
573 – 585 PACIFIC HIGHWAY, KILLARA – SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE FOR REPORT:	To address the issues raised by the Sydney West Joint Regional Planning Panel (JRPP) at the 13 October 2011 meeting and for the JRPP to determine DA0925/10 for the demolition of existing dwellings and construction of a residential flat building comprising 43 units, basement car parking, landscaping and associated works.
BACKGROUND:	Assessment reports were considered by the JRPP on 28 July 2011 and 13 October 2011, the JRPP resolved to defer its determination pending further information and amended plans from the applicant to address the officer's reasons for refusal of the application.
COMMENTS:	The additional information and amended plans are addressed in this report.
RECOMMENDATION:	Refusal

PURPOSE FOR REPORT

To address the issues raised by the Sydney West Joint Regional Planning Panel (JRPP) at the 13 October 2011 meeting and for the JRPP to determine DA0925/10 which proposes demolition of existing dwellings and construction of a residential flat building comprising 43 units, basement car parking, landscaping and associated works.

BACKGROUND

At its meeting of 13 October 2011 the Panel deferred determination of the development application and resolved that the following be provided by the applicant:

1. *Details of the path in the front landscape area including height, material, whether there is to be peering (sic) and beaming whether there is fill to be placed beneath the path and any other aspects relating to access and use of the path e.g. Whether there is to be a balustrade.*
2. *A further arborist report that assesses the impact of the driveway as proposed on tree 27 including root mappings and use to access all aspects of the development that will intrude into the trees structural root zone and recommending mediation (sic) procedures for these impacts.*
3. *Acoustic report is to be provided demonstrating that the treatment proposed to the balcony enclosures to the units facing Pacific Highway will secure a satisfactorily level of internal acoustic amenity.*
4. *A format (sic) submission of the SEPP 1 objection relating to the height standard.*
5. *The submission of an ecological report.*
6. *The additional information required in the Council Town Planning Report recommendation to the Joint Regional Planning Panel (JRPP) meeting of 13 October 2011.*

This material will only be considered if it is received by the Council and the JRPP Panel Secretariat on or before 31 October 2011.

The information was received in part on 28 October 2011, however, the outstanding arborist's report was only submitted to Council on 2 November 2011. Despite the applicant not meeting the identified timeframe, an assessment has been undertaken of the arborist's report.

It is noted that the JRPP Panel Secretariat received the required information on 1 November 2011.

INADEQUATE INFORMATION

The reasons for refusal as recommended to the JRPP on 13 October 2011 by Council Officer's identified the following inadequate information:

- (a) The amended plans submitted on 30 August 2011 have made changes to windows, floor area and landscape area. However, no amended BASIX

Certificate has been provided to demonstrate compliance with State Environmental Planning Policy (Building Sustainability Index: BASIX 2004).

- (b) An impact assessment (7-part test) is to be required to be prepared in accordance with section 5A of the *Environmental Planning & Assessment Act 1979* to assess the impacts of the proposal (proposed pathway & associated fill) upon the critically endangered Blue Gum High Forest community.
- (c) Insufficient information has been submitted regarding the proposed enclosure of the balconies fronting the Pacific Highway. An acoustic assessment has not been submitted to determine whether this achieves an acceptable level of noise attenuation for future occupants.
- (d) Insufficient survey information has been provided along the north-western elevation of the proposal. The ground level shown on the plans is inconsistent with the survey plan submitted. As a result, the proposal may effect a breach to a development standard and no SEPP 1 objections has been submitted.
- (e) 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.
- (f) No risers have been shown for mechanical/electrical or hydraulics.

AMENDED PLANS AND INFORMATION

The applicant submitted amended plans and information to Council on 28 October and 2 November 2011, which included:

- arborist's report and tree mapping information, prepared by Advanced Treescape Consulting, dated 24 October 2011
- impact assessment prepared by Keystone Ecological, dated October 2011
- SEPP 1 objection prepared by Chapman Planning, dated October 2011.
- a written statement by Chapman Planning Pty Ltd, dated 27 October 2011
- acoustic statement of balcony enclosure prepared by Vipac, dated 27 October 2011
- access report prepared by Accessibility Solutions and dated 25 October 2011
- BASIX Certificate 338270M_02, dated 11 October 2011
- driveway slab 1099-s01 Issue A, dated October 2011
- site/roof plan A-100 Revision D, dated 27 October 2011
- floor plan 00 A-103 Revision D, dated 27 October 2011
- floor plan 01 A-104 Revision D, dated 27 October 2011
- floor plan 02 A-105 Revision D, dated 27 October 2011
- floor plan 03 A-106 Revision D, dated 27 October 2011
- floor plan 04 A-107 Revision D, dated 27 October 2011
- elevations 1 A-200 Revision D, dated 27 October 2011
- elevations 2 A-201 Revision D, dated 27 October 2011
- sections 1 A-300 Revision D, dated 27 October 2011
- 50% Deep Soil A-400 Revision D, dated 27 October 2011

- front setback detail A-602, dated 27 October 2011
- landscape plan LPDA 11 – 215/1D, dated October 2011
- BASIX plan LPDA 11 – 215/2D, dated October 2011

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.*

Satisfactory.

