

<b>JRPP No</b>	<b>2011SYW029</b>
<b>DA Number</b>	<b>DA0050/11</b>
<b>Local Government Area</b>	<b>Ku-ring-gai Council</b>
<b>Proposed Development</b>	<b>Demolition of existing buildings and construction of two (2) residential flat buildings (55 units), basement car parking (86 spaces) and landscaping</b>
<b>Street Address</b>	<b>18 Shinfield Avenue and 116-118 Rosedale Road, St Ives</b>
<b>Applicant</b>	<b>Staldone Corporation Pty Ltd</b>
<b>Number of Submissions</b>	<b>Eleven (11) submissions</b>
<b>Recommendation</b>	<b>Refusal</b>
<b>Report by</b>	<b>Robyn Pearson, Executive Assessment Officer</b>

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	18 SHINFIELD AVENUE AND 116-118 ROSEDALE ROAD, ST IVES - DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF TWO (2) RESIDENTIAL FLAT BUILDINGS (55 UNITS), BASEMENT CAR PARKING (86 SPACES), LANDSCAPING.
<b>WARD:</b>	ST IVES
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	0050/11
<b>SUBJECT LAND:</b>	18 Shinfield Avenue and 116-118 Rosedale Road, St Ives
<b>APPLICANT</b>	Staldone Corporation Pty Ltd
<b>OWNERS</b>	G J Watson, R & R Baskin, A R & J Moore
<b>DESIGNER:</b>	Wolski Coppin Architecture
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	2(d)3
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO, DCPs 31 - Access, 40 – Waste Management, 43 – Car Parking, 47 – Water Management, 55 – Multi Unit Housing, 56 – Notification, Ku-ring-gai Contributions Plan 2010
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 1 – Development Standards, SEPP 55 – Remediation of Land, SEPP 65 – Design Quality of Residential Flat Development, BASIX 2004, Sydney Regional Environmental

Plan (Sydney Harbour Catchment)  
2005

**COMPLIANCE WITH GOVERNMENT  
POLICIES:**

No

**DATE LODGED:**

14 February 2011

**40 DAY PERIOD EXPIRED:**

26 March 2011

**PROPOSAL:**

Demolition of existing buildings  
and construction of two (2)  
residential flat buildings (55 units),  
basement parking (86 spaces),  
landscaping.

**RECOMMENDATION:**

Refusal

**PURPOSE FOR REPORT**

To determine Development Application 0050/11 for the demolition of existing buildings and construction of two (2) residential flat buildings, comprising 55 units, basement car parking (86 spaces), landscaping and associated works.

Development application 0050/11 is reported to the Joint Regional Planning Panel because DA0500/11 was lodged prior to 1 October 2011 where the Environmental Planning and Assessment Act 1979 required development applications with a Capital Investment Value (CIV) greater than \$10m to be determined by the Joint Regional Panel. The proposed works have a CIV of \$11,268,800.

**EXECUTIVE SUMMARY**

Issues

- number of storeys
- setback to the interface zone
- site isolation
- streetscape
- urban design
- residential amenity

Submissions

11 submissions

Land & Environment Court Appeal

The applicant lodged an appeal with the Land & Environment Court against Council's deemed refusal of the application (Appeal no. 10270/2011). The appeal was discontinued on 10 October 2011.

Recommendation

Refusal

**HISTORY****Site history**

On 28 May 2004 the subject site was zoned 2(d3) under LEP 194, permitting multi unit development. Development Control Plan No. 55 also applied to the site providing further controls for multi unit development.

The subject site was rezoned on 25 May 2010 to R4 under the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEPTC 2010) which allowed high density residential development on the site. The subject application was lodged on 14 February 2011 so it was originally assessed under KLEPTC and the development control plan for the town centres.

The Land and Environment Court proceedings in the matter of *Friends of Turrumurra Inc v Minister of Planning* commenced in December 2010 where Class IV proceedings were heard concerning the process adopted in the preparation of the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEPTC 2010). The Court declared the Ku-ring-gai Town Centres Local Environmental Plan to be of *no legal force or effect* on 28 June 2011.

Consequently, the subject site has reverted to its previous zoning Residential 2(d3) under LEP 194. The development application must now be assessed in accordance with Part IIIA in the KPSO and Development Control Plan 55 for multi unit development.

**Current application history**

14 February 2011	DA0050/11 was lodged with Council
24 February 2011	The application was notified.
21 March 2011	Comments were received from Council's Development Engineer who was not in support of the application for the following reasons: <ul style="list-style-type: none"><li>• no parking was provided for service and/or removalist vehicles</li><li>• some of the accessible parking fail to comply with AS2890.6</li></ul>
29 March 2011	Council's Landscape Assessment Officer raised the following concerns:

- Inconsistency between the BASIX landscape commitment and areas of indigenous/low water use species shown on the plans

More information was required as listed below:

- stormwater management plans
- amended deep soil compliance plan
- amended landscape plan

5 April 2011	The applicant lodged an appeal with the Land & Environment Court against Council's deemed refusal of the application. (Appeal no. 10270/2011)
20 April 2011	Council staff briefed the Joint Regional Planning Panel on the application.
19 May 2011	A S.34 conference was held on site and at the Council Chambers.
26 May 2011	At a directions hearing at the Land & Environment Court, the matter was listed for a two day hearing on 22 and 23 August 2011. The parties were advised that a joint experts report was required and needed to be filed by 29 July 2011.
10 June 2011	Amended plans were submitted to Council following the s.34 conference to show the bay windows on the western elevation to allow additional solar access to the units in Building 1.  Additional information/plans was also submitted to satisfy the concerns of Council's Landscape Assessment Officer.
28 June 2011	The Land and Environment Court declared the Town Centres LEP to have <i>no legal force or effect</i> .
13 July 2011	The applicant lodged amended concept plans for a five and/or six townhouse development on Nos. 20 – 22 Shinfield Avenue
25 July 2011	An experts' conference was held with the applicant's town planner and consultant architect.  Further concept plans for a child care centre were

tabled at the meeting to demonstrate that Nos. 20 and 22 Shinfield Avenue could be developed in accordance with Council's policies and not become an isolated site.

- 5 August 2011 The Registrar agreed to a Notice of Motion to vacate the hearing dates on 22 and 23 August 2011 in the circumstances of Justice Craig's judgment in *Friends of Turamurra Inc v The Minister for Planning [2022] NSWLEC 128* where the KLEP(TC) 2010 was found to have *no legal force of effect*.
- 9 September 2011 The appeal was listed for further directions on 4 October 2011 where the applicant was required to advise the Court of the intended course of action with regards to the appeal before the Court.
- 5 October 2011 A further adjournment was granted to 11 October 2011. The Court also granted leave for the applicant to file a Notice of Discontinuance.
- 11 October 2011 The Court proceedings were discontinued with no order as to costs.

## THE SITE AND SURROUNDING AREA

### The site

Zoning:	2(d)3
Visual Character Study Category:	Between 1920 - 1945
Lot & DP Numbers:	Lots 1 and 2 DP207274, Lot 6 DP27819
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No

The development site includes No. 116 Rosedale Road (lot 1 DP 207274), No. 118 Rosedale Road (Lot 2 DP2074274) and 18 Shinfield Avenue (Lot 6 DP27819) in St Ives being an "L" shaped site with a total site area of 3,848.7m<sup>2</sup>. Nos 20 and 22 Shinfield Avenue at the corner of Rosedale Road and Shinfield Avenue have not been included in the development site.

No. 18 Shinfield Avenue is located on the northern side of Shinfield Avenue between Rosedale Road to the East and Pildra Avenue to the West. Lot 6 in DP 27819 has an "L" shape with an irregular frontage to Shinfield Avenue of approximately 33.095 metres. A single storey brick residence occupies the

site with a front setback of approximately 10 metres. A driveway to the double garage is located at the south-western corner of the site.

Nos 116 and 118 Rosedale Road are located on the western side of Rosedale Road between Porters Lane to the north and Shinfield Avenue to the south. Currently located on No. 116 Rosedale Road is a part one and part two storey dwelling. This dwelling is set well back from the street (approximately 41.7 metres) due to the irregular shape of the site with a narrow frontage to Rosedale Road of 8.66m.

At No. 118 Rosedale Road there is a two storey brick building with a 7 metres setback to Rosedale Road. This property has an in-ground swimming pool within the rear garden in close proximity to the house which has a horizontal presentation to the streetscape.

### Surrounding development

No 22 Shinfield Avenue (lot 1 DP 829388) is located at the corner of Shinfield Avenue and Rosedale Road to the south of the subject site also zoned 2(d3). A single storey brick dwelling is located on this site with a setback to Rosedale Road of 12 metres and a side setback to Shinfield Avenue of approximately 5.7 metres. This lot has a total site area of 553.6m<sup>2</sup>. There is a significant *Eucalyptus saligna* (Sydney Bluegum) on the nature strip at the corner of Shinfield Avenue and Rosedale Road as well as a *Cedrus deodar* (Himalayan Cedar) within the frontage to Rosedale Road.

No. 20 Shinfield Avenue (lot 2 DP829388) is located to the south of proposed Building 2 with a frontage to Shinfield Avenue of 20.5 metres and a total site area of 378.3m<sup>2</sup>. This site is also zoned 2(d3). A single storey brick dwelling is located on the site which slopes from the rear (RL153.73) to the street (RL151.61). A driveway is located on the eastern of this site providing access to the single garage.

A townhouse development is located at No. 120 Rosedale Road currently zoned 2(e) to the north of the subject site with a total site area of 9,849m<sup>2</sup>. This development also has a frontage to Mona Vale Road.

Other single dwellings are located to the south and east of the subject site. The land directly opposite No. 18 Shinfield Avenue is zoned residential 2(c) whilst the land to the east of the subject site (Nos. 161 and 163 Rosedale Road) is zoned 2(c2).

Further to the north of the subject site, at the junction of Mona Vale Road and Rosedale Road is the St Ives Shopping Village. Other community facilities are also located within this general area including Pymble Golf Course, St Ives Village Green and a church located at the corner of Mona Vale Road and Cowan Road.

## THE PROPOSAL

The application involves the demolition of existing structures and the construction of two (2) residential flat buildings, basement parking and landscaping. There would be 41 units in Building 1 and 14 units in Building 2. The basement would have 86 car spaces, including 14 visitor spaces.

