

JRPP No:	2011NTH010
DA No:	Armidale Dumaresq Council DA-61-2011
PROPOSED DEVELOPMENT:	87 & 89-103 Martin Street ARMIDALE NSW 2350 Multi unit housing development - 86 dwellings & community and recreational facilities
APPLICANT:	Coastplan Consulting
REPORT BY:	Chris Gardiner

Further Application Details:

DA Lodgement Date:	1 March 2011
Additional Information received? / date?	Additional information requested from the Applicant on 25 March 2011. Information received up to and including 17 June 2011.
Estimated Construction Value of Development:	\$11,500,000
Capital Investment Value:	\$16,655,000

Glossary of terms used in this report:

BCA – Building Code of Australia

DA – Development Application

DCP - Armidale Dumaresq Development Control Plan 2007, as amended

FPL – Flood Planning Level

LEP – Armidale Dumaresq Local Environmental Plan 2008, as amended

SEE – Statement of Environmental Effects

SEPP – State Environmental Planning Policy

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Assessment Report and Recommendations

DA-61-2011 / JRPP Ref 2011NTH010

Executive Summary

Consideration by Joint Regional Planning Panel

The Northern Joint Region Planning Panel is the determining authority for this DA pursuant to State Environmental Planning Policy (Major Development) 2005, as the proposed development has a capital investment value of more than \$10 Million. The capital investment value of the project, as estimated by the Applicant, is \$16.655 Million (excl. GST).

Proposal

Multi unit housing development comprising 86 dwellings & community and recreational facilities.

Permissibility

The proposed development is for a use which is permissible with consent under the Council's LEP.

Key Issues

Part of the proposed development would be potentially affected by flooding of Martins Gully, which flows adjacent to the subject site's eastern boundary. The Applicant has submitted a Hydraulic Impact Assessment prepared by Yeats Consulting Engineers, which recommends lowering of the west bank of the gully and construction of a near vertical retaining wall around the perimeter of the development to increase hydraulic capacity and maximise the flood-free area available for development. In essence the works proposed are considered adequate to ensure that all proposed dwellings in the development would have floor level above the FPL; and also acceptable in terms of flood plain management issues for upstream and downstream properties.

The subject site has also been subject to an extensive history of contamination and remediation associated with the former use of land on the western side of Martin Street as a timber treatment plant. The subject site is understood to have been used for storage of treated timber and also contained a sedimentation pond for the facility.

Remediation of the site has recently been carried out under a previous development consent for a manufactured home estate on the subject site. Following completion of remediation/validation of the land in 2010, the subject site was considered suitable without further action being taken for residential activity with accessible soils.

Assessment of the development having regard to Council's DCP generally indicates compliance, and matters arising from the assessment such as privacy, open space, traffic and utility servicing can satisfactorily be addressed by appropriate conditions of consent. However, a key issue of contention arises from the proposal for the development to be a 'gated residential estate'.

Chapter C1 – Urban Residential and Subdivision Code of DCP 2007 provides that gated residential estates will not be approved by Council, other than sheltered housing estates (including projects assessed under the SEPP for Seniors' Living) where the Applicant can demonstrate to Council's satisfaction that the residents have special security needs.

Key Issues (cont)

This policy was initially adopted by Council in 2005 following consideration of available literature at the time, which included the experiences of other countries (particularly UK and the United States) in regard to gated estates. The principal reasons for Council adopting development controls for this type of development were:

- Exclusion of non-residents from neighbourhoods prevents interaction of different types of people and affects sense of community for residents of the estate and also other developments in a locality.
- Segregation and division of different types of people in a community is not desirable.
- Potential for gates to slow response times of emergency services attempting to access the site.
- Based on advice from the NSW Police perceptions of safety for residents living in gated communities may be misleading.
- Urban design considerations – high perimeter fencing on public streets.

A letter from the Applicant dated 2 June 2011 states the following in support of the proposal for a gated residential estate to be permitted in this instance:

“We believe that Council should support the provision of a gated residential estate. Whilst the proposed development is not a SEPP Seniors Living Development, the development will be marketed to the retirees market and will therefore contain predominantly older people that will have special security needs. Further, due to the number of dwellings located in the estate, we believe that there needs to be some control over vehicles entering the site to protect the safety of the residents.

There are also private facilities within the development that need to be protected and could be utilised by people freely able to access the property if not gated.

Further damage could be caused to the facilities if free access is available.”

Whilst the Applicant notes the intention for the development to be marketed to retirees there is no undertaking to restrict occupancy of the development to such persons in any legally binding manner. The development, as submitted for multi unit housing, would allow dwellings to be occupied by persons of any age.

The proposed internal road network does not form part of a through road and it is not considered likely that vehicles other than those associated with the development would normally drive through the site.

Access to the private facilities noted in the Applicant’s submission could be restricted by use of appropriate fencing within the development, rather than at the point of access to the estate. This would still ensure appropriate use of the facilities by residents and prevent damage by unauthorised parties.

It is not considered that sufficient justification has been provided in this instance to support the proposal for a gated residential estate. The estate being gated remains a concern for the following reasons:

- No detail has been provided of how visitors, garbage collection and emergency service vehicles can gain convenient access to the site.
- The proposed gate would be setback only 3 metres from the property boundary on Martin Street and there would be insufficient area for vehicles to stand within the site while opening the gates.
- The potential for undesirable social isolation/divisive issues arising from estates where access to non-residents is precluded.

Accordingly, it is recommended that a condition be imposed on any consent requiring the plans submitted with any application for a Construction Certificate to be amended to remove the proposed 'Powder-coated Aluminium Motorised Security Gate', pursuant to Section 80A(1)(g) of the EP&A Act.

A single written submission was received from a member of the public raising various objections to the development. The submission has been considered as part of the assessment.

As a result of this assessment, the proposed development is recommended for conditional consent. **Appendix 3** to this report contains all relevant conditions identified throughout the assessment process and as discussed in the Council officer's report.

Recommendation

- (a) That having regard to the assessment of the Application, DA-61-2011 (JRPP ref 2011NTH010) be granted consent in the terms set out in Appendix 3 to this report.**
- (b) That the person / authorities that made submissions in relation to the Application be notified of the determination in writing.**

Subject site and locality

The site comprises undeveloped land known as 87 & 89-103 Martin Street (also known as 361-377 Beardy Street), Armidale, being Lot 3 in DP 787147 and Lot 1 DP 1141726. The site is currently vacant and has a total area of approximately 3.54 hectares (3.077 hectares in Lot 3 and 0.4662 hectares in Lot 1).

The site has a frontage to Beardy Street of 218.45 metres and frontage to Martin Street of 181.635 metres. Lot 3 is burdened by an easement to drain water 5 metres wide at its eastern boundary between the adjacent Lot 4 DP 867101 (which benefits from the easement) and Martins Gully – the proposed development described in this report does not affect this easement. Martins Gully is situated in part within the eastern section of Lot 3 and runs northwards from the site to join with Dumaresq Creek approximately one kilometre to the north-east, near the intersection of Tancredi and O'Dell Streets. The site falls generally from Martin Street (approx. 988m AHD) by approximately 7 metres towards the Gully (approx. 981m AHD).

The area surrounding the site is characterised by residential development or other vacant land to the south, west and north, with industrial and storage activity nearby, to the east of Martins Gully. A disused branch of the Northern Railway line passes close by to the south-west of the site. The property lies approximately 2 kilometres west of the Armidale CBD.

Although the subject site is currently unoccupied, it was previously used in conjunction with a former timber treatment plant on the western side of Martin Street. The plant is understood to have operated from the late 1960's until it closed in 1979-1980 and involved the use of wood preservative materials such as copper, chromium, arsenic, and creosote. The plant site west of Martin Street was subsequently subdivided and developed for residential use in the 1980's.