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. It is acknowledged that cross ventilation is possible, however the reality is likely these windows will be permanently closed as they are bedrooms facing a noise source. 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. The amended plans demonstrate six units receive no sunlight to living areas or private open space at the winter solstice. This equates to 13% of units receiving no sunlight.

The Solar Impact Report, prepared by PSN Matter, dated 25th August 2011 has been reviewed. It is acknowledged that the proposal complies with the minimum requirement of 70% of units receiving a minimum 3hrs of sunlight at the winter solstice.

It is accepted that some solar access after 3pm is achieved to Units A4, A8, A12, A16, B18. Units A16, B18 and B23 will benefit from newly proposed skylights. Internal sun shading should be provided for solar control during summer.

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 as identified in original SEPP 65 report.

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.

Council's engineers and landscape advisors need to confirm whether Tree 27 can be retained with the applicant's proposed driveway alignment.

Current driveway alignment remains intrusive.

It was noted during the meeting with the applicant on 2 August 2011 that a realignment of the driveway is required for a better address of the building entries and to address landscape concerns.

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.*

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

Street address

See Principle 6 - Landscape

Noise barrier planning

Noise barrier planning principles should be engaged for development addressing noise sources and should be addressed at concept design stage to avoid reliance on air-conditioning/mechanical ventilation and for general amenity - 19 of the proposed 43 units (44%) have to deal with noise issues.

Enclosed balconies to units addressing the Pacific Highway are noted and the applicant will need to ensure that:

- solar access is maximised particularly as these units are oriented SW*
- acoustic requirements can be met at all times, and preferably*
- ventilation can be controlled when balconies are closed*

Internal layout

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 these rooms remain poor.

Units B5, B10, B16, B22 – These units continue to have 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. Primary design decisions have resulted in compromised amenity all of which is avoidable in our experience. The living space would benefit from more northern solar access if proposed glazing was more generous to the northern elevation – still not addressed on all levels.

Lift lobbies

The lift lobbies benefit from being naturally lit, with the windows well placed adjacent to the lifts.

Services

Services are now shown on the amended plans.

Solar access

Meets RFDC requirements.

Driveway undercroft

The proposed driveway undercroft 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 undercroft space facing south.

Further general notes

- (i) Drawings should allow for roof thicknesses for falls and insulation.*
- (ii) 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.*
- (iii) Ceiling fans should be provided throughout – Applicant to show dotted in plan.*
- (iv) 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.*
- (v) 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.*

Satisfactory.

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 and less fibre cement sheeting for main walls is encouraged as forming part of the local character. The fibre cement sheeting should be limited to bays and some infill panels.

The extent of frosted and clear balustrading is unclear. 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.

Conclusion

The proposal is generally satisfactory and generally meets SEPP 65 requirements.

However, further work should be undertaken to realign the driveway to provide an improved, direct street address for each building entry and to improve the public domain interface of the proposal.

Concerns remain regarding the driveway configuration in regard to its length and visibility in the streetscape and the resultant impact upon Tree 27. Tree 27 is a mature Fig which provides landscape amenity and will perform an important function in providing immediate screening of the proposed development.

The design of the amended proposal creates an exposed, elongated driveway into the site which, combined with the positioning of the substation in the south-western corner of the site, limits landscape screening of the structure. The presentation of the building, particularly at this point with the loss of the Fig tree would be unacceptable.

Amendments need to be made in consultation with the applicant's engineer to achieve a design solution which provides for compliant grades. Despite what the applicant contends, there is an alternative design solution which can be provided.

The original design proposed in the Revision A plans provided a more acceptable driveway arrangement notwithstanding the height breach. The amendments undertaken appear to still result in a height breach, however now additionally include an elongated driveway within the front setback which will adversely impact upon Tree 27. The retention of this tree is important to achieve the required balance between the built form and landscaping within the streetscape character given the driveway location.

Landscape

Council's Landscape Assessment Officer, commented on the proposal and the comments are provided in response to points 1 and 5 of the JRPP resolution below.

Ecology

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

"During the site inspection remnant Blue Gum High Forest (BGHF) a Critically Endangered Ecological Community (CEEC) listed under the Threatened Species Conservation Act 1995 was identified within the frontage of the site.

Trees 30, 33 & 47 - Eucalyptus saligna (Sydney Blue Gum) comprise part of the remnant CEEC Blue Gum High Forest upon the site.

All Blue Gum Forest Trees which comprise part of the onsite Blue Gum High Forest community are to be retained and are unlikely to be detrimentally affected as a result of the proposal.

A review of the impact assessment (7-part test) prepared by Keystone Ecological is considered to be satisfactory and in accordance with section 5a of the Environmental Planning & Assessment Act 1979."

The proposal is considered satisfactory as a result of additional information addressing the likely ecological impacts.

Engineering

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

"The Edge Thickening Detail shown on the HKMA driveway slab part plan is not consistent with the grated drain shown on the architectural plans and the stormwater management plans.

However, the grated drain is shown outside the property boundary, so would not be approved anyway (see site in case needed to prevent Highway water from entering).

