proposed on the site satisfy this definition and are permissible with consent. The development satisfies the zone aims and objectives under clause 25C and 25D of the KPSO.

Part IIIA Clause 25A

Under Clause 25B (definitions) of KPSO – LEP 194, a residential flat building is defined as ‘*a building containing three or more dwellings*’. The residential flat buildings proposed on the land zoned 2(d3) is permissible with consent.

The development is considered to be contrary to the aims and objectives under Clause 25C and 25D of the KPSO for the following reasons:

- inadequate information has been submitted to determine the proposed impact upon significant vegetation on site. In this regard, the natural environment is not protected as a result of the proposed development
- the proposal does not protect existing significant trees on site within setback areas
- the proposal does not achieve a high quality urban design and architectural design
- the development results in poor residential amenity as a result of the number of single aspect south facing units, poor acoustic amenity and cross ventilation

COMPLIANCE TABLE		
DEVELOPMENT STANDARD	PROPOSED	COMPLIES
Site area (min): 1200m ²	2995.2m ²	YES
Deep soil (min): 50% (1497.6m ²)	52.45%	YES
Street frontage (min): 30m	59.9m	YES
Number of storeys (max): 4 +	5 storeys	YES

COMPLIANCE TABLE		
DEVELOPMENT STANDARD	PROPOSED	COMPLIES
top storey (maximum of 5 storeys)		
Site coverage (max): 35% (1048.32m ²)	34.9% (1048.25m ²)	YES
Top floor area (max): 60% of level below	517.56m ² /862.35m ² (60%) top storey	YES
Storeys and ceiling height (max): 5 storeys and 13.4m	5 storeys and 13.4m	YES
Car parking spaces (min): <input type="checkbox"/> 11 (visitors) <input type="checkbox"/> 47 (residents) <input type="checkbox"/> 58 (total)	11 47 58	YES YES YES
Zone interface setback (min): 9m	6m to 2(b) residential	NO
Manageable housing (min): 10% or 5 units	5 units nominated (A7, B7, A11, B13 and A15)	YES
Lift access: required if greater than three storeys	All lifts service all floors including basement levels.	YES

Clause 25L zone interface

The proposal is set back 6 metres from Caithness Walkway which is zoned Residential 2(b). The development standard requires a 9 metres setback at the third and fourth storeys at the zone interface. The applicant has submitted a SEPP 1 objection seeking variation to the development standard, which is considered below.

whether the planning control in question is a development standard

The setback requirement at the zone interface is a development standard.

the underlying objective or purpose behind the standard

The objectives and purpose of cl25L is expressed in Clause 25L(1) which states the objectives of the clause is to provide a transition in the scale of buildings between certain zones.

whether compliance with the development standard is consistent with the aims of the policy and, in particular, whether compliance with the development standard hinders the attainment of the objectives specified under Section 5(A)(i), (ii), (iii) and (iv) of the Environmental Planning and Assessment Act 1979

The applicant indicates that *strict compliance with the development standard in this particular instance would prevent the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act because:*

The development proposal meets the objectives of the zone interface. The separation to the adjoining residential flat building of 9.6 metres provides a transition in scale between the development proposal and the 3 storey residential flat building on the southern side of Caithness walkway.

The 6 metres setback to the boundary accommodates sufficient area for landscaping with Blueberry Ash and Lilly Pilly trees on the boundary having a maturity height of 5 – 25 m contributing the transition between buildings.

The zone transition is unusual in this circumstance in that the property to the south zoned Residential 2(b) is a public walkway which, although subject to the zone transition provisions, does not contain any buildings and permits an additional separation from the property at 571 Pacific Highway which contains a three storey residential flat building. The proposal whilst technically breaching the development standard, is considered to achieve the underlying planning objective of the standard.

whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The applicant considers that it is unreasonable and unnecessary in the circumstance of the case to comply with the development standard for the following reasons:

There is adequate separation to the 3 storey residential flat building at 571 Pacific Highway to ensure a suitable transition in development is achieved between buildings and zones.

The south-east elevation of the building is set back 9.6m from boundary with 571 Pacific Highway , zoned Residential 2(d) and meets the zone interface control contained in clause 25L(2) of LEP 194.

Caithness walkway on the southern boundary of the subject site provides separation between the Residential 2(d3) and 2(d) zones and the separation achieves transition in building form and scale.

The development proposal has a minimum 6m setback to the southern boundary with the deep soil planning area accommodating the planting of screen trees (Blueberry Ash and Lilly Pilly) achieving a landscape buffer on the subject site, between the zones.

