

**JOINT REGIONAL PLANNING PANEL
(Sydney West Region)**

JRPP No	2014SYW090
DA Number	0180/14
Local Government Area	Ku-ring-gai Council
Proposed Development	Demolish existing structures and construct a mixed use development containing 3 buildings, 144 residential apartments, retail space, basement parking and landscaping works
Street Address	870-898 Pacific Highway, Gordon
Applicant	Alto Prestige Pty Ltd
Owner	Alto Prestige Pty Ltd Georgio Altomonte Holdings Pty Ltd
Number of Submissions	Original proposal – 3 submissions Amended proposal – 1 submission Further amended proposal – 1 submission
Recommendation	Refusal
Report by	Grant Walsh, Executive Assessment Officer

EXECUTIVE SUMMARY

Primary Property	870-898 Pacific Highway, GORDON NSW 2072
Lot & DP	Lot 1 DP 654047 Lot 3 DP 609007 Lot 16 DP 249171
Proposal	Demolish existing structures and construct a mixed use development containing 3 buildings, 144 residential apartments, retail space, basement parking and landscaping works.
Development Application No.	DA0180/14
Ward	GORDON
Applicant	Alto Prestige Pty Ltd
Owner	Alto Prestige Pty Ltd Georgio Altomonte Holdings Pty Ltd
Date lodged	22 May 2014
Issues	Site isolation, height, extent of retail floor space, street activation
Submissions	Original proposal – 3 submissions Amended proposal – 1 submission Further amended proposal – 1 submission
Land & Environment Court	N/A
Recommendation	Refusal
Assessment Officer	Grant Walsh

LEGISLATIVE REQUIREMENTS:

Zoning	B4 – Mixed Use
Permissible under	KLEP (Local Centres) 2012
Relevant legislation	SEPP 55 SEPP 65 SEPP (Infrastructure) 2007 SEPP (BASIX) 2004 SREP (Sydney Harbour Catchment) 2005 KLEP (Local Centres) 2012 KDCP (Local Centres) 2013 Ku-ring-gai Contributions Plan 2010
Integrated development	No

PURPOSE FOR REPORT

To determine Development Application No. 0180/14, which seeks consent for the demolition of the existing structures and construction of a mixed use development within 3 buildings comprising, 144 residential apartments, retail space, basement parking and landscaping works on land at 870-898 Pacific Highway, Gordon.

The application is required to be determined by the Joint Regional Planning Panel as the stated cost of works (CIV) of \$50, 942, 985 exceeds \$20 million.

HISTORY

Site history:

The site has a history of commercial uses.

Pre-Development Application consultation:

Date:	Application ID:	Proposal:	Key Issues:
5 August 2013	Pre0081/13	Residential Flat Building	Non-compliance with maximum building height control of LEP, benefits of a Mixed Use development as opposed to a Residential Flat Building, non-compliances with Ku-ring-gai Local Centres DCP 2013, activation of street frontages, site isolation.

Rezoning history

The site was rezoned in February 2013 from the Business 3(b)-(B1) Commercial Services zone under the Ku-ring-gai Planning Scheme Ordinance to the current B4 - Mixed Use zone under the Ku-ring-gai LEP (Local Centres) 2012.

Development Application history

22 May 2014	The development application was lodged.
6 June 2014	The application was notified/advertised for 30 days.
6 June 2014	The Joint Regional Planning Panel (JRPP) was advised of application lodgment.
6 June 2014	The application was referred to the NSW Roads and Maritime Service (RMS) and Railcorp.
1 July 2014	Comments were received from RMS.
10 July 2014	Comments were received from Railcorp.
21 August 2014	Council staff briefed the Joint Regional Planning Panel.
2 September 2014	An issues letter was sent to the applicant which identified issues associated with site isolation, building height, extent of retail/commercial floor space and street activation.

8 October 2014	A meeting was held with the applicant to discuss the outstanding issues.
9 December 2014	Amended plans and documentation were received.
13 January 2015	The amended plans were re-referred to NSW RMS.
14 January 2015	The amended plans were notified/advertised for 30 days.
9 February 2015	Comments were received from the RMS.
2 June 2015	A further meeting was held with applicant to discuss remaining outstanding issues.
23 July 2015	Amended plans and documentation were received.
6 November 2015	The application was referred to a Collegiate Review meeting.

THE SITE AND SURROUNDING AREA

The site:

Visual character study category:	1920 -1945
Easements/rights of way:	No
Heritage Item:	No
Heritage conservation area:	No
In the vicinity of a heritage item:	No
Bush fire prone land:	No
Endangered species:	Yes (Blue Gum)
Urban bushland:	No
Contaminated land:	Yes

Site description:

The site consists of three separate allotments identified as Lot 1 in DP 654047, Lot 3 in DP 609007 and Lot 16 in DP 249171 and is known as 870, 880 and 898 Pacific Highway, Gordon. The site is located on the western side of Pacific Highway, Gordon, between Ryde Road and Merriwa Street and located within the Gordon Local Centre. The site also has frontages to Merriwa Street and Fitzsimons Lane. The site has the following indices:

- Site area 6,066m²
- 106.38 metres frontage (north) to Pacific Highway.
- 90.445 metres frontage (south-west) to Fitzsimons Lane.
- 24.885 metres frontage (south) to Merriwa Street.

The site is irregular in shape and has a steep fall from Pacific Highway down to Fitzsimons Lane (approximately 12m) and a marked cross fall of approximately 5 metres from with the lowest point being the intersection of Fitzsimons Lane and Merriwa Street. The site has previously been excavated to cater for the current uses on site resulting in significant level changes.

Existing development on the site consists of:

- 870 Pacific Highway: Two/three storey commercial building, with vehicular access off Merriwa Street to the rear.
- 880 Pacific Highway: One/three storey building, with vehicular access of both Fitzsimons Lane and Pacific Highway.
- 898 Pacific Highway: Two/three storey commercial building, with vehicular access off Fitzsimons Lane to the rear.

Current uses on the site are:

870 Pacific Highway

Shop 1: Nobby Kitchens
Shop 2: vacant
Suites 1 and 2: (1st floor): vacant
Suites 3 and 4: (1st floor): Nobby kitchens storage and meeting rooms

880 Pacific Highway

Showroom 1: rug showroom
Showroom 2: Sydney carwash café
Level 1 garages: Commlec garages for hire cars with associated office
Level 1 workshop: occupied by Alto Wholesale for vehicle storage
Mezzanine: vacant

898 Pacific Highway

Shop and residence: vacant
Workshop Fitzsimons Lane: occupied by North Shore Mower repairs.

The significant vegetation on the site consists of 2 Sydney blue gum trees (listed as being part of a critically endangered ecological community) located on the southern corner of the site, at the corner of Fitzsimons Lane and Merriwa Street.

The site does not contain any heritage items, is not within the vicinity of a heritage item and is not within a heritage conservation area.

Surrounding development

Development on surrounding sites is a mix of commercial, residential, retail and office uses.

To the south-east of the site at 860 and 854 Pacific Highway, are two small commercial allotments occupied by retail/commercial uses, including a lighting shop.

To the west of the site at 900 Pacific Highway, is a commercial building which includes a flooring shop and Gordon smash repairs.

The land to the south-west of the site, 1 Merriwa Street, is developed by a 6-8 storey office building.

A residential flat building is located to the south (and opposite) the subject site at 8-14 Merriwa Street.

The entire northern frontage of the site is to Pacific Highway. The land opposite the site, 815/821 Pacific Highway, is developed by a mini golf centre with the Northshore rail corridor being located beyond that as shown in **Figure 1** below:



Figure 1- Aerial photo of the site and surrounding area (source: KMC GIS)

THE PROPOSAL

The proposal, as originally submitted, involves the demolition of all buildings and car park structures and construction of a mixed use development comprising three residential flat buildings (A, B, C) containing 170 apartments, 263m² of retail space, basement carparking for 220 vehicles and associated landscape works.

The proposed apartment mix is as follows:

- 93 x 1 bedroom apartments
- 75 x 2 bedroom apartments
- 2 x 3 bedroom apartments

The proposal includes vehicle access off Merriwa Street on the southern corner of the site.

The proposal also includes a dedication of land on the Fitzsimons Lane frontage of approximately 450m² to Council for the purposes of road widening.

Amended plans dated 28 November 2014

The amended plans proposed numerous changes to the application as follows:

- reduction of units to 147 (80 x 1, 58 x 2 and 9 x 3 bedroom apartments) with three levels of basement carparking, totaling 213 car spaces
- increase in retail floor space to 521m² and a total residential GFA of 12 959.7m²
- decreased floor space ratio of 2.136:1
- roof gardens added to all 3 buildings
- vehicular access relocated to be off Fitzsimons Lane (as opposed to Merriwa Street) to allow for the retention of two Sydney Blue gums (Trees 4 and 9)
- increased setback of Building A to northern boundary to allow for the future redevelopment of the neighboring property
- reduced height and change of unit mix to Buildings A and B
- increase in height to Building C (remains compliant with height control) and change of unit mix

Amended plans dated 30 June 2015

The amended plans proposed numerous further changes to the application as follows:

- reduction in units to 144 (67 x 1 bedroom, 10 x 1 bedroom with study, 58 x 2 bedroom, 9 x 3 bedroom) with three levels of basement carparking totaling 213 spaces.
- increase in retail floor space to 729.85m²
- decreased floor space ratio of 2.109:1
- minor internal and aesthetics changes
- alterations to stormwater tank designs
- minor changes to landscape scheme

COMMUNITY CONSULTATION

In accordance with the notification provisions of Part 5 of the Ku-ring-gai Local Centres Development Control Plan, owners of surrounding properties were given notice of the application. In response, submissions from the following were received:

1. *John Seckhold on behalf of Strata Plan 69123, 26-30 Merriwa Street, Gordon.*
2. *Rosalind and Silvano Zerbo, 49 Ridge Street, Gordon.*
3. *Sunnyland, 98 Victoria Street, Potts Point.*

The submissions raised the following concerns:

The road infrastructure is deficient in its ability to cater for the proposal

Council's Development Engineer reviewed the proposal in terms of available car spaces and also expected traffic generation on the local road network. The Development Engineer is satisfied that the proposal is compliant with the provisions of Council's Local Centres DCP. The proposal has further been reviewed by the Roads and Maritime Service of NSW who are satisfied. Refer to comments made below by Council's Development Engineer and the RMS.

Merriwa Street is too narrow

As noted above, Council's Development Engineer is satisfied that the proposal will have an acceptable impact on the surrounding road network.

Reduced on-street parking

The proposed development provides for a compliant amount of off street carparking spaces, including visitor spaces. A traffic and parking assessment has indicated that the proposal meets Council's requirements in this respect.

Denudation of trees within the area

The original design proposed the removal of the two significant Sydney blue gums on the site by virtue of the driveway location. Concern was raised with the applicant in this respect who amended the driveway location so as to retain the two significant trees. Council's Landscape Assessment Officer has further reviewed the proposal in terms of Council's controls and deemed the proposal to be satisfactory in terms of tree loss/retention and supplementary plantings.

Overcrowding of the area as a result of an excessive 170 units

The proposed development is a permitted and encouraged use within the zone and is compliant with the maximum floor space allowance provided by Council's LEP.

Increase in pollution

The proposed use is permissible within the zone and complies with floor space requirements for the site.

The building is too high

The proposed development does result in a breach of the maximum building height development standard contained within the Local Centres LEP. The amended plans received by Council have reduced the overall height of the building, however, the building would breach the maximum building height. The applicant has lodged a request to vary the development standard under the provisions of Clause 4.6 of the Local Centres LEP. Refer to assessment below.

The building design is unsightly and out of character with the area

Council's Urban Design consultant reviewed the proposal and has indicated that the architectural aesthetics of the design are satisfactory.

Amended plans dated 28 November 2014

The amended plans were also notified. Submissions from the following were received:

1. *Virginia Neighbour, 18 Mount William Street, Gordon*

The submission in response to the amended plans raised the following additional issues:

Privacy

The proposed development complies with building separation requirements and privacy controls contained within the RFDC and the Local Centres DCP.

