JRPP No:	2011SYE042	
DA No:	DA2011/0400	
Address / Property Description:		
APPLICANT:	McKees Legal Solutions (Graham McKee)	
REPORT BY:	PORT BY: David Kerr, Acting Deputy General Manager Strategic and Development Services	

Supplementary Assessment Report

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-401(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- 002A(AA); DA-004A(AA); DA-005(AA); DA-003B(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/DA7(D).		
Amended Plans Reference:	DA-001(HH); DA-003(DD); DA-004(DD); DA-101(QQ); DA- 102(RR); DA-103(UU); DA-104(TT); DA-105(RR); DA- 106(MM); DA-201(LL); DA-301(OO); DA-302(II); 11/1564/DA1(K); 11/1564/DA2(K); 11/1564/DA3(K); 11/1564/DA4(K); 11/1564/DA5(K); 11/1564/DA6(K); and 11/1564/DA7(K).		
Owner:	 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</i> <i>Housing) 2009.</i>		
Variations to Controls (CI.20/CI.18(3)):	Front Setback; andSide Boundary Envelope.		

Land and Environment Court Action:	None pending
Referred to JRPP:	Referred 27 July 2011

SUMMARY

Submissions:	922 individual submissions received		
Submission Issues:	 Density and scale is inconsistent with character of the area; Pedestrian safety; Traffic congestion; Character of the area; Availability of public transport; Creation of an undesirable precedent; Impact upon existing infrastructure; Impacts upon neighbouring residential amenity; Development will not be occupied for the purpose of Affordable Housing; and Overdevelopment. 		
Assessment Issues:	 Inconsistency with State Environmental Planning Policy (Infrastructure), 2007. Inconsistency with State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development Inconsistency with State Environmental Planning Policy (Affordable Rental Housing) 2009. Inconsistency and non-compliance with Warringah Local Environmental Plan 2000. 		
Recommendation:	Refusal		
Attachments:	Amended plans submitted to Council on 22 September 2011		

RELEVANT BACKGROUND

The Development Application was referred to the meeting of the Joint Regional Planning Panel on 27 July 2011 with a recommendation for refusal (refer to attached Assessment Report for the background and reasons for refusal).

At that meeting, the Panel resolved the following:

1) The Panel resolves unanimously to defer the determination of the application to allow the applicant to submit an amended application that further amends the recently submitted amended proposal.

Comment:

The applicant submitted amended plans in response to Point 1 on 22 September 2011.

2) The amended plans are to incorporate the following changes:

- a) The pedestrian entrance is to move to the internal side of the driveway;
- i) The setbacks of Buildings C and D should be 5m, the setback of Building B should be 4.5m, and the setback of Building F from the rear boundary of No 6 Riverhill Avenue should be 6m;
- *ii)* The elevation to Riverhill Avenue should be two separate buildings comparable in scale to a detached house in the area.

Comment:

The scope of the amendments made by the applicant, and how they respond to the requirements of Point 2, are addressed under the 'Amended Plans' section in this report.

3) The Panel requests the applicant, assisted by the council, to approach the RTA again with a view to receiving permission for vehicular entry from a slip lane in Warringah Road.

Comment:

In accordance with Point No. 3 the applicant and Council's officers met with the RTA (now known as RMS) on 10 August 2011 to seek agreement, and thereby concurrence, for vehicular entry from a slip lane in Warringah Road. The RTA have provided conditional concurrence (refer to 'External Referrals' in this report).

4) The Panel requests the applicant to submit the amended proposal on or before 23 September 2011. The amended proposal is to be notified to individual objectors for 14 days. The Panel requests the council's assessment officer to provide a supplementary report, by 21 October 2011, on the extent to which the amended plans have responded to the requirements in paragraph 2.

Comment:

In accordance with Point No. 4 the applicant submitted amended plans on 22 September 2011. The amended plans were subsequently notified to individual objectors for 30 days following instruction by the JRPP by letter dated 27 September 2011. Additionally, given the extended notification period, the letter also requested that this supplementary report be provided to the JRPP by 4 November 2011.

In accordance with Point No. 4 this supplementary report addresses the extent to which the amended plans have responded to the requirement in Paragraph No. 2.