It is considered unreasonable and unnecessary in the circumstance to require a 9 metres separation from the Caithness Street Walkway as the proposal does not result in any adverse impact upon this space. The purpose of the increased separation is to provide a transition in scale between built form. The walkway is unlikely to be developed for built form and provides for additional separation from the nearest residential development at 571 Pacific Highway.

whether the objection is well founded

For the reasons indicated above it is considered that the objection is well founded.

Clause 33 – Aesthetic appearance

The subject site is fronts the Pacific Highway which is a main road. The clause requires consideration of the aesthetic appearance of the proposed building when viewed from the Pacific Highway. There is concern regarding the aesthetics of the proposed development and, in particular, a lack of detail regarding materials and finishes. The proposal cannot be supported without further information and more comprehensive design consideration.

Clause 61E – Development in the vicinity of heritage items

The site is in the vicinity of 1 Caithness Street, 39 Marian Street and the Killara Golf Course which are listed heritage items. The application has been considered by Council's Heritage Advisor who has raised no significant concerns regarding the proposed development and impact upon these heritage items. The proposal is therefore considered satisfactory in this respect.

POLICY PROVISIONS

Development Control Plan No. 55 - Railway/Pacific Highway Corridor & St Ives Centre

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 4.1 Landscape design:		
Deep soil landscaping (min) 150m ² per 1000m ² of site area = 450m ²	450m ²	YES
No. of tall trees required (min): 10 trees	7 new trees proposed plus existing compliant	YES
Private outdoor space differentiation Up to 1.2m solid wall with at least 30% transparent component	Lack of level and fencing detail as there may be privacy issues between private open spaces	NO
Part 4.2 Density:		
Building footprint (max): 35% of total site area	34.9% (1048.25m ²)	YES
Floor space ratio (max): 1.3:1	1.29:1 (3860.82m ²)	YES
Part 4.3 Setbacks:		
Street boundary setback (min): 10 - 12 metres	10m – 12m from Pacific Highway	YES
<40% of the zone occupied by building footprint) (42.02m ²)	37% (39.01m ²)	YES
Side and rear boundary setback (min):		

COMPLIANCE TABLE		
Development control	Proposed	Complies
6m	6m from northern, eastern and southern boundaries	YES
Setback of ground floor courtyards to street boundary (min): 8m	10m	YES
% of total area of front setback occupied by private courtyards (max): 15% (m ²)	<15%	YES
Part 4.4 Built form and articulation:		
Façade articulation: Wall plane depth >600mm	>600mm	YES
Wall plane area <81m ²	<81m ²	YES
Built form: Building width < 36 metres	48 metres	NO
Balcony projection < 1.2 metres	1.2metres	YES
Part 4.5 Residential amenity		
Solar access: >70% of units receive 3+ hours direct sunlight in winter solstice >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice <15% of the total units are single aspect with a southern orientation	>70%	YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4: 12 metres b/w habitable rooms	The principal common open space located to the north east of the development will receive 3+ hours of direct sunlight in the winter solstice 18%	YES NO
5th Storey: 18 metres b/w habitable rooms	<u>Ground Floor</u> Min. 12 metres 14.9m and 12.6m to north 12m to south	YES NO NO
Internal amenity: Habitable rooms have a minimum floor to ceiling height of 2.7 metres - Non-habitable rooms have a minimum floor to ceiling height of 2.4m	>2.7m >2.7m	YES YES

COMPLIANCE TABLE		
Development control	Proposed	Complies
<ul style="list-style-type: none"> - 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom - 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms 	All bedrooms have 3 metres minimum dimension	YES
Single corridors:	All bedrooms have 3 metres minimum dimension	YES
<ul style="list-style-type: none"> - serve a maximum of 8 units - 1.8m wide at lift lobbies 	2 lifts	YES
Outdoor living:	1.8m at lift	YES
Ground floor apartments have a terrace or private courtyard greater than 25m ² in area	>25m ²	YES
Balcony sizes: <ul style="list-style-type: none"> - 10m² – 1 bedroom unit - 12m² – 2 bedroom unit - 15m² – 3 bedroom unit NB. At least one space >10m ² primary outdoor space has a minimum dimension of 2.4m	>10m ² for 1 bedroom >12m ² for 2 bedrooms and >15m ² for 3 bedrooms	YES YES
Common Open space (30% Of the site area)	>2.4 metres	YES YES
Private open space adjoining common open space not to be enclosed with high solid fences	>30%	YES
Part 4.7 Social dimensions:		
Visitable units (min): 70%	>70%	YES
Housing mix: Mix of sizes and types	16 x 1 bedroom, 23 x 2 bedroom and 4 x 3 bedroom units	YES
Part 5 Parking and vehicular access:		
Car parking (min): 47 resident spaces 11 visitor spaces 58 total spaces	47 spaces 11 spaces 58 spaces	YES YES YES

Landscape design

There is considerable concern over the lack of detail submitted and the potential impacts occurring within the development on significant vegetation. The proposal does not provide adequate details regarding levels between the courtyards and proposed units. There is concern over a possible resultant privacy impact between apartments at the rear of the building.

