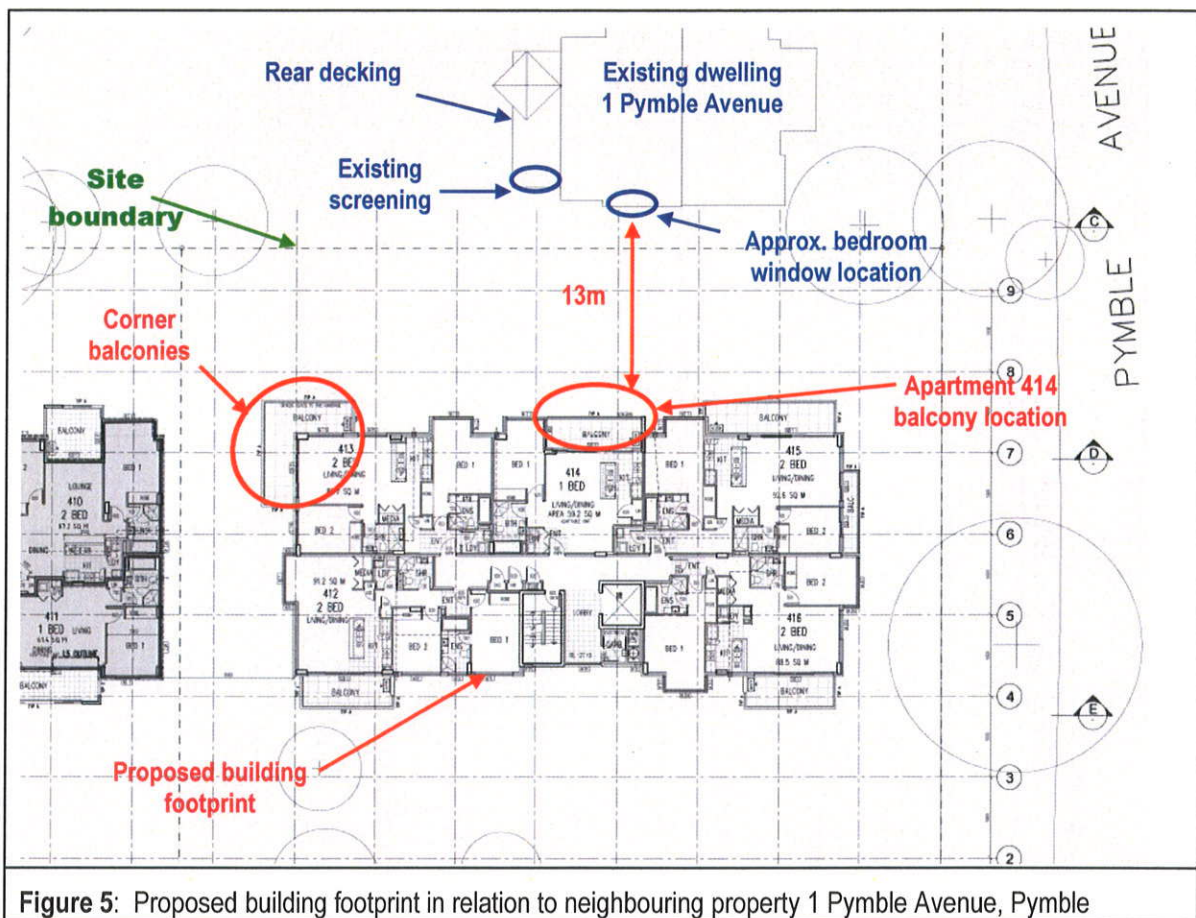


The development is designed to provide solar access and cross ventilation compliant with SEPP 65, and to comply with the requirements of BASIX.

The Proponent has provided amended plans to address the visual and aural privacy issues raised during exhibition, particularly for the neighbouring sites at 1 and 1A Pymble Avenue. The balconies for each of the apartments above ground level on the northern corner of the building (apartments 313, 413 and 513) were reorientated to the north in order to provide additional privacy for the adjoining properties. It is considered that the wrap around design of the balconies included in the amended plans do not sufficiently address the privacy issues raised, and that an appropriate condition limiting the area of the balcony facing the north east will be included in the consent.