The development would have the following components:

### BUILDING 1 (FRONTAGE TO SHINFIELD AVENUE)

- |   |   |
|---|---|
| Lower basement level (RL148)                        | <ul style="list-style-type: none"> <li>• 25 car spaces (including three (3) disabled spaces)</li> <li>• bicycle rack</li> <li>• two (2) sets of fire stairs</li> <li>• two (2) lifts to the upper floors</li> </ul>   |
| Upper basement level (RL151)                        | <ul style="list-style-type: none"> <li>• storage units</li> <li>• garbage room and loading bay near front entry to basement</li> <li>• 43 car spaces (including 14 visitor spaces, 4 disabled spaces)</li> <li>• toilets, fire stairs, lifts to upper floors</li> </ul> |
| Part residential/basement car parking Level (RL154) | <ul style="list-style-type: none"> <li>• 15 car spaces, lift to the upper floors</li> <li>• front entry to the building with pedestrian path from Rosedale Road</li> <li>• three (3) units (2 x 2 bedroom &amp; 1 x 1 bedroom units)</li> </ul>                         |
| Residential level (RL157)                           | <ul style="list-style-type: none"> <li>• eight (8) units (2 x 1 , 4 x 2 , 2 x 3 bedroom units)</li> </ul>   |
| Residential level (RL160)                           | <ul style="list-style-type: none"> <li>• nine (9) units (6 x 2 , 3 x 1 bedroom units)</li> </ul>  |
| Residential level (RL163)                           | <ul style="list-style-type: none"> <li>• nine (9) units (6 x 2, 3 x 1 bedroom units)</li> </ul>   |
| Residential level (RL166)                           | <ul style="list-style-type: none"> <li>• eight (8) units (3 x 1 , 5 x 2 bedroom units)</li> </ul>   |
| Residential level (RL169)                           | <ul style="list-style-type: none"> <li>• three (3) units (1 x 2, 2 x 3 bedroom units)</li> <li>• ground floor of town house (unit 169/03)</li> </ul>  |
| Residential level (RL172)                           | <ul style="list-style-type: none"> <li>• living areas for unit 169/03 including a bedroom</li> </ul>  |



**BUILDING 2 (FRONTAGE TO ROSEDALE ROAD)**

Residential level (RL 154)	<ul style="list-style-type: none"><li>• three units (2 x 3, 1 x 1 bedroom units</li><li>• front entry on the southern side of the building off Rosedale Road</li></ul>
Residential level (RL 157)	<ul style="list-style-type: none"><li>• four units (2 x 1 bedroom + study), 2 x 2 bedroom units)</li></ul>
Residential level (RL160)	<ul style="list-style-type: none"><li>• four units (1 x 1, 3 x 2 bedroom units)</li></ul>
Residential level (RL163)	<ul style="list-style-type: none"><li>• two units (1 x 3, 1 x 2 bedroom units)</li></ul>
Top floor (RL166)	<ul style="list-style-type: none"><li>• one three bedroom unit</li></ul>

The vehicular access would be via the driveway off Shinfield Avenue, whilst the pedestrian access to both Buildings 1 and 2 would be off Rosedale Road. There would be two entries to Building 1 on its eastern side, whilst the main entry to Building 2 would be located on its southern side.

**CONSULTATION - COMMUNITY**

In accordance with Council's Notification DCP, owners of surrounding properties were given notice of the application. In response, eleven (11) submissions were received from the following:-

1. L Jirgenson, 22 Shinfield Avenue, St Ives
2. R E Brear, 9/120 Rosedale Road, St Ives
3. S & J Hearne, 1/120 Rosedale Road, St Ives
4. J Roberts, 7/120 Rosedale Road, St Ives
5. CC Kane and S D McKindlay 23 Shinfield Avenue, St Ives
6. CJ Pacey Secretary SPs 33618 & 36970, 120 Rosedale Road, St Ives
7. D J & G M Pollard, 16 Shinfield Avenue, St Ives
8. S Whisker, 5/120 Rosedale Road, St Ives
9. [M Geikie, 20 Shinfield Avenue, St Ives](#)
10. [I and S Grimmond, 6/120 Rosedale Road, St Ives](#)
11. [J and E Currie, 171 Rosedale Road, St Ives](#)

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The objectors raised the following matters:

***View loss for No. 6/120 Rosedale Road***

There are no significant views available from No. 120 Rosedale Road so the proposal is unlikely to cause view loss for the residents living in this development.

### **Amended plans (29/7/11)**

~~The applicant submitted amended plans to address the concerns raised by Council Officers. The plans were re-notified to surrounding properties and previous objectors. Council received submissions from the following property owners:~~

### ***Nos 20 and 22 Shinfield Avenue and 120 Rosedale Road would become isolated sites***

The proposal does not include Nos. 20 and 22 Shinfield Avenue (Lots 1 and 2 DP 829388) zoned 2(d3) for multi unit development. The combined site would have a total area of 931.9m<sup>2</sup>. This site is likely to become isolated because it would fall short of the minimum site area (1,200m<sup>2</sup>) for multi unit development pursuant to clause 25E in the KPSO. No. 22 Shinfield Avenue has a frontage to Rosedale Road of approximately 19.11 metres which is less than the 23 metres required by clause 25I(3) of the KPSO.

The applicant has submitted concept plans in accordance with part 6 in DCP 55. However, these fail to demonstrate that the site could accommodate future development on the site that complies with the relevant standards in the KPSO and DCP 55. Consequently Nos 20 and 22 Shinfield Avenue would become isolated sites because they fail to meet the minimum standards for multi unit development.

No. 120 Rosedale Road zoned residential 2(e) is unlikely to become an isolated site because it has a site area of 9,849m<sup>2</sup> with a frontage to Mona Vale Road and Rosedale Road being compliant with clause 43(7) in the KPSO.

### ***Loss of amenity for adjoining properties***

There would be a loss of amenity for adjoining properties in terms of the visual impact of excessive bulk and scale of Building 1 arising from the non-compliance with the permitted number of storeys and an overall height of approximately 17.5 metres, well in excess of the maximum of 13.4 metres to the fourth level as required by the KPSO.

The non-compliance with the required interface setback to No. 120 Rosedale Road would also cause a loss of amenity due to the close proximity of the building of this property.

Nos 20 and 22 Shinfield Avenue would also experience a loss of amenity with overlooking arising from a five and seven storey building in close proximity to their rear boundary.

***Loss of amenity for No. 20 Shinfield Avenue due to the close proximity of the driveway to bedrooms***

The driveway to the proposed development would be located adjacent to the western boundary of No. 20 Shinfield Avenue. There would be an eight (8) metres separation between the driveway and the single dwelling and this is likely to cause a loss of amenity for the residents of this dwelling.

***Building 1 with seven (7) storeys fails to comply with the five (5) storey height limit***

Building 1 has seven (7) storeys as defined in clause 25l(8) in the KPSO as stated below:

*Any storey as a level of the building that is used exclusively for car parking, storage or plan, or a combination of them in accordance with the requirements of this ordinance and no part of which (including any wall or ceiling which encloses or defines the storey) is more than 1.2m above ground level, is not to be counted as a storey for the purposes of the table to sub-clause (8).*

The ground floor (RL154) in Building 1 is not used exclusively for car parking and/or storage so this level has to be counted as a “storey”.

The applicant has failed to provide a SEPP 1 objection seeking a variation to this development standard. If a SEPP 1 objection were to be provided it would not be supported due to the non-compliance causing a loss of amenity to adjoining properties and the streetscape.

***The visual impact of the proposal will dominate adjoining properties***

Building 1 will consist of seven (7) storeys not five (5) as permitted by the KPSO and this is likely to have a detrimental impact upon the amenity of the adjoining properties by providing a building presentation that is excessive in bulk and scale when viewed from adjoining properties.

***The eucalypt on the footpath at the corner of Shinfield Avenue and Rosedale Road would hinder the development of No. 22 Rosedale Road***

The *Eucalyptus saligna* (Sydney Bluegum) on the footpath at the corner of Rosedale Road and Shinfield Avenue is a significant tree within the

streetscape. This tree would need to be protected with any future development at No. 22 Shinfield Avenue.

However, the *Cedrus deodard* (Himalayan Cedar) and the *Eucalyptus saligna* Sydney Bluegum at the north-eastern corner of No. 22 Shinfield Avenue would constrain any development of No. 22 Shinfield Avenue.

***The front setbacks as proposed in the concept plans fail to comply with DCP 55.***

The applicant submitted concept plans to demonstrate that Nos 20 and 22 Shinfield Avenue could be developed for town houses and/or a child care centre in the future. Both proposals fail provide inadequate setbacks to the *Cedrus deodard* (Himalayan Cedar) which complements the leafy character of St Ives and should be protected to maintain streetscape character.

***The driveway off Shinfield Avenue for Building 1 would cause a safety hazard due to the narrowness of Shinfield Avenue.***

Council's Development Engineer raised no objection to the location of the proposed driveway.

***The proposal fails to provide adequate parking, increasing the demand for on-street parking***

The proposal provides the required parking in accordance with clause 25J in the KPSO.

***The proposal would have a detrimental impact upon traffic flows in the area causing a safety hazard***

Council's Development Engineer concurs with the findings of the traffic report submitted with the application which concludes that there would be no unreasonable impact upon local traffic networks.

***Loss of amenity as a result of noise, vibration and dust during construction***

DA0500/11 is recommended for refusal for the reasons stated throughout this report otherwise conditions of consent would have been recommended to address the above concerns.

***The building separation between Level 4 of Building 1 and Level 5 of Building 2 fails to comply with the required separation***

A 12 metres setback rather than an 18 metres setback is provided between Buildings 1 and 2. This non-compliance, however, could be addressed with

privacy screens on outer edges of the balconies. The windows on the eastern side of Building 1 within unit 166/07 are narrow elongated windows that are unlikely to facilitate overlooking between units.

***Increased overshadowing of adjoining properties***

The increased side setback to the southern boundary (12 metres) rather than six (6) metres as required by DCP 55 will reduce overshadowing of Nos. 20 and 22 Shinfield Avenue to an acceptable degree.

***The buildings should follow the topography of the land***

The proposal does not follow the natural topography of the land as highlighted in the comments from Council's Urban Design Consultant. The proposal involves a significant amount of excavation at the rear of the site where the land rises.

This aspect of the application is considered to be unsatisfactory because it provides units that are well below ground level causing a loss of amenity for future residents. It is also contrary to the principles of sustainable development because these units would rely on mechanical heating, cooling and lighting.

***The proposal does not comply with the interface setback***

The proposal does not provide the required setback of nine (9) metres to the northern boundary with No. 120 Rosedale Road.

***Unacceptable tree removal, especially near the northern boundary***

Council's Landscape Assessment Officer found the proposed tree removal to be acceptable, subject to appropriate replacement planting including canopy trees along the northern boundary.

**CONSULTATION - WITHIN COUNCIL**

**Engineering**

Council's Development Engineer commented on the proposal as follows:

***Stormwater disposal***

*The BASIX water commitments include an 80 000 litres rainwater tank, collecting runoff from 450 square metres of roof area, with re-use for irrigation only.*

*A combined retention and detention tank is shown under the driveway. The on site detention volume shown on the stormwater plans is 62 cubic metres. This complies with the Site Storage Requirement of Section 6.7.2 of Council's DCP 47 Water management.*

*Although the site has gravity fall to Shinfield Avenue, it would be necessary to lay a new pipe in the road to drain site runoff into the kerb inlet pit at the corner of Shinfield Avenue and Rosedale Road. This is due to the depth of the on site detention outlet, and is acceptable under Section 5.4.3 of DCP 47.*

*The drawings show details of a proprietary water treatment device, to achieve compliance with Section 8.3 of DCP 47.*

### **Traffic and parking**

*The development is expected to generate approximately 16 vehicle trips per hour during peak periods. During the evening peak hour, it is estimated that three (3) trips would be inbound and 13 trips would be outbound and the reverse in the morning peak. This projected increase in traffic activity is minimal and would not have any unacceptable traffic implications in terms of road network capacity.*

*For the proposed development, 65 resident (including 6 accessible) and 14 visitor parking spaces are required. The drawings show 72 resident and 14 visitor parking spaces, including the accessible spaces as required. This is satisfactory.*

*Vehicular access to the car parking facility is to be provided from Shinfield Avenue via a new six (6) metre wide driveway. The gradient of the entry driveway is 5% for only four (4) metres inside the property boundary (6 metres required under Section 3.3(a) of AS2890.1:2004 Off street car parking), increasing to 10%. This is acceptable in this instance, as the overall driveway gradient is relatively gentle and satisfactory pedestrian sight distance is shown either side of the driveway. Otherwise, the dimensions of the car park comply with the Australian Standard.*

### **Waste collection**

*Access is available for the small waste collection vehicle to enter the basement, stand in the garbage loading bay and turn to leave the site in a forward direction. Section FF shows that 2.6 metres of headroom should be available at the basement entry, and a condition could be recommended that this be certified on the construction certificate drawings.*