The proposed location of the driveway and excavation within the front setback is not considered appropriate. The proposed excavation is likely to result in adverse impacts upon Trees 27, 30, 32 and 33. Tree 30 and 33 are significant Sydney Blue Gums and excavation for the entry path is within 5 metres of these trees which would have long term impacts upon the health of these trees.

The landscape plan does not provide sufficient spot levels and details to determine the relationship between private open spaces and ground level. Inadequate detail is provided regarding fencing to determine whether satisfactory levels of privacy are maintained between apartments.

Building width

The proposed building has a width of 48 metres which exceeds the control requirement of 36 metres. Section 4.4 of DCP 55 addresses the requirements of SEPP 65 in terms of Principle 3: Built Form and Principle 10: Aesthetics. The proposal is considered to be generally satisfactory with respect of the proposed built form. However, some issues of amenity arise from internal configuration within the proposed built form.

There is concern over the proposed façades and use of brick, painted panels and painted render. The use of fibre cement is considered excessive and more brick work on the main walls of the façade is preferable as this is consistent with the local character. The proposal utilises grey and white toned finishes which is not considered appropriate. Muted colours which harmonise with the landscape character considered to result in a better outcome in the streetscape. The façade does utilise recessed elements to provide a break in the massing of the building width which, combined with high quality materials and good landscaping, would ensure an appropriate presentation to the streetscape. The materials are presently considered unacceptable but the building width can be supported on merit.

Visual privacy

The proposal at the fifth storey is required to provide an 18 metres separation between habitable rooms within adjoining properties. The proposal is set back a minimum of 14.9 metres to the property to the north (32 Marian Street), 12.6 metres to 26 – 30 Marian Street and 12 metres to the property to the south (571 Pacific Highway) and does not comply with the control requirement. The proposal is not considered acceptable in relation to visual privacy at the top storey.

Solar access

The control requires the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 15% of the total units proposed. The proposal incorporates 8 apartments, A4, B1, B6, B 12, B18, B11, B 17 and B 23 with a southerly orientation (SE/SW) which equates to 18.6% and does not comply. This is unacceptable for a new development and occurs as a result of the poor internal layout design which does not optimise solar amenity to all living rooms with the proposed recessed bedroom/living room configurations.

Development Control Plan No. 31 Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

Development Control Plan No. 40 - Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

Development Control Plan No. 43 - Car Parking

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

Development Control Plan No.47 - Water Management

Matters for consideration under DCP 47 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

Section 94 Plan

If approved, the development would be subject to a Section 94 Contribution. However, the proposal is recommended for refusal.

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and are deemed to be unacceptable.

SUITABILITY OF THE SITE

The site is zoned 2(d3). The proposed development is not considered suitable for the site, as the development results in multiple design issues and has inadequate information. The proposal is not considered to be suitable for the subject site.

ANY SUBMISSIONS

The matters raised in the submissions have been addressed in this report.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and policy provisions and is deemed to be unacceptable. On this basis, the proposal is considered to be contrary to the public interest.

CONCLUSION

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

The proposal is supported by a SEPP 1 objection to the zone interface standard which is considered to be well founded. The proposal however, is not considered satisfactory and inadequate information has been submitted to undertake a full assessment of various critical aspects of the proposal. There are serious design concerns in relation to apartment layout, poor resultant internal amenity, poor acoustic privacy, inadequate cross ventilation and an excessive amount of undersized single orientated south facing apartments. The proposal includes excavation within the front setback and associated works which result in an impact upon significant vegetation. Given these issues, the proposal is unsatisfactory and accordingly, it is recommended for refusal.

