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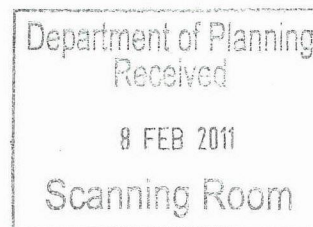
Reference: S02979 /
4 February 2011



Major Projects Assessments
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Att: Director, Metropolitan Projects

Dear Mr Woodland



MP08-_-0207 and MP10_0219

Residential Flat Development at 1, 1A, 5 Avon Rd, 1 Arilla Rd and 4, 8 Beechworth Rd Pymble

Thank you for the opportunity to comment on the above major project. Please find attached Ku-ring-gai Council's submission in this regard.

If you have any queries in regard to the submission, please contact Terri Southwell on 9424 0876.

Yours sincerely

Antony Fabbro
Manager, Urban Planning

Translated Extract

English

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This document contains important information and news. If you do not understand it, please call the Telephone Interpreter Service on 131 450 and ask them to phone 9424 0888 on your behalf to contact Ku-ring-gai Council. Business hours: Monday - Friday, 8.30am - 5pm.

Chinese (simple)

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Japanese

助けを必要とする?

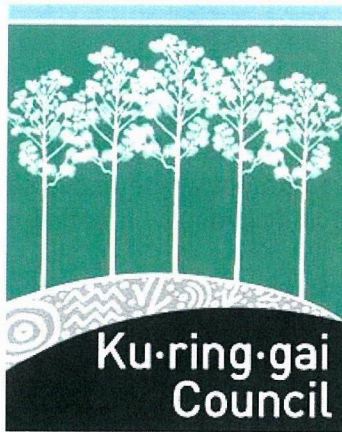
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Korean

도움말이 필요하신가요?

이 문서는 중요한 정보와 뉴스를 포함하고 있습니다.

문서를 이해할 수 없으시면, 131 450으로 전화하여 131 450으로 전화하여 9424 0888에 전화하여 도움을 받으실 수 있습니다. 영업시간: 월요일 - 금요일, 오전 8:30 - 오후 5:00.



Ku-ring-gai Council Submission

**Proposed Residential Flat Development
1, 1A & 5 Avon Rd, 4 & 8 Beechworth Rd & 1 Arilla
Rd, Pymble**

MP08_0207 and MP10_0219

February 2011

Introduction

This submission provides Ku-ring-gai Council's comments on the key issues in relation to the concept plan and project application for residential flat development at the above site. The comments have been reviewed by the Council and adopted at its ordinary meeting of 1 February 2011.

Relevant EPIs, Guidelines to be addressed

The concept plan proposal was deemed to be one to which part 3A of the EP&A Act applies as it was, at the time, identified in Clause 15 in Schedule 2 (Specified sites) of the Major Development SEPP, entitled 'Housing in Ku-ring-gai' (see Declaration of 1/12/2008). The inclusion of the site in schedule 2 of Major Development SEPP was on the basis that the site was previously identified development for the purpose of multi-unit housing on sites within the Ku-ring-gai area listed in Schedule 4 of State Environmental Planning Policy 53 Metropolitan Residential Development (SEPP 53) as a Major Development to be assessed under Part 3A of the EPA Act.

However, since the time of lodgement of the application under Part 3A a number legislative changes have taken place which Council believes renders the application invalid.

- The making of the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (Town centres LEP) on 25 May 2010 which repealed SEPP 53 from applying to the land. SEPP 53 was subsequently amended on 25 June 2010 to reflect the provisions of the Town Centres LEP.
- The Major Development SEPP was amended on 25 June 2010 to omit Clause 15 from Schedule 2. This resulted in the site no longer satisfying the requirements of clause 6(1) of the Major Development SEPP to be considered under Part 3A of the Act.

Given that there were no savings and transitional provisions included in the amendments to the Major Development SEPP on 25 June 2010 to save applications that had been lodged under the provisions of the SEPP but not determined, it is Council's view that the application has lapsed and cannot be determined by the Minister as it is no longer a project to which Part 3A applies.

As a result of the above mentioned amendments to the relevant Environmental Planning Instruments (EPIs), the remaining relevant EPIs and guidelines to be addressed by this application are the following:

- Objects of the EP&A Act
- SEPP 55, SEPP 65, SEPP (Infrastructure) 2007, SEPP (BASIX) 2004
- Ku-ring-gai Council's Town Centres LEP and Town Centres DCP
- Draft North Subregional Strategy

It is also emphasised that Town Centres LEP was prepared by the ministerially appointed Ku-ring-gai Planning Panel, with the Minister making the plan in its final form and exempting the site from SEPP No. 53 and the Major Development SEPP. These actions demonstrate that the Minister's clear intent is that the Ku-ring-gai Town Centres LEP is the relevant EPI to apply to this site. Given this, it is Council's position that any application for this site should be lodged with Council for assessment with the Joint Regional Planning Panel (JRPP) as the determining authority.

It is noted that the applicant claims that the proposal was deemed to be one to which Part 3A applies, due to the Capital Investment Value. However, this was not the Director General's determination. Further, the CIV is so high, only because the applicant so far exceeds the development potential of the site under the Ku-ring-gai LEP (Town Centres) 2010 (KLEP), (and indeed the provisions of SEPP 53 when it applied).

Objects of the Environmental Planning and Assessment Act 1979

The proposal fails to provide for the orderly and economic development of the land, by isolating a number of sites, sites which are the most suitable parts of the site for the development. It also fails to protect the environment, by isolating an area of critically endangered ecological community.

Ku-ring-gai Local Environmental Plan (Town Centres) 2010

Significant planning and consultation were undertaken to ascertain the best locations for increased density and the location and scale of residential flat buildings, as part of the town centre planning. This included a thorough consideration of the appropriate density of the subject site. While SEPP 53 provided for increased density on this site, the Ku-ring-gai Local Environment Plan (Town Centres) 2010 (KLEP), in recognising the constraints of the site, amended the height and increased the FSR controls to allow for a viable development to be designed that would address these constraints. The KLEP was gazetted with these amendments.

Compliance with the key provisions of the KLEP is outlined in Table 1.

It is recognised that the capital investment value of the proposal would allow it to be considered as a major project for the purposes of Part 3a, if this were given as the reason for the determination. However, the only reason the proposal is over the CIV value required for consideration as a major project, is due to the total disregard of the planning controls in the Ku-ring-gai LEP (Town Centres) 2010 (and for that matter, the previous controls under the Major Project SEPP). The extent of the non-compliance is therefore the only reason the proposal *could* be considered under Part 3a. Approval under these circumstances would set a precedent, that has the potential to undermine the KLEP and the planning for the town centres.