### **Construction management**

*A detailed construction traffic management plan would have to be submitted for approval by Council engineers prior to the commencement of any works on site.*

*A work zone would be required along the Shinfield Avenue frontage.*

### **Council infrastructure**

*The condition of the existing footpath along Shinfield Avenue is satisfactory, however it will need to be extended to the west along the site frontage. Detailed design drawings for the footpath and the drainage pipeline would be assessed by Council's Development Engineer for approval under the Roads Act 1993.*

### **Geotechnical investigation**

*Based on the two boreholes which were drilled, the site is underlain by a weathered shale profile. The report contains a recommendation for further investigation which could be incorporated into the conditions if the application were to be approved.*

*The report also contains recommendations for excavation methods and support, vibration monitoring and dilapidation survey which could also be included in any recommended conditions.*

*Dilapidation survey of structures at 16, 20, 22 Shinfield Avenue and the southern units at 120 Rosedale Road would be required prior to commencement of any works on site.*

### **Conclusion**

*The proposal is considered acceptable from an engineering perspective.*

## **Landscaping**

Council's Landscape Assessment officer commented on the proposal as follows:

### **Site characteristics**

*The site is characterised by established residential gardens with mature trees and shrubs within formal garden beds and grassed*

*expanses. The site is dominated by numerous trees predominantly located adjacent to existing site boundaries.*

### **Tree impacts**

*The development proposes the removal of numerous trees across the site to accommodate the proposal. The most visually significant trees located on site proposed for removal include two Grevillea robusta (Silky Oak) located centrally on site. Due to their central location within development, it is not possible to retain the trees. The most significant trees located on site or associated with the site are being retained.*

*The author concurs with the arborists findings and recommendations regarding tree impacts and tree protection measures. Tree protection and supervision of tree works could be conditioned.*

*The nominated tree removal for the site is considered acceptable considering the scale of the development proposed. Tree replenishment for the site is required.*

### **Landscape plan/tree replenishment**

*The following comments are made regarding the submitted landscape plan;*

- The landscape plan does not propose any planting within the two planters on each side of the Rosedale Rd pedestrian entry or the Shinfield Ave vehicular entry. It is therefore assessed that these areas are not soft landscape areas. – refer deep soil comments.*

*Overall, the submitted landscape plan is acceptable. Any changes required (with the exception of the above )could be conditioned.*

### **Assessment Officer's note**

Additional information/plans were provided during the Court proceedings to satisfy the concerns raised by Council's Landscape Assessment Officer.

### **Stormwater plan**

*The submitted storm water management plans only detail drainage works for the basement levels. Notation on plan indicates that further details for landscape drainage will be provided at CC stage. As there is potential for significant tree impacts as a result of drainage works within the soft landscape area it is required that this detail be provided as part of the development application stage.*



**BASIX**

*The BASIX certificate, #357752M\_02 dated 07/02/2011, has made numerous commitments regarding landscape areas within the private and common areas. The proposed landscape plan is inconsistent with the following areas;*

***Private areas of garden and lawn***

*The following units are inconsistent with the area of low water use/indigenous species, as high water use species have been included. The units in dispute include; 154/03, 157/08, 160/06, and 155/01. The issue can be resolved with an amended landscape plan.*

***Common areas***

*The proposed landscape works are inconsistent with the areas that are included as low water use/indigenous planting. The BASIX certificate has a common landscape area that is indigenous or low water use of 924.78m<sup>2</sup>. The low water use planting plan has included areas that are not proposed to be planted eg mulched pathways. The calculable area relates to those areas that are planted only and therefore the non planted areas are to be excluded from the calculations. This issue can be resolved with an amended BASIX certificate with a reduced calculable area.*

*The above non compliances can be resolved with either an amended landscape plan and/or BASIX certificate.*

***Deep soil***

*The applicant has stated that the development will have a deep soil landscaped area of 1960.58m<sup>2</sup> or 50.94% of the site area. The following comments are made;*

*The areas on each side of the pedestrian and vehicular entries (although satisfying minimum dimensions to be included within the deep soil calculable area) have not been sufficiently detailed as to how they are to be utilised. It is unclear whether they are planter beds, or hard surface. As they have not been shown for planting it is assumed that they are hard paved/concreted and therefore they are required to be excluded from the deep soil calculable area. Total area is approximately 16-18m<sup>2</sup>.*

*Detailed stormwater management plans have not been submitted. Therefore, it is not possible to assess whether or not additional drainage works require exclusion from the calculable deep soil landscape area. It is required that detailed hydraulic plans be submitted.*

### **Front fence**

*The application includes a 1.6 metres high fence adjacent to the Rosedale Road frontage. To maintain and enhance the streetscape character, it is required that the height of this fence be reduced to a maximum of 1.2 metres. It is noted that the existing masonry wall located across the adjoining intersection is to be demolished as part of the application for a five storey residential building on that site. Therefore, no front fences are proposed elsewhere within the proposed developments in the immediate Rosedale Road streetscape. A lower fence height is recommended to maintain streetscape character.*

### **Assessment Officer's note**

During the Court proceedings, the applicant provided amended plans and additional information to satisfy the concerns raised above.

### **Urban Design**

Council's Urban Design Consultant commented on the amended proposal as follows:

#### ***Principle No. 1 – Context***

*To ensure that a development responds to its context it needs to:*

- be considered as part of the overall precinct / street not as an individual stand alone building*
- respond to the street and block pattern*
- be an appropriate density and form*
- reflect the existing and / or proposed subdivision pattern.*
- relate to the street*
- set up a positive spatial system with appropriate spacing between buildings*
- reveal the natural features of the land including rocky outcrops and vegetation*

#### ***The precinct***

*The site is in the area denoted for “high density residential” under the Ku-ring-gai Planning Scheme Ordinance (KPSO). It is close to the St Ives shopping / neighbourhood centre. The area has been rezoned from an area which originally contained detached dwellings on large lots.*

*There is one block of apartments already constructed and numerous town house developments in the overall block. There are two remaining detached dwellings at 20 and 22 Shinfield Avenue.*

*The proposal responds to the requirements for the precinct in the following ways:*

- The buildings reflect the controls in the K PSO and DCP in terms of the location of the site. The DCP envisages apartment buildings with underground car parking located in a landscape garden setting. A three storey residential flat building has recently been constructed in Shinfield Avenue.*

*The proposal does not respond to the requirements for the precinct in that the development:*

- will be substantially more dominant than the existing new and traditional development because of its form [footprint; massing and height] and the fact that it does not relate to the landform*
- isolates the two dwellings on the corner of Rosedale Road and Shinfield Avenue*
- does not set up a new spatial system related to the new apartment building typology*
- does not set up a new spatial system related to the new apartment building typology and the relationship of this typology to the existing detached dwellings*

### **Street and block pattern**

*The development is located in a street and block pattern which is large and reflects the low density single family home development which predominated in the area in the post World War II development of St Ives. This development form had dwellings facing the street with rear gardens. These gardens created an informal semi contiguous corridor of open space at the rear of all sites and along the centre of each block. There was a high level of tree cover in both the front and rear gardens.*

*Much of the new development is based on the earlier pattern of the detached house typology that of detached dwellings in a garden. The new buildings have tended to be organised so that they are located*

*towards the centre of each lot and surrounded by open space. The new buildings however are no longer one and two storey dwellings with small footprints. The new buildings consist of two typologies, apartments and town houses. They are approximately three times higher in density; different in form; are located on a new subdivision pattern due to amalgamations and have underground car parking. This is very different to the existing form of development. The result is a lack of clarity in the built form and open space system; substantially smaller rear set backs and consequently the loss of the vegetation corridors at the rear.*

*A new spatial system for the overall street block is required so that:*

- it relates to the new building typologies; provides outlook; amenity; useable open space and set up new semi contiguous corridors which are valuable for climate change factors and recreation*
- the size of the overall street block is reduced by the introduction of new streets to provide greater permeability; walking choices and make better connections to the St Ives neighbourhood centre*

### **Density and form**

*The proposal responds to the density and the form in the following ways:*

- The density of the development is 1.29 FSR. The maximum density allowed is 1.3:1.*
- The overall allowed density is organised into two building forms which have:*
  - one larger “L” shaped building facing Shinfield Avenue and one smaller square building facing Rosedale Road*
  - a communal area between them*
  - generous landscaped setbacks to the streets.*

### **The subdivision pattern**

*The existing character of this area is primarily determined by the street and block pattern; the topography; the large tree canopy and extensive vegetation; the low density built form and the subdivision pattern. Reflecting the spacing and building pattern of an earlier subdivision in a new built form and subdivision configuration can be a key way of integrating new development into an area. This can be achieved*

*through the organisation of the form; footprint and spacing of new buildings to reflect the previous subdivision pattern.*

*The site at Shinfield Avenue is an amalgamation of three (3) sites, one facing Shinfield Ave and two facing Rosedale Road. The traditional pattern of development in this precinct is a front garden; small to wide side set backs and usually a large rear set back. This site, however, consists of an unusual combination of shapes and No 116 Rosedale St is virtually a battle axe block with an irregular boundary to No 118 Rosedale Road. Any proposal for future development needs to rationalise this subdivision pattern which is not desirable at a low density but is extremely problematic at a higher density.*

*The resultant pattern creates a poor relationship between the new development and the dwellings at No 116 Rosedale Road and No 18 Shinfield Avenue. Because of the battle axe lot the current subdivision pattern is not a helpful guide for the organisation of much bigger buildings which are a different typology.*

*The arrangement and spacing of new buildings should set up a positive spatial pattern and one which reflects the typical and / or earliest subdivision pattern ie that of buildings located towards the front of the site with large rear gardens.*

*In areas which are higher density the corner sites are usually the most efficient sites because they have light; air and outlook from two (2) street frontages. Normally the bulk of the development would be located here with the rear area being kept free of development. .If a corner site is to remain at a low density in cases such as where a heritage building is located any development around it should ensure that it defines a spatial system which relates to the lower density development which is remaining. In this case where the site could be developed the development around it should set up a spatial framework in which a new development can relate to it. Because the amount of floor space will be lower because the site is smaller if there is no spatial framework the visual impact of both developments will be intensified.*

*The proposed development responds to the subdivision pattern by:*

- *. Locating a building facing each street with a front garden and generous side set backs.*

*The proposed development however does not respond to the traditional subdivision pattern because it:*

- *. Locates the bulk of the building at the rear of the site.*

- *Does not set up a spatial arrangement for any potential development on the corner.*

*The proposed arrangement appears to be partly due to the LEP and DCP controls. In particular the combination of height plane; density and set backs. The height plane forces the height into the rear of the site. It may also reflect the desire to maximise views and height and / or the need to use the height to accommodate the floor space. The side set back of 12 metres between Building 1 and the dwellings at No 20 and 22 facing Shinfield Ave is far wider than the general side set backs in the area. This forces the buildings to be located along the site and away from the street edge so that:*

- *There is no meaningful rear corridor of space along the centre of the block.*
- *Building 1 appears to be sideways to Rosedale Road.*
- *The combination of building shape and location of the windows relative to the neighbouring properties creates greater potential for overlooking.*

*Whilst these set backs will improve the amenity of the two existing dwellings in terms of solar access, the form exacerbates the uneasy relationship of the new buildings to the street and neighbouring buildings; creates more overlooking; privacy and potential noise issues than if the buildings were much closer to the side boundaries but faced the street frontages so that the majority of their windows faced the front and rear of the site.*

### ***Relationship with the street***

*To ensure that a building and / or group of buildings has a positive impact at the interface with a street they need to:*