Loss of views from Pacific Highway

Minimal views are currently available from the Pacific Highway through the site given the existing development. The proposal is considered to meet the objectives of the zone.

Loss of solar access to adjoining development

The proposed development will result in some overshadowing of adjoining development however, the extent of overshadowing complies with Councils controls.

Lack of communal open space

The proposed development has been amended to make provision for three areas of communal open space on rooftops equating to approximately 1,670m² which complies with Council's controls for mixed use development.

Development has not fulfilled environmental obligations

The application has been lodged with a BASIX certificate in compliance with the provisions of the State government requirements. The application has met its obligations within the legislation.

Amended plans dated 30 June 2015

The amended plans were not required to be re-notified as the amendments did not involve greater impacts than the original proposal. Notwithstanding, a submission was received from the following:

Don Fox Planning on behalf of Sakha & Sons Pty Ltd, 860 Pacific Highway, Gordon

The submission raised the following additional concerns:

Site Isolation of 860 Pacific Highway and lack of negotiations in accordance with the DCP and case law.

It is agreed that the applicant has not adequately demonstrated that the process required under part 3 of the DCP and the established case law in relation to negotiations between property owners (with the inclusion of valuations) has occurred. The application is not supported in this respect.

INTERNAL REFERRALS

Engineering

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

Water management

The BASIX water commitments include a 28 000 litre rainwater tank, collecting runoff from the entire roof, with re-use for toilet flushing. The report confirms that a 50% reduction in runoff days will be achieved with this level of re-use.

The drawings show that only roofwater will be connected to the rainwater tank, with other stormwater directed to the detention tank. The proposed rainwater re-use and water quality measures are satisfactory and will achieve the objectives and controls in Council's Local Centres DCP.

Although invert levels are not given on the survey plan for the street drainage pits, if the stormwater line is not as deep as assumed in the design, the pipe could be lowered, since the pit opposite is deep enough. This would be at the applicant's expense and is able to be conditions if required.

Landscape Assessment have recommended conditions in relation to the relocation/ deletion of the new pits and subsoil drainage lines near the significant trees.

Traffic and parking

The total car parking provision complies with the DCP.

The gradient of the entry driveway is sufficiently gentle that it is considered that adjustments can be made when Fitzsimons Lane is widened without compromising the headroom for the small waste collection vehicle.

The traffic generation rates used in the traffic engineer's report are from the Roads and Maritime Services Technical Direction Guide to Traffic Generating Developments – Updated Traffic Surveys, dated August 2013. This publication gives traffic generation rates for high density residential flat buildings greater than six storeys and includes metropolitan regional centres, such as Chatswood and St Leonards. The morning peak hour traffic generation used is 0.19 vehicle trips per unit.

Although this site is not within 400 metres of Gordon Station (so the traffic generation would be expected to be slightly higher than 0.19), the overall findings of the traffic report, that the development would not be expected to change the operation of the surrounding intersections or adversely affect the road network, are accepted.

Waste management

The waste management plan report states that either Council or a private contractor will be engaged to collect waste from the retail component of the development. However the head clearance provided is only 3.6 metres, whereas Council's vehicle requires 4.5 metres. The recommended conditions would require a contract for internal collection of retail waste to be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Geotechnical investigation

Up to 9 metres of excavation is required to achieve basement level. The site is underlain by shale and sandstone of varying strength, generally increasing to medium below about 7 to 8 metres. The submitted geotechnical report contains recommendations for excavation methods and support, vibration monitoring and inspections. The report states that only minor seepage is expected into the excavation. A dilapidation survey of neighbouring structures could be conditioned."

Landscaping

Council's Landscape and Tree Assessment Officer commented on the proposal as follows:

Tree impacts

All existing trees and vegetation located on and within the Pacific Highway nature strip are proposed to be removed. This is acceptable as the plantings are in poor condition due to the harsh growing environment and do not have broader landscape significance.

T4 and T9 Eucalyptus saligna (Sydney blue gum) are species consistent with the critically endangered Blue Gum High Forest (BGHF) plant community. The trees are mapped as being landscape remnants (Category 5) as part of Council's Greenweb/Biodiversity mapping. The trees are proposed to be retained with minimal impact. The assessing landscape officer concurs with the arborist's assessment and recommendations, which may be conditioned.

Nominated tree removal is acceptable as the most significant trees (T4 & T9) are retained.

Basement Plan 03 2838-102(D) shows a retaining wall that spatially conflicts with T4 which is identified as being existing. The wall does not exist and should be deleted by condition. It is required that existing levels and grades be retained to minimise tree impact.

Landscape plan

Tree replenishment planting is not required within B4 zoning.

No deep soil landscape area available for canopy tree replenishment (deep soil landscape area not required) beyond area retained for T4 & T9.

The proposed planting is acceptable.

The landscape plan is inconsistent with the BASIX certificate regarding the courtyard areas for Units B0908, and B0901. It may be conditioned for the landscape plan to be amended. This would ensure consistency with the BASIX certificate.

Stormwater plan

The proposed (amended) stormwater plan is accepted. A minor amendment to the location of subsoil drainage and drainage pits within the root zone of T4 and T9 could be conditioned to reduce impacts on the tree. The proposed location of the subsoil pipe spatially conflicts with T4 and T9 and is not practical.

BASIX

Numerous landscape area commitments have been made within the BASIX certificate.

The landscape plan is inconsistent with the architectural plans regarding the private area of garden and lawn for two units. It may be conditioned for the landscape plan to be amended to be consistent with the architectural plans and BASIX certificate.

Deep soil

Not applicable for B4 mixed use zoning.

Communal open space (COS)

The KLCDCP requires 10sqm per dwelling of communal open space for the amenity of the development and facilitate social interaction. For a development of this size (144 units) a total of 1440sqm is required. The development proposes numerous communal open spaces with facilities, including roof top areas where expansive views over the Sydney basin can be viewed. The amenity of the proposed COS is acceptable on landscape grounds. The addition of fixed seating and maintenance anchorage points may be conditioned.

Erosion and sediment control plan C-13 Issue D

The plan shows proposed levels which are inconsistent with the development proposal. Levels indicated within the tree protection zone of retained significant trees are substantially lower than existing. It is required that these levels be deleted. This may be conditioned.

The plan also indicates the existence of a retaining wall adjacent to the Merriwa St and Fitzsimons Lane corner. This wall does not exist and is not proposed. It should be deleted.

Excavation plan

The plan indicates excavation and battering within the TPZ of retained significant trees (T4 and T9) which is likely to result in tree impact. It is required that apart from the removal of existing surface driveways existing ground levels remain beyond the basement footprint. It may be conditioned for the plan to be amended deleting the proposed battering to be replaced with shore piling at the basement line.

Conclusion

The application is acceptable on landscape grounds, subject to conditions.

Ecology

Council's Ecological Assessment Officer commented on the proposal as follows:

A site inspection was undertaken on 20 August 2014. During the site inspection, remnant trees were identified within the rear of the subject property.

*The remnant vegetation comprises Blue Gum High Forest (BGHF) a critically endangered vegetation type listed under the Threatened Species Conservation Act 1995. The BGHF community was primarily identified as comprising of Trees 4 & 9 Sydney blue gum (*Eucalyptus saligna*) which are located within the lower steeper front setback to Fitzsimons Lane.*

Native BGHF Trees 4 & 9 which are proposed for retention have been mapped as category 5 "Landscape Remnant" under the Town Centres KLEP DCP 2013.

DCP controls

- 1. Retain trees identified as Category 5 Canopy Remnant on the Greenweb map. (Refer to maps in 6R.1 of this Part).*

2. *Planting within land identified as Category 5 on the Greenweb map is to consist of not less than 30% locally native species. Species are to reflect the relevant vegetation communities within the area. A mix of groundcover shrubs and trees is desirable.*

Objectives

To protect smaller canopy remnants for habitat, species diversity and ecosystem services across a range of topographies.

To maintain trees for the services they provide to human well-being.

Ecological assessment

No ecological assessment (7-part test) has been provided for Blue Gum High Forest, however, noting that both Trees 4 & 9 are proposed to be retained, no such assessment is necessary.

Amended landscape plan

The amended landscape plan is considered to be satisfactory and has been prepared in accordance with controls for the category 5 “Canopy Remnant”/

A mixture of Blue Gum High Forest species as listed in the scientific determination is proposed to be planted beneath the canopy spread of Trees 4 & 9 which will result in the ecological enhance of the BGHF.

Conclusion: *The application is acceptable, subject to conditions.*

Urban design

Council's Urban Design Consultant has reviewed the application against the provisions of SEPP 65 and has provided the following comments:

Principal 1 - Context

The site is located on the south-western side of the Pacific Highway, Gordon between Ryde Road and Merriwa Street. The site is comprised of three lots being 870, 880 and 898 Pacific Highway which together have a combined site area of 6,066m². The site has a northeastern frontage of 106.38m to the Pacific Highway, a southwestern frontage of 90.445m to Fitzsimons Lane, and a southern frontage of 24.885m to Merriwa Street (from survey). The depth of the site varies from approximately 50m to 65m. The site is irregular in shape, has a steep fall from Pacific Highway to Fitzsimons Lane, and also a cross fall with the lowest point being at the intersection of Fitzsimons Lane and Merriwa Street. The site is approximately 650m walk from Gordon Station via Wade Lane.

The proposal isolates 854 and 860 Pacific Highway in terms of redeveloping for the purpose of a residential flat building. KLEPLC2012 6.5(2) requires a minimum lot size of 1,200m². 854 and 860 Pacific Highway together have an area of 875m² (RPData). However, there does not appear to be a limitation for 854 and 860 Pacific Highway in terms of redeveloping as mixed use as the sites have a primary frontage length longer than the 20m required by KLEPLC2012 6.7(2).

The issue of isolation of 900 Pacific Highway has been resolved from an urban design perspective.

A diagram (2838_705B) has been submitted which shows a potential development scheme for 900 Pacific Highway which could be generally considered to achieve an appropriate urban form in an orderly and economic manner and achieve an acceptable level of amenity in accordance with the provisions of KLEPLC2012 and KLCDCP2013. It appears that the FSR would be approximately 2.0:1 and that solar access and cross ventilation would be compliant, including taking into account neighbouring development to its north-west. The diagram, however does not show a ground floor plan that demonstrates how non-residential uses would work, nor an upper level plan that demonstrates the additional building separation required at these levels. The car park layout would also require additional design attention. However, it is considered likely that these aspects could be resolved satisfactorily, based on the approach shown in the typical floor plan. On balance, this aspect is now considered acceptable.

The issue of active uses at street level has been generally resolved from an urban design perspective. The ground level plan (2838_105D) now shows that the majority of the frontage to the Pacific Highway is occupied by retail tenancies. Only one unit (B0302) remains with its primary orientation to the Pacific Highway at ground floor which is not an ideal outcome in terms of the impact of pollution on the health of residents as the Pacific Highway will provide very poor amenity to this dwelling which can have a serious and negative impact on the health of residents (for example see Development Near Rail Corridors and Busy Roads - Interim Guide with regards to noise, vibration and pollutants, particularly 3.8.4 (p25) and 4.3.2 (p34)).

The long sandstone wall to the western end of the Fitzsimons Lane frontage remains, however this aspect was discussed at the meeting at Council (2 June 2015) and it was agreed that this aspect was acceptable in the circumstances. The uses and building design elements as shown will encourage interaction between the inside of the building and the external public areas adjoining the building. On balance, this aspect is now considered acceptable.

The issue of the quantity of non-residential uses proposed has been resolved from an urban design perspective. The retail floor space provided is now 730m² (2838_911D) which is approximately 5.7% or 1/18th of the total gross floor area. This is also a meaningful (37%) increase compared to the previous scheme in terms of the floor area provided. Whilst further retail still would be desirable, this aspect is now considered to be marginally acceptable.