I would have expected a longitudinal section showing the existing ground level, proposed driveway surface and underside levels as well as the mapped tree roots.

The level on the stormwater plan will not be same as the architectural. The volume of the detention storage will be affected."

The proposal is considered unsatisfactory with respect of inconsistencies between the stormwater plans, architectural plans and inadequate details regarding the driveway section and root mapping.

ASSESSMENT

The application was deferred to allow the applicant to provide the following information. An assessment has been undertaken of the submitted information as follows:

1. Details of the path in the front landscape area including height, material, whether there is to be peering (sic) and beaming whether there is fill to be placed beneath the path and any other aspects relating to access and use of the path e.g. Whether there is to be a balustrade.

Details have been provided of the proposed elevated concrete path on concrete piers with steel painted balustrades. An amended accessibility report has been submitted. The proposed retaining wall shown in association with elevated entry path to Building B is not considered necessary due to the path construction being either elevated or at grade, and is to be deleted.

The elevated nature of the pathway creates a potential privacy issue to ground floor units. It is considered, however, that this issue may be resolved through the provision of landscaping and further details pertaining to the fencing fronting the Pacific Highway.

The proposed elevated paths to the north and east of Tree 27 will reduce the area of encroachment within the tree protection zone of Tree 27, subject to the following amendment:

- the proposed retaining wall in association with the elevated entry path to Building B is to be deleted
- a further arborist report that assesses the impact of the driveway as proposed on Tree 27 including root mappings and use to access all aspects of the development that will intrude into the trees structural root zone and recommending mediation procedures for these impacts

Arborist's report

An arborist report, prepared by Advanced Tree Consulting and dated 24 October 2011, was submitted to Council on 2 November 2011. The report included root mapping of Tree 27 in the vicinity of the driveway and additional assessment of the impacts caused by the driveway and all other aspects of the development.

Root mapping

Tree 27 is a mature *Ficus microcarpa* 'Hillii' (Hills Weeping Fig) located on the front boundary. The tree has a broad spreading canopy of 8 metres radius and extensive surface roots. The 18 metres high tree has a tree protection zone of 10.2 metres radius and a structural root zone of 3.8 metres radius (AS4970-2009). The driveway is proposed within 1.8 metres to the south of the tree.

The root mapping is considered unsatisfactory for the following reasons:

- (i) To determine the location, size and number of roots affected by the proposed works, root mapping should be undertaken along the line of the northern edge of

the proposed driveway, not along the line of the existing driveway. As a minimum requirement, a root mapping report should include the accurate location and trunk dimension of Tree 27, as well as a plan at 1:50 scale showing the trench and root location in relation to the existing site and proposed structures.

- (ii) To demonstrate that the driveway will not require excavation within the structural root zone, sufficient details including existing and proposed spot levels in the vicinity of the tree, correct location and dimension of the trunk of the tree, as well as a longitudinal section of the northern edge of the proposed suspended driveway indicating the finished levels in relation to existing ground levels, are required.

Canopy impacts

The arborist has verified that only minor pruning of Tree 27 to provide building clearance is required. No pruning is required for the proposed driveway or temporary access road.

Temporary access driveway

The temporary access driveway is 2.5m to the east of Tree 27 not 5m as described in the arborist's report. To preserve the health and condition of Trees 27 and 30, the arborist recommends that a rumble board driveway be constructed at grade 'to accommodate the existing surface roots'. The shake down mechanism is proposed to be located on the top of the rumble boards.

Drawing inadequacies and inaccuracies

1. The front setback detail plan, dwg no. A-602, prepared by Mackenzie Architects, is considered unsatisfactory for the following reasons:
 - (i) The proposed concrete pier construction conflicts with the proposed OSD tank.
 - (ii) Tree 27 should be located and shown in accordance with the survey plan, including trunk diameter at scale.
 - (iii) Spot levels in the vicinity of the proposed driveway should be provided.
 - (iv) The proposed retaining wall in association with the elevated entry path to Building B is to be deleted.
 - (v) The proposed grate along front boundary of driveway to be deleted.
 - (vi) The proposed levels shown on driveway on this plan and on the amended Ground Floor Plan, dwg no. A-103/D, prepared by Mackenzie Architects, dated 26/10/11, are inconsistent with stormwater plans prepared by Northrop, dwg DA04/2 and DA05/2.
2. The ground floor slab plan, prepared by HKMA Engineers, dwg no. 1099-S01/A, is considered unsatisfactory for the following reasons:

