



Planning Assessment Report

Development Application DA 146-6-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 146-6-2004.

The application seeks consent to demolish 9 existing residential properties and associated structures, development of multi-unit housing comprising 74 residential dwellings in 5 separate buildings of between 3 and 5 storeys; a shared basement car park providing a total of 144 resident car parking spaces; 10 street level visitor car parking spaces; associated landscaping; and strata title subdivision.

The Minister for Infrastructure and Planning is consent authority in accordance with the provisions of State Environmental Planning Policy No 53 – Metropolitan Residential Development (SEPP 53).

It is recommended that the development application be **granted consent**.

2 BACKGROUND

2.1 Site Context

The site is located at Nos 9-25 Tryon Road, Lindfield in the Ku-ring-gai local government area.

The site is rectangular in shape, with a total area of 8988m². It has a frontage to both Tryon Road & Tryon Lane of 163.83m with a depth of 54.865m. The site is located between Lindfield Avenue to the west and Nelson Road to the east. The site has a gentle slope from west to east of approximately 5m over its length.

Nine free standing single detached dwellings and ancillary structures including swimming pools and garages, currently exist on the site. The existing property at No 25 Tryon Road is listed as an item of environmental heritage under Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance (KPSO).

The sites existing vegetation comprises mature garden areas dominated by mainly exotic species.

The surrounding land uses include a church and associated dwelling adjacent to the site to the west, and a nursing home located on the adjacent eastern site. Located opposite the site to the north are commercial buildings and detached dwellings, and to the south is mainly low rise medium density dwellings, and 2 single detached dwellings.

The site is bounded by Tryon Road to the north, which is classified as a collector road, and Tryon Lane to the south is a one-way local access road. Both of these roads intersect Lindfield Avenue.

The site is located approximately 100m from Lindfield Town Centre, railway station and bus terminal.

A plan of the site is tagged 'B', and is also provided on the inside cover of the file folder.

The development application was lodged with the Department on 11 June 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

A site visit was conducted of the site on 8 July 2004 and again on 24 September 2004.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for:

- Demolition of the sites existing structures;
- Construction of a shared basement structure beneath the buildings containing 144 resident spaces, building access points and garbage storage areas within a single basement level;
- Erection of 5 buildings comprising
 - Building 1 – 7 x 3 bedroom units
 - Building 2 – 6 x 3 bedroom units
 - Building 3 – 3 x 2 bedroom units & 9 x 3 bedroom units
 - Building 4 – 3 x 2 bedroom units & 20 x 3 bedroom units
 - Building 5 – 3 x 2 bedroom units & 23 x 3 bedroom units
- Associated landscaping works; and
- Strata title subdivision of the completed development

A3 plans are tagged 'I'.

3.1 Amended Plans

On 15 September 2004 the applicant, submitted amended plans which incorporate;

- Additional screens to the western balcony of Building 2 at Level 2;
- Reduction of western terrace areas on Levels 3 & 4 of Building 2 and Level 4 of Building 1.
- Relocation of Building 1 by 1.3m away from the Western Boundary;
- Revised turning path of garbage collection vehicle;
- Addition of visitor bicycle parking adjacent to vehicle parking off Tryon Lane;
- Location of change in paving surface to improve pedestrian safety adjacent to visitor parking spaces;
- Increased isle width opposite parking space No 80.

These amendments were in response to concerns raised by DIPNR, Council and St Albans Church and differ only in minor respects from the development application submitted, and do not give rise to any additional impacts. Accordingly, these amendments were accepted as a replacement application in accordance with clauses 55 and 90 of the *Environmental Planning & Assessment Regulation 2000* (the Regulations). In accordance with clause 90 of the Regulations further notification of the application was not undertaken, given the minor nature of these changes.

On 9 November 2004 the applicant submitted amended plans to revise the basement layout to allow for an improved structural design of the carpark, and also to enable

improved lobby layouts to Buildings 4 & 5. These revised lobby layouts have been indicated on the upper floors of the buildings. The proposed changes are considered to differ only in minor respects from the development application submitted, and do not give rise to any additional impacts. The proposed changes do not impact on the external appearance of the building. Accordingly, these amendments were accepted as a replacement application in accordance with clauses 55 & 90 of the *Environmental Planning & Assessment Regulation 2000* (the Regulations). In accordance with clause 90 of the Regulations, further notification of the application was not undertaken, given the minor nature of these changes.

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

The proposed development is local development pursuant to Section 79 of the Act and SEPP53.

Part 4 of State Environmental Planning Policy No 53 – Metropolitan Residential Development (SEPP53) establishes the permissibility of multi-unit housing on sites identified within Schedule 4 of SEPP53. The subject site is identified as Site 3 in Schedule 4 of SEPP 53 and therefore, multi-unit housing is permissible on the site, subject to development consent. The Minister is the consent authority for multi-unit housing development on the site.