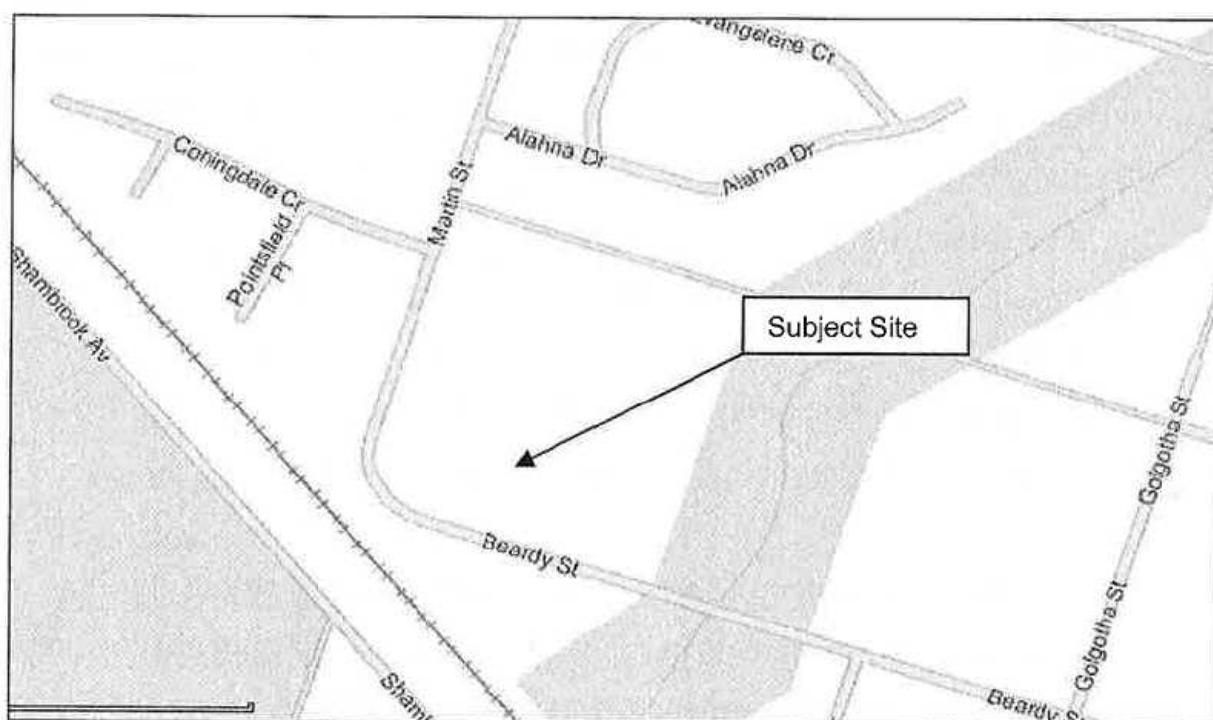
This former plant and its development as a housing estate was the subject of a Federal Court case involving the former Armidale City Council (*Alec Finlayson Pty Ltd v Armidale City Council 1994 - 51 FCR 378*). However, the land west of Martin Street was subsequently remediated by the Commonwealth Government, to allow ongoing residential use which continues today.

As indicated above, the subject site east of Martin Street was also used in association with the

former treatment plant. Specifically Lot 3 DP 787147 was used for storage of treated timber poles, while the adjacent Lot 1 DP 1141726, incorporated a dam/settling pond at its western end near Martin Street. As a result of its lower contours, the former road reserve continues to function as a drainage channel for land to the west. Council is also aware of reports of two separate spills from the former treatment plant of creosote (distilled coal tar) and tanalith (copper, chromium, arsenic solution) in 1969 and 1976. These spills and drainage from the plant generally would have affected Lot 1 DP 1141726 and possibly adjacent parts of Lot 3 DP 787147.

Remediation of the site has recently been carried out under a previous development consent for a manufactured home estate on the subject site. Following completion of remediation/validation of the land in 2010, the subject site was considered suitable without further action being taken for residential activity with accessible soils.

An annotated locality plan provided by the applicant is reproduced below. Scanned title plans and a locality plan (not to scale) are also included in **Appendix 1**.



Proposed development

The proposal is for a multi-unit housing development, comprising:

- 86 detached, single storey units (30 three bedroom dwellings, and 56 two bedroom dwellings);
- Community centre;
- Community bowling green, putting green and swimming pool;
- Landscaping including native riparian plantings in a communal area adjacent to Martin's Gully and other plantings within the development;
- Internal access roads and parking.

The Applicant's SEE and submitted plans indicate that the development is proposed to be carried out in 22 stages.

Submitted Documents and Plans

The documents and plans relied upon for this assessment are listed below.

- Statement of Environmental Effects, Coastplan Consulting, February 2011;
- Traffic Impact Study, Joy Consulting Group, April 2011;
- Hydraulic Impact Assessment Revision 03, Yeats Consulting Engineers, February 2011;
- BASIX Certificate number: 360940M_02
- Plans drawn by FMM Constructions, numbered A001 Rev M, A002 Rev G, A004 Rev F, A005 Rev D, A006 Rev A, A007 Rev D, A008 Rev A, A009 Rev D, A010 Rev C, A014 Rev B, all dated 11 May 2011;
- Plans drawn by FMM Constructions, numbered CC-01, CC-02 and CC03, all dated February 2011;
- Plans drawn by FMM Constructions, numbered 00-00, 00-01, 00-06a, 00-06b, titled 'FINCH', 'TERN' and 'STARLING', all dated February 2011;
- Landscape Master Plan, JW Concepts, dated 8 November 2010.

Referrals undertaken and other approvals required

Referral Agency:	Response Date:	Summary of Advice / Issues:
NSW Office of Water	16 March 2011	General Terms of Approval for Controlled Activity, subject to conditions.
NSW Police	8 April 2011	No objections to the development proposal. General advice provided for measures to reduce the risk of crime to a development.
Essential Energy	No response	

This proposal will also require separate approvals under the Roads Act 1993 and under the Local Government Act 1993 for work in Council's road reserves, as well as water, sewerage and drainage work connected with the proposal.

Political Donations

At the time of lodging the Development Application the Applicant indicated, pursuant to Section 147(4) of the Environmental Planning and Assessment Act 1979, that no reportable political donation or gift had been made by the Applicant or any person with a financial interest in this Application to a local Councillor or employee of Armidale Dumaresq Council.

Assessment - Matters for Consideration

The assessment of this Development Application has been undertaken in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979, as amended. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development application:

Section 79C(1)(a) the provisions of the following that apply to the land to which the development application relates:

(i) *the provisions of any environmental planning instrument*

State Environmental Planning Policies (SEPPs):

The following SEPPs have been considered in connection with this development:

State Environmental Planning Policy No 44—Koala Habitat Protection

State Environmental Planning Policy No.44 – Koala Habitat Protection, aims to encourage the proper conservation and management of natural vegetation that provides potential habitat for Koalas, to ensure a permanent free-living population are maintained over their present range and reverse the current trend of Koala population decline.

Although the site area is in excess of the 1 hectare threshold for consideration under this Policy, the site is practically devoid of tree cover and there are no koala feed trees apparent on the site. Further consideration under the Policy is therefore not warranted.

SEPP 55 – Remediation of Land

Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

Clause 7 of this SEPP is of particular relevance and states:

- “(1) A consent authority must not consent to the carrying out of any development on land unless:*
- (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In this case, given the history of the site outlined earlier in this report relating to former timber treatment activities, investigation reports have been required by Council having regard to SEPP 55, the current DoP Contaminated Land Guidelines and Council's Policy on Contaminated Land, which forms Chapter B9 of DCP 2007.

