



Warringah Council

JRPP No:	2011SYE042
DA No:	DA2011/0400
Description:	Demolition works, construction of an infill affordable housing development under SEPP (Affordable Rental Housing) 2009 and strata and stratum subdivision
Address / Property	Lots 25 & 26 in DP 398815, Nos. 2 & 4 Riverhill Avenue Forestville; Lots 4A in DP 358192, No. 751 Warringah Road Forestville and Lots B, A & C in DP 368072, Nos. 753, 755 & 757 Warringah Road, Forestville
APPLICANT:	McKees Legal Solutions (Graham McKee)
REPORT BY:	Peter Robinson, Acting Director Strategic and Development Services

Assessment Report and Recommendation

Application Lodged:	25 March 2011
Plans Reference:	9897E; 1035 DA-001(AA); 1035 DA-002(AA); 1035 DA-003(AA); 1035 DA-004(AA); 1035 DA-101(AA); 1035 DA-102(AA); 1035 DA-103(AA); 1035 DA-104(AA); 1035 DA-105(AA); 1035 DA-106(AA); 1035 DA-201(AA); 1035 DA-301(AA); 1035 DA-302(AA); 1035 DA-401(AA); 1035 DA-402(AA); 1035 DA-403(AA); 1035 DA-501(AA); 1035 External Finishes; DA-000(AA); DA-001(AA); DA-002(AA); DA-002A(AA); DA-003(AA); DA-003A(AA); DA-003B(AA); DA-004(AA); DA-004A(AA); DA-005(AA); DA-006(AA); DA-007(AA); DA-008(AA); DA-009(AA); DA-010(AA); DA-011(AA); 9897SP (Sheets 1 to 6); Warringah 751-757-SW10 DWG(A) (Sheets 1 to 7); 11/1564/DA1(D); 11/1564/DA2(D); 11/1564/DA3(D); 11/1564/DA4(D); 11/1564/DA5(D); 11/1564/DA6(D); and 11/1564/DA7(D).
Owner:	<ul style="list-style-type: none"> • Plumone Pty Ltd • Vicky Anne Irwin • Scott James Irwin & Vicky Anne Irwin • Irene Janette Baker
Locality:	C1 Middle Harbour Suburbs
Category:	Category 1 (Housing)
Draft WLEP 2009 Permissible or Prohibited Land use:	R2 Low Density Residential zone: Residential Flat Building – Permissible under the provisions of <i>State Environmental Planning Policy (Affordable Rental Housing) 2000</i> .
Variations to Controls (Cl.20/Cl.18(3)):	<ul style="list-style-type: none"> • Front Setback; • Side Setback; and • Side Boundary Envelope.
Land and Environment Court Action:	None pending



Warringah Council

Referred to JRPP:	Yes – Cost of works exceeds \$10 million.
--------------------------	---

SUMMARY

Submissions:	702 individual submissions received
Submission Issues:	<ul style="list-style-type: none"> • Density and scale is inconsistent with character of the area; • Pedestrian safety; • Traffic congestion; • Character of the area; • Insufficient car parking; • Availability of public transport; • Creation of an undesirable precedent; • Impact upon existing infrastructure; • Impacts upon neighbouring residential amenity; • Introduction of a gated community; • Development will not be occupied for the purpose of Affordable Housing; and • Overdevelopment.
Assessment Issues:	<ul style="list-style-type: none"> • Failure to address <i>State Environmental Planning Policy No. 1 – Development Standards</i>; • Inconsistency with <i>State Environmental Planning Policy (Infrastructure)</i>, 2007. • Inconsistency with <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</i>. • Inconsistency with <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>. • Inconsistency and non-compliance with <i>Warringah Local Environmental Plan 2000</i>.
Recommendation:	Refusal
Attachments:	<p><u>Attachment A:</u></p> <ul style="list-style-type: none"> • Site plan; and • Elevations. <p><u>Attachment B:</u></p> <ul style="list-style-type: none"> • Relevant correspondence. <p><u>Attachment C:</u></p> <ul style="list-style-type: none"> • Amended plans and supporting documentation submitted to Council on 8 June 2011 and 27 June 2011.



Subject Site:

Lots 25 & 26 in DP 398815, Nos. 2 & 4 Riverhill Avenue Forestville; Lots 4A in DP 358192, No. 751 Warringah Road Forestville and Lots B, A & C in DP 368072, Nos. 753, 755 & 757 Warringah Road, Forestville

Public Exhibition:

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 59 adjoining land owners and occupiers for a minimum period of 30 calendar days commencing on 8 April 2011 and being finalised on 12 May 2011. Furthermore, the application was advertised in the Manly Daily on 9 April 2011 and a notice was placed upon the site.

SITE DESCRIPTION

The subject site consists of six (6) allotments individually known as Lots 25 & 26 in DP 398815, Nos. 2 & 4 Riverhill Avenue, Forestville; Lot 4A in DP 358192, No. 751 Warringah Road, Forestville and Lots B, A & C in DP 368072, Nos. 753, 755 & 757 Warringah Road, Forestville.

The site is an irregularly shaped property located between Warringah Road and Riverhill Avenue, Forestville. The site has a frontage of 54.915m to Warringah Road, a frontage of 35.965m to Riverhill Avenue.

Lot 25 has an area of 602.5m², Lot 26 has an area of 602.5m², Lot 4A has an area of 1,783m², Lot A has an area of 582.6m², Lot B has an area of 634.2m² and Lot C has an area of 2,139m². Collectively, the site has a total area of 6,343m².

The site currently accommodates six (6) single storey dwelling houses and associated structures on each respective allotment. The two dwellings on Lots 25 & 26 facing Riverhill Avenue are part two storey at the rear due to the slope of the site.

The site consists of a gentle downward slope from Riverhill Avenue to Warringah Road. The slope averages 10m over an average length of 127.8m which results in a slope of 7.8%.

The site includes medium to dense vegetation coverage which predominantly consists of native trees and shrubs. Lot 4A is the most densely vegetated site which accommodates several large Eucalypts, low level trees, shrubs and Bamboo screening at the rear.

Surrounding development consists of single dwellings of varying age, bulk and scale in landscaped settings. An indented bus bay is situated at the front of Lots A and C on Warringah Road. The photographs below show the existing development on the site.



Lot 25 (No. 2 Riverhill Avenue)



Lot 26 (No. 4 Riverhill Avenue)



Lot 4A (No. 751 Warringah Road)



Lot B (No. 753 Warringah Road)



Lot A (No. 755 Warringah Road)



View over Lot C (No. 757 Warringah Road)

Lots A, B, C and 4A each gain direct access to Warringah Road via individual driveways and crossovers. Similarly, Lots 25 and 26 each gain access to Riverhill Avenue via individual driveways and crossovers.

RELEVANT BACKGROUND

The subject Development Application was lodged with Council on 25 March 2011.

It is noted that a pre-lodgement meeting was not held between the proponent/applicant and Council to discuss the application and to provide Council with an opportunity to identify and advise the applicant of any concerns.

The Development Application was subsequently advertised/notified for a period of not less than 30 calendar days terminating on 12 May 2011.

Following the completion of the advertising/notification period and following a preliminary assessment of the application, a letter was sent to the applicant on 16 May 2011 which identified a number of issues with the application including the fact that the Roads and Traffic Authority did not issue concurrence for vehicular access/egress onto Warringah Road. The applicant was offered an opportunity to withdraw the application and re-lodge when all issues raised by Council and the Roads and Traffic Authority had been resolved. The option to attend a pre-lodgement meeting with Council was offered to the applicant in this letter (see Attachment B).

On 20 May 2011, *State Environmental Planning Policy (Affordable Rental Housing), 2009* was amended. The amendment introduced, under Section 54A(1) a prohibition on new Development Applications for in-fill affordable housing on the subject site. Additionally, the Policy also introduced, under Section 54A(3), a requirement that the consent authority must not consent to an existing Development Application pertaining to in-fill affordable housing unless it has taken into consideration whether the design of the development is compatible with the character of the local area. Finally, the Policy, under Section 54A(4), amended the requirement for developments to provide at least 20% of the total floor space (rather than a specified number of units) as affordable rental housing for 10 years.

The applicant advised by letter dated 23 May 2011 that they would not withdraw the Development Application. In that letter, the applicant also advised that they would be amending the Development Application to respond to the matters raised by the Roads and Traffic Authority and Council's Development Engineer (see Attachment B).

The applicant submitted revised plans and documentation to Council on 8 June 2011 and directly to the Planning Assessment Commission (Joint Regional Planning Panel) on 9 June 2011 (received by the Panel members on 10 June 2011).

The applicant advises that the revised plans primarily seek to address the matters raised by the Roads and Traffic Authority and involve the following changes:



Warringah Council

- “1. *Warringah Road vehicle access*
Note that vehicle access to and from Warringah Road has been removed. All vehicle access, including garbage collection is now from Riverhill Avenue.
2. *Lower car park*
 1. *Additional car parking provided due to removal of Warringah Road access ramp.*
 2. *Relocation of waste store and nominated service area.*
 3. *Additional car parking provided adjacent to grid line 8.*
 4. *Relocation of access lift 01 and fire stair 04 adjacent to grid C.*
 5. *Redesign of car park ramp to accommodate two way traffic.*
 6. *Additional storage space included below existing car park footprint.*
3. *Upper car park*
 1. *Riverhill Avenue vehicle access ramp relocated to 2150mm from boundary.*
 2. *Removal of car parking spaces parallel to grid H to accommodate new two way access ramp from Riverhill Avenue.*
 3. *Relocation of access lift 01 and fire stair 04 adjacent to grid C.*
 4. *Extension of ramp lid to grid C.*
 5. *Circulation road widened to accommodate two way vehicle access.*
4. *Ground floor plan*
 1. *Addition of 1 bedroom unit to western end of building A.*
 2. *Building A relocated to 3000mm from western boundary.*
 3. *Single 2 bed unit removed from building E on all levels to accommodate enlarged vehicle access ramp.*
 4. *Ground floor units to building E enlarged.*
 5. *Lift 01 and fire stair 04 discharge internally to building E.*
 6. *Building F relocated to 3000mm from southern boundary.*
 7. *Area of ground floor units in building G reduced to accommodate enlarged ramp. Revised to 2 x 1 bedroom units.*
 8. *1800mm high masonry boundary fence proposed on northern boundary and extending through grids A to C.*
5. *First floor plan and second floor plan*
 1. *Existing 2 bedroom unit in building E redesigned to 3 bedroom unit to sit over proposed ramp lid.*
 2. *Building G redesigned to accommodate enlarged ramp. Proposed 2 x 2 bedroom and 1 x 2 storey, 2 bedroom units at ground level plus 2 x 2 bedroom upper floor walk ups accessible from Riverhill Avenue level.*
6. *Riverhill Avenue*
Building G redesigned with particular attention to materiality, scale and form.”

The applicant also notes that the floor space ratio has been reduced from 0.77:1 (4,884m²) to 0.75:1 (4,764m²). The revised plans and documentation received by Council on 8 June 2011 are attached (see Attachment C).

A letter was sent to the applicant on 14 June 2011 advising that the submission of revised plans and documentation was inconsistent with Council's 'Applications for Development Handling of Unclear, Non-Conforming, Insufficient and Amended Applications Policy' and that the revised plans and documentation would not be accepted by Council, given the timeframe required to assess the application and report the matter to the JRPP (note: This is consistent with the powers conferred under Clause 55(1) of the *Environmental Planning and Assessment Regulation 2000*. Accordingly, this assessment has been prepared based upon the original plans submitted with the Development Application and not the amended plans.

The applicant forwarded, via email, on 27 June 2011 corrections to the above-mentioned revised plans (see Attachment C). The corrections included the following:

- “Drawing No. DA 001 – 2 bedroom unit count corrected to 30 and total number of units to 76;
- Drawing No. DA 103 – Slipway removed; and
- Drawing No. DA 106 – Unit mix on Building G corrected.”

PROPOSED DEVELOPMENT

The applicant proposes to demolish all existing on-site structures and construct six (6) residential flat buildings over a common split-level basement car park which accommodates 77 residential parking spaces and eight (8) visitor parking spaces. The development includes landscape works and a communal area which includes a below ground swimming pool.

Figure 1 below is provided to assist in the identification of the proposed buildings within the site.

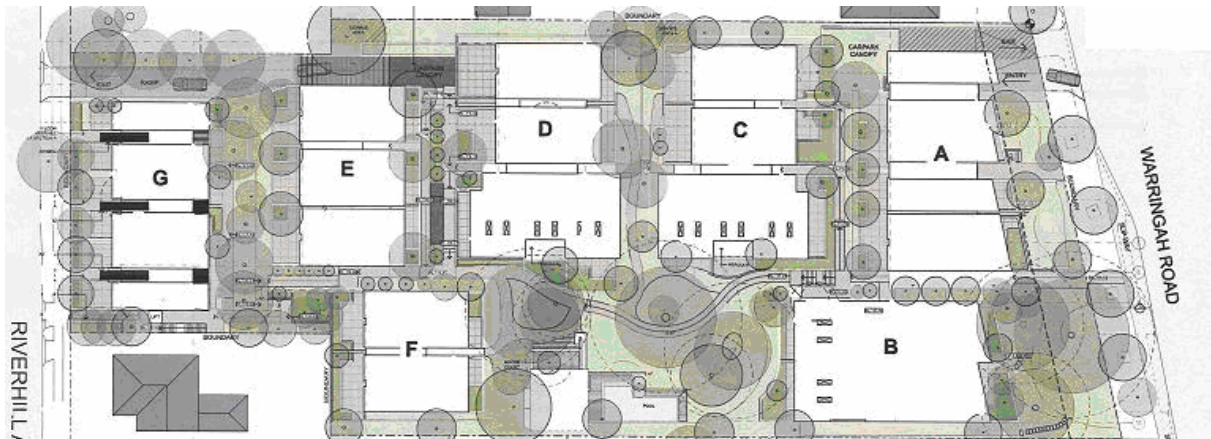


Figure 1 – Proposed building arrangement.
(source: Adapted by the author from Plan No. DA-106 dated March 2011 and prepared by CKDS Architecture)

Further detail of the proposal is provided as follows:

Lower Basement (RL 111.900)

- Adjacent the western boundary and extends below Buildings A, C, D & E.
- Access/egress is provided onto Warringah Road via an 8.2m wide ramp, driveway and crossover.
- Car parking is provided for 44 vehicles consisting of:
 - 40 residential spaces (including 4 spaces for disabled residents).
 - 4 visitor spaces.
- 108m² storage area.

Upper Basement (RL 115.10 & RL 117.500)

- Adjacent the western boundary and extends below Buildings D, E & G.
- Access is gained via a ramp from the Lower Basement car park.
- Egress is provided onto Riverhill Avenue via a 3.6m wide ramp, driveway and crossover.
- Car parking is provided for 41 vehicles consisting of:
 - 37 residential spaces (including 10 spaces for disabled residents).
 - 4 visitor spaces.
- 78.5m² storage area.

Building A (RL 115.100 – RL 124.100)

- 11 x one bedroom dual-aspect apartments.
- 3 x two bedroom dual-aspect apartments.

Building B (RL 116.350 – RL 125.300)

- 6 x one bedroom north-facing apartments.
- 6 x one bedroom south-facing apartments.

Building C (RL 116.700 – RL 125.700)

- 3 x studio east facing apartments.
- 6 x one bedroom dual aspect apartments.
- 6 x two bedroom dual aspect apartments.

Building D (RL 117.900 – RL 126.900)

- 3 x studio east facing apartments
- 6 x one bedroom east-facing apartments.
- 6 x two bedroom dual aspect apartments.

Building E (RL 119.000 – RL 128.000)

- 9 x two bedroom dual aspect apartments.

Building F (RL 119.600 – RL 128.600)

- 6 x two bedroom dual aspect apartments.

Building G (RL 122.000 – RL 131.000)

- 2 x two bedroom north-facing apartments.
- 6 x two bedroom dual aspect apartments.

Central (Communal) Facilities (RL 119.600 – 122.600)

- Adjacent to the eastern boundary.
- Below ground swimming pool.
- Shower and toilet facilities.

Landscaping

Total approximately 35.42% (2,246m²).

In summary, the development consists of the following:

Component	Car Spaces	Studio	1 Bed	2 Bed	3 Bed	Total Units
Lower Basement (RL 111.900)	44	-	-	-	-	-
Upper Basement (RL 115.10 & RL 117.500)	41	-	-	-	-	-
Building A (RL 115.100 – RL 124.100)	-	-	11	3	-	14
Building B (RL 116.350 – RL 125.300)	-	-	12	-	-	12
Building C (RL 116.700 – RL 125.700)	-	3	6	6	-	15
Building D (RL 117.900 – RL 126.900)	-	3	6	6	-	15
Building E (RL 119.000 – RL 128.000)	-	-	-	9	-	9
Building F (RL 119.600 – RL 128.600)	-	-	-	6	-	6
Building G (RL 122.000 – RL 131.000)	-	-	-	8	-	8
Total	85*	6	35	38	0	79
Landscape Open Space	35.42% (2,246m²)					

*Note: Car parking total include 8 visitor car parking spaces.



STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulation 2000;
- c) Roads Act 1993;
- d) Local Government Act 1993;
- e) State Environmental Planning Policy No 55 – Remediation of Land;
- f) State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development;
- g) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- h) State Environmental Planning Policy (Infrastructure) 2007;
- i) State Environmental Planning Policy (Affordable Rental Housing) 2009 as amended;
- j) Warringah Local Environment Plan 2000;
- k) Warringah Development Control Plan;
- l) Warringah Section 94A Development Contributions Plan; and
- m) Draft Warringah LEP 2009.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 59 adjoining land owners and occupiers for a minimum period of 30 calendar days commencing on 8 April 2011 and being finalised on 12 May 2011. Furthermore, the application was advertised in the Manly Daily on 9 April 2011 and a notice was placed upon the site.