Table 1. Compliance with KLEP – estimates only as insufficient detail provided for accurate assessment

Clause	Provision	Proposal	Compliance
2.2, 2.3	R4 zoning, permitting residential flat building	Residential flat building	Yes
4.3	Maximum height of 17.5m on Avon Rd, (most of Building 1 area) Maximum height 23.5m further to the west	Maximum height: Building 1: 4-7 storeys - 21m where 17.5 permitted 21m where 23.5 permitted Building 2: 5 – 6 storeys Approx 18m Building 3: 2-9 storeys At least 27m Building 4: 4 – 11 storeys - 37m Building 5: 5-9 storeys Approx 30m	No. Of 5 buildings only 1 complies. The degree of non-compliance is up to almost 60% above the maximum height.
4.4	Maximum floor space ratio of 0.8:1	FSR > 1.4:1 Note the proponent's calculation of 1.39:1 fails to include the gymnasium and the surplus car parking.	No. The proposal is 75% higher than the permitted FSR.
6.1	Minimum frontage for medium and high density development	57m to Avon Rd, 17m to Beechworth. The 17m frontage complies as it is treated as an access handle, for battleaxe development.	Yes, however, some of the sites isolated by the development do not.
6.5	Protection of biodiversity	Results in significant clearing and other impacts on Blue Gum High Forest. Some areas rehabilitated.	No
6.6	Protection of riparian zones	Buildings 3 and 4 intrude within the riparian zone, and the required Asset Protection Zones intrude further.	No

Inadequacy of plans and information provided

Council has serious concerns about the inadequacy of the plans and information provided in the Environmental Assessment. The level of detail, consistency and accuracy is so poor, that approval of the proposal may leave the consent authority liable for damage or repairs, or expensive alterations that may be required during or after construction, that should have been anticipated, and designed for, at the proposal stage. At a minimum, the construction of the development in accordance with such inadequate and conflicting plans and reports would result in an extremely poor quality development, with ongoing and unnecessary maintenance issues for future residents of the site and the locality, and unacceptable environmental impacts.

The following are inadequate:

Flora & Fauna Assessment Report

- The report fails to assess the impacts of the proposal upon the Critically Endangered Ecological Community (CEEC) Blue Gum High Forest (BGHF).

- The assessment fails to demonstrate and provide sufficient information to make an accurate assessment of the "Activity" and associated impacts upon the BGHF community.
- The assessment detailed within Attachment A fails to consider the "direct" and "indirect" impacts to the BGHF community as a result of the proposal.
- The assessment only considers the removal of 12 trees not the removal of the BGHF community.
- The report fails to consider the impacts upon Tree 100, a large blue gum (*Eucalyptus saligna*)
- While identifying most trees on the site (other than some weed species) the report fails to identify all the trees on the site;
- The assessment fails to demonstrate the "extent" of the community within the site & the physical area to be removed and/or to the compositional components of the habitat and the degree to which is affected, this in particular reference to the local occurrence of BGHF community within the site.

Vegetation Management Plan

- The VMP fails to consider the Department of Environment and Climate Change best practice guidelines for Blue Gum High Forest:
 - Revegetation is proposed, while regeneration is required under the guidelines;
 - Mulching is proposed contrary to the best practice guidelines for BGHF;
 - The maintenance period specified is inadequate;
 - The quantification and arrangement of plantings is not provided.

The Arboricultural Report

- Although the site was revisited (a brief inspection only) in May 2009, the report was prepared in April 2002. It is questionable whether the information provided 8 years ago is still adequate or satisfactory in respect of actual trees on site (regrowth would have occurred), tree health, condition and size. The report should be updated in detail.
- The report fails to provide an analysis of actual tree removals required for the proposed development, nor is there any assessment of likely impacts of development on trees to indicated to be retained.
- The report fails to identify the quantum of vegetation removal. Impact on vegetation and the feasibility of retention is relevant to any conclusions drawn with respect of impact assessment in relation to fauna, flora and vegetation communities and therefore the impacts are not described. This is particularly relevant in the first stage for those trees to be retained which would however appear to be affected by construction.
- The report fails to reference the appropriate *Australian Standard 'Protection of trees on development sites As 4970- 2009.'*
- The report fails to consider tree protection prior to and during construction. Tree protection is considered critical to retention of trees at this stage.

Landscape plans:

Stage 1 landscape plan:

- The landscape plans for stage 1 fail to indicate the area/s of low water/ indigenous planting required to meet the landscape BASIX certificate commitments for this stage.
- The proposal fails to provide external levels either proposed or existing on the landscape plan and other plans.
- No information has been provided in relation to the adequacy of or depth of soil over basement areas where tree and screen planting is indicated.
- Existing vegetation to be retained and or removed is not identified in number, position or species on the detailed landscape plans.
- The scale is too small: a minimum of 1:200 is required to enable adequate assessment for Stage 1.

Concept plan landscape plan:

- The scale is too small to allow adequate assessment. A minimum of 1:300 is desirable for the concept plan;
- The areas marked as deep soil are incorrect, as they include areas over basement;
- The plans fail to show the extent of excavation and fill;
- The plan fails to provide external levels either proposed or existing.
- No detail is provided on width or accessibility of pedestrian paths through site, or to communal areas.

Heritage reports:

- No archaeological investigation into the site or an assessment of the potential archaeology of the site by a recognized archaeologist as required in the Director Generals Requirements;
- The Aboriginal Heritage Advice is a preliminary assessment, no consultation has been undertaken with Aboriginal stakeholders and as such it does not conform to the Department of Environment, Climate Change and Water's (DECCW) Aboriginal Cultural Heritage Standards and Guidelines Kit (2004) or the 'Draft guidelines For Aboriginal Cultural Heritage Impact Assessment and Community Consultation 2005' as required in the Director Generals Requirements for Heritage;
- Heritage impact statement submitted is largely irrelevant as several of the buildings proposed for demolition were delisted in Town Centres LEP.
- The scope of the heritage impact statement is limited because it does not assess the impact of the development on the nearby heritage items or suggest any ways of mitigating the impacts. It simply states the consultant was not involved in the design/development.

Site plans:

- There is no detailed site plan for Stage 1;
- Concept site plan fails to show pedestrian accessways;
- Concept site plan fails to clearly differentiate trees to be retained, and trees to be planted;
- Concept site plan fails to identify communal open space areas

Site survey:

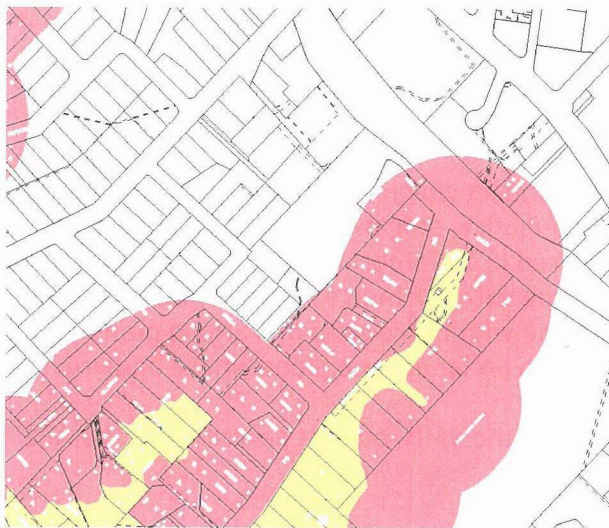
- Fails to accurately identify the trees on the site;
- Fails to identify the additional bend in the riparian zone at the top of the site.

Traffic report:

- Fails to apply an appropriate the traffic generation rate. Pymble is unlikely to be considered a “metropolitan sub-regional centre” upon which the report is based therefore, and would therefore the traffic generation is underestimated;
- Fails to consider the cumulative impacts of other development under the Ku-ring-gai LEP (Town centres) 2010 or the site already developed under SEPP 53 in Avon Road.

Bushfire report:

- Lack of clarity in regard to Pg 4 - 5.0 Compliance Tables and Notes, p12:
 - The meaning of the reference to ‘Arilla Road and maintained residential allotments’ and ‘Avon Road’ as significant environmental features is unclear;
 - The meaning of the reference to ‘APZ Existing’ in relation to Aboriginal relics;
 - The report gives various references to the presence of Blue Gum High Forest that appear to contradict each other.
- Incorrect map display of areas of bush fire prone land which pose a hazard (p.6 – 6.0 Aerial view of the subject allotment). Refer to the Bush Fire Prone Lands Map;



- The report fails to specify which stations are Fire and Rescue NSW (previously NSW Fire Brigades) and which are Rural Fire Service. As Fire and Rescue NSW are the responsible agency in this area, their locations are possibly more significant than neighbouring Rural Fire Service brigades and will potentially impact on response times.