- (i) The proposed concrete piers conflicts with proposed OSD tank.
 - (ii) To prevent compaction of soils within the tree protection zone of Tree 27, the proposed compacted fill under the suspended driveway should be substituted with a detail showing a cellular product such as bilda void or similar, laid on an even shallow sand bed
 - (iii) The driveway thickness is inconsistent with stormwater plans
3. Construction management plan, dwg no. A-600/C, prepared by Mackenzie Architects, dated 30/08/11, is considered unsatisfactory for the following reasons:
- (i) The tree protection to temporary driveway is to be shown in accordance with Clause 4.5.3 AS4970-2009, including ground protection as recommended by the arborist. The proposed gravel driveway is considered inadequate within the tree protection zone of Trees 27 and 30. The plan is to clearly indicate that there shall be no construction access or machinery permitted within Caithness Walk. All trenching for the stormwater pipe is to be done by hand.
 - (ii) To preserve Tree 27, the tree protection fencing should be shown to the western edge of the temporary drive until the suspended driveway can be constructed.
 - (iii) To preserve Tree 33 and Trees 47, 48, 50 and 51 located along the northern boundary, the tree protection fencing should be shown to the tree protection zone. Where this conflicts with the building or scaffolding, the tree protection fencing should be setback and ground protection in accordance with AS4970-2009, is to be shown.
 - (iv) The plan is to clearly indicate that there shall be no construction access or machinery permitted within Caithness Walk. All trenching for the stormwater pipe is to be done by hand with arborist supervision.

Conclusion

The root mapping report and associated supporting documentation including the Ground Floor Slab Plan, dwg no. 1099-S01/A, Front Setback Detail Plan, dwg no. A-602, and Construction Management Plan, dwg no. A-600/C, are considered inadequate to assess the impact of the driveway on Tree 27.

In addition, the amended driveway levels and construction details are to be verified by the stormwater consultants and Council's engineers.

- 2. An acoustic report is to be provided demonstrating that the treatment proposed to the balcony enclosures to the units facing Pacific Highway will secure a satisfactorily level of internal acoustic amenity.***

An acoustic statement, prepared by Vipac, has been submitted in relation to the proposed balcony enclosures. The report states:

Based on our assessment of the surround road traffic noise, the recommended acoustic glazing for the enclosed balconies to achieve the internal noise level requirements is presented in Table 1. Provided the recommendations are implemented into the design, we would expect that the proposed residential development would meet the requirements of Council, the DoP and also provide a satisfactory level of internal acoustic amenity.

3. A format (sic) submission of the SEPP 1 objection in relating to the height standard.

A SEPP 1 objection has been submitted with respect of Clauses 25I(5), 25I(7) and (8). It is considered the SEPP 1 objection does not clearly identify the standards to which variation is being sought. The concern raised in the previous assessment report was that inadequate survey detail was available to determine if and the extent of breach of the development standard which occurs. The SEPP 1 objection states the following:

This State Environmental Planning Policy No: 1 – Development Standards (SEPP 1) objection is submitted for consideration by the Joint Regional Planning Panel – Sydney West (JRPP) as the Council officers report purports that there is a breach of the building height development standard. The applicant does not support that contention, however, as a precaution so as not to expose any potential consent to a challenge under section 123 of the Environmental Planning and Assessment Act 1979 (the Act) a SEPP 1 objection is submitted for the JRPP's consideration...

The applicant has not provided any further demonstration or survey detail to confirm that there is no breach of the development standards. Rather, the applicant has submitted a combined SEPP 1 objection dealing with breaches of three different development standards. However, the SEPP 1 objection fails to clearly identify the relevant objectives to each standard and also to identify the extent of each breach. The SEPP 1 objection is silent specifically regarding clause 25I(7) and 25I(8) and the departures with these standards. An adequate assessment has not been undertaken by the applicant of the development standards.

The SEPP 1 objection/s submitted by the applicant are addressed as follows:

Clause 25I(5) Maximum number of storeys

By operation of clause 25I(5) and 25I(8) of the KPSO, the maximum number of storeys permitted on the site is 5.

whether the planning control in question is a development standard

The requirement for a maximum number of storeys for land zoned Residential 2(d3) with an area greater than 2400m² pursuant to Clause 25I(5) is 5 storeys and is a development standard.

the underlying objective or purpose behind the standard

The applicant has provided the following response in relation to identifying the underlying purpose of the standard:

“... the underlying purpose of the building height development standard is to ensure buildings meet the topography of the subject site, ensure there is a consistent building height and the visual scale of the upper most level is minimised with a reduced floor area.”

It is considered that the objectives and purpose of clause 25(l) 5 are not expressly stated within that clause, however, the KPSO provides guidance in relation to the aims and objectives of the instrument in the following clauses:

Clause 25D(2): Objectives for residential zones – provides the objectives for residential zones are as follows:

- *to provide rear and side setbacks to enable effective landscaping between buildings*
- *to minimise impacts of carparking on landscape character*
- *to encourage the protection of existing trees within setback areas*
- *to provide built upon area controls and deep soil landscaping to maintain and improve the tree canopy*
- *to ensure sunlight access to neighbours and occupants of new buildings*
- *to encourage safety and security of private development by requiring a high standard of building design and landscape design*
- *to ensure that adequate provision of storage is made for residential development*

Clause 25I(1): Heads of consideration for consent authority - provides a consent authority must take into account the following matters:

- *deep soil landscaping*
- *overshadowing and loss of privacy*
- *building separation*
- *adequacy of landscaping*

The express objectives and heads of consideration stipulated by the instrument provide guidance in relation to determining the underlying objects or purposes of the development standards. Whilst not stated within the clause, it is considered that the underlying objective

and purpose of cl25(l) 5 is to provide for an outcome whereby buildings maintain a high proportion of landscaping and do not have detrimental environmental impacts on the public domain, streetscape or neighbouring properties. Such detrimental impacts include:

- overlooking of neighbouring properties
- overshadowing of neighbouring properties
- inappropriate bulk and scale inconsistent with the character of the streetscape

It is considered that the purpose of the provision is to:

- allow for development of multi storey residential flat buildings
- provide for a high quality residential outcome within a high quality landscaped setting
- minimise detrimental impacts on neighbouring properties

The applicant contends the development is compliant and does not provide any response in relation to the development's consistency with the purpose of the standard as follows:

"In my opinion the Council officers report incorrectly assessed the building height above the levels on the survey of RL116.22 and 116.33.

