



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 14 NOVEMBER 2006 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

**** ** ***

NOTE: For Full Details, See Council's Website –
www.kmc.nsw.gov.au under the link to Business Papers

APOLOGIES

DECLARATIONS OF INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

NOTE: Persons who address the Council should be aware that their address will be tape recorded.

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 24 October 2006

Minutes numbered 413 to 434

Minutes of Extraordinary Meeting of Council

File: S02131

Meeting held 8 November 2006

Minutes to be circulated separately

MINUTES FROM THE MAYOR

PETITIONS

PT.1 Petition to Oppose Gordon Town Centre Draft Local Environmental Plan & Draft Development Control Plan - (Forty-Four [44] Signatures)

.
File: S04096

"We, the undersigned, oppose the Draft Local Environment Plan and Draft Development Control Plan (S04096) for the Gordon Town Centre.

We object to the excessive development planned for the Gordon Valley and, in particular, Dumaresq Street. Specifically, we oppose the building of the new roads between McIntyre, Dumaresq and Moree Streets and the increase in the density of development to six storeys along those roads. This proposal will result in a significant loss of amenity (visual intrusion and loss of privacy) and a substantial increase in traffic levels (including large delivery vehicles) in what is a residential precinct."

PT.2 Petition Opposing Proposed Rezoning of Area between Pearson Avenue, Burgoyne & Mount William Streets, Gordon known as Precinct L - (One Hundred & Twenty-One [121] Signatures)

.
File: S04096

"We, the undersigned residents of East Gordon Precinct, **strongly** oppose:

1. The proposed height of FIVE storeys for the five towers covering Precinct L.
2. The lack of stepdowns to integrate the development with the adjoining low rise residential areas.
3. The heritage home of 8 Pearson Ave being removed from heritage listing.
4. The lack of direct consultation with residents affected by this development with regard to our specific traffic and Open space needs.

The East Gordon Resident's Action Group requests the opportunity to meet on site with Councillors and Town Planners to discuss significant modifications to the DCP for Precinct L with regard to alternative building envelopes at lower heights and stepdowns to interface adjoining houses."

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 26 October 2006

Minutes numbered KTC.17 to KTC.20

GENERAL BUSINESS

- i. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to have a site inspection.*
- ii. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to adopt in accordance with the officer's recommendation and without debate.*

GB.1 **3, 5 & 8 Clydesdale Place, Pymble - Demolition of the Existing Dwellings & Construction of a New Residential Flat Building comprising 36 Units & Basement Car Parking for 67 Vehicles** **1**

File: DA0301/06-2

Ward: St Ives

Applicant: Berry Street Properties Pty Ltd

Owners: W & E King, K & M Mallin and M Stackpool

To determine development application No 301/06, which seeks consent for the demolition of 3 residential dwelling houses and construction of a residential flat building, comprising 36 units and basement car parking for 67 cars.

Recommendation:

Approval.

GB.2 **20 to 28 Turramurra Avenue, Turramurra - Demolition of the Existing Structures & Construction of 38 Residential Units within Two Buildings** **82**

File: DA0402/06

Ward: Wahroonga

Applicant: Carrington Turramurra Two Pty Ltd

To determine development application No 402/06 which seeks consent for the demolition of the existing structures and construction of 38 residential units within two buildings.

Recommendation:

Approval.

GB.3 27 Richmond Avenue, St Ives - Demolish Existing Dwelling & Construct New Dwelling 153

.
File: DA0845/06

Ward: St Ives
Applicant: Mr S Rahmani
Owner: Mr S Rahmani

To determine development application No 845/06, which seeks consent for demolition of the existing dwelling and construction of a new two storey dwelling.

Recommendation:

Approval.

GB.4 4 Glen Road, Roseville - New Double Carport 204

.
File: DA1178/04

Ward: Roseville
Applicant: Charles Drummond
Owners: Charles & Diana Drummond

To review the refusal of development application No 1178/04, which sought consent for the construction of a double carport and front fence. This application has been called to Council by Councillor Shelley.

Recommendation:

Approval.

GB.5 Investment & Loan Liability as at 30 September 2006 223

.
File: S02722

To present to Council investment allocations, returns on investments and details of loan liabilities for September 2006.

Recommendation:

That the summary of investments and loan liabilities for September 2006 be received and noted.

GB.6 Analysis of Land & Environment Court Costs 230

.
File: S02466

To provide information in relation to proceedings to which Council is a party in the Land & Environment Court for the quarter ended 30 September 2006.

Recommendation:

That the analysis of Land & Environment Court costs for the first quarter ended September 2006, be received and noted.