Principal 2 - Scale

The issue of building height has been resolved from an urban design perspective. Block A has been reduced at its upper levels at its southern end. Block B has been reduced by one storey in height. These changes mean that the remaining breaches to the height plane are localised to the lift overruns of Block A and Block B and small areas of roof parapet near to these lift overruns (Figure 5 Statement of Environmental Effects p11). These minor breaches appear to cause only negligible overshadowing (Solar Access report diagrams p7-11) and are unlikely to be conspicuous from the public domain. This aspect is acceptable from an urban design perspective.

The issue of the length of Block B has been resolved from an urban design perspective. The central portion of Block B has been further recessed to provide more articulation and shadowing, additional material treatments have been incorporated to provide elevational variety, and the expression of the building now reads as four clear vertical bays of projecting balconies rather than a single continuous wall. This aspect is considered acceptable.

Principal 3 – Built form

The issue of providing a 4m setback to the Pacific Highway has been discussed previously. This aspect is considered acceptable. The provision of zero setback to the Pacific Highway for the car parking levels was discussed at the meeting at Council (2 June 2015) and it was agreed that this aspect was acceptable in the circumstances.

The issue of corridor width has been resolved. The corridors to the north of the plant room on Basement 1 and Basement 2 are now 1.5m wide (2838_103D and 2838_104D) which meets the minimum required by the controls. This aspect is now considered acceptable.

The issue of providing a boom gate within the car park has been resolved. A boom gate has now been shown at the bottom of the ramp at basement 3 which will successfully secure the residential car parking spaces from the residential visitor car parking spaces and car retail parking spaces (2838_102D). This aspect is now considered acceptable.

The issue of providing commercial bicycle spaces and change rooms has been partially resolved. 2 retail bicycle spaces and shower facilities have been provided at basement 3 (2838_102D). This does not meet the 3 bicycle spaces required by the controls. This aspect should be referred to Council's traffic section for comment.

The issue of providing basement knock-out panels to neighbouring sites has been resolved. Basement knock-out panels have been provided to both 900 Pacific Highway and 854-860 Pacific Highway at Basement 3 and Basement 2 without the need to remove retail and residential car spaces (however, see issue of shortfall of retail car parking spaces above). This aspect is now considered acceptable.

The issue of providing a car wash bay has been resolved. A car wash bay has been provided at Basement 3 (2838_102D). This aspect is now considered acceptable.

The issue of waste chutes has been partially resolved. The waste chutes to Block A and Block B now align with garbage rooms at Basement 3, however Block C does not appear to have waste chutes and it is unclear how waste will be managed for this building. This aspect should be verified.

The issue of letterbox location has been resolved. Letterboxes are located centrally within the ground floor communal open space (LP03B), are close to the street, and are relatively convenient to all three buildings. This aspect is now considered acceptable.

The issue of providing awnings to the retail component along Pacific Highway has been resolved. An awning is provided to Retail Tenancies 2 to 6, whilst Retail

Tenancy 1 is provided cover by the overhang of unit 0108 (2838_105D). It is noted that this overhang does not appear to be picked up on the Block A elevations (2838_211D). This aspect is now considered acceptable.

Principal 4 - Density

The issue of the proportion of mixed uses has been resolved (see Principal 1: Context). This aspect is now considered acceptable.

Principal 5 – Resource, energy and water efficiency

The issue of providing communal external clothes drying areas has been resolved. All unit types are shown as having an individual drying rack on their balconies (2838_701D through 2838_704D). This provision removes the necessity for a communal clothes drying area. Comparing the unit types to the floor plans and elevations, it appears that the majority of clotheslines will be visually concealed beyond solid balustrades or vertical screen elements. This aspect is now considered acceptable.

The issue of the building depth to Block A is considered acceptable.

Principal 6 - Landscape

The issue of communal open space provision is resolved. Large roof top terraces to each block provide good quality communal open space with ample solar access. These spaces are complemented by communal open space at ground level located centrally between the three buildings as well as communal open space at Basement 3 located at the Merriwa Street corner and associated with the existing retained trees. This aspect is considered acceptable.

The issue of the green landscaped wall to the car park facade has been discussed previously. This aspect should be referred to Council's landscape section for comment.

Principal 7 - Amenity

Taking into account the potential development scheme for 900 Pacific Highway (using the model in the SEPP 65 Amenity Compliance Report dated, 23 November 2014, p7-p11), and including those units at the top most floors which are now provided with clerestory windows, the revised plans show that 88 of 144 (61%) units now appear to achieve 2 hours direct sunlight to living rooms and private open spaces between 9am and 3pm in midwinter. This does not meet the 70% required by the controls or the RFDC Rule of Thumb (p85), however it is difficult to see how solar access could be increased without taking a significantly different approach to the overall site layout. Additional solar access may be also possible if 900 Pacific Highway were developed in accordance with the potential development scheme (as it does not have a rear wing to the northern tower)(2828_705B), or if 900 Pacific Highway did not substantially redevelop at all because it does not meet the minimum site area or primary street frontage required by KLEPLC2012. As previously discussed, with the changes made to include clerestory windows, this aspect is now considered acceptable in the circumstances.

The issue of internalised habitable rooms has been resolved. The internalised and enclosed studies to unit C0103 (and typical over) have been fully opened to the corridor enabling it to borrow light and air from the hall way and living room. This aspect is now considered to be acceptable.

The issue of natural cross ventilation has been resolved. The revised plans show that 86 of 144 (60%) units are naturally cross ventilated. Previous suggestions to improve natural cross ventilation performance have been incorporated. This aspect is now considered to be acceptable.

The issue of kitchens being adjacent to an operable window remains. The revised plans show that 28 of 144 (19%) of kitchens are immediately adjacent to an operable window (A0102, C0101, A0202, C0201, A0302, A0305, C0301, A0402, A0405, B0402, C0401, A0502, A0507, B0502, C0501, A0602, A0607, B0602, C0601, A0702, A0707, B0702, C0701, A0805, B0802, A0901, A0902, B0901). This does not meet the 25% required by the controls or the RFDC Rule of Thumb (p85). A minimum of 8 additional kitchens are required. It is suggested that clerestory windows be included, or moved directly above kitchens to units A0903, B0902, B0903, B0904, B0905, B0906, B0907, B0908. This would bring the total to 36 of 144 (25%) units which would be considered acceptable. This aspect should be addressed.

The issue of unit sizes has been resolved. 1 bedroom type C and 1 bedroom type D (2838_701D) now measure at 50.1m² and 50.3m², respectively. This meets the 50m² minimum unit size of the RFDC Rule of Thumb (p69). The room proportions have also been improved and the preferable unit layout has been adopted. This aspect is now considered acceptable.

The issue of depth of kitchens from a window has been discussed previously. One atypical unit has its kitchen 8.7m from a window (B0908)(2838_109D), however the inclusion of a clerestory window above the kitchen as suggested above would resolve the issue. This aspect should be addressed.

The issue of living room and bedroom widths has been discussed previously. This aspect is now considered acceptable.

The issue of balconies within the car park levels has been discussed previously. This aspect is now considered acceptable.

The issue of private open space has been partially resolved. All two bedroom unit balconies now meet the minimum area of 12m² at 2.4m width required by the controls. However, three podium level units (A0306, B0301, B0304)(2838_105D) do not appear to meet the minimum 25m² area at the minimum 2.4m width required by the controls, or the 4m width of the RFDC Rule of Thumb (p49). Also, the balcony of unit type 1 bedroom + study B (2838_701D) does not meet the 10m² required by the controls. These aspects should be addressed.

The issue of storage volumes has been resolved. All units now have adequate storage volumes within each unit, with the exception of some very minor shortfalls. All units have adequate, or more than adequate, storage areas within the basement levels. This aspect is now considered acceptable.

Principal 8 – Safety and security

The issue of ground floor activation along the Pacific Highway has been resolved (see Principal 1: Context).

The issue of providing security to the communal open space from Pacific Highway has been resolved. A fence and gate has been provided between Block A and Block B which secures the communal open space at the ground floor plan (LP03B). This aspect is now considered acceptable.

The issue of fire stairs egressing within the building lobbies has been partially resolved. All fire stairs now egress to open space external to the lobbies at basement 3 (2838_102D) and ground floor (2838_105D), however the level of the landing at the exit door does not always appear to be level with the ground beyond it (for instance Block C Basement 2 and 1 eastern core, and Block A northern core). This aspect should be verified.

Principal 9 – Social dimensions and housing affordability

The issue of nominating adaptable units has been resolved. The unit numbers of the 15 intended adaptable apartments are shown on the respective floor plans as well as the adaptable unit sheets (2838_711D and 2838_712D). This aspect is now considered acceptable

The issue of disabled retail car parking spaces has been resolved. 3 disabled car parking spaces have now been provided at basement 3 (2838_102D). This aspect is now considered acceptable.

*Visitable units are considered acceptable.
The issue of unit mix is considered acceptable*

Principal 10 - Aesthetics

The issue of balconies running the full length of the building facades has been discussed previously. This aspect is considered acceptable.

The issue of material selection was discussed at the meeting at Council (2 June 2015) and it was agreed that this aspect was subjective and was acceptable in the circumstances.

The issue of articulating the uppermost storey of the northern elevation of Block B and the southern elevation of Block C was discussed at the meeting at Council (2 June 2015) and it was agreed that this aspect was subjective and was acceptable in the circumstances.

Conclusion

This proposal is acceptable from an urban design perspective with minor changes and verifications. All major issues have been resolved. Minor issues that should be addressed include: percentage of naturally ventilated kitchens; the kitchen depth of unit B0908; the area and dimension of several private open spaces; and fire stair design. All of these issues could potentially be addressed through conditions of consent. Minor issues to be verified with other sections of Council include: the quantity of retail car parking; the quantity of retail bicycle parking; the method of waste disposal for Block C; and the performance of the green landscaped wall to the car park levels.

Council's Urban Design consultant is therefore satisfied with the proposal. It is agreed that the outstanding issues/verifications discussed could be resolved via conditions should the proposal be approved. It is noted that Apartments A306, B0301 and B0304 have an area of 35m² and meet the minimum dimensions of 2.4 and 4 metres.

Strategy

Council's Senior Urban Planning Officer commented on the proposal and raised issues with the following:

- *Street activation – Pacific Highway*
- *Street activation – Fitzsimons Lane*
- *Lack of through site link*
- *Isolated sites at 900, 860 and 854 Pacific Highway*
- *Amenity impacts on ground floor apartments in close proximity to Pacific Highway*
- *Adaptable apartments*

These issues are all discussed in planning and urban design comments below.

Building

Council's Building Surveyor is satisfied the proposed development would be compliant with the requirements of the Building Code of Australia and the access to premises standards, subject to conditions.

Health

Council's Environmental Health Officer has no objection to the proposal, subject to conditions.

EXTERNAL REFERRALS

Nil required

STATUTORY PROVISIONS

Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005

SREP 2005 applies to the site as the site is located in the Sydney Harbour Catchment. The Planning Principles in Part 2 of the SREP must be considered in the preparation of environmental planning instruments, development control plans, environmental studies and master plans. The proposal is not affected by the provisions of the SREP which relate to the assessment of development applications as the site is not located in the Foreshores and Waterways Area as defined by the Foreshores and Waterways Area Map.

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. 880 Pacific Highway is identified on Council's mapping system to have had potential contaminating uses on the site. The applicant has submitted a detailed site investigation report, prepared by SMEC Testing Services Pty Ltd. The report indicates that

the site has been used for commercial purposes since at least the 1930's and was redeveloped in the 1960's for the purposes of motor vehicle sales and servicing, printing, the retailing of various goods and the storage and possible manufacturing of furniture, glassware and plastic products. The report further indicates that three underground petroleum storage systems (UPSSs) have been located on the south-western portion of the site as well as washbay/workshop areas with below ground wastewater collection separators pits and above ground oil storage tanks. Testing of the site has occurred and the report has concluded (in part):

"Based on the result is of this DSI, the site is considered to be suitable for an on-going commercial/industrial use in its current condition. However, should the proposed mixed commercial and high density redevelopment proceed, the UPSSs and separator pit should be removed and the surrounding hydrocarbon impacted soil remediated."