The greatest projection based on the above levels is 1.28m. However, the measurement should be from natural ground to the underside of the slab. The section at annexure 1 shows the maximum protrusion above natural ground of 1.05m."

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's SEPP 1 objection has not specifically stated whether 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. Rather, the objection has provided commentary regarding the heads of consideration identified in Clause 25I. The SEPP 1 objection is flawed in addressing a key question of a SEPP 1 assessment.

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 strictly comply with the development standard for the following reasons:

- *based on the assessment in the Council Report the maximum variation is 80mm and presents no changed to the visual building height or scale*
- *the portion of the building in contention does not generate unreasonable amenity impacts to the adjoining properties with regard to overshadowing, loss of views/outlook or privacy impacts*
- *the majority of the building is 4 – 5 storeys in height with a perimeter ceiling height less than 13.4m meeting the development standards contained in the PSO and the building is compatible with the scale of residential flat buildings in the immediate locality.*
- *the lowering of the north-west corner of the building to address a minor change in natural ground levels at this point is not warranted or results in a positive design outcome for the proposed residential flat building.*

whether the objection is well founded

The objection is not considered well founded for the following reasons:

- the objection has not demonstrated with further survey information either how compliance is achieved or the degree of variation which is contended by the applicant
- the applicant has not stated how requiring compliance would be inconsistent with the attainment of the objects of the Act
- complying with the standard would be consistent with the aims of the policy
- the SEPP 1 objection has not been prepared in accordance with the principles established in the *Webhe v Pittwater Council* (2007) and *Winten Property Group v North Sydney Council* (2001)

Clause 25I(7) Limit on floor area of top storey

Clause 25I(7) of the KPSO controls the floor area of the top storey at locations 'where' the maximum number of storeys have been attained. The maximum number of storeys is attained at the 5th floor (pursuant to clause 25I(8)) and at the 6th floor (pursuant to clause 25K). The 6th storey and those parts of the 5th storey that are considered the "top storey" (that is those parts of the 5th storey that do not have another storey above them) are therefore subject to clause 25I(7).

The entire top floor (RL129.500) constitutes a top storey element. As the sixth storey is stepped in from the perimeter, the elements of the fifth storey which do not have another storey above also become top storey elements. Those areas must not be more than 60% of the floor immediately below. The proposal fails to achieve compliance with this requirement.

Clause 25I(8) permits a maximum of 5 storeys. Clause 25K provides a concession to the control to permit 6 storeys. The clause permits a maximum 6th storey where the clause

applies. Clause 25I(7) therefore applies to the building, at those locations where they are the top storey. That is where those storeys do not have another storey above them.

Clause 25B of the KPSO defines gross floor area as:

The sum of the areas of each floor of a building where the area of each floor is taken to be the area within the inner faces of the external enclosing walls, as measured at a height of 1,400 millimetres above each floor level, but excluding:

- (a) columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external walls, and*
- (b) lift towers, cooling towers, machinery and plant rooms, and air conditioning and ventilation ducts, and*
- (c) ancillary car parking and any associated internal designated vehicular and pedestrian access thereto, and*
- (d) space for loading and unloading of goods, and*
- (e) internal public areas, such as arcades, atria and thoroughfares, terraces and balconies with outer walls less than 1,400 millimetres high.*

The 6th storey element, to which clause 25I(7) applies, has an area of 514.93m², which equates to 60% of the storey immediately below and complies.

The 5th storey element, to which clause 25I(7) applies, has an area of 857.81m², which is 100% of the storey immediately below and does not comply. The proposal therefore breaches the development standard.

whether the planning control in question is a development standard

The limit on floor area of top storey for land zoned Residential 2(d3) for multi unit housing is 60% prescribed under Clause 25I(7) of the KPSO and it is a development standard.

the underlying objective or purpose behind the standard

The applicant has provided the following response in relation to identifying the underlying purpose of the standard:

“... the underlying purpose of the building height development standard is to ensure buildings meet the topography of the subject site, ensure there is a consistent building height and the visual scale of the upper most level is minimised with a reduced floor area.”

There is no specific underlying objective or purpose identified with respect of clause 25I(7). The purpose of the standard is to ensure reduced bulk on the upper level by the stepping in of the upper level from the walls of the level below. To this end, the standard requires that the top level is to have a building bulk which is effectively 60% of the bulk of the level below. It is considered that the underlying objective behind such a provision is to:

- *reduce building bulk,*

- *provide for building articulation,*
- *provide for a high quality residential outcome, and*
- *to minimise detrimental impacts.”*

In addition, there is the objective stated in clause 25C(2)(c) which is:

To achieve high quality urban design and architectural design.