SEPP 55 – Remediation of Land (cont)

The site has been subject to various investigations and remediation work between 1991 and present. A summary of information held on Council's records in relation to the subject site is included below:

- 1 EA Systems (EAS) (2008a) *Preliminary Contaminated Site Investigation, Lot 3DP787147 (County of Sandon, Parish of Armidale) corner of Beardy and Martin Streets, Armidale NSW* (ref 22215.26932) 3 June 2008. Council Reference I/2009/18433
- 2 EAS (2008b) *Soil Contamination Investigation, Lot 3 DP787147 (County of Sandon, Parish of Armidale) corner of Beardy and Martin Streets, Armidale NSW* (ref 22238.28677) version 2, 24 October 2008. Council Reference I/2009/18434
- 3 EAS (2008c) *Remedial Action Plan, Lot 3 DP787147, Martin Street, Armidale NSW* (ref 22261.29207), 30 September 2008. Council References I/2008/21178, 23453, 23532
- 4 EAS (2008d) *Lot 3 DP787147 (Corner Beardy and Martin Street) – Materials Classification* (ref 22261.31382), 16 December 2008 [Letter report]. Council Reference I/2008/27456
- 5 EAS (2008e) *Validation Report, West Beardy Street Holdings Pty Ltd, Armidale, NSW* (ref 22263.31312), 18 December 2008. Council Reference I/2008/27456
- 6 EAS (2009f) *Validation Report, West Beardy Street Holdings Pty Ltd, Armidale, NSW* (ref 22263.31312), 2 March 2009. Council Reference I/2009/04233
- 7 EAS (2009g) *Groundwater Assessment, West Beardy Street Holdings Pty Ltd, Armidale, NSW* (ref 22263.31657), 3 March 2009. Council Reference I/2009/04244
- 8 EAS (2009h) *Groundwater Assessment, West Beardy Street Holdings Pty Ltd, Armidale, NSW* (ref 22263.31657), 23 April 2009. Council Reference I/2009/18435
- 9 JBS Environmental (2009a) *Sampling, Analysis and Quality Plan, 89 – 103 Martin Street, Armidale NSW* (ref: JBS40880-13381). Council Reference I/2009/18880
- 10 JBS Environmental (2009b) *Additional Environmental Assessment, 89 – 103 Martin Street, Armidale NSW* (ref: JBS40880-13527). Council Reference I/2009/18881
- 11 Cavvanba Consulting (Mr Ben Wackett) – third party review of above materials, letter reports on Lot 3 DP 787147 dated 6 and 24 August 2009 (Council Reference I/2009/18491 and 19224).
- 12 Cavvanba Consulting (5 July 2010) *Validation Report Dumaresq [Street] Road Reserve, Martin Street, Armidale NSW*. Council Reference I/2010/15824
- 13 Environmental Earth Sciences *Independent review of document #11 dated 9 July 2010, 21pp*. Council Reference I/2010/15829

SEPP 55 – Remediation of Land (cont)

14 Coffs Coast Developments Pty Ltd SEPP 55 Notice of completion of remediation work on Road Reserve. Council Reference I/2010/15925

Five earlier reports relating to this property were briefly summarised in EAS (2008a), as detailed below:

- Sinclair Knight and Partners (SKP) (1990) *Preliminary Investigation of Martin Street*.
- SKP (undated), *Contaminated Site Investigation of Martin Street*.
- AGC Woodward Clyde (1991), *Rehabilitation Strategy Plan, Martin Street Subdivision, Armidale New South Wales*.
- Arnhem Environmental Impact Assessors (1991), *Soil Survey – Martin Street Area*.
- AGC Woodward Clyde (1993), *Site Assessment and Remediation Design, Martin Street Subdivision, Armidale. Stage 1 Report: Data Review, Soil Sampling and Analysis. Stage 2 Report: Remedial Action Alternatives*.

Arising from the above investigations and following completion of remediation/validation of the land in 2010 for a previously approved Manufactured Home Estate, the subject site was considered suitable without further action being taken for residential activity with accessible soils*.

*(*as per the NSW DECC Guidelines for the NSW Site Auditor Scheme (2nd edition) of 2006:*

** at pp. 52-53: “Residential with gardens and accessible soil (home-grown produce contributing < 10% fruit and vegetable intake; no poultry), including children’s day-care centres, preschools, primary schools, townhouses, villas”).*

As the proposed development is for townhouses, the above findings are still relevant and the site is considered suitable in its current state for the proposed development. However, it has been noted in the third party review materials provided to Council by Cavvanba Consulting, that:

“As environmental sampling is based on achieving suitable sampling densities (rather than sampling all media at all locations), and analysis is based on site histories and likely contaminants of concern (rather than analysis of all media at all locations for all potential contaminants), the absence of any identified hazardous or toxic materials at the site should not be interpreted as a warranty or guarantee that such materials do not exist at the site. Therefore, future work at the site which involves subsurface excavation should be conducted based on appropriate management plans. These should include, inter alia, environmental management plans, including unexpected findings protocols, hazardous building materials management plans, and occupational health and safety plans”.

A condition should be included on any consent to ensure that the plans and protocols recommended above are implemented for any part of the project involving subsurface excavation.

SEPP (BASIX) 2004

The residential component of the proposed development is BASIX affected under the policy. The Applicant has provided a valid BASIX Certificate (number 360940M_02) for the development and relevant commitments are shown on the submitted DA plans.

SEPP (Major Development) 2005

Defines major infrastructure projects and other projects of state significance which are determined by the Minister and identifies development for which Joint Regional Planning Panels are to exercise specified consent authority functions.

Part 3 – Regional Development of the SEPP applies to this proposal, particularly the following clauses:

Clause	Subject	Comments
13B	Development to which this part applies	Part 3 of the SEPP applies to this proposal as it has a Capital Investment Value of more than \$10 Million.
13F	Exercise of Council consent functions by regional panels	The Northern Joint Regional Planning Panel may exercise the functions of the council in determining this application in accordance with Part 4 of the Act. Council remains the consent authority for development to which this Part applies, subject to the exercise by regional panels of functions conferred on them by this clause.

SEPP (Infrastructure) 2007

Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

The following clauses were considered in the assessment of this proposal:

Clause	Subject	Comments
45	Development likely to affect an electricity transmission or distribution network	<p>The proposed development would require the provision of underground electricity, and Council is required to consult with the electricity authority. Council wrote to Country Energy on 8 March 2011, seeking their comments on the proposal. No written response was received within the 21 days specified by this clause.</p> <p>Notwithstanding the above, the subject site is located in an established urban area and it is considered likely that an appropriate electricity service could be provided to the development. Detailed arrangements between the developer and electricity authority would need to be confirmed prior to any construction commencing.</p>

Local Environmental Plans (LEPs):

The ***Armidale Dumaresq Local Environmental Plan 2008*** has been considered in connection with this development:

