
573 – 585 PACIFIC HIGHWAY, KILLARA – SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE FOR REPORT:

To address the issues raised by the Chair of the Sydney West Joint Regional Planning Panel (JRPP) in a letter to Council dated 1 March 2012 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, 13 October 2011, 1 December 2011 and 23 February 2012. At the meeting of 23 February 2012, The JRPP resolved to defer its determination. By letter dated 1 March 2012 the Chair of the JRPP requested a further assessment report addressing five identified questions.

COMMENTS:

The additional information and amended plans are addressed in this report.

RECOMMENDATION:

Refusal

PURPOSE FOR REPORT

To address the matters raised by the Chair of the Sydney West Joint Regional Planning Panel (JRPP) in her letter to Council dated 1 March 2012 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 23 February 2012 the Panel deferred determination of the development application. The Chair requested by letter dated 1 March 2012 (**Attachment 3**) that an additional supplementary assessment report addressing the following be provided:

- 1. Identifies the changes made in the amended plans and confirm why they were request;*
- 2. Confirms whether the amended plans require re-notification. If not, please confirm reasons;*
- 3. Provide an assessment of the amended plans;*
- 4. Provide an assessment of SEPP 1 objections; and*
- 5. Reviews Council's earlier recommendation to the regional panel and the without prejudice conditions of consent. If required, make any necessary amendments as a result of the amended plans.*

HISTORY

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

- aborist'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

The reasons for refusal as recommended by Council Officers in the report to the JRPP meeting of 13 October 2011 identified the following inadequate information:

TREE IMPACTS

1. 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.

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.

The application was reported back to the JRPP meeting of 1 December 2011 with a further recommendation for refusal. The Panel deferred the determination of the development application and resolved the following:

Council staff to assess and report on the Basix Certificate submitted by the applicant on 28 November 2011.

Council's assessment of the BASIX Certificate, dated 28 November 2011, concluded that the Certificate was not satisfactory. As a result of the JRPP not meeting until 2012 and to expedite the matter, Council met with the applicant and their experts to address the inadequacy in information provided in relation to the BASIX Certificate and other matters raised in earlier reports to date. The applicant submitted further amended information and plans to respond to the issues raised previously as well as an amended BASIX Certificate, dated 5 December 2011.

QUESTIONS OF THE CHAIR

Identify the changes made in the amended plans and confirm why they were requested

The applicant submitted amended plans and information to Council on 22 January 2012, which included:

- Root mapping information, prepared by Advanced Treescape Consulting, dated 21 December 2011
- BASIX Certificate 338270M_04, dated 5 December 2011
- Driveway Slab 1099-s01 Issue B, dated 22 December 2011

- Front Setback Detail A-602, Revision A dated 22 December 2011
- Root Mapping A-603, dated 22 December 2011
- Environmental site management plan A-600 Revision D, dated 22 December 2011
- Concept stormwater management plan – ground floor DA04 Revision 3, dated 20 December 2011
- Stormwater plan details sheet DA05 Revision 3, dated 20 December 2011

The Chair formally requested without prejudice conditions of consent on 9 February 2012. The Council assessment report considered by the Regional Panel on 1 December 2011 concluded “*There remains a serious inconsistency between the driveway location, stormwater plans and the submitted architectural plans.*” In order to prepare conditions of consent as requested despite Council’s recommendation, inconsistencies between plans particularly the stormwater management plan, architectural and landscape plans had to be addressed.

The inconsistencies which were addressed included:

- (i) The concrete piers supporting the driveway which conflicted with the proposed OSD tank location were deleted.
- (ii) The driveway thickness was inconsistent with the stormwater plans
- (iii) The proposed retaining wall in association with the elevated entry path to Building B was deleted.
- (iv) The proposed grate along front boundary of driveway was deleted
- (v) 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, were inconsistent with stormwater plans prepared by Northrop, dwg DA04/2 and DA05/2. The amended plans corrected this inconsistency.
- (vi) The construction management plan was amended to relocate the waste handling area outside of the tree protection zone.
- (vii) Correct root mapping was undertaken along the line of the northern edge of the proposed driveway, not along the line of the existing driveway.
- (viii) A plan at 1:50 scale showing the root mapping trench and structural root location in relation to the proposed structures was provided.

