

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-28
DA Number	DA.255/19
LGA	North Sydney
Proposed Development	Demolition of existing buildings, excavation, and construction of a part 4 part 6 storey residential flat building.
Street Address	147, 151 and 153 Kurraba Road, Kurraba Point
Applicant/Owner	Thirdi Kurraba Pty Ltd / Multiple Owners (SP129, SP400586, and SP22851)
Date of DA lodgement	26 August 2019
Number of Submissions	Original Plans: 134 (58 Object, 76 Support) Amended Plans: 75 (33 Object, 42 Support)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Capital Investment Value (CIV) exceeds \$30 Million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • SREP (Sydney Harbour Catchment) 2005 (Site is located within the Sydney Opera House Buffer Zone – Clause 58A of the SREP) • SEPP (Infrastructure) 2007 • SEPP (State and Regional Development) 2011 • SEPP No. 55 – Remediation of Land and draft Remediation SEPP • SEPP No.65 – Design Quality of Residential Apartment Development) • SEPP (Building Sustainability Index – BASIX) 2004 • SEPP (Vegetation in Non-Rural Areas) 2017 • Draft SEPP (Environment) • North Sydney Local Environmental Plan 2013 • North Sydney Development Control Plan 2013 • Apartment Design Guide • Sydney Harbour Foreshores and Waterways Area DCP 2005
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans and Landscape Plans • Recommended Conditions of Consent – Appendix 1 • View Loss Assessment (<i>Tenacity</i>) – Appendix 2
Report prepared by	Lisa Kamali, Senior Assessment Planner
Report date	24 February 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

EXECUTIVE SUMMARY

This development application seeks consent for the demolition of existing buildings, excavation, and construction of a part 4 part 6 storey residential flat building with associated landscaping.

The subject site is zoned R4 (High Density Residential) where residential flat buildings are permissible with consent of Council, and the development would provide for additional housing in the Kurraba Point South Neighbourhood, where the desired future character includes residential flat buildings.

The proposal will involve significant excavation however the site sits upon sandstone and the submitted Geotechnical Investigation did not identify any specific areas of geotechnical concern, and subject to a number of conditions the development can be safely executed with minimal likelihood of adverse impacts on the structural integrity of neighbouring land and buildings.

The proposed scale and massing of the development is considered satisfactory in the site context, and the stepped placement of the building mass around a central courtyard has been designed to ensure reasonable view sharing. Compliance with key controls including building height and site coverage is achieved, and where there are non-compliances with building separation and setback controls these are assessed as acceptable in the site circumstances and are unlikely to result in unreasonable amenity impacts for neighbours.

The architectural design and materiality of the development is suitable in the context, and the dark brick facade and curved bays will complement the character of the area which includes a number of inter-war and Art Deco buildings. The proposed external materials are considered high quality and durable.

The development provides for compliant vehicle and cycle parking within the site, and the increase in vehicle movements resulting from this development is unlikely to compromise traffic and parking conditions around the site. Temporary traffic impacts during construction can be managed via a detailed Construction Management Program to be approved by Council's Traffic Committee.

The proposal will require the removal of several trees from the site, however these generally have low retention values, and the landscaping scheme provides for substantial replenishment planting within compliant deep soil zones.

The original application attracted 143 submissions (76 support and 58 object). The key issues raised by objectors included view loss, loss of visual and acoustic privacy, impacts on traffic and parking around the site, the location and extent of excavation, the potential impacts of the proposed excavation on structural stability of surrounding buildings and land, tree removal and potential impact on trees to be retained, excessive scale and bulk, and concern that the existing buildings may have heritage significance and the design and external appearance of the development is not suitable in the site context. The amended application attracted 74 submissions (42 support and 34 object). The key issues raised by objectors were the same or similar to those raised following notification of the application in its original form. The issues raised in the submissions have been considered in the assessment of the application, and appropriate conditions have been recommended where necessary to address the issues raised.

On balance, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and is therefore recommended for **approval** subject to conditions.

DESCRIPTION OF PROPOSAL

This application seeks approval for the following works:

- Demolition of the existing buildings and structures;
- Removal of seven (7) trees from within the site ranging from five (5) to eight (8) metres in height;
- Site preparation works including significant excavation and removal of a sandstone block wall fronting Kurrraba Road, along with the removal of seven trees from the site;
- Construction of a part four (4), part six (6) storey residential flat building comprising 25 apartments;
- Three (3) basement levels accessed via a ramp, accommodating 41 car parking spaces, bicycle parking, storage areas for the apartments, waste facilities, services, and plant, and;
- Provision of ground level and rooftop communal outdoor space, and two large private roof terraces, each with a swimming pool.

The proposed external materials include a textured brown/red brick façade (specifically Bowral Shorthorn Mix with dark mortar), brass details, flat bar metal balustrades, and curved operable glazing.

The application is accompanied by a comprehensive landscaping scheme which includes a number of mature replenishment trees.



Figure 1: Photomontage of proposed southern elevation seen from Hodgson Lookout Park



Photo 1 – Existing view of the site looking north from Hodgsons Lookout (192B Kurraba Road on right)

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – R4 High Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (Hodgsons Lookout Park, Kurraba Point Reserve)
- Conservation Area - No

Section 7.11 Contribution

Environmental Planning & Assessment Act 1979 (as amended)

SREP (Sydney Harbour Catchment) 2005 (Site is located within the Sydney Opera House Buffer Zone – Clause 58A of the SREP)

SEPP (Infrastructure) 2007

SEPP (State and Regional Development) 2011

SEPP No. 55 – Remediation of Land and draft Remediation SEPP

SEPP No.65 – Design Quality of Residential Apartment Development)

SEPP (Building Sustainability Index – BASIX) 2004

SEPP (Vegetation in Non-Rural Areas) 2017

Draft SEPP (Environment)

Local Development

POLICY CONTROLS

North Sydney DCP 2013

- *Section 1 – Residential Development (for the proposed dwellings)*
- *Section 10 – Car Parking and Transport*
- *Section 11 – Traffic Guidelines for Development*
- *Section 13 – Heritage and Conservation (Heritage Impact Statement to address)*
- *Section 14 – Contamination and Hazardous Building Materials*
- *Section 18 – Stormwater Management*
- *Section 19 – Waste Minimisation and Management*

Apartment Design Guide

Sydney Harbour Foreshores and Waterways Area DCP 2005

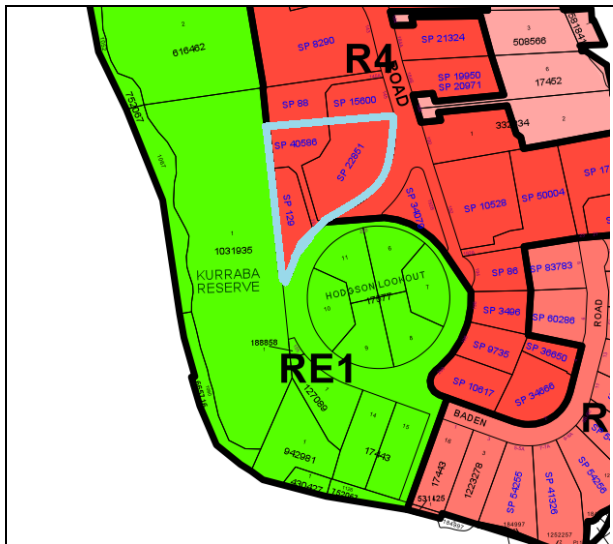


Figure 2: Land Zoning Map

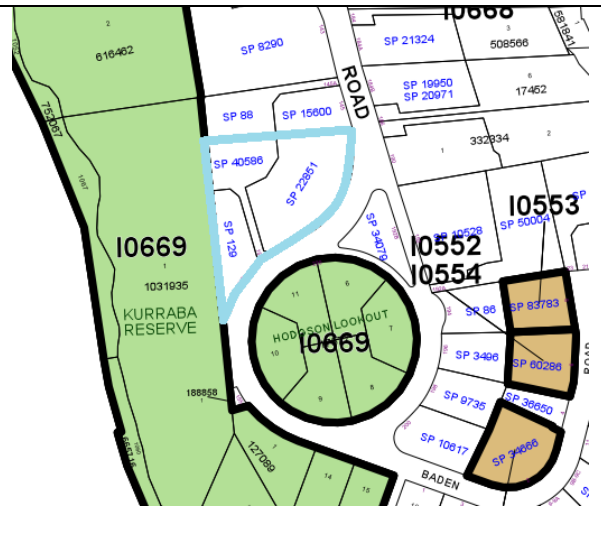


Figure 3: Heritage and Conservation Map

DESCRIPTION OF LOCALITY

The site is legally described as SP 129, SP 400586, and SP 22851 and is known as 147, 151 and 153 Kurraba Road, Kurraba Point. The site has an area of 2,206 m² and is irregular in shape with a curved frontage to Kurraba Road. The site has a cross fall of approximately 9.7m from the north eastern corner of the site down towards the western boundary. An aerial image of the site and surrounds is at **Figure 4** below.



Figure 4 – Aerial photograph of site and surrounding development (site edged red)

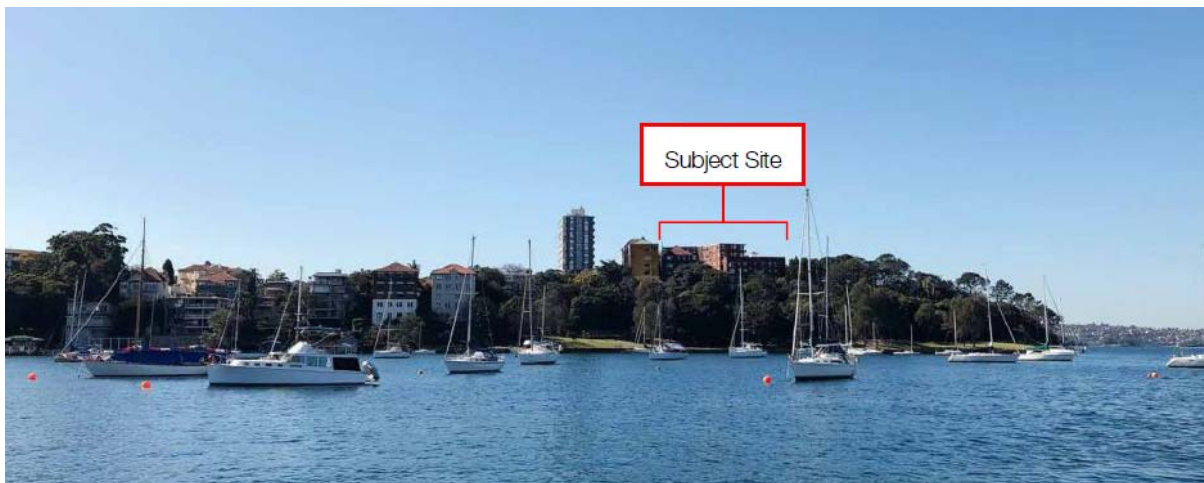


Photo 2 – Existing view of the site looking east from North Sydney Wharf

No. 147 Kurraba Road contains a four-storey brick residential flat building with a flat roof. The building is elevated above a brick/rock retaining wall of varying heights. A concrete ramp provides vehicular access through the central part of the building, to a rear concrete courtyard with ground level garages.

No. 151 Kurraba Road is a battle axe site containing a part three, part four storey residential flat building with pitched roof and ground level garage. A 4m to 5m high rock retaining wall is located along the eastern side of the access handle. A grassed common area exists on the western side of the building adjacent to the boundary to Kurraba Reserve.

No. 153 Kurraba Road is a three storey residential flat building with a communal roof top area. There is a significant Fig tree within the front garden of this site, adjacent to the boundary with Kurraba Reserve.

There are two properties located directly to the north of the site being No's 145 and No. 145A Kurraba Road. The property at No. 145 Kurraba Road contains a three storey residential flat building located above street level garages. The apartments within this building predominantly have their living spaces on the southern side and enjoy views across the subject site. The property at No. 145A Kurraba Road is a battle axe property that has a narrow access handle along the northern side of the building at No. 145 Kurraba Road. The property contains a part four, part five storey residential flat building with ground level car parking spaces.

Further to the north of these properties is No. 143 Kurraba Road which is 9 storey residential apartment building with ground level parking spaces. The southern apartments have south facing living spaces, and the apartments at Level 5 and above have significant views to the south and south west above the roof lines of the buildings at No. 145 and No. 145A Kurraba Road and across the subject site.

To the west of the subject site is Kurraba Reserve with the rock cliff adjacent to the western boundary of the site. The cliff has recently been the subject of stabilisation works.

On the eastern side of Kurraba Road, opposite the site and located on the 'island' is No. 192B Kurraba Road which contains a three storey residential flat building with ground level car parking. Alongside this property on the south western side is Hodgson Lookout Park.

The site is not located within a Conservation Area and does not contain any Heritage Items. The site is located adjacent to a scheduled heritage item (I0669), described as the Site and Remains of the Port Jackson and Manly Steamship Company Depot. More commonly the heritage item is currently known under two names with the upper section circled by Kurraba Road known as Hodgson Lookout Park and the western and southern parkland known as Kurraba Reserve.

The site is located approximately 280m from the Kurraba Ferry Wharf.

RELEVANT HISTORY

20 December 2018 – DA446/18, proposing demolition of the existing structures, site consolidation and the construction of a new part five, part seven storey residential flat building with basement car parking and associated landscaping works was lodged.

1 May 2019 – DA446/18 was refused by the North Sydney Local Planning Panel for the following reasons:-

1. Inadequate written request pursuant to Clause 4.6 in NSLEP 2013;
2. The proposed development is not appropriate to its context and is incompatible with the character of Kurraba Point;
3. The proposed development will adversely impact on existing views and result in an unreasonable level of view sharing;
4. The excessive excavation for the proposed development is likely to cause an adverse impact on existing vegetation and the structural integrity of adjoining properties;
5. The proposed development provides for an excessive number of car parking spaces and vehicular access to basement levels which is likely to cause a significant traffic impact along Kurraba Road;
6. Adverse impacts on heritage items in the vicinity of the subject site; and
7. Unreasonable loss of privacy to the adjoining properties.

5 July 2019 – The applicant had a Pre-DA meeting with Council regarding a revised proposal, where the following issues were discussed:-

- A number of apartments are significantly below existing ground level;
- Concern regarding the quality of the central courtyard area for future residents;
- Concern regarding the depth and extent of excavation;
- Insufficient building setback to Kurraba Road resulting in over-dominant built form;
- Non-compliant site coverage and landscaped area;
- Potential building height non-compliance;
- Potential view impacts;
- Privacy impacts from windows, balconies and rooftop communal space;
- Support ramped access to basement however raised concern regarding its close proximity to north boundary;
- Concerns were raised about the extent of the proposed glazing;
- Main pedestrian entry may not provide adequate personal safety, and;
- Non-compliant dwelling mix.

26 August 2019 – The subject application (**DA255/19**), proposing demolition of existing buildings, excavation, and construction of a part 4 part 6 storey residential flat building to provide 25 apartments was lodged with Council.