The balcony of apartment 414 within the proposed development is adjacent to a bedroom of the neighbouring property at 1 Pymble Avenue and poses visual privacy concerns (see Figure 5 below). The use of landscaping in the form of mid and upper canopy shrubs and trees, an appropriate screening and louvre system, together with the provision of opaque balustrades will provide appropriate visual screening for the neighbouring property, and have all been included as a conditions of consent.

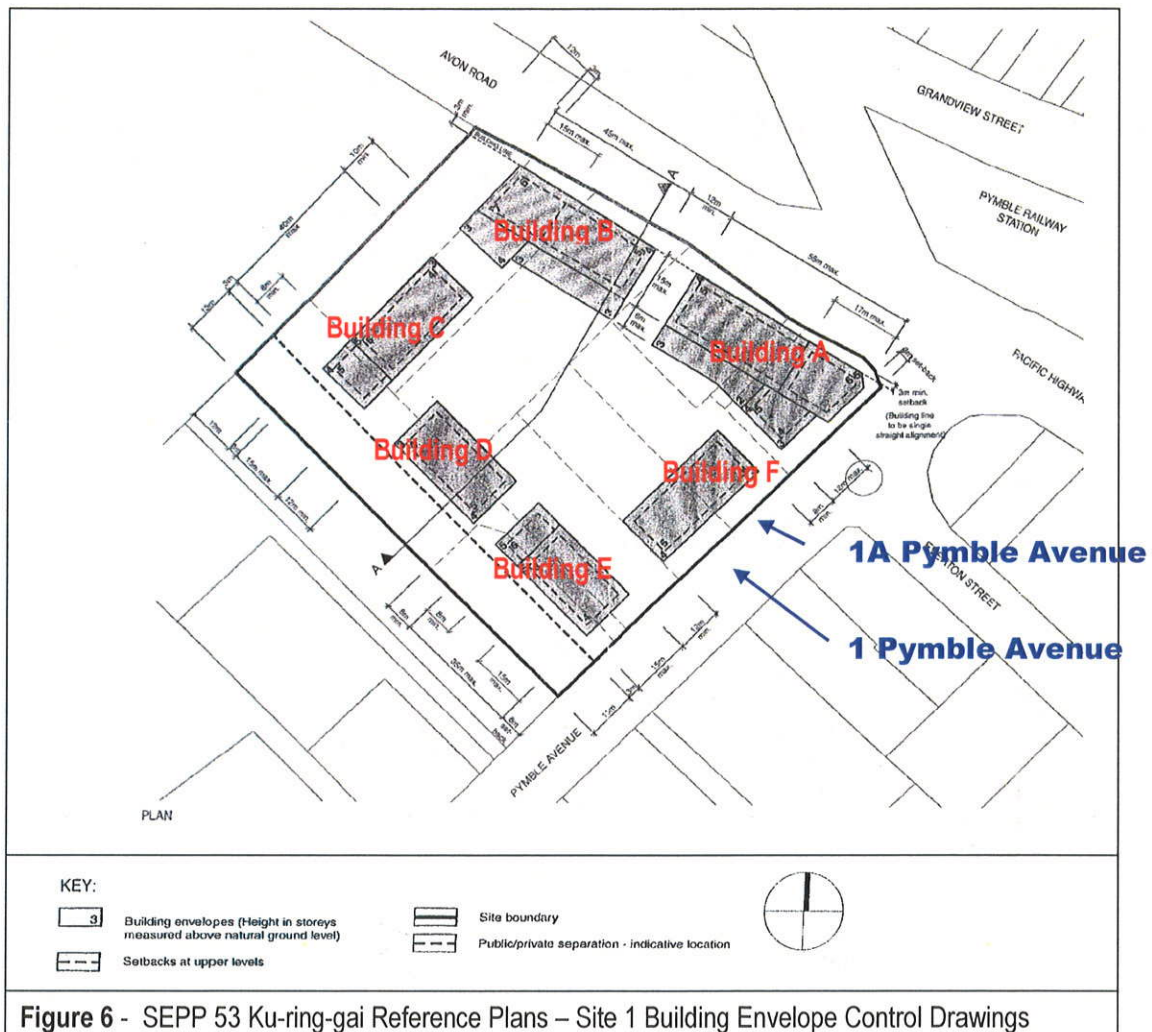


5.3 PARTIAL SITE DEVELOPMENT AND ISOLATION

SEPP 53 and the accompanying controls and guidelines were established to provide a holistic redevelopment of a number of contiguous parcels of land that had particular locational advantages to public transport, could accommodate higher densities with builtform providing good amenity, and which would contribute appropriately to the Governments policy of urban containment.