Ku-ring-gai Council is the consent authority for all road improvement works as the SEPP 53 boundary extends only to the property boundary. Therefore, any works external to the site boundary, including road improvement works, requires the consent of Ku-ring-gai Council, as the nominated roads authority for Tryon Road and Tryon Lane under the *Roads Act 1993*.

4.2 Instrument of consent and other relevant planning instruments

SEPP 53 is the primary instrument of consent for the proposed development. SEPP 53 establishes a number of deemed development standards and planning guidance that needs to be taken into account in the assessment of the application. The relationship between each of the planning instruments and guidelines that apply to the site is identified in Section 4.3 below.

The environmental planning instruments, draft environmental planning instruments, development control plans, design guidelines, and regulations applicable to the land to which the development application relate are as follows:

- State Environmental Planning Policy No 53 – Metropolitan Residential Development (SEPP 53) which includes:
 - Ku-ring-gai Reference Plan (KRP);
 - Ku-ring-gai Sites Report (KSR) including its Development Controls and Design Guidelines (DCDG).
- State Environmental Planning Policy No 1 – Development Standards (SEPP 1);
- State Environmental Planning Policy No 65 – Design of Residential Flat Buildings (SEPP 65);
- Ku-ring-gai Planning Scheme Ordinance (KPSO);
- Ku-ring-gai Local Environmental Plan No 194 (LEP 194)

- Ku-ring-gai Council Section 94 Contributions Plan.
- Draft State Environmental Planning Policy (Building Sustainable Index: BASIX) 2004;
- Draft State Environmental Planning Policy No 66 – Integration of land use and transport (SEPP 66);
- Draft State Environmental Planning Policy (Application of Development Standards) 2004;
- Development Control Plan No 31 – Access (DCP 31)
- Development Control Plan No 40 and Policy for Construction and Demolition Waste Management (DCP 40);
- Development Control Plan No 43 - Car Parking (DCP 43)
- Development Control Plan No 47 – Water Management (DCP 47)
- Development Control Plan No 48 – Medium Density Residential Development (DCP 48)
- Subdivision Code (SC)
- Ku-ring-gai Council Section 94 Contributions Plan.

4.3 Relationship between the Instruments

Part 4, Clause 22 of SEPP 53 states that the objective of Part 4 of SEPP 53 is to provide an opportunity to stimulate development of specific sites if the local environmental planning controls do not satisfactorily deal with the redevelopment of suitable sites for multi-unit housing. These objectives relate to increasing housing supply and choice in localities that are close to transport, employment and services. Clause 23 of SEPP 53 identifies the land that is subject to Part 4 of SEPP 53, as land described in Schedule 4 of SEPP 53.

Schedule 4 of SEPP 53 permits multi-unit housing on each of the six identified sites contained within the Ku-ring-gai Reference Plan (KRP) and makes the Minister the consent authority for multi-unit housing.

In accordance with clause 5 and 6 of Schedule 4 of SEPP 53, the Minister must consider the Ku-ring-gai Sites Report (KSR) and must not consent to a development application if it does not generally conform to the deemed development standards in the KRP, which generally include provisions for height, envelope, setback, building separation distances and in some instances the private/public separation line. Clause 1, sub-clause 9 of Schedule 4 of SEPP 53 allows the use of SEPP 1 to vary the deemed development standards contained within the KRP. A copy of the KRP maps in relation to the subject site are **tagged 'C'**.

Under Clause 26 of SEPP 53, the deemed development standards in the KRP apply to the six sites despite any development standard in the Ku-ring-gai Planning Scheme Ordinance (KPSO). However, a number of development standards in the KPSO remain a relevant consideration under section 79C of the Act as they are not inconsistent with the deemed development standards within the SEPP 53 documents. This is primarily relevant in relation to car parking standards and again, SEPP 1 may be used to vary a relevant development standard within the KPSO.

The Development Controls and Design Criteria (DCDG) for each of the six sites contains a number of development controls and design guidelines in addition to those contained within the KRP. Any non-compliance with the DCDG needs to be justified, but a SEPP 1 objection is not required to vary it, unless it is a control that duplicates the deemed development standards.

SEPP 65 and SEPP 53 both state that where there is an inconsistency with another environmental planning instrument, the provisions of both SEPPs prevail over any inconsistency. It is considered that if there is an inconsistency between these two SEPPs, the greater weight should be given to SEPP 53 because it is site specific.

The DCDG and Council's DCPs both apply to the site and provide further design controls to those contained in their respective EPI's (being SEPP 53 for the DCDG and the KPSO for the DCPs). Where there is an inconsistency between any of the Council's DCPs and the DCDG, the provisions of the DCDG would override the provisions of the DCP in accordance with clause 1, sub-clause 5 of Schedule 4 of SEPP 53.