- *have a clear level and generous relationship between the ground floor and the ground plane*
- *have entrances and / or openings / balconies facing the street or have clearly visible entries*
- *place vertical blade walls so that don't create the appearance of a "solid wall" when the building is viewed obliquely along the street*
- *organise balconies so that all balconies do not all sit proud of the façade. This creates the appearance of a "solid wall" when the building is viewed from the street which can be achieved with fully recessed or partially recessed balconies.*
- *have all plumbing concealed including drainage from balconies*

*The proposal responds to the street interfaces in the following ways:*

***Shinfield Avenue frontage***

*The proposal has an articulated frontage to Shinfield Avenue. It is aligned in plan but not in section as it steps back to the upper levels. There is no pedestrian entrance to Shinfield Avenue. The ground floor sits on a podium which is divided into courtyards. These relate to the ground floor level of the ground floor of apartments and not the actual ground level.*

*The entrance to the basement car parking for the whole complex is located in Shinfield Avenue. The ground floor is at RL 154 and the level at the driveway entrance is approximately RL 152. This has resulted in the building sitting about 2 metres out of the ground where the ground is at the lowest point on this frontage.*

*The basement car parking entrance is located at lowest level point on the Shinfield Ave frontage and it provides direct access into the basement garage. The entry from the street to the driveway and the garages will only have minimal impact on the street because of the level differences and the set backs. The single entry will minimise the impact of the driveway and the garage entrance doors on the street. However, having all car movements located at one point may impact negatively on the apartment which has its balcony directly above the driveway and the dwelling at No 20 Shinfield Avenue.*

*The lack of a pedestrian entrance combined with the set back and the level differences means that Building 1 does not engage with Shinfield Ave.*

***Rosedale Road frontage***

*The proposal has an articulated frontage to Rosedale Road. Similarly to the Shinfield Avenue block, it is aligned in plan but not in section as it steps back to the upper levels on the northern side. There is no direct pedestrian entrance to Rosedale Road from either Building 1 or 2. The buildings are accessed from a walkway from the street to the rear of the site. There are three entries into the buildings from this. Two are at right angles. These provide entry to Building 2 and the rear section of Building 1. The entrance at the end of the walk way provides entry to the front section of Building 1.*

*The entry to the rear section of Building 1 is surrounded by car parking and servicing. The entrance to Building 2 is located towards the centre of the building and accessed through a long narrow passage. All the entries are treated differently in terms of width; relationship to lifts; relationship to the apartments; distance from the pathway etc. They are not legible. A clear pattern could provide greater clarity for the entrances so that even if they did not directly relate to the street they*

*have a sense of importance and in turn provide a sense of importance to the buildings.*

*The entrance to the walkway is delineated by a "gate house". A gatehouse is not typical or part of any historic tradition in this suburb which is post WW2. There is also a strange scale relationship between a gate house on a suburban type lot and a 5-7 storey development. This in itself also tends to indicate that the entrances are not satisfactorily resolved, in that a "marker" has to be located there because the entries to the buildings are not visible.*

*The ground floor sits on a podium which is divided into courtyards/ balconies for this level of apartments although the level of the apartments is much closer to the actual ground level than on the Shinfield Avenue frontage.*

*The lack of clear pedestrian entries combined with the set backs; the stepping up of the buildings and the level differences mean that the buildings do not engage with Rosedale Road.*

### **General**

*There are no blade walls which dominate the view from along the street. Both the buildings are elevated with windows, terraces etc overlooking the street.*

*The balconies are semi recessed so there will not be a dominating view of their underside from the street. This is due to the set back and the stepping. The stepping form, however, will make the building appear more dominant from the street and from the neighbouring dwellings and the masonry frame around the balconies will further exacerbate the heaviness.*

*There are no details as to the plumbing resolution. The requirement for concealed services can be conditioned by Council.*

### **The spatial system**

*The spatial system in this context has both public and private spaces. It comprises the street network; front; side and rear set backs and how they link to internal spaces. The spacing between buildings is as important as the resolution of the building forms. This applies both to the proportions of the space and the shape of the space. The subdivision pattern and the spaces around the buildings have changed as a result of a new building typology and new set backs being introduced.*



**Proportion and size of spaces**

*The proposed buildings do not reflect the previous building relationships nor do they set up a new spatial pattern relevant to the new building typology. The front set backs reflect the typical pattern but the use of the L shape for Building 1 and the stepped form create an "object" building.*

*The buildings have varying set backs between the neighbouring buildings on the side boundaries; 40 metres across the public streets and there is only approximately 12 metres between the two buildings forming the common area. It is not that the spaces have to be the same; quite the contrary but there needs to be a readable spatial system defined by the buildings otherwise the buildings will read as large lumps. The proposed organisation of the two buildings does not create a readable spatial arrangement in plan or section and the buildings will be overly dominant.*

**Shape of spaces**

*The spaces around the buildings are predominately "leftover" spaces. They are ill defined by the buildings and / or the ground plane.*

**The natural features**

*The response to the natural features of any proposal depends on the ability of that building and / group of buildings to:*

- reveal the site and not to obliterate it*
- ensure that the natural features of site are enhanced as important elements*

*To do this, buildings need to:*

- (i) be designed so that they are not "object" buildings but are buildings which define a spatial system. In this way the spaces created around them and with adjacent buildings are "positive" spaces in which the shape of the land is understood and the other natural features are key elements.*
- (ii) create internal spaces and façade designs that address the external spaces including the street. This ensures that the street and other spaces read as important places.*
- (iii) ensure that the ground level of the building sits appropriately on the ground plane. This is done in a range of ways including by relating internal / external levels with platforms /walls and open space that relate to the footprint and height of the building.*

**The site**

*The natural features on this site are primarily the significant trees and the overall shape of the land.*

*The proposal fails to reveal the natural features of the site because:*

- (i) The proposed buildings are designed as “object” buildings and not as “space defining” buildings. The space around them is “left over” This is due to the stepping of the buildings in plan and section; the division of the total mass into one larger “L” shaped building and one smaller square building; the stepping in the plan; the arbitrary placement of the communal open space and the siting of the buildings in section and plan on the land.*
- (ii) Contrary to common practice the shape of the land is revealed by the spatial system and not by locating taller buildings on the higher part of the land. Taller buildings on the higher part of the land will only reveal the land when they are organised in conjunction with the spatial system. Organising space and built form is quite subtle and complex It’s essential that the buildings are space defining in plan and in section and that there are clear sight lines so that the land can be “read” as separate from the buildings.*
- (iii) The buildings are stepped in plan and section so that:*
  - They do not provide clear edges to the street frontages; the communal space; the set back zones and the neighbouring dwellings, thereby creating readable spaces.*
  - They are cut into the land without the benefit of any proper terracing to relate to the overall context. The result of this is that the shape of the land is not revealed and emphasised.*
  - They do not present a clear roof line against the sky when the buildings are viewed from / along the street and/or from the open space and/or from the neighbouring dwellings. This will ensure that the overall appearance of mass of the buildings is maximised and that the reading of the space around the buildings is minimised.*

**Principle 2 - Scale**

*Successful resolution of the scale of a building is complex and needs to be resolved in two ways. Firstly, the resolution of the mass of building into a particular form; and secondly, the resolution of that form into architecture. It is not a two step linear process but an iterative design process.*

*The first step needs to be resolved at the larger scale as a balance between building form and the spatial system of the precinct / city. In this context it encompasses the shape of the building; footprint; height of the building relative to its typology and together with the spatial system around it including the street. This is where the overall mass is organised into a particular building form.*

*Secondly, a building needs to be resolved in how that form is articulated. In this context the resolution deals with the placement of openings; organisation of balconies; walls; use of materials; and roof form.*

*Buildings of a similar size may appear to be very different in scale due to the way that they are articulated. Too much articulation will make a building appear more dominant as will too little articulation.*

*The apparent scale of the building depends on:*

- the actual size of the building, height and footprint*
- the shape of the building and the shape of the space which is left over around the building and between that building and other buildings*
- the way in which the mass is articulated into a particular form of vertical and horizontal element*
- the way in which the form is further articulated by the openings; balconies; screens; blade walls and other elements*

### ***The resolution of the form and spatial system***

*The area is clearly undergoing a significant change from a low density precinct of detached dwellings to a higher density precinct of apartment buildings and town houses. The actual height and overall size of the building is partly dictated by the LEP and DCP. The articulated of this form will contribute to the impact of the buildings in the landscape setting; their*

*relationship to neighbouring buildings and the requirements and quality of the interior.*

*The proposal responds to the neighbouring buildings in the following ways:*

- (i) The proposed buildings reflect the KMC controls which envisage apartment buildings with underground car parking located in a landscape garden setting but there is no real response to the context and neighbours.*
- (ii) It isolates the two detached dwellings. The buildings comply with the setbacks; density and height plane and these controls will determine the outcome of any future neighbours. However the site on the corner with the two detached houses is probably too small to develop with apartments. This proposal isolates this important corner site*
- The form of the proposed buildings is not appropriate and is not well scaled. The stepped form in plan and section exacerbates the dominance of the buildings on the site and their relationship with the buildings in the street and the adjacent neighbours. Having said that the whole block is poorly organised with a mixture of townhouses and flats. This result reflects the original subdivision pattern and the way in which sites have been amalgamated. The overall built form is relying on the tree coverage to provide continuity and screening.*
- (iii) The height of five storeys creates a well proportioned street to Shinfield Ave .but the additional height at the rear is not appropriate for the area.*
- (iv) The height of four storeys creates a well proportioned street to Rosedale Rd but the additional height on the northern side is not an appropriate form. A consistent four storeys would provide a better proportioned edge to the street and to the adjacent dwellings.*
- (v) The simple flat/ skillion roof also enables adjacent development to be designed in a way that the buildings along the street can be read as a suite and not as one building standing out from another. Again however this positive contribution contrasts with the irregular plan shape and irregular section and roof profile. Neighbouring buildings cannot relate to these shapes because they are not part of a regular spatial pattern.*

*Improvements could be gained in the following areas:*

- *the use of buildings which do not step.*
- *lightly smaller front and side set backs with two more evenly sized buildings and a better placement of the communal open space could have resulted in a better relationship to the land and adjacent development.*
- *parallel alignment of the buildings with the street and the side boundaries would enable adjacent buildings and those across the street to reflect that alignment and create a positive spatial relationship in plan.*

### ***The articulation of the building form***

*The form of any building needs to be further articulated by entrances/ window openings / balconies / screens / material use. The success of outcome will depend on how well the overall form is resolved and then how well it is articulated. The overall form of the proposed buildings is poor. The articulation of this form into the final architecture however is slightly stronger than the organisation of the form itself, however, improvements could be gained in the following areas:*

- (i) *By improving the balance in the overall design which is due to the uneven massing and the stepping in plan and section.*
- (ii) *The proportion and organisation of the openings/ balconies etc relative to the height of the buildings and to the width of the buildings could be better handled by the use of panels of glazing rather than windows in the walls facing the balconies. This is particularly needed in the walls facing the recessed balconies. The shading on the drawings hides the actual resolution of these recessed walls but they appear to have "hole in the wall" windows.*
- (iii) *The roof is flat and / skillion is reasonably integrated with the treatment of the elevations although there is an imbalance between the masonry appearance and the light weight roof.*
- (iv) *The balconies recessed behind the rendered masonry frame appear heavy on all elevations. These corners and mid block balconies could be better resolved in a much lighter way. The current resolution will have a negative impact on light and/ or sun entering the building. The southern elevation will present as quite bleak.*
- (v) *The predominate materials are rendered masonry; aluminium windows and metal handrails. A simpler building form with a*

*more complex range of materials would have produced a superior result.*

- (vi) *The organisation of the materials; openings and walls could be better articulated to create meaningful “depth” in the elevation.*