As a result of the public exhibition process, a total of 702 individual submissions have been received.

The matters raised within the submissions have been considered and are generally addressed as follows:

Traffic congestion

The majority of submissions (96%) raised concern that the traffic produced by the development will exacerbate the already congested Riverhill Avenue and adjoining local road network.

In particular, the submissions cite that Riverhill Avenue and the adjoining local road network is already frequently congested through the prevalence of on-street car parking by local residents and by commuters who choose to park their vehicles and take public transport from Warringah Road.

Comment

The Development Application is accompanied by a traffic report prepared by Colston Budd Hunt & Kafes Pty Ltd. The report notes that the existing traffic flow on Riverhill Avenue (based upon traffic counts at the intersections of Riverhill Avenue/Forestville Avenue and Riverhill Avenue/Melwood Avenue) is within the maximum threshold for a local road as defined by the Roads and Traffic Authority's *Guide to Traffic Generating Developments*. In this regard, it is noted in the report that Riverhill Avenue currently carries between 100 and 200 vehicles per hour during peak periods.

The report provides an assessment of the impact of traffic increase by the development based upon the traffic generation rates produced by the Roads and Traffic Authority. The report finds that the development would increase traffic along Riverhill Avenue by an additional 5 to 15 vehicles per hour in the peak periods.

Therefore, in that report, the applicant's traffic engineer concludes that:

- i. *the proposed development would result in a minor increase in traffic on the surrounding road network; and*
- ii. *the surrounding road network can accommodate traffic from the proposed development with the intersections operating at the same levels of service as the existing situation.*

Council's Traffic Engineer has reviewed the traffic report and has found that the nett increase in traffic will not have an adverse impact on the surrounding road system or the operating capacities of nearby intersections. In this regard, the conclusions reached by the consulting traffic engineer are generally concurred with by Council's Traffic Engineer.

However, it should be noted that the above comments provided in the applicant's traffic engineer's report are now redundant given the refusal by the Roads and Traffic Authority to provide concurrence to access/egress onto Warringah Road. This would effectively require a redesign of the development to accommodate full access/egress onto Riverhill Avenue. This would result in a considerable traffic increase on the local road network.

The revised plans submitted to Council on 8 June 2011 (see Relevant Background in this report) have been prepared by the applicant to address this although it is noted that a revised traffic report to assess and justify sole access/egress onto Riverhill Avenue was not submitted.

Therefore, whilst it appears that the existing and proposed (as assessed under the original plans and documentation lodged with Council on 25 March 2011) on traffic flows along Riverhill Avenue are within the accepted levels as determined by the Roads and Traffic Authority, the potential impacts resulting from sole access/egress along Riverhill Avenue remains unknown.

Site inspections at various times confirmed the concern raised in the submissions and found that Riverhill Avenue is frequently congested due to the prevalence of on-street car parking. The image below shows the reduced effective trafficable width of Riverhill Avenue from 6.0m to 2.4m (given the average width of 1.8m per vehicle) where it was found that drivers were required to weave to permit oncoming traffic. In this regard, the concerns raised in the submissions are concurred with.



View along Riverhill Avenue (taken by the author at 4.00pm on 24 June 2011).

Note: The proposed driveway would be located behind the white vehicle second from the right.

Pedestrian safety

A significant number of submissions (94%) raised concern that the increase of traffic resulting from the development will have a detrimental impact upon the safety of pedestrians.

Due to the proximity of the development to the Forestville Public School (approximately 92m to the east), the walking route children take along Riverhill Avenue and the on-street parking for parental pick-up, the safety of children was raised as a particular concern.



Comment

The issue of pedestrian safety is closely associated with the level of traffic congestion and the volume of traffic (see discussion above).

Site inspections during school leaving times found that Riverhill Avenue and the surrounding local road network was congested as parents parked to pick up children. It was also noted that a large number of children use Riverhill Avenue as a walking route.

The inspections confirm the concern raised in the submissions in this regard given the limited vehicle sightlines along Riverhill Avenue (see image above) and the steep gradient of the proposed driveway which would require a vehicle to accelerate to reach Riverhill Avenue. It is noted that a pedestrian footpath extends along the full length of north side of Riverhill Avenue and would intersect with the proposed driveway and crossover.

In this regard, the concerns raised in the submissions are concurred with.

Character of the area

A significant number of submissions (92%) raised concern that the development is not consistent with the current or Desired Future Character of the area.

In particular, the submissions cite that the height, built form, scale and density of the development is not in keeping with the low density, traditional character of the area.

Comment

This issue has been discussed at length throughout this report and forms a reason for the refusal of the Development Application.

In summary, it has been found that the development is inconsistent with the current character of the area as required under the provisions of *State Environmental Planning Policy No. 65 - Design Quality for Residential Flat Development* and *State Environmental Planning Policy (Affordable Rental Housing), 2009*. Additionally, it has been found that the development is inconsistent with the Desired Future Character of the locality as defined under *Warringah Local Environmental Plan 2000* for the C1 Middle Harbour Suburbs locality.

Insufficient car parking

The submissions raise concern that the development does not provide sufficient on-site car parking and would thereby result in an increase of on-street car parking.

Comment

State Environmental Planning Policy (Affordable Rental Housing), 2009 requires at least 0.5 car parking spaces are provided for each dwelling (ie: 40 car parking spaces). The Development Application proposes to provide 77 residential car parking spaces (the development also includes an additional 8 visitor car parking spaces) which equates to 0.9 car parking spaces per dwelling and achieves an excess of 37 car parking spaces.

Therefore, the concern raised does not warrant the refusal of the application.

Availability of public transport

The submissions raise concern that the residents of the development will not be adequately supported by public transport as the routes along Warringah Road are infrequent.



Comment

The site abuts Warringah Road and, according to timetabling, is adequately serviced by regular bus routes operated by Sydney Buses (Nos. 136, 137 and L60) and Forest Coach Lines (Nos. 270 and L70).

Therefore, the concern raised does not warrant the refusal of the application.

Creation of an undesirable precedent

The submissions raise concern that the approving of the development would create an undesirable precedent for similar types and/or scales of development in the area.

Comment

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*, Council is required to assess all development applications that have been lodged with Council on an individual basis and against the relevant planning controls, which apply to sites at the time of lodgement.

Accordingly, the issue in relation to the precedent does not warrant the refusal of the application.

Impact upon existing infrastructure

The submissions raise concern that the existing infrastructure will not be able to support a development of this scale.

Comment

The provision of infrastructure is managed by the relevant providers (ie: telecommunications, water, electricity etc). In this regard, it is unlikely that the development would impose a strain upon the provision of those services. If the application was recommended for approval, conditions would be included which will require approval by Sydney Water for access to Sydney Water's sewerage infrastructure prior to the issuing of a Construction Certificate.

With regards to Council's stormwater drainage infrastructure, Council's Development Engineer has assessed the Development Application and has noted that the submitted drainage design must be amended to suit Council's OSD technical specification prior to further assessment. In this regard, Council's Development Engineer advises that the Development Application, as proposed, cannot be supported (see Internal Referrals in this report).

Impacts upon neighbouring residential amenity

The submissions raise concern that the development will have an adverse impact upon areas of residential amenity such as visual privacy, noise, view loss and overshadowing.

Comment

These issues have been discussed at length throughout this report.

In summary, it has been found that the development has generally satisfied the various requirements to manage visual privacy and overshadowing.

However, concern has been identified with regards to noise, in particular to the proposed driveway ramp from the Upper Basement car park to Riverhill Avenue and to the proximity of the communal area and swimming pool to neighbouring property boundaries.



Concern is also raised regarding the impact upon view sharing. It has been found that the impact on the sharing of views as a result of the development is minor and reasonable in accordance with the four (4) planning principles outlined within the Land and Environment Court case of *Tenacity Consulting Pty Ltd vs Warringah Council 2004* (NSWLEC 140) (see Clause 61 Views in this report).

Additionally, it has also been identified that Buildings B, C & D would introduce dominant building mass close to respective neighbouring properties such that a sense of enclosure from the neighbouring private open space areas could result.

In this regard, the concerns raised in the submissions are concurred with.

Introduction of a gated community

The submissions raise concern that the development will introduce a gated community into an area which is otherwise open and thereby encouraging crime.

Comment

A gated community cannot be directly associated to the encouragement of crime. It should be noted that the Development Application has been assessed by NSW Police under the provisions of *Crime Prevention through Environmental Design* (CPTED) and raise no objections.

Development will not be occupied for the purpose of Affordable Housing

Several submissions received were concerned that the development will not be used for the purpose of affordable Housing. Questions were also raised as what happens after the 10 year timeframe.

Comment

Clause 17 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* states that a consent authority must not consent to a development to which this Division applies unless conditions are imposed by the consent authority to the effect that 10 years from the date of the occupation certificate the dwellings proposed to be used for the purpose of affordable housing will be used for the purpose of affordable housing. If the application is approved the required conditions would be included in any consent.

The above restriction expires in 10 years from the date of the occupation certificate after which the development is free of any restriction and can be sold or rented at market price. Accordingly, this issue does not warrant the refusal of the application.

Overdevelopment

The submissions raise concern that the development will result in an overdevelopment of the site.

Comment

The proposed development does not comply with the density Development Standard of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. If a proposal complies with these standards they cannot be used to refuse consent. However, as the proposed development does not comply with this Standard the proposal may be considered to be an overdevelopment of the site.

It is noted that the applicant has not submitted with the Development Application an objection to the Standard under *State Environmental Planning Policy No. 1 – Development Standards*. Therefore, a variation cannot be considered by Council.

Therefore the application may be refused on the grounds of being overdevelopment.



MEDIATION

Has mediation been requested by the objectors?	No
Has the applicant agreed to mediation?	N/A
Has mediation been conducted?	No

LAND AND ENVIRONMENT COURT ACTION

There is no Land and Environment Court action current or pending on this application.

REFERRALS

External Referrals

Roads and Traffic Authority (RTA)

The Development Application was referred to the Roads and Traffic Authority (RTA) for consideration under the provisions of *State Environmental Planning Policy (Infrastructure) 2007* and concurrence under Section 138 of the *Roads Act, 1993*. The RTA advises the following:

"The RTA has reviewed the submitted documentation and does not grant concurrence to the development for the following reason:

- Current practice is to limit the number of vehicular conflict points along the arterial road network to maintain network efficiency and road safety. The current practice is reflected in Section 6.2.1 of the RTA's current publication of the Guide to Traffic Generating Developments, which states 'access across the boundary with a major road is to be avoided wherever possible'.*

Warringah Road (classified road) is a major arterial road, which carries a high volume of traffic, where transport efficiency of through traffic is of great importance.

Further to the above, Council as the consent authority shall give attention to Clause 101(2a) of State Environmental Planning policy (Infrastructure) 2007, which reads as follows:

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

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road".*

As the subject site has alternate vehicular access via Riverhill Avenue, the RTA will not grant its concurrence to the proposed driveway on Warringah Road, classified road) under Section 138 of the Roads Act, 1993."

Assessing Officer's Comment:

Given the above, and in regard to comments made by Council's Traffic Engineer pertaining to vehicular access via Riverhill Avenue. This issue has been included as a reason for refusal.

Aboriginal Heritage Office

The Aboriginal Heritage Office advises the following:

"If areas of in situ sandstone outcrop are proposed for impact (such as overhangs over 1m in height or platforms over 2m square), the Aboriginal Heritage Office would recommend a preliminary inspection by a qualified Aboriginal heritage professional.



Warringah Council

If sandstone outcrops would not be impacted by the development (and if any outcrops that were present were properly protected during works), then no further assessment is required and the Aboriginal Heritage Office would not foresee any further Aboriginal heritage constraints on the proposal."

Assessing Officer's Comment:

Inspection of the site reveals that much of the property has been developed such that little evidence of in situ rocks outcrops exists that has not been already developed upon. Therefore, the development will have minimal impact on the Aboriginal heritage.

Energy Australia (Ausgrid)

Energy Australia (Ausgrid) have assessed the Development Application under the provisions of *State Environmental Planning Policy (Infrastructure) 2007* and raise no objection subject to conditions.

Assessing Officer's Comment:

The response include standard conditions which may be imposed should this application be approved.

NSW Police

NSW Police have assessed the Development Application under the provisions of *Crime Prevention through Environmental Design* (CPTED) and raise no objections.

Assessing Officer's Comment:

The response includes standard recommendations pertaining to surveillance, territorial reinforcement and access control which may be imposed should this application be approved.

Internal Referrals

Urban Design

Council's Urban Designer advises the following:

"Positive aspects:

1. *Articulated building forms. Facades are composed with an appropriate scale, rhythm and proportion.*
2. *Terracing of building forms to respond to the slopping site.*
3. *Providing cross-ventilation to 92% of the residential dwellings.*
4. *Based on the solar study submitted, 83.5% of dwellings have minimum 3 hours of sunlight during the 21st June winter solstice. The recommendation of the SEPP – Affordable Rental housing is 70% minimum.*
5. *Landscape area proposed is 35.4% of the site area as declared in submission. The recommendation of the SEPP – Affordable Rental housing is 30% minimum.*
6. *Provision of a through-site link encouraging resident pedestrian movement to either Warringah Road or Riverhill Avenue.*

Negative Aspects:

1. *The front building setback to Warringah Road and Riverhill Avenue is less than the 6.5m (Council controls) required for Building A and G respectively. There are no East-West sections provided to ensure that the side boundaries building envelopes are complied with as per Council controls.*
2. *The retaining walls to the south facing courtyards are excessively high in certain areas compromising on the amenities of the dwellings.*
3. *The density of dwellings has been increased from the WLEP controls, reducing separation between buildings and resulting in less landscape area compared to the neighbouring sites.*

Conclusion

The initial analysis acknowledges that the proposed development will introduce a medium density residential development in a low density area. To ensure that the proposal would contribute to the amenities of the neighbourhood and set suitable precedence for future development, the following suggestions should be taken into consideration:

- 1. Reduce density of the development to minimise excavation of the slope to be more consistent with the rest of the neighbourhood especially complying comprehensively with the front and side boundaries setbacks and envelopes in accordance with Council Controls. This is to ensure that the desired future character is maintained especially when viewed from immediate neighbours and to be contextually fitting in the existing streetscape.*
- 2. The design should incorporate appropriate screening devices to ensure that visual and acoustic privacy is maintained between walkways and dwellings. More information is to be provided.*
- 3. The parking provision should comply with Council's LEP controls as the development will most likely outlast the affordable housing restrictions. This will reduce the impact of parking on the streets by future new residents."*

Assessing Officer's Comment:

The response raises concerns about the inconsistency of the development to the character of the area, particularly in regards to density and the creation of an undesirable precedent. The recommendations presented in the response (in particular Point 1) would require a significant redesign and therefore, the concern raised by Council's Urban Designer is concurred with and is discussed at length throughout this report.

Development Engineering

Council's Development Engineer advises the following:

"The submitted drainage design including the on-site stormwater detention (OSD) system by Thomas Lau, drawing number Warringah751_757-SW1D.DWG Sheets 1 to 7 Issue A dated 03/11, has been assessed and is considered to be unsatisfactory. The following items are inconsistent with Council's OSD Technical Specification.

Storage in above ground areas must comply with the OSD Technical Specification, especially clauses 4.12 and 4.12.1. Generally the OSD basin must be checked such that the first 5% (3month storm event) of the volume must be contained inside the pit, and the next 15% (1yr ARI storm event) to be in an area of tolerable inundation such as over a hard paved surface area.

The proposed location of the detention tank is unacceptable. Reference is made to Council's OSD Technical Specification, Section 4.7. An excerpt of the section states: "Council will not approve detention systems directly under habitable floors."

The maximum pre-development impervious area to be used for the calculation of the permissible site discharge is 0%.

The landscaping plan and the stormwater drainage plan need to be coordinated. There appears to be some conflict with the location of the OSD basin and the tree planting / mulching details, which may reduce the design storage volume of the basin.

The Consulting Engineer must sign the submitted plan.

Flows from the upstream catchment need to be considered in the design. Where these flows are to be collected by the OSD tank, the volume of the tank to be sized accordingly. Where flows are to be bypassed, details of catch drains and diversion channels are to be detailed. The drawings must provide a catchment plan to indicate the portions of the site and adjoining areas that are directed into either tank or basin or completely by-pass the OSD system.



The pre-development permissible site discharges appear to be higher than expected for this site. Please submit details on how the 5yr, 20yr and 100yr ARI PSD's have been determined.

The engineering longitudinal section through the outlet pipe from the OSD basin to the connection into the Council system is required to show all design flows, all utility services that may cross the line and a hydraulic grade line. It appears that both orifice plate invert levels are lower than the proposed grate level of the connection point in Warringah Road and as such are deemed to be drowned. The design must be amended to ensure the OSD system operates under inlet control.

The minimum outlet pipe size for a 200mm dia orifice is a 375mm dia pipe. Where a smaller pipe is to be used, supporting calculations giving a hydraulic grade line to show that a smaller pipe has sufficient capacity to provide a 'free outlet' must be provided.

The proposed connection to the existing pit in Warringah Road is considered unacceptable and requires to be amended. The outlet pipe is shown at an unacceptable angle from the boundary and the proposed outlet would adversely affect the existing upstream flow entering this pit. A new 900450 SWP with a 1.2m long EKI and HD grate will be required to be constructed with a connection via a 375mm RCP to the existing drainage system downstream of the existing pit to satisfy the site's outlet requirements.