Confirm whether the amended plans require re-notification. If not, please confirm reasons

The amended plans and additional information does not require re-notification. Development Control Plan 56 – Notification does not require amendments to undetermined DAs to be notified where the environmental impact will be the same or less than the original proposal, which is the case in this instance.

Provide an assessment of the amended plans

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 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 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

The amended plans were considered by Council's Senior Landscape Officer, who provided the following comments:

Site characteristics

The site of 2995.2m² falls approximately three (3) metres to the west from Pacific Highway. The site has a public path along its southern boundary linking through to Caithness Street. 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.

To preserve the health and condition of the existing trees on site and the existing landscape character of the site, the proposed driveway relocation is not supported.

Deep soil

The proposed development provides 52.45% of the site area as deep soil landscape area. This is considered satisfactory.

Tree and vegetation removal and 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).

Trees to be retained

Tree 5/*Lophostemon confertus* (Brushbox) TPZ 10.8m This mature tree is located at the south-east corner of the site, within the adjoining property. The tree is to be retained as part of south eastern communal open space.

Trees 14/*Jacaranda mimosifolia* (Jacaranda) TPZ 8.4m This tree is located on the eastern boundary. The proposed basement is 4.7m from tree with a proposed encroachment of 16.34% of the tree protection zone. A private courtyard is 1.7m from tree. The building is 4.75m from tree. The canopy will require pruning to provide building and scaffolding clearance. Detailed assessment of the required pruning has been be provided.

Tree 27/*Ficus microcarpa* 'Hillii' (Hills Weeping Fig) TPZ 10.2m This tree is located on the front boundary. There is evidence of extensive surface roots. The proposed basement is 8.4m from the tree. The driveway is 2.2m from tree. The proposed site access is within the tree protection zone of the tree. The proposed impacts would have a significant impact on the long term health of this tree.

Tree 30/*Eucalyptus saligna* (Sydney Blue Gum) TPZ 9.0m This tree is located on the front boundary. The proposed basement is 9.3m from tree. The proposed site access is within the tree protection zone of the tree.

Tree 32/Ficus microcarpa 'Hillii' (Hills Weeping Fig) TPZ 5.1m This tree is located on the front boundary. The tree is suppressed by the canopies of Tree 30 and 33. Removal recommended.

Tree 33/Eucalyptus saligna (Sydney Blue Gum) TPZ 15m This mature tree is located within the front setback. The proposed basement excavation is 10m from the tree. The tree protection area is to be fenced during construction.

Tree 47/Eucalyptus saligna (Sydney Blue Gum) TPZ 14.5m This mature tree is located within the front setback. The proposed basement excavation is 12.8m from the tree. The tree protection area is to be fenced during construction.

Tree 51Cedrus deodara (Himalayan Cedar) TPZ 8.4m This tree is located on the northern boundary. The tree is suppressed by Trees 48 and 50. The proposed basement excavation is 5.0m from tree.

Pruning of trees

The Arborist report states that pruning of Tree 14, is required to clear the building line. Details to be provided.

Trees to be removed

The application proposes removal of 22 trees that are not considered significant and this is supported.

Street trees to be removed

No street trees are proposed to be removed.

Landscape plan/tree replenishment

Front setback

The front setback supports several mature existing trees including three Eucalyptus saligna (Sydney Blue Gum). Proposed underplanting should enhance the Blue Gum High Forest community.

Communal open space/deep soil area

Two areas of communal open space are located to the east of the building consisting of lawn area and seating. The two areas are linked by a path. A large area of deep soil has been provided in the front setback that is sufficient for the retention of large canopy trees on the site. Disabled access to both areas is via ramps from the entry foyers. The development would comply with the required provision for a large area of deep soil in the middle or rear of the site.

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.

Screen planting

- *Northern boundary – Syzigium ‘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

The proposal will support in excess of the required 10 canopy trees.

BASIX

The BASIX Certificate nominates 636.9m² common area 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

The OSD tank is proposed to be located within the driveway draining to the south-east corner of the site via an easement along the public right of way. An arborist assessment of tree impacts resulting from the proposed stormwater line has been provided including tree protection recommendations.