21 October 2019 – A preliminary assessment letter was sent to the applicant raising the following key issues:

- Further clarification was sought to confirm compliance with the NSLEP building height development standard;
- Additional and revised view impact modelling was requested;
- Concern was raised regarding the provision of apartments significantly below existing ground levels;
- Concern was raised regarding the removal of the sandstone block retaining wall;
- Clarification was sought regarding excavation impacts;
- Further justification was sought for the non-compliant unit mix;
- Privacy concerns were raised due to the proximity of the communal roof terrace and north facing openings and balconies;
- A site coverage non-compliance was identified;
- Further clarification was sought regarding Traffic and Parking impacts, and;

- Modifications to the boundary treatment and pedestrian entry were sought.

28 November 2019 – Amended plans and additional information was lodged to address issues raised in submissions and the comments in Council's letter dated 21 October 2019. The key amendments and additional information are as follows:

- Addendum to the original Geotechnical Report submitted to address concerns relating to excavation impacts;
- The proposed retaining wall along the north boundary has been repositioned to be re-sited further within the site to reduce potential impact on neighbouring land;
- Further justification for the apartments located below existing ground level has been provided;
- Further justification for the removal of the existing sandstone wall fronting Kurraba Road was provided;
- A further detailed Residential Property Report was provided to support the proposed residential mix;
- Additional privacy measures to north facing openings were provided, and the setback between the communal area and the closest neighbouring windows was increased;
- Additional and updated view impact modelling was provided;
- An amendment to the Level 6 floor plan was made to reduce view loss for a neighbouring apartment;
- The main pedestrian entry off Kurraba Road was redesigned to be safer and more legible;
- Minor amendments were made to provide site coverage compliance;
- The basement plans were amended (bollard placement) to remove potential over-provision of parking, and;
- Solar shading to the west facades were incorporated into the design.

CONSENT AUTHORITY

As this proposal has a Capital Investment Value (CIV) of greater than \$30 million, the consent authority for the development application is the Sydney North Planning Panel. The CIV is \$33.5 million.

EXTERNAL REFERRALS

Heritage Assessment

Council commissioned an external Heritage Assessment of the application. The key findings from that assessment were as follows:-

- The Heritage Assessments submitted with the application are comprehensive and adequately analyse the heritage value of the subject site and its buildings.
- The existing buildings are not considered to be of sufficient heritage significance to warrant their retention
- The character of the area is not dependent on the retention of the existing buildings, and consequently their demolition is considered supportable from a heritage perspective.

The Heritage Assessment went on to make recommendations for some design changes which would provide a closer replication of other Art Deco buildings in the area and reflect the subdivision pattern. Conditions requiring the re-use of sandstone, a photographic archival recording, a salvage methodology and inventory, and for temporary protection of neighbouring buildings.

Comment

Officers concur with the key findings of the heritage assessment. Regarding the recommended design changes and conditions the following comments are made:-

- The site is not within the conservation area, does not adjoin or sit within the visual curtilage of any heritage item building, and the existing buildings do not warrant heritage listing. Based on these factors officers consider that it is not necessary for the development to literally replicate the detailing of Art Deco buildings near the site, however it is noted that the design does adopt segmented circular bay forms and a red/brown brick to reflect Art Deco buildings around the site. The application should be assessed on its own merits bearing in mind that construction techniques and building design have evolved significantly since the Art Deco period.
- The form and massing is appropriately modulated and generally reflects the subdivision pattern as discussed within this report. No further alterations are warranted in this respect.
- The existing buildings have been deemed not to satisfy the criteria for listing and they are not within a conservation area. It is therefore considered too onerous to require a full photographic record and salvage information. Officers note that the plans indicate sandstone would be reused within the front boundary walls, which is acceptable and will be required via condition (**refer to Condition E27**).

Roads and Maritime Services

RMS has reviewed the application and provided the following comments for consideration:-

"1. Roads and Maritime requests that the basement traffic signals are located entirely within the private property and are not visible from Kurraba Road.

2. Council should be satisfied that priority for the internal traffic control signals is given to entering vehicles to reduce the risk of queuing onto the local road network. Also vehicles should be allowed to turn around safely within the property to ensure that the internal signals can be used efficiently and safely.

3. Council should also be satisfied that the increased dwelling density can be accommodated on the local road network."

A condition is recommended to ensure an appropriate Traffic Signal System is provided (**refer to Condition C24**).

Natural Resources Access Regulator

The Natural Resources Access Regulator provided the following comments on the application:-

"The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary.

The proposal is exempt from requiring a controlled activity approval under Schedule 4, Clause 36 of the Water management (General) Regulation 2018 (the regulation) as it falls within the exempt area depicted on the Port Jackson (Sydney Harbour) area map. The current location of the proposal is also not located on waterfront land."

Aboriginal Heritage Office

The Aboriginal Heritage visited the subject site and assessed the proposal and made the following comments:-

"No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.

Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.

Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted."

A condition is proposed to ensure that the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are contacted in the unlikely event that aboriginal sites are uncovered during the proposed works (**refer to Condition E26**).

Ausgrid

Ausgrid responded with a recommended condition relating to required notifications and working methodology near the overhead power lines and below ground assets (cables). A condition is recommended accordingly (**refer to Condition C42**).

Sydney Water

The Authority raised no objection subject to conditions requiring building plan approval via the Sydney Water online 'Tap In' service, and a Section 73 certificate. A condition is recommended accordingly (**refer to Condition C43**).

Foreshores and Waterways Planning and Development Advisory Committee

The application was referred to the Foreshores and Waterways Planning and Development Advisory Committee, who responded to state that the application does not require a referral to them.

Sydney Opera House

Sydney Opera House (SOH) was sent an initial referral along with further correspondence from the assessment officer inviting comment given that the southern tip of the site falls within the SOH Buffer Zone. No comments were received.

It is to be noted that the site is located on the extreme periphery of the curtilage zone of Luna Park, however any impacts would be negligible and comments are not necessary.

INTERNAL REFERRALS

Design Excellence Panel

The application was considered by Council's Design Excellence Panel (DEP) at its meeting of 24 September 2019. Below is a summary of their comments:

- The amended proposal is an appropriate response to the previously identified issues and the proposed scheme has design merit.
- The proposal has large areas of west facing glazing with no external shading devices. Consideration should be given to the inclusion of external shading measures. Details of the proposed glazing should be provided in order to avoid an excessively dark appearance from tinted glazing.
- The proposed unit mix is considered to be inadequate in terms of an absence of any studio and/or one bedroom dwellings. Any variation to the dwelling mix requirements must be supported by an authoritative analysis of current and future market demand demonstrating that the DCP provisions are not reasonable.
- Consideration should be given to including an enclosed, sheltered space to the proposed rooftop communal open space.
- A minor intrusion above the height limit for a lift overrun and enclosed space may be acceptable in order to provide lift access to the communal roof terrace.

- The close proximity of the communal roof terrace to the dwellings at No.145A Kurraba Road may create privacy issues and separation should be increased.
- Recommended that additional trees and landscaping be installed in the area between units 2.02 and 2.03, adjacent to Kurraba Road.
- The deep pedestrian entry recess off Kurraba Road should be reviewed in light of CPTED principles.

Comment

The applicant subsequently amended the plans as follows to address some of the above comments:-

- Solar shading was incorporated into the west facades.
- A further detailed Residential Property Report was submitted to support the proposed residential mix.
- The setback between the communal area and the closest neighbouring building (to the immediate north) was increased to 10 metres minimum by increasing the depth of the landscape buffer.
- The pedestrian entry off Kurraba Road was redesigned with removal of the deep recess.
- Clarification was also provided regarding landscaping to demonstrate that the area between units 2.02 and 2.03 will be provided with significant trees and landscaping including two mature 1000L *Ficus rubignosa*.

Officers did not insist on the provision of a lift overrun or enclosed space at rooftop level due to the potential view impacts.

Traffic Engineers

Council's Traffic Engineers have reviewed the application and responded as follows:-

"Traffic Generation

The proposed development will generate a net increase of 6-7 vehicle trips in the peak hour. The traffic report suggests that Kurraba Road currently operates above the environmental goal of 200 vehicles per hour however will continue to operate below the maximum threshold of 300 vehicles per hour with the additional vehicle trips.

I generally concur that the proposed development will not have unacceptable traffic impact in terms of road network capacity

Car Parking – Supply

The proposed 41 car parking spaces comply with the maximum parking rates specified in the NSDCP.

However, a car wash bay is to be provided as per NSDCP. It is not mentioned in the traffic report.

Cycling Facilities

The NSDCP requires a minimum of 28 x Class 1 for residential dwellings and 3x Class 3 facilities for visitors. The proposed bicycle parking arrangement appears to be in compliance with the NSDCP.

Vehicular Access

It is noted that a single lane driveway is provided for the site. It is recommended that a signal system must be installed to accommodate entering and exiting traffic via the access ramp. The internal traffic signal system shall be designed by a suitably qualified consultant, with the design to be provided to Council prior to the issue of the Construction Certificate. The design should include the waiting bay line marking and signposting arrangements.

Loading Facilities

On-site loading and unloading facilities capable of accommodating at least 1 Medium Rigid Vehicle are required under the NSDCP as the development contains more than 30 dwellings. The proposed development includes 25 dwellings. Therefore, on-site loading facilities for medium rigid vehicle are not required.

Conclusion

Should Council approve this development it is recommended that the following conditions be imposed:

1. That a Construction Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/approvals (**refer to Condition B1**).
2. That all aspects of the carpark comply with the Australian Standard AS2890.1 Off-Street Parking (**refer to Condition C16**).
3. That all aspects of parking spaces for people with disabilities comply with the Australian Standard AS 2890.6 (**refer to Condition C16**).
4. That all aspects of the bicycle parking and storage facilities comply with the Australian Standard AS2890.3 (**refer to Condition C16**).
5. The driveway to the site must be designed such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1 (**refer to Condition C16**).
6. That an internal traffic signal system be provided to accommodate entering and exiting traffic via the access ramp. The internal traffic signal system shall be designed by a suitably qualified consultant, with the design to be provided to Council prior to the issue of the Construction Certificate. The design should include the waiting bay line marking and signposting arrangements (**refer to Condition C23**).
7. A car wash bay is to be provided per NSDCP (**shown on plans – basement level 3**).
8. That the developer pays to upgrade the lighting levels on Kurra Road adjacent to the site, to the appropriate Australian Standard and to the satisfaction of Council (**refer to Condition G13**)."

Development Engineers

Council's Senior Development Engineer responded with no objection subject to standard conditions including several key conditions requiring a construction management program, a detailed geotechnical report, geotechnical stability during construction, dilapidation reports, and substantial infrastructure bonds (**refer to Conditions B1, C7, C8, C9, C10, C11, C12, C13, C15, C16, C17, C18, C19, C24, D7, E1, E5, E6, E7, E9, E10, E13, E20, G4, G5, G6, G8 and G9**).

Environmental Health

Council's Environmental Health Team Leader provided the following comments:

"The Douglas Partners report dated August 2019 advises that based on historical use of the site, there is low potential for significant contamination thereon.

It is reported that the site can be made suitable for its intended use subject to recommendations relating to excavated fill, pre-demolition hazardous building material, waste classification, natural soils, dewatering and a protocol for unexpected contamination. These details can be found on Page 25 of the Douglas Partners report.

These recommendations must be complied with. They refer to testing and classifying soil that can remain on site and soil to be disposed of. The unexpected finds protocol refers to the action that will be taken in the event unexpected contamination is found during the excavation process. This protocol will be in the form of an environmental management plan or RAP to identify, classify and remove from site any contaminated soil. This process will also be required to be validated by a suitably qualified environmental consultant."

The Environmental Health Team Leader recommended conditions relating to compliance with the Douglas Partners Report recommendations, soil testing for contamination (with

associated remediation to be carried out if required), and asbestos management (***refer to Conditions E21, E23, E24, E25, G10 and G12***).

Landscape Development Officer

Tree Removal and Tree Protection

Council's Landscape Development Officer did not object to the proposed removal of seven trees which range from 5 – 8 metres in height, as set out within the submitted Arboricultural Impact Assessment by Tree Management Strategies, due to their generally low significance and location in areas of the site where their retention is not feasible with the development as proposed.

The Landscape Development Officer has considered the tree protection measures proposed within the submitted Arboricultural Impact Assessment by Tree Management Strategies and was in general agreement, subject to the installation of temporary cabling or bracing to further protect three trees which are immediately adjacent to the site growing out from the western cliff face. The applicants arboricultural professional confirmed that these additional measures are feasible, and the recommended conditions of consent (see below) reflect this additional measure as well as the requirement to adopt all other tree protection measures provided in the Arboricultural Report.

Landscaping Plans

Council's Landscape Development Officer was satisfied with the proposed landscaping scheme subject to minor modifications including amendments to the species and size of some trees and shrubs. The amended plans included a modified landscaping scheme which included the recommended changes to species selection and size.

The Landscape Development Officer also requested that green walls be provided on parts of the proposed buildings. The amended plans do not however introduce green walls into the development, partly due to the fact green walls require significant watering which given climate change and water restrictions may not be feasible as a long-term solution.

The Landscape Development Officer recommended a number of conditions relating to tree bonds, tree protection, and landscaping (***refer to Conditions C2, C3, C4, C5, C6, D1, D2, D3, D4, D5, D6, E8, G1 and G2***).

Building

The proposed works being the subject of this application have not been assessed in accordance with compliance with the National Construction Code (NCC), and a condition requiring compliance is recommended (***refer to Condition F1***). This would need to be undertaken prior to the issue of a Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a Section 4.55 application would be necessary.

SUBMISSIONS

Original Plans

The application was notified to the precinct committees and surrounding owners in accordance with Council policy from 29 March 2019 to 12 April 2019. 134 submissions were received, comprising 58 objections and 76 in support. The key issues raised in the submissions are summarised below and addressed throughout in this assessment report.

Excavation and Earthworks

- The extent and depth of excavation and associated vibration will adversely impact the structural stability of neighbouring buildings.
- The adjacent cliff, which is unstable, could collapse.
- The excavation is non-compliant with NSDCP and NSLEP requirements and is poorly justified on the grounds of the topography.
- The submitted Geotechnical report states that there is a high chance of damage to adjoining buildings.
- The submitted Geotechnical report is based on too many untested assumptions. There have not been an adequate number of boreholes.

Noise and Privacy Impacts

- The communal space is too close to neighbours and will create unacceptable noise and overlooking.
- There should be a by-law restricting the use of the rooftop terrace to between 7am and 8pm Mondays to Sundays with no amplified sound or music.
- The Acoustic report only considers the acoustic impact of the exterior environment on residents of the Applicant's development. Noise impacts from roof terraces, plant, and traffic have not been addressed.
- Noise will be exacerbated by the location of the site as noise over water is amplified.
- The large open balconies will result in excessive noise.
- The use of the rooftop swimming pools would cause noise nuisance.
- Vehicles entering and exiting the site will result in excessive noise.