The development of the subject site (situated at Nos. 3 & 5 Pymble Avenue and known as Building E) continues the redevelopment of Site 1 under SEPP 53 but does not complete redevelopment of all of the land within Site 1. The land comprising Nos. 1 and 1A Pymble Avenue, earmarked for redevelopment with a part 3/part 4/part 5 storey apartment building known as Building F has not been included in the current application.

Figure 6 below details the contemplated pattern of redevelopment of SEPP 53 Site No. 1



SEPP 53 (Schedule 4, clause 1 subclause 4(a) and (b)) states that partial site development is not permissible unless the consent authority is satisfied that the partial development of the site will not have a significantly adverse effect on the ability to develop the remainder of the site in the manner described in SEPP 53, ie as detailed above in Figure 6.

In this regard, the development of Building F on Nos. 1 and 1A Pymble Avenue could still be achieved via the amalgamation of those two properties. This outcome is not contingent on an amalgamation with Nos. 3 and 5 Pymble Avenue (the subject site), which is designated to accommodate the Building E envelope.

The remaining sites (1 and 1A Pymble Avenue) have a combined land area of 2,175sq.m and a wide street frontage of 38.1 metres, and in accordance with the KRP for Site 1, the development of future Building F can be developed within the boundaries of those two properties (refer Figure 6). The size and dimensions of this land allows for redevelopment with appropriate setbacks to the north, east and west, a generous landscaped curtilage with private and communal open space, appropriate deep soil areas and suitable vehicular and pedestrian access off Pymble Avenue. It is assessed that there are no particular constraints upon the potential redevelopment of Nos. 1 and 1A Pymble Avenue as contemplated by SEPP 53.

While there is concern regarding the potential to construct Building F up to the south - western (side) boundary of the proposed development site it is considered that this issue can be resolved as there is an appropriate 12 metre setback achievable, and the wall adjacent to the boundary is generally south facing and is likely to result in minor solar access issues. It has been demonstrated that the land at Nos 1 and 1A Pymble Avenue can be developed separately from the development of Building E, and that the current proposal is consistent with the preferred building envelope layout in the KSP and SEPP 53.

The building envelope and height controls for proposed future Building F (3/4 and 4/5 storeys) (refer Figure 7 below), are generally similar to the building footprint and height controls for the approved Building D (which is part of the larger Meriton development site - refer Figure 6), and the approved Building D has achieved a yield of 18 dwellings with a mix of 7 x 1 bedroom, 10 x 2 bedroom, and 1 x 3 bedroom apartments.

The potential to develop a similar compliant building within the remaining site (1 and 1A Pymble Avenue) consistent with the SEPP 53 controls and guidelines is possible (as shown in Figure 7 below) and would provide sufficient development yields.

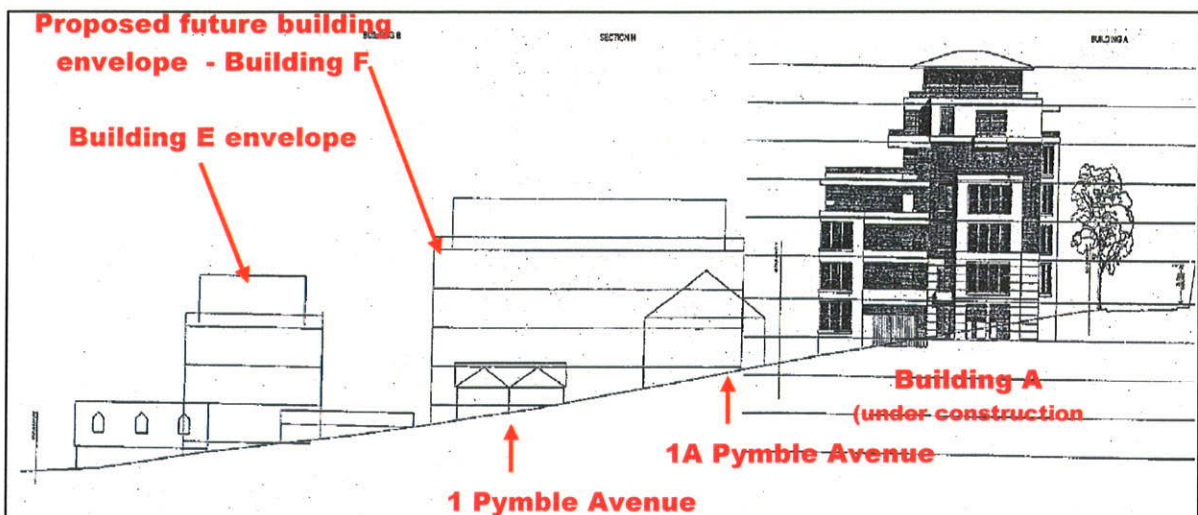


Figure 7: Pymble Avenue Elevation detailing the Building E and F envelopes, and the Building A envelope currently under construction