Clause	Subject	Comments
2	Aims	<p>Relevant aims of the LEP considered in this assessment include:</p> <ul style="list-style-type: none"><i>(b) to facilitate stimulation of demand for a range of residential, enterprise and employment opportunities, and</i><i>(c) to ensure that development is sensitive to both the economic and social needs of the community, and</i><i>(d) to provide a choice of living opportunities and types of settlements, and</i><i>(e) to encourage the proper management, development and conservation of resources in Armidale Dumaresq by protecting, enhancing and conserving:</i><ul style="list-style-type: none"><i>(ii) timber, minerals, soils, water and other natural resources, and</i><i>(iv) native plants and animals, and</i><i>(f) to ensure that development has regard to the principles of ecologically sustainable development.</i>
7	Adoption of Model Provisions	<p>The following clauses of <i>Environmental Planning and Assessment Model Provisions 1980</i> are adopted and are relevant to the proposed development:</p> <ul style="list-style-type: none">• 5(2) requires in relation to development likely to cause increased vehicular traffic on any road in the vicinity of the site, consideration of the adequacy of vehicular entrance / exit, parking, loading / unloading and pick-up / set-down of passengers.• 30 requires the availability of services (water supply and facilities for removal or disposal of sewage and drainage) or satisfactory arrangement for provision of such services. <p>Relevant comments on the likely impact of the development and the suitability of the site are included in this assessment, below.</p>
10	Zones indicated on the (LEP) map	<p>The site of the proposed development is within Zone 2(a) Residential.</p>
13	13(6) Zone objectives	<p>This clause provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land in the zone (see below).</p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
19	Zone objectives	<p>The objectives for development in Zone No. 2(a) are:</p> <ul style="list-style-type: none"> (a) <i>to allow for diversity and choice of housing types and locations, appropriate to the zone and other essential needs of all households, and</i> (b) <i>to encourage the development of predominantly residential areas, and</i> (c) <i>to provide an environment where people can live and work in home businesses and professional services while maintaining the residential amenity of the surrounding area, and</i> (d) <i>to enable retail development that is compatible with the predominantly residential characteristics of this zone and which serve the local neighbourhood, and</i> (e) <i>to enable development of land in this zone that is appropriate to the surrounding residential area where the scale, height, type, operation and traffic-generating characteristics of the development are compatible with the character and amenity of the surrounding residential area and with existing or proposed development nearby.</i> <p>The proposed development has been assessed having regard to these objectives. The purpose of the development is predominantly for residential purposes. Relevant comments on the characteristics of the development are included in this assessment, below.</p>
	Development permissible with development consent	<p>Multi dwelling housing, as defined below, is permissible with consent in the zone.</p> <p><i>multi dwelling housing</i> means 3 or more dwellings (whether attached or detached) on one lot of land.</p>
37	Development on land below the flood planning level	<p>In this clause Council is required to consider proposals for development below the flood planning level (FPL), being the 1% Annual Exceedance Probability flood level, shown on the flood maps for Armidale held in the offices of the Council, + 0.5 metres. Safety, flood behaviour and appropriate environmental management are to be considered, and in particular consent under subclause must not be granted unless the consent authority is satisfied that a development:</p> <ul style="list-style-type: none"> <i>“(a) will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</i> <i>(b) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the flood plain, and</i>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
37	Development on land below the flood planning level (cont)	<p><i>(c) will enable safe occupation of land below the flood planning level, and</i></p> <p><i>(d) will not significantly detrimentally affect the flood plain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse, and</i></p> <p><i>(e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding, and</i></p> <p><i>(f) is compatible with the flow conveyance function of the flood way, and</i></p> <p><i>(g) is compatible with the flood hazard within the flood way."</i></p> <p>At present the eastern part of the site is within the FPL of Martin's Gully. As a result, a Hydraulic Impact Assessment was prepared by Yeats Consulting Engineers on 11 February 2011 and provided by the Applicants to Council with the Development Application.</p> <p>In summary, the Yeats study concluded <i>"that the proposed . . . development, based on the proposed engineering works outlined [*], will not cause any apparent worsening of the flood levels and flows both upstream and downstream of the site.</i></p> <p><i>[* being "a near vertical retaining wall . . . around the perimeter of the proposed development to reduce the effect on the floodplain and maximise the usable development area. Lowering of the left-bank of Martins Gully in the vicinity of the site is also required to provide additional hydraulic capacity."].</i></p> <p>This flood study has been analysed in detail in the assessment of this Application by Council's Development Engineer and his review is on the subject file, which will be tabled at the meeting. Likewise, the flood study was also considered in the Integrated Development referral of this Application to the NSW Office of Water, as mentioned previously.</p> <p>The analysis undertaken by Yeats has been based upon available Council flood modelling for Martins Gully and other recent computer analysis for this catchment.</p> <p>In the Council engineering assessment, consideration has been given to the provisions of the LEP, the NSW Floodplain Development Manual, Council Policy and in particular the availability of an alternative flood evacuation route from the site via Tancredi / Golgotha Streets.</p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
37	Development on land below the flood planning level (cont)	<p>In essence the works proposed are considered adequate to ensure that all proposed dwellings in the development would have floor level above the FPL; and also acceptable in terms of flood plain management issues.</p> <p>Thus no objection has been raised to the submitted study or its recommended works, subject to appropriate conditions of consent as included in Appendix 3.</p>
39	Development on land in riparian buffer zones	<p>The site includes a riparian buffer area for the purposes of this clause, being land within 20 metres of Martins Gully. Under the clause, Council needs to be satisfied that adequate measures have been, or will be, taken to offset the likely effects of the development on stream bank instability, stream water quality and aquatic habitat. For this purpose, adequate measures include (if practicable):</p> <ul style="list-style-type: none"> <i>“a) retention of endemic vegetation,</i> <i>(b) new plantings comprising endemic riparian vegetation, including emergent vegetation,</i> <i>(c) replacing exotic vegetation with endemic vegetation,</i> <i>(d) protecting instream vegetation, including trees, snags, macrophytes and algae,</i> <i>(e) keeping hard surfaces, such as cycle ways and footpaths, to a minimum and constructing these surfaces from permeable material, and</i> <i>(f) staging development so that improvements to the riparian buffer areas are in place and acting to minimise erosion and runoff prior to carrying out the remainder of the development.”</i> <p>The development proposes work adjoining Martins Gully where it flows through the eastern part of the site, in connection with flood mitigation, as discussed above. In addition the landscaping plan reproduced in Appendix 2 refers to <i>“either side of the watercourse to be vegetated with native trees, shrubs and grass plantings”</i>, an area also to be used as part of the proposed development’s recreational facilities.</p> <p>Having regard to the lack of significant endemic riparian vegetation on site at present, this development presents an opportunity to improve an albeit small part of the site, in accordance with cl.39. This work would also be integral with the Controlled Activity Approval required from the DECCW/Office of Water mentioned previously.</p> <p>Suitable requirements for inclusion in any consent, including timing of works adjacent to Martins Gully as part of the first stage of the development, are therefore included within Appendix 3.</p>

Armidale Dumaresq Local Environmental Plan 2008 (cont)

Clause	Subject	Comments
57	Road noise from arterial roads	<p>The north-west corner of the site is closest to the Armidale by-pass corridor, at some 200 metres from the travelling lanes.</p> <p>Given previous studies received by Council in relation to noise impact from the by-pass, no further action is considered necessary given the noise attenuation which would be provided by distance.</p>
61	Waste management	<p>The development is not expected to involve any re-use and recycling of building and construction materials, as there are no existing structures on the site.</p> <p>Provision has been made within the development for waste storage facilities at each of the individual dwellings. The Applicant's SEE indicates that it is proposed for garbage collection vehicles to services the site through the internal road network. Council's standard waste service is for kerbside collection on public roads, and the developer would be required to make arrangements with the appropriate waste contractors to collect from within the site. Subject to confirmation of such arrangements, it is considered that a satisfactory waste collection service could be provided to the development.</p>
63	Solar access	<p>Having regard to the location of adjoining residential development north of the site and across Martin Street to the west, the proposed development would not reduce solar access to adjoining land between the hours of 9am and 3pm midwinter.</p> <p>Solar access to individual dwellings and private open space within the development still requires consideration under the provisions of the DCP, as discussed later in this report.</p>

(ii) the provisions of any draft environmental planning instrument

No relevant draft instruments apply.

(iii) the provisions of any development control plan

The **Armidale Dumaresq Development Control Plan (DCP) 2007** applies to the land.

The Introduction – Part A - of this DCP provides that:

“We assess all applications having regard to relevant legal requirements and the merits and circumstances of each case. Where an applicant can demonstrate that strict compliance with any of our local policy requirements would be unreasonable or unnecessary, Council may vary the DCP provisions to enable specific development activity to proceed.”

The following Table outlines the relevant Chapters / provisions of the DCP that have been considered in connection with this assessment.

Chapter	Comment
B3 – Development Applications and Assessment	<p>Public notification of the proposal was required under the provisions of this Chapter. In this instance the notification of the Development Application included written notice to residents and occupiers of nearby property generally within 300 metres of the subject site, display of a site notice, and an advertisement in the local newspaper. Written submissions could be made between 16 March 2011 to 15 April 2011.</p> <p>At the close of the notification period, a single written submission was received. The matters raised in the submission are discussed later in this report under Section 79C(d).</p>
B4 – Vehicle Parking Code	<p>Being a residential development, requirements for vehicle parking are generally prescribed in Chapter C1 of DCP 2007 (as discussed later in this section). However, parking demand for the proposed community centre and arrangements for service vehicle access and loading/unloading are still relevant to Chapter B4.</p> <p>The Applicant's SEE indicates that the proposed community facility would generally be used by residents of the development, and would provide space for services such as hairdressing and medical consultation within the development. The Applicant has proposed to provide an additional 5 parking spaces for this facility, including one accessible space. The additional parking proposed would allow for staff associated with the services, and is considered satisfactory in the circumstances.</p> <p>However, the proposed parking would not be sufficient for external use of the building for functions, conferences, etc or the provision of hairdressing and medical services to the general public. A condition could be imposed on any consent to ensure that the facility is for use only by residents of the development, to ensure the parking provided is adequate for the intended use.</p> <p>The internal road geometry would allow for service vehicles such as waste collection vehicles and removalists to enter and exit the site driving forwards. While the proposal does not include a designated loading area, this is not considered necessary for a residential development as service vehicles are more likely to park adjacent to individual dwelling.</p>