Residential Mix

- The dwelling mix is non-compliant and is focussed on large higher priced apartments.
- The proposal should include some 1-bedrooms and/or studios which would be more favorable to the population mix in the area.
- The development would alter the social make-up of the area and exclude those on modest incomes out of the market.
- The submitted market assessment only considers selective properties which include 1 and 2 bedroom apartments.

Building Height

- Rooftop structures and landscaping (at maturity) will exceed 12 metres.
- The application claims that the proposed buildings comply with height controls, but at the same time acknowledges that in part the buildings will be up to six storeys high.

View Impacts

- Rooftop structures and landscaping will unreasonably block views and outlook.
- View Impact Modelling photomontages cannot be relied upon as they are not certified.
- View analysis contained in the DA is limited to only 13 neighbouring apartments. Numerous other properties and apartments will be impacted.
- The view impact assessment does not evaluate the impact on views to the south/southeast.
- Some view impacts are incorrectly modelled.
- In the interests of view protection, there should be no rooftop landscaping.

Scale/Bulk and Setbacks

- Setbacks are non-compliant and siting the building in the existing building footprint is not adequate justification for any non-compliances.
- The development would over dominate Kurraba Point and change the character of the area.
- There are insufficient visual breaks in the buildings.
- The proposed development appears closer to the road than the existing buildings at a number of points.
- The buildings will be at street level as opposed to being elevated above the stone wall resulting in much larger scale and bulk.
- The proposed apartments have minimal setback from the street, without provision of privacy screens or space for landscaping.

Design and Appearance

- The development has too much glazing in the front façade which is not in keeping with the area and is noncompliant with NSDCP requirements.
- Flat roofs are not commensurate with the character of Kurraba Point.
- The top floors are not set back 36 degrees as required by NSDCP.

- The proposal presents as a large monolithic building which will dominate the public spaces of Kurraba Point and negatively impact views from the Harbour.

Traffic and Parking

- The data set for the Traffic Impact Assessment (TIA) is not robust given the location of data survey and given that data was collected during school holidays.
- Kurraba Road, which is narrow and already busy, does not have the capacity to accommodate additional traffic, and consequently the development will compromise traffic and pedestrian safety.
- The movement of extra cars will worsen an already difficult traffic and parking situation. The proposed off-street parking will not assist in alleviating the impacts.
- Vehicle movements during construction will adversely impact the neighbourhood.
- The development proposes a single ingress and egress, which will lead to queuing.
- The provision of only one on site car waiting bay is not adequate.
- Residents will park on the street rather than use their underground car parkin, for convenience reasons.
- The proposed use of restricted parking along Kurraba Road for loading and unloading will place an unreasonable demand on the limited parking.
- Parking is already at a premium, yet the proposal decreases the number of on street car spaces by an increased allocation to loading zones.
- Future residents of the development should be excluded from participating in the residents preferential parking permits.

Trees and landscaping

- Object to the removal of 7 trees.
- The development is too close to a fig tree of high significance and the tree is at risk of damage.
- Trees to be retained should be protected with a substantial bond.
- Proposed replacement trees are largely palms which are out of character with the existing landscape.
- There is inadequate space for large tree replenishment planting.
- There is no consideration of impacts on wildlife.

Solar Access and Ambient Light

- The development will overshadow the reserve and the street.
- The proposal is non-complaint with ADG minimum solar access requirements (both apartments and communal space).
- The development will result in loss of ambient light to neighboring apartments.

Heritage Character

- One of the unique features of Kurraba Point is the collection of unique historical period of apartments and houses, with art deco detailing and earlier architectural styles. The development will negatively affect this character.
- The Chequers building at 192B Kurraba Road will be dominated by the contemporary buildings.
- The site is in the Opera House buffer zone and may adversely impact its setting and significance.
- A sympathetic approach would be retention and restoration of 151 and 153 Kurraba Road and a smaller scale development on the balance of the site.

Residential Density

- The increase in density is excessive and this increase in population in an already over-burdened area for on street parking.

Construction Phase Impacts

- The application provides no assessment of the likely noise, dust and vibration impacts during excavation.
- There will be adverse traffic impacts during the build due to the narrowness of Kurraba Road. Emergency and waste management vehicles may not be able to access the site.
- The applicant should use a chute and a barge to take some construction traffic off the road.
- The developer should pay to seal neighboring windows during construction.
- The developer should protect the windows and air conditioners from dust and possible asbestos and pay for the maintenance of neighbours air conditioners.

- *The developer should allocate \$500,000 to establish a fund for the appointment of independent, specialist consultants to advise nearby property owners on vibration, air pollution, traffic, rock stability, noise, vegetation and environmental impacts throughout the construction period.*

Other Issues

- *The Preliminary Site (Contamination) Investigation report indicates contaminant issues but does not specify how contamination will be dealt with/removed. The applicants SEPP 55 assessment is inadequate.*
- *The development is not in the public interest.*
- *The retaining walls may need sub soil drainage behind requiring owners consent of the neighbours.*
- *Object to the removal of the significant sandstone wall to the front of the site.*

Comment

In response to the issues raised in submissions, the application was amended on 28 November 2019. The key amendments are listed earlier in this report.

Amended Plans

The amended application was notified to the precinct committees and surrounding owners in accordance with Council policy from 13 December 2019 to 17 January 2020. 75 submissions were received, comprising 33 objections and 42 in support. Objectors reiterated previous comments. Key ongoing concerns were as follows:-

- *Object to the depth and extent of excavation and potential impacts on surrounding land and buildings. Objectors consider that additional geotechnical investigation including intrusive investigation such as additional cored boreholes should be undertaken prior to the determination of the application. Objectors request that all rooms below existing ground level be deleted to reduce excavation.*
- *Objectors have continued to raise concern regarding traffic and parking impacts, and concern that the data set for the TIA is not robust. Objectors requested that a new traffic assessment is undertaken by the applicant.*
- *Concern remains regarding excessive noise and loss of visual privacy as a result of the proposed communal rooftop terrace.*
- *There is ongoing concern regarding view loss and loss of outlook. Some objectors are concerned that rooftop landscaping may block views over time.*
- *Object to the extent of glazing in the building facades and consider the design does not relate sympathetically to surrounding development.*
- *Consider that the scale and massing of the development is excessive and would adversely impact the natural beauty and historic aesthetic of the site and surrounds.*

In addition the Neutral Precinct provided the following key comments:-

- *Demolition should be between 8 am to 5 pm Monday to Friday only.*
- *There should be no queuing of trucks, and there should be no more than five trucks per hour during the demolition period.*
- *A tier two builder should be used.*
- *Rock sawing is required to reduce vibrations. An acoustic barrier is also required along with seals to the windows of adjoining properties.*
- *The developer should provide window cleaning of neighbouring properties.*
- *There must be a shuttle bus for workers.*
- *There should be a monthly construction committee including the community, along with a 24 hour phone for neighbours.*
- *The communal gardens should have no amplified music and should not be used between 7pm and 7pm.*

Full copies of all submissions received for this application will be made available for perusal by the Panel.

CONSIDERATION

Environmental Planning and Assessment Amendment Act 1979

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the Sydney Harbour Catchment Area and is identified as also being within the Foreshores and Waterways Area.

Part 2 – Planning Principles

Consideration must be given to the planning principles for the Sydney Harbour Catchment and Foreshores and Waterways Area as detailed in Clause 13 and 14 of the SREP. As detailed below, the proposed development satisfies these planning principles in Clauses 13 and 14 in SREP particularly those requiring development “to maintain, protect and enhance the unique visual qualities of Sydney Harbour” (Clauses 13(f) and 14(d)) and “to protect.....remnant native vegetation and “to protect, maintain and enhance natural assets” (Clauses 13(j) and 14(a)).

Division 2 – Matters for consideration

The matters referred to in Clause 21 to 27 of the SREP must be taken into consideration before granting consent to development -

Clause 21 Biodiversity, ecology and environment protection – A number of standard conditions, including conditions for sediment control, temporary disposal of stormwater, and no use of the any adjacent open space, are recommended to ensure that the proposal does not adversely impact the environment and waterway (**refer to conditions C12, E3, E9, E16, and E17**).

Clause 22 Public Access to, and use of, foreshores and waterways – There is no public access to the waterway through the subject site given that it is private land, however public access to the waterway can be gained through adjoining public land (reserve).

Clause 23 Maintenance of a working harbour – The proposal would have no impact upon the use of the Harbour given that

Clause 24 Interrelationship of waterway and foreshore uses – The proposal does not cause any conflict between the proposed land use and the waterways.

Clause 25 Foreshore and waterways scenic quality – The proposed development will maintain, protect and enhance the visual qualities of Sydney Harbour. The scale and massing of the development generally complies with policy requirements and the external appearance and materials are complementary to the surrounds and wider harbour context. The use of dark, recessive colours including a mid-dark brick façade will ensure the development sits comfortably within the context.

Clause 26 Maintenance, protection and enhancement of views – The proposed development provides for satisfactory view sharing as discussed in detail later in this report and within **Appendix 2**.

Division 3 - Foreshores and Waterways Planning and Development Advisory Committee

Clause 29 Referral to the Foreshores and Waterways Planning and Development Advisory Committee – The application was referred to the Foreshores and Waterways Planning and Development Advisory Committee pursuant to Schedule 2 of the SREP (which specifies that applications involving ‘demolition’ must be referred but does not require any referral for the proposed construction of a residential flat building). They declined to give a response stating that no referral is required. It is also noted that Clause 18(1)(a) of the SREP allows demolition in all Foreshore and Waterway Zones without development consent.

Part 5 – Heritage provisions

Part of the site (No. 153 Kurraba Road) is located within the Sydney Opera House Buffer zone. Clause 58B of the SREP identifies the matters to be taken into consideration in relation to development within the Sydney Opera House (SOH) buffer zone. Policy 2.2 requires that the new development should ‘*respect the deliberate contrast of the white shells with the darker tones of the setting and the city*’. The Heritage Assessment commissioned by Council made the following comments on this topic:-

“The view corridor and visual relationship of the subject site with the SOH is very limited and disrupted by the buildings and topography of the Kirribilli peninsula. As evident from the view analysis included in the DA documentation only the top of the SOH sails can be seen when viewed from the subject site. Therefore, it is not considered that there will be any more than minor impact on the setting of the SOH. There will be no impact on the Outstanding Universal Value of the SOH from the proposed development. Notwithstanding, it is noted that the colour of the proposed brick finish is lighter than the common darker brick colours of the inter-war flat buildings. It is recommended that a slightly darker shade brick colour is to be used to blend in better within the harbour setting and views along the buffer zone of the Sydney Opera House.”

Officers requested further information regarding the choice of brick colour and the applicant responded to confirm that the brick will be ‘Bowral Shorthorn Mix’ with dark mortar, as pictured in **Figure 5** below. Officers consider this brick will be dark enough to provide sufficient contrast with the white sails of SOH.



Figure 5 – Proposed mid-dark coloured face brick

In conclusion, the proposed development is considered to maintain, protect and enhance the scenic quality of foreshores and waterways, and will adequately protect and in some cases enhance views from surrounding properties to/from the Sydney Opera House, consistent with the objectives set out within SREP 2005.

Sydney Harbour Foreshores and Waterways DCP

Consideration is also given below to the design guidelines for land-based development, specifically 5.4 ‘Built Form’ in the Sydney Harbour Foreshores and Waterways DCP. The scale of the development is comparable with other development around the site, compliant with the NSLEP Building Height Development standard, and compliant with the NSDCP

maximum site coverage requirement. The height and overall scale of the development is sympathetic with the predominant scale of existing developments along Kurraba Point.

The proposed development steps down the site and provides a satisfactory level of articulation and visual breaks to minimise its visual impact on Sydney Harbour. The proposed development is considered consistent with the expectations of Part 5.4 'Built Form' in the Sydney Harbour Foreshores and Waterways DCP.

State Environmental Planning Policy (Infrastructure) 2007

The application was referred to Ausgrid in accordance with Clause 45(2)(a) of the SEPP. Ausgrid raised no objections to the proposal, subject to a condition (***refer to Condition C41***).

State Environmental Planning Policy No. 55 – Remediation of Land/Draft SEPP (Remediation of Land)

Clause 7 of the SEPP requires that Council consider the effect of existing site contamination on the future use of the land prior to the issue of any development consent.

Council's Team Leader (Environmental Health) has reviewed the Preliminary Site (Contamination) Investigation by Douglas Partners (Ref. 86447.01 dated August 2019) which concluded "*that based on historical use of the site, there is low potential for significant contamination thereon.*" The report makes a number of recommendations relating to fill to remain on site, pre-demolition hazardous building material, waste classification, natural soils, unexpected finds protocol and dewatering.

The Team Leader (Environmental Health) responded to state that subject to compliance with the Douglas Partners Report recommendations, soil testing for contamination (with associated remediation to be carried out if required), and asbestos management (***refer to Conditions E21, E22, E24, G10 and G12***) the land can be made suitable for the proposed development and therefore satisfy Clause 7 of the SEPP.

SEPP (Vegetation in Non-Rural Areas) 2017

The subject site is a non-rural area (zoned R4 High Density Residential). There are a number of trees within and adjacent to the subject site, some of which are substantial, such as a 15m tall *Ficus hillii* (Hills Fig) within the southwestern corner of the site, which makes a significant positive contribution to the character of the site and adjoining public realm.

It is proposed to remove seven (7) trees from within the site to make way for the development, however six (6) of these are not significant and are in fair to poor condition with low retention values accordingly. There is an 8m tall *Cedrus deodara* (Himalayan Cedar) in the vicinity of the proposed new driveway access which is proposed to be removed despite this being highly visible within the streetscape, however its removal is necessary to facilitate the development and further it is noted that this tree is not protected by Council's tree protection controls having a height of under 10 metres.

The submitted Arboricultural Impact Assessment confirms that the trees to be retained within the site and the trees on neighbouring land should not be adversely affected subject to a number of recommendations. Council's Landscape Development Officer is satisfied that these will be adequate to ensure the trees will not be unduly harmed subject to a number of conditions as listed earlier in this report.

The development provides deep soil zones, and the landscaping proposals include substantial replacement tree planting within these areas which over time will provide significantly increased tree canopy across the site compared with the present situation. Subject to the implementation of the proposed landscaping and tree planting, and ongoing maintenance, there is no conflict with SEPP (Vegetation in Non-Rural Areas) 2017.

SEPP (Building Sustainability Index: BASIX) 2004

A Multi Dwelling BASIX Certificate (980997M_05 dated 17 February 2020) has been submitted with the application to satisfy the aims of the SEPP. The BASIX was updated following the application amendments.

Draft Environment SEPP

This draft SEPP proposes to integrate the provisions of seven (7) SEPPs/SREPs including SREP (Sydney Harbour Catchment) 2005. The majority of the current provisions of SREP (Sydney Harbour Catchment) 2005 would be transferred to the draft SEPP with necessary updates and some amendments. As discussed above the development is consistent with the objectives of the Sydney Harbour SREP. Overall the proposal would not offend the relevant provisions of the draft SEPP due to the nature of the proposed development being an apartment building which does not immediately adjoin the Harbour and whilst visible from the Harbour provides an appropriate scale, massing and design response for the site such that it will sit comfortably within its context with no more than a minor impact on the scenic quality and the ecology of Sydney Harbour and its foreshores.