However, other provisions within Part IIIA of the KPSO also serve to inform the underlying objectives. The heads of consideration for consent authorities considering multi-unit housing, as set out at Clause 25I provides:

- (a) *the desirability to provide a high proportion of deep soil landscape to the site area,*
- (b) *the impact of any overshadowing, and any loss of privacy and loss of outlook, likely to be caused by the proposed development,*
- (c) *the desirability to achieve an appropriate separation between buildings and site boundaries and landscaped corridors along rear fence lines,*
- (d) *the environmental features that are characteristic of the zone in which the site is situated by requiring sufficient space on site for effective landscaping,*
- (e) *the desirability of adequate landscaping so that the built form does not dominate the landscape,*
- (f) *how the principles of water cycle management can be applied to limit the impacts of run-off and stormwater flows off site.*

These considerations, in addition to the objectives in Clause 25C(2)(c), demonstrate that the objectives of the control in seeking to limit the floor area at upper levels is to minimise impacts resulting from the bulk and scale of the built form. Clause 25I(7) forms part of the suite of controls (including 25I(8), 25I(9) and 25K) contained within the KPSO to address bulk and scale of development.

It is accepted that the applicant's identified underlying purpose is consistent with Council's interpretation. However, no assessment has been provided in relation to the development's specific compliance with this development standard. The objection has not identified any non compliance and therefore not provided any justification.

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's SEPP 1 objection has not specifically stated whether 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. Rather, the objection has provided commentary regarding the heads of consideration identified in Clause 25I. The SEPP 1 objection is flawed in addressing a key question of a SEPP 1 assessment.

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 strictly comply with the development standard for the following reasons:

- *based on the assessment in the Council Report the maximum variation is 80mm and presents no changed to the visual building height or scale*
- *the portion of the building in contention does not generate unreasonable amenity impacts to the adjoining properties with regard to overshadowing, loss of views/outlook or privacy impacts*
- *the majority of the building is 4 – 5 storeys in height with a perimeter ceiling height less than 13.4m meeting the development standards contained in the PSO and the building is compatible with the scale of residential flat buildings in the immediate locality.*
- *The lowering of the north-west corner of the building to address a minor change in natural ground levels at this point is not warranted or results in a positive design outcome for the proposed residential flat building.*

whether the objection is well founded

The objection is not considered to be well founded for the following reasons:

- the proposal has not demonstrated how compliance is achieved which is contended by the applicant
- the applicant has not identified the extent of the breach
- the applicant has not stated how requiring compliance would be inconsistent with the attainment of the objects of the Act
- the proposal is inconsistent with the purpose and objectives of the standard which requires the upper levels to be stepped in to reduce the scale of development, the proposal has a 100% floor space at the fifth storey where the maximum height permitted is attained
- complying with the standard would be consistent with the aims of the policy
- compliance with the limit on floor area at the top storey would not hinder the objectives of the Act
- the SEPP 1 objection has not been prepared in accordance with the principles established in the *Webhe v Pittwater Council* (2007) and *Winten Property Group v North Sydney Council* (2001)

Clause 25I(8)(a) Maximum number of storeys and ceiling height

The standard states that:

Subject to subclause (5) and clause 25(k), buildings on land to which this Part applies are not to have

(a) more storeys than the maximum number of storeys specified in Column 2 of the Table in this subclause.

The number of storeys in a building (not including top storey with floor area reduced because of subclause (7)) is 4. The proposal contains 5 storeys in addition to a top storey.

The SEPP 1 objection has not clearly identified that it is seeking variation to this development standard nor has it quantified the breach.

whether the planning control in question is a development standard

The limit on the number of storeys in a building for land zoned Residential 2(d3) for multi unit housing is 4 plus a top storey having regard to subclause (5) and 25K of the KPSO and is a development standard.

the underlying objective or purpose behind the standard

The objectives and purpose of cl25I(8) are not expressly stated within the clause, however the KPSO provides guidance in relation to the aims and objectives of the instrument in the following clauses:

KPSO CI 25D(2): Objectives for residential zones – provides the objectives for residential zones are as follows:

- *to provide rear and side setbacks to enable effective landscaping between buildings*
- *to minimise impacts of carparking on landscape character*
- *to provide built upon area controls and deep soil landscaping to maintain and improve the tree canopy*
- *to ensure sunlight access to neighbours and occupants of new dwellings*
- *to encourage safety in the public domain by facing windows and building entries to the street*

KPSO CI 25I(1): Heads of consideration for consent authority - provides that a consent authority must take into account the following matters:

- *deep soil landscaping*
- *overshadowing and loss of privacy*
- *building separation*
- *adequacy of landscaping*

The express objectives and heads of consideration stipulated by the instrument provide guidance in relation to determining the underlying objects or purposes of the development standards. Whilst not stated within the clause, it is considered that the underlying objective and purpose of cl25I(8)(a) is to provide for an outcome whereby buildings maintain a high

proportion of landscaping and do not have detrimental environmental impacts on the public domain, streetscape or neighbouring properties. Such detrimental impacts include:

- overlooking of neighbouring properties
- overshadowing of neighbouring properties
- inappropriate bulk and scale inconsistent with the character of the streetscape

It is considered that the purpose of the provision is to:

- allow for development of multi storey residential flat buildings
- provide for a high quality residential outcome within a high quality landscaped setting
- minimise detrimental impacts on neighbouring properties

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's SEPP 1 objection has not specifically stated whether 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. Rather, the objection has provided commentary regarding the heads of consideration identified in Clause 25I. The SEPP 1 objection is flawed in addressing a key question of a SEPP 1 assessment.