Water management reports:

- No Stormwater Concept Plan is provided as required by the DGRs and as would be expected with a DA for the Stage 1 development. On site detention for the Stage 1 building must be shown as well as the proposed point of discharge – the Stage 1 site is over 50 metres from the watercourse and a pipe would have to be laid to avoid large trees as well as to skirt around the Stage 3 building.

- No MUSIC model was provided as required under Part 5F.2 of the Town Centres DCP 2010. Water quality measures are not shown on the drawings nor are any specifications or details provided.

Specific to the MYD report (which is for the whole development):

- Overall, there are not enough details in the form of design or concept plans to support the findings of the report in relation to the reduction in outflows from the site or the maintenance of water quality in the system.
- There does not seem to be a plan showing the stations for the HEC-RAS model.
- The post-development model relies on reshaping of the overland flowpath (ie the riparian zone), but no details are given of the width or extent of the reshaping – the report only states “reshaped downstream of culvert”.
- The report refers to three on site detention storages, with no indication which stages each applies to or where they are to be located. The volumes are between 125 and 247 cubic metres so they are of a considerable size.

Development Contributions Report:

- Bases its calculation of the likely contributions required on only one of two plans, that have since been superseded, and on a cap on contributions which did not at that time, or now, apply;
- This resulting in a gross underestimation of the contributions.

Waste Management Plan:

- Fails to include quantities or destinations of construction waste;
- Fails to provide for separation of waste on site.

Plan integration

- The individual reports and plans on which the overall plan is based conflict with each other. The ecological, bushfire, stormwater and landscape and built footprint planning need to be considered in an integrated manner. For instance:
 - Tree canopies are not to be within 2 metres of the buildings under the bushfire report, but are shown to be within this zone on various plans.
 - Deep soil planting is shown on landscape plans where basements are located underneath;
 - Mulching is required under the VMP, but not permitted in the APZ by the Bushfire report.

There does not appear to be a *staging plan*, showing how the development will be constructed stage by stage. This is of particular concern, given:

- The building in Stage 1 will be affected by the access to most of the rest of the site for future stages,
- The ecological significance of much of the site;
- The connected basements through the eastern area of the site;
- The proximity of excavation close to boundaries.

Isolated sites

Clause 3C.5 of the *Ku-ring-gai Town Centres DCP 2010* [KTCD 2010] provides controls for the consideration of development where it would cause adjoining parcels of land to be isolated. The development scheme results in the isolation of 2 & 6 Beechworth Rd, 12 Mayfield Rd and 3 Avon Rd. The extent of isolation is such that only 6 Beechworth would be large enough for development in accordance with the KLEP, however the available FSR

would result in a residential flat development of limited scale and potentially unviable. In some cases the isolated lots would not meet the minimum standards in the Ku-ring-gai LEP (Town centres) 2010 for multi dwelling housing or residential flat development (eg 12 Mayfield does not meet the minimum frontage control in Clause 6.1). The allotments concerned would not be developable as envisaged by the controls and therefore the proposal fails to comply with DGR 4.

That said, Part 3C.5 of the DCP requires amalgamation of sites to avoid the above situation and where this cannot be achieved demonstrate to the satisfaction of the consent authority that all reasonable attempts to acquire the affected sites has been made in accordance with the appropriate planning principals of the LEC and that information has been submitted detailing how the isolated sites could be redeveloped in a sympathetic manner to the adjoining properties and the development concerned. This to date has not been done and it is considered that until such time that the matter is explored the proposal has little merit.



Figure 1 Example of impact on isolated site – Redevelopment at 2 Avon Rd Pymble

Further reinforcing the above point is Part 3C.6 which details specific controls for the subject site and those affected by isolation. Importantly Part 3C.6 states that where development is proposed on the subject site, it is to be done so with regard to the site specific controls of *Development controls and design guidelines - six SEPP 53 sites in Ku-ring-gai*. Specifically the controls limit the ability of the consent authority to grant consent to development on the site if it would, or would be likely have, an impact on the ability to develop the remainder of the site in accordance with the site specific controls. It is considered that the current proposal fragments the isolated sites and limits the ability to achieve the type of redevelopment envisaged.

In particular, the following have not been considered:

- Diagrams have not been provided which demonstrate how the isolated sites could be reasonably developed, so as to be consistent with the built outcome of the controls of the KLEP. As it is likely the site would be strata subdivided, it is

unreasonable to conceive that the isolated sites could be developed and consolidated into the development site.

- Little weight should be given at the attempts to consolidate the isolated allotments into the development site as the information tendered relates to discussions pre 2005 (and most pre 2002) (well prior to the recent rezoning process) and is not supported by such documentation as offers of purchase by way of valuations from a registered land valuer and the like. Further, 7 Avon Rd was sold recently, and apparently no offer was made by the applicant.
- It is considered that given the apparent lack of consideration and attempt to resolve the isolation issue that the proposed development is contrary with the necessary considerations established by the planning principal associated with isolation (LEC 10984 of 2003 Grech V Auburn Council).

Critically, the exclusion of these sites from the proposal excludes the more suitable (more level and less vegetated) development platforms of 'site 2', resulting in building footprints within Blue Gum High Forest (a critically endangered ecological community under the *NSW Threatened Species Act 1995*) and the riparian zone.

The isolation issue discussed above also creates many amenity issues for adjoining development, including overshadowing and overlooking of some of the isolated sites, noise and privacy loss to 6 Beechworth Road, as well as internal amenity issues, including orientation, solar access and access to communal open space.

Site planning

As noted above, the areas of the site identified as 'Site 2' in *Development Controls and Design Guidelines – Six SEPP 53 sites in Ku-ring-gai*, which must be considered under Part 3C.6 of KLEP, (and the superseded SEPP 53), provides for a range of development platforms around the fringes of the site, subject to the location of the critically endangered ecological community and the impact on the streetscape. The exclusion of a number of these more suitable development platforms and the resultant significant intrusion into the Blue Gum High Forest reflects this poor site planning.

The extent to which this proposal ignores the constraints of the site is evident by comparison with 132 – 138 Killeaton Street, St Ives, which is also a Major Project proposal. Table 2 shows a comparison between these sites:

Table 2. Comparison between the Killeaton St site and the Avon/Beechworth Road site

	Killeaton Street	Avon/Beechworth Road
Size	Approx 22,970 m ²	24,951 m ²
Constraints	Virtually none – flat, trees only along boundary	Highly constrained – Blue Gum High Forest, steep topography, riparian zone, proximity to rail line, bushfire prone land
No of units proposed	Approximately 300	350
FSR proposed	1.3:1	>1.4:1

Both *Development Controls and Design Guidelines – Six SEPP 53 sites in Ku-ring-gai*, and the KLEP recognised these constraints on the subject site, through a lower FSR than that allowed other sites for high density. The constraints were considered so severe, that, although the height limit for residential flat buildings is generally 5 storeys (17.5m) Council permitted 7 storeys (23.5m) over a large part of the site, recognising the need to severely

limit the building footprint, even with an FSR of 0.8:1. The comparison with the Killeaton St proposal clearly demonstrates that the proposal fails to adequately consider these constraints in its site planning and that the proposal is an overdevelopment of the site.