5) Following receipt of the supplementary report, the Panel will determined the application by communicating by electronic means, unless it considers that new objections raising new issues require a further public meeting.

Comment:

The Panel has since advised, in a letter dated 27 September 2011, that the application will be determined at a public meeting to be held within 14 days from it's receipt of this report.

6) Although the Panel did not accept the planning report's recommendations to refuse the application, the Panel recognises that the report was professionally prepared and on a sound basis.

Comment:

Noted.

AMENDED PLANS

Changes made in response to the requirements of the Resolution

The amended plans submitted to Council on 22 September 2011 sought to respond to the following changes required in Point No. 2 of JRPP's resolution:

a) The pedestrian entrance is to move to the internal side of the driveway.

Comment

This amendment refers to the pedestrian entrance, which included steps and a lift, was proposed to be located between the western side boundary of No. 6 Riverhill Avenue and proposed Building G.

The amended plans indicate that Building G has been divided into two separate buildings (now Buildings G1 and G2) and the pedestrian entrance has been relocated approximately 11.5m to the west between Buildings G1 and G2.

In this regard, the amended plans have responded to this requirement.

b) The setbacks of Buildings C and D should be 5m, the setback of Building B should be 4.5m, and the setback of Building F from the rear boundary of No 6 Riverhill Avenue should be 6m.

Comment

The original plans indicated a proposed side setback of 3.0m between Buildings C & D and the western side boundary. The amended plans indicate that the side setbacks have increased to 5.0m as required.

The original plans indicated a proposed side setback of 2.0m between Building B and the eastern side boundary. The amended plans indicate that the side setback has increased to 4.5m as required.

The original plans indicated a proposed setback of 4.5m between Building F and the southern boundary shared with No. 6 Riverhill Avenue. The amended plans indicate that the setback has increased to 6.0m as required.

In this regard, the amended plans have responded to this requirement.

c) The elevation to Riverhill Avenue should be two separate buildings comparable in scale to a detached house in the area.

<u>Comment</u>

The original plans indicated that Building G (facing Riverhill Avenue) consisted of one building. The amended plans indicate that Building G has been physically separated by 3.2m to constitute two (2) individual buildings.

In this regard, the amended plans have responded to this requirement.

Changes made in addition to the requirements of the Resolution

The amended plans also include the following changes which were not requested to be made in the Resolution. The following changes are as described by CKDS Architecture (the changes addressing the Resolution are removed to avoid duplication):

"Warringah Road vehicle access

- Two-way vehicle access/egress driveway connecting Warringah Road to lower car park reinstated. Driveway occupies central location along the northern boundary;
- Proposed 70m long deceleration lane measured from the centre of the proposed driveway and extending east; and
- All traffic, including service vehicles, to enter the site via Warringah Road. Egress to Warringah Road restricted to 30 vehicles plus service vehicles.

Lower car park

- Lower car park layout replanned to accommodate proposed Warringah Road vehicle access/egress driveway;
- Minimum 2.0m setback proposed to the length of the western boundary;
- SRV service and turning bays and waste storage areas redesigned;
- 30 car parking spaces provided in the northern section of the car park;
- 19 car parking spaces provided in the southern section of the car park;
- One-way traffic device (keyed boom gate) to restrict vehicle egress to Warringah Road to 30 vehicles plus service vehicles; and
- Fire stair 04 reconfigured for efficiency.

Upper car park

- Upper car parking layout replanned to accommodate proposed changes to the Riverhill Avenue egress driveway and the ramp connection to the lower and upper car parks;
- Riverhill Avenue driveway reconfigured as one-way egress;
- Riverhill Avenue ramp maintains 2.15m setback to western boundary;
- Driveway lid reduced in length (aligned approximately to boundary setback adjacent to Building E) to ensure exposed side of driveway wall does not exceed 1.8m height; Car park lid to be planted with ground cover vegetation to Landscape Architects details;
- Fire stair 03 reconfigured for efficiency;
- Fire stair 04 reconfigured for efficiency; and
- Lift to south of car park relocated for efficiency.