The site is therefore required to be remediated to enable it to be suitable for the proposed use(s) which is able to be achieved via a condition of consent.

State Environmental Planning Policy (Infrastructure) 2007

The property has a frontage to a classified road, being Pacific Highway, and is within relative close proximity to the North Shore Rail Corridor. Consideration is required pursuant to Division 15 Clause 87 and Division 17 Clauses 101, 102, and 104 of the SEPP.

Clause 87 of the SEPP states:

87 Impact of rail noise or vibration on non-rail development

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:

- (a) a building for residential use,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or child care centre.*

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

To address the above requirements, the applicant has submitted an acoustic assessment, prepared by PKA Acoustic Consulting, that addressed both rail related noise and vibration. The report concludes that there are no additional acoustic treatments required to address rail noise and vibration encountered on the site. The proposal is therefore considered to be satisfactory in this respect.

The application was additionally referred to Rail Corporation New South Wales (RailCorp)

for comment. The following comments (in part) have been provided:

I refer to Council's letter received 13 June 2014 regarding the proposed development at the above address.

Rail Corporation New South Wales (RailCorp) has reviewed the proposal and asks that the following issues be addressed in the conditions for this proposed development.

1. Noise and Vibration

RailCorp is concerned that the future occupants of the development will encounter rail-related noise and vibration from the adjacent rail corridor. Rail noise and vibration can seriously affect residential amenity and comfort, jeopardise the structural safety of buildings, and thus should be addressed early in the development process.

The Department of Planning has released the document titled "Development Near Rail Corridors and Busy Roads – interim Guidelines". The document is available on the Department of Planning website.

Council is therefore requested to impose the condition of consent.

An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of planning's document titled "Development Near Rail Corridor and Busy Roads – interim Guidelines"

Should the application be approved, the above condition would form part of any consent.

Clause 101 of the SEPP states:

101 Development with frontage to classified road

- (1) *The objectives of this clause are:*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The vehicular access for the development is located on Fitzsimons Lane. As noted within comments provided by Council's Development Engineer, the overall findings of the traffic report were that the development would not be expected to change the operation of the surrounding intersections or adversely affect the road network.

Clause 102 of the SEPP states:

102 Impact of road noise or vibration on non-road development

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*
 - (a) a building for residential use,*
 - (b) a place of public worship,*
 - (c) a hospital,*
 - (d) an educational establishment or child care centre.*
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
 - (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
- (4) In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the [Roads Act 1993](#).*

To address the above requirements, the applicant has submitted an acoustic assessment prepared by PKA Acoustic Consulting. The report includes recommended construction techniques and states that the proposal will achieve the above mentioned noise guideline requirements, subject to those construction techniques. The proposal is therefore considered to be satisfactory in this respect.

The application was referred to the New South Wales Roads and Maritime Service for comment under the provisions of Clause 104 of the SEPP. The following comments have been provided.

I refer to Council's letter dated 6 June 2014 regarding the above mentioned development application (DA0180/14) forwarded to the Roads and Maritime Services (Roads and Maritime) for comment under Section 104 of the State Environmental Planning Policy (Infrastructure) 2007.

It is noted that Pacific Highway is a classified road under the care and control of Roads and Maritime. Therefore, concurrence is required for the proposed removal of the existing driveway on Pacific Highway under Section 138 (2) of the Roads Act, 1993. Roads and Maritime has reviewed the submitted application and would provide concurrence subject to the following conditions being included in any consent issued by Council.

1. Roads and Maritime previously vested a strip of land as road along part of the Pacific Highway frontage of the subject property, as shown by grey colour on the attached aerial.

Roads and Maritime has no approved proposal that requires any part of the subject property for road purposed. All buildings or structures are clear if the Highway road reserve (unlimited in height or depth) together with any improvements integral to the future use of the site.

2 The redundant driveway on Pacific Highway shall be removed and replaced with kerb and gutter to match existing.

3. The design and construction of the kerb and gutter works on Pacific Highway shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Project Services Manager, Traffic Projects Section Parramatta (telephone 8849 2138).

Detailed designs plans of the proposed kerb and gutter works are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

4. Council should ensure that post development storm water discharge from the subject site into the Roads and Maritime drainage system are to be submitted to the Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

*The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.*

A plan checking fee will be payable and a performance bond may be required before the Roads and Maritime approval is issued. With regard to the Civil Works requirements please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766

5 The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

If it is necessary to excavate below the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate

below the base of the footings. The notice is to include complete details of the work.

6. The proposed residential component of the development should be designed such that road traffic noise from Pacific Highway is mitigated by durable materials to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007. The Roads and Maritime's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

7. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.

In addition to the above, Roads and Maritime also provides the following comments to Council for its consideration in the determining of the application:

1. The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002 for heavy vehicle usage.

2. The swept path of the longest vehicle (including garbage trucks) entering and existing the subject site, as well as maneuverability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirements.

3. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

Should the application be approved the above conditions would form part of any consent.

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

A valid BASIX certificate has been submitted (Certificate number 538100M _04, dated 15 July 2015). The certificate demonstrates compliance with the provisions of the SEPP and adequately reflects all amendments to the application. As noted within the Landscape comments above, there is an inconsistency between the Landscape plan and the BASIX certificate. Council's Landscape Assessment Officer has advised that the landscape plan could be conditioned to be consistent.

State Environmental Planning Policy No. 65 - Design quality of residential flat development

SEPP 65 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.

On 23 September 2014, the Department of Planning and Environment exhibited the proposed changes to SEPP 65 which includes the refinement of the RFDC to produce an Apartment Design Guideline.

The changes to SEPP 65 were notified on the NSW legislation website on 19 June 2015, and commenced on 17 July 2015.

The changes to SEPP 65 include savings provisions. For apartment development applications lodged prior to 19 June 2015, the Residential Flat Design Code applies.

The subject application was lodged on 22 May 2014. Notwithstanding the savings provision, these amendments have been considered in the assessment of the application. The proposal is generally consistent with amended SEPP 65 and the Apartment Design Guideline, as is largely reflected in the RFDC assessment.

The following consideration has been given to the requirements of the SEPP and the Residential Flat Design Code.

Residential Flat Design Code:

The Residential Flat Design Code (RFDC) supports the ten design quality principles identified in SEPPP 65. Council's Urban Design consultant considered the development to be acceptable and the application is also considered satisfactory having regard to an assessment against the RFDC guidelines as provided in the below compliance table.

RFDC Compliance Table

	Guideline	Compliance
PART 02 SITE DESIGN		
Site Configuration		
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone (1516.5m ²); 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.	YES (27%)
<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 (1516.5m ²).	YES (1670m ² - 27%)
<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	YES

	Guideline	Compliance
	<p>range of plant sizes:</p> <p>Medium trees (8 metres canopy diameter at maturity)</p> <ul style="list-style-type: none"> - minimum soil volume 35 cubic metres - minimum soil depth 1 metre - approximate soil area 6 metres x 6 metres or equivalent. 	
<i>Safety</i>	<p>Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.</p> <p>Reinforce the development boundary to strengthen the distinction between public and private space</p> <p>Optimise the visibility, functionality and safety of building entrances</p> <p>Improve the opportunities for casual surveillance.</p> <p>Minimise opportunities for concealment</p> <p>Control access to the development.</p>	YES – Refer to planning discussion
<i>Visual Privacy</i>	Refer to Building Separation minimum standards	YES (acceptable privacy and building separation outcomes - refer to urban design comments).
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	YES
	<p>Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	YES
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six (6) metres.	YES (6.0 metres)
	Locate vehicle entries away from main pedestrian entries.	YES
PART 03 BUILDING DESIGN		
Building Configuration		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	NO (8.7 metres)
	The back of a kitchen should be no more than 8 metres from a window.	NO (8.7 metres)

	Guideline	Compliance
	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.	YES (6m)
<i>Apartment Mix</i>	Provide a diversity of apartment types, which cater for different household requirements now and in the future.	YES
<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.	YES
<i>Ceiling Heights</i>	The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired in residential flat buildings or other residential floors in mixed use buildings: 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 2.25 metres is permitted. For two storey units, 2.4 metres minimum for second storey if 50 percent or more of the apartment has 2.7 metres minimum ceiling heights.	YES (2.7m residential 4.0 metres ground floor.)
<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 relates to the desired streetscape and topography of the site.	YES (mixed use zoning – ground floor apartments with separate entries provided as appropriate to given topography and residential streetscape amenity considerations to Fitzsimons Lane to achieve required street activation).
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	YES
<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. Exceptions may be allowed: for adaptive reuse buildings	YES (refer to Urban Design comments)

	Guideline	Compliance
	<p>where developments can demonstrate the achievement of the desired streetscape character and entry response</p> <p>where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).</p>	
<i>Storage</i>	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> - studio apartments 6m³ - one-bedroom apartments 6m³ - two-bedroom apartments 8m³ - three plus bedroom apartments 10m³ 	YES (refer to Urban Design comments)
Building Amenity		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.	NO (61%)
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).	YES (9 units 6.25% maximum)
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	YES (18m maximum)
	<p>Sixty percent (60%) of residential units should be naturally cross ventilated.</p> <p>Twenty five percent (25%) of kitchens within a development should have access to natural ventilation.</p>	<p>YES (60%)</p> <p>NO (19%)</p>
Building Performance		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections	YES

	Guideline	Compliance
	provided that it is kept clear of leaves and debris.	

An assessment of the variations to the design controls identified in the compliance table is provided below.

Safety

The Residential Flat Design Code (RFDC) requires the submission of a formal crime risk assessment where a development includes more than 20 dwellings. A specific report has not been provided by the applicant, however, the architect has addressed the requirements through a SEPP 65 compliance discussion and through the plans that demonstrate areas of concealment or entrapment have been avoided, appropriate security fencing and gating has been provided and lighting would be used to assist in this respect.

Apartment layout

As noted in Council's Urban Design consultants comments, one typical unit type has kitchens that are located at 8.7 metres from a window. Council's Urban Design consultant has indicated that the addition of a clerestory window above the kitchen for each respective unit would resolve the issue by providing sufficient light to the kitchen. This issue could be conditioned should the application be approved.

Daylight access

The RFDC requires that at least 70% of units receive at least 2 hours (in dense urban areas) of direct sunlight . The proposal would result in a total of 61% of units that would receive 2 hours at midwinter to their living rooms and private open spaces. It is noted that the 61% figure includes overshadowing from a concept design for 900 Pacific Highway which is yet to be developed and that 57.8% of units will achieve 3 hours of direct sunlight at midwinter.

The applicant has argued that the rule of thumb under the RFDC (and the solar access control in the DCP) are not development standards, that the steeply sloping site being in a southerly direction results in self overshadowing, that amenity is achieved in units through protection from Pacific Highway and Northshore Rail Corridor, and that capturing expansive district views (through the southerly aspect) will create amenity for the units. The applicant has further argued that the proposal satisfies the maximum building depth, apartment layout requirements and ventilation requirements.

Council's Urban Design consultant has indicated that it would be difficult to achieve a greater percentage without taking a significantly different approach to site layout and the proposal is acceptable given the site circumstances (i.e orientation, slope and location of adjoining development/future adjoining development).

Natural ventilation

The RFDC requires that 25% of kitchens are to be immediately adjacent to a window for ventilation and light purposes. As indicated in the compliance table above, the development proposal would achieve a maximum of 19% of Kitchens that would meet this requirement. Council's Urban Design consultant has indicate that clerestory windows be added or moved directly above kitchens to units A0903, B0902, B0903, B0905,B0906,

BO907, BO908 to achieve the required 25%. This issue could be conditioned should the application be approved

Local Content

Ku-ring-gai LEP (Local Centres) 2012

Zoning and permissibility:

The site is zoned B4 Mixed Use. The proposed development is a mixed use building containing a residential flat building with commercial uses and is permissible in the zone.