GB.7 Tender for General Stationery, Paper, Toners & Envelopes 237

.
File: S03845

To seek Council's approval to accept the NSROC tender for general stationery and paper for the period 2006/2009.

Recommendation:

That the tender rates be accepted, tenderers be advised of Council's decision and that the Common Seal be affixed to the contract.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 Community Relationship with a Country Council 241

.
File: S05591

Notice of Motion from Councillor E Malicki dated 31 October 2006.

In line with a decision made unanimously by delegates present at the Local Government Association Conference at Leura, 31st October 2006.

I move:

"That Ku-ring-gai Council enters into a Community Relationship with a NSW Country Council with a view to assisting that community in the current drought conditions.

That we do this in consultation with the Local Government and Shires Associations who can assist us in selecting a suitable country community with whom to join in such a relationship.

I further move that we set up a committee to facilitate this process and include members of our community in the planning".

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

CONFIDENTIAL BUSINESS TO BE DEALT WITH IN CLOSED MEETING - PRESS & PUBLIC EXCLUDED

The Item listed hereunder is recommended for consideration in Closed Meeting, Press & Public excluded for the reason stated below:

- | | | |
|-----|--------------------------------------------------------------------------------------------------------------------------------|----------|
| C.1 | 1580 to 1596 Pacific Highway, Wahroonga - Removal of Trees <i>(Section 10A(2)(g) - Advice concerning litigation)</i> | 1 |
|-----|--------------------------------------------------------------------------------------------------------------------------------|----------|

File: S04355

Report by Corporate Lawyer & Director Open Space & Planning dated 1 November 2006.

John McKee
GENERAL MANAGER

** ** ** ** **

Environmental Planning & Assessment Act 1979 (as amended)

Section 79C

1. Matters for consideration - general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- a. The provisions of:*
 - i. any environmental planning instrument, and*
 - ii. any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
 - iii. any development control plan, and*
 - iv. any matters prescribed by the regulations,*

that apply to the land to which the development application relates,
- b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c. the suitability of the site for the development,*
- d. any submissions made in accordance with this Act or the regulations,*
- e. the public interest.*

MAYORAL MINUTE

MEETING WITH PLANNING MINISTER

I wish to report briefly to Council on the outcomes of a meeting last week between Planning Minister Frank Sartor and a delegation from Council comprising Deputy Mayor, Councillor Anita Andrew, General Manager, John McKee, Director Open Space & Planning, Steven Head and myself.

It was a very constructive meeting that covered a lot of important planning issues relevant to Ku-ring-gai.

Mr Sartor indicated he is happy to consider working with Council to achieve the best outcome for the future of the University of Technology, Sydney's Lindfield campus.

He told us he is fully aware of the site and its value as an educational facility and, made it clear he does not want to over-develop the site, which was very welcome news.

Mr Sartor also explained the Government's position on the possibility of taking over planning controls on the site by listing it as State significant.

I reiterated that Council is opposed to this option and is keen to keep discussing the site's future with the Minister and Department.

We updated the Minister on progress with our centre planning and also spoke about issues including the proposal to re-develop the former John Williams Hospital site in Wahroonga.

I raised the issue of obtaining a dual occupancy exemption for Council and the Minister reinforced his wish for Council to work with the Department in coming months to progress this issue.

The Minister also made an offer to Council to negotiate with his Department for the appointment of review panels for controversial planning sites. He believed that the advantage for Council to act in this manner was to ensure the panels would be able to operate locally and in collaboration with the Department.

Last week I also joined senior Council staff in meeting with the Director-General of the Planning Department, Mr Sam Haddad.

This was also a very constructive meeting that further advanced Council's efforts to continue improving relations with the Government.

RECOMMENDATION

That this Mayoral Minute be received and noted.

Councillor Nick Ebbeck
Mayor

PETITION

PETITION TO OPPOSE GORDON TOWN CENTRE DRAFT LOCAL ENVIRONMENTAL PLAN & DRAFT DEVELOPMENT CONTROL PLAN - (FORTY-FOUR [44] SIGNATURES)

"We, the undersigned, oppose the Draft Local Environment Plan and Draft Development Control Plan (S04096) for the Gordon Town Centre.

We object to the excessive development planned for the Gordon Valley and, in particular, Dumaresq Street. Specifically, we oppose the building of the new roads between McIntyre, Dumaresq and Moree Streets and the increase in the density of development to six storeys along those roads. This proposal will result in a significant loss of amenity (visual intrusion and loss of privacy) and a substantial increase in traffic levels (including large delivery vehicles) in what is a residential precinct."

RECOMMENDATION

That the Petition be received and referred to the appropriate officer of Council for attention.