The ILSAX model is to be provided on computer disc and submitted for assessment.

It appears from the drawings that all roof areas are to be connected to the re-use tank with the overflow connected to the basin. As a result of this design, the basin overflows in all storm events and the system exceeds the PSD's.

The proposed reduction in volume of the OSD system for the re-use tank is not permitted. This only applies to single residential dwellings.

The submitted driveway access to the basement car park has been assessed and the following items appear to be inconsistent with AS2890.1-2004.

There is insufficient detail for the driveway off Riverhill Avenue however it appears that it is too steep and does not provide the necessary 1 in 20 grade for the first 6 metres from the boundary and a maximum grade of 1 in 5 as required by the standard.

The internal ramp grade between floor level RL 117.5 and RL 115.1 is approximately 1 in 3 which is too steep.

The submitted drainage and internal driveway ramp design must be amended to suit Council's OSD technical specification and AS2890.1-2004 prior to further assessment and Development Engineers cannot support the application without the amended designs as they will potentially impact on the design of the buildings for the development."

Assessing Officer's Comment:

The response raises concerns about the design and provision of on-site stormwater detention (OSD), outlet pipe connections and the gradient and length of the driveway from the Upper Basement to Riverhill Avenue. All matters raised require the submission of further information and redesign. As such, this has been included as a reason for refusal.

Traffic Engineering

Council's Traffic Engineer advises the following:

"The Proposal

The proposal involves demolition of all existing structures on the site and construction of a residential apartment building(s) under SEPP (Affordable Rental Housing) 2009 yielding 79 apartments, spread over 7 buildings, comprising of 41 x 1 bedroom, 38 x 2 bedroom apartments, basement parking for 77 cars with vehicle access to Warringah Road and Riverhill Avenue.



RTA Referral Requirements

In accordance with Schedule 3 (Traffic generating developments) of SEPP (Infrastructure) 2007 the application will require referral to the Roads and Traffic Authority as the proposed 79 apartments exceeds the threshold of 75 dwellings and the site has direct access to a classified road i.e. Warringah Road.

Vehicle Access

Vehicle access driveways are proposed on the Warringah Road and Riverhill Avenue frontages of the site as follows:-

Warringah Road access driveway.

A combined entry/exit access driveway 7.4m wide (with internal separation of entry/exit movements) is proposed on the Warringah Road frontage. The access driveway is positioned along the western site boundary and is located within an indented bus bay on Warringah Road immediately east of a passenger shelter and bus standing position.

The Traffic Report accompanying the application recommends that the existing bus bay be extended to the east to provide a slip lane but provides no details as to the length required and any impact on adjacent infrastructure. Similarly, the report provides no assessment of the impact of the access driveway on bus operations and the potential for conflict between buses, vehicles entering and exiting the site and bus patrons, particularly passengers congregating at the bus stop while waiting for a bus. The bus stop is subject to significant commuter use during peak hours.

As the proposal requires referral to the RTA the Authority will also provide advice on the desirability of the proposed vehicle access arrangements on Warringah Road.

Riverhill Avenue access driveway

An 'exit only' access driveway, some 3.6m wide, is proposed to Riverhill Avenue positioned along the western site boundary. This driveway is compliant with the relevant width and sight distance requirements in 'AS/NZS 2890.1:2004'.

Car Parking Provision, Layout and Servicing Arrangements

The proposal provides on-site parking for 77 cars exceeding the SEPP requirement of 40 spaces (i.e. 79 dwellings @ 0.5 spaces per dwelling).

The car parking layout and internal access arrangements comply with the relevant design requirements in 'AS/NZS 2890.1:2004' and 'AS/NZS 2890.6:2009'.

As noted earlier all vehicle entry to the site is from Warringah Road with an 'exit only' to Riverhill Avenue. The single lane access ramp from the Lower Car Park (42 spaces) to the Upper Car Park (35 spaces) allows all vehicles to exit via Riverhill Avenue while requiring vehicles parked within the 35 space Upper Car Park to exit via Riverhill Avenue.

The Lower Car Park provides a servicing facility suitable for use by the design 6.4m long Small Rigid Vehicle (SRV) with access from Warringah Road.

Traffic Generation and Impact

Based on RTA traffic generating rates (and adopting the higher rate of 0.5 pvt/dwelling for flat buildings up to 2 bedrooms) the proposal is assessed as generating approximately 40 pvt (i.e. 79 dwellings @ 0.5 pvt/dwelling) with a nett increase in traffic over the existing circumstances of some 35 pvt.



Warringah Council

Assuming an 80/20 split to the peak direction (i.e. 80% exiting, 20% entering in the AM peak hour and the reverse in the PM peak hour) the site would be subject to approximately 8 entry and 32 exit movements in the AM peak hour and 32 entry and 8 exit movements in the PM peak hour.

Based on the proposed access arrangements and assuming a 'worst case scenario' that all vehicles exited the two car parks via Riverhill Avenue then Riverhill Avenue would be subject to 32 and 8 exit movements in the AM and PM peak periods respectively. The proposed vehicle access arrangements do provide for a dispersal of traffic to the adjacent road system depending on motorists desired destinations.

The conclusions drawn in the accompanying Traffic Report that the nett increase in traffic will not have an adverse impact on the surrounding road system or the operating capacities of nearby intersections are generally concurred with.

Conclusions

The major issue arising from this assessment is the proposed vehicle access on Warringah Road, a classified Main Road. Accordingly, the RTA's response to the proposal is required prior to Traffic Management giving further consideration to the proposal.

Depending on the RTA's response the applicant may be required to provide additional information with respect to an assessment of the impact of the access driveway on bus operations and the potential for conflict between buses, vehicles entering and exiting the site and bus patrons, particularly passengers congregating at the bus stop while waiting for a bus. Further information may also be required on the proposal to extend/provide a 'slip lane' in Warringah Road as part of the existing bus bay."

In response to the receipt of comments from the RTA, Council's Traffic Engineer advises the following:

"It is understood that the RTA has since provided comments on the DA and will not give concurrence to the access from Warringah Road. Under the circumstances the applicant would need to revise the proposed access arrangements and the traffic report."

Assessing Officer's Comment:

The response acknowledges that concurrence is not provided by the RTA and that full access/egress would be required to occur to/from Riverhill Avenue. The response indicates that a redesigned traffic arrangement would be required to be accompanied by a revised traffic report and therefore, this issue has been included as a reason for refusal.

Landscape Officer

Council's Landscape Officer advises the following:

"Review of the plans indicates that a number of large trees are to be retained and communal open space provided on the eastern side of the site.

Concern is raised in regard to the western side of the site which accommodates the main building component comprising Blocks A, C, D, E and G.

The proposed landscape treatment between the buildings is minimal and largely constructed over the underground car parking.

In view of the size of the dwellings proposed, a larger and softer landscape separation would be expected to provide a setting more in keeping with that envisaged in the DFC and under the SEPP in relation to Landscaping and Scale and Built Form.

The planting proposed between the buildings is not considered to be commensurate with the building bulk being proposed.

In consideration of this, the proposal is not supported in relation to Landscape issues."

Assessing Officer's Comment:

The response raises concerns about the proposed building separations and the resultant landscaped setting of the development which is considered to be inconsistent with the Desired Future Character of the area as identified under WLEP 2000 and as required under the Section 54A(3) of *State Environmental Planning Policy (Affordable Rental Housing), 2009*.

Waste Management

Council's Waste Management have not provided any comment to date. Notwithstanding, the development will be required to comply with Council's Policy Number PL 850 – Waste if considered for approval.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act, 1979*, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on "Draft Environmental Planning Instruments" in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) - Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	<p>Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. A design verification certificate has been submitted with the application.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter may be addressed via a condition of consent should this application be approved.</p> <p>Clause 98 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. A condition of consent could be included in the consent if the application was worthy of approval that all works to be consistent with the provisions of the Building Code of Australia</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(1) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control table in this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable.</p> <p>(ii) The development will provide affordable housing in the locality therefore the development ensures that the housing stock caters for a broad cross section of the community. In terms of the provision of housing, the proposed development will not have a detrimental social impact on the locality.</p>



Warringah Council

Section 79C 'Matters for Consideration'	Comments
	(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	<p>The site does not contain any significant physical constraints which would prevent the provision of this development on site.</p> <p>Notwithstanding, the site is not considered to be suitable for the development given it's location within an area which renders the development to be inconsistent with its current and desired future character.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	The public submissions received in response to the proposed development are addressed under 'Notification & Submissions Received' within this report. Several issues were raised which warrant the refusal of the application.
Section 79C (1) (e) – the public interest	<p>The provision of affordable housing in the locality is generally in the broader public interest.</p> <p>However, the various controls contained within WLEP 2000 provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the desired future character envisaged for the locality.</p> <p>This assessment has found the development to be inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective localities and is therefore not considered, in its current form, to be in the localised public interest.</p>

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Warringah Local Environmental Plan (Draft WLEP)

Definition: Residential Flat Building

Residential Flat Building – means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Land Use Zone: R2 Low Density Residential

Permissible or Prohibited: Prohibited

Note: The sites are zoned R2 Low Density Residential under the provisions of Draft Warringah LEP 2009. Residential Flat Buildings are prohibited within the zone, however *State Environmental Planning Policy (Affordable Rental Housing) 2009* under Division 2, Clause 10, applies to the site and allows residential flat development in areas zoned where they would not otherwise be permitted.

Additional Permitted used for particular land – Refer to Schedule 1: N/A

Relevant Principal Development Standard:



Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Height of Buildings*:	8.5m	8.5m	Yes	N/A

*Note: Building heights under the draft WLEP are taken from existing ground level.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development.

A BASIX Certificate has been submitted for the proposed development (see Certificate No. 366843M dated 23 March 2011). The Certificate confirms that the proposed development meets the NSW government's requirements for sustainability. The development meets the water and energy performance targets and achieves a pass for thermal comfort.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1)(a) of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) and Clause 48 of WLEP 2000 states that a consent authority must not consent to the carrying out of any development on land unless;

- It has considered whether the land is contaminated, and
- If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and
- If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out.

Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. It is noted that a number of outbuildings include fibro which may contain asbestos. The documentation provided with the development application does not confirm this and it may be possible that asbestos and lead based paint are present on the site. In this regard, should the application be approved, appropriate conditions would be required to be imposed to identify the presence of any such materials and they're removal.

Notwithstanding, given the on-going residential use of the site, it is considered that, should this application be approved and subject to the imposition of condition(s) relating to the site would pose no risk of contamination and therefore, no further consideration is required under Clause 7(1)(b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development

Clause 3 of SEPP 65 defines a residential flat building as follows:

Residential flat building means a building that comprises or includes:

- 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."*



The development consists of seven buildings of three storeys containing four or more self-contained dwellings. Therefore, the provisions of SEPP 65 are applicable to the assessment of this application.

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

The SEPP requires the assessment of any development application for residential flat development against the 10 Principles contained in Clauses 9 - 18 and Council is required to consider the matters contained in the publication "Residential Flat Design Code (RFDC)". As such, the following consideration has been given to the requirements of the SEPP and the RFDC.

Principle 1 - Context

"Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the Desired Future Character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area".

Comment:

The site is situated on the downward slope of the southern ridgeline which forms the side of a valley associated with Carroll Creek located in the Garigal National Park. The site is located approximately 250m from the Park and glimpses of the northern side (ie the far side) of the valley are possible from the rear of the site abutting Riverhill Avenue.

However, the key natural features of the area have been subject to on-going development which has resulted in much of the original natural state being diminished. However, the area continues to be characterised by medium-to-dense tree coverage and landscaped settings due to the low density of residential development.

In the context of natural environment, the development proposes to retain the prominent stand of trees which is located on Lot 4A (No. 751 Warringah Road) and the group of trees located along the Warringah Road frontage. New tree and shrubbery plantings are proposed throughout the site and along the Riverhill Avenue frontage.

However, it is noted that Council's Landscape Officer raised concern about the proposed building separations and the resultant landscaped setting of the development which is considered to be inconsistent with the Desired Future Character of the area as identified under WLEP 2000 and as required under the Section 54A(3) of *State Environmental Planning Policy (Affordable Rental Housing), 2009*.

With regards to the key built features of the area, a survey of the area (see Figure 3 under Principle 2 – Scale) reveals that the key built features of the area consist of single dwellings of between one and two storey in height, of traditional style with pitched roof forms on landscaped allotments which have an average area of 831m². Figure 2 below is derived from the Site Analysis Plan provided by the applicant and shows the site in context to surrounding development.

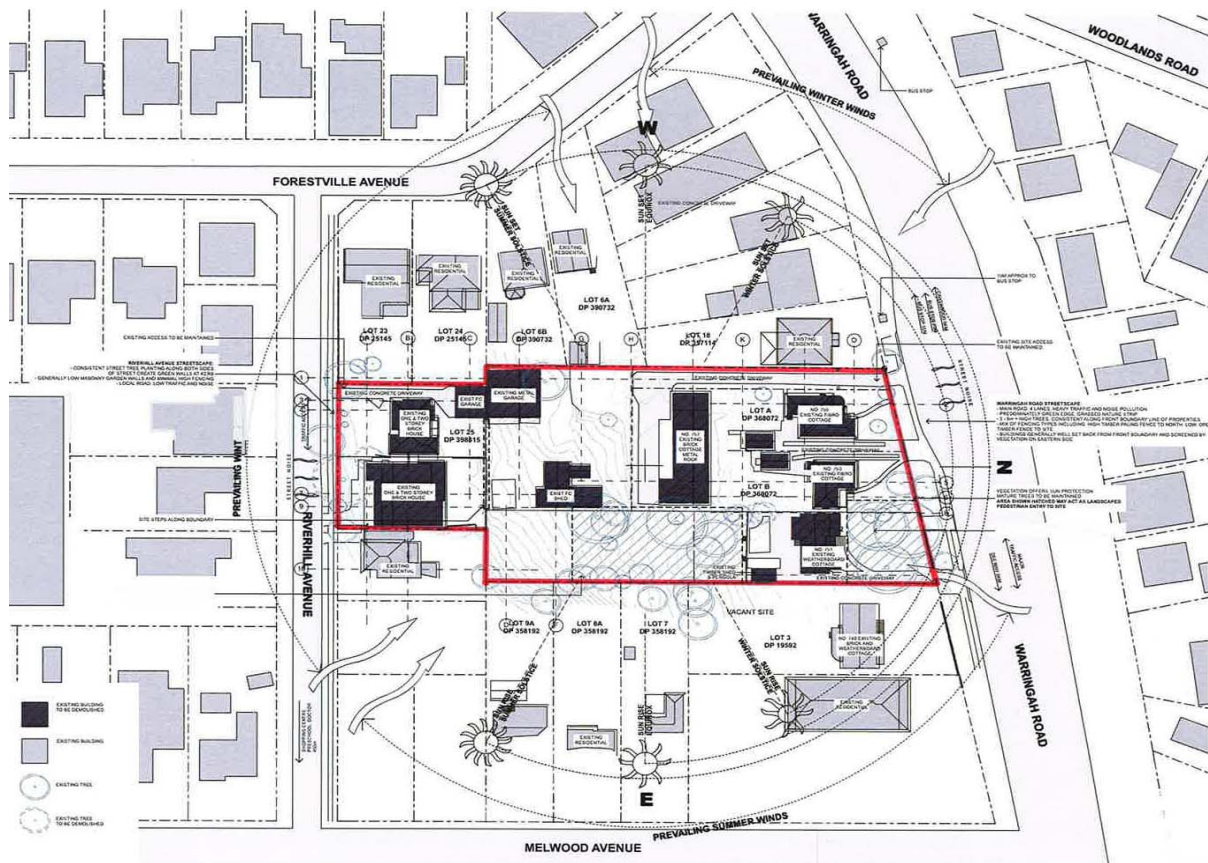


Figure 2 The site (marked in red and showing its current state) in context to the area.

(Source: Adapted by the author from Plan No. DA-002 Site Analysis Plan dated March 2011 and prepared by CKDS Architecture)

Apart from Warringah Road, the built features of the area are supported by a local road network which is noted as being of a light carrying capacity which is reflective of the low density of the area.

In the context of the built environment, the development proposes the construction of seven (7) x 3 storey residential flat buildings on one 6,343m² allotment which will introduce a high density/mid-rise development into an area currently characterised by low-density/low-rise residential single dwellings on medium to large allotments.

In this regard, the development is not considered to be consistent with the key built features of the area.

The Desired Future Character of the locality, as described under Warringah Local Environmental Plan 2000, states that the locality “*will remain characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses*”. The area is not currently proposed, nor is it envisaged in the Draft Warringah Local Environmental Plan 2009, to undergo a transition from low density residential to medium density residential.

Therefore, given the above comments, in particular pertaining to the built features and the desired future character of the area, the development cannot be considered to contextually contribute favourably to the quality and identity of the area.

The development is not consistent with Principle 1 – Context.

Principle 2 - Scale

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

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

Comment:

The site is surrounded by residential development which consists of single and double storey detached dwelling houses of between 5.0m and 8.0m in height, all of which contributes towards a low scale built environment. Because each dwelling is situated on an individual allotment the scale of existing development maintains an open horizontal perspective along the street and an open diagonal and vertical perspective to the skyline. Additionally, the building separation between dwellings reduces the scale and visual massing of development when viewed from the public domain and promotes the landscaped character of the area.

