

Applicant's response to Council's supplementary assessment report - dated 10 November 2011

McKees Response:

Introduction

The JRPP is an independent panel set up by the *Environmental Planning and Assessment Act 1979* to determine matters of regional significance.

On 27 July 2011, the JRPP, as consent authority, identified a number of concerns with the proposed development. The concerns are outlined below and related to traffic, side setbacks and the presentation of building G to Riverhill Avenue.

The 'Relevant Background' and 'Changes made in response to the requirements of the Resolution' sections of Council's report to the JRPP provide a detailed assessment of the changes made by the applicant and confirm that the amended plans respond to all of the JRPP's requirements.

In an effort to effectively communicate the applicant's response to the Council report and ultimately the JRPP's decision making, we have inserted into the Council report at the relevant parts the responses of McKees, Geoff Baker of HBO + EMTB and Tim Rogers of Colston Budd Hunt & Kafes.

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 its 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.*

Comment:

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 Page 5
- 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.

Elevations

- 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.

McKees Response:

The Council and applicant agree the setback of building A to the western boundary is 3.18m: refer to Council memo dated 16 November 2011.

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.

McKees Response:

Traffic congestion and pedestrian safety / impacts upon neighbouring residential amenity

The most significant change to the development followed the meeting with the RTA that resulted in egress only from the site to Riverhill Avenue. This eliminated traffic entering the site from Riverhill and ensured one way traffic flow into Riverhill and across the footpath in front of the proposed development. The significant community concerns relating to amenity, which was to be caused by traffic congestion, potential danger to school children, pedestrian safety, have been addressed by this amendment. The proposed development has simplified access arrangements to the site, achieved the concurrence of the RTA and minimised the change to traffic flow on Riverhill Road and the houses directly adjoining the site.

Availability of Public Transport

During the working week (Monday – Friday), throughout the morning peak hour (7am – 9am) there are 11 buses that stop directly out the front of the subject site and transport passengers to the Chatswood interchange. This is just one bus route which is reciprocated in the evening peak hour. The same bus route (Sydney buses 134) runs 21 buses between 7am – 6pm, from the subject site to Chatswood every Sunday. This equates to approximately 1 bus every half hour. In this respect it complies with the amended ARH SEPP definition of accessibility.

The above assessment of Sydney bus route 134 indicates that the subject site has regular and convenient access to public transport links throughout the week and weekend.

Overdevelopment

The proposed development complies within the floor space ratio control, therefore density of the development cannot be a reason for refusal. The proposed development is now generally set back 5m or greater from any boundary and presents appropriately to both the Riverhill and Warringah streetscapes. The proposed development could not constitute an overdevelopment in circumstances where such a large part of the site has been set over to landscaped area (in excess of 30%) and the retention of all significant trees on the site has been achieved.

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).

McKees Response:

We agree that there is no requirement to provide a Social Impact Statement for the proposed development. The real social benefit of the proposed development is the effective delivery to community housing providers of 36 studio, 1 and 2 bedroom affordable units for rent for 10 years.

On 22 November 2011 we did a rental search of the suburb of Forestville on www.domain.com.au, the results of which are as follows:

- 3 bed house - \$600/week
- 6 bed house - \$880/week
- 5 bed house - \$1000/week
- 5 bed house - \$950/week
- 4 bed house - \$990/week

These rental dwellings cannot be described as affordable. The effective delivery of affordable rental housing will provide key workers with greater opportunity to live closer to their places of work.

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:

McKees Response:

The Council and the Applicant arranged and attended a meeting at the RTA to discuss this matter on 10 August 2011. The meeting was surprisingly successful and ultimately we have achieved concurrence on the set of plans that are currently before the JRPP. The RTA were almost singularly focused on Warringah Road and ultimately have agreed to 30 vehicles and the garbage truck having the right to egress the site onto Warringah Road. The decision to accommodate the Warringah Road access has come at a significant cost to the Applicant as a 70m deceleration lane is required and three two bedroom dwellings have been removed from building A.

No new letter has been issued and Mr. Rogers met with the RTA who have advised that the current proposal is satisfactory.

Tim Rogers Response:

1. As requested, we have reviewed the traffic matters raised in the Council Officers report to the JRRP for the above development. The main traffic matter raised in the report is based on advice from the Roads and Maritime Services (RMS) in an email dated 4 November 2011 as set out below.

In its email to Council on 4 November 2011, RMS (formerly RTA) advised Council that 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. This 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."

2. Based on this advice Council has included as a recommendation for refusal of the proposed development the following:

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.