The development of the remainder of the site will occur as and when the existing landowners of Nos. 1 and 1A Pymble Avenue choose to develop the site. Further, details have been submitted of negotiations between the parties showing that attempts have been made to facilitate the amalgamation of the remaining land and that offers have been made but have not resulted in an outcome allowing development of Building E and F to occur at the same time.

The Council, in its submission, noted that while the applicant had failed to secure all of the properties in Site 1 under SEPP 53, namely Nos. 1 and 1A Pymble Avenue, in the short term these two sites are not considered to be isolated sites as they can be developed by other property owners in accordance with the SEPP 53 configuration (refer Figure 6 above).

The **proponent** argues that:

- the development of a SEPP 53 compliant future Building F, in accordance with the KRP for site 1, can be developed within the boundaries of 1 and 1A Pymble Avenue, consistent with the SEPP 53 objectives as it applies to the site;

- the future redevelopment potential of 1 and 1A Pymble Avenue can be achieved in a manner consistent with the draft Town Centres LEP and proposed development controls as discussed in section 4 of this report; and
- that the most appropriate carpark entry location for possible future Building F is direct from Pymble Avenue to the southern end of the block, which is also consistent with the access point shown on the SEPP 53 KSR plan (see Figure 6 above).

The proponent has also submitted additional detail outlining their investigation of alternative options for providing internal vehicular access into the Block F building envelope (for site 1 and 1A Pymble Avenue). The findings of the investigation was that there were a number of complications regarding easements, right-of-ways, insurance and maintenance issues associated with alternative options of vehicular access via the basement levels of the approved adjacent buildings. The most appropriate carpark entry location for Building F was considered to be directly off Pymble Avenue to the southern end of the block, which is also consistent with the access point indicated on the SEPP 53 KSR.