Chapter	Comment
B5 – Design for Access and Mobility Code	<p><u>General access requirements:</u></p> <p>Access and facilities for people with disabilities are required to and within the proposed community centre, swimming pool, bowling and putting greens in accordance with the BCA and AS 1428. The proposed community centre has been assessed by Council's Access Advisor and is considered to generally satisfy the relevant requirements.</p> <p>Full details of compliance will need to be demonstrated on the plans submitted with any application for a Construction Certificate for the development.</p> <p><u>Adaptable Housing:</u></p> <p>The Code requires that one adaptable housing unit be provided for every ten units (or part thereof) in a multi-unit housing development with five or more dwellings. For the subject proposal, which comprises 86 dwellings, a minimum of nine (9) adaptable housing units would be required. The submitted proposal includes ten (10) adaptable units and would satisfy this requirement.</p> <p><u>Car Parking:</u></p> <p>Table 2 specifies that for community uses at least 3% of parking spaces should be allocated for people with disabilities. Three (3) of the five (5) parking spaces proposed for the community centre are nominated to be accessible and would satisfy this requirement. Additionally, each of the adaptable units discussed above would include parking facilities suitable for use by people with disabilities.</p>
B7 – Stormwater Drainage Code	<p>The Application has been assessed in relation to Council's policy for stormwater drainage by Council's Development Engineer. In his report which is on the subject file, he advises that:</p> <p><i>"The Applicant has proposed to drain stormwater from the subject site to Martins Gully, which would seem to be appropriate in this case. On Site Detention would not be required . . . as it would be more desirable and advantageous to facilitate the discharge of the site stormwater downstream before the arrival of peak flows from the upstream catchment of Martins Gully.</i></p> <p><i>I would recommend that the stormwater from the site is directed through Gross Pollutant Traps to help protect the quality of the downstream watercourse. The stormwater outlets (to Martins Gully) will require the provision of effective long-term erosion and sediment control protection as per the NSW Office of Water General Terms of Approval and Council's Engineering Code requirements.</i></p> <p><i>There is an . . . open drainage channel that has been previously constructed in the (former) West Dumaresq Street Road Reserve . . . that will need to be appropriately modified to facilitate building over the top of this current drainage facility."</i></p>

Chapter	Comment
B7 – Stormwater Drainage Code (cont)	<p>Whilst this issue is not specifically addressed by the Applicant in the submitted SEE and plans, it is considered that appropriate drainage system (including easement/s) could be incorporated within the development. It is likely that the drainage would be accommodated either within the internal road network or adjacent to the northern boundary of Lot 1 DP 1141726.</p> <p>An appropriate condition for any consent is included in Appendix 3 in relation to the need for the required treatment of stormwater from the site generally, and from land to the west via a system to replace the existing unconstructed channel.</p>
B9 – Contaminated Land Code	<p>As discussed earlier in this report under SEPP No. 55 – Remediation of Land, the site was previously remediated pursuant to a previous Development Consent in accordance with the requirements of this Code.</p> <p>The land is now considered suitable without further action being taken for residential activity with accessible soils. No further action under this Chapter is considered necessary.</p>
C1 – Urban Residential Development and Subdivision Code	<p><u>Site Layout:</u></p> <p>The layout of the proposed development is considered generally satisfactory having regard to the identified constraint of potential flooding from Martins Gully and would be compatible with established development in the locality.</p> <p>The majority of proposed fencing forward of the building line on Beardy Street and Martin Street is open ‘palisade’ style fencing, which would allow the development to contribute to the streetscape and provide outlook to the street for community safety. However, the submitted Landscape Master Plan for the development shows 6 metre depth screen plantings along both these streets, which would compromise these objectives. It is recommended that any consent be conditioned to require a revised landscape plan detailing a reduction in the density of proposed plantings adjacent to Beardy Street and Martin Street and species selection that will ensure that dwellings can retain an outlook to the street.</p> <p>Communal facilities are considered appropriate for a multi-unit development of this scale, and are proposed to be sited centrally within the development to provide convenient access for all residents.</p> <p><u>Streetscape Character:</u></p> <p>Existing development in the locality is generally single storey dwellings and outbuildings with a variety of styles and finishes. The proposed development for a mix of six (6) different single storey dwelling designs would be compatible with the streetscape character in the locality.</p>

Chapter	Comment
C1 – Urban Residential Development and Subdivision Code (cont)	<p><u>Streetscape Character (cont):</u></p> <p>Fencing of the street frontage of the site is proposed to be mostly open style ‘palisade’ fencing to a height of 1.5 metres. Fencing to a height of 1.5 metres is permitted providing that it is at least 50% transparent. The ‘palisade’ fencing detailed on the submitted plans would satisfy this requirement.</p> <p>A section of solid fencing is proposed either side of the Martin Street entrance to a height of 1.8 metres, and would exceed the maximum height of 1.2 metres for solid fencing prescribed by this Code. This proposed variation to Council’s fencing controls is considered acceptable in this instance as it is designed to be an entry feature to the development and constitutes only a small proportion of the fencing on the site’s extensive frontage.</p> <p><u>Density:</u></p> <p>The subject site has an area greater than 1000m² and multi unit development is permissible. The Floor Space Ratio of the proposed development would be 0.21:1. The maximum permitted floor space ratio for established residential areas is 0.35:1.</p> <p><u>Building Envelopes:</u></p> <p>The proposed development would satisfy the appropriate building setbacks, being 6 metres from either street frontage and 0.9 metres from side and rear boundaries. Each proposed dwelling and the community centre would have a height from ground to ceiling of less than 6 metres, in compliance with this section.</p> <p>Sunlight to private open space on adjoining property would not be reduced by the development between the hours of 9.00am and 3.00pm midwinter, as has been demonstrated in the submitted shadow analysis. Within the development solar access to the principle private open space for each of the dwellings has been considered. The Code requires at least 50% of the main private open space to be free of shadows between 10.00am and 2.00pm midwinter. The majority of dwellings within the development would achieve this objective. Some minor non-compliances were noted as identified below:</p> <ul style="list-style-type: none"> • The private open space nominated for proposed Unit 7 on plan number A004 Revision F would largely be in shadow at 10.00am. However, it is noted that some additional private space would appear to be available to the west of Unit 7 and behind the solid entry feature. This area could be included in the open space for Unit 7 and would receive adequate sunlight in accordance with this Code.

Chapter	Comment
C1 – Urban Residential Development and Subdivision Code (cont)	<p><u>Building Envelopes:</u></p> <ul style="list-style-type: none"> The private open space for proposed Units 21, 22 and 58 shown on plan number A004 Revision F would largely be in shadow at 2.00pm. Each of these dwellings would receive adequate sunlight during the morning hours. The minor non-compliance is considered acceptable in this instance, particularly having regard to the availability of communal open space in proximity to the affected dwellings. <p><u>Energy and Water Efficiency:</u></p> <p>Compliance with the applicable BASIX Certificate for the development generally satisfies this section. Further, the development would not significantly reduce winter solar access to north facing windows on adjoining property.</p> <p><u>Dwelling Entry and Interior:</u></p> <p>Dwelling entries would generally be located appropriately having regard to their visibility from the internal road and parking areas for individual dwellings. Appropriate lighting of these areas could be required by condition, to ensure the safety and security of residents and reduce opportunities for concealment.</p> <p>Finished floor levels of dwellings proposed to be constructed adjacent to Martins Gully must be at least 0.5m above the 1% Annual Exceedance Probability Flood Level. Minimum floor levels have been determined in the Hydraulic Impact Assessment prepared by Yeats Consulting Engineers and confirmed by Council's Development Engineer, having regard to Council's adopted Flood Study. Proposed conditions have been included in Appendix 3 requiring appropriate confirmation of floor levels on site prior to construction.</p> <p>Performance Criteria P7 in this Part provides that gated residential estates will not be approved by Council, other than sheltered housing estates (including projects assessed under the SEPP for Seniors' Living) where the Applicant can demonstrate to Council's satisfaction that the residents have special security needs.</p> <p>This policy was initially adopted by Council in 2005 following consideration of available literature at the time, which included the experiences of other countries (particularly UK and the United States) in regard to gated estates. The principal reasons for Council adopting development controls for this type of development were:</p> <ul style="list-style-type: none"> Exclusion of non-residents from neighbourhoods prevents interaction of different types of people and affects sense of community for residents of the estate and also other developments in a locality.