PETITION

PETITION OPPOSING PROPOSED REZONING OF AREA BETWEEN PEARSON AVENUE, BURGOYNE & MOUNT WILLIAM STREETS, GORDON KNOWN AS PRECINCT L - (ONE HUNDRED & TWENTY-ONE [121] SIGNATURES)

"We, the undersigned residents of East Gordon Precinct, **strongly** oppose:

1. The proposed height of FIVE storeys for the five towers covering Precinct L.
2. The lack of stepdowns to integrate the development with the adjoining low rise residential areas.
3. The heritage home of 8 Pearson Ave being removed from heritage listing.
4. The lack of direct consultation with residents affected by this development with regard to our specific traffic and Open space needs.

The East Gordon Resident's Action Group requests the opportunity to meet on site with Councillors and Town Planners to discuss significant modifications to the DCP for Precinct L with regard to alternative building envelopes at lower heights and stepdowns to interface adjoining houses."

RECOMMENDATION

That the Petition be received and referred to the appropriate officer of Council for attention.

PETITION

4 GLEN ROAD, ROSEVILLE - NEW DOUBLE CARPORT - (FIFTEEN [15] SIGNATURES)

"We, the undersigned, have reviewed the plans for the Development Application for a carport at 4 Glen Road.

We have no objections to the development and do not believe it will have an adverse impact on the streetscape."

RECOMMENDATION

That the Petition be received and referred to the appropriate officer of Council for attention.

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DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| REPORT TITLE: | 3, 5 & 8 CLYDESDALE PLACE, PYMBLE - DEMOLITION OF THE EXISTING DWELLINGS AND CONSTRUCTION OF A NEW RESIDENTIAL FLAT BUILDING COMPRISING 36 UNITS AND BASEMENT CAR PARKING FOR 67 VEHICLES |
| WARD: | St Ives |
| DEVELOPMENT APPLICATION N^o: | 301/06 |
| SUBJECT LAND: | 3, 5 & 8 Clydesdale Place, PymbleDA0301/06- 2 DA0301/06-2 DA0301/06-2 DA0301/06 DA0301/06 |
| APPLICANT: | Berry Street Properties Pty Ltd |
| OWNER: | W & E King, K & M Mallin and M Stackpool |
| DESIGNER: | Reservoirs Architecture |
| PRESENT USE: | Residential |
| ZONING: | Residential 2(d3) |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | KPSO - LEP 194, DCP 31 - Access, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP 47 - Water Management, DCP 55 - Multi- unit Housing |
| COMPLIANCE WITH CODES/POLICIES: | Yes |
| GOVERNMENT POLICIES APPLICABLE: | SEPP 55, SEPP 65, SREP 20, SEPP 1, Draft SEPP (Application of Development Standards) 2004 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 4 April 2006 |
| 40 DAY PERIOD EXPIRED: | 14 May 2006 |
| PROPOSAL: | Demolition of the existing dwellings and construction of a new residential flat building comprising 36 units and basement car parking for 67 vehicles |
| RECOMMENDATION: | Approval |

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DEVELOPMENT APPLICATION N^o 301/06
PREMISES: 3, 5 AND 8 CLYDESDALE PLACE, PYMBLE
PROPOSAL: DEMOLITION OF THE EXISTING
DWELLINGS AND CONSTRUCTION OF A
NEW RESIDENTIAL FLAT BUILDING
COMPRISING 36 UNITS AND BASEMENT
CAR PARKING FOR 67 VEHICLES
APPLICANT: BERRY STREET PROPERTIES PTY LTD
OWNER: W & E KING, K & M MALLIN AND M
STACKPOOL
DESIGNER RESERVOIRS ARCHITECTURE

PURPOSE FOR REPORT

To determine development application No 301/06, which seeks consent for the demolition of 3 residential dwelling houses and construction of a residential flat building, comprising 36 units and basement car parking for 67 cars.

EXECUTIVE SUMMARY

Issues:

- Heritage.
- Isolation of No. 1190A Pacific Highway.
- Setback from southern boundary.
- SEPP 1 variation to maximum top floor area and zone interface.
- Front setback at basement level.

Pre DA meeting: Yes – The issues raised are as follows:

- The major concern of the development relating to the adjoining heritage listed dwelling house (Colinrobie) to the north-east of the site.
- Any non-compliance with the standards in the LEP must be justified by a SEPP 1 objection.
- Street setbacks.
- Geotechnical report to be submitted.
- Strict compliance with deep soil control.

Submissions: 1 submission was received

Land & Environment Court Appeal: Not applicable

Recommendation: Approval.

HISTORY

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Site history:

The site is used for residential purposes. There is no history to the subject development application.