RECOMMENDATION

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, refuse Development Application DA0925/10 for demolition of existing dwellings and construction of a residential flat building comprising 43 units, basement car parking, landscaping and associated works on land at 573 – 585 Pacific Highway, Killara for the following reasons:

RESIDENTIAL AMENITY

- 1. The orientation of the units in the proposal is in breach of the amenity provisions set out in the RFDC (page 85), which limit the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.**

Particulars:

- (a) The development includes eight (8) apartments A4, B1, B6, B 12, B18, B11, B 17 and B 23 which are single aspect south facing apartments. The Residential Design Flat Code and Part 4.5.1 Solar Access of DCP 55 C-4 states no single aspect units should have a southern orientation. 18.6% of the apartments in the proposal have a southern orientation which results in poor residential amenity. This is unacceptable for a new development and occurs as a result of the poor internal layout design which does not optimise solar amenity to all living rooms with the proposed recessed bedroom/living room configurations.
- (b) The development is contrary to the aim of Part IIIA set out in Clause 25C(2)(g) of the KPSO which requires development to achieve a high level of residential amenity in building design for the occupants of the building through solar access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.

ACOUSTIC IMPACT

2. The proposal has not been designed to adequately address the noise source of the Pacific Highway and results in poor internal amenity in relation to acoustic privacy and cross ventilation.

Particulars:

- (a) The proposal has not been designed to address the noise source of the Pacific Highway other than through the reliance upon mechanical equipment. The proposed relies upon single aspect units which front the highway (A8, B6, B11 typical and to a lesser extent A1) which results in 19 of the 43 units proposed (44%) having to deal with noise issues. The development is contrary to the objectives of the RFDC (page 83).
- (b) The development indicates that the 60% cross ventilation requirement of the RFDC (page 87) is satisfied. The acoustic report prepared by Vipac Engineers requires windows and doors to be shut in order for complaint noise levels within apartments and requires reliance upon air conditioning and mechanical ventilation. This is contrary to the purpose of requiring a minimum of 60% of units to be naturally cross ventilated.
- (c) The development relies upon air conditioning/mechanical ventilation for amenity to be consistent with the noise levels stipulated in clause 87(3) of the SEPP Infrastructure (2007).
- (d) The development is contrary to the aim of Part IIIA set out in Clause 25C(2)(g) of the KPSO which requires development to achieve a high level of residential amenity in building design for the occupants of the building through solar access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.

VISUAL PRIVACY

3. The development provides inadequate spatial separation at the top storey which results in visual privacy impacts on occupants of the development and of surrounding properties. This is contrary to the building separation requirements of the RFDC (page 29), which requires a 18 metres separation at the fifth storey.

Particulars:

- (a) The proposal is set back a minimum of 14.9 metres to the property to the north (32 Marian Street), 12.6 metres to 26 – 30 Marian Street and 12 metres to the property to the south (571 Pacific Highway). The Residential Design Flat Code and Part 4.5.2 Visual Privacy of DCP 55 C-2 refers 18 metres separation between habitable rooms. The separation provided is inadequate and results in amenity impacts upon surrounding properties and future occupants.
- (b) The development is contrary to the aim of Part IIIA set out in Clause 25C(2)(g) of the KPSO which requires development to achieve a high level of residential amenity in building design for the occupants of the building through solar access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.

APARTMENT LAYOUT

- 4. The proposal has been designed with open plan kitchens, dining and living rooms. The apartment layouts raise concern regarding internal amenity in relation to size, sunlight and ventilation and are contrary to the requirements of the RFDC.**

Particulars:

- (a) The proposal utilises long building depths which compromises the internal amenity of 16% of units being A3, B2, B3, B4 (typical floors G, L1, L2 and L3). The proposal has a depth of 17 metres and proposes an opening to the second bedroom within a 4.5 metres recess in order to achieve cross ventilation. This is an unacceptable design response and occurs due to poor layout design. The proposal is contrary to the RFDC (page 69).
- (b) The proposal includes 15 x 1 bedroom units equating to 34.8% of the development. Nine units (A4, B3, B4, B8, B9, B14, B15, B20 and B21) of the proposed single aspect units are 50m² in size. These apartments have compromised acoustic privacy, poor solar access and cross ventilation. It is not considered appropriate to permit a reduced floor area for an apartment with compromised internal amenity.
- (c) The design relies upon excessively long corridors linking the entry door to the living space of units B5, B10, B16 and B22. These corridors have no natural light or access to a secondary natural light source from an adjacent room which is required by the RFDC (page 79).
- (d) The proposal does not provide with the minimum storage areas to Units A10, B15, A6, A14 and is considered unsatisfactory given it is a new development and contrary to the RFDC (page 82).
- (e) The development is contrary to the aims of Part IIIA set out in Clause 25C(2)(g) of the KPSO which requires development to achieve a high level of residential amenity in building design for the occupants of the building through solar access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.
- (f) The development is contrary to the aim of Part IIIA set out in Clause 25C(2)(c) of the KPSO which requires high quality urban and architectural design.