5 CONSULTATION

5.1 Public consultation

The application was notified, in accordance with the Regulations and with consideration of the Ku-ring-gai Notification Policy including:

Notifications landowners/occupiers	– All landowners within a 250m radius of the site.
Newspaper advertisements	Advertised in the North Shore Times on 7 July 2004
Site notices	8 July 2004
Exhibition dates	Start: 8 July 2004. End: 6 August 2004
Exhibition venues	<ul style="list-style-type: none">▪ Planning Information Centre, 20 Lee Street Sydney▪ Ku-ring-gai Council, 818 Pacific Highway, Gordon▪ Lindfield Library, 265 Pacific Highway, Lindfield

Eighteen submissions were received regarding the Application. A summary of submissions is tagged D. Issues are considered in Section 6.2 of this report.

5.2 Referrals

5.2.1 Council

The application was referred to Ku-ring-gai Council on 1 July 2004. Council responded on 6 August 2004. A summary of Council's submission, and the response to each of the matters raised is Tagged E.

All issues raised by Council have been considered, or are to be included as conditions of consent. Major issues are discussed in detail in Section 6.2 of this report.

5.2.2 NSW Heritage Office

The application was referred to the NSW Heritage Office on 1 July 2004. The Heritage Office responded on 30 July 2004. A summary of the Heritage Office's submission, and a response to each issue raised is Tagged F.

5.2.3 Rail Corp

The application was referred to RailCorp on 1 July 2004. RailCorp responded on 2 August 2004. A summary of RailCorp's submission, and a response to each issue is Tagged G.

6 CONSIDERATION

6.1 The Environmental Planning & Assessment Act

6.1.1 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. Significant issues are discussed below in Section 6.2. A detailed assessment of the proposal against the provisions of s.79C is tagged H.

The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in Section 6.2. On balance, the proposed development is considered to be in the public interest.

Appropriate conditions are proposed to be incorporated into the consent to mitigate adverse impacts of the development.

6.2 Major Issues

6.2.1 Non-compliance with the Ku-ring-gai Reference Plan

Issue: Non compliance with the Ku-ring-gai Reference Plan

Raised by: DIPNR

Consideration: The applicant has submitted SEPP 1 objections to the deemed development standards contained within the KRP. The applicant advises Building 1 is in part located outside the building envelope controls to locate the upper levels of that building away from Tryon Lane and so as to minimise impact upon adjoining properties. Building 2 is in part located outside of the building footprint to retain an existing *angophora costata* tree located adjacent to the front boundary of the site. Departures also occur at several points around the perimeter of the proposal to provide an articulated and modulated building form.

Overall, however, the application proposes a substantial reduction in the building envelope as compared to the approved envelopes prepared for the Minister's targeted sites. The application proposes to utilise only 71.2% of the floorspace allowed by the approved envelopes, which is also well below the 80% rule set out in the DCDG. Further, the application has been designed to maximise the building envelopes on Tryon Road, and reduce the building frontage to Tryon Lane. The result will be increased solar access to adjoining properties and within the development, increased open space, reduction in bulk and scale, and greater building articulation and design.

Resolution: It is considered that strict compliance with the deemed development standards is not reasonable or necessary in this instance, and that non-compliance does not warrant refusal of the application.

The proposed departures do not represent any additional floorspace, and it should be noted that the proposed floor space is well below the

maximum control set out in the KRP. The departures are considered to be minor inconsistencies, and will not effect the proposal's consistency with the objectives of the Plan. The departures will contribute to an improved design outcome for the proposal, and are considered reasonable and justified in this instance.

6.2.2 Traffic generation to Tryon Lane and surrounding Road Network

Issue: Traffic generation on Tryon Road, and the surrounding road network.

Raised by: Local residents, Council, DIPNR

Consideration: Residents raised concern that the proposal would increase traffic generation to Tryon Lane, and the surrounding road network, and that one vehicle entry to the development on Tryon Lane would be insufficient to adequately cope with increased traffic capacity.

Council recommended traffic/pedestrian lights be installed on Lindfield Avenue at Tryon Road, and existing pedestrian crossing on Lindfield Avenue be removed.

Council do not raise concern with regard to the vehicle entry/exit being located in Tryon Lane, given it is a local road, and does not currently exceed the maximum environmental traffic capacity. Council notes that Tryon Road currently exceeds the maximum environmental capacity for a collector road.

Council were concerned with the condition of Tryon Road in light of increased traffic volumes, and recommended the applicant construct kerb and guttering on both sides of Tryon Lane from the proposed development extending to Nelson Road, and full reconstruction of the Tryon Lane road surface extending between 23 Tryon Road and Nelson Road.

The DA Traffic Report concludes that the proposed development would have a low additional traffic generation of only one vehicle every one to two minutes during peak hours; and that the road network will be able to cater for the additional traffic generated by the proposed development.