The development proposes the construction of seven (7) x 3 storey residential flat buildings consisting of a height of 8.5m which is considered, in terms of metres, to be consistent with the heights of surrounding development and compliant with the overall Building Height Built Form Control for the locality. However, the horizontal built form (massing) of the development consists of a continual 3 storey street wall structure along Warringah Road and a continual 2 storey street wall structure along Riverhill Avenue which reduces the building separation and encloses the streetscapes. This aspect of the design is an architectural departure from the single dwelling character of the area through the introduction of the bulk and height of medium density residential flat buildings, particularly when viewed from Warringah Road.

In this regard, the development is not regarded as a considered and sensitive response to the scale of existing development, particularly when viewed from the public domains of Warringah Road and Riverhill Avenue.

As discussed in ‘Principle 1 – Context’ above, the Desired Future Character of the locality, as described under Warringah Local Environmental Plan 2000, states that the locality “*will remain characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses*”. The area is not currently proposed, nor is it envisaged in the Draft Warringah Local Environmental Plan 2009, to undergo a transition from low density residential to medium density residential.

Figure 3 below illustrates the scale of surrounding development in the area by the number of storeys (as indicated in red).

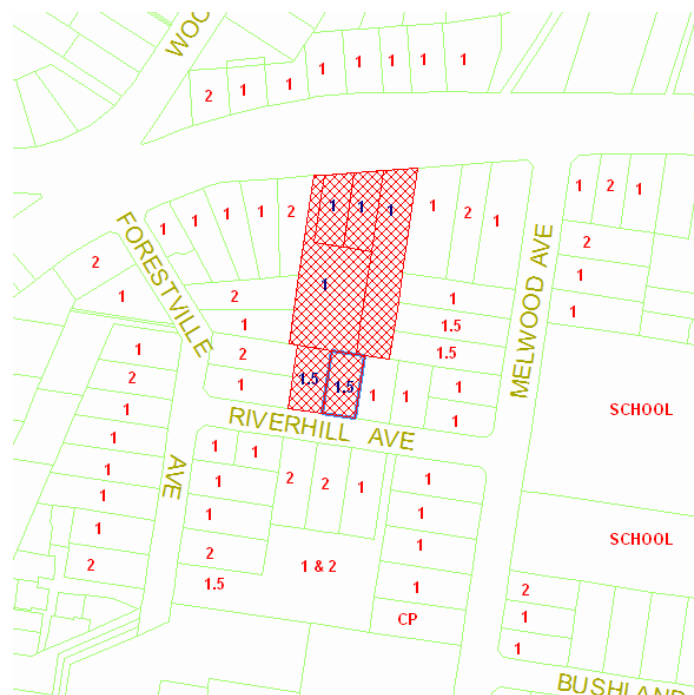


Figure 3 Scale of existing development in the area of the site

The development is not consistent with Principle 2 - Scale.

Principle 3 - Built Form

“Good design achieves an appropriate Built Form for a site and the building’s purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.”

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

Comment:

The applicant proposes the construction of seven (7) x 3 storey residential flat buildings for the purposes of providing at least 50% of the development for affordable housing. The site consists of six (6) allotments which are proposed to be consolidated to form one allotment of 6,343m².

The proposed building alignments, proportions, building type and the manipulation of building elements are appropriate for the purpose of providing residential accommodation on a site within a medium density area. However, the site is located within a low density area consisting of generous front setbacks which are enhanced by sufficient building separation to promote open streetscapes.

As discussed in ‘Principle 2 – Scale’ above, the street wall proportions of the proposed buildings are consistent with medium density residential flat development but are not consistent with the low density detached single dwelling development which characterises the area.

Consequently, the proposed building type (residential flat buildings) is not considered to be an appropriate built form for the site. Figures 4 and 5 below show montages of the development as viewed from Warringah Road and Riverhill Avenue.



Figure 4 Montage of development from Warringah Road.
(Source: Perspective image dated March 2011 as prepared by CKDS Architecture)



Figure 5 Montage of development from Riverhill Avenue.
(Source: Perspective image dated March 2011 as prepared by CKDS Architecture)

While it is accepted that the street wall design defines the public domain in the sense that it provides a distinct visual contrast between the private and public domains, it is considered that the proposed design does not sensitively respond to the streetscape which is defined by low scale detached single dwellings in landscaped settings.

The development is not consistent with Principle 3 – Built Form.

Principle 4 - Density

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

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

Comment:

The development will require the consolidation of six (6) allotments to form one allotment of 6,343m². The resulting density of the development will be one dwelling per 81m² and a floor space ratio of 0.77:1 (4,884m²).

While *State Environmental Planning Policy (Affordable Rental Housing), 2009* permits a floor space ratio of 0.75:1 (4,764m²) the development, as proposed, exceeds that by 120m². In this regard, the proposed density and floor space ratio are not considered to be appropriate for the site or its context.

In terms of sustainability and regional context, the site is located approximately 340m to the west of the Forestville Shopping Centre (located within the C3 - Forestville Village locality) which is identified in the NSW Government's Metropolitan Strategy as a Small Village. A Small Village is defined in the



Strategy as having a 400m sphere of influence and consists of *“a small strip of shops and adjacent residential area within a 5 to 10 minute walk. Contains between 800 and 2,700 dwellings.”* If consideration is given to the area of the sphere of influence (502,656m²) and envisaged number of dwellings indicated in the Strategy in this regard, a Small Village would have a resulting density of between one dwelling per 186m² (2,700 dwellings) to one dwelling per 628m² (800 dwellings) which are both considerably lower than the density proposed. This is reinforced by the fact that the site is located on the western edge of the Small Village sphere of influence where densities decrease. In this regard, the proposed density is not considered to respond appropriately to the regional context.

In terms of the availability of infrastructure, public transport, community facilities and environmental quality, the site is located within an established residential area and would be supported by the required infrastructure (pending approval from Sydney Water). The site abuts Warringah Road and is adequately serviced by continuous bus routes operated by Sydney Buses (Nos. 136, 137 and L60) and Forest Coach Lines (Nos. 270 and L70). Community facilities (Forestville Public School, Forestville RSL, the Forestville Library and medical practitioners) are located within walking distance to the site. The development proposes to retain a large proportion of trees on the site and, in this regard the environmental quality of the development is acceptable. However, the development will introduce a higher density which would inevitably have environmental impacts external to the site such as increased noise (especially from the communal open space area) and traffic (leaving the site from the steep driveway onto Riverhill Avenue and increased volumes on surrounding narrow local roads).

The development is not consistent with Principle 4 – Density.

Principle 5 – Resource, energy and water efficiency.

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

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

Comment:

The development includes the demolition of six (6) dwelling houses plus ancillary structures (including a fibro house located on Lot C (No. 757 Warringah Road). The application does not indicate that the development will incorporate recycled materials nor use a selection of appropriate and sustainable materials. Given that the development proposes the demolition of all structures on the site, no adaptable re-use of existing buildings will be achieved. Notwithstanding, should this application be considered for approval, a suitable condition could be imposed which requires the recycling of materials to be used in the development through a Construction Plan of Management.

The environmental performance of the development is guided by the provisions of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. In this regard, a BASIX Certificate has been submitted for the proposed development (see Certificate No. 366843M dated 23 March 2011). The Certificate confirms that the proposed development meets the NSW government's requirements for sustainability. The development meets the water and energy performance targets and achieves a pass for thermal comfort.

The development is generally consistent with Principle 5 – Resource, Energy and Water Efficiency.

Principle 6 - Landscape

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

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

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

Comment:

The existing site includes sporadic stands of trees and shrubbery within the western side of Lot C, No. 757 Warringah Road) and dense tree coverage along the Warringah Road and Riverhill Avenue frontages. Lot 4A, No. 751 Warringah Road includes dense tree coverage to the rear.

The development proposes to retain the majority of trees currently established on Lot 4A, No. 751 Warringah Road to provide shade and visual amenity to the proposed communal open space area and to retain landscape continuity to the neighbouring properties to the east. Additionally, it is noted that the landscape plan also indicates that significant trees along the Warringah Road frontage will be retained.

The landscape plan indicates that plantings are proposed between buildings (specifically Buildings A, C, D, E & G) but the extent of hard surface area (courtyards and pathways) limits the scale of planting to small trees and shrubs (see Masterplan dated 24 March 2011 as prepared by Paul Scrivener). Figure 6 below shows the extent of proposed planting and hardstand area throughout the site.

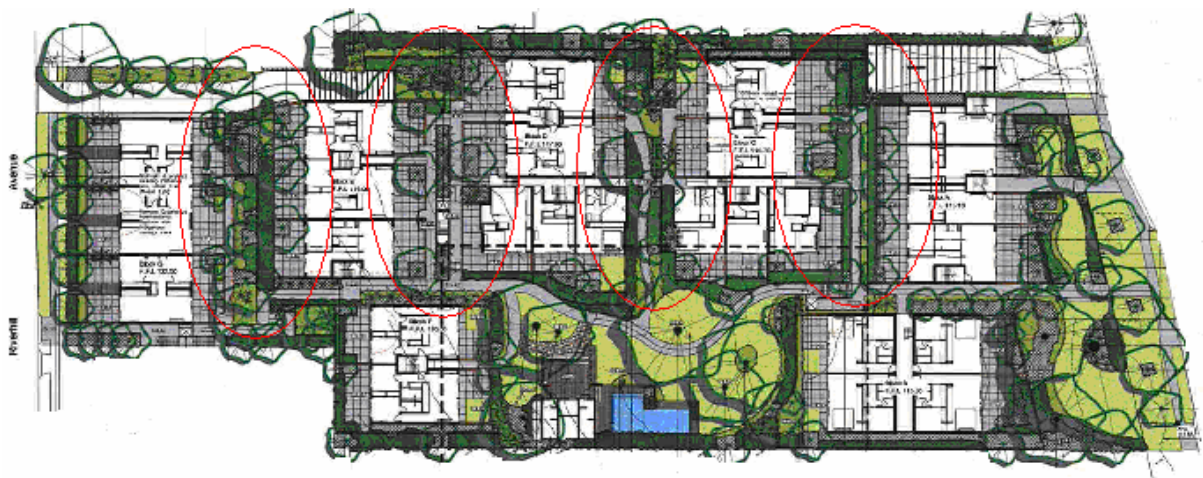


Figure 6 Proposed landscaping (areas of concern indicated in red)
(Source: Adapted by the author from 'Masterplan' dated 24 March 2011 as prepared by Paul Scrivener)

Council's Landscape Officer has reviewed the landscape plans and has provided comments (see Internal Referrals in this report) which raise concerns about the minimal amount of soft landscaping between the buildings in context to the size of the proposed development. In this regard, it was noted in the referral response that *"the planting proposed between the buildings is not considered to be commensurate with the building bulk being proposed"* and that *"a larger and softer landscape separation would be expected to provide a setting more in keeping with that envisaged in the DFC and under the SEPP in relation to Landscaping and Scale and Built Form."*

The development will significantly alter the site's existing natural and cultural features. However, it is acknowledged that the retention of the stand of trees along the Warringah Road frontage and along the eastern boundary is a positive outcome which builds upon this particular element of the site's existing natural feature. The remainder of the landscape design is guided by the architectural design of the buildings and associated hard surface areas along the western side of the site and, as such, is considered to be minimal.



Warringah Council

The landscape design is considered to respect the streetscape. However, given that the built form of the development does not favourably respond to the key built features of the area (see Principle 1 – Context) it is considered that the landscape design alone is not sufficient to contribute to the positive image and contextual fit of the development through respect for the neighbourhood character or Desired Future Character.

The development is not consistent with Principle 6 – Landscape.

Principle 7 - Amenity

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

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

Comment:

The development proposes the construction of 79 apartments which exhibit appropriate room dimensions and shapes.

Access to sunlight

Suitable access to sunlight is provided for 59 (75%) apartments which receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. This is compliant with the Clause 14(1)(e) of *State Environmental Planning Policy (Affordable Rental Housing), 2009* which requires a minimum of 70% of dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.

Natural ventilation

Natural ventilation is considered to be generally satisfactory under the provisions of the Residential Flat Design Code (RFDC) under *State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development*. It is noted that a number of single aspect apartments (see RFDC table below) achieve a depth of 8.5m which exceeds the 8.0m Rule of Thumb set out in the Code. However, this is not considered to have any detrimental effect upon the internal amenity of those apartments.

Visual privacy

Visual privacy has been managed through a number of privacy screens throughout the development. The potential for overlooking into neighbouring allotments has been minimised through the strategic placement of privacy screening although apartment Nos. 314, 315 and 320 would require corner screening to reduce diagonal overlooking opportunities into respective neighbouring allotments.

Notwithstanding, this is considered to be a minor departure from the Code and a condition could be imposed to provide further screening should this application be approved.

Acoustic privacy

Acoustic privacy has been addressed adequately within the site through the creation of private courtyards which separate dwelling space from pedestrian pathways. However, concern is raised regarding the proposed driveway onto Riverhill Avenue. The driveway consists of a steep and continual rise of 9.0m over a length of 47.8m. Council's Development Engineer has raised concerns regarding this particular element (see Internal Referrals) and points out that *“there is insufficient detail for the driveway off Riverhill Avenue however it appears that it is too steep and does not provide the necessary 1 in 20 grade for the first 6 metres from the boundary and a maximum grade of 1 in 5 as required by the standard. The internal ramp grade between floor level RL 117.5 and RL 115.1 is approximately 1 in 3 which is too steep.”* Acoustically, there is concern that, given the gradient and length of the driveway, vehicles using the driveway will accelerate for an extended period of time to reach the Riverhill Avenue crossover thereby impacting upon neighbouring residential properties and upon the proposed apartments which are situated in close proximity to the driveway.



In terms of acoustic privacy, it is also noted that an external lift is proposed to be located adjacent to the property boundary of No. 6 Riverhill Avenue. The external placement of the lift shaft raises concerns due to the potential for the noise of the lift motor to have an adverse impact upon the neighbouring property.

Furthermore, with regards to acoustic privacy, there is concern regarding the close proximity of the swimming pool and 'Central Facilities' building to the neighbouring property boundaries of Nos. 2 & 4 Melwood Avenue and No. 749 Warringah Road. The communal facility is setback 1.8m from the boundary which is considered to be an insufficient distance to maintain a reasonable level of acoustic amenity.

Provision of storage space

The development includes the provision of 815.7m³ storage space which is located within the Lower and Upper Basement Levels. This is significantly more than the 550m³ required under the RFDC Rule of Thumb.

Provision of indoor and outdoor space

The provision of indoor and outdoor space is considered to be adequate with exception to a number of apartments which have balcony widths of less than the prescribed 2.0m under the RFDC Rule of Thumb. Notwithstanding, this is considered to be a minor departure from the Code and a condition could be imposed to increase balcony widths should this application be approved.

Internal apartment layouts

Internal apartment layouts are considered to be efficient in terms of movement, solar access and natural ventilation. The external building layout across the site is considered to be efficient in terms of permitting movement and facilitating a communal sense of place. However, the 'back-to-back' arrangement of Buildings C, D and E at ground floor level enables a continual flow of pedestrian traffic past habitable rooms which could have adverse amenity impacts, especially at night. It is also noted that this 'back-to-back' arrangement results in the main living/dining areas in one apartment block facing the bedroom areas of the neighbouring apartment block.

Outlook

In terms of outlook, Buildings A, B, F and G achieve a reasonable sense of outlook. However, Buildings C, D and E are sited within close proximity to each other and have a significantly reduced sense of outlook.

Pedestrian access

Generally, the development provides a reasonable level of access for all ages and levels of mobility. The application includes an access report (see Access Report dated 25 March 2011 prepared by Accessibility Solutions Pty Ltd) which concludes that the development includes wheelchair access to 29 of the proposed 79 apartments (ie: 24%) which demonstrates consistency with the RFDC Rule of Thumb which requires that a development provides barrier free access to at least 20% of dwellings in the development.

Due to the concerns raised on acoustic privacy, external building layouts and outlook, the development is not consistent with Principle 7 – Amenity.

Principle 8 - Safety and Security

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



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

Comment:

The application was referred to the NSW Police for consideration under Crime Prevention through Environmental Design (CPTED). In their response, NSW Police did not raise any objection to the proposal but provided recommendations to address surveillance, territorial reinforcement and access control. These recommendations may be imposed as conditions should this application be approved.

Principle 9 – Social Dimensions

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

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

Comment:

The development proposes to construct seven (7) residential flat buildings which will accommodate 79 apartments. The applicant proposes to allocate approximately 40 of those apartments (ie: 50% of the apartment mix) to affordable housing which is considered to be a positive outcome in terms of providing for low income individuals and families. However, the scale of the development should also be considered in terms of the current and future character of the area and it should be remembered that affordable housing only consists of 50% of the development. The remainder of the development is residential flat development. This has been discussed in Principle 4 – Density.

As pointed out in Principle 1 – Context and Principle 2 – Scale, the Desired Future Character of the locality, as described under Warringah Local Environmental Plan 2000, states that the locality “*will remain characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses*”. The area is not currently proposed, nor is it envisaged in the Draft Warringah Local Environmental Plan 2009, to undergo a transition from low density residential to medium density residential.

The development is not consistent with Principle 9 – Social Dimensions.

Principle 10 - Aesthetics

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

Comment:

The development includes a schedule of external finishes which indicates that the external walls will be finished in painted render and painted metal cladding (it is noted that the location of the painted metal cladding is not shown on the accompanying montages – see Figures 4 & 5 in this report). The external vertical screens to the dwellings along Riverhill Avenue consists of powdercoated metal blades. The roofing material consists of colorbond metal sheeting in ‘shale grey’.