Bulk and scale

The development per the height controls of the Ku-ring-gai Town Centres LEP 2010 (KLEP) allows a spilt maximum building height of 23.5m on the western half of the site, with the eastern portion of the development site (which includes those properties which face Avon Rd) being limited to 17.5m.

A number of breaches of the maximum building height are proposed, which are in part driven as a consequence of the development's FSR, which significantly exceeds the maximum permissible 0.8:1 imposed upon the development by the KLEP and the 0.63:1 of the now superseded SEPP No. 53. It is noted that were all the sites identified as 'Site 2' included in the proposal, the total site area would be 29,749m² and the proposed development would still have an FSR of more than 1.17, well in excess of that provided for under the KLEP. If it were possible to redevelop the isolated sites, the overall FSR would be even higher.

Further to this, building height has not been properly considered, noting that building height is measured from existing ground level rather than the stated natural ground level, as well as basement levels and the like not being properly considered and addressed.

The non-compliance with the FSR and height standards in the KLEP is reflected in the visual dominance of the built form, both to surrounding streets and to neighbouring development. For instance, building 2 is 10 to 13m higher at the roofline than 3 Avon Road, with the additional bulk and height of building 4 located to the rear. The impact will be exacerbated by the likely loss of the trees at the rear of 3 Avon because of the excavation for building 2, and by the inadequate separation to the dwelling on 3 Avon (about 11m). If the proposal is permitted to isolate 3 Avon Road, it should meet the 9m setback requirements to the fourth floor and above, as required under the KTCDP for residential flat buildings adjacent to low density development. The proposal is out of scale with the scale and character of the locality, and the heights are well in excess of any residential building in Ku-ring-gai.

The failure to step the height of the buildings down with the fall of the site towards the centre of the site, (in fact the roofs step up, as the ground level slopes) exacerbates the impact of the bulk and scale of the development.

General bulk and scale issues exist with the poor transition through the site (noting the significant fall from the adjoining rail corridor to Arilla Rd) and the significant mass along the eastern boundary by building 3.

It is noted that the *Development controls and design guidelines* provide for up to 5 storey development only. In recognising the constraints of the site, Council increased the permissible height to 7 storeys over much of the site, to allow for a reduction in the building footprint. This height is also exceeded, without reducing the building footprint.

The proponent justifies the excess height and FSR as outlined in Table 3 below. Council's response is outlined in the right hand column of the table. There is no factual basis for the proponent's justification.

Table 3 Proponent's justification for non-compliance with height and FSR

Proponent's justification	Council comment
Size of site	The additional flexibility provided by the size of the site makes it easier to design a development that complies with the controls while still achieving a viable and well-designed development. The size of the site is not an excuse for inappropriate development.
Steep topography allows buildings to step down site – effectively reducing scale	A well designed development will clearly follow the topography of the site. The fact that so much of the site is steep should encourage the location of development in the more level areas of the site, retaining the steeper and vegetated areas in as natural state as possible. While the proposed development steps down the site to the south to some degree, the angle of step is very shallow, in comparison to the angle of the ground. Further, the buildings actually <i>step up</i> the site from Avon Road toward the creek. As a result the development will appear bulky and out of scale with the surrounding land and development.
Consistency with other R4 sites	The proposed height and FSR are well in excess of other R4 sites, most of which have a maximum FSR of 1.3:1 and a height of 17.5m. It is acknowledged that the allowable FSR under the KLEP is less than that for other R4 sites, (while the same as R3 sites in the LGA) but this is due to the fact that the site has such significant constraints. The R4 zoning, rather than an R3 zoning, recognises that the constraints can be better addressed through residential flat building than town house development as permitted under R3.
Lack of need for internal roads	The proposal includes a number of internal roads, though not to the extent outlined under SEPP 53 documents. The traffic report is based on rates that are not suitable for Pymble, and therefore has not demonstrated that the main internal road is not required.
Does not result in undue impacts	Significant adverse impacts result from the non-compliances as outlined elsewhere in this submission.
Need for higher density close to services and infrastructure	The KLEP provides for increased density close to services and infrastructure. The provision of additional housing over and above that provided for under the KLEP should not be used as an excuse for the overdevelopment of a site.
Presence of screening vegetation	On the western side towards the centre of the site this is indeed correct. However, while the site is currently well vegetated, much of the current screening comes from extensive weed infestation, including noxious weeds, where no attempt has been made over many years to control these. The screening vegetation along a number of other boundaries is proposed be removed, with basements almost to the boundary in some locations, preventing replanting of species that would grow to a height and density to provide screening.

Ecological impacts

An accurate assessment of the impact on the Blue Gum High Forest community, listed as Critically Endangered Ecological Community under the *NSW Threatened Species Conservation Act 1995*, cannot be made due to the inadequacies of the flora and fauna report. However, the following comments are provided following a site visit:

- The placement of buildings 4 & 5 is contrary to part 1 section 3 objective (a) of the *Threatened Species Conservation Act 1995*,
‘to conserve biological diversity and promote ecologically sustainable development’.
Buildings 4 & 5 will result in the removal of ten (10) Sydney Blue Gum (*Eucalyptus saligna*) trees. The removal of trees 55-58, 93-96, 102, 105 & 106 will decrease the canopy connectivity of the BGHF within the site and locality. The removal of these large canopy trees will further fragment the BGHF community and result in a decrease in ecological processes such as the dispersal of, pollen & gene flow (Cross-pollination) and recruitment which contribute to the survival of the Blue Gum High Forest community within the site & locality. The proposed replacement planting will not become established to the current height of the BGHF canopy for 20+ years.
- No building or excavation should be permitted within the riparian area to ensure that the canopy trees which comprise part of the BGHF community are protected from severe impacts.
- Proposed building 5 will require extensive modification of the canopy of T100, a large Sydney Blue Gum (*Eucalyptus saligna*) which has a Tree Protection Zone (TPZ) of 12 metres. The residential flat building will have extensive earthworks within 3.3m structural root zone (SRZ) which is likely to decrease the long term health and viability of the tree.
- Further, the location of building 5 within the canopy of this tree is inconsistent with the requirements of the bushfire report in relation to the maintenance of the Asset Protection Zone.

Proposed Vegetation Management

- The retention and restoration of the western area of the site is strongly supported.
- The VMP proposes revegetation not regeneration which is contrary to the best practice guidelines. Many blue gum high forest plants can survive for decades as seeds stored in the soil – the seedbank (DECC 2008). The seedbank is the key to regeneration (DECC 2008). However the VMP should be amended to provide for regeneration.
- The VMP proposes mulching. Mulching Blue Gum High Forest will prevent BGHF seeds from germinating (DECC 2008). Mulching is also inconsistent with the recommendations of the Bushfire Report.
- The VMP proposes plantings but fails to quantify the number of plantings and their spatial arrangement which is of particular importance as the site is proposed to be managed as an Inner Protection Area (IPA).
- The VMP maintenance period is proposed to be 12 months, however the Gantt chart shows 24 months. In other locations within the documentation a year period is referenced as being sufficient to be self sustaining. This is not possible as acknowledged by Section 11 (a) of the VMP which states *‘The time frame for complete eradication would be lengthy, considering the size of the site’.* The proposed 24 month maintenance does not reflect the aforementioned statement. It is recommended that the VMP be extended to a minimum of 5 years.