Independent traffic consultants engaged by DIPNR reviewed the DA's Traffic Report and generally raised no concerns in relation to proposed increased traffic generation. The independent consultant did recommend that a signalised intersection (with pedestrian phasing) at Tryon Road / Lindfield Avenue would improve pedestrian and vehicle safety at this location. However, also recommended the existing pedestrian crossing on Lindfield Avenue remain. The report also recommended further road improvements should be undertaken on Tryon Road.

Resolution: Both Council and DIPNR's traffic consultant do not raise increased traffic generation as a likely adverse impact of the proposed development. It is considered that the proposed single entry/exit off Tryon Lane is acceptable, given that Tryon Lane does not currently exceed the maximum environmental capacity for a local road.

It is considered that some improvements to Tryon Lane are necessary, and a condition of consent requires the applicant to construct upright kerb and guttering on the northern side of Tryon Lane extending from 9-25 Tryon Road, and also half width road construction of Tryon Lane

road surface between 9-25 Tryon Road. The southern portion of this road surface has been recently constructed with the adjacent multi-unit housing development on Russell Avenue. In relation to Council's improvements to the remainder of Tryon Lane, DIPNR does not consider it appropriate to require the applicant to construct further improvement works where these works do not front the proposed development. Ku-ring-gai LEP 194 rezones land directly adjacent to the site both to the east and west, and further land parcels east of the site along Russell Avenue, to allow for future development of multi-unit housing. It is anticipated that any further development along this corridor would be required to carry out further upgrade works necessary to the frontage of any future development.

With regards to the proposed installation of traffic/pedestrian lights on Lindfield Avenue at Tryon Road, these works have been identified within Ku-ring-gai's Section 94 Plan 2004-9, as existing necessary traffic works which would improve pedestrian and vehicle safety at this location. The applicant is required to pay Section 94 contributions in line with Ku-ring-gai's Plan, and will therefore contribute to these works. The recommended conditions of consent are considered to adequately address the proposal development's traffic and access issues.

6.2.3 Provision of Resident and Visitor Parking

Issue: Adequate resident and visitor parking must be provided within the development.

Raised by: Residents; Council; DIPNR

Consideration: Residents and Council have raised concern that insufficient visitor vehicle parking is provided within the development, which may exacerbate the existing parking shortage in the area.

The KPSO is the only environmental planning instrument applying to the site that contains development standards in relation to car parking. Clause 53 of the KPSO contains development standards for car parking. These standards override the car parking controls in the DCDG, however, only if the proposed car parking is less than the permitted amount of parking within the KPSO. As the proposal has more than 1 resident car space per dwelling, the provisions of the DCDG apply in relation to car parking and there are no inconsistencies with the KPSO.

The amount of visitor parking provided complies with the DCDG. The DCDG requires 8-15 visitor parking spaces, and the applicant proposes to provide 10 spaces which is considered reasonable given the site's proximity to the railway station.

As visitor parking is provided adjacent to Tryon Lane at grade, the applicant has amended their plans to include a change of paving surface between the visitor parking area and the pedestrian area to improve pedestrian safety at this location.

Resolution: The provision of resident and visitor car parking complies with the KPSO and the DCDG for the site.

6.2.4 Section 94 Contribution

Issue: Imposition of Section 94 Contributions

Raised by: DIPNR, Council

Consideration: Council requests the imposition of developer contributions on the development in accordance with Council's Section 94 Plan. Council's Plan outlines the calculations for development contribution based on the size of each additional dwelling. Council's Section 94 Plan does not contain a definition of floorspace, however there is a definition contained within Council's LEP, as follows:

"floor space includes all wall thicknesses, ducts, vents, corridors, stair-cases and lift wells."

The applicant has requested that a more accurate way to predict the future demand on community facilities should be assessed not on dwelling size, but rather by the number of persons per dwelling that they are able to accommodate (ie the number of bedrooms). The applicant argues this on the basis that a number of proposed apartments are slightly larger in area than the generic sizes indicated in the Plan.

Resolution: It is noted that the Minister is not required to impose a Section 94 contribution. However, it is considered that the imposition of S94 Contributions as contained within Ku-ring-gai's S94 Plan are appropriate for this development. DIPNR has had the Council's previous Section 94 Plan reviewed by a consultant and the results of this review indicated that Council's Section 94 Plan is appropriate, including the method of calculation. This method of calculation has not changed substantially between the old plan and the new 2004 plan and therefore the conclusions drawn by the consultant are still considered valid.

However, DIPNR considers the definition of floor space contained with Council's LEP does not readily relate to multi-unit housing, by virtue of the inclusion of corridors, stair cases and lift wells. It is considered appropriate to use the net strata areas as a mechanism for the calculation of S94 contributions.