3. We met with the RMS on Wednesday 16 November to discuss its email of 4 November 2011 and whether it would reconsider its position and accept that the access arrangements in the revised scheme which are:-
 - In and out via Warringah Road with only 30 spaces having egress to Warringah Road;
 - Egress only to Riverhill Avenue for the balance of parking;
 - A physical barrier be provided within the car park to limit egress to Warringah Road to 30 spaces; and
 - A left turn deceleration lane (to RMS standards) be provided on Warringah Road for ingress to the site).
4. At the meeting the RMS agreed that the above access arrangements would be acceptable and that the matter of whether the Riverhill Avenue access is egress (as proposed) or ingress/egress is a matter for Council. The rationale for the change in the RMS's position was that:
 1. The number of spaces egressing to Warringah Road is capped at 30 spaces (as per the RTA September letter); and
 2. The provision of the deceleration lane means that whether 30 or all 85 parking spaces are accessed from Warringah Road would have the same traffic effects on Warringah Road.
5. We have asked the RMS to confirm the above in an email or letter to Warringah Council.

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.*

Geoff Baker Response:

In its 27 July resolution, the JRPP specified a number of changes to side and rear setbacks. All of these changes have been incorporated into the proposal. The Panel was silent on other setbacks and I and the Applicant infer that the Panel considered these to be acceptable.

In response to Council's current report:

- Council's side setback control allows building to the boundary to a height of 4m above ground level and then to a 45 degree setback plane.
- The 3m setback for Building A from the western boundary is entirely sufficient, given that the dwelling next door has second floor windows only in the rear half of its eastern facade facing the boundary and that these windows are neither blocked nor overlooked by Building A.
- The western corner balcony of building A extends only marginally over the 6.5m front setback line and provides greater amenity for the apartment it connects to. Given that the 6.5m setback is greatly exceeded elsewhere the small encroachment is reasonable.
- Building B is now setback 4.5m from the eastern side boundary as directed by the JRPP. It is generally within the setback envelope and shares a boundary with an adjoining driveway to a battle axe block.
- As it relates to its neighbour to the east, Building F only marginally exceeds the setback envelope, has only high level windows facing the boundary (no overlooking) and creates shadows to only a small part of its neighbour's rear yard in midwinter after about 1.00pm.
- Building G2's setback of 1.8m is necessary to achieve the desired streetscape character on Riverhill Avenue (separating Buildings G1 and G2). When located close to a side boundary, side setbacks of newer developments in the area are generally between 1m and 2m. Building G2's setback is greater than that of other two storey dwellings in the vicinity (e.g. the recent dwelling on Warringah Road to the west of Building A, where I understand the setback to be 0.9m). Buildings G1 and G2 present a height to the street above existing ground level of 6m (refer DA 201 and DA 301). Building G2 has only high level windows facing the boundary (no overlooking) and creates minor shadows to its neighbour (where an existing carport is located) in midwinter only after about 1.00pm.

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.*

Geoff Baker Response:

In its 27 July resolution, the JRPP made no comments in relation to separation distances between proposed buildings on the site.

Close examination of the relationship between Buildings D and F demonstrates that the suggested concerns do not arise. In general, the two buildings look past, rather than into, each other. Apartment F1 has only high level openings in its west wall and its balcony is screened at the western end to eliminate overlooking with the eastern units in Building D. Both buildings have an open prospect and neither denies daylight access to the other. The relationship between Buildings B and C is similar.

In my opinion these relationships are reasonable and appropriate.

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.*

Geoff Baker Response:

Side boundary setbacks are discussed above. The relationship between side setbacks and streetscapes are addressed as follows:

- On Warringah Road, Building A is setback 3.18m from the side boundary (about three times the setback of the adjoining two-storey house) and Building B is setback 4.5m. These setbacks have deep soil and allow for generous landscaping to visually separate the buildings from their neighbours and maintain and enhance the existing streetscape character. In addition, Building B is setback from Warringah Road more than twice Council's requirement and the area between the building and the street retains existing mature trees and adds new landscaping.

The presentation of the development to Warringah Road has been improved by the location of a parking entry in the middle of the street frontage (as seen on drawing DA201). The gap between Buildings A and B has been more than doubled from 4.6m to 10.2m and Building A has been reduced in length by 8m to 20.6m.

- On Riverhill Avenue, Building G2 is setback from the eastern side boundary 1.8m and western side boundary by 2.15m and comprises deep soil. This again this will enable significant planting to enhance separation from both neighbours. to the east (which has a single storey brick carport wall with roller shutter built to the side boundary with no setback at all).

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."*

Geoff Baker Response:

These issues are addressed above.

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.