Ground floor (relevant to Level One and Level Two)

- Two bedroom unit removed from the eastern end of Building A to accommodate proposed Warringah Road driveway;
- Building B extended by 2.0m to the west and by 1.0m to the north to regain floor space lost by increased setback;
- External access to Building B redesigned: B3 type units accessed from courtyards, B1 and B2 type units accessed internally;
- Two bedroom units removed from the western edge of Buildings C and D and replaced with one bedroom units;
- Unit types C4, C5, D4 and D5 expanded by 1.0m to the east;
- Building E extended west to edge of proposed Riverhill Avenue driveway. Building E units replanned;
- Lift in Building E provided with separate foyer to enable access for all residents while maintaining privacy for residents of Building E;
- Building G divided into two buildings with 3.265m wide gap for relocated resident access to the site. Lower ground floor units in Building G replanned;
- Building G setback 6.0m from Riverhill Avenue boundary (previously 6.5m);
- Lower ground floor of Building G lowered 0.3m to FFL 121.700;
- Building G2 setback 1.8m from eastern side boundary (previously 2.86m); and

JRPP (Sydney East Region) Supplementary Report – JRPP Reference: 2011SYE042

• Building G1 extended west to edge of the proposed Riverhill Avenue driveway.

First and second floor

- Decks to the southern façade of Building B reduced in area to increase privacy to units;
- Unit types C4, C5, D4 and D5 expanded by 1.0m to the east;
- The sliding louvre screens at the edge of the deck on the eastern façade of unit types C4 and D4, to replace operable vertical louvers;
- Unit types E3 and E4 replanned;
- Privacy screens provided to the north-west corner of the deck of units in Building F;
- Building G redesigned with attention to materiality, scale and form;
- Unit types G2 and G3 replanned; and
- Building G to include internal access to Level One units.

<u>Elevations</u>

- Materials and massing are generally unchanged;
- 1.0m blade walls extended to the south of all units;
- Riverhill Avenue elevation is redesigned to create further articulation through form and material break up."

Although not listed by CKDS Architecture, it is also noted that the western side setback to Building A has been reduced at the ground level from 8.8m to 3.0m and at the upper levels from 3.71m to 3.0m.

PUBLIC EXHIBITION

The amended application was publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As instructed by the Joint Regional Planning Panel, the application was notified to 824 people who made submissions on the original plan for a minimum period of 30 calendar days commencing on 28 September 2011 and being finalised on 27 October 2011.

As a result of the public exhibition process, a total of 922 individual submissions have been received at the time of the closing of the notification period. Additional submissions are being continuing to be received by Council and JRPP.

The following issues raised within the submissions are the same as those raised during the previous notification period and were addressed in the original assessment report:

- Traffic congestion;
- Pedestrian safety;
- Character of the area;
- Availability of public transport;
- Creation of an undesirable precedent;
- Impact upon existing infrastructure;
- Impacts upon neighbouring residential amenity;
- Development will not be occupied for the purpose of Affordable Housing; and
- Overdevelopment.

In addition to the above issues, the following issues were also raised which were not raised in the previous notification period:

Possible inaccuracies in the revised Traffic Report

A submission made by MB Town Planning raises concerns that the revised traffic report prepared by Colston Budd Hunt & Kafes Pty Ltd did not define peak hour times and that Riverhill and Forestville Avenues would have different peak times to typical because of their proximity to the school. The submission requests that the applicant should be required to confirm whether traffic volumes have been measured having regard to school pick-up and drop-off times. If not, the applicant should be required to obtain that data and incorporate that into their traffic report.

Comment:

The applicant was requested to define the peak hour times and advises the following:

"The counts were undertaken between 7.00am and 9.30am in the morning and 3.00pm and 6.30 pm in the afternoon at 15 minute intervals. The surveys found that there was a spike in traffic flows through the Riverhill Avenue/Melwood Avenue intersection in the AM peak period (between 8.45am and 9.15am coinciding with school drop off). In the PM peak period there was also a spike early in the survey period (between 3.00pm and 3.30pm coinciding with school pick up)."

As the submission is primarily addressing traffic matters Council's Traffic Engineer has reviewed the submission and notes that, while the submission is based primarily on anecdotal evidence and cannot be held to a quantifiable standard, the concerns raised are valid and should be considered by the Panel when considering this application.

Lack of Social Impact Statement in amended plans

The submissions raise concern that a Social Impact Statement has not been provided to ascertain the impact the development may have upon the "design and use of existing surrounding streets, people living within and around the development now and after the 10 year period".