Development application history:

DA 301/06

| | |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21 November 2005 | Pre-DA meeting for 2 to 6 Clydesdale Place and 3, 5 and 8 Clydesdale Place. The development application for 2 to 6 Clydesdale Place was approved by Council on 13 June 2006. |
| 4 April 2006 | Application lodged. |
| 12 April 2006 | Request from Council officers for more information in relation to deep soil landscaping and heritage issues. |
| 19 April 2006 | Additional information regarding heritage, deep soil and traffic forwarded to Council. |
| 21 September 2006 | Meeting with applicant and senior staff to discuss further concerns over height and bulk of proposal. |
| 16 October 2006 | Amended plans lodged reducing, height, bulk and reducing the top floor area to 63.9%. The amended plans also deleted 2 units. |

THE SITE AND SURROUNDING AREA

The site

| | |
|----------------------------------|-------------------|
| Zoning: | Residential 2(d3) |
| Visual Character Study Category: | 1920-1945 |
| Lot Number: | 2, 3 and 4 |
| DP Number: | 30236 |
| Heritage Affected: | No |
| Bush Fire Prone Land: | Yes |
| Endangered Species: | No |
| Urban Bushland: | No |
| Contaminated Land: | No |

The site comprises three contiguous allotments, being Nos 3, 5 and 8 Clydesdale Place, Pymble and identified as Lots 2, 3 and 4 of DP 30236. The site is located at the end of a short cul-de-sac road to Clydesdale Place off Pacific Highway, Pymble with a curved frontage, having a circumference of

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33.6metres. The site is generally rectangular, with a total area of approximately 3,518m². The southern boundary to the rail reserve has a dimension of 101 metres, the western boundary has a dimension of approximately 39 metres and the eastern boundary has a dimension of approximately 19 metres. The northern boundary to the heritage item (1202 Pacific Highway also called "Colinrobie") has a dimension of approximately 21 metres and the boundary to the recently approved residential flat building at 2 - 6 Clydesdale Place, Pymble, is approximately 40 metres long.

The site falls approximately 15.5 metres from north-west to south-east, towards the rail reserve which forms the southern boundary.

There are three dwellings on the site, one on each of the 3 lots which front Clydesdale Place.

The site is well vegetated with a number of trees. This includes a well developed row of 8 Camphor Laurel trees along the eastern boundary which extends from a row of Camphor Laurel trees within properties along Pacific Highway southwards to the rail reserve.

Surrounding development

The surrounding area is a mix of single dwellings, including a heritage item, a recently approved residential flat building, the railway corridor and the Ku-ring-gai Town Hall at No 1188 Pacific Highway.

The heritage item, adjoining the north-western boundary at 1202 Pacific Highway, is known as "Colinrobie". It is a significant two storey Victorian brick dwelling and is at a prominent corner of Pacific Highway and Clydesdale Place.

To the north-west of the site, are three dwellings at 2 - 6 Clydesdale Place. This site was recently approved by Council (DA 1428/05) for a residential flat building containing 34 units over five levels on land zoned 2(d3). To the east of the site, is 1190A Pacific Highway, which is also zoned 2(d3). Immediately to the south of the site, is the railway corridor.

To the west of the site is an established residential flat building, being 1204-1218 Pacific Highway, on land zoned Residential 2(h).

THE PROPOSAL

The proposed development involves the following:

- Demolition of the existing 3 dwellings and associated structures.
- Construction of a residential flat building consisting 34 strata-titled units, with underground basement car parking for a total of 67 vehicles, accessed from the north-western side of the site.
- The dwellings consist of 8 x one-bedroom units, 8 x two-bedroom units and 18 x three-bedroom units.

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- Three basement levels, containing a total of 67 parking spaces, consisting of 9 visitor and 58 resident spaces, storage plant rooms and a garbage/recycling room.
- Disposal of stormwater to Clydesdale Place, incorporating a retention and detention system with water re-use for toilet flushing, irrigation and laundries.

According to the architect, the design for the building was based on the following site opportunities and constraints:

- *Natural contours of the site, with steep slopes from the north-west to the south-east. This has resulted in the building stepping down the site in four sections.*
- *View corridor over the north-western portion for the site from the heritage item at 1202 Pacific Highway, Pymble ("Colinbrobie"). Council's Heritage Advisor worked together with the applicant to ensure that the heritage item was not in any way compromised refer to Council's Heritage Advisor's detailed referral later in the report). This has resulted in the north-western portion of the building restricted in height to only 2 storeys.*
- *Large Sydney Water easements to the south-eastern portion of the site. This has restricted the ability to locate any structure within this zone of the site.*
- *The existing row of Camphor Laurel trees adjacent to the eastern boundary provides visual and privacy to the adjoining property.*
- *Disposal of stormwater to Clydesdale Place incorporating a retention and detention system with water re-use for toilet flushing, irrigation and laundries.*

The applicant submitted amended plans on 16 October 2006, reducing the height and bulk of the proposal and reducing the top floor area to 63.9%. The total number of units was also reduced from 36 to 34. This assessment is based on the amended plans. The amendments were not required to be re-notified in accordance with Notification Policy DCP 56 because the design changes reduce the bulk/ scale and impacts of the development.

CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP, owners of surrounding properties were given notice of the application. The following comments have been received:

In response, one submission in opposition was received from the following:

1. *Lisa Christie – 1190A Pacific Highway, Pymble*

The submissions raised the following issue:

"Whilst not against the development per se, I am greatly concerned that my property will be "land locked" by this development. My property will be the last 2(d3) site next to their development and no consideration has been made by the developer to include my property in the proposed development

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We are firmly of the view that our property will be an isolated site under the current planning controls. Unless the applicant amalgamates our site with DA301/06, we consider the application is fatally flawed and should be refused in its current form.”

1190A Pacific Highway is the last remaining site within this area and by definition is an isolated site (refer to the **Site Location Plan attached**). This site is a battle-axe allotment with an area of approximately 1051m². Access is to the Pacific Highway by way of an access handle with a width of approximately 4.5m. After the above submission was made, the applicant made an offer (July 2006) to the owners of 1190A Pacific Highway, Pymble to purchase their property at the current market rate. Refer to the letter of offer in the **attachments**. This offer was not accepted by the owners of 1190A Pacific Highway.

There is a common boundary with 1190A Pacific Highway and the development site at Nos 3, 5 and 8 Clydesdale Place, as seen on the location sketch and zoning extract. However, 1190A Pacific Highway is effectively cut off from Clydesdale Place through the physical constraints generated by 3 easements and the sewer line, as well as the 8 Camphor Laurel trees along this boundary. Given these constraints, there are 3 development options for 1190A Pacific Highway:

1. Amalgamation with 1168-1188 Pacific Highway as part of Council's draft plans for Pymble Town Centre;
2. Amalgamation with 1190 Pacific Highway; and
3. Independent development consistent with the small lot provisions of LEP 194.

These options are discussed in further detail below.

1. Amalgamation with 1168-1188 Pacific Highway as part of Council's draft plan for Pymble Town Centre

Amalgamation and redevelopment of the 1190A Pacific Highway site with the Pymble Town Hall site at 1188 Pacific Highway, as part of Council's draft Town Centre LEP and DCP process, offers the most appropriate option for redevelopment. This is because the physical barriers to the east of 1190A Pacific Highway are not as onerous as development to the west of 1190A Pacific Highway. The draft Town Centre LEP was exhibited from 25 September 2006 to 24 October 2006.

The sites at 3, 5 and 8 Clydesdale Place, 1190A Pacific Highway and the Pymble Town Hall are included in the Pymble Town Centre study area. (Refer to draft Pymble Town centre – Land Zoning Map in the **Attachment**).

Council's draft land use strategy and zoning map proposes to zone the properties at 1190 Pacific Highway, 1190A Pacific Highway, 1192 Pacific Highway, 2, 3, 4, 5, 6 and 8 Clydesdale Place as "R4" 'High Density Residential'. These draft zonings are consistent with the standard LEP Template terminology.

Precinct H identifies the development of the rear of the Council owned Town Hall with the adjoining site at 1190A Pacific Highway as possible. Access to the redevelopment site could be

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feasible through the Town Hall portion of the site from Pacific Highway. This access arrangement would eliminate any reliance for multi-unit housing on the narrow right of way access from the Pacific Highway currently available for 1190A Pacific Highway.

2. Amalgamation with 1190 Pacific Highway

1190 Pacific Highway is zoned 2(c2) and is an item of local heritage significance under Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance (KPSO).

There is a reasonable opportunity to redevelop 1190A Pacific Highway by amalgamating with the site at 1190 Pacific Highway. There are incentives in the KPSO for the conservation of the heritage items, which allow for the redevelopment of the site including its possible amalgamation with the 1190A Pacific Highway site for a multi-unit housing development. This could include a terraced development from the heritage items to the railway reserve with a reasonable curtilage around the heritage item. A terraced form of redevelopment behind the heritage item, with appropriate scale so as not to be readily visible from the Pacific Highway, is conceivable.

The draft Pymble Town Centre Plan indicates that the heritage item may not be of sufficient significance and 1190 and 1190A Pacific Highway may be redeveloped together.