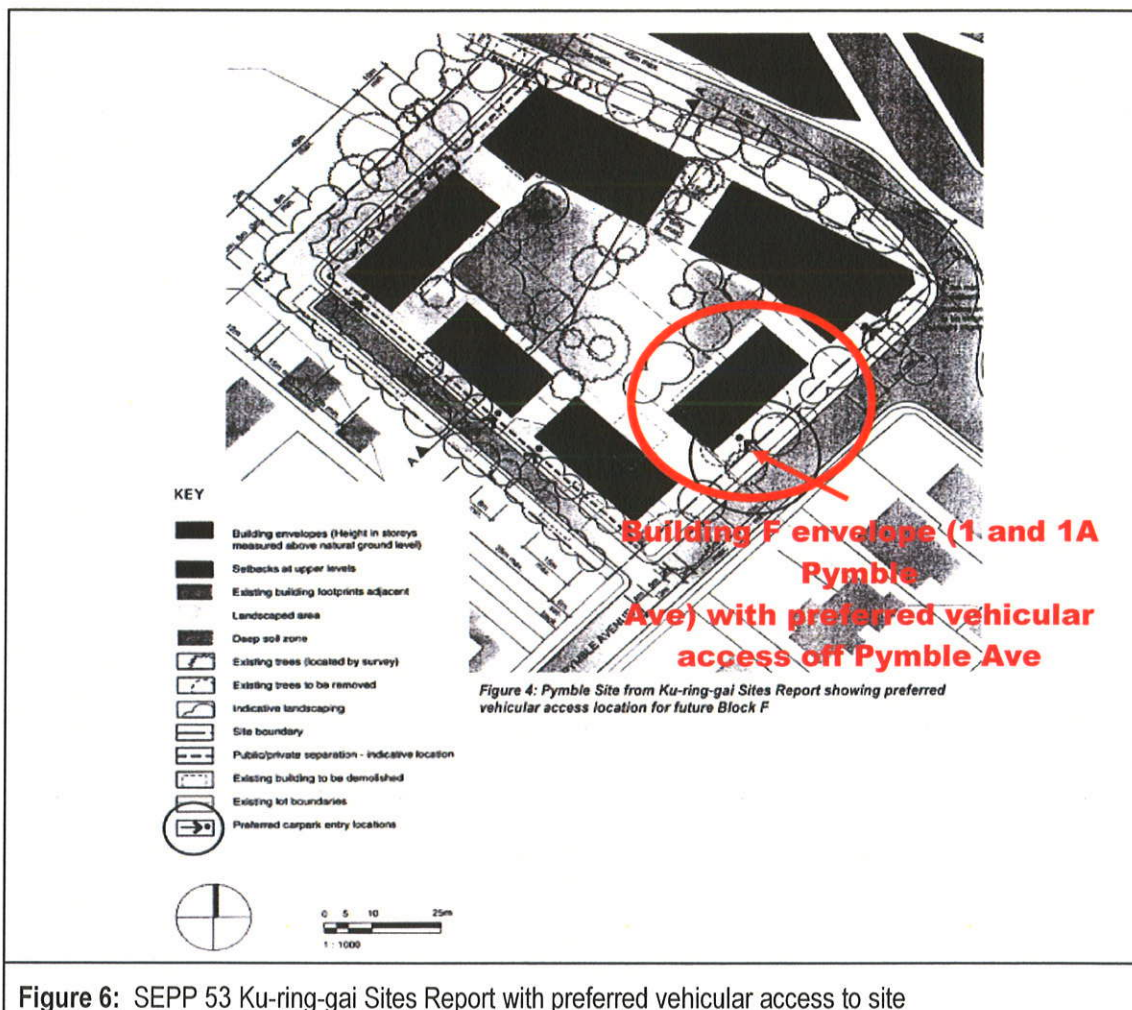


Figure 6: SEPP 53 Ku-ring-gai Sites Report with preferred vehicular access to site

In summary, the Department is of the view that Nos. 1 and 1A Pymble Avenue will not be unreasonably isolated or constrained from achieving an appropriate development outcome similar to or the same as that contemplated by SEPP 53. The redevelopment of Nos. 3 and 5 Pymble Avenue for the Building E will not impact on the ability for the remainder of Site 1 to be redeveloped (ie Nos. 1 and 1A) and will not have a significantly adverse effect on the ability to redevelop those two properties in accordance with SEPP 53.

The Department has also noted that reasonable attempts have been made to facilitate the amalgamation to enable the sites for Buildings E and F to be developed together, but that these efforts have not been successful.

5.4 LANDSCAPE DESIGN

The EA includes a landscape plan with areas of communal and private open space, landscape treatments and a preliminary planting schedule to provide a buffer and appropriate screening to adjoining properties.

Ku-ring-gai Council and public submissions raised a number of concerns regarding the adequacy of the landscape Plan submitted with the EA, including that:

- the plan provides insufficient detail in regards to proposed plantings (the plan needs to include a mix of native and exotic tree and shrub species);
- that the proposed planting scheme along the boundary adjoining 1 Pymble Avenue does not appear to provide suitable level of softening of the visual bulk of the building;
- larger pot sizes are required; and
- that screen planting should be proposed along the southern boundary of the site.

In addition, Council raised concerns regarding impact of proposed works within the canopy drip line of the existing mature *Eucalyptus saligna* (Sydney Bluegum) located in the north-west corner of 1 Pymble Avenue, and suggested that a flora and fauna report and seven part test should be undertaken.

The Department has requested that an amended landscape plan (including amendments to address Council's concerns) be lodged for approval prior to the issue of any Construction Certificate, and that a number of changes be made, including an amended planting scheme of a mix of mid and upper canopy shrubs and trees along the boundary adjoining 1 Pymble Avenue and along the south-western (side) boundary of the site.

5.5 TRANSPORT AND ACCESSIBILITY

The EA includes a Traffic and Parking Report prepared by Transport and Traffic Planning Associates, which provides an assessment of the traffic and parking impacts with regard to the proposed development.

The report with the EA concluded that: the proposed development represents a contemporary apartment complex which is compatible with the attributes of the area; that the development will not present any unacceptable traffic implications; and that the proposed parking provisions, vehicle access, internal circulation and servicing arrangements are appropriate for the development.