The resulting aesthetic appearance of the development, particularly when viewed from the public domains of Warringah Road and Riverhill Avenue, is a contemporary series of medium-rise residential



Warringah Council

flat buildings (facing Warringah Road) and contemporary low-rise townhouses (facing Riverhill Avenue) both of which are minimalist and hard-edged in their design. The design of the development may be regarded as visually neutral, the resulting aesthetic appearance will emphasise the medium density character of the development within an area identified as consisting of traditional built forms.

As pointed out in Principle 1 – Context and Principle 2 – Scale, the Desired Future Character of the locality, as described under Warringah Local Environmental Plan 2000, states that the locality “*will remain characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses*”. The area is not currently proposed, nor is it envisaged in the Draft Warringah Local Environmental Plan 2009, to undergo a transition from low density residential to medium density residential.

The development is not consistent with Principle 10 - Aesthetics.

Residential Flat Design Code

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

PART 01 - LOCAL CONTEXT																										
Criteria	Requirement	Comment																								
Primary Development Controls																										
Building Height	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit	N/A																								
	Test heights against the number of storey's and the minimum ceiling heights required for the desired building use. (2.7 for habitable rooms, 2.4 non-habitable rooms and 1.5 for attics) (Habitable Rooms include: any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sub room and play room)	Consistent																								
Building Depth	Resolve building depth controls in plan, section and elevation. In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose deeper than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	Consistent																								
Building Separation	Design and test building separation controls in plan and section. Up to four storeys/12m: <table><tr><td>12 metres</td><td>Habitable rooms/balconies</td></tr><tr><td>9 metres</td><td>Between habitable rooms/balconies and non habitable rooms</td></tr><tr><td>6 metres</td><td>Between non habitable rooms</td></tr></table> *Habitable room any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room	12 metres	Habitable rooms/balconies	9 metres	Between habitable rooms/balconies and non habitable rooms	6 metres	Between non habitable rooms	Consistent Ground Floor <table><tr><th>Building</th><th>Separation</th></tr><tr><td>A - C</td><td>4.0m – 14.0m</td></tr><tr><td>A - B</td><td>3.8m</td></tr><tr><td>C - D</td><td>5.5m – 14.0m</td></tr><tr><td>C - B</td><td>5.3m – 7.4m</td></tr><tr><td>D - E</td><td>4.5m – 14.0m</td></tr><tr><td>D - F</td><td>4.0m – 7.0m</td></tr><tr><td>E - F</td><td>3.0m</td></tr><tr><td>E - G</td><td>6.0m – 14.0m</td></tr></table>	Building	Separation	A - C	4.0m – 14.0m	A - B	3.8m	C - D	5.5m – 14.0m	C - B	5.3m – 7.4m	D - E	4.5m – 14.0m	D - F	4.0m – 7.0m	E - F	3.0m	E - G	6.0m – 14.0m
12 metres	Habitable rooms/balconies																									
9 metres	Between habitable rooms/balconies and non habitable rooms																									
6 metres	Between non habitable rooms																									
Building	Separation																									
A - C	4.0m – 14.0m																									
A - B	3.8m																									
C - D	5.5m – 14.0m																									
C - B	5.3m – 7.4m																									
D - E	4.5m – 14.0m																									
D - F	4.0m – 7.0m																									
E - F	3.0m																									
E - G	6.0m – 14.0m																									



Warringah Council

PART 01 - LOCAL CONTEXT																																				
Criteria	Requirement	Comment																																		
	<p>**Non-habitable room spaces of a specialised nature not occupied frequently or for extended periods, including bathrooms, toilets, pantries, walk-in wardrobes, corridors, lobbies, photographic darkrooms and clothes drying rooms.</p>	<p>First Floor</p> <table><tr><th>Building</th><th>Separation</th></tr><tr><td>A - C</td><td>10.5m 12.0m</td></tr><tr><td>A - B</td><td>5.5m</td></tr><tr><td>C - D</td><td>2.0m – 12.0m</td></tr><tr><td>C - B</td><td>-</td></tr><tr><td>D - E</td><td>8.8m – 12.0m</td></tr><tr><td>D - F</td><td>7.0m</td></tr><tr><td>E - F</td><td>-</td></tr><tr><td>E - G</td><td>12.0m</td></tr></table> <p>Second Floor</p> <table><tr><th>Building</th><th>Separation</th></tr><tr><td>A - C</td><td>10.5m – 12.4m</td></tr><tr><td>C - D</td><td>3.0m – 12.2m</td></tr><tr><td>C - B</td><td>8.0m</td></tr><tr><td>D - E</td><td>8.8m – 12.2m</td></tr><tr><td>D - F</td><td>5.5m</td></tr><tr><td>E - F</td><td>-</td></tr><tr><td>E - G</td><td>12.0m</td></tr></table>	Building	Separation	A - C	10.5m 12.0m	A - B	5.5m	C - D	2.0m – 12.0m	C - B	-	D - E	8.8m – 12.0m	D - F	7.0m	E - F	-	E - G	12.0m	Building	Separation	A - C	10.5m – 12.4m	C - D	3.0m – 12.2m	C - B	8.0m	D - E	8.8m – 12.2m	D - F	5.5m	E - F	-	E - G	12.0m
Building	Separation																																			
A - C	10.5m 12.0m																																			
A - B	5.5m																																			
C - D	2.0m – 12.0m																																			
C - B	-																																			
D - E	8.8m – 12.0m																																			
D - F	7.0m																																			
E - F	-																																			
E - G	12.0m																																			
Building	Separation																																			
A - C	10.5m – 12.4m																																			
C - D	3.0m – 12.2m																																			
C - B	8.0m																																			
D - E	8.8m – 12.2m																																			
D - F	5.5m																																			
E - F	-																																			
E - G	12.0m																																			
	Test building separation controls for daylight access to buildings and open spaces.	Consistent Building separation between Buildings A, C, D, E & G enable sufficient daylight access to ground floor apartments and courtyard areas.																																		
Street Setbacks	Identify the Desired Streetscape Character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	<p>Not consistent</p> <p>The development is not considered to be consistent with the Desired Streetscape Character which consists of traditional low-scale, low density residential development.</p> <p>The development achieves an appropriate setback to the street which is consistent with the predominant build-to lines of existing neighbouring dwellings.</p> <p>The development allows for the accommodation and retention of street tree planting.</p> <p>The proposed bulk and scale of the proposed buildings are not considered to be consistent with the Desired Streetscape Character in that the scale and bulk of the residential flat buildings facing Warringah Road in particular are not in keeping</p>																																		

PART 01 - LOCAL CONTEXT		
Criteria	Requirement	Comment
		with the scale and bulk of surrounding residential development. In this regard, the non-compliant building envelopes indicate that a greater side setback of 4.5m should be provided to minimize bulk and scale on the side boundaries. The development permits adequate daylight access both within and without the site.
	Test street setbacks with building envelopes and street sections.	Consistent
Side + rear setbacks	Relate side and rear setbacks to existing streetscape patterns.	Not consistent The horizontal side setbacks are compliant and consistent, however, when considered in context to the associated vertical and diagonal building envelopes, in particular to Buildings B,C, D, F & G, the development is considered to be out of scale with the side setbacks of existing streetscape patterns.
PART 02 - SITE DESIGN		
Criteria	Requirement	Comment
Site Configuration		
Deep Soil Zones	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with the design of the residential flat building.	Consistent 1,907m ² (30%)
	Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	Consistent
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25sqm; the minimum preferred dimension in one direction is 4 metres. (see Balconies for other private open space requirements)	Not consistent Apartment Nos: 110, 111, 116, 117 & 118.
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	Consistent subject to recommendations made by NSW Police which may be imposed as conditions should this application be approved.

PART 01 - LOCAL CONTEXT		
Criteria	Requirement	Comment
Visual Privacy	Refer to Building Separation minimum standards	Consistent subject to additional balcony screening to: 314, 315 and 320
Pedestrian access	Identify the access requirements from the street or car parking area to the apartment entrance. Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	Consistent
	Provide barrier free access to at least 20% of dwellings in the development.	Consistent 29 apartments (24%) are accessible by wheelchair
Vehicle access	Generally limit the width of driveways to a maximum of six metres.	Not consistent Warringah Road – 8.2m Riverhill Avenue – 4.0m
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	Consistent
PART 03 - BUILDING DESIGN		
Criteria	Requirement	Comment
Building Configuration		
Apartment layout	Single-aspect apartments should be limited in depth to 8 metres from a window.	Not consistent 6.4m – 8.5m Apartment Nos: 105, 106, 107, 108, 118, 206, 207, 208, 209, 219, 306, 307, 308, 309, 317 & 319.
	The back of a kitchen should be no more than 8 metres from a window.	Not consistent 4.5m – 8.5m Apartment Nos: 105, 106, 107, 108, 206, 207, 208, 209, 306, 307, 308 & 309.
	Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory day lighting and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation).	Consistent Daylight Access: 59 (75%) units receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. Natural Ventilation: Subject to Apartment Nos. 118, 219 & 319 including a window to the bedroom to permit through airflow.



Warringah Council

PART 01 - LOCAL CONTEXT														
Criteria	Requirement	Comment												
	<p>If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> - 1 bedroom apartment 50sqm - 2 bedroom apartment 70sqm - 3 bedroom apartment 95sqm 	<p>Not consistent</p> <p>Determined by the <i>State Environmental Planning Policy (Affordable rental Housing) 2009</i>:</p> <table border="1"> <thead> <tr> <th>Type</th><th>Required</th><th>Provided</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>35m²</td><td>33m²</td></tr> <tr> <td>1 Bed</td><td>50m²</td><td>46.5m²</td></tr> <tr> <td>2 Bed</td><td>70m²</td><td>71.5m²</td></tr> </tbody> </table>	Type	Required	Provided	Studio	35m ²	33m ²	1 Bed	50m ²	46.5m ²	2 Bed	70m ²	71.5m ²
Type	Required	Provided												
Studio	35m ²	33m ²												
1 Bed	50m ²	46.5m ²												
2 Bed	70m ²	71.5m ²												
Apartment Mix														
Balconies	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	<p>Not consistent</p> <p>1.6m – 2.0m</p> <p>Apartment Nos. 208, 209, 210, 211, 212, 216, 217, 218, 219, 222, 223, 224, 308, 309, 313, 310, 311, 312, 316, 317, 318, 322, 323 & 324.</p>												
Ceiling Heights	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <p>Habitable/Non-habitable Rooms</p> <ul style="list-style-type: none"> - 2.7 metre minimum for all habitable rooms on all floors; - 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. <p>Attic spaces</p> <ul style="list-style-type: none"> - 1.5 metre minimum wall height at edge of room with a 30 degree minimum - ceiling slope. 	Consistent												
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Consistent												
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<p>Consistent</p> <p>100% of ground floor apartments achieve access to private open space areas.</p>												
Internal Circulation	<p>In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.</p> <p>Exceptions may be allowed:</p> <ul style="list-style-type: none"> • for adaptive reuse buildings • where developments can demonstrate the achievement of the desired streetscape character and entry response <p>Where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).</p>	Consistent												

PART 01 - LOCAL CONTEXT		
Criteria	Requirement	Comment
Storage	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> studio apartments 6m³ one-bedroom apartments 6m³ two-bedroom apartments 8m³ three plus bedroom apartments 10m³ 	<p>Consistent</p> <p>Required = 550m³ Provided = 815.7m³</p>
Building Amenity		
Daylight Access	<p>Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.</p>	<p>Consistent</p> <p>59 (75%) units receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter</p>
	<p>Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).</p>	<p>Consistent</p> <p>6 (7.5%) apartments are single aspect with a southerly direction (ie Apartment Nos. 107, 108, 208, 209, 308 & 309)</p>
Natural Ventilation	<p>Building depths, which support natural ventilation typically range from 10 to 18 metres.</p>	<p>Consistent</p> <p>Apartments achieve a total depth of between 6.4m (Studios) and 11.4m.</p>
	<p>Sixty percent (60%) of residential units should be naturally cross ventilated.</p>	<p>Consistent subject to Apartment Nos. 118, 219 & 319 including a window to the bedroom to permit through airflow.</p>
Building Form	<p>No rules of thumb</p>	<p>Not consistent</p> <p>Refer to Principle 3 – Built Form.</p>
Building Performance		
Waste Management	<p>Supply waste management plans as part of the development application submission as per the NSW Waste Board.</p>	<p>Not consistent</p> <p>The development, as proposed, will not achieve access/egress onto Warringah Road and therefore, the waste management of the site would be required to be redesigned to achieve full access/egress onto Riverhill Avenue. This has an impact upon the ability of Council to service the development and has an impact upon the streetscape in terms of the placement of bins on collection day.</p>

PART 01 - LOCAL CONTEXT		
Criteria	Requirement	Comment
Water Conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Consistent

State Environmental Planning Policy (Infrastructure), 2007

Clause 45 – Determination of development applications – other development

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The application was referred to Energy Australia (Ausgrid) who raised no objection to the proposal subject to conditions which may be imposed in the Stage 2 Development Application should this application be approved.

Clause 102 – Impact of road noise or vibration on no-road development

Clause 102 applies to residential development adjacent to a road corridor or freeway with an annual average daily traffic volume of more than 40,000 vehicles and which the consent authority considers would be likely to be adversely affected by road noise or vibration.

The RTA has published traffic volume maps for NSW ('Traffic Volume Maps for Noise Assessment for Building on Land Adjacent to Busy Roads'). The noise assessment for the development is indicated on Map 12 as mandatory under Clause 102 of the SEPP as the volume of traffic along Warringah Road exceeds 40,000 vehicles.

Clause 102(2) also requires the consent authority to consider any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette. The supporting guidelines (as published by The Department of Planning in 2008) guide development adjacent to railway lines and along motorways, tollways, freeways, transitways and other 'busy' roads. For new residential developments, internal noise levels of 35 dB(A) have been set for bedrooms during the night-time period and 40 dB(A) for other habitable rooms.

Clause 102(3) prohibits the consent authority from granting consent to residential development adjacent to a road corridor or freeway unless it is satisfied that appropriate measures will be taken to ensure that the above-mentioned LAeq levels are not exceeded. It is noted that the development application does not include an acoustic report which addresses noise mitigation measures to proposed Buildings A and B which face Warringah Road. In this regard, the consent authority cannot be satisfied that appropriate measures will be taken to address Clause 102.

Schedule 3 – Traffic generating development to be referred to the RTA

Schedule 3 of the SEPP requires that the following residential flat developments are referred to the RTA as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size or Capacity Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road
Residential flat buildings	300 or more dwellings	75 or more dwellings

The development consists of 79 dwellings accessing Warringah Road which is a Classified Road. As such, the development triggers a requirement to refer the application to the RTA under Column 3 of Schedule 3.

The RTA has provided their response which advises that, *“as the subject site has alternate vehicular access via Riverhill Avenue, the RTA will not grant its concurrence to the proposed driveway on Warringah Road, classified road) under Section 138 of the Roads Act, 1993.”*

Given the above, this issue has been included as a reason for refusal.

State Environmental Planning Policy (Affordable Rental Housing), 2009

State Environmental Planning Policy (Affordable Rental Housing), 2009 (SEPP (ARH) 2009) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, the SEPP (ARH) 2009 provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Clause 10 – Land to Which Division Applies

Clause 10 prescribes the land in which In-fill affordable Housing applies. The subject site is on land which the division applies as it satisfies the following criteria:

- 1) The proposed development falls under the definition of ‘housing’ in WLEP 2000 which is identified as a Category One development in the C1 Middle Harbour Suburbs locality.
- 2) The site is within a land use that is proposed to be zone “R2 - Low Density Residential” under the provision DWLEP 2009. ‘R2-Low Density Residential zone’ is defined within *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* which permits generally low density dwellings with associated services and facilities.

Zone 2(a) Residential allows development for the purposes of dwelling houses.

- 3) The site is within 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the *Passenger Transport Act 1990*) that has at least one bus per hour servicing the bus stop between 06.00 and 18.00 each day from Monday to Friday (both days inclusive).
- 4) The site is not identified in an environmental planning instrument as being within a scenic protection. Notwithstanding, the proposed development complies with the 8.5m height limit.

Clause 11 – Development to Which Division Applies

Under the amendment made to the SEPP on 20 May 2011 Clause 11 has been repealed. However, as the application was lodged prior to the amendment the previous requirements reflected under Clause 11 remain effective.

Pursuant to Clause 11(a) of SEPP (ARH) 2009, the development is permissible with consent on the subject site as it satisfies the following criteria:



- (a) *The development is for the purposes of residential flat buildings where at least 50 per cent of the dwellings in the proposed development will be used for affordable housing.*

Comment:

The applicant advises that the development will accommodate 50% of dwellings (ie: 40 dwellings) to be used for affordable housing.

- (i) *The development does not result in a building on the land with a building height of more than 8.5 metres.*

Comment:

The development proposes an overall building height of between 6.5m and 8.5m.

- (iii) *In the case of development for the purposes of a residential flat building – residential flat buildings are not permissible on the land otherwise than because of this Policy.*

Comment:

The site is located within the C1 Middle Harbour Suburbs Locality under *Warringah Local Environmental Plan 2000* and an R2 Low Density Residential zone under the *Draft Warringah Local Environmental Plan 2009*. It is noted that residential flat buildings (as proposed in this application) are inconsistent with the Desired Future Character of the locality (see 'Desired Future Character' in this report) and are prohibited development within the R2 Low Density Residential zone. In this regard, the permissibility of residential flat buildings would only be achievable through SEPP (ARH) 2009 subject to consideration of the character of the local area as required under Clause 54A of the amended SEPP (ARH) 2009.