Mixed use zone objectives:

The development:

- provides a mix of compatible land uses
- integrates business, office, residential, retail and other development in proximity to public transport and encourages walking and cycling through footpath upgrades, and well designed and planned bicycle facilities
- supports the integrity and viability of adjoining local centres by providing for a range of “out of centre” uses and business activities

The proposed development therefore satisfies the zone objectives.

Development standards:

Development standard	Proposed	Complies
Building height: 26.5m	30.5m	NO
Floor space ratio: 2.3:1	2.109:1	YES
Ground floor development in business zones: Applicable to development with commercial premises component: No residential and no parking at ground floor	Residential and car parking located at ground floor levels	NO
Minimum street frontage in business zones: 20m	106.38m Pacific Highway	YES

Clause 4.3 Height of buildings

The proposed development has a maximum height of 30.5 metres which exceeds the prescribed height control standard of 26.5 metres allowed for the site. The applicant has made a submission pursuant of Clause 4.6 “Exceptions to development standards” of the LEP requesting a variation to the standard. Refer to discussion under Clause 4.6 below.

Clause 4.6 Exceptions to development standards

The proposed development breaches both Clause 4.3 “Height of buildings” and 6.6 “Ground floor development in business zones” development standards contained within the LEP. The applicant has made a submission pursuant of Clause 4.6 to vary those development standards. Clause 4.6 is as follows:

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The applicant has provided justification that strict compliance with the height standard is unnecessary and unreasonable for the following reasons:

"In our view, the proposed variation to allow lift over runs to breach the maximum building height standard is justified for the following reasons: -

- The revised proposal remains consistent with the objectives of a B4 Mixed use zone in providing:*
- a variety of housing types integrated with suitable retail uses which combined will assist in maximising public transport patronage;*
- high density housing close to the Gordon Town Centre and the neighbouring Macquarie Business Park will assist in supporting the viability of both localities;*
- the contravention of the height standard does not impact on the visual privacy or create overshadowing of adjacent properties – (Note: this matter was one of Council's major concerns and considerable effort has been given to ensuring*

that loss of privacy and over shadowing do not pose an impact on neighbouring properties);

- *a development, the scale of which is considered appropriate for a site that is 6,066m² in area and is within 400m of the Gordon Town Centre.*
- *The overall floor space ratio of 2.109:1 complies with the maximum 2.30:1 under KLEP (TC) 2012*

The site is totally covered with hard paved areas and buildings with extensive excavation and basement structures - when measured against the definition of existing ground level creates a distorted ground plane which produces a 3-D building height that adversely impacts the development potential of the site.

- *The site is severely constrained by a two directional cross fall of 12.0 metres from Pacific Highway down to Fitzsimons Lane and 5.0 metres longitudinally across the site from the North West boundary to the south east boundary.*
- *The excessive slope of the land combined with the degree of excavation has created a unique situation that requires special consideration and a site - specific design solution – which has been achieved.*
- *The overall height of all 3 buildings complies with the 26.5 standard across the site - the breach in height is located in the middle of the site in part obscured by parapets, when viewed from the corner of Merriwa Street and Fitzsimons Lane – consequently, the streetscape is not adversely impacted by the non-compliances.*
- *The scale and form of the proposed development is consistent with the expected outcomes of Council's strategic aims and objectives for the locality and is a direct response to the site's topographical constraints.*
- *The proposed heights are contextually appropriate for a site of 6,066m² and presents a responsive streetscape incorporating sound urban design principles and amenity outcomes within an emerging area close to the Gordon Town Centre.*
- *The total land holdings are under the one ownership that have been consolidated over many years with the specific purpose of being redeveloped to maximise the site's strategic location on Pacific Highway, surrounded by a mixture of residential, commercial and retail uses.*
- *As demonstrated in architectural drawings prepared by Nettleton Tribe, the revised scheme maintains the required 3 hours of sunlight to buildings located on the southern side of Merriwa Street.*

The applicant has argued that the application of the height control strictly in accordance with the definition of “height” and “ground level” would be unreasonable and would result in a significantly reduced development potential that is anticipated for the site. The definition of building height is as follows:

Building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communications devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The definition of ground level (existing) is as follows:

Ground level (existing) means the existing level of a site at any point

The existing levels of the site have been highly modified through excavation to facilitate the existing development on the site. The resulting height plane calculated in accordance with the definition includes a significant vertical drop approximately halfway through the site resulting in a height plane that is significantly constraining. It is considered that strict compliance with the development standard is unreasonable in this case.

Environmental planning grounds to justify contravening the development standard

The applicant has further argued that there are sufficient environmental planning grounds to justify contravention of the development standard demonstrating that the proposal would comply with an interpolated ground line with the exception of minor breaches to a maximum of 1.295m associated with a lift overrun as demonstrated in **Figure 2.0** below, and the lack of impacts associated with the breach.

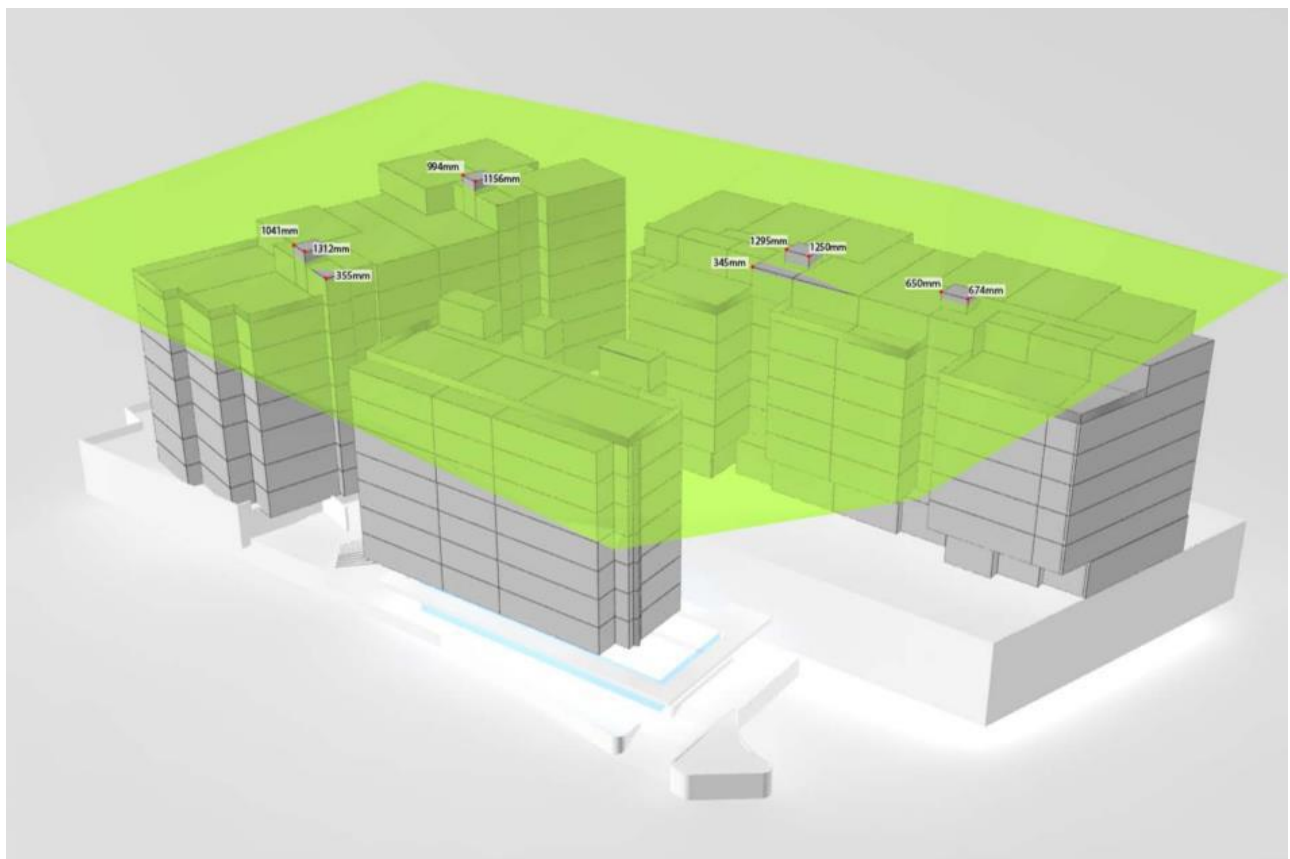


Figure 2.0 – Source – Clause 4.6 prepared by Ryan Planning, dated July 2015

It is noted that there are no discernible impacts that arise as a result of these height breaches (above the interpolated ground line or the height plane as defined by the LEP). The reasons/justification put forward by the applicant are well founded and are accepted in this case.

Public interest – Development consistent with the zone objectives and objectives of the development standard

The objectives of the Height of buildings standard are as follows:

4.3 Height of buildings

(1) The objectives of this clause

- (a) to ensure that the height of development is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai centres,*
- (b) to establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity,*
- (c) to enable development with a built form that is compatible with the size of the land to be developed.*

It is considered that the objectives of the Height of buildings development standard would be met through the proposed design and associated variation.

The objectives for the B4 Mixed Use zone are as follows:

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible and uses.*
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- To support the integrity and viability of adjoining local centres by providing for a range of “out of centre” retail uses such as bulky goods premises and compatible business activities.*

It is considered that the objectives of the zone would be met.

Concurrence of the Director General

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General’s concurrence for exceptions to development standards.

In accordance with the provisions of Clause 4.6 (5):

In deciding whether to grant concurrence, the Director General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting the concurrence.*

Whether contravention of the development standard raises any matter of significance for state or regional environmental planning

It is considered that the objectives of the height standard in the LEP are achieved and that approval of the proposed development would not raise any matters of significance for state or regional environmental planning. The proposed variation to Clause 4.3 – Height of buildings of the Ku-ring-gai (Local Centres) Local Environmental Plan 2012 has been assessed on its merits and this does not infer that future variation of this standard would be granted in any other instance unless appropriate justification can be provided.

The public benefit of maintaining the development standard

Given the nature of the proposed variation it is considered that there is minimal public benefit in maintaining the development standard having regard to the merits of this application. It is considered that no public benefit would be achieved in reducing the building height simply to achieve compliance with the stated height provision.

Any other matters required to be taken into consideration by the Director-General before granting the concurrence

All relevant State and local planning provisions have been taken into consideration in the assessment of the application prior to the granting of concurrence to the proposed variation of Clause 4.3 – Height of buildings of the Ku-ring-gai (Local Centres) Local Environmental Plan 2012.

The proposal also results in a breach of Clause 6.6 which is as follows:

- “(1) The objective of this clause is to ensure that active uses are provided at the street level in business zones to encourage the presence and movement of people.*
- (2) This clause applies to land in the following zones:*
 - (a) Zone B2 Local Centre,*
 - (b) Zone B4 Mixed Use,*
 - (c) Zone B5 Business Development.*
- (3) Development consent must not be granted to development for the purposes of commercial premises or to a mixed use development with a commercial premises component, or a change of use of a building to commercial premises, on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:*
 - (a) will not be used for the purposes of residential accommodation or a car park or to provide ancillary car parking spaces, and*
 - (b) will provide uses and building design elements that encourage interaction between the inside of the building and the external public areas adjoining the building.*
- (4) Subclause (3) (b) does not apply to any part of a building that:*
 - (a) faces a service lane that does not require active street frontages, or*
 - (b) is used for 1 or more of the following purposes:*
 - (i) a lobby for a commercial, residential, serviced apartment or hotel component of the building,*
 - (ii) access for fire services,*
 - (iii) vehicular access.”*

The objective of Clause 6.6 relates to the provision of active uses at street level. The phrase “ground floor of the building” means the floor of the building at about the street level of the building, meaning that on a sloping site the ground floor of a building can be different levels of the building at different parts of the site as is the case with the subject proposal. The proposed development includes residential, ancillary parking at ground floor levels which results in a breach of the standard.