Other matters

Front fence

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

Conclusion

The proposal is considered unacceptable for the following reason:

1. Tree impacts

To preserve the health and condition of Tree 27/Ficus microcarpa ‘Hillii’ (Hills Weeping Fig), the proposed driveway relocation is not supported. The proposed development will result in a major encroachment within the tree protection zone and significantly inside the structural root zone of Tree 27. Root mapping has identified

several significant roots in the vicinity of the proposed driveway and a suspended structure has been recommended. In consideration of the proximity of the proposed development and the nature of its construction, Council's position in regards to the medium to long-term viability of this visually prominent tree, remains as originally recommended. The proposal is recommended for refusal.

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 with respect of any likely ecological impacts.

Engineering

The application was referred to Council's Senior Development Engineer who provided the following comments on the amended plans and information:

"Amended architectural plans A-600 Rev.'D', A-602 Rev. 'A' and A-603 have been submitted with the current version of the stormwater management plan DA04 & 05 Rev's. '3' prepared by Northrop.

The stormwater management plans have now been updated to reflect the new driveway levels with the deletion of the grated drain outside the boundary. The volume of the detention system satisfies the site storage requirement as per Council's Water Management DCP No.47. Revised stormwater plans have been conditioned.

Supporting documentation from the arborist indicates that the proposed piers for the driveway will not impact any structural support roots of Tree No.27. The driveway grades and transitions still comply with AS2890.1:2004 'Off-street Car Parking'."

Provide an assessment of SEPP 1 objections

The applicant submitted SEPP 1 objections which were assessed in the assessment report considered by the JRPP on 1 December 2011. The SEPP 1 objections have not since been amended by the applicant. The assessment of the SEPP 1 objections provided within that assessment report is as follows:

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 25I(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 25(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(1) 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 *Webbe 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:

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 lift towers, cooling towers, machinery and plant rooms, and air conditioning and ventilation ducts, and ancillary car parking and any associated internal designated vehicular and pedestrian access thereto, and space for loading and unloading of goods, and 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:

- *the desirability to provide a high proportion of deep soil landscape to the site area,*
- *the impact of any overshadowing, and any loss of privacy and loss of outlook, likely to be caused by the proposed development,*
- *the desirability to achieve an appropriate separation between buildings and site boundaries and landscaped corridors along rear fence lines,*
- *the environmental features that are characteristic of the zone in which the site is situated by requiring sufficient space on site for effective landscaping,*
- *the desirability of adequate landscaping so that the built form does not dominate the landscape,*
- *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 25l(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 cl25l(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 Cl 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)

Review Council's earlier recommendation to the regional panel and the without prejudice conditions of consent. If required, make any necessary amendments as a result of the amended plans.

The recommendation to the regional panel on 1 December 2011 was the following:

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

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

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

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 quantified 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.

The amended plans have not addressed the fundamental concerns with the proposed development raised by Council. The proposed driveway configuration in regard to its length and visibility in the streetscape is unacceptable. The design of the 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. Concern has continually been raised regarding the impact upon Tree 27 and necessity to redesign the proposal to provide greater separation from this tree. 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 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.

It has been Council's continued opinion that amendments can be made to the development in consultation with the applicant's engineer to achieve a design solution which provides for compliant grades and an alternative design solution.

The tree impacts resulting from the proposal remain a fundamental concern which is still not addressed by the further information submitted by the applicant. It is considered the impacts necessitate a redesign, particularly in relation to the driveway location.

Concern is maintained in relation to the apartment layout which have not been addressed by the amendments undertaken to the proposal. The proposal remains unsatisfactory and accordingly, it is recommended for refusal.

Minor refinements have been made to the without prejudice conditions supplied to the Panel for the meeting of 23 February 2012. These conditions will be separately distributed to the Panel.

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

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

The proposed development will result in a major encroachment within the tree protection zone and significantly inside the structural root zone of Tree 27. The proposed driveway relocation is not acceptable.

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) 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

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 adversely affect 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 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) 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.
- (b) 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 quantified the breaches to the development standards.

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
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Attachments:

1. Architectural plans
2. Landscape plans
3. Letter from Chairperson JRPP dated 1 March 2012
4. Previous report considered by the JRPP on 23 February 2012
5. Minutes from JRPP meeting 1 December 2011
6. Previous report considered by the JRPP on 1 December 2011
7. Minutes from JRPP meeting on 13 October 2011
8. Previous report considered by the JRPP on 13 October 2011
9. Previous report considered by the JRPP on 28 July 2011