SEPP No. 65 (Design Quality of Residential Flat Development)

Clause 28(2) of SEPP 65 states that *"in determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

- (a) *the advice (if any) obtained from the design review panel, and*
- (b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
- (c) *the Apartment Design Guide.*

In respect of Clause 28(2)(a) of SEPP 65, the application has been considered by the Design Excellence Panel (DEP) who generally supported the proposal as detailed in their comments earlier within this report.

In respect of Clause 28(2)(b) of SEPP 65, the proposal is assessed below against the design quality principles in SEPP 65:-

- **Principle 1: Context and neighbourhood character** – The development type proposed (residential flat building) is considered appropriate given there are many other residential flat buildings in the immediate context, and the site is zoned R4 High Density Residential whereby residential flat buildings are permissible with consent. The development will contribute towards neighbourhood character by retaining significant trees, by providing landscaping and additional trees to soften the street edge, and by incorporating external materials which would relate favourably to existing development in the locality.
- **Principle 1: Built form and scale** – The six storey scale of the eastern side of the building is greater than the relevant controls would anticipate, however as discussed earlier in this report the building does achieve compliance with the 12m height control due to the lowering of levels across the site including the removal of a sandstone retaining wall and outcrop which exists in its current form due to previous development of the site. The proposed building will be lower, and in some areas significantly lower, than others in the vicinity of the site including the buildings to the immediate north at 145 and 145A Kurraba Road and the tower block beyond these at 143 Kurraba Road. Given these factors the six storey scale is considered acceptable in the site circumstances.

The proposed built form is contemporary but is nonetheless compatible with the immediate context, as it has taken cues from the scale and rhythm, and colour palette of existing development along the street. The proposed building has been well articulated to break up the scale of the development when seen from Kurraba Road, the reserve and the Harbour. The front setback of the development is generally characteristic of development in the vicinity, the built form is stepped down the site following the topography, and the height of the building is compliant with NSLEP expectations and comparable to other buildings in the immediate vicinity of the site.

- **Principle 3: Density** – The proposed residential density (88 sq.m per apartment) is in line with the desired density specified in NSDCP (90 sq.m per apartment).
- **Principle 4: Sustainability** – The application is accompanied by a valid multi dwelling BASIX certificate, which was updated following the application amendments, there is adequate deep soil across the site for trees and other vegetation. Compliance with cross-ventilation requirements is achieved for all apartments, and whilst compliant solar access is achieved for only 60% of apartments, this is acceptable on balance given their size, and views as discussed in detail in the ADG table below.
- **Principle 5: Landscape** – The proposed landscaping is supported by Council's Landscape Development Officer. The proposed landscaping would contribute to the landscaped character of the neighbourhood by providing a number of new trees within compliant deep soil areas to replace those to be removed including large feature trees, along with substantial areas of other plantings including shrubs and ground cover. Whilst the areas of landscaping which comply with the NSDCP definition are below the required 40% of the site, the development includes substantial areas of rooftop landscaping which if included brings landscape coverage to over 50% of the site.
- **Principle 6: Amenity** – The proposal has been designed to maintain an adequate level of amenity for the neighbours in terms of visual impact, privacy, solar access and views, as assessed in detail later in this report. Whilst the development itself does not comply with the minimum 70% solar access requirements within ADG, the amenity for non-complaint apartments is still considered acceptable due to the dual aspect nature and large size of these apartments. This is discussed in more detail within the ADG table below.
- **Principle 7: Safety** – The proposal is considered to maintain safety and security within the development and the public domain.
- **Principle 8: Housing diversity and social interaction** – The development provides for a mix of two and three bedroom units (6 x 2 bed and 19 x 3 bed). Whilst this does not comply with NSDCP expectations due to there being no smaller one bed and studio units, a detailed Residential Property Report was submitted as part of the application amendments, which provides evidence that Kurraba Point is dominated by two bed apartments (52.1%) followed by 1 bed (22.5%) and 3 beds (21.3). The report also notes that demand for 3 bed apartments in the North Sydney LGA has experienced a higher volume of sales within the past 12 months. Therefore, in light of the available existing apartment stock in the area, it is considered that the proposed mix is appropriate on balance.

The application provides for a ground level courtyard communal space area and a further rooftop communal area, providing a total of 23% communal open space across the site. Whilst the overall communal area is short of ADG requirements (25%), the courtyard and rooftop areas would be easily accessed by all residents of the development, and there is also a 53sq.m wellness centre provided within the upper basement level (Level 1).

- **Principle 9: Aesthetics** – The proposed external materials and finishes include a brown/red face brick with dark mortar, brass anodised louvres and shutters, iron oxide pain finish flat bar balustrades, and low reflectivity curved operable glazing. Boundary treatment will comprise a combination of palisade fencing and low front walls comprising red brick and sandstone blocks sourced on site. The materials and colours of the proposed development are high quality and compatible with surrounding development. A condition is proposed to ensure that the external materials and finishes are as specified (**refer to Condition A3**).

Apartment Design Guide (ADG)

The proposed development has also been considered against the Apartment Design Guide and is generally compliant as detailed in the table below:

Amenity	Design Criteria	Comment	Compliance
2F Building Separation	<p><i>Minimum separation distances for buildings are: Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies (6m to boundary) • 9m between habitable and non-habitable rooms (4.5m to boundary) • 6m between non-habitable rooms (3m to boundary) 	<p><u>Northern Side boundary</u></p> <p>The northwest portion of the new building provides a separation of 5 metres from the adjacent residential flat building at 145A Kurraba Road. Whilst this does not comply with ADG guidance, the proposed building separation is acceptable on balance for the following reasons:-</p> <ul style="list-style-type: none"> - The proposed building separation is significantly greater than that provided by the existing building in the northwest corner of the site, which is located 3m from the 145A Kurraba Road. - The new building is also lower and narrower (north elevation) than the existing building, and as such will have a reduced impact on the neighbour in terms of scale/bulk, outlook and light. - The neighbouring residential flat building at 145A Kurraba Road is positioned close to its southern boundary and given this close proximity strict compliance with ADG requirements would be onerous. - The proposed building separation is consistent with typical buildings setbacks around the site. <p>The northeast portion of the new building will be located between 4.2 and 8m from the adjacent residential flat building at 145 Kurraba Road. Whilst this does not comply with ADG guidance, the proposed building separation is acceptable on balance for the following reasons:-</p> <ul style="list-style-type: none"> - The new building is sited to match the northern alignment of the existing building, and the northern section of the new building will have a scale and bulk that is comparable to that of the existing building. As with the northern façade of the existing building, the building features articulated walls to minimise openings to neighbouring 	<p>No (acceptable on merit)</p>

		<p>properties to the north.</p> <ul style="list-style-type: none"> - The new building extends further east compared with the existing building however this portion provides a setback of 6.5m minimum from the north boundary, compliant with the 6m 'half separation' specified in ADG. - The neighbouring residential flat building at 145 Kurraba Road is positioned close to its southern boundary and given this close proximity strict compliance with ADG requirements would be onerous. - The proposed building separation is consistent with typical buildings setbacks around the site, including existing setbacks within the site. <p><u>Front Kurraba Road South/East Boundary</u> Kurraba Road adjoins the front boundary of the site, and the proposed building is separated from existing buildings across the road by 17 metres as a minimum, compliant with ADG guidelines.</p> <p><u>Western Boundary</u> There are no residential neighbours to the west of the site. The proposed new building is set back between 4.62m and 7.71m from the western boundary, providing the same setback as the existing building at 151 Kurraba Road, and a significantly greater setback than the existing building at 153 Kurraba Road. This allows space to provide a substantial landscape buffer between the new building and the reserve and Harbour to the west.</p>	<p>Yes</p> <p>Yes</p>
<p>3D Communal Open Space</p>	<p><i>Communal open space has a minimum area equal to 25% of the site.</i></p> <p><i>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</i></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i></p> <p><i>Communal open space is designed to maximise safety</i></p>	<p>The development provides for a ground level central courtyard and a rooftop communal space, totalling approximately 23% of the site. This does not strictly comply with the 25% required by the ADG, but is acceptable in the circumstances for the following reasons:-</p> <ul style="list-style-type: none"> - The central courtyard and rooftop communal areas would be easily accessed by residents of the development. - The ground level communal area will be well landscaped including the provision of trees, shrubs and ground cover plantings. This area would not receive complaint solar access however given the presence of the neighbouring apartment buildings close to the north boundary of the site the northern part of the subject site is heavily shaded and this site constraint cannot be changed. - The rooftop communal space would receive good solar access, provides 	<p>No (acceptable on merit)</p>

		<p>for BBQ facilities and places to sit and would benefit from compliant solar access and views to the city.</p> <ul style="list-style-type: none">- The rooftop communal area will be set within a low growing landscaped buffer to provide visual amenity and separation from existing dwellings to the north and north east of this space.- The site is located immediately adjacent to Hodgkin’s Lookout Park and the foreshore reserve that provide further easily accessible opportunity for outdoor amenity including a play area.- A 53sq.m wellness centre is provided within the upper basement level (Level 1). This is not outdoors but would nonetheless provide for communal space.										
3E Deep Soil Zones	<p><i>Deep soil zones are to meet the following minimum requirements:</i></p> <ul style="list-style-type: none">• 3m minimum width• Minimum 7% of the site area	<p>Deep soil zones of over 3m in width are provided to site boundaries to allow for a landscaped buffer except in the area of the vehicle entrance. The proposal provides approximately 22% of the site area as deep soil, which is well in excess of the minimum ADG requirement and will allow landscaping to mature and soften the built form.</p>	Yes									
3F Visual privacy	<p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</i></p> <table><tr><th>Building Height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table>	Building Height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	<p>A reasonable standard of visual privacy is provided by the development given the R4 High Density Residential zoning of the site for the reasons outlined below.</p> <p><u>Northern Side boundary</u></p> <p>The northwest portion of the new building provides a setback of 3m to the north boundary and 5 metres from habitable windows in the adjacent building to the north (145A Kurraba Road). This setback is considerably greater than the 1.3m to boundary setback provided by the existing building in the northwest corner of the site and furthermore there are no windows on the northern elevation of the new building, which will prevent opportunities for overlooking.</p> <p>The northeast portion of the new building is sited to match the northern alignment of the existing building in this location, with setbacks of between 2.75 and 5.62m from the north boundary or between 4.3 and 8 metres from habitable rooms in the adjacent building at 145 Kurraba Road. Again, there are no windows on the northern elevation of the new building, which will prevent opportunities for overlooking. There will be balconies on the eastern side of the new building however these face east and will be provided with fixed screening to their north side to prevent overlooking to the apartments at 145 Kurraba Road.</p> <p><u>Front Kurraba Road South/East Boundary</u></p>	<p>No (acceptable on merit)</p> <p>Yes</p>
Building Height	Habitable rooms and balconies	Non-habitable rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										

		<p>Kurraba Road adjoins the front boundary of the site, and the proposed building is separated from existing buildings and habitable rooms across the road by 17 metres as a minimum.</p> <p><u>Western Boundary</u> There are no residential neighbours to the west of the site.</p> <p><u>Rooftop Communal Space</u> It is acknowledged that the proposed rooftop communal open space will be located adjacent to habitable windows within both 145A Kurraba Road to the north and 145 Kurraba Road to the northeast, and some of the apartments within these buildings will have an outlook over the communal area. However, the communal space is set within a generous landscaped buffer to its northern side and at its closest point will be 10 metres from any neighbouring dwelling providing for a reasonable separation distance given the R4 High Density context.</p>	<p>N/A</p> <p>Comment only (not stipulated in ADG)</p>
3G Pedestrian Access & Entries	<p><i>Building entries and pedestrian access connects to and addresses the public domain</i></p> <p><i>Access, entries and pathways are accessible and easy to identify</i></p>	<p>The pedestrian entrance was amended and improved during the course of the application and now provides for a ramp and stairs directly off Kurraba Road. The entry area is demarcated by landscaping to assist in providing a clear sense of address to the building and equitable access.</p>	Yes
3H Vehicle Access	<p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i></p>	<p>The proposed vehicle access is directly off the street in the northeast corner of the site. The ramp into and within the basement parking levels will be one-lane, two-way, with one waiting bay provided at the entrance and on each basement level to allow two vehicles to pass each other. A signal system will be implemented to minimise the risk of conflicts on the ramp.</p> <p>The parking access will be clearly visible from the street and new trees (7 x 100L <i>Podocarpus elatus</i>) will be planted along the northern site boundary to screen the vehicle access from residents within the adjoining residential flat building at 145 Kurraba Road.</p>	Yes
3J Bicycle and Car parking	<p><i>For development in the following locations:</i></p> <ul style="list-style-type: none"> <i>• on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i> <i>• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the</i> 	<p>The subject site is not located within 800m of a railway or within 400m of land zoned B4.</p> <p>The application proposes 41 car parking spaces over three basement levels, which includes 6 visitor parking bays and 4 accessible spaces. This is compliant with the parking rates specified within Section 10 of NSDCP. A dedicated cycle parking room is proposed at basement level 3 providing space for 28 cycles, and there is additional space alongside many of the car parking bays for cycles.</p>	Yes

	<p><i>minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</i></p> <p><i>The car parking needs for a development must be provided off street</i></p> <p><i>Parking and facilities are provided for other modes of transport</i></p>		
Amenity	Design Criteria		
4A Solar and daylight access	<p><i>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</i></p>	<p>Only 60% of the proposed apartments would receive compliant solar access during midwinter, which does not comply with ADG requirements (70% minimum). However, this should be balanced against the generous internal floorspace, harbour/city views and compliant or in excess of compliant private open space these apartments will have. Overall the apartments which will not have compliant solar access during mid-winter are considered to provide a high standard of amenity for future occupants.</p>	No (acceptable on merit)
4B Natural ventilation	<p><i>All habitable rooms are naturally ventilated. The layout and design of single aspect apartments maximises natural ventilation. The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents – At least 60% of apartments are naturally cross ventilated</i></p>	<p>100% of the apartments would receive natural cross ventilation, significantly exceeding minimum ADG requirements.</p>	Yes
4C Ceiling Heights	<p><i>Ceiling height achieves sufficient natural ventilation and daylight access - Minimum 2.7m (habitable rooms), 2.4m for second floor where it does not exceed 50% of the apartment area.</i></p>	<p>A floor to floor height of 3.1m is provided allowing for a minimum 2.7m floor to ceiling height across the development.</p>	Yes
4D Apartment size and layout	<p><i>Apartments are required to have the following minimum internal areas: 50m² (1B), 70m² (2B), 90m² (3B)</i></p> <p><i>Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional</i></p>	<p>The proposed apartments comfortably comply with the minimum internal areas specified in the ADG, as follows.</p> <p>2 bed units – 91 – 106 sq.m 3 bed units – 125 – 237 sq.m</p> <p>All habitable rooms have a window in an external wall of compliant dimensions.</p>	<p>Yes</p> <p>Yes</p>