Riparian protection

The applicant claims that the watercourse running through the site should not be considered a watercourse, as it is not defined as such in any legislation. However, the definition of a 'river' under the *Water Management Act 2000* states:

*'(a) any watercourse, whether perennial or intermittent and whether comprising a natural channel or a natural channel artificially improved, and
(b) any tributary, branch or other watercourse into or from which a watercourse referred to in paragraph (a) flows, and
(c) anything declared by the regulations to be a river, whether or not it also forms part of a lake or estuary, but does not include anything declared by the regulations not to be a river.'*

The watercourse on the site is intermittent, and includes both natural and modified channel. It clearly falls under the definition of a river. Further, as it is within a fairly natural area at the top of the catchment, impacts on this watercourse have impacts on water quality right down to the Lane Cove River at the bottom of the catchment.

The proposal fails to adequately protect the riparian zone:

- The riparian zone identified fails to include the waterway that bends to the north east (from the pipe under the railway. This is shown on the Stormwater drawings, but not on the main plans;
- Buildings 3 and 4 intrude into the core riparian zone (CRZ);
- Further clearing into the CRZ will be required for the Asset Protection Zone around buildings 3 and 4;
- Further impacts will also result from the excavation and movement area required to construct buildings 3, 4 and 5;
- Stormwater devices appear to be located within the core riparian zone, which is inappropriate;
- The MYD report states that there will be reshaping of the riparian zone below the culvert, but provides no plan or detail. Accurate assessment of the impact is therefore not possible, however, such reshaping is not consistent with best practice;
- The design is therefore inconsistent with the Landscape Design controls in 'Development Controls and Design Guidelines -Six SEPP 53 sites in Ku-ring-gai' and therefore SEPP 53 (if SEPP 53 is determined to apply);
- The design fails to adequately address Clause 6.6 of the Ku-ring-gai LEP (Town Centres) 2010.

It is recommended that:

- The development be set back further from the CRZ (with the Asset Protection Zone also outside the CRZ);
- The basement design incorporate measures to ensure that groundwater and subsurface flows are redirected towards the riparian area, released outside but adjacent to the CRZ.

Bushfire

The incorrect mapping is reflected in the report's reference to the effective slopes most significantly influencing bushfire behaviour as those to the south. The report has not considered the hazard to the east. An assessment is required to determine whether the proximity of the vegetation to the east of the proposed development would have an influence on any buildings/ infrastructure, particularly that within the bushfire prone buffer that extends into 1, 1A, and 5 Avon Road and along the access way at no. 1 Arilla Rd. Should this vegetation be determined as likely to influence the development, the construction levels would need to be increased.

Regeneration/ reconstruction of the Blue Gum High Forest (BGHF) community on the site is encouraged, however, a number of other project plans and reports are not consistent with the maintenance and management regime as specified in the report in accordance with Appendix 5 of Planning for Bushfire Protection 2006.

Given that only a portion of the subject site is bushfire prone, the Asset Protection Zone proposed across the entire site may be unnecessary, (subject to an assessment of the requirements due to the hazard to the east). Alternately, the potential for increasing the construction level to reduce the width of the APZ should be investigated. This would maximise the potential for regeneration of the BGHF on the site, while minimising the ongoing management of such a large area as an APZ into the future. It may also the closer placement/retention of vegetation near buildings, to address some of the concerns expressed in other sections of this submission.

Similarly, it is unclear if all driveways across the site are required to meet the minimum 6.5m width and 4m height clearance. The proposed access road off Arilla Road for instance does not meet this criteria, especially as shown on the landscape plan. Even the access road off Avon Road is described as only 6.1m in the SEPP 65 assessment, and therefore would not comply. It is noted however, that the site plan appears to show 6.5m from Avon Rd, which would comply in this area. The assessment should also consider whether the Beechworth Road access requires this width. The separate entry and exit do not appear to be a requirement for bushfire planning and should be deleted.

Streetscape and amenity of neighbouring development

Setbacks

- The street setback to Avon Road is only 5m to the courtyard walls, limiting the ability to provide for tall trees consistent with the character of the street, or to soften the appearance of the bulk of the structures. While the front setback to the higher levels generally complies with the *Development Controls and Design Guidelines*, the size of the proposed building is much larger than those proposed under the Guidelines. Recognising the additional impact of the larger building, the setback should be increased to at least the setback of the neighbouring dwellings.
- Limited setbacks to the eastern residential properties to Avon Road (including 15 Avon Rd which is zoned for low density) limits the opportunity for dense screen landscaping, which restricts the opportunity to screen the development and minimise its impact.
- Such screening becomes impossible given that the basement extends almost to these boundaries along a significant length of these boundaries.

- These setbacks do not comply with the objectives or the controls in the KTCDGP (including Part 3C.6 which refers to the *Development Controls and Design Guidelines*).

Visual and acoustic privacy

The proposal results in unacceptable impacts on visual and acoustic privacy:

- An increase in the noise and loss of privacy for the residents of 6 Beechworth Rd, particularly as a consequence of the driveways supporting the development surrounding the 3 side and rear boundaries of the site.
- Significant overlooking of the open space areas of 2, 6, 10A & 10B Beechworth Rd, 3, 7 and 15 Avon Rd. Notwithstanding this the height of the development together with topography of the subject site is such that overlooking will indirectly occur within a much larger reach.

Overshadowing

- In the case of overshadowing, insufficient information has been provided to enable a comprehensive assessment of the development's impact upon adjoining properties, noting the requirements of Clause 3C.17 of the KTCDGP and SEPP 65, which require at least 3 hours of sunlight between 9am and 3pm at the winter solstice to the living areas and the principal portion of the private open space of the adjoining residential dwellings. It appears unlikely that this requirement will be satisfied. Given the generous site area, adjoining low density residentially zoned land and site specific controls of *Development Controls and Design Guidelines - Six SEPP 53 sites in Ku-ring-gai*, it is reasonable that the development comply with respect to overshadowing. The proponent refers to the 2 hour solar access requirement in the *Residential Flat Design Code*, noting that the area is urban. However, the 2 hour solar access provision relates to locations within the city area, not a suburban area such as Pymble.
- It is noted that were the development to comply with maximum building height and FSR controls, the impacts associated with overshadowing would be limited. Further, if the development site included the isolated sites there would be significantly reduced need to intrude into the gully, where it is unlikely that adequate solar access can be provided to the dwellings.

Visual impact

- The height of the buildings within the development and the poor relationship of the height of the development with the topography of the site is such that, visually, the development will dominate the outlook from the low density residential properties which surround the subject site and which currently have views to/through the bushland on the site. The impact on the views of the surrounding residents will be most pronounced along Arilla Rd, as well as Mayfield Ave and Avon Rd.
- It is considered that in the case of the eastern adjoining properties along Avon Rd, particular attention needs to be paid to the design by utilising solid or non transparent balustrades and louvered screen to balconies as a screening mechanism.
- That said, the configuration of the development, particularly blocks 2, 4 and 5 offer limited opportunities for views over passive recreation and landscaped areas.
- A view line analysis is required to accurately assess the impacts on the streetscape and the locality.