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The applicant argues that strict compliance with the ground floor development in business zones standard is unnecessary and unreasonable for the following reasons:

As previously documented in the original application and the December 2014 revision, for several years now the owners of the site have been attempting to obtain retail tenants for the site pending approval of the subject DA. The premises at 898 Pacific Highway has been vacant since 2008 and the shop at 870 Pacific Highway has been vacant since September 2007. This reflects on the findings of the Market Assessment & Feasibility Analysis prepared by Hill PDA in May 2012 that demand for commercial sites is decreased the further away they are from the Gordon Town Centre and rail station.

- The revised proposal, which now comprises 730m² (i.e. 172% increase to what was originally proposed) of retail/commercial uses (including six (6) separate tenancies activating Pacific Highway, will provide for the orderly and economic development of the site in keeping with existing and recently approved developments on neighbouring sites;*
- The site is severely constrained by a two directional cross fall of 12.0 metres from Pacific Highway down to Fitzsimons Lane and 5.0 metres longitudinally across the site from the North West boundary to the south east boundary. These constraints are not conducive to being able to design a continuous retail strip along the Pacific Highway;*
- It is not economically viable to restrict the uses of the entire ground floors to non-residential in a development the scale of what is proposed on a site that is removed from the Gordon Town Centre;*
- The proposed retail has been strategically designed to integrate with the pedestrian ways and lobbies of each building to invite passing trade;*
- The individual floor areas of the various retail 'nodes' along Pacific Highway ranging in size from 62m²; 78m²; and 113m², are of practical size and conducive to accommodating a variety of uses, compared to providing for example, a smaller space that was only suitable to accommodating a café;*
- The development does not cause any adverse environmental impacts to neighbouring properties, and would be a welcome addition to the cafes and medical suites that have recently been approved in neighbouring developments.*

To allow residential uses to occupy selected parts of the ground floor of a mixed use development, the scale of which has been proposed, is considered justifiable for the following reasons: -

- Over the last number of years the owner/applicant has received a number of approaches from various companies and groups wishing to investigate the possible development of the site to allow for commercial or retail uses, particularly using the Pacific Highway frontage of the site. These approaches have resulted in discussions of potential development schemes, many of which were subsequently prepared to sketch stage. Each proponent has individually investigated various levels of interest in the site, from outright purchase of the site for development, to taking a lease of developed space once the development was completed.*

- *In every case, discussions were not able to be concluded as the proponents were not able to prepare a viable proposal for the site that included retail or commercial space on the Pacific Highway. Discussions were held with:*
 - *Coles, for Officeworks*
 - *Bunnings*
 - *Aldi Stores*
 - *Woolworths*
 - *Fit n Fast Health Studio*
 - *McDonalds*
 - *Coles, for Liquor Store*
 - *Yum Restaurants (KFC)*
 - *Dal Cross Hospital*
 - *Coles for mixed use*

Environmental planning grounds to justify contravening the development standard

The development has resulted in a sufficiently activated street frontage and the design is well integrated by virtue of retail uses at both Pacific Highway and Fitzsimons Lane. In terms of the 106m frontage to Pacific Highway, approximately 75 metres of this is activated with the remaining frontage area being located at either end of the building for a residential purpose. The area of this activation in part extends to approximately 30 metres into the site incorporating large communal spaces with access to these retail premises.

Approximately 55m of the 90 metres frontage to Fitzsimons lane is activated through retail uses to Fitzsimons Lane with the remaining area catering for the driveway for the development and the southwestern end of Block A which is for residential purposes. The objective of encouraging the presence and movement of people is met. Further, the development acknowledges the land dedication for lane widening and the provision of footpaths anticipated within the Ku-ring-gai Local Centres DCP.

In this regard, the development is considered to be in the public interest.

Public interest – Development consistent with the zone objectives and objectives of the development standard

The objectives of Clause 6.6 area as follows:

- “(1) *The objective of this clause is to ensure that active uses are provided at the street level in business zones to encourage the presence and movement of people.*

The proposal is considered to meet the objectives of the clause.

The objectives for the B4 Mixed Use zone are as follows:

Zone B4 Mixed Use

1 Objectives of zone

- *To provide a mixture of compatible and uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support the integrity and viability of adjoining local centres by providing for a range of “out of centre” retail uses such as bulky goods premises and compatible business activities.*

The proposal is considered to meet the objectives of the zone.

Concurrence of the Director General

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

In accordance with the provisions of Clause 4.6 (5):

In deciding whether to grant concurrence, the Director General must consider:

- (d) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (e) the public benefit of maintaining the development standard, and*
- (f) any other matters required to be taken into consideration by the Director-General before granting the concurrence.*

Whether contravention of the development standard raises any matter of significance for state or regional environmental planning

It is considered that the objectives of the ground floor development in business zones standard in the LEP are achieved and that approval of the proposed development would not raise any matters of significance for state or regional environmental planning. The proposed variation to Clause 6.6 – Ground floor development in business zones of the Ku-ring-gai (Local Centres) Local Environmental Plan 2012 has been assessed on its merits and this does not infer that future variation of this standard would be granted in any other instance unless appropriate justification can be provided.

The public benefit of maintaining the development standard

Given the nature of the proposed variation it is considered that there is minimal public benefit in maintaining the development standard having regard to the merits of this application. It is considered that minimal public benefit would be achieved in imposing a greater degree of retail/commercial space or removing residential or ancillary car parking spaces simply to achieve compliance with the stated standard.

Any other matters required to be taken into consideration by the Director-General before granting the concurrence

All relevant State and local planning provisions have been taken into consideration in the assessment of the application prior to the granting of concurrence to the proposed variation of Clause 6.6 - Ground floor development in business zones of the Ku-ring-gai (Local Centres) Local Environmental Plan 2012.

Clause 5.9 – Preservation of trees or vegetation

Council's Landscape Assessment Officer is satisfied that the proposed development will not unduly impact upon any existing significant trees or vegetation, subject to conditions. It is noted that the applicant made amendments to the plans in order to retain the two significant Sydney Blue Gums located in the southern corner of the property.

Clause 5.10 – Heritage conservation

The site does not contain a heritage item and is not in the immediate vicinity of any heritage items or within a heritage conservation area.

Clause 6.1 – Earthworks

The proposed development will not restrict the existing or future use of the site, adversely impact on neighbouring amenity, the quality of the water table or disturb any known relics. Council's Development Engineer has reviewed the Geotechnical report submitted with the application and deemed its recommendations to be satisfactory.

Clause 6.2 - Stormwater and water sensitive urban design

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per the requirements of the LEP, subject to conditions.

Clause 6.5 – Site requirements for multi dwelling housing and residential flat buildings

Clause 6.5 stipulates that:

*“Development consent must not be granted for the erection of multi dwelling housing or a residential flat building on a lot unless the lot has an area of at least 1,200 square metres and at least 1 street frontage of not less than:
(a) if the area of the lot is less than 1,800 square metres—24 metres, or
(b) if the area of the land is 1,800 square metres or more—30 metres”*

The subject site has an area of 6,066m² and a frontage of 106 metres to the Pacific Highway. The site meets the 1,200m² minimum site requirement and the 30 metres minimum frontage requirement for a residential flat building.

Clause 6.6 – Ground floor development in business zones

The development breaches the above development standard. As discussed above, a 4.6 request for an exception to the standard has been submitted and assessed as acceptable.

The objective of clause 6.6 relates this clause to the provision of active uses at street level. The phrase “ground floor of the building” means the floor of the building at about the street level of the building, meaning that on a sloping site the ground floor of a building can be different levels of the building at different parts of the site. The development, whilst providing active uses at those parts of the building that relate directly to the street, includes residential and parking uses at the ground floor of the building.

Clause 6.7 - Minimum street frontages for lots in business zones

Clause 6.7 stipulates (in part) that:

Development consent must not be granted for the erection of a building or more than 2 storeys on land in B2 Local Centre, Zone B4 Mixed Use or Zone B5 Business Development if the land does not have a primary street frontage of at least 20 metres.

The subject site meets this minimum requirement.

POLICY PROVISIONS

Policy Provisions (DCPs, Council policies, strategies and management plans)

Ku-ring-gai Local Centres Development Control Plan

COMPLIANCE TABLE		
Development control	Proposed	Complies
Volume A		
Part 3 Land amalgamation and subdivision		
Lot amalgamation is to avoid creating: A primary street frontage less than that required by KLEP (Local Centres) 2012 A lot size less than that required by KLEP (Local Centres) 2012	Street frontage and lot size less than required for 900 Pacific Highway. Lot size less than required for 860 and 854 Pacific Highway	NO
Part 8 Mixed use development controls		
8A – Site design		
8A.1 Building setbacks		
Street setback - site specific requirements as per Volume B Part 1: Pacific Highway: 4 metres Merriwa Street: 6 Metres Fitzsimons Lane: Variable based on land dedication to achieve road widening Side setback Nil required setback	0.0 metres (basement) 3.8 metres building 11 metres Plans demonstrate compliance Nil setback to eastern boundary	 NO YES YES YES YES

Party wall required for setbacks < 3m	Nil setback to western boundary (basement) 13 metres for apartments	
8A.2 Building separation		
<p>The minimum separation between residential buildings on the development sites and the adjoining sites must be:</p> <p>Up to 4th storey 12m between habitable rooms/balconies 9m between habitable rooms/balconies and non-habitable rooms 6m between non-habitable rooms</p> <p>5 to 8 storeys over the podium 18m between habitable rooms/balconies 13m between habitable rooms/balconies and non-habitable rooms 9m between non-habitable rooms</p>	<p>>12m</p> <p>>12m</p> <p>>18m</p>	<p>YES</p> <p>YES</p> <p>YES</p>
8A.3 Wind impact		
10m/second at the footpath	Awning provided to deflect wind at footpath level.	YES
8B – Access and parking		
8B.1 Vehicle and Service Access and Loading Facilities		
<p>In accordance with Volume B 1D, being:</p> <ul style="list-style-type: none"> - All access from Fitzsimons Lane or Merriwa Street - No vehicular or service access from Pacific Highway - Residential and commercial lobbies located on Fitzsimons Lane. 	Vehicle access point on Fitzsimons lane	YES
<p>Vehicle access Shared vehicle entry/exit point for different uses and secure and separate parking between uses</p>	Shared access point from Fitzsimons Lane and parking spaces allocated between uses.	YES
<p>Service access Enter and exit in a forward direction Waste access to have 4.5m finished ceiling height for the path of travel of waste vehicle for commercial/retail and 2.6m for residential</p>	Compliant (as per Development Engineer comments).	YES