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 strictly comply with the development standard for the following reasons:

- *based on the assessment in the Council Report the maximum variation is 80mm and presents no changed to the visual building height or scale*
- *the portion of the building in contention does not generate unreasonable amenity impacts to the adjoining properties with regard to overshadowing, loss of views/outlook or privacy impacts*
- *the majority of the building is 4 – 5 storeys in height with a perimeter ceiling height less than 13.4m meeting the development standards contained in the PSO and the building is compatible with the scale of residential flat buildings in the immediate locality.*
- *The lowering of the north-west corner of the building to address a minor change in natural ground levels at this point is not warranted or results in a positive design outcome for the proposed residential flat building.*

whether the objection is well founded

The objection is not considered to be well founded for the following reasons:

- the proposal has not demonstrated how compliance is achieved which is contended by the applicant
- the applicant has not identified the extent of breach being sought
- the applicant has not stated how requiring compliance would be inconsistent with the attainment of the objects of the Act
- complying with the standard would be consistent with the aims of the policy
- compliance with the maximum number of storeys would not hinder the objectives of the Act
- the SEPP 1 objection has not been prepared in accordance with the principles established in the *Webhe v Pittwater Council* (2007) and *Winten Property Group v North Sydney Council* (2001)

4. The submission of an ecological report.

An ecological report, prepared by Keystone Ecological, was submitted and is considered to be satisfactory by Council's Ecological Assessment Officer.

5. The additional information required in the Council Town Planning Report recommendation to the Joint Regional Planning Panel (JRPP) meeting of 13 October 2011.

BASIX Certificate

The BASIX Certificate is still inconsistent with the Landscape plan as it does not include the garden and landscape area added to Unit A17 under the previous amendment.

Tree pruning

A description of the required pruning works in relation to Tree 14 is required. Reference to the AS4373-2007 pruning of amenity trees is considered insufficient to enable assessment of the extent or impact of the proposed pruning.

Survey information

No further details have been provided regarding levels to determine the proposed height of the building. This information is essential to address whether a SEPP 1 objection is required and the extent of breach proposed.

Storage

No amendments have been made to address the non compliant storage areas. The proposal does not provide 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). It is noted that no reference to this issue has been provided by the applicant in the amended information submitted on 30 August 2011 or 28 October 2011.

Density

Part 4.2 of DCP 55 specifies a maximum Floor Space Ratio of 1.3:1 for residential flat development. The amendments undertaken to the proposal have resulted in an increase in the floor space by 112.33m².

The amended proposal has a FSR 1.32:1 and does not comply with the control. This has still not been addressed by the applicant. Concern is raised regarding the streetscape presentation of the building. The additional floor space, combined with the elongated driveway and loss of landscape screening within the front setback, raises further concerns.

CONSULTATION – COMMUNITY

The additional information and works proposed by the applicant in response to the questions raised by the JRPP did not require notification to owners of neighbouring properties.

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 amended plans and information submitted have not adequately addressed the issues raised in the assessment report considered by the Sydney West Joint Regional Planning Panel on 13 October 2011 and the specific issues identified. The amended proposal has resulted in an increase in floor space, has not adequately addressed the internal amenity and tree impacts of the proposal. The submitted BASIX Certificate is inconsistent with the architectural plans.

The tree impacts resulting from the proposal remain a fundamental concern which is still not addressed by the further information submitted by the applicant. Assessment must be undertaken in accordance with the relevant Australian Standard and it is considered the resultant impacts will necessitate a redesign, particularly in relation to structures within the front setback and the driveway location. There remains a serious inconsistency between the driveway location, stormwater plans and the submitted architectural plans.

Given that these outstanding matters have still not been addressed, the proposal remains 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:

APARTMENT LAYOUT

- 1. The proposal has been designed with open plan kitchens, dining and living rooms. The apartment layouts raise concern regarding internal amenity in relation to passive sunlight 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 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).
- (c) 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).
- (d) 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.
- (e) 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.

TREE IMPACTS

- 2. The arborist's report has not adequately addressed the tree impacts from the proposed cut and fill 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.
- (b) The impact upon Tree 27 is unacceptable. The retention of this tree is necessary to provide immediate landscape screening to the proposal and maintained the landscape streetscape amenity.
- (c) No details have been provided regarding the required pruning of Tree 14.
- (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.

STREETSCAPE IMPACT

4. The driveway arrangement, landscape screening within the front setback and scale of the development will adversely impact the streetscape.