The proposal will use the existing approved vehicular access point below Building D for access to the basement level car parking, with a connection to Pymble Avenue via the new road (access ramp). The building includes 2 pedestrian access points a ramp lead directly from Pymble Avenue to the upper ground floor lobby and a second entrance addresses the new street frontage.

The proposal is part of a broader development site and is well located on the southern side of the Pacific Highway and with direct pedestrian access to Pymble Railway Station (400metres).

Consequently no changes to the road works external to the site are required. Access and internal layout are reported to be consistent with relevant standards and are also considered acceptable.

The proposal complies with relevant car parking requirements in that it provides car parking equal to the minimum numbers specified by the SEPP 53 DCDG.

5.6 CONSTRUCTION IMPACTS

The EA includes a construction and traffic management plan which provides details on how the site will be managed during the construction phase of development.

The Proponent has indicated in their Statement of Commitments, that to minimise construction noise impacts associated with the development site, the hours of work will be restricted to between 7.00am-6.00pm Monday-Fridays, and 7.00am-5.00pm Saturdays and Sundays. The proposed hours of work for Saturday and Sunday are not consistent with condition D14 (DA506-12-2003) for the broader development site which specifies that the hours of construction shall be restricted as follows:

- (1) Between 7.00am and 6.00pm, Mondays to Fridays inclusive;
- (2) Between 8.00am and 2.00pm, Saturdays;
- (3) No work on Sundays or public holidays.

An appropriate condition has been included in the Instrument of consent, and work will not be permitted on Sundays and Public Holidays except in emergencies.

In addition, the proponent has indicated that sediment run-off will be managed with the provision of siltation traps, silt meshing at sensitive locations along the perimeter of the site during construction of the buildings. Sediment control management will be based on Ku-ring-gai councils guidelines, the instrument will be conditioned accordingly.

5.7 DEVELOPER CONTRIBUTIONS

The proposal is subject to development contributions under the two relevant contribution plans in place at the time the Project Application is made. The relevant plans currently applying to the site are the Ku-ring-gai Contributions Plan 2004-09 (Amendment Two) and the Ku-ring-gai Town Centres Development Contributions Plan 2008. The Contributions Plan provides for access and transport facilities, community, and streetscape and public domain facilities. The contributions applicable to the proposal include:

- **\$160,515.00** - Ku-ring-gai Town Centres Development Contributions Plan; and
- **\$345,443.00** - Ku-ring-gai Contributions Plan 2004-09 (Amendment Two)

The proposal is subject to a total contribution of **\$505,958**, and the Section 94 levies will form a condition of this approval

6.0 CONSULTATION AND ISSUES RAISED

6.1 PUBLIC EXHIBITION DETAILS

The major project application was exhibited for a period of 30 days from 22 April 2009 to 22 May 2009 and was published on the Department of Planning website. The EA was made available to the public in the Department's Information Centre and at Ku-ring-gai Council offices.

6.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT

The Department received 3 submissions from public authorities and 9 public submissions.

The public submissions were received from adjacent and nearby residents/property owners, and, the Friends of Ku-ring-gai Environment Inc ("FOKE").

6.3 PUBLIC SUBMISSIONS

The public submissions raised various issues including:

- Traffic congestion impacts of increased residential density;
- Parking;
- Pedestrian safety / school pedestrian safety;
- Isolation and impact on the remaining properties of the SEPP 53 site
- Bulk scale; general amenity and overshadowing
- Construction impacts
- Vehicle access

Generally, the issues and concerns raised have been considered in the assessment under Chapters 4.0 and 5.0 of this report, and where appropriate have been addressed by amendments to the scheme with the submission of amended plans and/or imposition of conditions of consent.

A submission was received by the owners of the adjoining property (1 Pymble Avenue) objecting to the proposal and included separate reports from Kerry Gordon Planning Services Pty Ltd (Planning Consultant) and DLA Phillips Fox (Solicitors). No. 1 Pymble Avenue is the immediately adjacent residential property to the north - east of the site (refer Figure 6 above). The key issues raised in this submission included:

- Adequacy of information - the plans submitted were deficient and inadequate to allow an appropriate assessment and did not include the location and thus relationship/impact of the proposal with adjoining properties. Further, the EA does not adequately responded to the supplementary DGRs issued to deal with the isolation of the remaining properties (1 and 1A Pymble Avenue) and that no serious attempt to acquire the remaining properties has been undertaken.
- Impact on adjoining property - the development has unacceptable privacy and visual bulk impacts on 1 Pymble Avenue and the EA does not identify or address the significant loss of amenity to the adjoining property.
- Impact on future development: the proposal would be reasonable likely to, have a significantly adverse effect on the ability of the remaining sites (1 and 1A Pymble Avenue) to be developed in the future in accordance with Ku-ring-gai Reference Plan or the Ku-ring-gai Sites Report.