ECOLOGICAL IMPACT

- 5. No assessment has been made in the arborist's report on the impacts of the proposed vehicle shake down areas on Trees 30 and 33 both of which are Eucalyptus saligna (Sydney Blue Gum).**

Particulars:

- (a) Trees 30 and 33 are Eucalyptus saligna (Sydney Blue Gum) and comprise part of the onsite Blue Gum High Forest a Critically Endangered Community listed under the Threatened Species Conservation Act 1995.

- (b) A flora and fauna assessment has not been prepared to assess the impacts of the current proposal on threatened species, endangered populations and endangered ecological communities (7-part test).
- (c) No impact assessments has been completed in accordance with section 5A of the *Environmental Planning and Assessment Act 1979* (the seven-part test) for those threatened species listed under the Threatened Species Conservation Act 1995 that are likely to be impacted upon as a result of the proposal.

TREE IMPACTS

- 6. The arborist's report has not adequately addressed the tree impacts from the proposed stormwater line along Caithness Walk and the proposed excavation within the front setback.**

Particulars:

- (a) The proposed driveway location, reduced building levels and associated excavation within the front of the site is not supported as it results in an impact upon the health and condition of the existing trees 27, 30, 32 and 33.
- (b) No details have been provided regarding the required pruning of Tree 14.
- (c) The OSD tank is proposed to be located within the driveway, draining to the south-eastern corner of the site via an easement along Caithness Street Walkway. The arborist's assessment of tree impacts resulting from the proposed stormwater line is inconclusive.
- (d) The development is contrary to the aim of Part IIIA set out in Clause 25D(2)(b) of the KPSO which encourages protection of existing trees within setback areas and (d) which requires adverse impacts from car parking to be minimised on the landscape character.

LANDSCAPE PLAN AMENDMENTS

- 7. The landscape plan is considered unacceptable and further design changes are required to provide increased setbacks, address inconsistencies with architectural plans and provide further level details in order to enable an accurate assessment of the proposal.**

Particulars:

- (a) The private open space areas of Apartments A3, B2, B3 and B4 are to be set back a minimum of 4 metres from the eastern side boundary. The proposed access pathway is to be relocated to be adjacent to the private open space.
- (b) The proposed location of fence types and retaining walls as shown on the Landscape Detail Plan are to be identified on the Landscape Plan.
- (c) The proposed and existing levels are to be shown to the communal open space. Spot levels to the base of existing trees are to be shown.
- (d) The proposed treatment of the triangle of private courtyard of Unit A2 at the northern end of the slab is to be shown. Similarly, triangles of the basement to the north of Unit A2 kitchen and living room that are above natural ground level conflict with the proposed planting shown on the Landscape Plan. Top of wall

heights are to be shown to all areas of on-slab planting with proposed soil depths.

INADEQUATE INFORMATION

Particulars:

- (a) Room dimensions are required to be shown on the architectural plans.
- (b) Colour specification is required to be shown on the architectural plans.
- (c) The architectural plans are to notate which windows are operable to determine compliance with cross ventilation requirements of the RFDC and should be consistent with the acoustic engineer's recommendations.
- (d) Further information is required to indicate clearances and furnishing of adaptable units.
- (e) No risers have been shown for mechanical/electrical or haudraulics.
- (f) Drawings 103, 104, 403 and 404 needs to have the location of B17 and B23 baclonies above dotted on plans.

PUBLIC INTEREST

The proposed development is contrary to the aims and objectives of Clause 25C(2)(b), (c), (g) and 25D(2)(b) and (d) of the KPSO and LEP 194. The proposal is contrary to the public interest.

Particulars:

- (a) The proposal does not protect the significant Blue Gum on site and results in unacceptable tee impacts. The proposal is contrary to Clause 25C(2)(b) of the Ku-ring-gai Planning Scheme Ordinance.
- (b) The development is contrary to the aim of Part IIIA set out in Clause 25C(2)(g) of the KPSO which requires development to achieve a high level of residential amenity in building design for the occupants of the building through solar access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.
- (c) The proposed driveway location and excavation within the front setback results in detrimental impacts upon significant vegetation and is contrary to Clause 25D(2)(b) of the KPSO which requires the protection of existing trees within setback areas.
- (d) The development is contrary to the public interest for the reasons identified in this Notice of Determination. The proposal is contrary to Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979.

K Munn
**Executive Assessment
Officer– South**

C Swanepoel
**Manager
Development Assessment
Services**

M Miocic
**Director
Development & Regulation**

Attachments: Locality Map
 Zoning Extract
 Site analysis
 Basement plans
 Floor plans
 Elevations
 Sections
 Landscape Masterplan
 SEPP 1 Objection