Based on the net strata area of each apartment, there are 6 medium dwellings, 59 large dwellings and 9 very large dwellings, which are proposed. The plan provides for a credit for existing dwellings to be demolished, which equates to 9 very large dwellings. Based on this, it is recommended that a contribution of \$1,768,823 be required as a condition of consent.

6.2.5 Heritage

Issue: Demolition of No 25 Tryon Road, Lindfield

Raised by: Council, residents, NSW Heritage Office

Consideration: The application includes the demolition of all structures on site, including No 25 Tryon Road which is listed as an item of environmental heritage within the Ku-ring-gai Planning Scheme Ordinance.

In accordance with Schedule 4, Part 1(3) of SEPP 53, 'the relevant consent authority for all development on the sites specified in subclause (1) for the purpose of multi unit housing, subdivision, or

demolition related to multi-unit housing (including the demolition of a heritage item) is the Minister'. Further, Schedule 4, Part 1(7) of SEPP 53 states that 'if it is necessary in order to conserve an item of environmental heritage or threatened species, population or ecological community, consent may be granted to a development application for multi unit housing in relation to a site specified in subclause (1) if the Minister is satisfied that the proposed development will implement the relevant design principles set out in the Ku-ring-gai Sites Report.'

The applicant has submitted a Heritage Impact Statement on No 25 Tryon Road, which concludes that:

'No 25 (Tryon Lane) has some heritage significance, but this significance is representative and shared by a number of properties on Tryon Road. This study concludes that No 25 is a contributory building with the streetscape of Tryon Road similar to the buildings surrounding it. There is no evidence to support individual listed for this building.

No 25 presents an intact and well-maintained Federation house, but research and investigation reveals that this is not the case. The place is well-presented reflecting the efforts of the owners in maintaining the house and grounds. But presentation must not be confused with heritage significance which appears to have been the basis of the listing of the property on the LEP.'

'No 25 Tryon Road has some significance at a local level, but only as a contributory item within the overall existing streetscape of Tryon Road. Its heritage value is similar to the adjacent buildings to the west. However, given the future of the street in terms of development (including the recent gazettal of LEP 194) and previous approvals for demolition, the context of the building will be completely removed along with most of its heritage value'.

The NSW Heritage Office provided comments on the proposal, and recommended options be explored for the item's retention and adaptive reuse, and that an assessment should also be carried out of the effect the development will have on the heritage significance of the surrounding items of heritage including the Uniting Church (No 33 Tryon Road) and St Albans Anglican Church.

Ku-ring-gai Council would seek that a full archival recording of the property be undertaken prior to its demolition.

Resolution:

In accordance with Schedule 4, Part 1(7) of the SEPP, it is considered that the retention of the item of environmental heritage at No 25 Tryon Road would seriously compromise the design principles set out in the Ku-ring-gai Sites Report for site 3. Demolition of the heritage item is supported in order to meet the objectives of SEPP 53. A condition has been imposed requiring a full archival record of the property to be undertaken prior to its demolition. Conditions are also recommended to be imposed to ensure that all works on the site must cease immediately should any archaeological or aboriginal relics be uncovered during the course of the work.

The impact of the development on surrounding and adjacent heritage items has been considered. The applicant has amended their plans to increase the development's setback from St Albans Church grounds

and an adequate separation is now provided.

6.2.6 Through-site Pedestrian Link

Issue: A shared pedestrian / bicycle through site link to align with Milray Street is to be provided.

Raised by: DIPNR

Consideration: A shared pedestrian/bicycle through site link is proposed to be provided through the site, to align with Milray Street. The DCDG identifies that an opportunity exists in this location to provide a through-site link to improve local vehicle access to Lindfield town centre and Lindfield Station. The SEE describes the proposal as follows:

'The proposal also provides for a defined pedestrian/cycle link between Tryon Road and Tryon Lane. This link is located directly opposite and is to be read as an extension of Milray Street. The link whilst being owned by the owners corporation for the development will be subject to an easement in favour of Council and which grants access to the public. It is my opinion that this link will be a valuable access to residents of the locality as it will provide a more direct route for existing residents to the south of the site to the Lindfield business district and transport nodes. The care and maintenance of this area will be the responsibility of the owner's corporation'.

Council provided the following comments on the proposed shared pedestrian/bicycle link:

'The plans do not show the new road as indicated in the Minister's Guidelines for the site, however, it has been noted in previous consideration of the site by Council that the planned road would have little improving effect on the traffic in the area'.

Council also advised that based on traffic counts, the existing traffic volumes in Tryon Road (west of Nelson Road) exceed the maximum environmental capacity for a collector road, whereas existing traffic volumes in Tryon Lane do not exceed the maximum environmental traffic capacity for a local accessway.