Landscaping and deep soil

- The landscape setback to Avon Road does not provide sufficient space for large canopy trees or layered screen planting of a scale commensurate with the proposed development and consistent with the landscape character of the area.
- In a number of instances, space for screen planting shown in some areas is too narrow to support species that could achieve sufficient height to screen the development from the neighbouring sites – eg to Nos 3, 7 and 15 Avon Rd, 6 Beechworth Rd.
- It is considered that basement areas are likely to compromise the establishment of tree planting proposed adjacent to the southern side of stage 1 building and to the southern side of the entry road for this stage.
- There is inadequate provision for substantial screen plantings along the along the access road and adjacent property for stage 1.
- There is inadequate provision for substantial screen plantings along the along the northern boundary to the adjacent property for stage 1. Basement areas may compromise plantings in these areas. Plantings are not considered of a size sufficient to provide amenity screening to the proposed building.
- The stage 1 landscape plan relies upon retention of existing trees and vegetation some of which will be directly and or indirectly impacted by construction of the proposed basement in these areas.
- Planting of screen and substantial trees is shown over areas of basement and will therefore not be achievable.

Amenity of future residents

Open space

Communal open space is inadequate:

- The orientation of the development is such that buildings 1, 2, 4 and 5 have poor linkage with the large area of communal open space in the south western corner of the site;
- While the site has retained areas within the Blue Gum High Forest, these areas are accessed via stairs, and are therefore not accessible to those with a disability;
- Functional areas, close to the buildings are not shown on the site plan for the overall concept, therefore it is difficult to assess the extent to which they will be provided;
- The stage 1 landscape plan shows an area that may fulfil a role as communal open space, presumably to be shared between Stages 1 and 2. However, as it is located above a basement, it does not include deep soil areas as required by the *'Development Controls and Design Guidelines'*.

Solar access

- In the case of solar access, no information has been provided which demonstrates that the necessary solar access provisions can be afforded to 70% of the units within the development, as required in *Development Controls and Design Guidelines- Six SEPP 53 sites in Ku-ring-gai* and under SEPP 65.

Rail corridor –acoustics and ventilation

- The setback to the rail corridor is inadequate. While specific glazing can be applied for some parts of the development, the need for alternate ventilation for so many of the units due to the need to keep windows closed to maintain acoustic privacy is unacceptable from an amenity viewpoint. Again, this is a result of poor site planning.

Other SEPP 65 issues

A detailed assessment under SEPP 65 has not been carried out by Council, however, the following additional issues with SEPP No. 65 are noted:

- The building depth for stage 1 is too wide, and results in a number of other non-compliances, in relation to daylight access and ventilation;
- A number of units have their kitchens more than 8m from a window;
- The number of single aspect apartments limits the opportunity for cross ventilation, with more than 10% of units facing south east / west being single aspect. Also 60% of units are not cross ventilated;
- Less than 25% of units provide natural ventilation to the kitchens;
- Pedestrian entry from the street to Stage 1 lacks definition;
- An additional entry and lift well should be provided to Building 1, to minimise the length of hallways and number of units accessed from each lift well. The proposed building 1 would have the feeling of a motel, rather than a residential development. Further, some of these hallways are only 1.5m wide;
- The ground floor apartments should be designed in a manner whereby they have access to at grade open space;
- Screening is required to enable external clothes drying as required by the BASIX commitments;
- A lack of storage has been afforded to the units within the development.

Traffic and access

Car Parking and Access

Specifically, for residential flat building sites in town centres, parking provision is required in accordance with the Ku-ring-gai Town Centres DCP. As a comparison, the car parking requirements under the *Development Controls and Design Guidelines* are also shown in the following table, which outlines the car parking requirements for the proposal, and compares these requirements to the quantity of car parking proposed:

Table 4 Stage 1 parking

Land Use	Ku-ring-gai Town Centres DCP (2010) parking requirement	Development Controls and Design Guidelines parking requirement	Proposed parking
Residential: 0 x Studio 22 x 1 bedroom 22 x 2 bedroom 7 x 3+ bedrooms (51 total)	0 (min) - 0.5 (max) = 0 0.7 (min) - 1 (max) = 15.4 (min) - 22 (max) 1 (min) - 1.25 (max) = 22 (min) - 27.5 (max) 1 (min) - 2 (max) = 7 (min) - 14 (max)	0 (min) - 0.5 (max) = 0 0.5 (min) - 1 (max) = 11 (min) - 22 (max) 0.8 (min) - 1.6 (max) = 17.6 (min) - 35.2 (max) 1 (min) - 2 (max) = 7 (min) - 14 (max)	
Visitor	1 space/4 units = 12.8 Total res. parking = 58 (min) - 77 (max)	1 space/10 units (min) - 1 space/5 units (max) = 5.1 (min) - 10.2 (max) Total res. parking = 41 (min) - 82 (max)	
Total parking required	58 - 77	41 - 82	86

From table 4 above, the total parking provision for Stage 1 that would be required under the provisions of *Development Controls and Design Guidelines*, would be 41 - 82 car spaces. This total also aligns closely with the total required under the Ku-ring-gai Town Centres DCP (58-77). However, the proposed provision of 86 car spaces exceeds the upper limit as required under the Ku-ring-gai Town Centres DCP (2010) and *Development Controls and Design Guidelines*. From the allocation of spaces, there are also more visitor car parking spaces than required Ku-ring-gai Town Centres DCP.

The parking ranges for the town centre plans were designed to encourage the use of public transport and local services, to support local services, and to reduce car use. Under the definition of floor space ratio, additional parking surplus to Council requirements is part of the floor space ratio. The FSR calculated for the proposal does not include this area. The additional spaces contribute to the amount of excavation required on the site, and reduce the opportunities for deep soil planting between buildings.

It is also noted that parking spaces are not dimensioned and there appears to be an excessive number of tandem spaces.

In terms of the vehicle access points, the Ku-ring-gai Town Centres DCP requires that for car parks with 25-100 spaces accessed off a local road, that the access point should be 3.7m-6m wide. The proposal shows a vehicular access point approximately 6.5m wide, which would be adequate for Stage 1. This access point is to share the access needs of Stages 2, 3 and 4 with another 2 future access point further north on Avon Rd, each approximately 6.5m wide. The total spaces indicated on the plan that would be serviced by these 3 access points would be 263 spaces. The width of the proposed access points is considered to be satisfactory for this number of car parking spaces.

The vehicular access from Arilla Rd is considered undesirable as it increases the traffic flow along Arilla Rd which is otherwise a local road in a low residential area. It is considered that access to the site should be limited to Avon and Beechworth Roads so as to limit the impact of the development on the adjoining low density residential sites.

It is acknowledged that access via an access handle benefits the development site from Arilla Rd. This access would be better served as a pedestrian access through the site, linking Arilla Rd with Beechworth Rd. It is considered that such pedestrian access through / around the riparian corridor would help engage this area as a passive recreation space. Ideally, this thoroughfare would be publicly accessible; however negotiation about access and maintenance may be required to enable this.

Bicycle parking and facilities

The Ku-ring-gai Town Centres DCP and *Development Controls and Design Guidelines* also require bicycle parking to be provided in residential flat buildings in accordance with the rates in table 5.

Table 5. Bicycle parking

The main concern is the lack of bicycle parking detail in relation to residential/visitor parking, as it is unclear whether the required number of bicycle parking can be achieved in the space indicated on the plans. There is also no bicycle parking shown in the visitors area.