Loading facilities Internal loading facilities to be provided. Loading docks must not be visible public streets. Access and manoeuvring in accordance with AS2890.2	Loading facility accessible off Fitzsimons Lane entry. Access & manoeuvring compliant.	YES
8B.2 Car parking provision		
Design All parking to be within basement.	All parking is within the basement.	YES
Car parking shall not project above the finished ground level for active street frontages (Fitzsimons Lane) and <1m for supporting frontages (Pacific Highway)	No projection within active frontage setback areas	YES
Car parking to comply with AS2890.1	Compliant	YES
Floor to ceiling heights for any above ground parking must be 3m to allow for change of use.	3.1m	YES
Car parking rates	Refer Development Engineer comments above.	YES
8B.3 Bicycle parking and support facilities provision		
-		YES
Residential - A minimum of 1 bicycle space per 5 units shall be provided within the residential car park area (29 spaces) - A minimum of 1 bicycle space per 10 units shall be provided for visitors in the visitor car park area (15 spaces) -	30 15	YES YES
Retail and Commercial 1 bicycle locker per 600m ² of GFA for Staff (2) 1 bicycle parking space per 2500m ² GFA for visitors (1)	2	NO –compliance may be conditioned
8C – Building design and sustainability		
8C.1 – Solar access		
A minimum of 70% of apartments in each building must receive at least 2 hours direct sunlight to living rooms	61%	NO

and adjacent private open space between 9am and 3pm on 21 June		
A minimum of 50% of the common open space for residents use must receive direct sunlight for 3 hours between 9am and 3pm on 21 June	YES more than 50% provided	YES
The number of single aspect apartments with a southerly aspect (SW to SE) is limited to 10% of the total number of apartments proposed in each building.	The proportion of single aspect units with a southerly aspect is 6.25%.	YES
All developments must allow the retention of 3 hours sunlight between 9am and 3pm on 21 June to living areas and the principal portion of the private and communal open space of residential development on adjoining lots.	More than 3 hours provide to 8-14 Merriwa Street	YES
Developments must allow the retention of a minimum 4 hours direct sunlight to all existing neighbouring solar collectors and solar hot water services	No impact on neighbouring solar collectors and solar hot water services.	YES
All developments must utilise shading and glare control	Shading devices are proposed.	YES
8C.2 – Natural ventilation		
All habitable rooms are to have operable windows or doors	Operable windows and doors provided.	YES
At least 60% of apartments must have natural cross ventilation	60%	YES
At least 25% of kitchens are to be immediately adjacent to an operable window	19%	NO
Cross ventilation is not to be dependent on skylights or open corridors where it would impact on privacy	No privacy impacts.	YES
Office workspaces to have operable windows to 30% of window area	No offices proposed	YES
Dual aspect commercial workspaces to be provided where possible	Yes	YES
Where natural ventilation cannot be achieved, mechanical ventilation is to be provided to commercial workspaces	Natural ventilation achieved.	YES
8C.3 – Office floor depth		
Internal plan depth for office floors to	9.6m	YES

be 10m maximum from glass to internal face of wall		
Maximise opportunities for external openings – access to daylight and views	Yes	YES
8C.4 – Apartment depth and width		
Dual aspect apartments are to have a maximum internal plan depth of 18m from glass line to glass line	18m (max)	YES
Single aspect apartments are to have a maximum internal plan depth of 8m from glass line to internal face of wall of habitable area	8.7m	NO
The width of dual aspect apartments over 15m deep must be 4m or greater to avoid deep narrow apartment layouts	6m or less	YES
All kitchens must not be located more than 8m to the back wall of the kitchen from an external opening	8.7m	NO
8C.5 – Apartment mix and sizes		
A range of apartment sizes and types must be included in the development	An acceptable mix of 1 bedroom to 3 bedroom apartments are proposed.	YES
One bedroom and studio apartments are to have a minimum floor area of 50m ²	50.1m ²	YES
Two bedroom apartments are to have a minimum floor area of 70m ²	70.32m ²	YES
Three bedroom apartments are to have a minimum floor area of 90m ²	100.1m ²	YES
A mix of 1, 2 and 3 bedroom apartments are to be provided on the ground level	1, 2 and 3 bedroom apartments provided on the ground level.	YES
At least one apartments for each ten apartments is to be designed as adaptable housing Class C	10% adaptable apartments provided.	YES
At least 70% of apartments in the development are to be visitable	78% visitable apartments provided.	YES
8C.6 – Room sizes		
Living areas in apartments with two or more bedrooms are to have living areas with a minimum internal plan dimension of 4m	>4m	YES

Living areas in one bedroom apartments are to have a minimum internal plan dimension of 3.5m	>3.5m	YES
Bedrooms in one and two bedroom apartments must have minimum internal plan dimension of 3m (excluding wardrobes)	>3m	YES
In apartments with three or more bedrooms at least two bedrooms are to have minimum internal plan dimension of 3m (excluding wardrobes)	>3m	YES
Built in wardrobes are to be provided to all studio apartments, to all bedrooms in one and two bedroom apartments and to at least two bedrooms in apartments of three or more bedrooms	Built in wardrobes provided as required.	YES
Living areas in apartments with two or more bedrooms are to have living areas with a minimum internal plan dimension of 4m	>4m	YES
8C.7 – Building entries		
Buildings must address the street either: with main entrances to lift lobbies directly accessible and visible from the street; or with the path to the building entry readily visible from the street where site configuration is conducive to having a side entry.	YES	YES
Buildings with facades over 18m long must have multiple entries.	All blocks have multiple entries	YES
Building entry must be integrated with building facade design. At street level, the entry is to be articulated with awnings, porticos, recesses or projecting bays for clear identification.	YES	YES
All entry areas must be well lit and designed to avoid any concealment or entrapment areas. All light spill is prohibited.	The entry area does not contain concealment or entrapment areas. Light spill will be minimised by the arrangement of building form.	YES
Lockable mail boxes must be provided close to the street. They must be at 90 degrees to the street and to Australia Post standards and integrated with front fences or building entries.	Mailboxes are suitably located.	YES

8C.8 – Internal common circulation		
The design of internal common circulation space must comply with the provisions in AS1428.1 and AS1428.2 to provide adequate pedestrian mobility and access.	An access report which demonstrates compliance with the standards has been provided.	YES
All common circulation areas including foyers, lift lobbies and stairways must have: <ul style="list-style-type: none"> i) appropriate levels of lighting with a preference for natural light where possible; ii) short corridor lengths that give clear sight lines; iii) clear signage noting apartment numbers, common areas and general direction finding; iv) natural ventilation; v) low maintenance and robust materials. 	Appropriate lighting, sight lines, way finding, ventilation and materials to be available to lift lobbies and foyers.	YES
Where artificial lighting is required energy efficient lights are to be used in conjunction with timers or daylight controls.	This issue is addressed by the BASIX certificate.	YES
All single common corridors must: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	Max 5 apartments 1.5m minimum corridor width 1.8m at lift lobbies	YES
8C.9 – Roof forms and podiums		
Upper storey must be articulated with differentiated roof forms	The upper storeys are sufficiently articulated (level 4 and above) with differentiated roof forms to minimise visual impacts.	YES
Service elements to be integrated into the design of the roof	Sufficiently integrated	YES
Roof design must respond to solar access	The roof design maintains solar access.	YES
8C.10 – Communal open space		
At least 10m ² per dwelling must be provided as communal open space (1440m ²)	1670m ²	YES
A single parcel of communal open space with a minimum area of 80m ² , minimum dimensions of 8m and 2 hours solar access to 50% of the space on 21 June must be provided	Sufficient parcel provided	YES
Shared facilities such as BBQs,	BBQ facilities, shade	YES

shade structures, play equipment and seating are to be provided in the communal open space	(communal room) and seating provided.	
Access for people with a disability must be provided to communal open space	Access provided to all communal open space areas.	YES
8C.11 – Private open space		
Ground floor and podium apartments are to have a terrace or private courtyard with a minimum area of 25m ²	25-35m ² .	YES
All apartments not at the ground floor or podium level are to include private open space with a minimum area (internal dimension) of:: - 10m ² – 1 bedroom apartment - 12m ² – 2 bedroom apartment - 15m ² – 3 bedroom or larger apartment	10m ² 12m ² 15m ²	YES
The primary outdoor open space must have a minimum dimension of 2.4m	2.4m	YES
The primary private open space is to have direct access from the main living areas	Private open spaces are accessed from the main living area.	YES
Private open space for ground and podium level apartments is to be differentiated from common areas by: A change in level Screen planting, such as hedges and low shrubs A fence wall to a maximum height of 1.8m, any solid wall component is to be a maximum height of 1.2m with 30% transparent component above plus gate to the common area	Changes in level, planting and fencing are used to differentiate ground level private open space from common areas. Planter boxes are proposed to a height of 1.2 metres at ground floor level.	YES
8C.12 Building facades		
For building façade street wall controls for mixed use buildings in urban precincts (precinct G4), refer to Volume B Part 1D.3.	The proposal accords with the building setbacks and public domain outcomes of Volume B Part 1D.3 (Refer Part 8A.1 as above).	YES
Built form (1D.4)- Provide active frontages to Fitzsimons Lane and Pacific Highway where ever possible.	YES	YES
Public domain (1D.5)– Provide a new pedestrian accessway linking Fitzsimons Lane and Pacific Highway.	Through site link not provided	NO

The continuous length of a residential building over the podium facing the street or public domain must not exceed 36m.	59 metres Block B	NO
Street, side and rear building facades must be modulated and articulation with wall planes varying in depth by not less than 0.6m. Defined base, middle and top. Expression of varied floor to floor height. Location of openings to reflect the rhythm and expression of uses within the building.	The development is well articulated. Refer to urban design comments.	YES
Buildings must be designed to incorporate solar protection elements, and must be co-ordinated and integrated with façade design.	The building outcome achieves these measures. Refer to urban design comments.	YES
Air conditioning units must not be located on the building façade or within the private open space.	Air conditioning units locations are not nominated however plant rooms are nominated within basement areas.	YES
Balconies that run the full length of the building façade are not permitted.	Balconies are adequately treated aesthetically.	YES
Balconies must not project more than 1.2m from the outermost wall of the building façade.	Balconies are integrated into the building design	YES
Windows to a habitable room are to be situated to encourage opportunities for passive surveillance to the site and on site areas surrounding the building.	Windows to a habitable room are located to provide for passive surveillance to the site and on site areas surrounding the building.	YES
8C.13 – Corner building articulation		
<p>Street corners must be emphasised by accentuating parts of the building façade, through:</p> <ul style="list-style-type: none"> i) changes in height, colour or facade materials; ii) change in building articulation; iii) facade orientation; iv) change in roof expression; v) splayed setbacks or curves; vi) corner entries. <p>Corner buildings are to address both street frontages.</p>	The site is not a corner site, although has dual frontages. The proposal articulates all street frontages. The building has a sense of address from all frontages. Refer to urban design comments.	YES
8C.14 – Ground commercial uses		

Buildings on principle active street frontages must provide facades that address the street and public domain with appropriate façade treatments at street level.	The development is acceptable having regard to street activation, and addresses the street and public domain on all frontages as far as practicable given topographical constraints.	YES
8C.15 – Awnings		
Continuous awning must be provided to the full length of the principal active street frontage. Provide awnings along the supporting active street frontages (including mixed use buildings in R4 zones) wherever practical, especially at key pedestrian entrances.	Awnings are provided at building entries and with retail uses along active frontages.	YES
8C.16 – Colonnades		
All colonnade spaces must be within the property boundary. Colonnades are to have a height/width ratio no less than 1.5:1, a minimum width of 2.4m, and a minimum soffit height of 3.6m.	Colonnades are not proposed as part of the development.	YES
8C.17 – Internal ceiling heights		
The minimum ceiling heights are to be: i) 3.3m for ground floor; ii) 3m for first floor commercial or residential uses; iii) 2.7m for residential use or 3m for commercial uses on all other floors	4.0 metres ground floor 2.7 metres residential	YES YES
8C.18 – Visual privacy		
Buildings must be designed to ensure privacy for residents of the development and of the neighbouring site. The use of offset balconies, recessed balconies, vertical fins, solid and semi-transparent balustrades, louvres/screen panels and planter boxes is encouraged.	Privacy for residents of the development and neighbouring sites has been suitably achieved through the use of measures including: <ul style="list-style-type: none">- recessed balconies- 1.8m high timber screens are between courtyards/balconies- 1.2m high planter boxes to private open spaces- 1.8m high fencing to separate private open spaces from pedestrian through link	YES