Comment:

A Social Impact Statement is not required to be provided for in-fill affordable housing under *State Environmental Planning Policy (Affordable Rental Housing) 2009.* Notwithstanding, the sub-issues raised within this new issue were addressed individually in the original assessment report (refer to the list above).

Timing and location of JRPP meeting

The submissions request that the determination hearing to be held by JRPP occurs after 6.30pm at a venue more local to Forestville.

Comment:

This request is noted and has been referred to the JRPP for consideration.

REFERRALS

External Referrals

Roads and Maritime Services (RMS) (formerly Roads and Traffic Authority (RTA))

The amended Development Application was referred back to the Roads and Maritime Services (RMS) for consideration under the provisions of *State Environmental Planning Policy (Infrastructure)* 2007 and concurrence under Section 138 of the *Roads Act, 1993.*

The RMS had initially provided their response to the amended plans in a letter dated 17 October 2011 which granted concurrence subject to satisfying certain conditions. Following a further review of the amended plans the RMS has noted the following in an email to Council dated 4 November 2011:

"Thankyou for the opportunity to clarify the Roads and Maritime Services (RMS) (formally the RTA) position following the amended traffic report sent 26 October 2011 for development at 2-4 Riverhill Avenue, Forestville. Concurrence to the access point on Warringah Road was granted subject to:

• two-way access being available on Riverhill Avenue;

• The car park be split in two parts, to restrict access to/from Warringah Road to 30 car parking spaces **only.** RMS stated "the car park accessed from Warringah Road is physically restricted to no more than 30 vehicle spaces"

The amended traffic report (sent to RMS on 26 October 2011) states access onto Riverhill Avenue will be one-way egress, and all access into the property will be via Warringah Road, this arrangement is not supported by RMS. his proposed arrangement is not in accordance with RMS (RTA) latest letter dated 17 October 2011 and letter to the developer's traffic consultant (Colston Budd Hunt and Kafes Pty Ltd) dated 19 September 2011."

The RMS advise that a new letter will be issued to the effect of the email above which will be forwarded to the JRPP upon receipt.

Assessing Officer's Comment:

The changes required to be made in order to satisfy the conditions of the RMS are considered to be substantial in that:

- a) The carpark will be required to be physically separated into two halves;
- b) The driveway to Riverhill Avenue will be required to be widened to accommodate dual access/egress for 61 vehicles;
- c) Building G will be required to be modified to accommodate the widened driveway; and
- d) A revised Traffic Report will be required to be submitted for further consideration by Council's Traffic Engineer.

As the amendments will be substantial in terms of design and impact, the amended plans and associated documentation will be required to be re-notified. Consequently, due to the lack of sufficient information, Council cannot adequately ascertain the likely impacts of the required amendments.

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 in the recommendation.

Internal Referrals

Urban Design

The amended plans have been assessed by Council's Urban Designer who advises the following:

"Positive aspects:

- 1. Elevation to Riverhill Avenue has been divided into two separate buildings to be more contextually fitting to detached houses in the street.
- 2. Landscape area proposed is 30.47% of the site area as declared in submission. The recommendation of the SEPP Affordable Rental housing is 30% minimum.
- 3. Side setbacks have been increased to reduce perception of bulk and scale when viewed from neighbouring properties with the exception of the areas highlighted below as issues to be addressed.
- 4. 89 car spaces (as declared in submission) have been proposed for 72 dwellings. The parking provision has complied 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.

Negative Aspects:

- 1. Setback to building A from the western boundary should be increased to 5m from the proposed 3m. The western corner balcony of building A facing Warringah Road should be brought back to the 6.5m front setback required. Eastern boundary setback to building B, F and G2 should be increased to 5m, 5m and 3m respectively from the proposed 4.5m, 3m and 1.8m respectively to comply with side boundaries building envelopes as per Council controls.
- 2. Building separation distances as recommended by the Residential Flat Design Code have been reduced to below the 12m suggested dimensions for building of 3 storeys between the corners of

buildings D & F and B & C. These will bring about problems of visual and acoustic privacy, loss of daylight access to apartments, private and shared open spaces.