The key issues have been considered in detail in Chapter 5.0 of this report, including a detailed assessment of the potential environmental and residential amenity impacts of the proposal (see Section 5.2 of this report) and, partial site development and inability to develop remaining sites (Section 5.3).

It is noted that the representatives of the owner of No. 1A Pymble Avenue also made submissions regarding the issue of site isolation

Comment:

Overall, the minor exceedences in envelope are considered acceptable, and do not result in any adverse amenity impacts on No. 1 Pymble Avenue subject to some further changes and amendments recommended by condition.

In respect of the height variation at the Pymble Avenue frontage, the additional part storey in height does not result in an excessive scale or bulk to No. 1 Pymble Avenue, and the overall building form as viewed from Pymble Avenue is considered to be well mannered in the context of the streetscape and the height, scale and form of the buildings under construction on the broader development site.

The plans have been amended to address in part, the inadequacy of information regarding No. 1 Pymble Avenue, and also to address the visual and aural privacy issues raised during exhibition. The balconies for each of the apartments above ground level on the northern corner of the building (apartments 313, 413 and 513) were reorientated to the north in order to provide additional privacy for the adjoining properties. It is considered that the wrap - around design of the balconies included in the amended plans do not sufficiently address the privacy issues raised, and that an appropriate condition limiting the area of the balcony facing the north east will be included in the consent.

The balcony of apartment 414 within the proposed development is adjacent to a bedroom of the neighbouring property at 1 Pymble Avenue and poses visual privacy concerns. The use of landscaping in the form of mid and upper canopy shrubs and trees, an appropriate screening and louvre system, together with the provision of opaque balustrades will provide appropriate visual screening for the neighbouring property, and have all been included as conditions of consent.

The issue of site isolation has been assessed, and **the Department** is of the view that Nos. 1 and 1A Pymble Avenue will not be unreasonably isolated or constrained from achieving an appropriate development outcome similar to or the same as that contemplated by SEPP 53. The redevelopment of Nos. 3 and 5 Pymble Avenue for the Building E will not impact on the ability for the remainder of Site 1 to be redeveloped (ie Nos. 1 and 1A) and will not have a significantly adverse effect on the ability to redevelop those two properties in accordance with SEPP 53.

Further, the Department considers that reasonable attempts have been made to facilitate the amalgamation to enable the sites for Buildings E and F to be developed together, but has noted that these efforts have not been successful.

6.4 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following is a summary of submissions received from public authorities.

6.4.1 Ministry of Transport

The Ministry of Transport has reviewed the EA together with the assessment of traffic and parking report prepared by Transport and Traffic Planning Associates and raised no objections to the proposal

6.4.2 Ku-ring-gai Council

Ku-ring-gai Council does not support the proposal in its current form. Council raised concerns that the applicant has been unable to complete the envisaged pattern of development under SEPP 53 and that the partial development of the site will result in a poor development outcome for the area. Also, that the bulk and scale of the development is not in accordance with the building envelope controls pursuant to SEPP 53 and that additional information is required to allow the proper assessment of the application.

Council raised concerns that the areas of non-compliance with the controls in SEPP 53 (identified earlier in this report) are likely to frustrate the achievement of the stated aims and objectives in SEPP 65, particularly clause 2(3)(a),(b),(d) which states as follows:

- (3) *Improving the design quality of residential flat development aims:*
 - (a) *to ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *by providing sustainable housing in social and environmental terms, and*

- (ii) by being a long-term asset to its neighbourhood, and*
- (iii) by achieving the urban planning policies for its regional and local contexts, and*
- (b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- (d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*

Council is also of the view that the proposal is contrary to the design principles in SEPP 65 regarding scale, built form, density, landscape, amenity and aesthetics.