Geoff Baker Response:

All setbacks have deep soil and sufficient width to accommodate dense planting which will screen much of the proposed building mass from neighbours' views. It is noted that under Council's controls, a two storey dwelling 6.0m high at its eaves would only need to be setback 2.0m, less than all side setbacks in the proposal except for Building G2 at 1.8m. Importantly, the proposal has no significant physical impacts (overlooking or overshadowing) on its neighbours. Perceived bulk is minimised by having building ends (generally 11.3m wide, 9.8m for Building G2) face the side boundaries, articulating these facades and providing dense planting between the proposed buildings and the boundaries.

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 assess 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.

McKees Response:

CKDS Architects have confirmed that the RL's of the upper and lower basements have not changed from the proposal submitted 8 June 2011, upon which the amended stormwater and hydraulic design was prepared. Therefore, the plans prepared by Tom Lau and submitted remain relevant. This matter can be addressed by a condition of consent.

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.

Tim Rogers Response:

The main reasons for the traffic sections conclusion are summarized below:

- Traffic effects on the local road network from traffic generated by the proposed development (delays at intersections and environmental capacity);
- Traffic effects of separating the car parks with ingress/egress from Warringah Road (30 spaces) and Riverhill Avenue (balance of parking); and
- Servicing of the site.

With respect to the traffic effects, our traffic report that accompanied the DA assessed two access options:

- all ingress from Warringah Road and egress to Warringah Road and Riverhill Avenue (with egress for only 30 spaces to Warringah Road) and the car park separated by a one way boom gate; and
- separate the car parks with ingress/egress from Warringah Road (30 spaces) and Riverhill Avenue (balance of parking).

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.

McKees Response:

We attach as annexure "A", copy of an email and plan dated 6 October 2011 forwarded by Tim Rogers to Council's traffic engineer outlining the logistics of a card reader that will act as a one way traffic device.

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."

Tim Rogers Response:

With regard to servicing the proposed development our traffic report noted that a service area is provided within the site to allow for access by delivery and removalist trucks. The service area has been designed to accommodate a 6.4 metre small truck (SRV). Access to the service area would be to and from Warringah Road in a forward direction. The use of the service area would be infrequent. Height clearance in the area accessed by the SRV will be a minimum of 3.6 metres.

This would allow for access by small garbage trucks that are operated by private contractors (not Council's garbage collection vehicles). Council's traffic section has suggested that a development of this size should cater for an 8.8 metre medium rigid truck (MRV). Such a requirement is unreasonable and not necessary as the site can satisfactorily be serviced by an SRV.

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 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 their environmental capacity additional traffic may have a disproportionate impact on 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."

Tim Rogers Response:

The assessment found that the traffic effects of the proposed development for both access options on the surrounding road network would be minimal with:

- minor increases in traffic flow on Darley Street, Melwood Avenue and Riverhill Avenue of some 5 to 15 vehicles per hour (two way) in the peak periods;

- no change in the level of service in the operation of adjacent intersections (minimal change in delays and queuing); and
- local roads continuing to operate within their environmental capacity (with increases of less than 10%).

As there is no change in the performance of adjacent intersections and that traffic flows on local roads would be remain within environmental capacity guidelines (with increases of less than 10%) there is no basis for Council's traffic section's conclusion not to support the proposed development due to adverse traffic effects on the surrounding 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.

Tim Rogers Response:

The option of all ingress from Warringah Road and egress to both Warringah Road and Riverhill Avenue would result in slightly lower increases in traffic on the local road network.

With regard to access we note that while both access options would result in acceptable traffic impacts, the option of all ingress from Warringah Road and egress to both Warringah Road and Riverhill Avenue is preferred as it better distributes traffic to the road network from the proposed development and minimizes the traffic increases on the local road network.

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.

McKees Response:

Buildings A, C, D, E and G are all separated by 14m at ground level and 12m at first and second floor levels, which is in keeping with the SEPP 65 requirements.

The landscape plan prepared by Paul Scrivener proposes additional landscaping along the western boundary to minimise bulk and provide a better outcome to the neighbours on the west. A strip of deep soil area runs along the western boundary which, combined with planter boxes ranging from 1000mm – 3000mm deep provide an excellent opportunity for planting unaffected by the basement below. We *attach* as annexure "B" an amended photomontage showing the proposed planting from the west of the site at 3 years maturity.

Council has noted that there are a large number of existing trees in the communal open area of the site that are proposed to be retained. It should be noted that there are a three significant existing mature trees in the front setback to Warringah Road that will be retained. The combination of existing and proposed planting, along with the breaking up of Buildings A & G will provide a harmonious outcome compatible with the Character of the C1 locality, as required by s54(A)(3) of the ARH SEPP:

" 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."