3. Independent development consistent with the small lot provisions of LEP 194

Clause 251(4) allows for multi unit housing on sites with area of less than 1200m² and a frontage less than 23 metres if compliance can be achieved with all other requirements of the LEP.

The applicant has provided a concept site plan and section for the option of redeveloping the site at 1190A Pacific Highway on its own for townhouses. Sketch plans are included in the attachments to this report. The proposed development could be redeveloped consistent with the statutory requirements under LEP 194 and DCP 55. The issue of access to 1190A Pacific Highway is an important issue and would be subject to RTA requirements. A refuge space is available with adequate site lines at the entry/exit point and is an appropriate solution.

Conclusion

The applicant was prepared to purchase the site from the owners at the market value. This was declined. There are three alternative development options for this isolated site and therefore this development application should not be refused based only on the site isolation issue.

CONSULTATION - WITHIN COUNCIL

Urban Design

Council's Urban Design Consultant, Russell Olsson, commented on the proposal in the context of SEPP 65 and Residential Flat Design Code considerations as follows:

Principle 1: Context

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SEPP 65: Good design responds and contributes to its context ... Responding to context involves identifying the desirable elements of a location's current character, or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies.

This site is within 500 metres of Pymble railway station, and has been rezoned for 2(d3) development. The site is at the end of a cul-de-sac and backs onto the north shore railway line. The site is steep and is crossed by a number of Sydney Water easements to the east of the site.

A heritage item is located to the north-west of the building, and pre DA negotiations with Council's heritage advisor has resulted in the western part of the proposed building being designed as a 2 storey wing, to provide suitable backdrop to the heritage building.

The development is not amalgamated with the Residential 2(d3) site to the east (1190A Pacific Highway, Pymble) which remains an isolated site. However, this site is physically able to be part of a proposed development with the parking area of Pymble Town Hall as part of the on-going proposals for Pymble Town Centre. The major Sydney Water easements, the gully and the row of Camphor Laurels all contribute to this site not being compatible for consolidation with 3, 5 and 8 Clydesdale Place but rather with an amalgamation to the west of 1190A Pacific Highway, Pymble.

Principle 2: Scale

SEPP 65: Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing transition proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

The proposal operates at 2 scales:

- *The 2 storey scale of the heritage item*
- *The 6 story scale which is acceptable as it backs onto the railway line, and has no immediate neighbours.*

While this is a 2(d3) area of future 5 storey development, the 2 storeys and 6 storeys (in a small portion) are acceptable as they respond to their context and do not impact unduly on their surrounds. The SEPP 1 objection prepared by the applicant should be accepted based on the dispensation to the heritage item.

Principle 3: Built form

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SEPP 65: Good design achieves an appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and the manipulation of building elements...

The proposed setbacks from front and side boundaries are acceptable. The facade proportions are addressed in 'Aesthetics' below. The overall built form is acceptable.

Principle 4: Density

SEPP 65: Good design has a density appropriate to its site and its context in terms of floor space yields (or numbers of units or residents)...

The site coverage is less than 35% of the site. The building heights are varied to achieve an acceptable density while reducing the building bulk behind the heritage item. The proposed density is acceptable.

Principle 5: Resource, energy and water efficiency

More than 60% of apartments are naturally ventilated as recommended in the Residential Flat Design Code.

Solar access to living rooms is acceptable, with a high percentage of apartments achieving well over 3 hours of sunlight access between 9am and 3 pm in midwinter.

Principle 6: Landscape

SEPP 65: Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

The landscape design is acceptable.

Principle 7: Amenity

SEPP 65: Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts, and service areas, outlook and ease of access for all age groups and degrees of mobility.

The amenity of the development is acceptable in terms of visual and acoustic privacy, as the building is set back sufficiently from the balconies. Multiple lift cores allow for good solar access and natural ventilation. The amenity of balconies has been enhanced in the redesign, with better enclosure of the balconies, to provide a choice of shape to the occupants.

Principle 8: Safety and security

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SEPP 65: Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

There are no perceived safety and security issues.

Principle 9: Social dimensions

SEPP 65: Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community.

The mix of apartments from 1 bedroom to 3 bedrooms is acceptable.

Principle 10: Aesthetics

SEPP 65: Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The aesthetics of the proposal have been enhanced in the re-design, which provides:

- *A dark brick base to the building, to relate better to the heritage item and to reduce the scale of the facades.*
- *Reduction of the building scale by removing the 7 storey high slot above the main entry and replacing it with a 2 storey high entry and a 2 storey high base.*
- *Better integration of the balconies with the building, by framing the main balconies in masonry rather than having them sit mostly outside the facade alignment*

The aesthetic quality of the development is considered acceptable.