*All external walls need “depth”. Depth in a wall is achieved by the actual thickness of the wall; where the openings are located in that depth i.e. on the outer face or inner face or centre. Depth makes an important contribution to the apparent scale of a building as it eliminates the potential “flatness” of the facade without contorted articulation. It provides shadow lines and strengthens the relationship between the building and the outside. The use of panels of different materials, glazing to the underside of the ceiling and location of windows on the internal skin would improve the overall appearance.*

### **Principle 3 – Built form**

*An appropriate building form on any site needs to:*

- (i) *Follow the desired building alignment. The building alignment may vary from the existing in areas undergoing change. Any alignment requirements should endeavour to create a “positive” spatial system with the street and between buildings. In this case the building alignment is informed by the set back controls although they do not stipulate a specific alignment or “build to” line.*
- (ii) *Create clear edges and a clear roof line against the sky.*
- (iii) *Use plan and section resolution to articulate the form into a series of well proportioned elements which can be further articulated.*
- (iv) *Use openings; projections; balconies etc to further articulate the elements which create the overall outcome.*

*The proposal resolves the building mass into two inappropriate built forms. The weaknesses are as follows:*

- (i) *The buildings partly align with the street in plan but not with each other and not in section. This results in the buildings becoming the dominant elements.*
- (ii) *The floor space is distributed into two very differently sized and shaped buildings so that the building forms do not relate well in*

*plan and section as a composition nor do they relate to the neighbouring detached dwellings.*

- (iii) The floor space is distributed into two quite complicated shapes so that the building forms are not well resolved as individual buildings.*
- (iv) Flat roofs are used but with set backs on different levels. These form building tops which are irregular in shape and do not provide a clear roof line against the sky.*

#### **Principle No. 4 - Density**

*Good design has a density appropriate for a site and its context, in terms of floor space yields (or numbers of units or residents).*

*The proposal reflects the objectives in the LEP and DCP in terms of the location of the site. The objectives are to create a specific area of medium to high density development that is close to St Ives neighbourhood centre. The proposal achieves the maximum density but the building form is not well considered.*

#### **Principle No. 5 – Resource, energy, and water efficiency**

*Well designed buildings should meet the BASIX targets and extend these where possible. Buildings should minimise the use of natural resources by employing a range of measures.*

*These include:*

- passive solar design /shading etc*
- maximising natural light*
- optimising cross ventilation.*
- water reuse*
- using materials with low embodied energy*

*The BASIX report states that the proposal meets the targets set out in BASIX.*

*It is disappointing that the building is air conditioned and that there is no provision for ceiling fans.*

*There are a large proportion of north facing apartments however most of these have very deep balconies and I question whether there is any solar penetration into the apartments themselves.*

#### **Principle No. 6 - Landscape**

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

*To ensure that a development responds to its landscape context it needs to:*

- *retain, reveal and enhance the natural features. In this case, the fall in the land; the rocky outcrops; vegetation and the riparian corridor*
- *have a well considered relationship between the ground floor and the ground plane*
- *integrate the interior and exterior of the building and design the buildings; planting; levels and open space into a cohesive whole*
- *use the appropriate plant species*

### ***Retain and reveal the natural features***

*As discussed the proposal does not reveal the land form.*

*Selected trees are retained and additional planting will be undertaken. There are 66 existing trees on site. Those trees located close to front, rear or side boundaries or centrally in the site, are proposed to be retained. Those existing trees located in the rear portion of the site are required to be removed because this is where building footprints will be sited. Selected trees will be removed because they are in the proposed location of the building footprint or are large predominately trees that would be situated close to proposed buildings and their root zone would be affected.*

*The underground car parking and the size of the building footprint will result in changes to the topography.*

*The relationship between the ground floor and the ground plane  
The proposed development does not integrate the buildings with the ground plane because:*

- *the buildings sit above the ground and do not relate at entry points/ courtyards etc*
- *the design and shape of the ground levels around the buildings are not organised to create a series of level planes on which the buildings sit*
- *there is not direct link from the street level into the buildings*

### ***The relationship of interior and exterior spaces***



*The proposed development does not integrate the external and internal spaces well.*

*The buildings sit on the ground as two separate masses. There are no penetrations into the building form which relate the interior and exterior.*

*The proposed private open spaces are an extension of balcony/ courtyard areas. They assist in integrating buildings (physically and functionally) with the landscape however they are then fully screened so that the overall building is “cut off” from the land and the glazing from the interior to the exterior fails to open up the interior and exterior relationship.*

### **Plant species**

*The plant palette comprises predominantly native species which means these plants are more likely than exotics plants to be drought tolerant and hardy.*

*Selected plants (predominantly exotic ones) will add colour (by flowers or foliage) and act as feature planting. These plants comprise:*

- *Clivia miniata (Kaffir Lily)*
- *Gardenia ‘florida’ (Gardenia)*
- *Hardenbergia violacea ‘Memma’ (Native Sarsparilla)*
- *Lagerstroemia indica (Crepe Myrtle)*
- *Nandina domestica (Sacred Bamboo)*
- *Pyrus calleryana ‘Chanticleer’ (Ornamental Pear)*
- *Phormium tenax ‘Flamin’ (Red NZ Flax)*
- *Viburnum tinus (Laurustinus)*

### **Principle No. 7 - Amenity**

*To ensure that an apartment building has a high level of amenity it needs to:*

- *provide clear safe visible places which create a sense of entry*
- *provide for good vertical and horizontal circulation throughout the buildings*
- *have adequate useable communal open space*
- *have apartments which:*
  - *are the right size for the number of occupants*

- *are well planned for circulation and furniture placement*
- *have a good relationship between the exterior and the interior*
- *have aural and visual privacy*
- *have a pleasant outlook*
- *have adequate useable private open space*
- *meet the requirements re solar access; cross ventilation etc [see Resource Energy and Water Efficiency]*

*The overall quality of the apartments is mixed.*

### **Entrances**

*The pedestrian entrances to the apartment blocks from the street lack clarity and are not direct. There is no consistency in relationship to walkway; their width height depth.*

*Mail boxes are easy to access but the “gate” feature is not appropriate in terms of scale and relationship to an apartment building. This type of entry is usually used with detached dwellings.*

### **Circulation**

- *vertical circulation from the car park is legible and direct.*
- *foyers are functionally adequate but lack any real sense of entry.*
- *communal Open Space*

### **Communal open space**

*An area of communal space is located in the space between the buildings This area is flanked by a service wall on the west; open on the north and southern sides and adjacent to walls around courtyards on the east .It is raised above the ground floor level by about 1.3 metres and below the actual ground level. The space is ill defined in plan and “bleeds” out to the south west. It is designed more as a space to either provide an outlook to the apartments and as a walk through space than a usable passive recreation space.*

### **The apartment design**

*The quality of the apartment design is mixed. The overall planning of each floor is not very legible. The apartments appear*

*to "hang off" the corridors so that the external wall becomes in plan the shape leftover from the apartment. This has resulted in the profile of the external wall being overly modulated in plan. Too much modulation increases the apparent scale.*

*The apartment designs are poorly resolved in the following areas:*

- the overly deep and recessed balconies*
- the complexity of some apartment plans*
- the apartments which are cut into the fall of the land. Some cut and fill is to be expected but apartments at the rear of Building 1 are almost semi basement*
- the relationship of the units on RL 169 to the roof terrace. The terrace is again "left over" space unrelated to the actual apartment and its uses*
- the configuration of the penthouse apartment on RL 169 and RL 172. Similar comments to above*

*The apartments are well resolved in the following areas:*

- have a floor space which relates to the number of bedrooms/ number of residents.*
- are able to be appropriately furnished.*
- relate the interior living areas to the external living with the exception of the deep balconies and glazing.*

*A lot of the apartments have an outlook to the side and or rear boundaries. This seems to be a disproportional number for the size of the site. The upper levels will have district views.*

### **Private open space**

*Every unit has an adequate amount of open space. The balconies are all recessed or semi recessed thereby avoiding issues of overlooking but is problematic in terms of their impact on the interior. Although the buildings are stepped there is no overlooking into other balconies from the higher levels.*

*The balconies to the ground floor apartments on the west side of Building 2 have a problematic relationship with the communal area in terms of the levels and privacy, noise and visual. If however the communal area is only really an area to provide an outlook screen planting would be adequate.*

*The courtyards at the lower level would offer better amenity to the apartments if the area to the boundary fence were included in the*

*courtyard space possibly split level, rather than as a strip of open space along the boundary. A similar strategic approach related to the open space of specific apartments and their levels could be taken to the south from Building 1 and to the east from Building 2 to the street frontage so that the development could engage with the streets in a more interesting way. This could possibly even involve the provision of additional entrances from the street to the ground floor apartments. This provides an additional choice in terms of residents who want to have a more generous garden area and it could help “ground” the buildings with the land in a more deliberate way. The large front set backs set up a tendency for the buildings to “float” unless the design engages with the issue.*

**Principle No. 8 – Safety and security**

*The basic principles of CPTED are evident throughout the proposal.*

*The buildings provide overlooking of entrances; the communal area, Shinfield Avenue and Rosedale Road.*

*The buildings are secure and have controlled access to basements and entrance doors.*

*There is a clear delineation of public and private domain.*

**Principle No. 9 – Social dimensions**

*The location of the precinct provides access to shops; services; bus routes and open space in a lovely part of Sydney.*

*The introduction of apartments in this area provides the opportunity for people to buy at a more affordable level or to downsize from the larger houses and gardens in the surrounding suburbs. It also adds to the housing mix but it is still an area that is predominately car dependent.*

**Principle No. 10 – Aesthetics**

*Successful resolution of the aesthetics of a building is like scale in that any building needs to be resolved in two ways.*

*Firstly, it needs to be resolved at the larger scale as a balance between building form and the spatial system. This needs to reflect the context of the precinct / city. In this context it encompasses the shape; footprint; height of the building together with the spaces between and around the buildings.*

*Secondly, it needs to be resolved in how the particular form is articulated. In the case of an apartment building it deals with the placement of openings; organisation of balconies; walls; use of materials; roof form etc.*

*To ensure that a development has a high level of aesthetics in relation to the level of massing and form it needs to:*

- *relate the building form to the site dimensions; shape and topography*
- *relate the building form to the other buildings on the site and those in the precinct*
- *create a positive spatial system around it*

*To ensure that a development has a high level of aesthetics at the detail level of articulation it needs to:*

- *ensure that the openings; projections and materials relate in proportions to the overall massing and arrangement of the form.*
- *organise the openings; projections and materials into a cohesive whole*
- *use materials that relate to the building typology and the precinct*

*The proposal is not well considered in terms of the overall arrangement of the mass into the two building forms and the relationship of the buildings to each other; their neighbours; the site and the form of the land. The detailed architectural resolution of the buildings could be improved but it is the form which needs to be addressed.*

### ***The relationship of the building form to the site***

*The building form is inappropriate because there is no clear spatial structure of the site which has the following impacts:*

- *the buildings will be obtrusive and the apparent density higher than the actual density.*
- *the two dwellings in Shinfield Ave will appear more isolated*
- *it will be difficult to resolve this isolated site with a new more dense building form*

*There is an imbalance in the massing and shape of the two buildings. The level differences of the site are not reflected in the internal levels or the site terracing so that the buildings do not relate to the ground plane levels. The pedestrian entrances to the buildings lack clarity and legibility.*

### ***The relationship of the building form to other buildings***

*The complex plans and sections of the buildings create poor relationships of the buildings to each other, the neighbours and any potential neighbours.*

### ***The resolution of the building form***

*The level of articulation of the building forms is weak in the following areas:*