Resolution: It is considered that the proposed pedestrian/bicycle link will provide a useful connection for pedestrians accessing transport and retail facilities within the Lindfield Town Centre. It is noted that the DCDG identifies this link as providing both vehicle and pedestrian access, however it is considered that a new road in this location would not significantly improve traffic conditions in the area, given that existing volumes Tryon Road already exceed maximum capacity. Further, as set out in Section 6.2.2 of this report, proposed traffic increase to Tryon Lane is considered to be acceptable. Council also consider the proposal to omit the new road in this location to be acceptable.

The proposed pedestrian/bicycle link is considered to positively contribute to the area and therefore the departure from the DCDG is considered to be acceptable. Appropriate conditions are proposed to ensure adequate signposting is implemented to ensure its safe use. A condition of consent requires the creation of a 24 hour public right of way over the site link to be maintained by the applicant or strata corporation, with appropriate lighting being provided from dusk till dawn.

6.2.7 Bulk, scale and design of development

Issue: Development out of keeping with surrounding area.

Raised by: DIPNR, residents, Council

Consideration: Council and residents have raised concern that the height, bulk and scale of the development is inappropriate within the local context.

Council advised that:

'even at reduced heights proposed the relationship of the new development to the existing 2 storey townhouse development is inappropriate. The nature of having 3-4 storey development with raised balconies north of and overlooking existing private courtyards is inappropriate'.

It is considered that the proposed development will be of a greater scale than the existing development surrounding the site. The proposed development ranges between 3-5 storeys in height, while the existing surrounding development is generally 2 storeys in height, consisting of a mix of landuses. However, under the recently gazetted LEP194, residential properties in the vicinity of the site were rezoned (d3), which allows for the development of multi-unit housing. The LEP rezones a number of surrounding sites, including sites directly adjacent to the site, and sites on Russell Avenue, for future medium density development. Thus, the proposed development is considered to be not inconsistent with the future desired character of those rezoned areas as intended by LEP 194.

In relation to the proposed built form, the proposed development is consistent with the approved envelopes for the site. The application proposes a substantial reduction in the building envelope as compared to the approved envelopes prepared for the Minister's targeted sites. The application proposes to utilise only 71.2% of the floorspace allowed by the approved envelopes, which is also well below the 80% rule set out in the DCDG. Further, the application has been designed to maximise the building envelopes on Tryon Road, and reduce the building frontage to Tryon Lane.

Tryon Lane has residential dwellings opposite the proposed development, therefore a reduction in the building frontage and footprint on the Tryon Lane elevation will reduce the potential impact of overlooking and overshadowing. Development on Tryon Road adjacent to the proposed development is mainly commercial development. The applicant has also relocated the building footprint 1.3m away from the western boundary of the site, to reduce the impacts of the proposal on the adjacent St Albans Church.

Resolution: The proposal has been developed to generally comply with approved building envelopes contained within the KRP. It is considered the proposed development will respond to its site context, and its reduced footprint, development of 5 separate parcels, the stepping up of the upper levels, and modulated facades will reduce the visual impact of proposed height on the locality and contribute to integrating the development within the existing streetscape. The proposal is considered to be consistent with the desired future character of the area.

6.3 Key Planning Issues

6.3.1 Overlooking and Privacy

- Issue:* Privacy of proposed apartments, and existing surrounding residents.
- Raised by:* DIPNR; residents; Council
- Consideration:* Council and residents have raised concern that the proposed development would cause overlooking and reduce privacy to residents in Russell Avenue.
- The application proposes a substantial reduction in the building envelope as compared to the approved envelopes prepared for the Minister's targeted sites. The application proposes to utilise only 71.2% of the floorspace allowed by the approved envelopes, which is also well below the 80% rule set out in the DCDG. Further, the application has been designed to maximise the building envelopes on Tryon Road, and reduce the building frontage to Tryon Lane. Tryon Lane has residential dwellings opposite the proposed development, therefore a reduction in the building frontage and footprint on the Tryon Lane elevation will reduce the potential impact of overlooking. Development on Tryon Road adjacent to the proposed development is mainly commercial development.
- The applicant has generally located habitable rooms away from the Tryon Lane elevation, and has installed operable shutters to south facing balconies located on the Tryon Lane elevation, to reduce the impacts of overlooking of existing dwellings in Russell Avenue.
- Further, in relation to concerns regarding privacy expressed by St Albans Church, the applicant has relocated Building 1 a distance of 1.3m away from the western boundary of the site, and has reduced the extent of the western balconies located to Level 4 of Building 1, and levels 3 & 4 of Building 2.
- The minimum requirement building separation distances outlined on the KRP have been achieved in respect of all buildings. The privacy of each apartment within the development has been achieved through the offsetting of windows, separation distances and internal apartment design. Balcony design for the development will incorporate screen walls, and other design features such as louvred screens and glazing have been incorporated into the design to contribute to maximising privacy.
- Resolution:* The proposal has been developed to generally comply with approved building envelopes contained within the KRP, and it is considered adequate design measures have been incorporated into the proposal to protect the privacy of existing and future residents.