While the re-design shows brick, masonry and glass, the type of masonry finish, type of brick, colours etc are not shown on the drawings. It is recommended that the materials, finishes and colour are shown on the drawings and a sample board is provided with the DA.

Conclusion and recommendations

It is recommended that:

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Materials, finishes and colours are shown on the drawings and a sample board is provided with the DA. SEPP 1 objection with regard to the proposed building's height be assessed by Council Planners.

The proposal is otherwise acceptable in terms of SEPP 65 design principles.

A sample board showing materials, finishes and colours as well as a photomontage was provided for the development and approved by Council's Urban Design Consultant. The amended plans were referred to Council's Urban Design consultant, who has reviewed his position and supports the amendments as a positive outcome. It should be noted that the development through amendments required by senior Council staff no longer contains a 7 storey element.

Heritage

Council's Heritage Advisor, Paul Dignam, has commented on the proposal as follows:

Existing buildings

Clydesdale Place was created after the heritage item "Colinrobie" or 1202 Pacific Highway was subdivided into 8 lots in 1959. Houses on the new lots were built in the early 1960s.

No 3 Clydesdale Place is a modest "colonial" style house built by a local builder. There is a freestanding garage/carport built within the front setback area between the boundary and the building. It has no heritage significance and there is no objection to demolition, provided archival recording to the appropriate level is undertaken before demolition.

No 5 Clydesdale Place is similar to No 3 and is a modest "colonial" style house built by a local builder. It has no heritage significance and there is no objection to demolition provided archival recording to the appropriate level is undertaken before demolition.

No 8 Clydesdale Place is similar to the other two houses and is a relatively modest house built by a local builder. It has no heritage significance and there is no objection to demolition, provided archival recording to the appropriate level is undertaken before demolition.

Refer to **Condition No 19** which requires a photographic record of all dwellings to be demolished.

UCA

The site is not included in a UCA. However, the opposite side of the Pacific Highway and the railway line are included in UCAs. DCP 55 does not require assessment of Residential Flat Buildings "within the vicinity of a UCA.

Nearby heritage items

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1202 Pacific Highway “Colinrobie”

This is a substantial Federation period house and like “Grandview”, which is nearby was sited on Pymble Hill to take advantage of the spectacular views. The property was subdivided several times and it now sits on a much reduced site. The development site is directly adjacent to the item, but there is considerable fall from the heritage item.

1190 Pacific Highway

This is a relatively early timber house (c1880, late Victorian) and is located along the Pacific Highway, further to the south. It is separated from Clydesdale Place by a small Council reserve. It has been converted into two flats. The upper floor flat has good views to the west.

Pymble Water Reservoir

The Reservoir is a State item and is also included in Schedule 7 of the KPSO. There are two reservoirs and associated valve houses and pumping houses. It is covered by grass, similar to the reservoir at Lorne Avenue and the Pacific Highway at Killara.

1186 – 1188 Pacific Highway

The former church and Presbytery is also nearby and is a local landmark. It was acquired by Council about 15 years ago and adapted as the Town Hall. It has views to the south and west.

There are a number of other heritage items in the vicinity, including houses on the other side of the railway line, but they are further away and not visually connected to the site.

Proposed development

The proposed development is a contemporary residential flat building designed as one continuous building setting down along the site responding to the substantial fall from north-west to south-east. It would be difficult to read the front elevation of the proposed building as one continuous building because of the restricted view corridors deriving from its location at the end of a short cul de sac. The southern end would only be readily observed from the adjoining buildings. The middle section and northern end would be readily seen from the street but the northern end is only two storeys, which tends to visually break down the long facade. The building is articulated into bays, which use different elevation treatments which helps to break down its apparent length. It rises to 6 storeys for about 70% of the southern end. The main reason for the 6 storey height is so that the height of the northern end is kept to 2 storeys to retain views from the heritage item “Colinrobie”. Several different textures and finishes are used on the proposed building. The design has been modified and Council’s Urban Design consultant now considers it to be acceptable (refer to the SEPP 65 Design Assessment later in the report).

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Comments

Impact on "Colinrobie" 1202 Pacific Highway

Apart from the heritage item, which is zoned 2(c), all of the land in Clydesdale Place was rezoned to 2(d)3 and residential flats are permissible. The heritage item is set on the highest point in the street and it maintains a visual presence from the Pacific Highway and from within Clydesdale Place.