Clause 14 – Standards that cannot be used to refuse consent

Clause 14 prescribes development standards which cannot be used by a consent authority to refuse consent. The following table is an assessment of the proposal against the SEPP (ARH) 2009 development standards.

Sub clause	Standards that cannot be used to refuse consent	Compliance
1 - Site and solar access requirements		
1(a) Density and scale*	The density and scale of the buildings when expressed as a floor space ratio are not more than 0.75:1 (4,757m ²)	Not compliant 0.76:1 (4,807m ²) (ie +50m ²) Note: The applicant has not submitted an objection under <i>State Environmental Planning Policy No. 1 – Development Standards</i> to vary this Standard.
1(b) Site area	The site area on which it is proposed to carry out the development is at least 450 square metres	Compliant 6,343m ²
1(c) Landscaped area	At least 30 per cent of the site area is to be landscaped	Compliant 2,247m ² (35.4%) overall
1(d) Deep soil zones	The site area that is not built on, paved or otherwise sealed: I. is soil of a sufficient depth to support the growth of trees and shrubs on an	Complaint 1,907m ² (30%)

Sub clause	Standards that cannot be used to refuse consent	Compliance												
	<p>area of not less than 15 per cent of the site area (the <i>deep soil zone</i>), and</p> <p>II. each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>III. if practicable, at least two thirds of the deep soil zone is located at the rear of the site area</p>													
1(e) Solar access	Living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	Compliant 59 (75%) units receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter												
2 - General														
2(a) Parking*	At least 0.5 car spaces are provided for each dwelling	Compliant 77 residential (equates to 0.9 car spaces for each dwelling)												
2(b) Dwelling size	<p>Each dwelling has a gross floor area of at least:</p> <ul style="list-style-type: none"> 35 square metres in the case of a bedsitter or studio, or 50 square metres in the case of a dwelling having 1 bedroom, or 70 square metres in the case of a dwelling having 2 bedrooms, or 95 square metres in the case of a dwelling having 3 or more bedrooms 	<p>Not compliant</p> <table border="1"> <thead> <tr> <th>Type</th><th>Required</th><th>Provided</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>35m²</td><td>33m²</td></tr> <tr> <td>1 Bed</td><td>50m²</td><td>46.5m²</td></tr> <tr> <td>2 Bed</td><td>70m²</td><td>71.5m²</td></tr> </tbody> </table>	Type	Required	Provided	Studio	35m ²	33m ²	1 Bed	50m ²	46.5m ²	2 Bed	70m ²	71.5m ²
Type	Required	Provided												
Studio	35m ²	33m ²												
1 Bed	50m ²	46.5m ²												
2 Bed	70m ²	71.5m ²												

***Note:** Under the amendment made to the SEPP on 20 May 2011 Clause 1(a) has been repealed and Clause 2(a) modified to require greater car parking per unit type. As the application was lodged prior to the amendment the requirements reflected in this table remain effective.

Clause 16 – Continued application of SEPP 65

Clause 16 refers any development to which Division 1 (in-fill affordable housing) applies. SEPP 65 is addressed elsewhere in this report.

Clause 17 – Must be used for affordable housing for 10 years

Clause 17 prescribes specific conditions of consent which are to be imposed by the consent authority. If the application is approved the conditions to the following effect are to be incorporated into the consent:

- For 10 years from the date of the issue of the occupation certificate the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing.*
- For 10 years from the date of the issue of the occupation certificate all accommodation that is used for affordable housing will be managed by a registered community housing provider.*
- A restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements in (a) and (b) are met.*

Clause 18 – Subdivision

Clause 18 specifies that subdivision of the development is allowed with consent. The applicant seek approval for the strata and stratum subdivision of the buildings as part of the development application.

Clause 54A – Savings and transitional provisions (2011 amendment)

Clause 54A includes savings and transitional provisions which have resulted from the amendment made on 20 May 2011. Specifically, Clause 54A requires:

- (1) *Division 1 of Part 2, as in force before its amendment by State Environmental Planning Policy Amendment (Affordable Rental Housing) 2011 (the amending SEPP), continues to apply to development, if:*
 - (a) *the land on which the development is situated is owned by the Land and Housing Corporation and was owned by that Corporation immediately before the amendment, and*
 - (b) *the development is commenced not later than 2 years after the amendment.*

Comment:

Division 1 of Part 2 relates to new in-fill affordable rental housing which is consistent with the proposed development. Clause 54A(1) imposes a prohibition of new in-fill affordable housing development subsequent to the amendment unless such development is owned by the Land and Housing Corporation and was owned by that Corporation immediately before the amendment. All current Development Applications, such as the subject proposal, will continue to be assessed under the provisions of the SEPP.

- (2) *If a development application (an existing application) has been made before the commencement of the amending SEPP in relation to development to which this SEPP applied before that commencement, the application may be determined as if the amending SEPP had not been made.*

Comment:

The subject proposal was made prior to the commencement of the amending SEPP and is therefore, to be determined as if the amending SEPP had not been made.

- (3) *If an existing application relates to development to which Division 1 or 3 of Part 2 applied, the consent authority must not consent to the development unless it has taken into consideration whether the design of the development is compatible with the character of the local area.*

Comment:

Division 1 of Part 2 relates to new in-fill affordable rental housing which is consistent with the proposed development. The clause introduces a new test for existing development whereby the character of the local area must be taken into consideration. The character of the local area has been discussed at length in this report and it is considered that the development is inconsistent with the current and desired future character of the area and locality.

- (4) *Despite subclause (2), clause 13(2) (as in force before the amendments made by the amending SEPP) does not apply to development the subject of an existing application and any such application is to be determined by applying instead clause 13(2) and (3) as inserted by the amending SEPP.*

Comment:

Clause 13(2), as amended, relates to floor space ratio and does not have effect on this application.



Regional Environment Plans (REPs)

There are no Regional Environmental Plans applicable to this development.

Local Environment Plans (LEPs)

Warringah Local Environmental Plan 2000

Desired Future Character

The subject site is located in the C1 Middle Harbour Suburbs Locality under *Warringah Local Environmental Plan 2000*. The Desired Future Character Statement for this locality is as follows:

The Middle Harbour Suburbs locality will remain characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses. The land adjacent to Middle Harbour and occupied by the Mosman Rowing Club will be retained for low-scale recreational use sympathetic to its natural setting. The land occupied by the Killarney Heights Tennis Centre at Lot 841 DP 210006 and land occupied by the Killarney Heights Swim Centre at Lot 854 DP 210006 on Tralee Avenue and the land occupied by Belrose Bowling Club at Lot 2 DP 851739 on Forest Way, will continue to be used only as recreation facilities.

The south-west section of the Killarney Heights High School grounds contains bushland and rock outcrops: this area may be developed for housing. Development in this section will recognise the bushland outlook, views and privacy enjoyed from residences adjoining the northern and western boundaries of the site and ensure development reasonably maintains these qualities. The retention of existing landscaping is encouraged, where practical.

Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape, including rock outcrops, remnant bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography. Development on land which adjoins Middle Harbour shall have regard to the principles contained in Schedule 14.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control listed in clause 39.

Future development of the environmentally sensitive land shown cross-hatched on the map will be limited to one dwelling per allotment. Such dwelling will be constructed having regard to the constraints, potential instability, visual sensitivity and impact on the water quality of Middle Harbour.

'Housing' is defined in the dictionary of WLEP 2000 as 'development involving the creation of one or more dwellings whether or not used as a group home'. The proposed development falls under the definition of 'housing' which is identified as a Category One development in this locality.

In accordance with Clause 12(3) (a) of WLEP 2000, before granting consent for Category One development, the consent authority must consider the desired future character statement.



Accordingly, the relevant components of the desired future character statement are address as follows:

- (1) *The Middle Harbour Suburbs locality will remain characterised by detached-style housing in landscaped settings interspersed by a range of complementary and compatible uses. The land adjacent to Middle Harbour and occupied by the Mosman Rowing Club will be retained for low-scale recreational use sympathetic to its natural setting. The land occupied by the Killarney Heights Tennis Centre at Lot 841 DP 210006 and land occupied by the Killarney Heights Swim Centre at Lot 854 DP 210006 on Tralee Avenue and the land occupied by Belrose Bowling Club at Lot 2 DP 851739 on Forest Way, will continue to be used only as recreation facilities.*

Comment:

The area is predominantly characterised by detached dwellings of between one and two stories in height and of a traditional style with pitched roof forms on landscaped allotments which have an average area of 831m². The existing character is low density/low rise residential interspersed with complementary and compatible uses (Forestville Public School, Forestville RSL Club and the Girl Guides Association).

The desired future character statement requires that housing in the locality is to either be 'detached style housing' or one of the two types of housing listed under the definition of a 'complementary and compatible use' being; housing for older people or people with a disability or temporary accommodation for students or travellers. The proposed development does not fit into the definition of a 'complementary and compatible use' and needs to be consistent with the requirement of detached style housing in landscaped settings. *Detached style housing* is not defined in the dictionary of WLEP 2000.

In order to understand and give meaning to the term 'detached style housing', consideration must be given to the form and scale of development which would be considered to be detached style housing. Any definition of detached style housing should be determined by the length of the building's frontage to the street, the physical separation provided between each building and the proportion of the site occupied by the built form and landscaped open space.

It should be noted that the term '*detached style housing*' does not necessarily mean that each building only contains one dwelling. This has been established by the Land and Environment Court in *Freedom Health and Happiness Pty Ltd v Warringah Council [2004] NSWLEC 579*. Whilst the building may contain more than one dwelling, the building should appear to be one dwelling from the street (unlike a residential flat building).

The proposed development is designed in the form of seven (7) separate buildings. The lengths of the proposed buildings are not considered to be similar to the lengths of single dwellings in the area, in particular, the Buildings A and B along Warringah Road and Building G facing Riverhill Avenue. Additionally, it is noted that the widths of the side elevations of each building is not considered to be similar to the widths of single dwellings in the area. Whilst it may be argued that the proposed development is designed to address the definition of detached style housing, it is the lengths and widths of the buildings which attributes to an inconsistent bulk and scale which is considered to be inconsistent with this component of the DFC.

In this regard, the size and scale of the development is not considered to be in keeping with the size and scale of existing development in the area. The visual pattern of the development is inconsistent with the visual pattern of the area, especially when viewed from the public domains of Warringah Road and Riverhill Avenue, where a horizontal and vertical scale more attributed to a residential flat development conflicts with the scale of single dwelling development.

For the above reason, the proposed development is found to be inconsistent with this component of the DFC. The development's inconsistency with this component of the desired future character statement has been included as a reason for refusal.



Warringah Council

- (2) *The south-west section of the Killarney Heights High School grounds contains bushland and rock outcrops: this area may be developed for housing. Development in this section will recognise the bushland outlook, views and privacy enjoyed from residences adjoining the northern and western boundaries of the site and ensure development reasonably maintains these qualities. The retention of existing landscaping is encouraged, where practical.*

Comment:

The development does not occur on, or near, the south-west section of the Killarney Heights High School grounds and therefore, this component of the DFC is not applicable to the proposed development.

- (3) *Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.*

Comment:

A survey of the area (see Figure 3 under Principle 2 – Scale) shows that the visual pattern and predominant scale of development in the area consists of single dwellings of between one and two storey in height, of traditional style with pitched roof forms on landscaped allotments which have an average area of 831m².

The development involves the construction of seven (7) x 3 storey residential flat buildings on one 6,343m² allotment which will introduce a high density/mid-rise development into an area currently characterised by low-density/low-rise residential development.

The development would involve the consolidation of seven (7) allotments into one allotment which is not considered to be consistent with the predominant pattern of subdivision in the area.

- (4) *The relationship of the locality to the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving the natural landscape, including rock outcrops, remnant bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.*

Comment:

The development proposes to retain a majority of indigenous trees (predominantly mature Eucalyptus trees of the species *Corymbia citriodora* and *Corymbia maculata*) which are located within the proposed communal open space area (currently the rear garden of Lot 4A, No. 751 Warringah Road) and within the north-eastern corner of the front setback). The landscape plans indicate that all new plantings will consist of indigenous species.

Materials used in the development are stark in appearance and are not considered to blend with the colours and textures of the natural landscape. Instead, the colours and materials emphasise the built form and establish a distinct contrast with the natural landscape.

- (5) *Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography. Development on land which adjoins Middle Harbour shall have regard to the principles contained in Schedule 14.*

Comment:

The site is located on the upper southern side of the ridge which eventually forms the valley to Carroll Creek in the Garigal National Park. The topography of the site is shallow and has a slope of 7.8% and the development has been appropriately stepped to respond to the slope.

The site does not adjoin Middle Harbour. Therefore, Schedule 14 does not apply.

Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Controls of the above locality statement:

Built Form Standard	Required	Proposed	Compliant
Building Height: Metres: Floor to upper ceiling:	8.5m 7.2m	The development is consistent with the requirements of SEPP (Affordable Housing)	N/A
Front Setbacks: Warringah Road Riverhill Avenue	6.5m 6.5m	5.5m – 9.0m 1.4m – 6.6m	No No
Rear Building Setback	N/A (dual frontage)	N/A	N/A
Side Boundary Setbacks: East Basement Lower Basement Upper Below Ground (Building G) Ground Floor First Floor Second Floor Communal Amenities West Basement Lower Basement Upper Below Ground (Building G) Ground Floor First Floor Second Floor	0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m 0.9m	9.4m – 22.6m Nil – 9.5m 2.8m 2.0m – 3.0m 2.0m – 3.0m 2.0m – 3.0m 2.0m – 3.0m 1.0m – 1.8m 0.9m – 7.0m 0.3m – 5.0m 6.4m 3.0m – 8.8m 3.0m – 8.6m 3.0m – 8.6m	Yes No Yes Yes Yes Yes Yes Yes Yes No Yes Yes Yes Yes Yes
Side Boundary Envelope:	4.0m x 45°	Less than 4.0m x 45°	No
Landscaped Open Space:	N/A (SEPP)	N/A	N/A

The proposed development fails to satisfy the Locality's Front Setback, Side Boundary Setback and Side Boundary Envelope Built Form Controls. Accordingly, further assessment is considered against the applicability of Clause 20(1).

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the General Principles of Development Control, the Desired Future Character of the locality and any relevant State Environmental Planning Policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal fails consistency with Clauses 63, 66, 67, 72, 73 & 76 of the General Principles of Development Control and accordingly, fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).



(ii) Desired Future Character of the Locality

The proposal is inconsistent with the C1 Middle Harbour Suburbs Locality's Desired Future Character Statement and accordingly, fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered to be inconsistent with applicable State Environmental Planning Policies. (Refer to earlier discussion under 'State Environmental Planning Policies', in particular, *State Environmental Planning Policy No. 65 - Design Quality for Residential Flat Development*) and *State Environmental Planning Policy (Affordable Rental Housing), 2009*. Accordingly the proposal fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Notwithstanding, in order to fully consider the application the following provides an assessment of the non-compliances to the Side Boundary Setback and Side Boundary Envelope Built Form Controls (note: in accordance with Clause 20(1) of WLEP 2000, the following assessment does not constitute any consideration for variations to the respective Built Form Controls).

In assessing these elements of the proposal, it is necessary to consider the objectives of the respective Controls. Accordingly, consistency with the merit considerations drawn from the relevant objectives and are addressed below:

Front Setback Built Form Control

Built Form Standard	Required	Proposed	Compliant
Front Setbacks:			
Warringah Road	6.5m	5.5m – 9.0m	No
Riverhill Avenue	6.5m	1.4m & 5.5m	No

Area of Non-compliance

The development is non-compliant in the following areas:

- Building A – The north-facing edge of the balcony to Apartment No. 301 encroaches within the front setback area by 1.0m and includes a full-height supporting wing wall.
- Upper Basement – Along the entire southern edge of the basement car park adjacent to the Riverhill Avenue street boundary.
- Building G – Along the entire south-facing upper floor (facing Riverhill Avenue) of the building to include full-height wing walls which support the balconies to Apartment Nos. 325, 326 & 327.

Merit consideration of non-compliance

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Front Setback Built Form Control. Accordingly, consistency with the merit considerations are addressed below:

Create a sense of openness.

Warringah Road

The non-compliance involves the introduction of building elements within the established front setback area of Warringah Road, which has a average front setback of 12.6m. The vertical scale of the western wing wall results in a vertical mass which is inconsistent with the character of development on this part of Warringah Road.



Riverhill Avenue

The non-compliance involves the introduction of building elements within the established front setback area of Riverhill Avenue, which has a average front setback of 6.5m. The combination of the vertical scale of the wing walls and the horizontal scale of the balconies results in a street wall development which is inconsistent with the character of development on Riverhill Avenue.

The proposed street wall style of development adds significant continuous building mass to an otherwise open streetscape which is characterised by traditional dwelling house built forms on single allotments which provide substantial building separation.

Provide opportunities for landscaping.

Warringah Road

The non-compliance facing Warringah Road occurs approximately 3.0m above ground level and sits over the proposed driveway. In this regard, and according to the design the subject of this assessment, there is no opportunity for landscaping.

Riverhill Avenue

At ground level Building G achieves a front setback of 6.5m to the main building line. The intrusion of the wing walls at either side of Apartment Nos. 225, 226 and 227 does not prohibit opportunities for landscaping.

Minimise the impact of development on the streetscape.

Warringah Road

The non-compliance occurs at the north-western side of Building A which faces Warringah Road and includes a full-height wing wall which supports the balcony to Apartment No. 301.