6.3.2 Overshadowing

- Issue:* Adequate amount of sunlight should be received by each existing and proposed dwelling.
- Raised by:* DIPNR, residents
- Consideration:* Residents have raised concern that the proposed development would cause overshadowing of existing properties located on Russell Avenue.
- The application proposes a substantial reduction in the building envelope as compared to the approved envelopes prepared for the

Minister's targeted sites. The application proposes to utilise only 71.2% of the floorspace allowed by the approved envelopes, which is also well below the 80% rule set out in the DCDG. The proposed development has been designed to maximise the building envelopes on the Tryon Road frontage, and reduce the building envelopes on Tryon Lane frontage. Tryon Lane has residential development opposite the proposed development, and therefore the proposed reduction in building envelopes along this frontage will result in an increased level of solar access to properties located south of the development along Russell Avenue.

As a result, in all instances, adjoining properties will receive in excess of 3 hours of sunlight on the winter solstice. A NatHERS assessment has been prepared in respect of the development, which indicates the development will receive an average 4 star energy rating. Further, in excess of 70% of the dwelling's private open space areas will receive adequate sunlight between 9am and 3pm.

Resolution: The proposal is generally consistent with the controls set out in the KRP and the DCDG, and is considered to be acceptable.

6.3.3 Ecologically Sustainable Development

Issue: Incorporation of ESD principles into the design

Raised by: DIPNR

Consideration: From February 2005, a BASIX Certificate will be required for new multi-unit residential developments in Sydney. BASIX is a web-based planning tool designed to assess the potential performance of residential developments against a range of sustainable indices. The first stage of BASIX focuses on Water and Energy, for which targets are set. Landscape, Stormwater and Thermal Comfort indices are also activated because information relating to these indices impacts on water consumption and greenhouse emissions.

It is considered that the proposal achieves a high standard of environmental design through the following measures:

- On-site stormwater retention to enable watering of landscaped areas and toilet flushing;
- 20% of dwellings achieve NatHERS rating of 4.5 stars or more;
- 80% of dwellings achieve NatHERS rating of 3.5 stars or more;
- External sunshading on virtually all building windows that receive direct solar access and sunshading devices are installed to balconies;
- 88% of apartments achieve natural cross ventilation;
- Area of deep soil zones is in excess of DCDG planning controls;
- Installation of energy efficient appliances and fittings;
- Installation of water efficient appliances and fittings;
- Provision of bicycle parking spaces;
- Provision of adaptable housing, which can meet the changing needs of residents over time;
- Installation of on-site detention.

Resolution: It is considered that although the proposal has not been assessed

against BASIX as the SEPP does not apply to multi-unit housing until February 2005, the development achieves a number of ESD principles that are consistent with the State Government's objective of reducing greenhouse gas emissions and use of potable water.

6.3.4 Landscape Design, Protection of Tree Species

Issue: Protection of existing trees and maintenance of tree canopy and appropriate landscaping.

Raised by: DIPNR, Council

Consideration: Council raised concern that the landscape plan originally submitted by the applicant proposed insufficient canopy planting along the Tryon Road Street frontage, that a number of species identified were inappropriate for that area, and that the concept landscape plan did not contain sufficient detail.

The applicant's revised landscape plan identifies a number of existing canopy trees to be retained, and incorporates a significant number of endemic canopy trees, courtyard trees, shrubs and groundcover, which is considered by DIPNR and Council to be generally acceptable.

The applicant has also identified an area of deep soil zone which is greater than that required by the DCDG for this site.

Resolution: A condition of consent requires the provision of a detailed landscape plan to be submitted to the Department for approval prior to the issue of a construction certificate. The condition also requires an additional 3 endemic canopy trees be planted on Tryon Road, that adequate screen planting to be incorporated along the Western Boundary of the site, and that shade tolerant species are planted in shaded courtyard areas appropriate to site conditions. Conditions are also proposed to be incorporated into the consent to ensure protection of existing tree species during and post construction, and a bond of \$5000 must be lodged with Council prior to Construction to ensure their retention.

Subject to a detailed landscaping plan being submitted to incorporate these conditions, it is considered the general landscaping of the site will be appropriate and characteristic of the surrounding Lindfield area.

6.3.5 Access to the development

Issue: Proposed development should be accessible to people with disabilities

Raised by: DIPNR

Consideration: All apartments within the development are accessible to people with disabilities. Access is to be provided to each apartment via lifts, and shall be in accordance with all relevant Australian Standards. Lift access is provided between the basement car park and the dwellings. All apartments provide an adaptable design.

Resolution The proposed development will be accessible to people with disabilities. A condition of consent has been imposed to require the development to comply with part D3 of the BCA's Access Policy.

6.3.6 Dwelling Mix

Issue: The dwelling mix proposed does not comply with the DCDG.