	<p><i>bedrooms increase the minimum internal area by 12m2 each</i></p> <p><i>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</i></p>		
4D Apartment size and layout (cont)	<p><i>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</i></p> <p><i>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</i></p> <p><i>1. Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)</i></p> <p><i>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</i></p> <p><i>3. Living rooms or combined living/dining rooms have a minimum width of 4m for 2 and 3 bedroom apartments.</i></p>	<p>Habitable room depths are complaint.</p> <p>Open plan areas are compliant.</p> <p>Master bedrooms and other bedrooms comply with minimum sizes.</p> <p>The bedrooms all have minimum dimensions of 3m excluding wardrobe space.</p> <p>All living/living dining rooms comply with these minimum dimensions.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4E Private open space and balconies	<p><i>All apartments are required to have primary balconies as follows:</i></p> <p><i>2 bedroom apartments 10m2 minimum depth 2m</i></p> <p><i>3+ bedroom apartments 12m2 minimum depth 2.4m</i></p> <p><i>The minimum balcony depth to be counted as contributing to the balcony area is 1m</i></p> <p><i>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m</i></p>	<p>Primary balconies all comply with ADG requirements, and many units also have additional balcony space or ground level amenity space.</p> <p>Primary balconies and gardens areas have a minimum depth exceeding 1m.</p> <p>Apartments at ground level have access to private garden areas well in excess of 15sq.m and with a depth of over 3m.</p> <p>Primary balconies and the primary courtyard garden areas are all located directly off living areas to enhance liveability.</p> <p>The balconies and other open spaces are</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p><i>Primary private open space and balconies are appropriately located to enhance liveability for residents.</i></p> <p><i>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</i></p> <p><i>Private open space and balcony design maximises safety.</i></p>	<p>successfully integrated into the architecture of the building.</p> <p>It is considered that safer by design principles are achieved.</p>	<p>Yes</p> <p>Yes</p>
4F Common circulation and spaces	<i>1. The maximum number of apartments off a circulation core on a single level is eight</i>	The application proposes three lift cores with a maximum of 3 apartments accessed off any one lift core.	Yes
4G Storage	<p><i>Studio apartments- 4m3</i></p> <p><i>2 bedroom apartments- 8m3</i></p> <p><i>3+bedroom apartments- 10m3</i></p>	The storage areas for the apartments comply with the minimum requirements specified in Part 4G.	Yes

Overall the proposal is satisfactory having regard to the design criteria specified in the Apartment Design Guide.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

1. Permissibility within the zone

The subject site is zoned R4 High Density Residential under the provisions of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). The application proposes a 'residential flat building' which is a permissible form of development in the R4 High Density Residential Zone with development consent from Council.

2. Building Height

Principal Development Standard – North Sydney LEP 2013			
Site Area –2,206m²	Proposed	Control	Complies
Clause 4.3 Heights of Building	11.96 m	12 m	Yes

Under the provisions of Clause 4.3(2) in NSLEP, the maximum height of a building permitted on the subject site is 12 metres. The proposed building has a maximum height of 11.96 metres, compliant with the control. The proposed six storey height across part of the development is accommodated within the permissible height through a significant lowering of ground levels.

The proposed lowering of levels is most significant is the central courtyard, with finished ground level at the base of the courtyard being up to 7.5 metres below existing ground level. This area will be heavily shaded at times being located essentially within an excavated hole however officers note that due to the position of the neighbouring apartments buildings at 145 and 145A Kurraba Road close to the north site boundary, this area would be shaded by neighbouring buildings in any event.

The lowering of levels across parts of the site is due in part to the removal of an existing sandstone retaining wall and outcrop, which provides vastly differing levels within the site

and was a product of previous development of the site to create levels for the buildings currently within the site (pictured in **Photo 3** below). As a consequence of the reduced levels proposed within the site, a number of apartments on the lower levels will be located either fully or partially below existing ground level. These apartments will not however be within a subterranean environment and will have acceptable amenity as discussed in detail later in this report.

The six storey scale of the eastern side of the building is greater than the relevant controls would anticipate, however as discussed earlier in this report the building does achieve compliance with the 12m height control due to the lowering of levels across the site including the removal of a sandstone retaining wall and outcrop which exists in its current form due to previous development of the site. The proposed building will be lower, and in some areas significantly lower, than others in the vicinity of the site including the buildings to the immediate north at 145 and 145A Kurraba Road and the tower block beyond these at 143 Kurraba Road. The proposed building also generally achieves the objectives of the control. Given these factors the six storey scale is considered acceptable in the site circumstances.

As the proposed building is close to the maximum height specified within NSLEP, a condition is proposed to ensure that appropriate progress surveys are undertaken at appropriate points during the construction process in order to confirm compliance with the plans (**refer to Condition E2**). A condition is also proposed requiring all rooftop landscaping to be maintained so as not to exceed 12 metres in height as indicated on the approved plans (**refer to condition I5**).

It is to be noted that the building height development standard within previous North Sydney LEP's (i.e. NSLEP 2001) would not have contemplated such developments, however since the introduction of the Standard Instrument building height is now taken from existing ground level, not lowest habitable floor level.



Photo 3: The existing retaining wall and outcrop to be removed is indicated with a red arrow

3. Earthworks

Clause 6.10(3) in NSLEP 2013 requires the consent authority to consider the following matters:

(a) the likely disruption of, or any detrimental effect on:

- (i) drainage patterns and soil stability in the locality of the development, and**
- (ii) natural features of, and vegetation on, the site and adjoining land,**

Comment – Geotechnical considerations

The plans indicate that development will require significant earthworks including excavation below existing surface levels of between 10 and 18 metres below existing ground levels. The excavation at its closest point is located one (1) metre from the northern site boundary. The site is underlain by Hawkesbury Sandstone, which generally comprises medium to coarse grained quartz sandstone, as is seen exposed in the cliff face within Kurraba Reserve. It is noted that the vertical rock face alongside the western boundary of the site has had stabilisation and rectification works carried out in February 2019.

A Geotechnical Investigation from Douglas Partners (Ref. 86447.00 dated August 2019) was submitted with the application. The assessment is supported by fieldwork which included the drilling of four boreholes within the site and inspection and mapping of the rock face below the western boundary of the site. Inspection of the subject site did not identify any specific areas of geotechnical concern. The Geotechnical Investigation concludes that subject to several recommendations and sound engineering/construction practises the excavation is feasible. A condition is recommended requiring a detailed Geotechnical report which is to be developed in line with the recommendations of the Geotechnical Investigation from Douglas Partners (**refer to Condition C11**).

The application is also accompanied by structural engineers' advice from Mance Arraj (dated 22 August 2019), which concludes that the basement excavation is readily buildable and unlikely to compromise the integrity of adjoining properties and infrastructure. The report recommends shoring, which can be accommodated within the site) to avoid any requirement for rock bolts extending into neighbouring land.

Council's Development Engineer raised no objection to the application subject to a number of planning conditions to ensure neighbouring land and buildings are not adversely impacted by the development, including conditions requiring dilapidation reports for excavation, the submission of a geotechnical report, and geotechnical stability during works (**refer to Conditions C8, C10, C11, E10, and G7**).

Comment – Natural Features (Trees)

It is proposed to remove seven (7) trees from within the site to make way for the development, however six of these are not significant and are in fair to poor condition with low retention values. There is an 8m tall *Cedrus deodara* (Himalayan Cedar) in the vicinity of the proposed new driveway access which is proposed to be removed despite this being highly visible within the streetscape, however its removal is necessary to facilitate the development and further it is noted that this tree is not protected by Council's tree protection controls having a height of under 10 metres.

The submitted Arboricultural Impact Assessment confirms that the trees to be retained within the site and the trees on neighbouring land should not be adversely affected subject to a number of recommendations. Council's Landscape Development Officer is satisfied that the proposed sufficient tree protection measures are adequate subject to a number of conditions as listed earlier in this report.

The development provides deep soil zones, and the landscaping proposals include substantial replacement trees within these areas which over time will provide significantly increased tree canopy across the site compared with the present situation.

Conclusion

Overall, subject to the findings of the Geotechnical and Arboricultural assessment reports being imposed as conditions of consent (**refer to Conditions C11 and C3**) along with various other conditions as listed earlier in this report, there should be no adverse impacts on drainage patterns, soil stability and/or retained vegetation on and near the site.

(b) the effect of the development on the likely future use or redevelopment of the land,

Comment

The proposal will maintain the existing residential use of the site. This is unlikely to impact on the future use of the land, as the site is likely to remain residential in nature for the foreseeable future.

(c) the quality of the fill or the soil to be excavated, or both,

Comment

A Preliminary Site (Contamination) Investigation has been submitted which concludes that “...based on historical use of the site, there is low potential for significant contamination thereon.” The report makes a number of recommendations relating to fill remaining on site, pre-demolition hazardous building material, waste classification, natural soils, an unexpected finds protocol, and dewatering.

Council’s Team Leader Environmental Health responded to state that subject to compliance with these recommendations, soil testing for contamination (with associated remediation to be carried out if required), and asbestos management the development is acceptable.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

Comment

A number of conditions are recommended to ensure the development does not adversely affect the structural integrity of the immediate neighbours around the site and requiring appropriate dilapidation surveys and post completion certification (***refer to key Conditions C8, C9, C10, C11, and G7***). The proposed development is also unlikely to have unreasonable impacts on the amenity of any of the neighbours around the site in terms of solar access, views, and privacy, as discussed throughout this report.

(e) the source of any fill material and the destination of any excavated material,

Comment

Conditions are recommended relating to a waste management plan and imported fill (***refer to Conditions C14 and E25***). Subject to these conditions there is no concern regarding the source of fill and destination of excavated material.

(f) the likelihood of disturbing Aboriginal objects or relics,

Comment

The Aboriginal Heritage Office has confirmed that no sites are recorded in the development area and as the site has been subject to previous disturbance the likelihood of surviving unrecorded Aboriginal sites is low.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

Comment

The site is located close to Kurraba Reserve, Hodgkin’s Lookout Park and the Harbour beyond. A number of conditions are proposed including conditions relating to waste management and disposal, sediment control, dust emission and air quality are recommended to ensure risks to these areas are minimised (***refer to Conditions C12, C14, E11, E16, E17, E23***).

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

No further measures other than the conditions discussed above and earlier in this report are considered necessary to avoid, minimise or mitigate the impacts of the development.

4. Objectives of the Zone

The planning objectives for the R4 High Density Residential zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

The development will provide for a net gain of two (2) apartments across the site, when compared to the existing quantum of development across the site (23 x 2 bedroom apartments). The development will comprise 19 x 3 bedroom apartments and 6 x 2 bedroom apartments, and will provide for the housing needs of the community as it was shown throughout the submitted Residential Property Report that Kurraba Point has a high percentage of one and two bedroom apartments and there is currently a demand for three bedroom apartments.

The development is compliant with key controls such as building height and site coverage and provides a scale, massing and overall design response which is acceptable within the context. Whilst there will be some impacts including an altered view across the site for neighbors, the proposal will not unduly reduce the residential amenity of surrounding properties as discussed throughout this report. Overall the proposal would achieve the planning objectives for this high-density residential area.

5. Heritage

The site is also not listed as containing any heritage item. The site is however located adjacent to Kurraba Point Reserve, including Hodgson Lookout, which is listed under Schedule 5 of NSLEP 2013.

Four Heritage Reports were submitted with the application which include assessments of the existing buildings in accordance with the NSW Heritage Significance Guidelines. Each report came to the conclusion that none of the existing buildings satisfy the criteria for heritage listing.

Council commissioned an independent heritage assessment of the application. The key findings from that assessment were as follows:-

- The documentation submitted with the application is comprehensive and adequately assesses the heritage value of the subject site and its buildings.
- The existing buildings are not considered to be of enough significance to warrant their retention.
- The character of the area is not dependent on the retention of the existing buildings, and consequently their demolition is considered supportable from a heritage perspective.

The Aboriginal Heritage Office has confirmed that the site is not a known archaeological site or Aboriginal place of heritage significance or known to contain Aboriginal objects of heritage significance.

Overall the development would not offend the provisions of Clause 5.10 in NSLEP 2013.

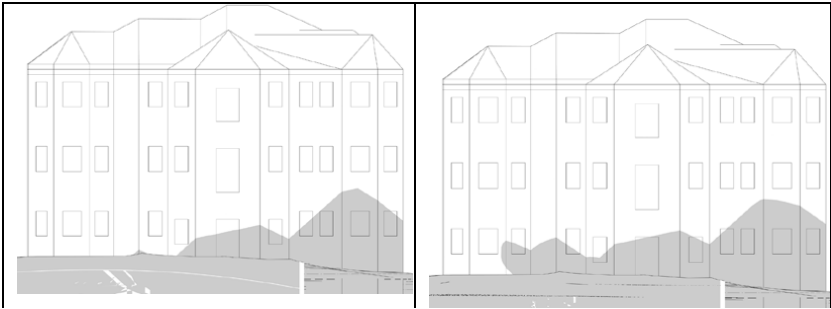
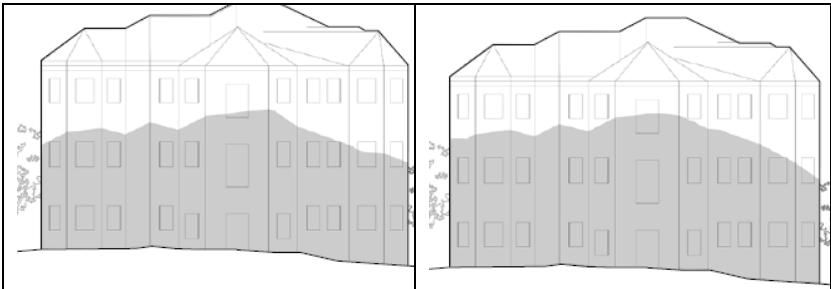
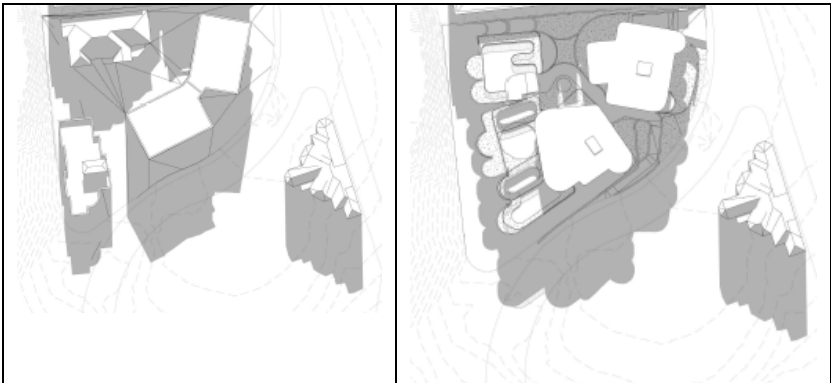
6. Residential flat buildings