- *depth of the balconies*
- *lack of panels of glazing for the window areas as a contrast to the “hole in the wall” windows which has the following impacts:*
  - *the value of the proximity in plan of the interior living areas and exterior outside private areas including courtyards and the balconies is not gained in many of the units.*
  - *less light and sun penetration.*
  - *the building will appear more massive because of the organisation of the windows and openings relative to the overall proportions of the building.*
- *the use of masonry “frames” around many of the balconies which has the following impacts:*
  - *the building will appear more massive*
  - *less light and sun penetration*
  - *restricted view from the interior*

### ***Conclusion***

*The density is appropriate for the location and reflects the aspirations of the DCP.*

*The proposal, however, fails to respond to the site in terms of its overall massing and form and how that form is then resolved. The resolution of the form is less problematic than the organisation of the mass into the two stepped buildings. It is the size and shape and how the buildings relate to the context which is fundamentally problematic.*

*The shape of the site and its development isolates the important corner sites at Shinfield Avenue and Rosedale Road.*

*The floor space is organised into two buildings that are not complementary; do not respond to the natural context and will appear too massive. This is due to:*

- . (i) The design of the buildings as object buildings and not as space defining buildings*
- . (ii) The lack of spatial structure on the site. This increases the visual impact of the development within the street and block and on the two isolated dwellings.*
- . (iii) The shape and size of the buildings in plan and section. The buildings are complex in plan and section and not designed to relate one to another or the neighbouring buildings*
- (iv) The massing of the built form to the rear of the site. This is directly contrary to the traditional spatial patterns in St Ives.*
- (v) The levels within the buildings relative to the external levels of the ground plane.*

*The articulation of the form is more satisfactory but could be improved. This will not mitigate the fundamental flaws of the building / space / site organisation etc.*

*Key areas which could be resolved more fully are:*

- . entrances to the buildings externally and internally*
- . provision of a more useable communal space*
- . relationship of internal and external private open spaces in terms of window /glazing treatment*
- . balconies in terms of depth and light / sun penetration to the living areas*
- . way in which the “masonry framing” around the balcony areas is handled*
- . use of glazing panels rather than “hole in the wall windows” particularly in the walls facing the balconies*

*The proposal appears to be developed around a direct response to what the DCP will allow while maximising density without relating this to the site or local context; maximising views hence the use of seven (7) storeys and the cutting of the development into the land to comply with the height plane and the pushing of the development to the rear corner of the site.*

## **PROVISIONS OF RELEVANT LEGISLATION**

### **State Environmental Planning Policy No. 55 – Remediation of Land**

SEPP 55 requires consideration of the likelihood that a site is contaminated prior to determination of any development applications. The site has a history of residential use and as such it is unlikely that it contains any contamination. Given the low risk of any contamination on the site no further investigation in this respect is considered necessary. The site is, therefore considered to be suitable for residential use.

### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Under the above Sydney Regional Environmental Plan, Council is required to consider the impact of development upon the Sydney Harbour Catchment. Having regard to this requirement, the proposed development is considered to be sufficient distance away from the Sydney Harbour Catchment so as to have no affectation upon the significance of this natural resource.

### **State Environmental Planning Policy – Building Sustainability Index (BASIX)**

A valid BASIX certificate has been submitted. The certificate demonstrates compliance with the provisions of the SEPP and adequately reflects all amendments to the application.

### **State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (RFDC)**

SEPP65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing 'good design'.

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

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

As such, the following consideration has been given to the requirements of the SEPP and Design Code.

### **Residential Flat Design Code Compliance Table**

Pursuant to Clause 30(2) of SEPP 65 in determining a development application for a residential flat building the consent authority is to take into



consideration the Residential Flat Design Code (RFDC). The following table is an assessment of the proposal against the guidelines provided in the RFDC.

	<b>Guideline</b>	<b>Consistency with Guideline</b>
<b>PART 02 SITE DESIGN</b>		
<b>Site Configuration</b>		
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	<b>YES</b>
<i>Open Space</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent.	<b>YES</b>
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m <sup>2</sup> .	<b>YES</b>
<i>Planting on Structures</i>	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:  Medium trees (8 metres canopy diameter at maturity) <ul style="list-style-type: none"> <li>• minimum soil volume 35 cubic metres</li> <li>• minimum soil depth 1 metre</li> <li>• approximate soil area 6 metres x 6 metres or equivalent</li> </ul>	<b>YES</b>

<i>Safety</i>	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	<b>YES</b>
<i>Visual Privacy</i>	<p>Refer to Building Separation minimum standards</p> <ul style="list-style-type: none"> <li>• up to four storeys/12 metres</li> <li>• 12 metres between habitable rooms/balconies</li> <li>• 9 metres between habitable/balconies and non-habitable rooms</li> <li>• 6 metres between non-habitable rooms</li> </ul> <p>• five to eight storeys/up to 25 metres</p> <ul style="list-style-type: none"> <li>• 18 metres between habitable rooms and balconies</li> <li>• 13 metres between habitable rooms/balconies and non-habitable rooms</li> <li>• - 9 metres between non-habitable rooms</li> </ul>	<p><b>NO</b></p> <p><b>Refer to following discussion</b></p> <p><b>NO</b></p> <p><b>Refer to following discussion</b></p>
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	<b>NO</b>
	Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.	<b>YES</b>
	Provide barrier free access to at least 20 percent of dwellings in the development.	<b>YES</b>
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	<b>YES</b>
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	<b>YES</b>
<b>PART 03 BUILDING DESIGN</b>		
<b>Building Configuration</b>		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	<b>NO</b> <b>Refer to following discussion</b>
	The back of a kitchen should be no more	<b>NO</b>

	than 8 metres from a window.	
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	<b>YES</b>
	<p>If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> <li>- 1 bedroom apartment 50m<sup>2</sup></li> <li>- 2 bedroom apartment 70m<sup>2</sup></li> <li>- 3 bedroom apartment 95m<sup>2</sup></li> </ul>	<b>YES</b>
<i>Apartment Mix</i>	Include a mixture of unit types for increased housing choice.	<b>YES</b>
<i>Balconies</i>	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	<b>YES</b>
<i>Ceiling Heights</i>	<p>The following recommended minimum dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL).</p> <ul style="list-style-type: none"> <li>- in residential flat buildings or other residential floors in mixed use buildings: <ul style="list-style-type: none"> <li>- in general, 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</li> </ul> </li> </ul>	<b>YES</b>
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This	<b>NO</b>

	relates to the desired streetscape and topography of the site.	
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<b>YES</b>
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	<b>YES</b>
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:  - studio apartments 6m <sup>3</sup> - one-bedroom apartments 6m <sup>3</sup> - two-bedroom apartments 8m <sup>3</sup> - three plus bedroom apartments 10m <sup>3</sup>	<b>YES</b>
<i>Acoustic Privacy</i>	Ensure a high level of amenity by protecting the privacy of residents within residential flat buildings both within the apartments and in private open spaces.	<b>YES</b>
<b>Building Amenity</b>		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter.	<b>YES</b>
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.	<b>YES</b>
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	<b>NO</b> <b>Refer to following discussion</b>
	Sixty percent (60%) of residential units should be naturally cross ventilated.	<b>YES</b>
<b>Building Performance</b>		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	<b>YES</b>
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs.	<b>YES</b>

	Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	
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## **PART 02 – Site design**

### **Visual privacy**

There is a non-compliance with the required distance between Buildings 1 and 2 (Level - RL154). However, this is unlikely to cause a loss of privacy because that part of Building 1 is mostly below ground level and used for car parking.

At RL166 (fifth floor), there would be a 12 metres setback between Buildings 1 and 2 (not 15 metres as required by the RFDC). This non-compliance is considered to be satisfactory because the windows on the eastern side of Building 1 are narrow and elongated, thereby reducing privacy loss between dwellings. The balconies could also be fitted with privacy screens to minimise overlooking between buildings.

### **Building entry**

The main pedestrian entry to Building 1 is from Rosedale Road not Shinfield Avenue. The front entries to Building 1 are on the eastern side of Building 1 almost 63 metres from Rosedale Road. The main entries are not visible from Rosedale Road other than a large entry structure on Rosedale Road which is considered to be uncharacteristic of Rosedale Road .

The main entry for Building 2 is on the southern side of Building 2 and is not visible from Rosedale Road. This aspect of the application is likely to disorientate visitors to the proposed development contrary to the requirements of the RFDC. Council's Urban Design Consultant has raised concern with this element of the proposed design.

### **Apartment layout**

The nearest window in the kitchen in Unit 157/04 has a distance of 8.5 metres not 8 metres as required by the RFDC. This minor non-compliance is acceptable because the unit has an acceptable layout with direct access to the balcony providing sufficient natural light to the kitchen.

### **Single aspect units**

Some of the units have a depth greater than 8 metres to the nearest window. This non-compliance is considered to be unsatisfactory because the "L" shape of the development limits opportunities to provide double aspect units to maximise good solar access and natural light.

### Daylight access

Many of the ground floor units are below ground in particular units 157/06, 157/07, 157/05, 157/04, 154/01, 155/03, 155/01 and 155/02. These units would rely heavily upon mechanical light and heating, especially during the winter months. These units would also have a poor outlook from their windows/doors out to a high masonry retaining wall. This aspect of the application is considered to be unsatisfactory.

### Natural ventilation

There are some units that have a depth greater than 10 metres but most of these units are double aspect units that would enjoy good natural ventilation.

### Ground floor units with separate entries

This control is more applicable for inner city living where it is desirable for units to have their own access to the road reserve to maintain streetscape character. However, most of the proposed ground floor units have two entries either from their private courtyards or from the main lobby area. In the site context this non-compliance is considered to be acceptable.

### Ku-ring-gai Planning Scheme Ordinance (KPSO)

#### Clause 23 – Development control table

#### Permissibility

The proposal is permissible with development consent.

The proposed development has been assessed in accordance with the development standards in part 111A of the KPSO as follows:

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1200m <sup>2</sup>	3,848.7m <sup>2</sup>	YES
Deep landscaping (min): 50%/5274m <sup>2</sup>	50%	YES
Street frontage (min): 30m	Shinfield Avenue – 33.1m Rosedale Road – 39.45m	YES YES
Number of storeys (max): 5 storeys	Building 1 – 7 storeys Building 2 – 5 storeys	NO YES
Site coverage (max): 35%	35%	YES
Top floor area (max): 60% of level below	Building 1 - >60% Building 2 – 48%	NO YES

<b>Storeys and ceiling height (max):</b> 5 and 13.4 m	Building 1 – 7 storeys/< 13.4m (at level 4) Building 2 – 5 storeys/<13.4m	<b>NO</b> <b>YES</b>
<b>Car parking spaces (min) :</b> 14 (visitor spaces) 66(residential spaces) 80 (total)	14 visitor (inc 1 accessible) 72 residential (inc 6 accessible) 86 total	<b>YES</b> <b>YES</b> <b>YES</b>
<b>Zone interface setback (min):</b> 9m	Building 1 - <9m Building 2 - <9m	<b>NO</b> <b>NO</b>
<b>Manageable housing (min):</b> 5	6	<b>YES</b>
<b>Lift access:</b> required if greater than three storeys	Building 1 – 2 lifts Building 2 – 1 lift	<b>YES</b> <b>YES</b>

### Clause 25I(5) – Maximum number of storeys

Building 1 has seven (7) storeys rather than five (5) storeys as permitted by clause 25I(5) in the KPSO. Clause 25I(9) defines a storey as:

*Any storey as a level of the building that is used exclusively for car parking, storage or plan, or a combination of them in accordance with the requirements of this ordinance and no part of which (including any wall or ceiling which encloses or defines the storey) is more than 1.2m above ground level, is not to be counted as a storey for the purposes of the table to sub-clause (8).*

The ground floor level (RL154) in Building 1 is a mixture of residential units and car parking so this level must be counted as a “storey” because it is not used “exclusively” for either parking or storage. In total, Building 1 has seven (7) storeys and no SEPP 1 objection has been submitted to Council.