Particulars:

- (a) The proposed elongated driveway 15 metres in length within the front setback adversely impacts upon landscape screening within the front setback and results in a poor presentation to the streetscape.
- (b) The proposal will result in the loss of Tree 27. The retention of Tree 27 is necessary to provide immediate landscape screening to the proposal and maintained the landscape streetscape amenity. Landscaping is required to screen the visual presence of development.
- (c) Part 4.2 of DCP 55 requires a maximum Floor Space Ratio of 1.3:1 for residential flat development. The amendments undertaken to the proposal has resulted in an increase in the floor space by 112.33m². The proposal now has a non compliant FSR of 1:32:1. The increased scale within the streetscape presentation is unacceptable when considered in relation to the loss of landscape amenity, structures within the front setback and length of the building.

INADEQUATE INFORMATION

Particulars:

- (a) The submitted BASIX Certificate is incorrect and does not show the proposed planter box associated with apartment A17 and recommended for A13 and is therefore inconsistent with State Environmental Planning Policy (Building Sustainability Index: BASIX 2004).
- (b) Insufficient survey information has been provided along the north-western elevation of the proposal. The ground level shown on the plans is inconsistent with the survey plan submitted. As a result, the proposal may effect a breach to a development standard.
- (c) The SEPP 1 objections made in respect of development standards 25I(5), 25I(7) and 25I(8) of the KPSO are not considered to be well founded and have not quantify the breaches to the development standards.
- (d) The front setback detail plan, dwg no. A-602, prepared by Mackenzie Architects, is unsatisfactory for the following reasons:
 - i. The proposed concrete pier construction conflicts with the proposed OSD tank.
 - ii. Tree 27 has not been shown in accordance with the survey plan, including trunk diameter at scale.
 - iii. Spot levels in the vicinity of the proposed driveway have not been provided.
 - iv. The proposed retaining wall in association with the elevated entry path to Building B is to be deleted.

- v. The proposed grate along front boundary of driveway is to be deleted
 - vi. Proposed levels shown on driveway on this plan and on the amended Ground Floor Plan, dwg no. A-103/D, prepared by Mackenzie Architects, dated 26/10/11, are inconsistent with stormwater plans prepared by Northrop, dwg DA04/2 and DA05/2.
- (e) The ground floor slab plan, prepared by HKMA Engineers, dwg no. 1099-S01/A, is unsatisfactory for the following reasons:
- i. The proposed concrete piers conflicts with proposed OSD tank
 - ii. To prevent compaction of soils within the tree protection zone of Tree 27, the proposed compacted fill under the suspended driveway should be substituted with a detail showing a cellular product such as bilda void or similar, laid on an even shallow sand bed.
 - iii. Driveway thickness is inconsistent with stormwater plans.
- (f) The construction management plan, dwg no. A-600/C, prepared by Mackenzie Architects, dated 30/08/11, is unsatisfactory for the following reasons:
- i. Tree protection to temporary driveway to be shown in accordance with Clause 4.5.3 AS4970-2009, including ground protection as recommended by the arborist. Proposed gravel driveway is considered inadequate within the tree protection zone of Trees 27 and 30. The plan is to clearly indicate that there shall be no construction access or machinery permitted within Caithness Walk. All trenching for the stormwater pipe is to be done by hand.
 - ii. To preserve Tree 27, the tree protection fencing should be shown to the western edge of the temporary drive until the suspended driveway can be constructed.
 - iii. To preserve Tree 33 and Trees 47, 48, 50 and 51 located along the northern boundary, the tree protection fencing should be shown to the tree protection zone. Where this conflicts with the building or scaffolding, the tree protection fencing should be setback and ground protection in accordance with AS4970-2009, is to be shown.
 - iv. The plan is to clearly indicate that there shall be no construction access or machinery permitted within Caithness Walk. All trenching for the stormwater pipe is to be done by hand with arborist supervision.

(g) The root mapping is unsatisfactory for the following reasons:

- i. To determine the location, size and number of roots affected by the proposed works, root mapping should be undertaken along the line of the northern edge of the proposed driveway, not along the line of the existing driveway. As a minimum requirement, a root mapping report should include the accurate location and trunk dimension of Tree 27, as well as a plan at 1:50 scale showing the trench and root location in relation to the existing site and proposed structures.
- ii. To demonstrate that the driveway will not require excavation within the structural root zone, sufficient details including existing and proposed spot levels in the vicinity of the tree, correct location and dimension of the trunk of the tree, as well as a longitudinal section of the northern edge of the proposed suspended driveway indicating the finished levels in relation to existing ground levels, is required.

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 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.
- (b) 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.
- (c) The development is contrary to the public interest for the reasons identified in this 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

S Garland
Team Leader

C Swanepoel

M Miocic

**Manager
Development Assessment Services**

**Director
Development & Regulation**

Attachments:

1. Architectural plans
2. Landscape plans
3. Letter from applicant
4. Acoustic report
5. Arborist report
6. Minutes from JRPP meeting on 13 October 2011
7. Previous report considered by the JRPP on 13 October 2011
8. Previous report considered by the JRPP on 28 July 2011