Conclusion:

The second referral analysis acknowledges that the redesign has addressed some of the concerns raised previously. However to ensure the previous referral's intention that the proposal should contribute to the amenities of the neighbourhood, and set suitable precedent for future development, the following suggestions should be taken into consideration:

- 1. Address the side boundaries setback shortfalls identified earlier to comply comprehensively with the building envelope 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. Ensure that building separation distances are maintained as per the recommendation of the Residential Flat Design Code to minimise problems of visual and acoustic privacy, loss of daylight access to apartments, private and shared open spaces. Development that proposes less than the recommended distances apart must demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved."

Assessing Officer's Comment:

The response identifies that the development still needs to address non-compliant building envelopes created through the relocating of Buildings A and G (which were not requested by JRPP) and has resulted in new non-compliances of Buildings A and G against the Building Envelope Built Form Control.

Development Engineering

The amended plans have been assessed by Council's Development Engineer who advises the following:

"Council has not received any amended drainage plans and additional documentation as requested in the earlier/previous memorandum. In this regard, all of points 1 to 13 of the previous memorandum are still applicable.

The ramp grades for the proposed access driveway from Riverhill Avenue have been assessed and are considered to be satisfactory. The proposal requires the expansion of the existing slip lane along Warringah Road. In order for Council to asses the proposed access off Warringah Road it will be necessary for the applicant to provide engineering drawings for the proposed slip lane with long sections and cross sections. Once the levels for the new lane have been provided then the access driveway and ramp grades can be assessed.

In summary, Council's Development Engineers are unable to adequately assess the stormwater drainage proposal and driveway access and cannot support the proposal due to lack of information submitted by the applicant."

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 required the submission of further information and redesign during the assessment of the original Development Application and formed a reason for refusal due to lack of sufficient information. As such, this has been retained as a reason for refusal.

Traffic Engineering

The amended plans have been assessed by Council's Traffic Engineer who advises the following:

"The traffic section cannot support this development due to the impact of additional traffic generated by this development on the existing local road network and the potential to impact on the effective traffic flow in the area.

Public Transport Access

This site has access to existing transport links. Bus movements on Warringah Road represent the best available public transport in the area; however this location cannot be described as having "good" public transport links. As with other developments in this area a high degree (80-90%) of reliance on private vehicles is likely.

Traffic Generation

The traffic report states that intersections affected by this development have been modelled using intersection analysis software but do not include the full results of this modelling for consideration. Key movements that will be affected by this development are not included in the traffic study.

Access

This application makes reference to a one way traffic device in the lower basement carpark. No additional information has been provided on the type of traffic facility that will be installed.

The plan refers to a 'one way boom gate', however there are no locations shown for card readers to provide access without the removal of parking spaces.

This site is not accessible by Medium Rigid Vehicles (8.8m service vehicles) or Council's garbage collection vehicles. A development of this size must allow access by appropriate service vehicles."

Additional SIDRA Information was provided by the applicant's Traffic Engineer on 17 October 2011 to address the above comments. Council's Traffic Engineer maintains that the Development Application cannot be supported and provides the following comments in response:

"Access

The access to Warringah Road is to be controlled by a card activated boom gate. The installation of the boom gate will result in the loss of one parking space from this development which be may be altered to allow additional area for bicycles/motorcycles. This development will still comply with the requirements for the reduced parking rates for affordable housing.

Traffic Generation

The traffic report indicates this development will add 17 vehicles (am peak) trips onto the local road network at the Riverhill Avenue exit. This represents an immediate 8.5% increase in vehicle volumes on this road (existing 200 +17 from development). Riverhill Avenue is a local road that has an environmental capacity of 300 vehicle movements/hour.

The traffic modelling provided indicates that the queue length (95% back of queue) on Forestville Avenue will extend 100.1m (up from 97.4m) from the traffic signals as a result of this development. This represents the entire distance from Warringah Road to Riverhill Avenue. Extensions of queue lengths onto adjacent streets adversely affects the traffic flow on the local road network.

Forestville Avenue is a local road with a narrow carriageway (6.7m) and regularly has vehicles parked on both sides of the road. Vehicle volumes on Forestville Avenue are currently 250/hour during the A.M peak.