Even if a SEPP 1 objection had been lodged with Council, it is unlikely to be supported because this non-compliance is likely to cause a loss of amenity to adjoining properties in terms of its excessive bulk and scale.

In addition, the increased number of storeys has been achieved through excessive excavation, particularly at the rear of the site providing subterranean units that will to provide poor amenity for future residents.

Furthermore, the two additional floors have units with large balconies on the western side of Building 1 that are likely to promote overlooking into No. 16 Shinfield Avenue causing a loss of amenity for the owners of this property. For the above reasons, it is considered reasonable to insist upon compliance with this development standard.

### Clause 25I(7) – Limit on floor area of top storey

Pursuant to clause 25I(7) of the KPSO, the floor area of the fifth level of any residential flat building in zones 2(d3) must be no more than 60% of the total floor area of the storey immediately below.

The fifth floor of Building 1 has a floor area equal to the fourth floor with another two levels above that floor. This non-compliance is likely to cause unnecessary bulk and scale as seen from the adjoining properties and from Rosedale Road having a detrimental impact upon the streetscape and the amenity of the adjoining properties.

A SEPP 1 objection seeking a variation to this development standard has not been submitted to Council. Even if a SEPP 1 were to have been lodged, it is unlikely to be supported for the reasons stated above.

#### **Clause 25I (8) and (9) – Maximum number of storeys and ceiling height**

As stated previously, Building 1 is seven (7) storeys in height causing a non-compliance with clause 25I(9) in the KPSO that is not supported for the reasons stated earlier.

Clause 25I(8) also limits the height of buildings to 13.4 metres to the ceiling of the fourth floor. Building 1, however, would have an overall height up 17.49 metres because the building was designed to comply with the permitted height limit under the Ku-ring-gai Local Environmental Plan (Town Centres) 2010. A SEPP 1 objection has not been lodged with Council to address this non-compliance.

The non-compliance with the number of storeys and the excessive height of Building 1 is not supported due to its likely impacts for adjoining properties and the public domain as seen from Rosedale Road.

#### **Clause 25L - Zone interface**

The property to the north of the subject site (No. 120 Rosedale Road) is zoned 2(e) being an interface zone. In accordance with clause 25L, a setback of nine (9) metres is required for levels three (3) and four (4).

Buildings 1 and 2 fail to provide the required setback and this is likely to cause a loss of amenity for the residents at Nos 120 Rosedale Road in terms of overlooking and adverse visual impacts through excessive bulk and scale. The applicant has failed to provide a SEPP 1 objection seeking a variation to this development standard.

#### **Development Control Plan No. 55 – Railway/Pacific Highway Corridor and St Ives Centre**



Development control	Proposed	Complies
<b>Part 3 Local context:</b>		
<b>Deep soil landscaping (min)</b> 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 577m <sup>2</sup>	>577m <sup>2</sup>	<b>YES</b>
<b>No. of tall trees required:</b> 13 trees	>13 trees	<b>YES</b>
<b>Part 4.3 Setbacks:</b>		
<b>Building footprint (max):</b> 35% of total site area	35%	<b>YES</b>
<b>Floor space ratio (max):</b> 1.3:1	1.3:1	<b>YES</b>
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b> 10 – 12 metres  No more than 40% of the building may be located in the setback zone No more than 15% of front setback can be occupied by courtyards	Building 1 - 11m Building 2 - 11m Building 1 – 38.8% Building 2 – 36.4% Building 1 – 14.99% Building 2 – 13.75%	<b>YES</b> <b>YES</b> <b>YES</b> <b>YES</b> <b>YES</b> <b>YES</b>
<b>Rear boundary setback (min):</b> 6m or 9 m to interface zone (from L 3)	Building 1 – 6m to 10m Building 2 - 51m	<b>YES</b> <b>YES</b>
<b>Side boundary setback (min):</b> 6m (from L 3)	Building 1 – 6m Building 2 – 6m	<b>YES</b> <b>YES</b>
Setback of ground floor courtyards to street boundary (min): 8m	8m	<b>YES</b>
<b>Part 4.4 Built form and articulation:</b>		
<b>Façade articulation:</b> • Wall plane depth >600mm	>600mm	<b>YES</b>
• Wall plane area <81m <sup>2</sup>	<81m	<b>YES</b>
<b>Built form:</b> • Building width < 36m	<36m	<b>YES</b>
• Balcony projection < 1.2m	<1.2m	<b>YES</b>
<b>Part 4.5 Residential amenity</b>		
<b>Solar access:</b> • >70% of units receive 3+ hours direct sunlight in winter solstice	70%	<b>YES</b>
• >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	50%	<b>YES</b>
• No single aspect units with southern orientation	Nil	<b>YES</b>
• <15% of the total units are single aspect with a western orientation	7%	<b>YES</b>
• At least 3 hours of sunlight between 9am & 3pm fo adjoining properties	3 hours	<b>YES</b>

zoned 2(c2)		
<b>Part 4.52 Visual privacy:</b>		
Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4		
• 12m b/w habitable rooms	8.7m to 16 Shinfield Ave	<b>NO</b>
• 9m b/w habitable and non-habitable rooms	8.2m to 20 Shinfield Ave.	<b>NO</b>
• 6m b/w non-habitable rooms	>12m to 120 Rosedale Road	<b>YES</b>
	>12m to 22 Shinfield Ave	<b>YES</b>
	12m between Building 1 & 2	<b>YES</b>
5th Storey		
• 18m b/w habitable rooms	<18m to 16 Shinfield Ave	<b>NO</b>
• 13m b/w habitable and non-habitable rooms	<18m to 20 Shinfield Ave	<b>NO</b>
• 9m b/w non-habitable rooms	>18m to 22 Shinfield Ave	<b>YES</b>
	< 18M 120 Rosedale Road	<b>NO</b>
	<18m between buildings 1 & 2	<b>NO</b>
<b>Internal amenity:</b>		
• Habitable rooms have a minimum floor to ceiling height of 2.7m	2.7m	<b>YES</b>
• Non-habitable rooms have a minimum floor to ceiling height of 2.4m	2.7m	<b>YES</b>
• 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom	3m	<b>YES</b>
• 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms	3m	<b>YES</b>
<b>Single corridors:</b>		
• serve a maximum of 8 units	Building 1 - <8 units	<b>YES</b>
	Building 2 - <8 units	<b>YES</b>
• >1.5m wide	1.5m wide	<b>YES</b>
• >1.8m wide at lift lobbies	1.8m wide	<b>YES</b>
<b>Storage space for each unit:</b>		
6m <sup>3</sup> for studio/1 bedroom units	6m <sup>3</sup> , 8m <sup>3</sup> , 10m <sup>3</sup>	<b>YES</b>
8m <sup>3</sup> for two bedroom units		
10m <sup>3</sup> for three bedroom units		

<b>Outdoor living:</b> <ul style="list-style-type: none"> <li>ground floor apartments have a terrace or private courtyard greater than 25m<sup>2</sup> in area</li> </ul>	>25m <sup>2</sup>	<b>YES</b>
<b>Balcony sizes:</b> <ul style="list-style-type: none"> <li>10m<sup>2</sup> – 1 bedroom unit</li> <li>12m<sup>2</sup> – 2 bedroom unit</li> <li>15m<sup>2</sup> – 3 bedroom unit</li> </ul>	Building 2 – 161/01, 161/02, 161/03, 161/04	<b>NO</b>
NB. At least one space >10m <sup>2</sup> <ul style="list-style-type: none"> <li>primary outdoor space has a minimum dimension of 2.4m</li> </ul>	2.4m (min)	<b>YES</b>
<b>Part 4.7 Social dimensions:</b>		
<b>Visitable units – 70% (min)</b>	70%	<b>YES</b>
<b>Housing mix:</b> Mix of sizes and types	Mix of 1,2,3 bedroom units	<b>YES</b>
<b>Part 4.8 Building sustainability:</b>		
<b>Excavation: Natural ground level must be maintained within 2m setback of side and rear boundary</b>	>2m	<b>YES</b>
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking spaces (min) :</b> 14 (visitor spaces) 66(residential spaces) 80 (total)	14 visitor (inc 1 accessible) 72 residential (inc 6 accessible) 86 total	<b>YES</b> <b>YES</b> <b>YES</b>

### Part 4.3 Setbacks

Buildings 1 and 2 provide a six metres setback to the northern boundary and comply with DCP 55. However, LEP 194 requires a nine (9) metres setback from the third floor to the interface zone (No. 120 Rosedale Road). There is a non-compliance with this development standard in clause 25L in the KPSO that is considered to be unsatisfactory because it is likely to cause a loss of amenity for the adjoining property in terms of overlooking and visual mass.

### Part 4.5.2 Visual privacy

There will be overlooking from Buildings 1 and 2 into the rear gardens of Nos. 20 and 22 Shinfield Avenue with their reduced rear setbacks of 4.5 – 5 metres. This aspect of the application is considered to be unsatisfactory.

The residents at No. 16 Shinfield Avenue are also likely to experience a loss of amenity as a result of the proposal because their dwelling is in close

proximity to their eastern boundary (2.5 metres). Furthermore, the applicant submitted amended plans during the Court proceedings providing extensive glass bay windows (ground floor to Level 4) on the western elevation. The bay windows were designed to improve solar access to the interiors of the units on the western side of Building 1 but are also likely to increase overlooking of No. 16 Shinfield Avenue.

The non-compliant setback to the interface zone is likely to cause overlooking into the dwellings located at No. 120 Rosedale Road. There are balconies on the northern side of Buildings 1 and 2 in close proximity to the northern boundary that are likely to be used for outdoor recreation causing a loss of amenity for the residents at No. 120 Rosedale Road.

The road reserves (Rosedale Road and Shinfield Avenue) together with the 10 metres front setback for Buildings 1 and 2 with substantial landscaping would minimise any overlooking into the dwellings opposite being Nos. 23 Shinfield Avenue, 161 and 163 Rosedale Road.

#### **Part 4.5.5 Outdoor living**

Some of the balconies on Level RL160 (Units 161/04, 161/03, 161/02, 161/01) fail to comply with the required minimum total area. This aspect of the application is considered to be unsatisfactory because it is likely to provide poor amenity for future residents.

#### **Part 6. Consideration of isolated sites**

Contrary to the requirements of part 6 C-1 in DCP 55, the proposed development would leave two single detached dwellings on Lots 1 and 2 in DP 829388 (Nos. 20 and 22 Shinfield Avenue) in a 2(d3) zone with a site area less than 1200m<sup>2</sup> as required by clause 25E in the KPSO.

No. 22 Shinfield Avenue also fails to have the required frontage (23m minimum) to Rosedale Road pursuant to clause 25I(3) in the KPSO to enable this site to be developed for high density development.

The applicant submitted concept plans for a five or six townhouse development at Nos. 20 and 22 Shinfield Avenue in order to demonstrate that this site could be developed in the future for multi unit development in accordance with part 6 in DCP 55.

The proposed development as depicted in the concept plans would not be supported due to the following non-compliances with DCP 55:

The proposed front setback (Rosedale Rd) of the building would have a detrimental impact upon the *Cedrus deodar* (Himalayan Cedar). A 12m setback from Rosedale Road is required to retain this tree.

The setback to Shinfield Avenue fails to comply with part 4.3 in DCP 55. There would be insufficient area to comply with the deep soil requirements in part 4.1 in DCP 55.

The northern side setback fails to comply with the required six metre setback. A setback of between 3m – 4 metres has been provided leaving insufficient area in common ownership to provide screen planting.