Chapter	Comment
C1 – Urban Residential Development and Subdivision Code (cont)	<p><u>Dwelling Entry and Interior (cont):</u></p> <ul style="list-style-type: none"> • Segregation and division of different types of people in a community is not desirable. • Potential for gates to slow response times of emergency services attempting to access the site. • Based on advice from the NSW Police perceptions of safety for residents living in gated communities may be misleading. • Urban design considerations – high perimeter fencing on public streets. <p>A letter from the Applicant dated 2 June 2011 states the following in relation to this matter:</p> <p><i>“We believe that Council should support the provision of a gated residential estate. Whilst the proposed development is not a SEPP Seniors Living Development, the development will be marketed to the retirees market and will therefore contain predominantly older people that will have special security needs. Further, due to the number of dwellings located in the estate, we believe that there needs to be some control over vehicles entering the site to protect the safety of the residents.”</i></p> <p><i>“There are also private facilities within the development that need to be protected and could be utilised by people freely able to access the property if not gated.</i></p> <p><i>Further damage could be caused to the facilities if free access is available.”</i></p> <p>Whilst the Applicant notes the intention for the development to be marketed to retirees there is no undertaking to restrict occupancy of the development to such persons in any legally binding manner. The development, as submitted for multi unit housing, would allow dwellings to be occupied by persons of any age.</p> <p>The proposed internal road network does not form part of a through road and it is not considered likely that vehicles other than those associated with the development would drive through the site.</p> <p>Access to the private facilities noted in the Applicant’s submission could be restricted by use of appropriate fencing within the development, rather than at the point of access to the estate. This would still ensure appropriate use of the facilities by residents and prevent damage by unauthorised parties.</p> <p>It is not considered that sufficient justification has been provided in this instance to support the proposal for a gated residential estate. The estate being gated remains a concern for the following reasons:</p> <ul style="list-style-type: none"> • No detail has been provided of how visitors, garbage collection and emergency service vehicles can gain convenient access to the site.

Chapter	Comment
C1 – Urban Residential Development and Subdivision Code (cont)	<p><u>Dwelling Entry and Interior (cont):</u></p> <ul style="list-style-type: none"> • The proposed gate would be setback only 3 metres from the property boundary on Martin Street and there would be insufficient area for vehicles to stand within the site while opening the gates. • The potential for undesirable social isolation/divisive issues arising from estates where access to non-residents is precluded. <p>Accordingly, it is recommended that a condition be imposed on any consent requiring the plans submitted with any application for a Construction Certificate to be amended to remove the proposed 'Powder-coated Aluminium Motorised Security Gate', pursuant to Section 80A(1)(g) of the EP&A Act. There is no objection to the proposed entry feature and pedestrian gatehouse remaining.</p> <p><u>Open Space:</u></p> <p>Each of the proposed units in the development would have private open space totalling at least 40m², as required in this Part. With the exception of proposed Unit 46, all private open space areas would also include an area measuring 4 metres x 4 metres.</p> <p>Proposed Unit 46 would have private open space totalling 84.3m², but only including a width of up to 3.5 metres in any part of the area. This is considered satisfactory having regard to the proximity of this unit to the proposed communal recreational facilities for the development.</p> <p>The submitted plans do not indicated the intended means of fencing or other screen to ensure that privacy can be maintained between individual units and private open space areas. However, as the development comprises only single storey dwellings it is expected that in most instances appropriate fencing would provide privacy, without additional building or screening treatments. Full details of fencing and screening between units could be requested on the plans accompanying each stage of any Construction Certificate.</p> <p><u>Car Parking and Vehicle Access:</u></p> <p>The proposed development would include 30 three bedroom dwellings and 56 two bedroom dwellings. Two off-street parking spaces are required for each of the three bedroom dwellings, and one parking space for each of the two bedroom dwellings (a total of 116 spaces). The submitted plans demonstrate provision of 116 spaces, including stack parking for the second space at each of the three bedroom units.</p> <p>Additionally, 43 visitor car parking spaces are provided within the development (one for every two units), in accordance with this Part.</p> <p>Internal access roads are considered to be of sufficient width for the traffic generated by the development and any service vehicles expected to access the site.</p>

Chapter	Comment
C1 – Urban Residential Development and Subdivision Code (cont)	<p><u>Visual and Acoustic Privacy:</u></p> <p>Visual privacy has been discussed above under Open Space and it is considered that this issue could be addressed by condition. In terms of acoustic privacy, there are no significant sources of off-site noise in the locality. However, several units are located close to the communal recreational facilities and may be affected by noise during their use. Potential impacts could be reduced with appropriate fencing and building façade treatments, or through management particularly of the hours that residents can use the recreational facilities.</p> <p><u>Landscaping:</u></p> <p>A Landscape Master Plan for the project has been submitted with the Application. While the overall concept proposed is considered generally acceptable, some amendments are required to the plan to address the following issues:</p> <p>A number of the species proposed are not frost tolerant and are unlikely to survive local conditions.</p> <ul style="list-style-type: none"> • Revegetation of the riparian area adjacent to Martins Gully must be in accordance with Council's Revegetation Guidelines for the Urban Reaches of Dumaresq Creek, and any requirements of a Controlled Activity Approval issued by the NSW Office of Water. • The density of plantings adjacent to Martin Street and Beardy Street is to be reduced to ensure dwellings are provided with reasonable outlook to the adjoining roads. <p>Amendments of this nature could be required by condition.</p> <p>Street tree plantings adjacent to the site are not considered practical in this instance, due to the location of the overhead powerlines in Beardy Street and Markham Street.</p> <p><u>Site Facilities:</u></p> <p>Provision of site facilities is generally considered satisfactory. It has been indicated in the Applicant's SEE that common mail facilities will be provided in the entrance feature on Martin Street, and that provision of a common television aerial will be investigated.</p> <p><u>Infrastructure:</u></p> <p>Provision of utility infrastructure and drainage of stormwater have been discussed in detail elsewhere in this report. Such services are considered available to serve the development and would be subject to detailed design with a separate application under Section 68 of the Local Government Act 1993.</p>

Chapter	Comment
C1 – Urban Residential Development and Subdivision Code (cont)	<p><u>Infrastructure (cont):</u></p> <p>Other relevant infrastructure would include provision of kerb and gutter and a concrete strip footpath for the full frontage of the site to both Beardy Street and Martin Street, including widening of the existing culvert crossing of Martin's Gully to provide for safe pedestrian crossing of the waterway clear of the road carriageway.</p> <p>Also, street lighting on Beardy Street and Martin Street is required to be upgraded in accordance with P3 category in AS 1158.</p> <p>Appropriate conditions have been proposed to require design and construction of this infrastructure in accordance with Council's Engineering Code.</p>

(iiia) the provisions of any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

Not applicable.

(iv) the provisions of the regulations

Not applicable.

79c(a)(v) the provisions of any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*)

Not applicable.

79C(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

This assessment has been undertaken having regard to various issues, as follows:

Construction Impacts

As the project is expected to involve a lengthy construction phase and is located adjacent to established residential uses, a detailed construction management plan should be required as a condition of any consent. This would need to address issues such as:

- Hours of building work (to be consistent with NSW State Guidelines);
- Parking and Traffic Management;
- Waste storage and management;
- Toilet facilities for builders;
- Noise and dust management and control of other potential pollutants;
- Site hoardings and public/worker safety;
- Signage.

Urban and Building Design

The proposed development is considered to be compatible with the bulk and scale of existing residential development adjoining the site. All buildings would be single storey and a variety of unit designs and roof forms are proposed to ensure that the development makes a positive contribution to the streetscape. Fencing and site landscaping have been discussed in detail elsewhere in this report and are considered generally satisfactory, subject to some minor amendments to the landscaping strategy.

Council's Building Surveyor has undertaken a preliminary assessment of the proposal's likely compliance with the BCA. The following matters were identified as requiring further attention in any application for a Construction Certificate:

- Fire protection between buildings, including the proposed community centre and adjacent units.
- Essential services for the proposed community centre.
- Access and facilities for people with disabilities (noting that the development was designed prior to the commencement of the Commonwealth Access to Premises Standards and related changes to the BCA).

None of the above matters are considered likely to prevent the development from being able to proceed generally in accordance with the submitted Development Application.

Consideration of Crime Prevention through Environmental Design (CPTED)

The NSW Police have carried out an assessment under the CPTED protocol currently in place with Council. The Police report raised no objection to the development and did not identify any specific matters that require further attention or alterations to the design proposed. A number of general recommendations for improving crime prevention were provided in the report, which has been provided to the Applicant for their information.