The inclusion of the wing wall adds to the vertical bulk of the building when viewed from Warringah Road which will maximise the visual impact of the development on the streetscape.

Riverhill Avenue

The non-compliance occurs along the full frontage of Building G which faces Riverhill Avenue and includes full-height wing walls which support the balconies to Apartment Nos. 325, 326 and 327.

The combination of the length of the building, the wing walls and the balconies results in an unarticulated building mass which will have a significant visual impact upon the streetscape.

Maintain the visual continuity and pattern of buildings, front gardens and landscape elements.

Warringah Road

The non-compliance occurs at the northern edge of the balcony to Apartment No. 301 which is located at the north-western corner of the site. It is noted that the western side wall of Building A includes a full-height wing wall which supports the balcony.

Given the inclusion of the wing wall, which adds to the vertical bulk of the building when viewed from the street, the non-compliance is not considered to preserve the visual continuity and pattern of buildings along this particular part of Warringah Road where it is noted that the prevailing front setback is 12.6m.

With respect to front gardens, the development provides an appropriate level of landscaping within the front setback area and retains a number of significant trees which maintains the landscaped character of the streetscape.

Riverhill Avenue

The non-compliance to the upper-basement car park would not be visible from the street and would therefore not have any adverse impact on visual continuity and pattern of buildings when viewed along the streetscape.

The average street setback along Riverhill Avenue is 6.5m. Variations occur at the street corners (ie: Forestville Avenue and Melwood Avenue) where the side setbacks of development are reduced on each respective corner allotment. In this regard, the above-ground non-compliant front setbacks to Riverhill Avenue, which includes full-height wing walls to support wall-to-wall balconies, will not maintain the visual continuity and pattern of buildings given the occurrence of the non-compliance over 2 storeys and across the full width of the frontage to Building G.

With respect to front gardens and landscaped elements the development proposes enclosed front gardens within variable height side walls and front fences which enclose the landscape elements of the development. This is not consistent with the front gardens and landscape elements of existing development along Riverhill Avenue which consists of open front gardens which contribute towards the open perspective of the streetscape.

The provision for corner allotments relates to street corners.

The site is not a corner allotment. This objective does not apply.

The development is not considered to be consistent with the objectives underlying the Front Setback Built Form Control. In this respect, the variation to the Front Setback Built Form Control would not be supported.

Side Boundary Setback Built Form Control

Built Form Standard	Required	Proposed	Compliant
Side Boundary Setbacks:			
East			
Basement Upper	0.9m	Nil – 9.5m	No
West			
Basement Upper	0.9m	0.3m – 5.0m	No

Area of Non-compliance

The development is non-compliant in the following areas:

- Upper Basement – The east-facing edge of the basement to accommodate the fire stair; and
- Upper Basement – The west facing edge of the driveway ramp.

Merit consideration of non-compliance

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Side Boundary Setback Built Form Control. Accordingly, consistency with the merit considerations are addressed below:

Ensure that development does not become visually dominant by virtue of its height and bulk.

The non-compliances occur below ground level and do not have any visual impact upon the height and bulk of the development.

Preserve the amenity of the surrounding land.

The east facing non-compliance extends to ground level and abuts the side boundary to No. 6 Riverhill Avenue. However, the extent of the non-compliance in terms of length and height of wall is not considered to impact upon the amenity of the neighbouring property as the side setback area of the neighbouring property accommodates a car port along the full depth of the dwelling.

The west facing non-compliance also extends to ground level. However, the nature of activity within the non-compliant area (ie: vehicle egress) in conjunction with 0.3m side setback and the steep gradient of the driveway will have an adverse impact upon surrounding land (in particular to Nos. 5 & 7 Forestville Avenue) in terms of noise as vehicles accelerate to reach the top of the driveway.

Ensure that development responds to site topography.

The non-compliant side setbacks primarily occur below and at ground level. In this regard, the proposed side setbacks respond to the topography of the site.

Provide separation between buildings.

As the non-compliant areas occur below and at ground level, and as a result, are generally not visible, sufficient separation between surrounding buildings is maintained.

Provide opportunities for landscaping.

The areas of non-compliance are considered to be minimal in terms of the length of wall encroaching within the side setbacks area. In this regard, the non-compliant side setbacks are not considered to have any significant impact upon the provision of landscaping for the site.

Create a sense of openness.

As the areas of non-compliance are below and at ground level and are not visible from the street or surrounding properties, this element of the development will maintain a sense of openness.

The development is not considered to be consistent with the objectives underlying the Side Boundary Setback Built Form Control. In this respect, the variation to the Side Boundary Setback Built Form Control would not be supported.

Side Boundary Envelope Built Form Control

Built Form Standard	Required	Proposed	Compliant
Side Boundary Envelope:	4.0m x 45°	Less than 4.0m x 45°	No

Area of Non-compliance

The development is non-compliant in the following areas:

- Building B – Along the entire eastern side of the building to a depth of 1.0m to 1.3m (see Figure 7 below).
- Building C – Along the entire western side of the building to a depth of 0.5m to 0.8m (see Figure 8 below).
- Building D - Along the entire western side of the building to a depth of 0.5m to 0.8m (see Figure 8 below).
- Building F – At the front eastern corner of the building to a depth of 0.5m (see Figure 7 below).
- Building G – At the front eastern corner of the building to a depth of 0.2m (see Figure 7 below).



Figure 7 View of non-compliant building envelopes (marked in red) along the eastern elevation.
(Source: Adapted by author from Plan No. DA-201 dated March 2011 and prepared by CKDS Architecture)

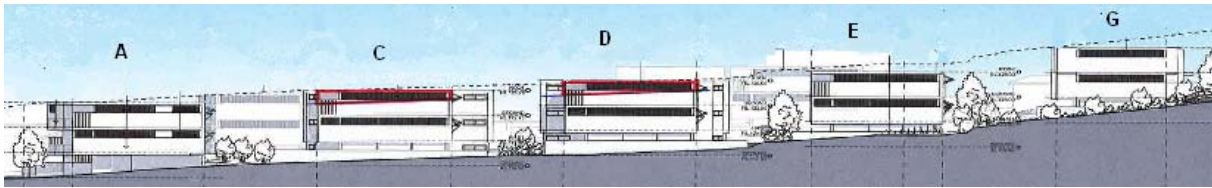


Figure 8 View of non-compliant building envelopes (marked in red) along the western elevation.
(Source: Adapted by author from Plan No. DA-201 dated March 2011 and prepared by CKDS Architecture)

Merit consideration of non-compliance

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Side Boundary Envelope Built Form Control. Accordingly, consistency with the merit considerations are addressed below:

Ensure that development does not become visually dominant by virtue of its height and bulk.

The development is compliant with the overall Building Height Built Form Control. The combination of the vertical and horizontal massing of the side elevations of the buildings (in particular Buildings B, C & D) in conjunction with the proposed side setbacks results in visually dominant building bulk that has no sympathy or relationship to the bulk of surrounding residential development.

For example, the western side elevations of Buildings C and D have a width of 13.4m and a height of between 6.5m and 7.0m (when viewed from the top of a 1.8m high fence line) which results in a visible, and generally unarticulated, flat surface area of 93.8m². Building B represents a considerably greater level of surface massing at 168m². By comparison, the widths of existing single and double storey dwellings immediately adjacent to the development are between 7.0m to 12.0m resulting in an average articulated surface area of 49m².

The non-compliant building envelopes to Buildings B, C & D are indicative of the visual dominance of the development and, given the proposed side setbacks, could result in an unreasonable sense of enclosure to established neighbouring dwellings.

Preserve the amenity of the surrounding land.

The amenity of surrounding land is assessed under the following categories:

Outlook

The non-compliant building envelopes indicate unreasonable massing within close proximity to the side boundary. This could impact upon the amenity of surrounding land by imposing an unreasonable sense of enclosure and, given the general lack of articulation to the side elevations, a visually restricted outlook.

The non-compliant building envelopes to Buildings F and G are considered to be minimal and will not have any significant additional impact beyond what is already proposed.

View Sharing

Given the orientation of the development in relation to surrounding development, the sloping topography and direction of available district views (to the north) it is considered that the building envelopes will generally not have an adverse impact on view sharing.

The non-compliant building envelopes to Buildings F and G are considered to be minimal and will not have any significant additional impact beyond what is already proposed.

Overshadowing

The Development Application includes certified shadow diagrams which indicate that the development will create additional overshadowing to the neighbouring properties to the east and west. However, it



is noted that the level of overshadowing is compliant with Clause 62 – Access to Sunlight under WLEP 2000.

Notwithstanding, the level of overshadowing cast by Buildings B, C & D (and the non-compliant building envelopes) could be reduced by lowering the building height or by increasing the side setbacks such that the building envelopes achieve compliance.

The non-compliant building envelopes to Buildings F and G are considered to be minimal and will not have any significant additional impact beyond what is already proposed.

Visual and Acoustic Privacy

The development proposes side setbacks of 2.0m to Building B and 3.0m to Buildings C and D. The visual and acoustic privacy measures applied to Building B (ie: privacy screens) appear to be satisfactory. However, it is noted that the balconies to Apartments 314 and 315 in Buildings C and D respectively could have an adverse visual privacy impact.

In this regard, it would be considered to be appropriate to impose a condition, should this application be approved, to install privacy screens along the north-western edge of each balcony for a length of 2.0m to discourage passive diagonal viewing into neighbouring properties.

The non-compliant building envelopes to Buildings F and G are considered to be minimal and will not have any significant additional impact beyond what is already proposed.

Ensure that development responds to site topography.

The development has been stepped up the site from Warringah Road to follow the topography of the land. In this regard, despite the scale of the proposal, it is considered that the development responds to the topography and therefore satisfies this objective.

Provide separation between buildings.

The development provides sufficient separation between buildings in accordance with the Residential Flat Design Code. Given the layout of the development, the non-compliant building envelopes do not have any bearing on building separation.

Provide opportunities for landscaping.

The development provides sufficient landscaping in accordance with *State Environmental Planning Policy (Affordable Rental Housing) 2009*. Given the layout of the development, the non-compliant building envelopes do not have any bearing on the provision of landscaping.

Create a sense of openness.

The development proposes considerable massing along the eastern side of Building B and along the western sides of Buildings C and D. Because of the proposed setbacks and the resulting non-compliant building envelopes, this massing is exacerbated and could result in a reduction to the sense of openness currently enjoyed by neighbouring properties.

The development is not considered to be consistent with the objectives underlying the Side Boundary Envelope Built Form Control. In this respect, the variation to the Side Boundary Envelope Built Form Control would not be supported.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of *Warringah Local Environmental Plan 2000* are applicable to the proposed development:

General Principles	Applies	Comments	Compliant
CL38 Glare & reflections	Yes	If approved, a condition may be imposed requiring all roof materials to be treated to minimise glare and reflectivity and a lighting design to be submitted for the internal walkways and communal open space area.	Yes Subject to conditions



Warringah Council

General Principles	Applies	Comments	Compliant
CL39 Local retail centres	No	The site is not located within a Local Retail Centre.	N/A
CL40 Housing for Older People or People with Disabilities	No	The application does not propose housing for older people or people with disability.	N/A
CL41 Brothels	No	No comment.	N/A
CL42 Construction Sites	Yes	<p>The potential exists for the demolition, excavation and construction to have an adverse impact upon surrounding locality in terms of traffic, noise, dust, parking, accessibility, sediment and the safety of pedestrians given the major nature of the works and the scale of the demolition, the large extent of excavation and lengthy time period for construction.</p> <p>Therefore, if approved, conditions of consent will be required to be imposed for Construction Management Plan and a Construction Traffic Management Plan to be submitted prior to the issue of a Construction Certificate. Issues to be addressed include pedestrian movements and safety, stormwater and wastewater disposal, waste management, air quality, noise management and truck parking</p>	Yes Subject to conditions
CL43 Noise	Yes	<p>As discussed previously in this report, Clause 102(3) of <i>State Environmental Planning Policy (Infrastructure) 2007</i> prohibits the consent authority from granting consent to residential development adjacent to a road corridor or freeway unless it is satisfied that appropriate measures will be taken to ensure that the above-mentioned LAeq levels are not exceeded.</p> <p>It is noted that the development application does not include an acoustic report which addresses noise mitigation measures to proposed Buildings A and B which face Warringah Road. In this regard, the consent authority cannot be satisfied that appropriate measures will be taken to address Clause 102.</p>	No
CL44 Pollutants	No	No comment.	N/A
CL45 Hazardous Uses	No	No comment.	N/A
CL46 Radiation Emission Levels	No	No comment.	N/A
CL47 Flood Affected Land	No	The site is not located within, or near to, any identified flood affected land.	N/A
CL48 Potentially Contaminated Land	Yes	<p>Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. It is noted that a number of outbuildings include fibro which may contain asbestos (in particular, the derelict dwelling which is located on No. 757 Warringah Road).</p> <p>The documentation provided with the development application does not confirm this and it may be possible that asbestos and lead based paint are present on the site. In this regard, should the application be approved, appropriate conditions would be required to be imposed to identify the presence of any such materials and they're removal.</p>	Yes Subject to conditions

General Principles	Applies	Comments	Compliant
CL49 Remediation of Contaminated Land	No	No comment.	N/A
CL49a Acid Sulfate Soils	No	The site is not located within, or near to, any land categorised as containing acid sulphate soil.	N/A
CL50 Safety & Security	Yes	NSW Police have assessed the Development Application under the provisions of <i>Crime Prevention through Environmental Design</i> (CPTED) and raise no objections.	Yes Subject to conditions
CL51 Front Fences and Walls	Yes	<p>The development proposes front fences along Warringah Road and Riverhill Avenue.</p> <p>The fences along Warringah Road are setback approximately 6.5m from the front boundary. The fences along Riverhill Avenue are setback 2.5m from the front boundary.</p> <p>The fences facing Warringah Road are designed to be solid in order to mitigate noise from the roadway. The proposed height of the fences are approximately 2.0m in height. It is considered that the fences along Warringah Road may be supported subject to their height being reduced to 1.8m. This may be achieved by a condition should this application be approved.</p> <p>The fences along the Riverhill Avenue frontage are of varying height and are visually permeable.</p>	Yes Subject to condition.
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	No comment.	N/A
CL53 Signs	No	No comment.	N/A
CL54 Provision and Location of Utility Services	Yes	<p>The application does not include any documentation which appropriately addresses Clause 54. Energy Australia (Ausgrid) has provided a referral response and raise no objection to the proposal subject to conditions.</p> <p>However, should the application be approved, a condition will be required to be imposed for the applicant to provide written evidence of consultations with Sydney Water, Energy Australia, Telstra and other relevant service suppliers.</p>	Yes Subject to conditions
CL55 Site Consolidation in 'Medium Density Areas'	No	The site is not located within a medium density area.	N/A
CL56 Retaining Unique Environmental Features on Site	No	No comment.	N/A
CL57 Development on Sloping Land	Yes	Clause 57 states that on sloping land, the height and bulk of development, particularly on the downhill side, is to be minimised and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. The clause also states that excavation of the landform is to be minimised.	Yes



General Principles	Applies	Comments	Compliant
		<p>The site falls gradually from Riverhill Avenue towards Warringah Road.</p> <p>The proposed development has been stepped to respond to the topography of the land.</p> <p>Excavation is proposed to accommodate the basement car parking areas and given the type of development proposed, is not considered to be unreasonable.</p> <p>Accordingly, the proposed development has been designed to achieve compliance with the requirement of this Clause.</p>	
CL58 Protection of Existing Flora	Yes	The development proposes to retain the majority of trees currently established on Lot 4A, No. 751 Warringah Road to provide shade and visual amenity to the proposed communal open space area and to retain landscape continuity to the neighbouring properties to the east. Additionally, it is noted that the landscape plan also indicates that significant trees along the Warringah Road frontage will be retained.	Yes
CL59 Koala Habitat Protection	No	No comment.	N/A
CL60 Watercourses & Aquatic Habitats	No	No comment.	N/A

Clause 61 Views

Concern was raised in one submission from the owners of No. 6 Riverhill Avenue that the development would have an adverse impact upon view sharing.

Clause 61 requires that development is to allow for the reasonable sharing of views.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court case of *Tenacity Consulting Pty Ltd vs Warringah Council 2004* (NSWLEC 140) are applied to the proposal, in particular to potential impacts upon No. 6 Riverhill Avenue which was raised as a matter of concern in a submission.

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment

The rear of No. 6 Riverhill Avenue consists of a raised deck which faces north and looks upon established bamboo screening (approximately 5.0m in height) which obscures views into the rear garden area of No. 751 Warringah Road. Diagonal (side) views over No. 757 Warringah Road are available from the rear deck and provide for short-distance land views towards Warringah Road. The image below shows the extent of the view available.



Diagonal view to the north-west over No. 757 Warringah Road from the rear deck of No. 6 Riverhill Avenue.

As can be seen in the above image, the view is a partial land view which is not considered to be iconic.

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment

The identified view is obtained from the rear of No. 6 Riverhill Avenue. The only available view (see image above) is over the side boundary of No. 4 Riverhill Avenue which permits partial views over No. 757 Warringah Road. The view is enjoyed from a sitting and standing position.

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment

The development (specifically Building F) will obscure much of the lower elements of the view. However, the distant ridge/tree line and skyline will be retained. The rear deck is used as a primary open space area and is therefore highly valued by the occupants as it affords a limited sense of outlook. However, as noted above, the distant view of the ridge/tree line and skyline will be retained.

Qualitatively, the loss of the view is considered to be minor given that the view is partial, over a side boundary, is not iconic and maintains the distant ridge/tree line and skyline will be retained.