Traffic Generation and Wider Traffic/Transport Context

The applicant's traffic consultant has applied a peak hour traffic generation rate of 0.29 vehicle trips per dwelling, in accordance with high density residential development rates in the RTA Guide to Traffic Generating Developments. Even though the proposal is for approximately 350 apartments (apartment mix unknown), for their assessment an effective total of 400 x 2 bedroom apartments was used by the traffic consultant, which would yield a peak hour traffic generation of 116 vehicle trips during the am and pm peaks. However, it is considered that the traffic generation rate applied is not realistic for this site as Pymble is unlikely to be considered a "metropolitan sub-regional centre", and would therefore underestimate the traffic generation. These developments would probably generate traffic at the lower end of the medium density residential development rates, or 0.4 vehicle trips per dwelling. This would result in 160 vehicle trips during the am and pm

Land Use	Ku-ring-gai Town Centres DCP (2010) parking requirement	Development Controls and Design Guidelines parking requirement	Proposed parking
Residential: 0 x Studio 22 x 1 bedroom 22 x 2 bedroom 7 x 3+ bedroom (51 total) Visitor	1 space/5 units for residents (within residential car park) = 11 1 space/10 units for visitors (within visitor car park) = 6	1 space/3dwellings (min) for residents = 17 (min) 1 space/10 dwellings (min) for visitors = 6 (min)	Bicycle parking area indicated on plan, but number of spaces not detailed
Total parking required	16	21	

peaks (for 400 x 2 bedroom apartments).

During the planning of the Pymble town centre (which culminated in the gazettal of the Ku-ring-gai LEP (Town Centres) 2010), Council engaged Arup transport planners to undertake an area-wide traffic study of the Pymble town centre. This study examined the existing traffic situation, and considered the cumulative traffic generating impacts of redevelopment under the LEP. It also considered various traffic flow and intersection

improvement options around the Pymble town centre. In the study, the yield for this site was considered to be 210 dwellings, significantly less than the 350 dwellings proposed. Consequently, the traffic impacts of this proposal are likely to be significantly higher than those allowed for in the Pymble town centre traffic study.

The 2 signalised intersections on Pacific Highway in Pymble were found to be operating at capacity in both am and pm peaks, and approach capacity on Saturday peak hour. As a consequence, Livingstone Avenue experiences significant delays during the pm peak, and the right turn bay from Pacific Highway into Livingstone Ave regularly overflows during peak periods. The study area extended as far north as the intersection of Pacific Highway and Telegraph Rd, and as a result, conditions at the intersection of Pacific Highway/Beechworth Rd/Bobbin Head Rd were not considered. While a number of opportunities were considered during the LEP process, the close proximity of Pacific Highway and the North Shore railway line combined with limited east-west crossing opportunities presented a major barrier to providing major access improvements.

The result of the traffic modelling also indicated that traffic generation of the Pymble town centre redevelopment would further deteriorate the performance of the 2 signalised intersections on Pacific Highway in Pymble. The results also indicate that the capacity of the intersection of Livingstone Ave/Everton Rd/Orinoco Rd would be exceeded during the am peak. Although limited opportunities became evident during the study (due to the constraints mentioned above), the following traffic improvement measures in the vicinity of the site were recommended:

- Minor capacity improvements at the Pacific Highway/Livingstone Ave intersection, by widening on the northern side of Pacific Highway to provide 3 northbound lanes. However, this would only result in a minor improvement due to the fact that there are only 2 northbound lanes on the bridge over the North Shore railway line; and
- Provision of a new road between Avon Rd and Beechworth Rd, to improve local connectivity.

Works at Pacific Highway/Livingstone Ave intersection have been scheduled and costed in the Ku-ring-gai Contributions Plan (2010), while the new road between Avon Rd and Beechworth Rd would form part of the redevelopment of this site.

'Development Controls and Design Guidelines' and proposed road along rail corridor

The design principles in the draft development controls and design guidelines for the SEPP 53 sites in Ku-ring-gai propose the extension of the existing street along railway corridor [Avon Rd] to create new address for higher density development and to provide a local link within Pymble. It was also noted in Arup's Pymble town centre traffic study that the extension of Avon Rd was foreshadowed infrastructure that would improve connectivity between Avon Rd and Beechworth Rd.

Given the expected future traffic conditions around Livingstone Ave during the am peak as a result of growth in the Pymble town centre, it is likely that residents of this proposal will seek alternatives to access Pacific Highway. As a result, it is expected that demand would increase in Beechworth Rd as an access point to Pacific Highway. This highlights the need to provide the extension to Avon Rd under the current proposal. However, the road carriageway width could be reduced to 8.5m wide rather than the 11m that foreshadowed

by the design principles in the *Development controls and design guidelines for the SEPP53 sites in Ku-ring-gai*.

If it is considered that the extension of Avon Rd cannot be provided, it is recommended that the number of dwellings be reduced to, at a maximum, those originally foreshadowed in the Ku-ring-gai LEP (Town Centres) 2010, so as to minimise additional impacts to residents along Arilla Rd, Mayfield Ave and parts of Allawah Rd. Note that Council's final yield calculations submitted as part of the Town centres planning was for 185 units on 'Site 2' as a whole (that is, including the subject site and all bar one of the isolated sites).

Conclusions

Modest transport improvements are proposed in the Pymble town centre to assist in accommodating future traffic demands. Clearly, though, the additional development on the subject site (over that originally foreshadowed) would have significant additional traffic generation impacts.

Of concern are:

- The proposed provision of 86 car spaces for Stage 1 exceeds both the requirements of the Ku-ring-gai Town Centres DCP and *Development Controls and Design Guidelines*;
- The lack of bicycle parking detail in relation to residential/visitor parking. There is also no bicycle parking shown in the visitors area;
- The higher number of dwellings on the site and the underestimation of traffic generation, which would result in additional traffic impacts over the expected number of dwellings foreshadowed in the Ku-ring-gai LEP (Town Centres) 2010;

Should the proposal be approved at the current proposed FSR, then the extension of Avon Rd along the railway corridor is required to improve local traffic links, and should be part of the approval. However, should the Department consider that the extension of Avon Rd is not necessary, or conflicts with environmental objectives, then the number of dwellings should be dramatically reduced. Even at the dwelling levels foreshadowed in the *Ku-ring-gai LEP (Town Centres) 2010* the connecting road is desirable. Investigation of a potential route (perhaps at a reduced width) that minimises the impact on Blue Gum High Forest should form part of any future proposal.

Heritage

With gazettal of the Town Centres LEP in May 2010, 3 heritage items on the subject site were delisted. The properties are:

- 1 & 5 Avon Road; and
- 6 Beechworth Road.

The report is dated December 2009 and prepared before gazettal of LEP Town Centre and adoption of the Town Centres DCP. The report is a little confusing as it states its scope is limited to considering demolition of No 1 & 5 Avon Road and construction of a medium density residential building on the site and how these demolitions would facilitate development of the overall site. Much of this information is irrelevant as these sites are no longer heritage items and as such little weight can be given to their heritage value when demolition is proposed.

The report then provides some general comments on the impacts of the “indicative buildings” in Stage 2, 3, 4 & 5.

The report does not focus its attention to provide a critical analysis of the scheme or the impact of the proposed development on the nearby heritage items. There are a number of listed items within the vicinity of the site including:

- 178 Pacific Highway – “Grandview”,
- 1186-1188 Pacific Highway – former “Sacred Heart Church & Presbytery”,
- 1202 Pacific Highway – “Colinroobie”,
- 1228 Pacific Highway – “Mountview”,
- 9 Beechworth Road,
- 11 Arilla Road,
- 11 Avon Road – “Macquarie Cottage”; and
- 19 Avon Road.

The proposal appears to have taken a view that high density development will inevitably affect heritage items and provides no helpful advice on how the impacts could be reduced or mitigated. The report does not comment on whether the proposed development is appropriate. In fact the report states that the scale ‘allowable’ would irreversibly alter the historic views to and from the subject site.