Additional key concerns raised by Council include:

- The application was not considered to be complete with the following information not being submitted: survey plan; shadow diagrams; an appropriate landscape plan; appropriate plans with levels shown for ground floor plans; a satisfactory BASIX Certificate and/or plan; elevation plans showing the roadway and retaining walls; a strata subdivision plan;
- Non compliance with the prescribed building heights, footprint, building separation and building envelopes as specified in SEPP 53 KRP and DCDG;
- Inadequacy of the landscape plan/design
- Communal open space considered inadequate
- Site drainage and stormwater control
- Visual privacy
- Access and carparking
- Construction management
- Non compliance with the controls in SEPP 53 are likely to frustrate the achievements of the stated aims, objectives in SEPP 65.

Comment:

The assessment table submitted with the EA demonstrates that the proposed development is generally compliant with the SEPP 53 policy and is consistent with its aims and objectives. The proponent has provided additional information addressing Council's specific concerns regarding compliance with SEPP 65 and ensures that the proposal will provide sustainable housing that is appropriate in its context and consistent with the SEPP 65 design principles and aims and objectives.

The proponent has also addressed Council's concerns regarding SEPP 53 compliance and it is noted that the development has been designed to generally comply with the requirements of SEPP 53 and the relevant planning controls.

The Department is satisfied that the future redevelopment potential of the remaining sites (1 and 1A Pymble Avenue) would be consistent with the draft Town Centres LEP.

The remaining site (1 and 1A Pymble Avenue) has a total land area of 2,175sq.m and a frontage of 38.1 metres which complies with the requirements of the draft Town Centres LEP (1,200sq.m minimum allotment and a 23 metre minimum frontage requirement). The draft LEP plan would also allow for these sites to accommodate a 7 storey building with an FSR of 1.3:1 (GFA = 2827 sqm). By comparison, Building E has a floor area of approximately 2400 sqm.

In addition, the Blue Gum High forest remnant is located along the rear of Nos. 1 and 1A Pymble Avenue, as indicated by the Category 3 riparian zone and biodiversity zone in the draft LEP. The siting of a building towards Pymble Avenue on the remaining site (consistent with footprint of Building F) along with the setbacks of the adjoining approved building to the north - west (Building D) and the proposed building (Building E) would provide a generous buffer area between the building and remnant forest area.

These issues have been either considered in detail throughout the report or by way of amended plans/conditions in the Instrument of Approval.

6.4.3 RailCorp

RailCorp have no objection in principle to the proposed development subject to the inclusion of conditions in relation to the following matters:

- Appropriate measures being undertaken during demolition, excavation and construction to ensure there is no impact on RailCorp's adjoining corridor;
- Stormwater run-off and drainage from the site must not enter the existing rail corridor; and
- Any fencing between Bellevue Street and the rail corridor must comply with RailCorp's requirements.

Comment: These requirements have been dealt with by way of conditions in the Instrument of Approval.

6.4.4 Department of Environment and Climate Change

The Department raised no objection to the proposed development.

7.0 CONCLUSION

The Department has assessed the EA and considered the submissions in response to the proposal. The key issues raised in submissions related to built form/urban design, car parking, traffic impact, vehicle access and the potential isolation of future development sites.

The proposed development is part of a broader development site, and is an appropriate residential development in terms of building height, bulk and scale, and quality of design and finishes. The proposal will make a notable contribution to the Pymble area utilising the immediate convenient access to public transport and other facilities.

Furthermore, the proposal has complied with the environmental assessment requirements, and generally complies with SEPP 53 and the associated Design Guidelines as well as other relevant planning instruments.

On this basis, the Department considers the site suitable for the proposed development and that the project is in the public interest. Consequently, the Department recommends that the Project Application be approved, subject to the conditions/modifications of approval.

9.0 RECOMMENDATION

It is recommended that the Planning Assessment Commission:

- (A) **Consider** all relevant matters prescribed under Section 75J (2) of the *EP & A Act 1979*, including those relevant matters prescribed by Section 75I (2) as contained in the Director General's Environmental Assessment Report (**TAG A**);
- (B) **Having considered** all relevant matters under the Act in accordance with (A) above, **approve** Project Application (MP 09_0033) subject to conditions pursuant to Section 75J (1) of *EP&A Act 1979*; and,
- (C) **Sign** the Instrument of Approval at **TAG B**.

Prepared by:



Tim Hogan
Planner
Urban Assessments

Endorsed by:



Andrew Smith
Team Leader, Sydney East
Urban Assessments



Michael Woodland
Director
Urban Assessments

David Kitto
Acting Executive Director
Major Projects Assessment

Richard Pearson
Deputy Director General
Development Assessment &
Systems Performance