Geoff Baker Response:

In general, the proposal is consistent with Council's Locality C1 goal of development to be "in a landscaped setting". The proposal has 32 percent site coverage, so that more than two thirds of the site is preserved as open space. Of this open space area, approximately 44% is deep soil. (The SEPP 65 Residential Flat Design Code requires a minimum of 25%.) This generous provision of deep soil areas arises because of the compact form of the below-grade parking structure, the fact that most of it is located below buildings and the development's relatively low FSR and site coverage. The large amount of deep soil, 2,440 m² in total, allows most of the existing high quality mature trees on the site to be retained. The landscape plan takes full advantage of the deep soil to complement the existing vegetation with extensive new plantings.

The below ground parking structure which serves the development is located beneath Buildings A, C, D and E and the exterior spaces between these buildings. Sections A and B (drawing DA-301) and the Central North Elevation and Central West Elevation (drawing DA-302) show that the depth of soil below the courtyards and above the roof slab of the parking garage is generally well in excess of 1.0m and often more than 2.0m. This soil is also contiguous with deep soil to the east and west of the parking structure.

There is no doubt that significant landscaping, including trees up to at least 6m in height will flourish in these circumstances. Because the separation distances between the buildings meet SEPP 65 Flat Code standards, privacy is deemed not to be an issue, but plantings in summer will introduce welcome shade. It is important that trees be deciduous so that winter sun will penetrate courtyards and apartment living areas.

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.

McKees Response:

This matter can be dealt with by a condition of consent.

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.

McKees Response:

The initial Council report to the JRPP was based on the plans lodged with Council on 28 March 2011 and only gave brief mention to the amended plans lodged with Council on 8 June 2011. The JRPP's determination at the meeting held on 27 July 2011 was based upon the plans submitted to Council on 8 June 2011, which were not addressed in Council's original report.

The original report is of less relevance given the changes access point at Warringah Road (the reduction in length of Building A to 20.8m) and the breaking in two of building G addressing Riverhill Avenue. We acknowledge that the pattern and location of the buildings that comprise the development are essentially unchanged.

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.

McKees Response:

On 16 November 2011, Council forwarded a memo to the JRPP amending the above paragraph to read:

'Council's Development Engineer, Landscape Officer and Traffic Engineer each raised concerns which are addressed under 'Internal Referrals' in this report.'

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.

Geoff Baker Response:

I interpret the nominated specific amendments required by the JRPP to be a direct response to issues raised by the immediately adjoining neighbours (setbacks) and the local community (vehicle circulation and parking access). In my opinion the proposal as presented to the JRPP achieved compatibility with the character of the area in which it is located, and the panel's changes enhance the outcome to now address the desired future character as set out in Council's Locality C1 Character Controls.

In zones with low Floor Space Ratio, it is quite clear that to achieve its policy objectives the ARH SEPP envisages development that is different to that surrounding it. This is also evidenced in Clause 16A: Character of local area, which requires that "the design of the development is compatible with the character of the local area". The distinction between development which is the same and that which is compatible is critical.

Whilst greater in scale and density than its immediate neighbours (but not a significant number of developments in its wider context), the proposal is compatible with the neighbours by virtue of its:

- Consistent street setbacks and front yard landscaping
- low site coverage
- narrow buildings
- extensive areas of landscaping, including deep soil zones
- presentation of narrow building ends to its neighbours to the east and west
- avoidance of significant material impacts on its neighbours (overlooking and overshadowing)

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.

Geoff Baker Response:

The blanket statement that the proposal is inconsistent with eight of the ten SEPP 65 Principles without further elaboration is, to say the least, unhelpful. The detailed responses to specific urban design issues provided above demonstrates compliance with the relevant and particular principles and rules of thumb in the SEPP 65 Flat Code.

McKees Response:

The applicant assumes that this is the town planners interpretation and not the urban design expert to whom the matter was referred.

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.

McKees Response:

We confirm that Clause 102 applies to the proposed development. The publishing of this report was the first time that this matter had been raised throughout the assessment process. We have engaged The Acoustic Group (Stephen Cooper) to do the relevant testing and to prepare a short report which, as we understand, will recommend the imposing of a condition of consent of any approval.

We note that the Land and Environment Court has previously dealt with Clause 102 by requiring a condition of consent as held by the Court in *Pavlovski v Kurringai Council* [2010] NSWLEC 1197 (28 July 2010) and we refer you to paragraph 86.

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.