However, Council's assessment identified some matters requiring further attention. Several of the proposed units in the development had entrances located where they would be difficult to identify and out of sight from the internal roads. This issue has been rectified with amendments to the design.

Also, as discussed earlier in this report, the proposed screen landscaping at the development's frontage to both Beardy Street and Martin Street would potentially prevent passive surveillance of the streets. The CPTED Guidelines recommend that lower tree limbs should be above average head height, and shrubs should not provide for easy concealment. The recommended amendments to the landscape plan include consideration of species that have appropriate characteristics to achieve this objective.

Utility Infrastructure Impacts

See 79C (c) regarding the suitability of the site for the development, below.

Additionally, Council has a Development Servicing Plan for water and sewer services, which provides for developer contributions in connection with related works/increased loading on these services, pursuant to Chapter 6 of the Water Management Act 2000 and s.64 of the Local Government Act 1993. In this case the relevant sum (at current rates) would be \$636,215.60.

Traffic and parking impacts

Provision of off-street parking for the development has been considered earlier in this report and the number of parking spaces proposed to be provided is consistent with Council's DCP.

So far as traffic generation is concerned, the submitted Traffic Impact Study prepared by Joy Consulting Group anticipates an increase in local trip generation of 374-475 vehicles per day when the estate is fully developed, or at peak times, up to 48 weekday trips per hour. Council's Development Engineer has concluded in his review of the submitted traffic study that these expected traffic volumes from the proposed multi unit housing development, on completion, would be within the capacity of the local street network and not compromise the safe operation of significant intersections in this part of Armidale. The consultant's recommendation that landscape design for the estate should ensure adequate sight distances at the estate entrance can be addressed through a suitable condition in any consent, as can the requirement for a splay corner at Beardy/Martin Street and lane markings in the roads adjacent to this intersection.

The Council assessment has however concluded that notwithstanding the findings of the submitted study, a secondary point of access to the estate should be provided for use in emergencies, given the number of units proposed. A pedestrian access of sufficient width to accommodate vehicles in emergencies has been proposed to Beardy Street and is considered satisfactory for this purpose.

The proposal was also considered by Council's Local Traffic Committee at their meeting on 7 June 2011. The Committee recommended:

- 1. That proposed location for the alternative emergency access to Beardy Street be approved.*

Traffic and parking impacts (cont)

2. *That the position of the existing power poles at the corner of corner of Beardy and Martin Streets be considered as satisfactory.*
3. *That a 1.2 metre [wide] concrete strip footpath path be installed from Alahna Drive to join the concrete footpath in Martin Street provided by the developer to link the development to Alahna Drive.*
4. *That 1.2 [metre wide] concrete strip footpath be installed on the western side of Golgotha Street from 20 metres south of the intersection of Golgotha Street and Samuelson Crescent intersection to link to Queen Elizabeth Drive.*

Part 3 of the above recommendation is considered to be reasonable and would provide the development with a pedestrian connection to a safer low speed traffic environment.

As for part 4 of the recommendation, while it would be desirable for the development to have a footpath connection to local shopping facilities in Queen Elizabeth Drive, the section of footpath recommended is some 550 metres from the development site and it is not considered that sufficient nexus exists for this infrastructure to be funded by the developer, particularly considering that it would benefit a substantial number of other properties in the locality.

In relation to cycle facilities, this site is not adjacent to any of the bike paths in the Council's current Bicycle Strategy. However there is reasonably graded access available via local roads to Niagara Street and Queen Elizabeth Drive which are routes for cyclists identified in the Strategy.

Public Domain

As discussed elsewhere in this report, the additional pedestrian activity on the locality would warrant the provision of a concrete strip footpath for the frontage of the development, with connection to Alahna Drive to the north of the site.

Additionally, the existing culvert crossing over Martins Gully is of insufficient width to allow the safe passage of pedestrians while vehicles are using the road. The proposal, which would result in increased traffic using the road, is likely to further affect safety of pedestrians in the locality. It is recommended that the culvert crossing be widened to provide protected pedestrian access to the eastern side of Martin's Gully.

The provision of communal open space and recreational facilities within the development would ensure that residents have satisfactory access to active and passive recreation opportunities.

Social impacts

The proposed development should result in an increase in affordable and rental housing supply within Armidale, which is encouraged by State legislation. Some additional services are also proposed to be provided for residents within the community centre that wouldn't otherwise be available in the locality.

Economic impacts

In relation to economic impacts, the development of the proposed multi unit housing estate providing an additional 86 homes within the City would be expected to provide a positive economic impact for Armidale over time through resident expenditure and in the local economy. Construction of infrastructure and building work are also likely to have a positive on the local economy during the construction phase of the development, and provide employment opportunities.

Other potential environmental impacts

The site is also devoid of significant vegetation and has not been identified as providing habitat potential in Council's Flora and Fauna study. It is expected that rehabilitation/revegetation of riparian areas of the site and general landscaping improvements with the development would have a positive environmental outcome.

79C (c) the suitability of the site for the development

The subject site is considered suitable for the proposed development for the following reasons:

- The site is zoned Residential 2(a) and is appropriately located in an urban area near other residential development.
- The land has two sealed road frontages and the local road network has appropriate capacity to cater for the traffic likely to be generated by the development.
- The site is near public open space and a local shopping centre is available a short distance to the north east.
- Otherwise the locality has the necessary urban utility service infrastructure to support the development. Detailed arrangements for water, sewer, stormwater drainage services and connections have been considered by Council's Development Engineer whose report is on the subject file to be tabled at the Panel meeting. These arrangements will require more detailed design and consideration for approval under s.68 of the Local Government Act 1993.
- Likewise, detailed arrangements will need to be made with electricity and telecommunications providers, but again these services are available to the site.
- Potential hazards of flooding and contamination have been discussed elsewhere in this report, and with the measures proposed to mitigate impacts would not compromise the site's suitability for the proposed development.
- Garbage services would be able to access the site.

79C(d) any submissions made in accordance with the Act or the Regulations

Agency submissions

NSW Office of Water responded with General Terms of Approval for development requiring a Controlled Activity Approval under the Water Management Act 2000 on 16 March 2011. The General Terms of Approval are to be included in full in any consent for the project. Further, the letter from the Office of Water recommends that a condition be included in any consent, as follows:

"The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council."

Such condition is included in the proposed conditions in **Appendix 3** to this report.

Agency submissions (cont)

The NSW Office of Water was advised when revised plans of the proposal were submitted, and also of Council's intention to impose conditions of consent requiring further work in or adjacent to Martins Gully. On 6 June 2011 it was confirmed that the original General Terms of Approval issued on 16 March 2011 were still satisfactory.

The NSW Police also provided comments on 8 April 2011 regarding Crime Prevention Through Environmental Design. The Police report raised no objection to the development and did not identify any specific matters that require further attention or alterations to the design proposed. A number of general recommendations for improving crime prevention were provided in the report, which has been provided to the Applicant for their information.

Public submissions

The submitted DA was publicly exhibited in accordance with Council's DCP 2007 – Chapter B3. This included public advertisement in the local print media, a notification sign placed on the site frontage as well as notification by mail to the owners of properties in the vicinity of the site.

The period for response was from 16 March 2011 to 15 April 2011.

One public submission was received. The submission was in turn forwarded to the Applicant for consideration. Copies of the letters with personal details removed have been forwarded to the Panel Secretariat.

An assessment of these public submissions is provided in the table below.