The rear setback (3 metres) also fails to comply with the required rear setback of six (6) metres in accordance with part 4.3 in DCP 55.

The length of the building (36.5 metres) to Shinfield Avenue exceeds the maximum of 36 metres having a detrimental impact upon the streetscape.

Five and/or six separate pedestrian entries are provided to the dwellings, the driveway and visitor parking within the Shinfield Avenue frontage would significantly reduce landscaping within the Shinfield Avenue frontage having a detrimental impact upon the public domain.

The basement car park fails to comply with DCPs 43 and 55 because there is no waste room, no parking for disabled people, no storage for residential units, no lift for the adaptable/visitable units and no bicycle storage.

The visitor car space within the setback to Shinfield Avenue would reduce soft landscaping within the frontage to Shinfield Avenue, having a detrimental impact upon the streetscape.

The common open space is located on the southern side of the building with poor solar access contrary to the requirements of part 4.5.5 in DCP 55.

During the Court proceedings, the applicant also provided concept plans for a child care centre being a permissible use in a 2(d3) zone in order to demonstrate that the land could be developed in the future. The plans fail to comply with DCP 57 for child care centres in the following respects:-

- there is no disabled parking and no lift from the basement car park
- there is no separate pedestrian entry/exit from the basement car park
- the outdoor play area on the northern side of the building is too narrow to function well as a play area
- there is insufficient area within the northern and western setbacks to provide screen planting to prevent overlooking
- a play area within the front setback at the corner of Rosedale Road and Shinfield Avenue is considered to be a safety hazard

- the disabled ramp within the Shinfield Avenue setback would limit soft landscaping on the southern side of the building having a detrimental impact upon the streetscape
- a greater front setback to Rosedale Road is required to preserve the *Cedrus deodard* (Himalayan Cedar)
- the plans do not include a cot room contrary to the requirements of the DCP and the Children's Services Regulations 2004
- the kitchen between room 1 and 2 is too close to toilets and nappy change and likely to cause a health hazard
- there is no bottle preparation area
- there is no convenient access to staff rest room
- there would be inadequate supervision of the outdoor play area within the front setback for staff working in room 2
- the transition area is located on the southern side of the building well away from the outdoor play area contrary to the requirements of part 10.2 in DCP 57.
- the windows and balconies on the eastern side of Building 1 and the southern side of Building 2 would promote overlooking into a sensitive land use

In summary, the concept plans fail to demonstrate that the residential land at Nos 20 and 22 Shinfield Avenue could be redeveloped in accordance with Council's planning instruments and policies and is likely to become an isolated site. This aspect of the application is considered to be unsatisfactory because it would hinder the achievement of the object 5(a)(ii) of the EP & A Act 1979.

#### **Development Control Plan No. 31 - Access**

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 55 and the proposal is deemed to be satisfactory in this regard.

#### **Development Control Plan No. 40 – Construction and Demolition Waste Management**

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

#### **Development Control Plan No. 43 – Car parking**

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

## **Development Control Plan No. 47 – Water Management**

Matters for assessment under DCP 47 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

### **Section 94 Plan**

The subject application is recommended for refusal so the Ku-ring-gai Contributions Plan 2010 is not applicable.

### **LIKELY IMPACTS**

The likely impacts of the development are considered to be unacceptable for the reasons stated throughout this report.

### **SUITABILITY OF THE SITE**

The site is suitable for high density development but not in its current form. Nos. 20 and 22 Shinfield Avenue have not been included in the proposed development that is likely to hinder future development on this site thereby frustrating the achievement of planning object 5 (a)(ii) in the E P & A Act concerned in the orderly development of the land.

### **ANY SUBMISSIONS**

The matters raised in the submissions have been addressed.

### **PUBLIC INTEREST**

The proposal is considered not to be in the public interest because it is likely to have a detrimental impact upon the amenity of the adjoining properties and/or the streetscape. By not including Nos. 20 and 22 Shinfield Avenue, the proposal is not promoting the orderly development of the land as required by section 5(a)(ii) in the E P & A Act.

### **CONCLUSION**

Upon consideration against Section 79C of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, it is concluded that the proposal is unsatisfactory. Therefore, it is recommended that the application be refused.

### **RECOMMENDATION:**

### **PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

That the Sydney West Joint Regional Planning Panel, as the consent authority, refuse development consent to Development Application No. 0050/11 for demolition of existing structures and construction of two (2) residential flat buildings, basement car parking and landscaping on land at No. 18 Shinfield Avenue and 116 – 118 Rosedale Road, St Ives for the following reasons:

**1. Unsatisfactory bulk and scale**

**Particulars:**

- (i) Building 1 fails to comply with the permitted number of storeys pursuant to clause 25I (5) in the KPSO because it has seven (7) storeys not five (5) storeys as permitted under clause 25I(5).
- (ii) A SEPP 1 objection has not been submitted with the application. The non-compliance would result in adverse impact upon the streetscape in particular Rosedale Road and the adjoining properties in terms of the excessive bulk and scale.
- (iii) Building 1 has an overall height of 17.5 metres (at levels 6 and 7) which exceeds the permitted height of 13.4 metres to the fourth floor pursuant to clause 25I(8) in the KPSO.
- (iv) The fifth floor of Building 1 has a floor area equal to the floor below contrary to the requirements of clause 25I(7) in the KPSO that limits the fifth floor area to 60% of the floor below to minimise bulk and scale.
- (v) A SEPP 1 objection has not been submitted with the application.
- (vi) Buildings 1 and 2 have not provided a nine (9) metres setback from the third and fourth floor to the northern boundary with No. 120 Rosedale Road zoned 2(e) to provide a transition in the scale of buildings.
- (vii) A SEPP 1 objection for a variation to the required setback to the interface zone has not been submitted with the application.

**2. Isolation of adjoining sites (Nos 20 and 22 Shinfield Avenue)**

**Particulars:**

- (a) The adjoining sites situated at Nos. 20 and 22 Shinfield Avenue do not form part of the proposed development.
- (b) Nos. 20 and 22 Shinfield Avenue have a combined area of 932m<sup>2</sup> not 1200m<sup>2</sup> as required by clause 25E in the KPSO.
- (c) No. 22 Shinfield Avenue does not have the required frontage to Rosedale Road of 23 metres pursuant to clause 25I(3) in the KPSO.
- (d) The above non-compliances would hinder the development of the above properties for high density development.



- (d) The applicant has failed to demonstrate that Nos. 20 and 22 Shinfield Avenue are capable of being developed in accordance with Council's planning instruments and policies.
- (e) The concept plans submitted to Council have demonstrated that Nos. 20 and 22 Shinfield Avenue would become an isolated site frustrating the achievement of object 5(a)(ii) in the EPA Act 1979 concerned with the orderly and economic use of the land.

### **3. Unsatisfactory residential amenity**

#### **Particulars:**

- (a) The communal open space between Buildings 1 and 2 is designed more as "a walk through space" rather than usable passive recreation space.
- (b) The below ground floor in Buildings 1 and 2 would provide poor residential amenity with little natural light and/or solar access contrary to the principles of sustainable development.
- (c) The balconies on level RL160 in Building 2 also Unit 158/02 fail to comply with the required minimum areas contrary to part 4.5.5 in DCP 55.
- (d) The outdoor recreation space for the ground floor apartments on the western side of Building 2 have a problematic relationship with the communal area between Building 1 and 2, in terms of the levels, privacy noise and visual intrusion.
- (e) Some of single units have a depth greater than 8 metres that is likely to provide poor amenity for future residents. (169/03 – 9m (level RL169), 166/07 – 8.5m, 166/05 -10.5m, 163/06 – 11m, 163/02 – 9.5m, 160/06 – 10.5m, 160/02 – 9.5m, , 157/02 – 9.5m, 154/01 -9m)

### **4. Adverse impacts upon adjoining properties**

#### **Particulars:**

- (i) The non-compliant visual mass of the development would cause a loss of amenity for the residents of Nos. 16, 20 and 22 Shinfield Avenue and 120 Rosedale Road.
- (ii) The bulk of Buildings (1 & 2) has been pushed towards the rear/side boundaries to provide greater amenity for Nos. 20 and 22 Shinfield creating greater opportunities for overlooking into adjoining properties in particular Nos 120 Rosedale Road and No. 16 Shinfield Avenue.
- (iii) The non-compliant interface zone setback (Buildings 1 and 2) to the northern boundary would promote overlooking into the dwellings at No. 120 Rosedale Road.
- (iv) The bay windows on the western elevation of Building 1 (levels 1-4) are likely to promote overlooking into the adjoining property.

~~Solar access to the development fails to comply with clause 3C.17 of Town Centres DCP. The will receive only 2 hours of solar access (from 1pm onwards).~~

- (v) The single entry/exit basement driveway for Buildings 1 and 2 is likely to have a detrimental impact upon the amenity of No. 20 Shinfield Avenue given the close proximity of the driveway to the bedrooms of this dwelling.

## 5 Poor urban design

### Particulars:

- (a) The proposal fails to relate appropriately to the natural topography of the land.
- (b) The elevations are overly modulated, thereby increasing their apparent scale.
- (c) The development isolates the two dwellings on the corner of Rosedale Road and Shinfield Avenue that are unlikely to remain as single dwelling due to their limited lot size contrary to the desired future character of the precinct.
- (d) The proposal does not provide a new spatial system consistent with the proposed apartment building typology for St Ives.
- (e) The floor space is distributed into two very different sized and shaped buildings so they do not relate well in plan and/or composition nor do they relate well to the neighbouring detached buildings.
- (f) The flat roofs provide building tops which are irregular in shape and fail to provide a clear roof line against the sky.
- (g) Contrary to the principles of sustainable development, the buildings are air conditioned with no provision for ceiling fans.
- (h) The proposal does not emulate the existing pattern of development featuring a substantial front setback, a building centrally located on the block with wide side set backs and a substantial rear garden. The pattern of development as proposed is an "L" shape located towards the side/rear boundaries to provide some amenity to the isolated sites (Nos. 20 & 22 Shinfield Avenue) which is contrary to the existing pattern of residential development in St. Ives.
- (i) The bulk of the eastern elevation of Building 1 would be highly visible from Rosedale Road having a detrimental impact upon the public domain.
- (j) Building 1 fails to engage with Shinfield Avenue due to the lack of pedestrian entrance contrary to the requirements of RFDC. The varying levels within the front setback further detach the building from the public domain.
- (k) The main entries for the two buildings lack clarity and fail to have a sense of importance contrary to the planning objectives in the RFDC.

- (l) The “gate house” marking the main pedestrian to the development would become an uncharacteristic built form in St Ives is excessive in terms of its bulk and scale.
- (m) The lack of a clear pedestrian entry for Building 2 combined with the setbacks, the stepping up of the buildings and the level changes mean that the building does not engage with Rosedale Road.
- (n) The proposal fails to reveal the natural features of the site because:
  - the proposed buildings are designed as “object” buildings and not “space defining” buildings,
  - the buildings are excavated into the site
  - the arbitrary placement of the communal open space
- (o) The use of masonry “frames” around many of the balconies adds greater bulk to the buildings, provide less light and sun penetration to the interiors and restrict views.
- (p) There is an imbalance between the masonry appearance and the light weight roof having a detrimental impact upon the streetscape.
- (q) A simpler building form with a more complex range of materials would have a more positive contribution to the streetscape.
- (r) The organisation of the materials; openings and walls could have been better articulated to create further depth to the buildings.
- (s) The height of front fence should be reduced to 1.2m to maintain streetscape character.

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**Attachments:**      Locality map  
                              Zoning extract  
                              Site plan  
                              Basement plans  
                              Floor plans  
                              Elevations  
                              Sections

Landscape plan  
Shadow diagrams  
Stormwater plans  
Concept plans