Geoff Baker Response:

It appears that Council makes this assertion because the proposed development does not comply with some of Council's planning controls, most notably density. ARH SEPP 2009 prevails, however. It addresses an important social issue: the provision of affordable housing for people in need. The first 2 aims of the policy are:

- (a) to provide a consistent planning regime for the provision of affordable rental housing
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,

The proposal satisfies the applicable provisions of ARH SEPP. It achieves a high level of compliance with the provisions of the SEPP 65 Flat Code. With the exception of density and some very minor side setback discrepancies, it also complies with Council's key controls. The design has undergone a long period of development and refinement to ensure that it is a good fit within its immediate context. As such, it constitutes proper and orderly planning for the site and locality.

Tim Rogers Response:

A number of submissions have raised traffic and parking issues (unacceptable traffic impacts, safety and parking). As noted above and in our traffic report that accompanied the DA, the proposed development results in acceptable impacts on the surrounding road network (with minimal increases in traffic and no material impact on road network operation, safety or amenity), access arrangements will be designed to comply Australian Standards and parking provision exceeds that required by State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP) the proposed development.

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.

McKees Response:

Why should the proposed development be approved?

The proposed development has been carefully located and designed to take advantage of the floor space ratio bonuses to achieve the effective delivery of affordable rental housing whilst protecting and enhancing the amenity of adjoining properties consistent with and arguably beyond the expectation created by the Council's locality C1 future character statement. The proposal retains all existing significant trees and complies with almost all

of Council's key Residential DCP controls including height, setbacks and streetscape ensuring an appropriate presentation to neighbouring residents and the public domain.

The development should be approved because while it is different, a fact which is derived from the implementation of the aims and provisions of the ARH SEPP, by good design:-

- It locates the floor space ratio on parts of the site which represent opportunities for development without adverse impacts being created to neighbours or more generally the character of the local area.
- The generous setbacks of Building B to Warringah Road which retain existing significant trees;
- The limited extent of development along the eastern boundary again achieving the retention of existing significant trees;
- The 6m setback of Building F from the southern boundary and provision of a dedicated 1.8m landscape strip adjoining the Kerkyasharian property at 6 Riverhill Avenue;
- The breaking of Building G in to two buildings with a 3.2m break which maintains the pattern and predominant scale of existing detached style housing in Riverhill Avenue;
- The new egress only plus reduction in width of the vehicular access way to Riverhill Avenue;
- The 5m setback of the buildings to the western boundary (but for Building A) ensures that the development will be characterised by landscaped front gardens and reinforce the consistent front building setbacks as required by the locality C1 plan.

The proposed development complies with the overwhelming majority of Council's numerical controls and all of the State Environmental Planning Policy (Affordable Rental Housing) 2009 ("ARH SEPP") where there is an inconsistency.

The Applicant has demonstrated through its planning and urban design assessments that in considering the character test set out in clause 54A(3), the development clearly is harmonious with the existing (and future) character of the area.

In relation to the planning principal which deals with the relevant "*criteria for the assessment of impacts on neighbouring properties*", the proposed development performs as follows:-

1. The change created by the proposed development is appropriately addressed by the significant setbacks now provided for in the proposed development;

2. The setbacks and intervening landscape provide for a minimising of any impact on neighbouring properties while achieving the public interest benefits set out in the aims of the ARH SEPP. The ARH SEPP is reasonable in its nature given its compliance with the controls within it and by achieving the effective delivery of affordable rental housing.
3. The two most vulnerable properties being 6 Riverhill Avenue and 7 Forestville Avenue have benefited from the most recent amendments, namely:-
 - The eastern property now has a 6m setback to building and intervening landscape at a 1.8m dedicated deepsoil zone to its side boundary ensuring that its outlook and separation with the proposed development is beyond that envisaged or expectations set by the regular planning controls.
 - In relation to the western neighbour, the successful discussions with the RTA have led to egress only at Riverhill Road which will reduce the impact of that driveway on the amenity of the adjoining rear portion of the site. The fence between the proposed development and that neighbour will be acoustically treated, and is noted as being masonry.
4. The proposed development is of high quality design, has minimised the footprint to achieve an excellent overall landscaping component and deepsoil zones where they create appropriate screening.
5. The impacts that arise from the proposed development comply with the ARH SEPP and the buildings proposed generally comply with the Council's own envelope controls.

The proposed development will create a change, but it is within the reasonable and legitimate expectations of the planning regime in force.

The proposed development is worthy of approval by the JRPP and will effectively deliver affordable housing consistent with the locality C1 character statement and provide for 36 affordable rental dwellings of various sizes for 10 years from the issuing of the occupation certificate.

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 - Amenities;
- 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.
8. 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.