“The entire residential area ought to be considered as being in transition under which all heritage properties will succumb to a variation in setting and visual curtilage”.

In relation to the Stage 1 development it takes the view that the design of the building which steps back from Avon Road at the top two levels reduces its apparent bulk and scale, the materials would provide ‘*some sort of cross reference to the architectural features, particularly the verandas and eaves overhangs consistent with the Inter War architectural style of the surrounding built environment*’. The report finds the Stage 1 development would be within the visual catchment of 11 & 19 Avon Road and 11 Arilla Avenue would alter the “viewscape” of these sites and the scale would affect the views of these heritage items. Landscape screening is the only suggested mitigating element.

In relation to Stage 2, 3, 4 & 5, the report only makes very general comments and suggests that the scale is appropriate as the higher scale development would be on low ground and thus have less effect on surrounding properties and streetscape.

The conclusions in the report suggest that all future development should be of high quality architectural design and that the design by Anchor Murray, Woolley Architects achieves this.

The only actual recommendation is that photographic recording of the buildings at 1 & 5 Avon Road be made prior to demolition.

Impact of proposed development on heritage sites

No 11 Avon Road, ‘Macquarie Cottage’ is a highly intact Hardy Wilson Colonial Revival style cottage set in a mature garden which has a high level of significance. The proposed Stage 1 development in Avon Road is considerably larger in scale than that envisaged in *Development Controls and Design Guidelines* and would impact on the setting of 11, and

potentially, 19 Avon Road. At a minimum the building should be setback further from the street, to minimise this impact. If 7 Avon were to be included, a stepping down the hill to respond to the scale of the cottages at No 11 and 19 Avon Road and the streetscape in general.

As proposed in the indicative drawings, the scale and location of proposed Stage 2, 3, & 4 buildings would have considerable impact on the views from the heritage item at 1202 Pacific Highway "Colinroobie". The item currently has significant views from the Pacific Highway ridge over the two storey component of "Clyde Gardens" (2, 4 & 6 Clydesdale Place) to the Blue Mountains. Future development should be informed by a view and curtilage analysis of the nearby heritage items to ensure that new buildings are planned to retain significant view corridors and curtilage so their heritage significance is not eroded.

Heritage impacts on No 11 Arilla Avenue from proposed Stage 3 & 4 buildings may also occur, particularly as the landform rises on the site well above the level of the item which would result in substantial visual and physical domination. A detailed assessment of the potential impacts is required.

Stormwater management

The lack of a stormwater plan and Music Model makes the assessment of the impacts impossible. A detailed stormwater plan is required to assess whether the proposal meets the requirements of the *Development Controls and Design Guidelines* and the DCP in general, both in terms of quantity and quality management. This is an integral part of the design and cannot be left to construction certificate stage.

The BASIX water commitments include a 10 000 litre rainwater tank with re-use for irrigation and car washing. This low level of re-use is below what would be expected of a WSUD development.

Waste management

The Waste Management Plan in Appendix 33 only contains Part 4 Ongoing Management. This is not consistent with the DGRs which requires '*Details of where all excavated material leaving the site is to be placed.*'

The Stage 1 development will require 25 garbage, 13 paper recycling and 13 mixed recycling containers (240 litres). The garbage collection room on Level B1 seems to have sufficient space for the required number of containers (although not dimensioned).

The Waste Management Plan in Appendix 33 states that collection will be from the service road to the west of the building. This road is not part of the Stage 1 development. Internal waste collection in the basement is required. The Waste Management Plan also states "larger storage bins allow reduced number of events during the collection of the waste." The meaning of this statement is unclear.

It appears from the architectural plans that the minimum 2.6 metres headroom required at the entrance to the basement carpark will be available, however this should be confirmed by a longitudinal section through the entry driveway, showing realistic slab and beam depths.

Development contributions

The Environmental Assessment Report refers to only one of the two Contributions Plans that applied to the site in October 2010. Both *Ku-ring-gai s94 Contributions Plan 2004-2009 – Residential Development (Amendment 2)* and *Ku-ring-gai Town Centres Development Contributions Plan 2008* applied to this site from their in effect date of 30 July 2008. There is no evidence that latter Contributions Plan has been properly considered. As a result the contributions applying to the development have been significantly under-estimated having been calculated with reference to only one of the two applicable contributions plans.

As a consequence of the apparent omission in respect of the application of *Ku-ring-gai Town Centres Development Contributions Plan 2008* to the subject site, the Environmental Assessment Report incorrectly asserts that the site is subject to a limitation in the maximum contributions in respect of the proposed residential development. This is not the case.

The s94E Direction dated 16 September 2010 stipulates that it does not apply to land listed in Schedule 2 of that Direction. The Ku-ring-gai land in Schedule 2 included under clause (8)(a) is identified by reference to its coverage by both the *Ku-ring Local Environmental Plan (Town Centres) 2010* and *Ku-ring-gai Town Centres Development Contributions Plan 2008*. The subject site, being zoned for higher density development under that LEP and within the boundaries of the Pymble catchment map under that Contributions Plan, was at the time of assessment, and remains, exempt from the s94E Direction that would otherwise have capped the contributions.

On 19 December 2010, *Ku-ring-gai Contributions Plan 2010* came into effect and consequentially superseded both the predecessor Contributions Plans. This is the current Contributions Plan in effect in the Ku-ring-gai Local Government Area applying to the subject site. This Contributions Plans provides guidance in the calculation of applicable development contributions including specific requirements in respect of staged developments.

The dwelling figures given for the site as a whole are preliminary and, in the absence of plans for all stages, it is not possible to assess the design of the units to verify the number of bedrooms for the development as a whole. In this context it should be noted that the current Contributions Plan counts any room capable of being used as a bedroom, as a bedroom, thus, for example, a unit labelled as two-bedroom-plus-study will be counted as a three bedroom dwelling for the purposes of the Contributions Plan. It will also be necessary to verify the size of the dwellings that will demolished and become subject to an entitlement for a credit.

It is emphasised, as demonstrated earlier in this report, that the proposal is considered to be an over-development of the site and should not be approved. Notwithstanding, without prejudice, on the given unit mix, the proposal would be subject to an indicative residential development contribution for the nett additional development of approximately \$7.3M (without adjustment for inflation). It should be noted that *Ku-ring-gai Contributions Plan 2010* achieved reductions in most contributions when compared to the combined predecessor Contributions Plans and that this figure represents a reduction in the estimated total contribution that would have applied to the subject development prior to this Contributions Plan coming into effect. In this context it is reiterated that the

Environmental Assessment Report did not provide an estimate of total contributions under *both* of the then applicable contributions plans.

Ku-ring-gai Council is always ready to provide advice in the interpretation and application of the development contributions system in Ku-ring-gai as required.

Overdevelopment of the site

The proposal is an overdevelopment of the site. This overdevelopment results in the isolation of sites, adverse impacts on the critically endangered ecological community and riparian area, adverse impacts on the character and streetscape, and the amenity of neighbouring and future residents.

The proposals are inconsistent with the Metropolitan Plan for Sydney 2036, which states that it will help meet Sydney's future housing needs by:

'Improving the quality of new housing development and urban renewal by strengthening the Government's role in ensuring good design outcomes'.

Recommendation

It is recommended that the Department of Planning advise the proponent to withdraw the proposals, as they are no longer valid Part 3A proposals, because the reason for their inclusion for assessment under Part 3A is no longer valid. Failing this, it is recommended that the Department refuse the application.

It is recommended that the proponent lodge an amended proposal as a staged DA with Council, which addresses the issues raised in this submission.