Privacy for ground floor apartments should be achieved by the use of a change in level and/or screen planting.	Changes in level, fencing and landscaping used to achieve privacy for ground floor units.	YES																					
Continuous transparent balustrades are not permitted to balconies or terraces for the lower 3 storeys.	No continuous transparent balconies across the facades.	YES																					
Screening between apartments must be integrated with the overall building design.	Screening devices are integrated into the design of the building.	YES																					
Landscaped screening must be provided to adjoining sites.	Landscaped deep soil planter zones are provided adjacent to the site's eastern and western side boundaries to facilitate suitable screen planting.	YES																					
8C.19 – Acoustic privacy																							
<p>The maximum LAeq (1 hour) noise levels of any development must not exceed the levels as set out in Table 8C.19-1, when measured at the window of a habitable room within a residential occupancy and in any case not more than 5 dB(A) above the background level during the day and evening and not exceeding the background level at night.</p> <table> <tr> <td><i>Time of day</i></td><td><i>Maximum noise level - Windows open</i></td><td><i>Maximum noise level - Windows closed</i></td></tr> <tr> <td>Day</td><td>55 dB(A)</td><td>45 dB(A)</td></tr> <tr> <td>Evening</td><td>50 dB(A)</td><td>40 dB(A)</td></tr> <tr> <td>Night</td><td>45 dB(A)</td><td>35 dB(A)</td></tr> <tr> <td></td><td>bedrooms only</td><td>bedrooms only</td></tr> <tr> <td></td><td>50 dB(A)</td><td>40 dB(A)</td></tr> <tr> <td></td><td>living areas</td><td>living areas</td></tr> </table>	<i>Time of day</i>	<i>Maximum noise level - Windows open</i>	<i>Maximum noise level - Windows closed</i>	Day	55 dB(A)	45 dB(A)	Evening	50 dB(A)	40 dB(A)	Night	45 dB(A)	35 dB(A)		bedrooms only	bedrooms only		50 dB(A)	40 dB(A)		living areas	living areas	<p>An acoustic impact assessment has been provided in support of the proposed development. The development will comply with the expected acoustic privacy requirements.</p>	YES
<i>Time of day</i>	<i>Maximum noise level - Windows open</i>	<i>Maximum noise level - Windows closed</i>																					
Day	55 dB(A)	45 dB(A)																					
Evening	50 dB(A)	40 dB(A)																					
Night	45 dB(A)	35 dB(A)																					
	bedrooms only	bedrooms only																					
	50 dB(A)	40 dB(A)																					
	living areas	living areas																					
8C.20 – Late night trading																							
Development for late night trading premises must be designed to minimise the impacts of noise production on nearby and adjoining premises	No late night trading proposed.	YES																					
8C.21 – Apartment storage																							
<p>Storage space shall be provided at the following minimum volumes:</p> <ul style="list-style-type: none"> - 6m³ for studio and one bedroom apartments 	Storage provision complies with these requirements through the provision of 178 lockers and internal storage	YES																					

<ul style="list-style-type: none"> - 8m³ for two bedroom units - 10m³ for two bedroom units - 12m³ for units with three or more bedrooms <p>At least 50% of the required storage space must be provided inside the apartment.</p>	areas.	
8C.22 – External air clothes drying facilities		
Each apartment is required to have access to an external air clothes drying area, e.g. a screened balcony, a terrace or common area.	External clothes drying located in screened locations on balconies	YES
External air clothes drying areas must be screened from public and common open space areas.	All external clothes drying areas are screened from public and common open space areas.	YES

Volume A

3A.1 Land amalgamation

Amalgamation of 870-898 Pacific Highway would result in 860, 854 and 900 Pacific Highway not achieving a minimum site area of 1200m² or a minimum frontage of 24 metres (on 900 Pacific Highway) which is required to facilitate a residential flat building or a mixed use development including a residential flat building use on those sites through the Local Centres LEP. Those sites are therefore isolated.

The above control of the DCP stipulates (in part) the following:

- 6 Where a development proposal results in an isolated site, as described in 4 above, the applicant must demonstrate that:*
- i) Negotiations between the owners of the lots have commenced prior to the lodgement of the development proposal. Where a satisfactory result cannot be achieved the development proposal should include details of the negotiations, demonstrating that a reasonable offer has been made to the owner of the isolated site: and*
 - ii) Both the isolated site and the development site can be orderly and economically developed in accordance with the provisions of KLEP (Local Centres) 2012 and this DCP, including*
 - Achieving an appropriate urban form for the location, and*
 - Having an acceptable level of amenity.*

Note: *A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*

In relation to 3A. 6 i), the applicant has indicated that discussions were held with Real estate agents representing 860 Pacific Highway, however, the purchase price was financially unrealistic and negotiations did not proceed.

The applicant has further provided a letter, dated 24 November 2014, indicating that discussions were held with the property owners of 900 Pacific Highway in April 2009 whereby the owner of that site indicated they were not interested in selling the property. The information has not provided any responses from those affected property owners.

The application has not provided sufficient evidence of negotiations or that reasonable offers including independent valuations were made/undertaken in accordance with the control. The application is therefore unacceptable in this respect.

It is acknowledged that concept plans have been provided for both 900 Pacific Highway and an amalgamated 860-854 Pacific Highway, however, when considering the above clause construction, 6 i) must be fulfilled before 6 ii) can be considered.

8A.1 Building setbacks

The proposed development has a non-compliance with the front setback provision relating to Pacific Highway. The DCP requires that a 4 metres setback be provided to Pacific Highway. The proposal includes a basement which maintains a zero building line setback. The applicant has provided justification in that the basement is below ground does not prohibit the planting of vegetation (as the area is meant to be an active zone to encouraging and around the retail premises) and is not visible from the public domain. The applicant's arguments are accepted.

The proposal has a further non-compliance in that retail shop 3 (at its norther corner) has a setback of 3.8 metres. The non-compliance is considered to be very minor and would not result in any discernible impacts.

8C.1 – Solar access

The non-compliance with solar access provisions has been addressed above under the SEPP 65 and Residential Flat Design Code assessment.

8C.2 – Natural ventilation

The non-compliance with natural ventilation relating to kitchen locations has previously been addressed above under the SEPP 65 and Residential Flat Design Code assessment.

8C.4 – Apartment depth and width

The non-compliances associated with the depth of single aspect apartments being greater than 8 metres and the back of kitchens being greater than 8 metres from a window have been addressed above under the SEPP 65 and Residential Flat Design Code assessment.

8C.12 Building facades

The above mentioned control of the DCP stipulates that building facades are not to be longer than 36 metres. Block B has a façade length above the podium of 58 metres. This issue was raised with the applicant who in turn made amendments. As noted above, Council's Urban Design consultant has commented upon this issue as follows:

“The issue of the length of Block B has been resolved from an urban design perspective. The central portion of Block B has been further recessed to provide more articulation and shadowing, additional material treatments have been incorporated to provide elevational variety, and the expression of the building now reads as four clear vertical bays of projecting balconies rather than a single continuous wall. This aspect is considered acceptable.”

Volume B

The site is within the Gordon Centre Urban Precinct. The relevant provisions of Volume B Part 1D Gordon Local Centre are addressed within the mixed use development compliance table above as many aspects the development controls overlap with the exception of the following:

1D.2 Local Centre Community Infrastructure

The proposed development is to be designed to support and compliment the provision of Key Community Infrastructure. Specifically, to facilitate the reconstruction of Fitzsimons lane to be 15 metres wide and include footpaths on both sides, as well as on street parking. The applicant has nominated a land dedication of approximately 450m² to achieve the 15 metres requirement for the lane widening on the plans and has all proposed structures (except required driveway crossover) outside of this area. The applicant has further requested that Council enter into a voluntary planning agreement (VPA) to facilitate the land dedication. This process is on-going.

1D.5 Local Centre Public Domain and Pedestrian Access

The above mentioned control of the DCP requires a new pedestrian access way through the site. The applicant has not provided the through site link on the basis that a through site link was provided with the recently approved development at 904-914 Pacific Highway and a second link exists at 924 Pacific Highway. The applicant further argues that Merriwa Street already provides adequate pedestrian access and permeable around the local centre to Pacific Highway from Fitzsimmons Lane. The applicant's arguments are accepted.

Part 2 – Site design for water management

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per the requirements of the DCP, subject to conditions.

Part 3 – Land contamination

A site investigation report has been submitted with the application and the site is deemed suitable for the proposed development subject to remediation. The proposal is satisfactory having regard to land contamination as discussed above in relation to the provisions of SEPP 55.

Volume C

Part 1 – Site design

This part relates to earthworks and landscape design.

The proposed development incorporates earthworks, particularly those needed to accommodate the basement car parking. These works are effectively integrated into the natural topography of the site and are consistent with the requirements of this part.

Additionally, the landscaping works of the proposed development will complement the character of the surrounding area. The plantings are sited in a manner that will achieve amenity for the users of the site and neighbouring properties.

Part 2 – Access and parking

Access and parking aspects of the proposed development are acceptable as discussed above by Council's Development Engineer.

Part 3 – Building Design and Sustainability

The proposal satisfies the relevant provisions of building design and sustainability. The following considerations are noted in particular:

- 3.4 – Waste Management

A waste management plan prepared in accordance with the DCP has been submitted and is acceptable.

- Part 3.5 and 3.6 – Acoustic privacy and visual privacy

The applicant has submitted an acceptable acoustic impact report, detailing the measures to be implemented to protect resident amenity from noise sources both on and off the site. Council's Environmental Health Officer has no objection to the development having regard to acoustic privacy, subject to conditions that would require compliance with the recommendations in the submitted report.

The visual privacy impacts of the development have been assessed having consideration of the controls set out under SEPP65 and LEP (Local Centres) 2012 and the underlying DCP. Any likely impacts are acceptable in this regard.

- Part 3.7 – Materials, finishes and colours

The applicant has submitted a materials and finishes board. The proposed materials and finishes to be used are acceptable.

Part 4 – Water management

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per the requirements of the DCP, subject to conditions.

Part 5 – Notification

The application has been notified in accordance with the requirements of the DCP. The submissions received are addressed above.

Section 94 Development Contributions Plan 2010

The development would attract a section 94 contribution should it be approved.

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and are deemed to be unacceptable based on resulting isolated sites.

SUITABILITY OF THE SITE

The site is considered to be suitable for a mixed use development however, the application has not adequately demonstrated that the process required for addressing isolated sites has been undertaken.

ANY SUBMISSIONS

All submissions received have been considered in the assessment of this application.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by Council ensuring that any adverse impacts on the surrounding area are minimised. The proposal has been assessed against the relevant environmental planning instruments and policy provisions and is deemed unsatisfactory in its current form.

The proposed development is not considered to be in the public interest as the development of the site would result in isolated adjoining sites as defined in the DCP.

CONCLUSION

This application has been assessed under the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies. The proposal would result in the isolation of adjoining sites and the applicant has not demonstrated that the correct process as required by the DCP has been undertaken.

RECOMMENDATION

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, refuse development consent to DA0180/14, for the demolition of the existing structures and construction of a mixed use development containing 3 buildings, 144 residential apartments, retail space, basement parking and landscaping works, on land at 870-890 Pacific Highway, Gordon, for the following reasons:

1. Site isolation of 860, 854 and 900 Pacific Highway, Gordon

Particulars

(a) The proposed development and amalgamation of 870-890 Pacific Highway would result in 900, 860 and 854 Pacific Highway not achieving a minimum site area of 1200m² and consequently hinder any reasonable redevelopment for residential flat building use or a mixed use including a residential flat building on those sites consistent with the B4 Zoning.

(b) The proposed development and amalgamation of 870-890 Pacific Highway would result in 900 Pacific Highway not achieving a minimum frontage of 24 metres and consequently hinder any reasonable redevelopment for residential flat building use or a mixed use including a residential flat building on that site consistent with the B4 Zoning.

(c) It has not adequately been demonstrated that the process required under 3A.1 “Land Amalgamation” of the DCP relating to the adjoining properties at 860, 854 and 900 has been undertaken. Specifically, there is no evidence that negotiations have taken place or that a reasonable offer including independent valuations were made/undertaken in accordance with the control.

(d) Submissions have been received on behalf of the property owner of 860 Pacific Highway raising concern that no negotiations have taken place in accordance with the 3A.1 of the DCP and that their site would become isolated.

Grant Walsh
Executive Assessment Officer

Richard Kinninmont
Team Leader Development Assessment

Corrie Swanepoel
Manager Development Assessment

Michael Miocic
Director Development and Regulation

Attachments:

1. Location sketch
2. Ku-ring-gai Planning Scheme Zoning Extract
3. Architectural plans
5. Landscape plans
6. Stormwater management plans
7. Basix certificate
8. Clause 4.6 variation submission