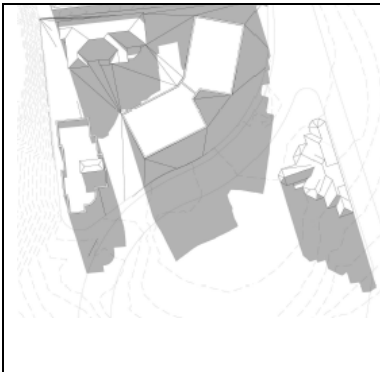
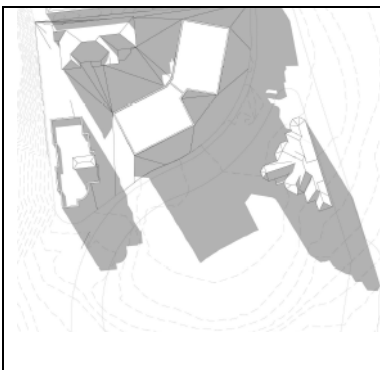
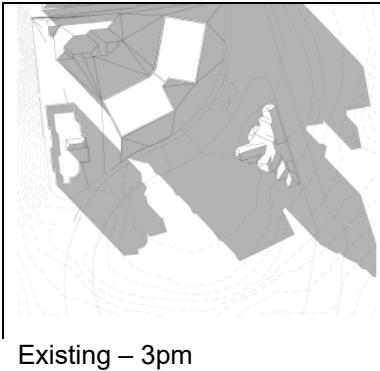
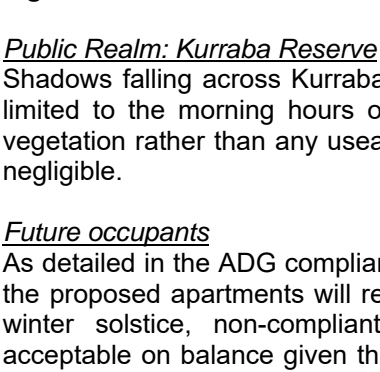
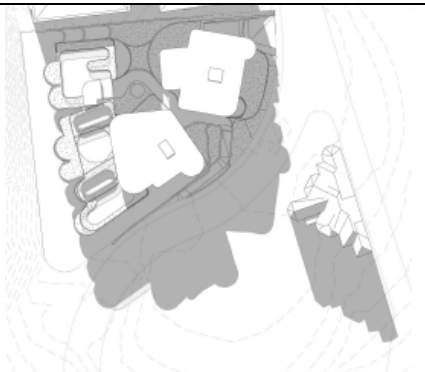
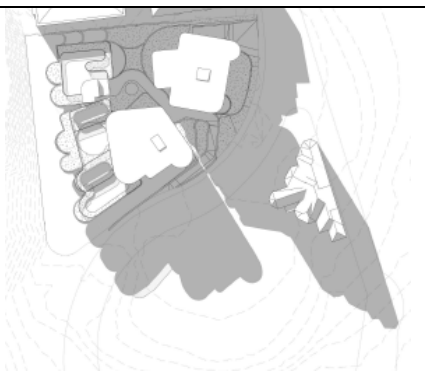
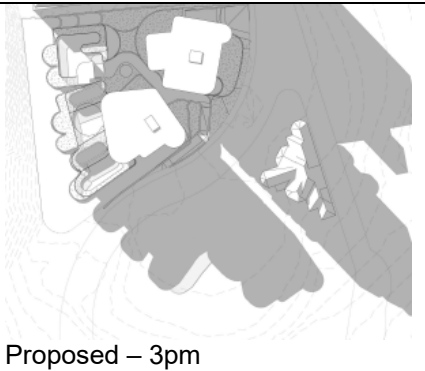
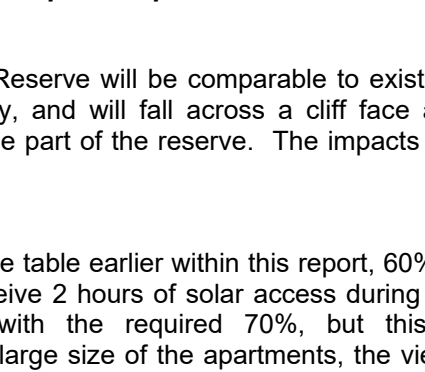
The objective of Clause 6.12 in NSLEP 2013 *“is to ensure that dwelling houses or dual occupancies will not be left isolated on sites that are reasonably capable of development for residential flat building.”* In relation to this requirement it is noted that the development proposes the consolidation of three parcels of land to provide for a suitably sized development across all three sites. The remaining properties to the north (145 and 145A Kurraba Road) both already contain residential flat buildings. Given this there would be no conflict with Clause 6.12 in NSLEP 2013 and the proposal is acceptable in this regard.

NSDCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.2 Social Amenity		
Population Mix	Yes	The development provides for a mix of two and three bedroom units (6 x 2 bed and 19 x 3 bed). Whilst this does not comply with NSDCP expectations due to there being no smaller one bed and studio units, a detailed Residential Property Report was submitted as part of the application amendments, which provides evidence that Kurraba Point is dominated by one and two bedroom apartments, and that there is also a demand for larger units. In light of this the proposed mix is appropriate.
	Yes	Part B, Section 1.2.1 P1(b) states that the residential yield should be approximately 90 m2 gross site area per apartment within a residential flat building. The proposed yield is approximately 88 m2 per unit, which is compliant.
	Yes	The development provides for four (4) adaptable units in compliance with the 15% of dwellings requirement (refer to Condition C44). The plans clearly identify the adaptable units and their parking allocation, and these units are well integrated into the development.
Maintaining Residential Accommodation	Yes	The proposal would result in a net gain of two (2) apartments across the development site.
Affordable Housing	Yes	The proposal would not result in the loss of any affordable housing in the LGA, because all three buildings on the site have previously been strata subdivided, and Clause 49(2) of the ARHSEPP is clear in excluding such buildings.
Housing for Seniors/Persons with disability	Yes	Three lift cores are proposed within the development providing easy access into all units. There are four (4) adaptable units along with associated parking which will provide for seniors and the disabled. The development also provides for level access at the main pedestrian entry.
1.3 Environmental Criteria		
Topography	No (acceptable on merit)	<p>The site has a cross fall of approximately 9.7m, from the north eastern to the south western boundaries, and the existing topography comprises varying levels as a result of previous development.</p> <p>Part B Section 1.3.1 in NSDCP seeks to ensure that the natural topography and landform are maintained, and states that development should not result in the ground level being greater than 500mm above or below existing ground level, that excavation should not occur within 1 metre of any property boundary, and that habitable rooms should be above ground.</p> <p>The proposal involves significant excavation of between 10 and 18 metres below existing ground level to provide for the basement, and the level of the land adjacent to Kurraba Road will be substantially altered</p>

		<p>through the removal of an existing sandstone retaining wall and outcrop (pictured in Photo 3 earlier in this report) and associated dropping of the levels behind it.</p> <p>As a consequence of the reduced levels proposed within the site, a number of apartments on the lower levels will be located either fully or partially below existing ground level. These apartments will not however be within a subterranean environment due to the reduction in ground levels across the part of the site which currently contains the building at 147 Kurraba Road. Given that these apartments will not be located significantly below finished ground level, are dual-aspect, and are significantly larger than ADG requirements, it is considered these apartments will have a good standard of amenity. It would therefore not be reasonable to insist on further amendments to these units.</p> <p>The proposed excavation for the basement levels is generally set well back from boundaries. Excavation for the car park ramp is sited at its closest point 1 metre from the northern boundary, which complies with the 1 metre minimum specified within NSDCP.</p>
Bushland	N/A	The subject site does not adjoin bushland.
Bush Fire Prone Land	N/A	The subject site is not located on bushfire prone land.
Foreshore Frontage	N/A	The subject site does not have a foreshore frontage.
Views	Yes	<p>A View Analysis was submitted with the application. This was informed by a View Record, whereby the height and camera location were recorded by LTS Lockley, registered surveyors. SJB Architects then overlaid a massing montage over these photographs to indicate the extent of the proposed development in comparison to existing. Officers note that this method is common practice when preparing a View Analysis for a development application.</p> <p>As part of the assessment of this application, site inspections were undertaken of a number of the apartments within the buildings at No. 145 Kurraba Road, No. 145A Kurraba Road and No. 143 Kurraba Road. Following these site inspections, Council officers requested some revised and additional modelling. The revised and additional view impact modelling was provided to Council on 28 November and formed part of the package of amendments that was re-notified to neighbours.</p> <p>It is noted that submitters have raised concerns that the view impact modelling is not certified and does not accurately show the impacts to their views. Council officers have visited affected neighbours and are satisfied the updated view impact modelling which was lodged with Council on 28 November 2019, is acceptable to indicate the likely extent of impacts.</p> <p>Overall, the view impacts arising from this development will be no more than minor, and the impacts are reasonable in light of the compliant building height, compliant site coverage and acceptable overall scale and bulk of the development. Officers consider that the proposed development has been skillfully designed to ensure no neighbour experiences unreasonable view loss.</p> <p>Refer also to detailed discussion under the <i>Tenacity</i> planning principle assessment at Appendix 2 attached to this report.</p>
Solar Access	Yes	<p>Solar access impacts for neighbours and public realm around the site are not significant and are acceptable as discussed below.</p> <p><u><i>Neighbours to the North</i></u> The neighbouring residential flat buildings to the north of the site at 145 and 145A Kurraba Road will not be materially affected by shadows from the proposed development due to their orientation to the north of the site.</p>

	Yes	<p><u>Neighbour to the Southeast</u> Apartments on the lowest two levels of the apartment building (northwest façade) across the street from the site (192B Kurraba Road) will receive some additional shadows from approximately 1.30pm during midwinter however the increase in shadowing compared with the existing situation is not significant and the affected apartments will retain solar access well in excess of the minimum 2hrs minimum specified within NSDCP (refer to Figure 5 below).</p>
	Yes	<p><u>Neighbours to the East</u> The neighbouring properties across the street to the east of the site will not be materially impacted as shadows to these properties will be similar to existing.</p> <p>No other neighbours will be materially affected by shadows from the proposed development due to the location of the site and scale of the development in relation to neighbouring properties around the site.</p> <div data-bbox="611 645 1445 981">  <p>Existing – 2pm Proposed – 2pm</p> </div> <div data-bbox="611 1034 1445 1361">  <p>Existing – 3pm Proposed – 3pm</p> </div> <p>Figure 5: Midwinter solar access impact for 192B Kurraba Road</p>
	Yes	<p><u>Public Realm: Hodgsons Lookout Park</u> The proposed development will cast some additional shadows over Hodgkins lookout park to the south of the site however the additional shadows are not significant with 83% of the park or more receiving solar access between 9 am and 3pm midwinter, refer to Figure 6 below. The impacts to the park are not significant and are acceptable.</p> <div data-bbox="611 1655 1445 2036">  </div>

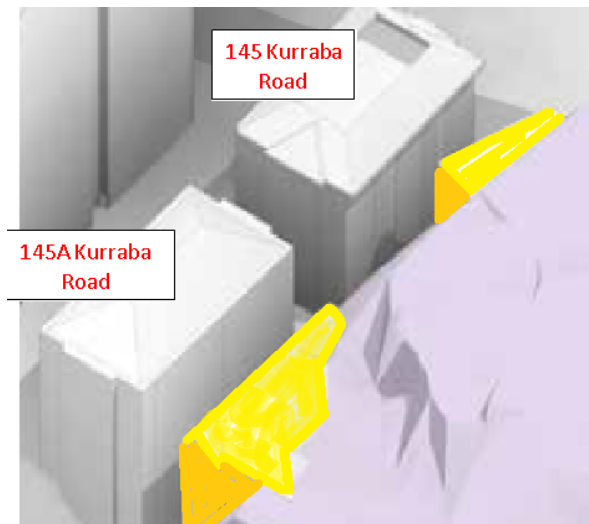
		<p>Existing – 12 midday (8.1% of park in shade)</p>  <p>Existing – 1pm (8.9% of park in shade)</p>  <p>Existing – 2pm (10.2% of park in shade)</p>  <p>Existing – 3pm (14.4% of park in shade)</p> 	<p>Proposed – 12 midday (8.6% of park in shade)</p>  <p>Proposed – 1pm (12.4% of park in shade)</p>  <p>Proposed – 2pm (11.8% of park in shade)</p>  <p>Proposed – 3pm (16.6% of park in shade)</p>  <p>Figure 6: Midwinter solar access impact for park</p> <p><u>Public Realm: Kurraba Reserve</u> Shadows falling across Kurraba Reserve will be comparable to existing, limited to the morning hours only, and will fall across a cliff face and vegetation rather than any useable part of the reserve. The impacts are negligible.</p> <p><u>Future occupants</u> As detailed in the ADG compliance table earlier within this report, 60% of the proposed apartments will receive 2 hours of solar access during the winter solstice, non-compliant with the required 70%, but this is acceptable on balance given the large size of the apartments, the views many of the apartments will experience, the dual aspect nature of apartments and the compliant or exceeding compliant provision of private amenity space. Overall the apartments offer a level of amenity which offsets the non-compliance.</p>
	Yes		
	No (acceptable on merit)		

Visual and Acoustic Privacy	Yes (via condition)	<p><u>Visual Privacy</u></p> <p>Visual privacy impacts are minimised through careful design including the incorporation of permanent privacy measures into the architecture, particularly on north facing facades, so the overall impacts are acceptable with no further privacy measures being required. A condition is proposed to ensure all privacy devices shown on the plans are provided prior to the first occupation of the development (refer to Condition G19).</p> <p>Neighbours across the road from the site to the southeast and east will not experience any undue loss of privacy given the separation provided the road reserve and the distances of 17m minimum between the development and these neighbours.</p> <p>Refer also to detailed discussion regarding visual privacy in the ADG table earlier in this report.</p>
	Yes (via conditions)	<p><u>Acoustic Privacy and Noise</u></p> <p><i>Communal Roof Terrace</i></p> <p>The development includes a communal roof terrace. The size of the communal terrace was reduced as part of the application amendments and this included providing a wider landscape buffer to the north side of the terrace and greater physical separation (10m) from the closest neighbours. To ensure that the likelihood of excessive noise is minimised, conditions are recommended requiring a by-law to restrict the use of the terrace to between 7am and 9pm (except for New Year's Eve and Australia Day), to prevent the use of amplified music, and to restrict the hours when the terrace is provided with lighting (refer to Conditions G18, I1, and I4). Subject to these conditions and given the residential nature of the development, noise resulting from the use of the communal roof terrace is unlikely to unduly harm the amenity of neighbouring properties or occupiers of the development.</p> <p><i>Private Roof Terraces</i></p> <p>The development proposes two large privately owned private roof terraces, each with a swimming pool. These roof terraces are well separated by over 18m from neighbours and consequently the neighbours are unlikely to be affected by noise from these terraces. Given these terraces will be used privately for residential purposes and will be located adjacent to the apartments to which they relate, rather than being sited alongside other apartments in the development, the likely noise generation is unlikely to be problematic. Standard conditions are recommended to appropriately limit the noise from swimming pool equipment (refer to Conditions C38 and C39).</p> <p><i>Noise from Plant and Equipment</i></p> <p>In addition, a number of standard conditions are recommended relating to acoustic privacy and to appropriately limit noise from plant and equipment, and to require certification of compliance (C27, C28, C29, C37, C38, G14, and I8).</p> <p><i>Construction Noise</i></p> <p>A number of conditions are recommended to appropriately limit noise and vibrations during the construction phase, including the requirement for a construction phase management plan (refer to Conditions C20, E12, and E15).</p>
1.4 Quality built form		
Context and Streetscape	Yes	<p>The site layout responds to the constraints of the site and as a result neighbor amenity impacts are minimised. The proposed building orientation and setbacks are acceptable as discussed throughout this report, and adequate space is available for landscaping, including along site boundaries. Tree removal is proposed; however, the trees to be removed generally have a low retention value, and significant</p>