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more



planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment

This assessment of the development has found that the proposal is not consistent with key provisions of *State Environmental Planning Policy (Infrastructure), 2007, State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and State Environmental Planning Policy (Affordable Rental Housing) 2009*. In addition, this assessment has found that the development does not comply with the Side Boundary Setback and Side Boundary Envelope Built Form Controls and is inconsistent with Clauses 63, 66, 67, 72, 73 & 76 of the General Principles of Development Control under *Warringah Local Environmental Plan 2000*.

However, the impact upon view is considered to be reasonable given that the Building F within the development is compliant with the overall Building Height Built (as determined under *State Environmental Planning Policy (Affordable rental Housing) 2009*) and the Side Boundary Envelope Built Form Control, and that a view is still available of the distant tree/ridgeline and skyline.

Given the above, it is considered that the impact on views is consistent with Clause 61.

General Principles	Applies	Comments	Complies
CL62 Access to sunlight	Yes	<p>The Development Application includes certified shadow diagrams which indicate that the development will create additional overshadowing to the neighbouring properties to the east and west. However, it is noted that the level of overshadowing is compliant with Clause 62 – Access to Sunlight under WLEP 2000.</p> <p>Notwithstanding, the level of overshadowing cast by Buildings B, C & D could be reduced by lowering the building height or by increasing the side setbacks such that the building envelopes achieve compliance. However, this would require a re-Design of the development and is beyond the scope of this particular Development Application.</p>	Yes
CL63 Landscaped Open Space	Yes	<p>The development proposes to retain the majority of trees currently established on Lot 4A, No. 751 Warringah Road to provide shade and visual amenity to the proposed communal open space area and to retain landscape continuity to the neighbouring properties to the east. Additionally, it is noted that the landscape plan also indicates that significant trees along the Warringah Road frontage will be retained.</p> <p>The landscape plan indicates that plantings are proposed between buildings (specifically Buildings A, C, D, E & G) but the extent of hard surface area (courtyards and pathways) limits the scale of planting to small trees and shrubs (see Masterplan dated 24 March 2011 as prepared by Paul Scrivener).</p> <p>Council's Landscape Officer has reviewed the landscape plans and has provided comments (see Internal Referrals in this report) which raise concerns about the minimal amount of soft landscaping between the proposed buildings in context to the size of the proposed buildings. In this regard, it was noted in the referral response that <i>“the planting proposed between the buildings is not considered to be commensurate with the building bulk being proposed”</i> and that <i>“a larger and softer landscape separation would be</i></p>	No

General Principles	Applies	Comments	Complies
		<i>expected to provide a setting more in keeping with that envisaged in the Desired Future Character and under the SEPP in relation to Landscaping and Scale and Built Form."</i>	
CL63A Rear Building Setback	No	No comment.	N/A
CL64 Private open space	Yes	<p>The provision of indoor and outdoor space is considered to be adequate with exception to a number of apartments which have balcony widths of less than the prescribed 2.0m under the <i>Residential Flat Design Code</i> Rule of Thumb (ie: Apartment Nos. 208, 209, 210, 211, 212, 216, 217, 218, 219, 222, 223, 224, 308, 309, 313, 310, 311, 312, 316, 317, 318, 322, 323 & 324).</p> <p>Notwithstanding, this is considered to be a minor departure from the Code and a condition could be imposed to increase balcony widths should this application be approved.</p> <p>It is noted that 59 (75%) private open space areas receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter</p>	Yes Subject to conditions.
CL65 Privacy	Yes	<p>The development proposes side setbacks of 2.0m to Building B and 3.0m to Buildings C and D. The visual and acoustic privacy measures applied to Building B (ie: privacy screens) appear to be satisfactory. However, it is noted that the balconies to Apartments 314 and 315 in Buildings C and D respectively could have an adverse visual privacy impact.</p> <p>In this regard, it would be considered to be appropriate to impose a condition, should this application be approved, to install privacy screens along the north-western edge of each balcony for a length of 2.0m to discourage passive diagonal viewing into neighbouring properties.</p> <p>The non-compliant building envelopes to Buildings F and G are considered to be minimal and will not have any significant additional impact beyond what is already proposed.</p>	Yes Subject to conditions
CL66 Building bulk	Yes	The vertical and horizontal massing of development when viewed from the public domains of Warringah Road and Riverhill Avenue, and from the side elevations (in particular Buildings B, C & D) results in visually dominant building bulk that has no sympathy or relationship to the bulk of surrounding residential development.	No
CL67 Roofs	Yes	The development proposes a flat roof form to each building in an area where the predominant roof form consists of pitched roofs. Given the compliant overall building height there is no ability to provide pitched roofs without bringing the development into non-compliance, or without a significant redesign to achieve this objective while achieving compliance.	No
CL68 Conservation of Energy and Water	Yes	A BASIX Certificate has been submitted for the proposed development (see Certificate No. 366843M dated 23 March 2011). The Certificate confirms that the proposed development meets the NSW government's requirements for sustainability. The development meets the water and	Yes



Warringah Council

General Principles	Applies	Comments	Complies
		energy performance targets and achieves a pass for thermal comfort.	
CL69 Accessibility – Public and Semi-Public Buildings	Yes	The development provides a reasonable level of access for all ages and levels of mobility. The application includes an access report (see Access Report dated 25 March 2011 prepared by Accessibility Solutions Pty Ltd) which concludes that the development includes wheelchair access to 29 of the proposed 79 apartments (ie: 24%) which demonstrates consistency with the RFDC Rule of Thumb which requires that a development provides barrier free access to at least 20% of dwellings in the development.	Yes
CL70 Site facilities	Yes	Should this application be approved appropriate conditions should be imposed for the submission of a comprehensive Waste Management Plan to be submitted for consideration prior to the issue of a Construction Certificate. With regards to waste management, Council's Waste Management Officer has not, to date, provided any comment but this matter. Notwithstanding, any development will be required to comply with Council's Policy Number PL 850 – Waste.	Yes Subject to conditions
CL71 Parking facilities (visual impact)	Yes	The car parking areas are accommodated in the upper and lower basement areas and, as such cannot be seen from the street.	Yes
CL72 Traffic access & safety	Yes	The application includes a traffic report (see Traffic Report dated March 2011 prepared by Colston Budd Hunt & Kafes Pty Ltd). The report concludes that " <i>the development would result in a minor increase in traffic on the surrounding road network</i> " which is generally supported by Council's Traffic Engineer (see Internal referrals). However, as noted in the Background section of this report, the Roads and Traffic Authority have refused to grant concurrence to vehicular access from Warringah Road which will require all access/egress to Riverhill Avenue which would effectively multiply the number of vehicle trips along Riverhill Avenue. In this regard, Council's Traffic Engineer has advised that an updated traffic report would be required to address this pending the acceptance of amended plans. Until the matter of traffic/pedestrian safety within the public domain of Riverhill Avenue is satisfactorily resolved, the development is not consistent with CI 72 Traffic Access & Safety.	No
CL73 On-site Loading and Unloading	Yes	The Lower Car Park provides a servicing facility suitable for use by the design 6.4m long Small Rigid Vehicle (SRV) with access from Warringah Road. As noted above, the Roads and Traffic Authority have refused to grant concurrence to vehicular access from Warringah Road which will require all access/egress to Riverhill Avenue. In this regard, Council's Traffic Engineer has advised that an updated traffic report would be required to address this pending the acceptance of amended plans. Until the matter of traffic/pedestrian safety within the public domain of Riverhill Avenue is satisfactorily resolved, the development is not consistent with CI 73 On-Site Loading and Unloading.	No

General Principles	Applies	Comments	Complies
CL74 Provision of Car parking	Yes	The proposal provides on-site parking for 77 cars which exceeds the requirement under <i>State Environmental Planning Policy (Affordable Rental Housing), 2009</i> by 37 spaces.	Yes
CL75 Design of Car parking Areas	Yes	The car parking layout and internal access arrangements comply with the relevant design requirements in 'AS/NZS 2890.1:2004' and 'AS/NZS 2890.6:2009'.	Yes
CL76 Management of Stormwater	Yes	The application was referred to Council's Development Engineer who raises concerns about the design and provision of on-site stormwater detention (OSD), outlet pipe connections and the gradient and length of the driveway from the Upper Basement to Riverhill Avenue. All matters raised require the submission of further information and redesign. Accordingly, this issue is included as a reason for refusal.	No
CL77 Landfill	No	No comment.	N/A
CL78 Erosion & Sedimentation	Yes	Should this application be approved, appropriate conditions would be imposed which require erosion and sediment control measures are to be put in place during construction.	Yes Subject to conditions
CL79 Heritage Control	No	No comment	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	Yes	The Aboriginal Heritage Office advises the following: <i>"If areas of in situ sandstone outcrop are proposed for impact (such as overhangs over 1m in height or platforms over 2m square), the Aboriginal Heritage Office would recommend a preliminary inspection by a qualified Aboriginal heritage professional.</i> <i>If sandstone outcrops would not be impacted by the development (and if any outcrops that were present were properly protected during works), then no further assessment is required and the Aboriginal Heritage Office would not foresee any further Aboriginal heritage constraints on the proposal."</i>	Yes Subject to conditions
CL81 Notice to Heritage Council	No	No comment	N/A
CL82 Development in the Vicinity of Heritage Items	No	No comment	N/A
CL83 Development of Known or Potential Archaeological Sites	No	The property is not a known or potential archaeological site.	N/A

SCHEDULES

Schedule 8 - Site analysis

Clause 22(2)(a) of WLEP 2000 requires that the consent authority must consider a Site Analysis prepared in accordance with the criteria listed in Schedule 8.

It is considered that the submitted Site Analysis, in conjunction with the Statement of Environmental Effects (as prepared by CKDS Architecture and in response to the provisions of Schedule 15) adequately addresses how the development responds to its surrounds and the locality.



Schedule 10 - Traffic Generating Development

Schedule 10 requires Council to regard development as traffic generating development if the proposal meets the following criteria:

- (2) *If the site of the development has direct vehicular or pedestrian access to an arterial road (or a road connecting with an arterial road, where the access is within 90 metres, measured along the road alignment of the connecting road, of the arterial road):*
- (a) *the erection of, or the conversion of a building into, a residential flat building comprising 75 or more dwellings or the enlargement or extension of a residential flat building by the addition of 75 or more dwellings.*

The development proposes the construction of residential flat buildings which collectively accommodate 79 apartments. The development site is located adjacent to, and proposes access/aggress from) Warringah Road. Therefore, the application has been considered under Schedule 3 of *State Environmental Planning Policy (Infrastructure), 2007* and has been referred to the RTA as Traffic Generating Development.

The RTA, in their response dated 27 April 2011, advise that “*as the subject site has alternate vehicular access via Riverhill Avenue, the RTA will not grant its concurrence to the proposed driveway on Warringah Road, classified road) under Section 138 of the Roads Act, 1993.*”

This issue has been included as a reason for refusal.

Schedule 17 – Carparking Provision

Schedule 17 does not apply to this development as the car parking provision is determined under *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

POLICY CONTROLS

Warringah Section 94A Development Contributions Plan 2011

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94A Development Contributions Plan		
Contribution based on the claimed total development cost of \$ 11,889,400.00		
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	112,949.30
S94A Planning and Administration	0.05%	5,944.70
Total	1.0%	\$118,894

Note: The application does not provide a Cost Summary Report for works greater than \$100,000.00 as required in Section 2.3 of the Development Application form.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the *Environmental Planning and Assessment Act, 1979*, the provisions relevant Environmental Planning Instruments including *Warringah Local Environment Plan 2000*, *Draft Warringah Local Environmental Plan 2009* and the relevant codes and policies of Council.



The application was referred to internal departments and external authorities. In the responses, the Roads and Traffic Authority declined to issue concurrence for the proposed access/egress onto Warringah Road thereby prohibiting the consent authority from issuing consent under the provisions of Section 91A(4) of the *Environmental Planning and Assessment Act 1979*.

Council's Urban Designer, Development Engineer and Landscape Officer each raised fundamental concerns. Council's Traffic Engineer identified that, given the prohibition for access/egress onto Warringah Road, all traffic access/egress would be directed onto Riverhill Avenue and that a revised traffic report would be required to be submitted to appropriately address this.

The development attracted 702 individual submissions. The majority of the submissions raised concerns with regards to the proposed density and scale being inconsistent with character of the area; pedestrian safety and traffic congestion. Other issues raised referred to insufficient car parking; the availability of public transport; the creation of an undesirable precedent; the impact upon existing infrastructure; impacts upon neighbouring residential amenity; the introduction of a gated community; that the development will not be occupied for the purpose of Affordable Housing; and overdevelopment. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report.

The assessment of the Development Application against the provisions of *State Environmental Planning Policy (Affordable Rental Housing), 2009* found that the proposal did not comply with Clause 1(a) – Density and Scale and Clause 2(b) – Dwelling Size Development Standards. The application was not accompanied by an objection to the Development Standards as prescribed under *State Environmental Planning Policy No. 1 – Development Standards*. Additionally, it was found that the proposal did not comply with the provisions of Clause 54A(3) which requires affordable rental housing to achieve compatibility with the character of the area.

The assessment of the Development Application against the provisions of *State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development* found that the proposal was inconsistent with Principles 1, 2, 3, 4, 6, 7, 8 and 10 and a number of relevant Rules of Thumb as contained under the associated *Residential Flat Design Code*.

The assessment of the Development Application against the provisions of *State Environmental Planning Policy (Infrastructure) 2007* found that the proposal did not comply with Clause 102 which regulates the impact of road noise or vibration on residential development. Clause 102 also prohibits the consent authority from issuing consent if a Development Application has not adequately addressed the provisions of this clause.

The assessment of the Development Application against the provisions of *Warringah Local Environmental Plan 2000* found that the proposal was inconsistent with the Desired Future Character statement for the C1 Middle Harbour Suburbs in that the development did not propose detached style housing and that the subdivision pattern was inconsistent with the subdivision pattern in the area.

The assessment of the Development Application against the provisions of *Warringah Local Environmental Plan 2000* found that the proposal did not comply with the Front Setback, Side Setback and Side Boundary Envelope Built Form Controls such that, because of the inconsistency with state planning policies, the Desired Future Character of the locality and the General Principles of Development Control, they could not be considered for variation under Clause 20 of *Warringah Local Environmental Plan 2000*.

Finally, the assessment of the Development Application against the provisions of *Warringah Local Environmental Plan 2000* found that the proposal was not consistent with Clauses 63, 66, 67, 72, 73 and 76 under the General Principles of Development Control.

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development does not constitute the proper and orderly planning for the site or the locality.



As a direct result of the application and the consideration of the matters detailed within this report it is recommended that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the consent authority, refuse the application for the reasons detailed within the "Recommendation" section of this report.

RECOMMENDATION

That the Joint Regional Planning Panel refuse to grant consent to Development Application No DA2011/0400 for demolition works and construction of an infill affordable housing development under *State Environmental Planning Policy (Affordable Rental Housing) 2009* at Lots 25 & 26 in DP 398815, Nos. 2 & 4 Riverhill Avenue Forestville; Lots 4A in DP 358192, No. 751 Warringah Road Forestville and Lots B, A & C in DP 368072, Nos. 753, 755 & 757 Warringah Road, Forestville for the following reasons:

1. Pursuant to Section 91A(4) of the Environmental Planning and Assessment Act 1979, the Roads and Traffic Authority will not grant an approval (concurrence) that is required in order for the development to be lawfully carried out.
2. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *State Environmental Planning Policy No. 1 – Development Standards*, in particular:
 - Clause 6 – no written objection was submitted with the development application to support variations to the relevant Development Standards as stipulated under *State Environmental Planning Policy (Affordable Rental Housing) 2009 (as amended)*.
3. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *State Environmental Planning Policy (Infrastructure)*, 2007, in particular:
 - Clause 102 – Impact of road noise or vibration on no-road development.
4. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development*, in particular:
 - Principle 1 – Context;
 - Principle 2 – Scale;
 - Principle 3 – Built Form;
 - Principle 4 – Density;
 - Principle 6 – Landscape;
 - Principle 7 – Amenity;
 - Principle 8 – Safety and Security; and
 - Principle 10 – Aesthetics

Residential Flat Design Code

- Street Setbacks;
- Side and Rear Setbacks;
- Private Open Space;
- Vehicle Access;
- Apartment Layout;
- Balconies;
- Building Form; and
- Waste Management.



5. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009 (as amended)*, in particular:
 - Clause 14(1)(a) – Density and Scale;
 - Clause 14(2)(b) – Dwelling Size; and
 - Clause 54A(3) – Character of the Local Area.
6. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000* in that the development inconsistent with the Desired Future Character of C1 Middle Harbour Suburbs locality.
7. Pursuant to Section 79C(1)(a) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000* in that the proposed development is does not comply with the Front Setback Built Form Control; Side Boundary Setback Built Form Control and the Side Boundary Envelope Built Form Control.
8. Pursuant to Section 79C(1)(a) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000* in that the development is inconsistent with the following 'General Principles of Development Control'.
 - Clause 63 - Landscaped Open Space;
 - Clause 66 – Building Bulk;
 - Clause 67 – Roofs;
 - Clause 72 – Traffic Access and Safety;
 - Clause 73 - On-site Loading and Unloading; and
 - Clause 76 – Management of Stormwater.
9. Pursuant to Section 79C(1)(c) of the *Environmental Planning and Assessment Act, 1979* the site is not considered to be suitable for the development given it's location within an area which renders the development, as proposed, to be inconsistent with its current and desired future character.
10. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act, 1979* the proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective localities.