Excessive queuing in this area may require the installation of parking restrictions, or other alterations to the traffic flow pattern, to ensure the effective movement of traffic.

As the local roads in this area are close to there environmental capacity additional traffic may have a disproportionate impact the road network."

Following the recent referral response from the RMS (see 'External Referrals' in this report), Council's Traffic Engineer advises the following:

"The implications of the separated car parks are:

Traffic exiting the site from Warringah Road that is travelling east will be forced to make a left turn into Forestville Avenue, from Warringah Road, and will travel along Riverhill Avenue. This will add slightly to the traffic volumes on both of these roads.

The two way access on Riverhill Avenue will push additional traffic onto Riverhill Avenue. This will be an issue particularly during the afternoon school peak due to the existing congestion in this area. This will also add to vehicle volumes on Forestville Avenue for vehicles entering the road network on Riverhill Avenue to make the left turn onto Warringah Road (westbound traffic).

Overall this is a worse outcome for the traffic conditions on the local network. It will create additional volumes with corresponding queues and congestion on Forestville Avenue and Riverhill Avenue. Melwood Avenue will be slightly affected, but the capacity of this road is higher and the effect will not be as pronounced.

The conditions identified in the last traffic referral are still relevant however the specific figures will be worse in terms of the queue length and delays.

This does not change the recommendation from the traffic section. This development is still not supported on traffic grounds.

It will have an adverse impact on the traffic conditions on the local road network."

Assessing Officer's Comment:

The response raises concerns about the impact of the traffic generated by the development upon the local road network and traffic flow in the area as the local roads in this area are close to there environmental capacity additional traffic may have a disproportionate impact the road network. Concern is also raised with regards to accessible into the site by medium rigid vehicles for waste collection.

The RMS have recently provided a referral response to the amended plans. Council's Traffic Engineer raises concerns that a new two-way access onto/from Riverhill Avenue will add vehicle volumes onto Riverhill Avenue thereby exacerbating congestion within the local road network. As such, this has been retained as a reason for refusal.

Landscape Officer

The amended plans have been assessed by Council's Landscape Officer who 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.

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 Desired Future Character 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 setbacks (above and below ground) 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.

CONCLUSION

The amended application has been assessed against the requirement amendments detailed in Point 2 of the Resolution of the Joint Regional Planning Panel. This report is supplementary to the original assessment report and the two should be read in conjunction.

The amended application was referred to internal departments and external authorities. In the responses, the RMS agreed to issue concurrence subject to the development undergoing certain changes which will result in the application requiring further amendment and re-notification due to the significant nature of the required changes.

Council's 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 amended development attracted 922 individual submissions. The submissions raised the same concerns as raised in the notification of the original application with emphasis placed on the scale of the development 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; that the development will not be occupied for the purpose of Affordable Housing; and overdevelopment. An additional issue was raised with regards to the lack of a Social Impact Statement being provided with the amended application.

The assessment of the amended application against the provisions of *State Environmental Planning Policy* (*Affordable Rental Housing*), 2009 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. This has been retained as a reason for refusal.

The assessment of the amended 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. This has been retained as a reason for refusal.

The assessment of the amended 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. This has been retained as a reason for refusal.

The assessment of the amended 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. This has been retained as a reason for refusal.

The assessment of the amended application against the provisions of *Warringah Local Environmental Plan 2000* found that the proposal did not comply with the Front 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*. This has been retained as a reason for refusal.

Finally, the assessment of the amended application against the provisions of *Warringah Local Environmental Plan 2000* found that the proposal was inconsistent with Clauses 63, 66, 67, 72 and 76 under the General Principles of Development Control. This has been retained as a reason for refusal.

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 supplementary 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 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.
- 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* 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;
- Apartment Layout; and
- Building Form.
- 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 (Affordable Rental Housing) 2009 (as amended),* in particular:
 - Clause 54A(3) Character of the Local Area.
- 4. 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.

- 5. 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 and the Side Boundary Envelope Built Form Control.
- 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 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; and
 - Clause 76 Management of Stormwater.
- 7. Pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act, 1979* the conditions included in the concurrence granted by the Roads and Maritime Services are such that a redesign would be required which would result in impacts which cannot be adequately assessed or ascertained by Council due to insufficient information.
- 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.
- 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.



































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