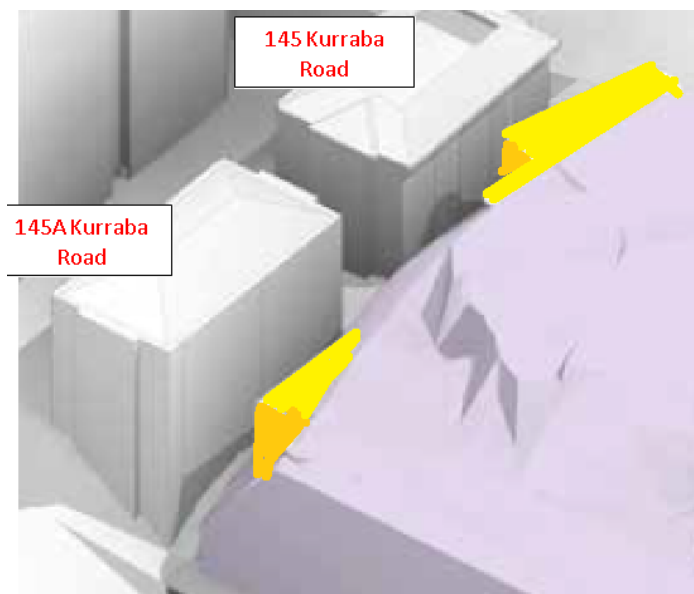
		replacement tree planting is proposed within the landscaping scheme. The application was amended to provide lower and more appropriate boundary treatment to ensure there will be opportunity for passive surveillance of the public realm around the site.																														
Subdivision Pattern	Yes	The development proposes the consolidation of three titles resulting in one larger development site (refer to Condition G22). The resultant development site is larger than some of the properties in the immediate vicinity however it is comparable in size to other sites in the locality including 143 Kurraba Road to the north. The development proposes a modulated built form along Kurraba Road to reflect the existing subdivision pattern and break up the massing.																														
Streetscape	Yes	Generally, the development provides a high-quality street edge with the provision of landscaping and generally low front boundary treatment, comprising high quality materials (red brick and re-purposed sandstone blocks). Conditions are proposed to ensure that Council's infrastructure and footpaths are not damaged (refer to Conditions C19 and C24).																														
Siting	Yes	The proposed development generally maintains the characteristic building orientation and siting.																														
Setback – Front	Yes	<p>NSDCP states that the front setback must match the alignment of the primary facades of buildings on adjoining properties. The site is located at a curve in the road and has no neighbours to the south, therefore the front setback of the neighboring building to the north (145 Kurraba Road) is to be considered in assessing the proposed front setback. The face of that building has a front setback of between 3.5m (north side of building) and 5.3m (south side) from its street (east) boundary equating to an average setback of some 4.40m (refer to Figure 7).</p> <p>The proposed northeastern part of the development where it adjoins 145 Kurraba Road provides a front setback of between 4.28m (northernmost balconies) and 6.5m (face of the building) which is considered appropriate and consistent with the established setback provided by 145 Kurraba Road.</p> <p>The front setback of the remainder of the building ranges from 3.2 to 4.5m from the front (eastern/southern) boundary, which is considered acceptable given the size of the site, the curved frontage, and the lack of any buildings adjacent to the southwestern tip of the site.</p>																														
Setback – Side	No (acceptable on merit)	<p>The objectives of the setback controls are set out in Part B Section 1.4.6 in NSDCP and aim to reinforce the characteristic pattern of setbacks and building orientation, to control the scale and bulk of buildings, to provide adequate building separation, and to provide amenity for existing and new dwellings in terms of solar access, views, and ventilation.</p> <p>The performance of the proposal against the setback controls is set out in the below table and discussed below.</p> <table><tr><th></th><th>Northern Side Boundary – northwest side of building</th><th>Northern Side Boundary – northeast side of building</th><th>Control (min)</th><th>Compliance</th></tr><tr><td>Level 1</td><td>3m</td><td>2.7 – 6.5m</td><td>1.5m and compliance with BHP</td><td>1.5m - yes, BHP - no*</td></tr><tr><td>Level 2</td><td>3m</td><td>2.7 – 6.5m</td><td>1.5m and compliance with BHP</td><td>1.5m - yes, BHP - no*</td></tr><tr><td>Level 3</td><td>3m</td><td>2.7 – 6.5m</td><td>1.5m and compliance with BHP</td><td>1.5m - yes, BHP - no*</td></tr><tr><td>Level 4</td><td>3m</td><td>2.7 – 6.5m</td><td>1.5m and compliance with BHP</td><td>1.5m - yes, BHP - no*</td></tr><tr><td>Level 5</td><td>3m</td><td>2.7 – 6.5m</td><td>1.5m and compliance with BHP</td><td>1.5m - yes, BHP - no*</td></tr></table>		Northern Side Boundary – northwest side of building	Northern Side Boundary – northeast side of building	Control (min)	Compliance	Level 1	3m	2.7 – 6.5m	1.5m and compliance with BHP	1.5m - yes, BHP - no*	Level 2	3m	2.7 – 6.5m	1.5m and compliance with BHP	1.5m - yes, BHP - no*	Level 3	3m	2.7 – 6.5m	1.5m and compliance with BHP	1.5m - yes, BHP - no*	Level 4	3m	2.7 – 6.5m	1.5m and compliance with BHP	1.5m - yes, BHP - no*	Level 5	3m	2.7 – 6.5m	1.5m and compliance with BHP	1.5m - yes, BHP - no*
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Level 5	3m	2.7 – 6.5m	1.5m and compliance with BHP	1.5m - yes, BHP - no*																												

Level 6	N/A	2.7 – 6.5m	1.5m and compliance with BHP	1.5m - yes, BHP - no*
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*Compliance with the minimum 1.5m setback is comfortably achieved for the whole building, with a minimum setback of 2.7m to the northern side boundary. However, the proposed development does not comply with the building height plane (BHP) control to the northern side boundary. **Figure 7** below provides a comparison between the existing buildings and the proposed development.



BHP non-compliance – Existing



BHP non-compliance - Proposed

Figure 7: BHP non-compliances relative to the northern boundary are highlighted yellow

In the site circumstances the development is considered acceptable and consistent with the objectives of the control for the following reasons:

- The northwestern part of the development provides considerably closer compliance with the BHP control than the existing building in this location.
- The northeastern part of the development is sited to match the alignment and general scale/bulk of the existing building. The balconies to the northeast side of the development extend approximately 3m further east than the existing building, however as discussed above the front setback between the balconies and

		<p>the street is acceptable and this element complies with the required 6m (half separation) specified in the ADG.</p> <ul style="list-style-type: none"> • The northwestern end of the new building extends further west than the existing building however the new element is set back 6.5m from the northern boundary compliant with the required 6m (half separation) specified in the ADG. • The development will not result in any unreasonable amenity impacts or view loss as discussed throughout this report. • The height of the development complies with the 12m height limit specified in NSLEP, and the building footprint is compliant with the site coverage expectations of NSDCP. • The scale and bulk of the building is considered acceptable in the context and given the R4 zoning.
Setback – Rear	No (<i>acceptable on merit</i>)	The proposed development provides a variable setback of between 4.5 and 8.1m from the rear (western) site boundary. This is comfortably compliant with the required 1.5m specified within NSDCP and is either consistent with or considerably greater than the setback provided by the existing buildings on the site. There is an exceedance of the BHP to the northern and southern ends of the west boundary however the building is significantly more compliant than the existing buildings and the rear setback is sufficient to provide landscaping including mature trees to soften the built form. The rear setback is also consistent with the existing setback of the building to the immediate north at 145A Kurraba Road.
Building Separation	Yes	Refer to detailed discussion in the ADG compliance table earlier within this report. The proposed building separation between the proposed building and existing development around the site is considered appropriate in the site circumstances taking into account the R4 High Density Residential zoning.
Form Massing Scale	Yes	<p>The proposed development consists of a series of interconnected buildings of variable height featuring recessed finger bays which aid in reducing the perceived bulk whilst also responding to the topography of the site. The building complies with the LEP height control, and generally provides closer compliance with the building height plane setback requirements when compared to the existing buildings on the site. A 3.1m floor to floor height is provided which will allow for compliant 2.7m floor to ceiling heights throughout the development.</p> <p>The development proposes a flat roofed building and the upper floor levels across the development do not comply with the 36-degree angle back from the top edge of the level below specified in NSDCP, however the architecture is nonetheless considered high quality as reflected in the support by the Design Excellence Panel, who raised no issue regarding the lack of top floor setback. It is noted that the Panel also raised no concern regarding the extent of glazing within the building facades. Officers consider that whilst there is significantly more glazing than traditional buildings in the area, the glazing does not unduly dominate the facades and openings are generally well proportioned, and modern buildings with larger openings provide a higher level of light and amenity for occupants.</p>
Built Form Character	Yes	The proposed built form and materiality is contemporary but is nonetheless compatible in the context, as the development has taken cues from the scale and rhythm, materiality and colour palette of existing development around the site. The development will contribute towards neighbourhood character by providing modulated art deco inspired bay forms, and by providing characteristic materials including red face brick. The proposed retention of significant trees including a large Fig to the southwest tip of the site will also contribute to retaining existing character and providing a sense of permanence to the development following completion. Balconies are well integrated into the architecture and their balustrades are metal which again reflects the context.
Dwelling Entry	Yes	There is one pedestrian entrance area which comprises a ramp and a set of stairs. These are accessed directly off Kurraba Road. The entrance and associated landscaping are designed to provide a clear sense of address, which is supported. There are no deep recesses or potential

		areas for entrapment and consequently the safety and security of considered acceptable.
Roofs	No (<i>acceptable on merit</i>)	The proposed flat roof form is contemporary and differs to many of the other development in the area, where traditionally pitched roof forms are predominant. However, the site is not within a Conservation Area, and the proposed flat roof form provides for improved view sharing compared with the likely impact of a pitched roof design. Overall the the architecture and roof form is considered high quality as reflected in the support by the Design Excellence Panel.
Materials	No	The proposed external materials include a textured red brick façade (specifically Bowral Shorthorn Mix with dark mortar), brass details, flat bar metal balustrades, and curved operable glazing. The materials and colours of the proposed development are high quality and generally compatible with surrounding developments. A condition is proposed to ensure that the materials are as specified (refer to Condition A3).
Balconies - Apartments	Yes	The proposal provides functional private open space for the apartments which either complies with, exceeds, or significantly exceeds ADG requirements (refer to discussion earlier in this report).
Front Fences	Yes	The front boundary treatment was amended and now comprises generally low walls with additional palisade fencing behind where additional security is required. The plans show that sandstone within the site will be re-used in the boundary walls and a condition is proposed to ensure this is the case (refer to Condition E27).
1.5 Quality Urban Environment		
Safety and Security	Yes	The proposal provides for a high level of safety and security, both through good design promoting passive surveillance (i.e. windows and open areas facing the street, and through active security measures (such as the front entry gate).
Vehicle Access and Parking	Yes	<p>Currently there are 12 parking spaces within the site to serve the 23 existing apartments. The application proposes 41 car parking spaces over three basement levels to serve the 25 new apartments, which includes 6 visitor parking bays and 4 accessible spaces. This is compliant with the maximum parking rates specified within Section 10 of NSDCP. A dedicated cycle parking room is proposed at basement level 3 providing space for 28 cycles, and there is additional space alongside many of the car parking bays for cycles.</p> <p>The basement levels are to be accessed via a single vehicle access in the north eastern corner of the site. The ramp into and within the basement would be one-lane, two-way, with a waiting bay provided at the entrance and on each basement level to allow two vehicles to pass each other. A signal system would be implemented to minimise the risk of conflicts on the ramp. One vehicle waiting bay is provided adjacent to the street within the site.</p> <p>The application is accompanied by a Traffic Report by GTA Consultants dated 22/08/2019 (Ref. N153191), and an additional letter dated 1 November 2019 which was prepared to address concerns raised in submissions. These confirm that the development will generate a net increase of 6 and 7 trips in the AM and PM peaks respectively, equating to a total traffic generation of 9 and 10 trips in the AM and PM peaks respectively. The report confirms that whilst Kurraba Road currently operates above the environmental goal of 200 vehicles per hour, it will continue to operate below the maximum threshold of 300 vehicles per hour following completion of the development.</p> <p>A queuing analysis has been carried out which demonstrates that the proposed provision of one onsite car waiting bay is acceptable.</p> <p>Council's Traffic and Transport Officer raised no objection and considers that the development will not adversely affect the road network. They recommended several conditions which are discussed earlier in this report.</p>

		<p>RMS was consulted and responded to state no objection subject to traffic signals being located within the site and priority being given to entering vehicles. A condition is recommended accordingly (refer to Condition C23).</p> <p>Overall, the additional vehicle movements from the proposed development are considered minor and are not expected to compromise the safety or operation of the surrounding road network.</p> <p>There will be some temporary disruption during construction which can be managed via a detailed Construction Management Program to be approved by Council's Traffic Committee (refer to Condition B1).</p>																									
Site coverage, Landscaped area and Un-built upon area	No (acceptable on merit)	<p>The development complies with site coverage, landscaped area and un-built area requirements as set out in the below table:</p> <table><tr><td>Site</td><td>Area:</td><td>Proposed</td><td>Control</td><td>Complies</td></tr><tr><td>1,706.5m²</td><td></td><td></td><td></td><td></td></tr><tr><td>Site coverage</td><td></td><td>44.5%</td><td>45%</td><td>Yes</td></tr><tr><td>Landscaped area</td><td></td><td>38.1%</td><td>40%</td><td>No*</td></tr><tr><td>Un-built upon area</td><td></td><td>17.4%</td><td>15%</td><td>No*</td></tr></table> <p>* The proposed landscaped area does not strictly comply with NSDCP requirements however the non-compliance is caused by areas of the basement which extend beyond the building footprint and are therefore technically classified as unbuilt upon area. These areas will be landscaped however, and consequently the perceived extent of landscaping across the site will be in line with NSDCP expectations. The proposed landscaping scheme includes significant vegetation across the site including tree planting which will result in significantly more tree cover across the site than the current situation.</p>	Site	Area:	Proposed	Control	Complies	1,706.5m ²					Site coverage		44.5%	45%	Yes	Landscaped area		38.1%	40%	No*	Un-built upon area		17.4%	15%	No*
Site	Area:	Proposed	Control	Complies																							
1,706.5m ²																											
Site coverage		44.5%	45%	Yes																							
Landscaped area		38.1%	40%	No*																							
Un-built upon area		17.4%	15%	No*																							
Excavation	Yes	<p>The proposed development would involve deep excavation to a depth of 18 metres below ground level. Generally no significant excavation is proposed within 3 metres of any boundary, except in the location of the driveway and ramp entrance, where excavation is proposed 1m from the boundary. The siting of the excavation 1 metre away from the common boundary is compliant with NSDCP requirements.</p> <p>The proposed area of excavation (approximately 50% of the site) is comfortably compliant with the 70% of site area maximum within Provision P4 in Part B, Section 1.5.7 in NSDCP 2013. The development provides for deep soil areas including along the north side boundary where a deep soil zone capable of supporting structural landscaping (i.e. trees) is proposed, including alongside the driveway access area.</p> <p>Refer also to detailed discussion within the 'Earthworks' section earlier within this report, where various recommended conditions are discussed, which seek amongst other things to protect the structural stability of neighboring land and buildings.</p>																									
Landscaping and Front Garden	Yes	<p>The proposed development is supported by a detailed landscaping scheme, which is considered acceptable. Whilst several trees will need to be removed, these generally have a low retention value and many new trees will be provided as part of the landscaping scheme including substantial and super mature trees with pot sizes of 1000L. Deep soil across the site is compliant and as such tree will be able to mature and provide softening of the new built form. The front setback is well landscaped. Conditions are recommended to ensure the landscaping is implemented and maintained (refer to Conditions G2 and I5).</p>																									
Private and Communal Open Space	Yes	<p><u>Private open space</u></p> <p>NSDCP requires 20sq.m private open space for 3 bedroom units, and 12sq.m for 2 bedroom units. ADG requires 12sq.m and 10sq.m respectively. As discussed earlier in this report, private open space either complies with or exceeds ADG requirements.</p>																									
	Yes	<p><u>Communal open space</u></p>																									