Issues Raised (and frequency of mentions)	Assessment comment
Amount of off-street parking proposed and likely increase in parking on adjoining streets (1)	<p>As discussed earlier in this report, the development proposes to provide a total 164 off-street car parking spaces for residents and visitors to the site. This is consistent with the provisions of Council's DCP for such development. For comparison, the parking requirement for such a development using the RTA's 'Guide to Traffic Generating Development' would be 129 spaces. The 164 spaces proposed are considered sufficient to serve the development.</p> <p>Naturally, utilisation of on-street parking is expected to increase when vacant land is developed for residential purposes. However, the majority of vehicles associated with the development could be accommodated within the site in the parking spaces proposed.</p>
Footpaths and kerb and gutter should be provided (1)	<p>This matter has been discussed earlier in the report and it is recommended that kerb and gutter and concrete strip footpaths be provided in both Beardy Street and Martin Street.</p>
An all-weather pedestrian bridge over Martins Gully should be provided (1)	<p>The existing culvert crossing of Martins Gully in Beardy Street is not flood-free and it is considered unreasonable to require the developer to construct a pedestrian facility to a higher standard. This report recommends widening of the existing culvert for pedestrian access.</p>

Public submissions (cont)

Issues Raised (and frequency of mentions)	Assessment comment
An all-weather pedestrian bridge over Martins Gully should be provided [cont] (1)	Flood-free vehicular and pedestrian access is available to the north of the site via Tancredi Street and Golgotha Street, and temporary closure of Beardy Street during flooding would not preclude access to the site.
Limited sight distance available at intersection of Martin Street and Beardy Street (1)	<p>Council's Development Engineer and the Local Traffic Committee have reviewed traffic safety concerns in this location having regard to the location of electricity poles at this intersection. The Development Engineer's assessment notes:</p> <p><i>"At the mid-point of the Martin and Beardy Street Corner, the sealed section of the road is approximately 11.5 metres wide from sealed edge to edge, which provides ample room for vehicles to turn 90 degrees in this location.</i></p> <p><i>Vehicular Traffic at this specific location is expected to be moving slow enough around this corner (under 30 Km/h) to have adequate time to react to any unforeseen circumstances."</i></p> <p>However, it has also been observed that vehicles turning at this location often cross to the wrong side of the road due to the lack of centerline delineation. It is recommended that appropriate pavement marking be undertaken during road works for this project.</p>
A manager is essential due to the shared facilities (1)	The Applicant's SEE is unclear about the proposed arrangements for future management of the facility. Given that all buildings in the development would remain on a single title, responsibility for management of the development would ultimately lie with the property owners.

79C(e) the public interest

Building Code requirements

Council's Building Surveyor has undertaken a preliminary assessment of the proposal's likely compliance with the BCA. The following matters were identified as requiring further attention in any application for a Construction Certificate:

- Fire protection between buildings, including the proposed community centre and adjacent units.
- Essential services for the proposed community centre.
- Access and facilities for people with disabilities (noting that the development was designed prior to the commencement of the recent Access to Premises Standards).

Building Code requirements (cont)

None of the above matters are considered likely to prevent the development from being able to proceed generally in accordance with the submitted Development Application.

Ecologically Sustainable Development

A relevant aim of the Council's LEP (clause 2(f)) is to ensure that development has regard to the principles of ecologically sustainable development (ESD). ESD is defined in NSW Legislation (for example the Dictionary to the Local Government Act 1993), and involves consideration of the following principles and programs:

- (a) *the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
 - (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
 - (ii) *an assessment of the risk-weighted consequences of various options,*
- (b) *inter-generational equity - namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) *conservation of biological diversity and ecological integrity - namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*
- (d) *improved valuation, pricing and incentive mechanisms - namely, that environmental factors should be included in the valuation of assets and services, such as:*
 - (i) *polluter pays - that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*
 - (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
 - (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

In this case having regard to all the circumstances of this case discussed in this report, including:

- The LEP zoning of the land, which followed consultation with relevant government agencies and the community;
- The intended and required riparian and flood plain management works in connection with the project; and
- Provision of and payment for relevant infrastructure / services which are reasonably required or anticipated to support the proposed development,

this assessment therefore concludes that the proposed development would be acceptable in relation to the above principles, subject where necessary to appropriate conditions of consent as discussed in this report.

Assessment Conclusion - Key Issues

The proposed development is for a use which is permissible with consent under the Council's LEP.

Key issues arising from the assessment of the submitted application can be summarised as follows:

Part of the proposed development would be potentially affected by flooding of Martins Gully, which flows adjacent to the subject site's eastern boundary. The Applicant has submitted a Hydraulic Impact Assessment prepared by Yeats Consulting Engineers, which recommends lowering of the west bank of the gully and construction of a near vertical retaining wall around the perimeter of the development to increase hydraulic capacity and maximise the flood-free area available for development. In essence the works proposed are considered adequate to ensure that all proposed dwellings in the development would have floor level above the FPL; and also acceptable in terms of flood plain management issues for upstream and downstream properties.

The subject site has also been subject to an extensive history of contamination and remediation associated with the former use of land on the western side of Martin Street as a timber treatment plant. The subject site is understood to have been used for storage of treated timber and also contained a sedimentation pond for the facility.

Remediation of the site has recently been carried out under a previous development consent for a manufactured home estate on the subject site. Following completion of remediation/validation of the land in 2010, the subject site was considered suitable without further action being taken for residential activity with accessible soils.

Assessment of the development having regard to Council's DCP generally indicates compliance, and matters arising from the assessment such as privacy, open space, traffic and utility servicing can satisfactorily be addressed by appropriate conditions of consent. However, a key issue of contention arises from the proposal for the development to be a 'gated residential estate'.

Chapter C1 – Urban Residential and Subdivision Code of DCP 2007 provides that gated residential estates will not be approved by Council, other than sheltered housing estates (including projects assessed under the SEPP for Seniors' Living) where the Applicant can demonstrate to Council's satisfaction that the residents have special security needs.

This policy was initially adopted by Council in 2005 following consideration of available literature at the time, which included the experiences of other countries (particularly UK and the United States) in regard to gated estates. The principal reasons for Council adopting development controls for this type of development were:

- Exclusion of non-residents from neighbourhoods prevents interaction of different types of people and affects sense of community for residents of the estate and also other developments in a locality.
- Segregation and division of different types of people in a community is not desirable.
- Potential for gates to slow response times of emergency services attempting to access the site.
- Based on advice from the NSW Police perceptions of safety for residents living in gated communities may be misleading.
- Urban design considerations – high perimeter fencing on public streets.

A letter from the Applicant dated 2 June 2011 states the following in support of the proposal for a gated residential estate to be permitted in this instance:

"We believe that Council should support the provision of a gated residential estate. Whilst

the proposed development is not a SEPP Seniors Living Development, the development will be marketed to the retirees market and will therefore contain predominantly older people that will have special security needs. Further, due to the number of dwellings located in the estate, we believe that there needs to be some control over vehicles entering the site to protect the safety of the residents.

There are also private facilities within the development that need to be protected and could be utilised by people freely able to access the property if not gated.

Further damage could be caused to the facilities if free access is available.”

Whilst the Applicant notes the intention for the development to be marketed to retirees there is no undertaking to restrict occupancy of the development to such persons in any legally binding manner. The development, as submitted for multi unit housing, would allow dwellings to be occupied by persons of any age.

The proposed internal road network does not form part of a through road and it is not considered likely that vehicles other than those associated with the development would normally drive through the site.

Access to the private facilities noted in the Applicant's submission could be restricted by use of appropriate fencing within the development, rather than at the point of access to the estate. This would still ensure appropriate use of the facilities by residents and prevent damage by unauthorised parties.

It is not considered that sufficient justification has been provided in this instance to support the proposal for a gated residential estate. The estate being gated remains a concern for the following reasons:

- No detail has been provided of how visitors, garbage collection and emergency service vehicles can gain convenient access to the site.
- The proposed gate would be setback only 3 metres from the property boundary on Martin Street and there would be insufficient area for vehicles to stand within the site while opening the gates.
- The potential for undesirable social isolation/divisive issues arising from estates where access to non-residents is precluded.

Accordingly, it is recommended that a condition be imposed on any consent requiring the plans submitted with any application for a Construction Certificate to be amended to remove the proposed 'Powder-coated Aluminium Motorised Security Gate', pursuant to Section 80A(1)(g) of the EP&A Act.

A single written submission was received from a member of the public raising various objections to the development. The submission has been considered as part of the assessment.

As a result of this assessment, the proposed development is recommended for conditional consent. **Appendix 3** to this report contains all relevant conditions identified throughout the assessment process and as discussed in the Council officer's report.

Recommendation

- (a) That having regard to the assessment of the Application, DA-61-2011 (JRPP ref 2011NTH010) be granted consent in the terms set out in Appendix 3 to this report.
- (b) That the person / authorities that made submissions in relation to the Application be notified of the determination in writing.

Chris Gardiner
Town Planner, Armidale Dumaresq Council

Armidale, 28 June 2011