Raised by: DIPNR

Consideration: No one bedroom units or studio apartments have been provided in the

proposal. The proposal provides 65 three bedroom apartments and 9 two bedroom apartments. The DCDG requires the provision of a variety of apartment sizes to encourage a housing mix that addresses different housing sectors. The applicant states 'the proposal provides for a combination of two and three bedroom units of varying sizes, all of which are larger than the required minimums.'

Resolution: The proposal will provide an alternative form of housing accommodation that is not readily available in the local area. While there will be no one bedroom units provided, the mix of two and three bedroom houses will start to address the lack of housing choice within Ku-ring-gai, and is considered to be appropriate. The proposed housing mix and form will meet the demands of persons who wish to transfer from existing large sized dwellings

6.3.7 Waste Management

Issue: Waste Collection for the development post construction

Raised by: Council; DIPNR

Consideration: The waste for all dwellings is proposed to be collected from the garbage bin storage area located within the basement level. DIPNR and Council raised concerns that adequate turning circles are not provided for use by garbage trucks.

Resolution: The applicant has submitted amended plans to provide adequate turning circles are available for garbage trucks. A condition of consent has been imposed to ensure the waste collection area is managed in accordance with Council's policies, and the applicant must comply with the requirements of any contractors engaged by Council to collect waste.

6.3.8 Terraces within Setback area

Issue: Provision of private terraces within the setback area.

Raised by: DIPNR

Consideration: The KRP requires an 8 metre setback from the building line at Tryon Road, and a 4m setback from the building line at Tryon Lane. The current proposal provides private terraces at ground level that extend into these setbacks. The private terraces have been provided to increase the amenity of the ground floor apartments, and address security issues for those apartments. The building line for all buildings will still be maintained. The balconies above ground floor level will extend up to 2m into this setback area, which is in line with the provisions of the DCDG.

Resolution: The provision of private terraces within the setback zone is considered acceptable in this instance. The terraces areas will not be highly visible, nor reduce the setback of the building when viewed from the street. Suitable pedestrian access along the street frontages is being maintained.

6.3.9 Stormwater

Issue: Appropriate management of stormwater

Raised by: Council, DIPNR, residents

Consideration: The proposal is considered to appropriately address stormwater

management. On-site stormwater detention and retention for all surface waters from built upon areas will be provided. Retained water will be used for toilet flushing and irrigation. The design of the stormwater system on site is generally in accordance with Council's DCP 47 – Water Management. Overflow water from the retention and detention systems will be directed to the trunk drainage system in Tryon Lane.

Resolution: The applicant's submitted drainage concept plan demonstrates compliance with Council's Guidelines. Appropriate conditions have been incorporated into the consent to further address stormwater issues.

6.3.10 Design for safety and crime prevention

Issue: Safety and security measures to be provided within the development

Raised by: DIPNR

Consideration: The proposed design enables casual observation of the street and internal spaces within the development. The development will be provided with an intercom and security car system to lobby areas and basement parking areas.

Resolution: Conditions of consent are recommended to ensure adequate lighting is provided to the through site link and pedestrian links to building entrances. It is also proposed to condition that adequate signage must be incorporated to provide residents, visitors and tradespeople with clear directions to each building. It is considered appropriate security measures have been incorporated into the proposal's design.

6.3.11 Building Entries

Issue: Building entries are not directly off the street.

Raised by: DIPNR

Consideration: The main entries to the buildings are located off the private courtyard areas. It is considered that the design of the residential apartments will allow casual surveillance of these areas. Ground floor apartments along Tryon Road will have direct street access into their patio areas. It is considered these access areas to Tryon Road will contribute to providing an active street frontage. Ground floor apartments along Tryon Lane will have direct access to their patio areas from the internal private courtyard.

Resolution: Location of building entries are considered to be acceptable. A condition of consent will be imposed to ensure adequate lighting and building directional signage is provided to direct visitors, residents and tradespeople to the appropriate entrances.

7 CONCLUSION

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in section 79C of the Act.

The application has been notified in accordance with the Regulations and with consideration of the Ku-ring-gai Council Notification Policy. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and should be approved.

8 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was asked to comment on the draft conditions of consent on 28 September 2004. The applicant responded on 6 October 2004 and outlined some concerns with the conditions. These concerns have been considered, and where appropriate, conditions have been amended. The applicant does not generally object to the conditions of consent.

9 RECOMMENDATION

It is recommended that the Minister for Infrastructure and Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and Clause 25 of State Environmental Planning Policy No. 53:

- (A) grant **consent** to the application subject to conditions (Tagged “**A**”), and
- (B) authorise the Department to carry out post-determination notification.

Prepared by:

Endorsed by

Lara Huckstepp
Planner, Urban Assessments

Christine Gough
Acting Senior Planner
Urban Assessments

Robert Black
Director, Urban Assessments