		<p>The communal open space area across the site comprised a ground level courtyard and roof terrace which provide space well in excess of the 25sq.m minimum specified within NSDCP.</p> <p>The communal space provision is not strictly compliant with ADG requirements but is considered acceptable on merit as discussed earlier in this report.</p>
Garbage Storage	Yes	The development provides for a bin store area alongside the street frontage near the car park entry, and there is adequate space within the basement for the storage of bulky waste. Standard conditions are proposed relating to garbage and recycling (<i>refer to Conditions C14, C21, and I9</i>).
Site Facilities	Yes	Mailboxes are provided within the front boundary wall (Level 1), adjacent to the main entry to the site. The residential storage areas comfortably comply with the areas specified in the ADG.
1.6 Efficient Use of Resources		
Energy Efficiency	Yes	A suitable 'Multi Dwelling' BASIX Certificate (<i>980997M_05 dated 17 February 2020</i>) has been submitted to satisfy the aims of the SEPP.

DCP CHARACTER STATEMENTS - Section 6: South Cremorne Planning Area

6.1 Kurraba Point South Neighbourhood

The proposal has been considered in accordance with the character statement for the Kurraba Point South Neighbourhood within the South Cremorne Planning Area, where the desired future character is for medium to high density residential accommodation, generally comprising attached dwellings, multi dwelling housing and residential flat buildings according to the zone. The proposed development is considered to be generally consistent with this desired future character as discussed throughout this report.

SECTION 7.11 CONTRIBUTIONS

The proposal, which involves the demolition of 23 x 2 bedroom apartments units, and the construction of a new residential flat building containing 25 apartments comprising 6 x 2 bedroom units and 19 x 3 bedroom units, triggers a total Section 7.11 contribution of **\$106,412.54**, with the following breakdown:

A	B (\$)
Administration	\$1,024.03
Child Care Facilities	\$1,773.75
Community Centres	\$4,648.92
Library Acquisition	\$867.34
Library Premises & Equipment	\$2,682.59
Multi Purpose Indoor Sports Facility	\$732.49
Open Space Acquisition	\$29,238.45
Open Space Increased Capacity	\$57,955.88
Olympic Pool	\$2,385.95
Public Domain Improvements	\$2,290.93
Traffic Improvements	\$2,812.21
The total contribution is	\$ 106,412.54

A condition is recommended requiring payment prior to issue of any Construction Certificate (*refer to Condition C1*).

SITE SUITABILITY

The proposed development is considered to be suitable for the subject site for the reasons provided within this report.

PUBLIC INTEREST

The development is considered to be generally in the public interest for the reasons provided within this report.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

Copies of all of the submissions have been provided to the Panel. Relevant submitter concerns have largely been addressed through the discussion and assessment in this report, particularly within the SEPP65/ADG and NSDCP sections. Additional comments are provided as follows:

- ***Ground vibrations due to excavation will cause damage to neighbouring residential flat buildings which are old and sit on weak foundations. The Geotechnical Report is not adequate as no boreholes were taken near the north site boundary, and there were no inspections of the foundations of neighbouring buildings. Additional geotechnical investigation including intrusive investigation such as additional cored boreholes must be undertaken prior to the determination of the application. All rooms below existing ground level be deleted to reduce the extent of excavation.***

Comment:

The submitted Geotechnical Investigation is supported by fieldwork which included the drilling of four boreholes within the site and inspection and mapping of the rock face below the western boundary of the site. Inspection of the subject site did not identify any specific areas of geotechnical concern. This level of information and fieldwork is considered acceptable to allow the application to be assessed.

The application is also accompanied by structural engineers' advice which concludes that the basement excavation is readily buildable and unlikely to compromise the integrity of adjoining properties and infrastructure.

Council's Development Engineer raised no objection to the application subject to a number of planning conditions to ensure neighbouring land and buildings are not adversely impacted by the development, including conditions requiring dilapidation reports for excavation, the submission of a geotechnical report, and geotechnical stability during works (**refer to Conditions C8, C10, C11, E10, and G7**).

As discussed in detail in this report, whilst the development does provide apartments below existing ground level, these will not be in a subterranean environment due to the lowering of ground levels across parts of the site. Overall the amenity of these apartments will be acceptable as discussed earlier in his report, and as such the deletion of these units is not justified.

- ***The proposed building does not comply with building separation requirements within the ADG and also does not comply with the Building Height Plane or front setback controls within NSDCP and this leads to unreasonable view loss for southeastern apartments within 145 Kurraba Road. Chamfering/reductions to other parts of the development is also required to reduce view loss for units on the southwest side of 145 Kurraba Road.***

Comment:

The side setbacks along the northern side boundary range from 2.7m - 3m minimum and comfortably comply with the minimum 1.5 metres specified in NSDCP.

The northwestern part of the development provides considerably closer compliance with the BHP control than the existing building in this location. The northeastern part of the development is sited to match the alignment and general scale/bulk of the existing building.

The curved balconies to the northeast side of the development extend approximately 3m further east than the existing building, however as discussed in this report this 'new' building bulk is acceptable for the following key reasons:-

- The front setback between the balconies and the street (4.28m setback) is acceptable when compared against the average front setback of the neighbouring building at 145 Kurraba Road (4.40m setback).
- The balconies are set back 6.5m minimum from the northern boundary providing compliance with the 'half separation' distance of 6m required by ADG.
- The development complies with the 12m height limit specified in NSLEP, and the building footprint is compliant with the site coverage expectations of NSDCP.
- Whilst the balcony projection element of the building will result in a small reduction of the outlook across the site towards trees and buildings from neighboring apartments, no significant views would be affected and the impacts are no more than minor and reasonable in the circumstances, as discussed in detail within the 'Tenacity' assessment (refer to **Appendix 2**). Removing the balcony projection element of the building to slightly improve an outlook is therefore not warranted.

View impacts for apartments on the southwestern side of 145 Kurraba Road are assessed as no more than minor and reasonable in the circumstances, as discussed in detail within the 'Tenacity' assessment (refer to **Appendix 2**). Further reductions to the massing of the building is not warranted.

- ***The Traffic Impact Assessment is flawed because the data capture point is not appropriate and the data was collected during the school holidays where traffic flows are atypical. The development will result in additional traffic and parking congestion which is not sustainable given the narrowness of Kurraba Road. The provision of a single car waiting bay will cause queuing into the road. Construction phase traffic impacts will be significant.***

Comment:

The applicant's Traffic Consultant confirmed that the data collection location was based on Kurraba Point Road east of Wycombe Road being a road that is expected to carry more traffic (due to the presence of traffic signals) than other sections of roads identified by objectors. The location was informed by observations made on-site and considered that the level of peak volume along other sections of roads are unlikely to exceed the volume observed at the data collection location.

The development will provide for compliant off street carparking which will reduce pressure on on-street car parking. The proposal will generate a net increase of 6 and 7 trips in the AM and PM peaks respectively, equating to a total traffic generation of 9 and 10 trips in the AM and PM peaks respectively. This is not considered significant, and whilst it is acknowledged that Kurraba Road currently operates above the environmental goal of 200 vehicles per hour, it will continue to operate below the maximum threshold of 300 vehicles per hour following completion of the development.

A queuing analysis has been carried out which demonstrates that the proposed provision of one onsite car waiting bay is acceptable and as such additional waiting bays are not justified.

Council's Traffic and Transport Officer raised no objection and considers that the development will not adversely affect the road network. RMS was consulted and responded to state no objection subject to traffic signals being located within the site and priority being given to entering vehicles. A condition is recommended accordingly (**refer to Condition C23**).

There will be some temporary disruption during construction which can be managed via a detailed Construction Management Program to be approved by Council's Traffic Committee (**refer to Condition B1**).

- ***The communal open space at roof level is non-complaint and should be deleted to reduce privacy impacts for neighbours.***

Comment:

The size of the communal terrace was reduced as part of the application amendments and this included providing a wider landscape buffer to the north side of the terrace and greater physical separation (10m minimum) from the closest neighbours. This physical separation is adequate given the R4 High Density zoning of the site.

To ensure that the likelihood of excessive noise is minimised, conditions are recommended requiring a by-law for any strata plan to restrict the use of the terrace to between 7am and 9pm (except for New Year's Eve and Australia Day), to prevent the use of amplified music, and to restrict the hours when the terrace is provided with lighting (**refer to Conditions G18, I1, and I4**). Subject to these conditions and given the residential nature of the development, noise resulting from the use of the communal roof terrace is unlikely to unduly harm the amenity of neighbouring properties or occupiers of the development.

- ***Object to the extent of glazing in the building facades and consider the design does not relate sympathetically to surrounding development. Consider that the scale and massing of the development is excessive and would adversely impact the natural beauty and historic setting of the site and its surrounds.***

Comment:

The proposed development consists of a series of interconnected buildings of variable height featuring recessed finger bays which aid in reducing the perceived bulk whilst also responding to the topography of the site. The building complies with the LEP height control, and generally provides closer compliance with the building height plane setback requirements when compared with the existing buildings on the site. The overall scale and bulk is considered to be in line with what the various controls would anticipate for this site.

The proposed architectural approach is considered high quality as reflected in the support by the Design Excellence Panel, who raised no concern regarding the extent of glazing within the building facades. Officers consider that whilst there is significantly more glazing than traditional buildings in the area, the glazing does not unduly dominate the facades and openings are generally well proportioned, and modern buildings with larger openings provide a higher level of light and amenity for occupants.

- ***Rooftop landscaping is likely to block views.***

Comment:

The species of plantings chosen for rooftop areas are low growing and given the rooftop conditions are unlikely to grow to any significant height. A condition is proposed requiring all rooftop landscaping to be maintained so as not to exceed 12 metres in height as indicated on the plans (***refer to Condition I5***).

- ***The applicant should use a chute and a barge to take some construction traffic off the road.***

Comment:

Whilst the idea of using a chute and barge has merit, it is unfortunately unlikely to be workable in reality for several reasons:-

1. A temporary wharf would be required which would in turn require several other approvals including a development application.
2. The chute for the barge would have to extend over Kurraba Reserve and the reserve would have to be closed for safety reasons, disadvantaging those who wish to use the reserve.
3. The cost of going through with the process including all the necessary approvals would be significant.
4. Applying a condition requiring the use of a barge and chute would be challengeable and ultimately difficult to defend.

The proposed development for a residential flat building is fairly generic, and it is outside the scope of this development to burden the developer with using a chute and barge taking into account the above issues.

CONCLUSION & REASONS

The development application has been assessed against the North Sydney Local Environmental Plan 2013, the North Sydney Development Control Plan 2013 and the relevant State Planning Policies and found to be satisfactory in the site circumstances.

The subject site is zoned R4 (High Density Residential) where residential flat buildings are permissible with consent of Council, and the development would provide for additional housing in the Kurraba Point South Neighbourhood, where the desired future character includes residential flat buildings.

It is acknowledged that the proposal will involve significant excavation, however the site sits upon sandstone and the submitted Geotechnical Investigation did not identify any specific areas of geotechnical concern. Subject to a number of conditions the development can be safely executed with minimal likelihood of adverse impacts on the structural integrity of neighbouring land and buildings.

The proposed scale and massing of the development is considered satisfactory in the site context, and the placement of building mass, stepped form and central courtyard has been designed to ensure reasonable view sharing. Compliance with key controls including building height and site coverage is achieved, and where there are non-compliances with building separation and setback controls these are assessed as acceptable in the site circumstances and are unlikely to result in unreasonable amenity impacts for neighbours.

The architectural design and materiality of the development is suitable in the context, and the dark brick facade and curved bays will complement the character of the area which includes a number of inter-war and Art Deco buildings. The proposed external materials are considered high quality and durable.

The development provides for compliant vehicle and cycle parking within the site, and the increase in vehicle movements resulting from this development is unlikely to compromise traffic and parking conditions around the site. Temporary traffic impacts during construction can be managed via a detailed Construction Management Program to be approved by Council's Traffic Committee.

The proposal will require the removal of several trees from the site, however these generally have low retention values, and the landscaping scheme provides for substantial replenishment planting within compliant deep soil zones.

Overall, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and is therefore recommended for **approval** subject to conditions.

How community views were taken into account in making the decision

The original proposal attracted 143 submissions comprising 76 in support and 58 objections. The key issues including excessive height, bulk and scale, excavation and potential impacts on surrounding buildings and land, view loss, and loss of visual and acoustic privacy. The amended plans attracted a further 75 submissions comprising 42 in support and 33 objections. The key issues raised in objections were similar to those received following notification of the original plans, with key ongoing concerns being focussed around potential impacts due to excavation, view loss, traffic and parking impacts, scale/bulk and building design, and loss of privacy arising from the communal roof terrace.

The issues raised in the submissions have been fully considered in the assessment of the application, and appropriate conditions have been recommended where necessary to address the issues raised.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. **THAT** the Sydney Regional Planning Panel, as the consent authority, **grant consent** to Development Application No.255/19 for the demolition of existing buildings and construction of a part 4 part 6 storey residential flat building over three basement levels comprising 25 apartments with associated landscaping, at 147, 151 and 153 Kurraba Road, Kurraba Point, subject to the conditions attached at **Appendix 1:-**

Lisa Kamali
SENIOR ASSESSMENT OFFICER