There have been considerable negotiations over a long time period between Council officers, the applicant and the owner of the heritage item to ensure that the important views from the heritage item are retained. The potential loss of views from Colinrobie is a critical issue. The main living areas and bedrooms in Colinrobie face west and enjoy distant views in that direction. At the ground floor level, there is a terrace/veranda overlooking the pool and the view from the terrace is contained to the immediate site. There are no appreciable views to the south from the heritage item. It is considered that the proposed building would have little impact on important views to the west or to the heritage item from the public realm.

The effect of reducing the development to 2 storeys at the northern end is supported in the applicant's heritage impact statement prepared by Noel Bell Ridley Smith & Partners and concludes that the proposed development;

"will have limited and acceptable impact on the heritage items in the vicinity and their immediate setting and views".

I concur with this statement.

The materials and colours chosen for the building are a mix of beiges and browns and are relatively neutral. The design is contemporary, with vertical and horizontal elements expressed in the facades with a variety of low pitched roof planes. Being a contemporary design, its relationship with the heritage item is considered satisfactory.

The subject site is separated from the heritage item by a distance over 20 metres. Given the requirements in DCP 55, this setback is acceptable.

The proposed building will not visually dominate or impact on the heritage item and is acceptable.

Impact on 1190 Pacific Highway

This item is separated from the subject site by a small Council reserve, which is heavily treed and an approved residential flat building. Only the roof of the heritage item is readily visible from the Pacific Highway and, although it is visible from Clydesdale Place, it is not considered to be an important view. From within the upper floor of the heritage item there are very good views to the west. This development would not affect the important views and impacts on it are considered satisfactory given the objectives and controls in DCP 55.

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Other nearby heritage items are further removed and it is unlikely this development would have any impact on them.

Conclusions and recommendations

*Demolition of the existing houses is acceptable. To provide accurate records of housing in Ku-ring-gai it is recommended to record all existing houses before work commences on the site. Refer to **Condition No 19**.*

Given the objectives and requirements in DCP 55, the proposed building will have an acceptable impact on the nearby heritage items. The important views from Colinrobie would be largely retained by the two storey height at the north-western end of the proposed development. The views to the heritage items would also not be adversely impacted by this proposed development.

Conditions

The recommendation includes a condition requiring to the archival recording of the 3 existing houses to be demolished (Refer to **Condition No 19**).

Landscaping

Council's Landscape Assessment Officer, Tempe Beaven, commented on the proposal as follows:

The site

The site falls steeply to the south from the Clydesdale Place to where it adjoins the railway line.

Deep soil

Numerical compliance - 51.3%

The areas included in calculations are compliant and all setbacks comply with landscape requirements under DCP55, as per the deep soil compliance diagram.

Tree removal and tree replenishment

A tree report prepared by Stuart Pittendrigh, dated February 2006, has been submitted. Tree numbers refer to this report.

Number of existing trees to be removed - 7 (2 additional street trees on Clydesdale Place to be removed)

Number of existing trees to be retained - 8

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Number of existing trees to be transplanted - 1 (Tree 13)

Trees to be retained include:

Corymbia citriodora (Lemon Scented Gum) Tree 1/ 20H, 17S, 600DBH, good condition – proposed driveway is located 1.5 metres from the trunk. Driveway to be set at grade within critical root zone of tree. Two other trees were considered worthy of retention, Tree 12, located on the boundary with heritage property, and Tree 19, Jacaranda mimosifolia (Jacaranda), located on the nature strip. Tree 12 is considered in poor condition due to past pollarding of branches, possibly for the retention of views. To be replaced with endemic canopy tree. Tree 19 has been pruned for overhead wires and should be removed for establishment of replacement street trees in scale with the proposed development.

Seven mature Cinnamomum camphora (Camphor laurel) located along the south-eastern boundary are considered part of heritage plantings and area to be retained.

Comment on vegetation removal

- *No significant trees in the middle of the site to be removed for building.*
- *Ten Cinnamomum camphora (Camphor laurel) located on the south west boundary of the site, along the rail line, are to be removed. Removal supported.*
- *Street trees to be removed - Clydesdale Place.*
- *Jacaranda mimosifolia (Jacaranda) Tree 15/7H, 8S – proposed to be retained. Removal is recommended, as discussed above.*
- *Fraxinus oxycarpa (Desert Ash) Tree 14/ 3H – past pruning for overhead wires. Removal is supported.*

Number of canopy trees to be planted 32.

Heritage impacts and landscaping

A previous Heritage Assessment and Curtilage Study, Noel Bell Ridley Smith and Partners, 2005, identified important views from the heritage property 'Colinrobie', across the subject site to the south. The Heritage Report states that the development is to have 'limited' impacts on these views. Existing and proposed vegetation along the perimeter of the site is stated as reducing this impact.

Landscape design

Two communal open spaces have been provided. One communal area has been located on the north side of the site, which has the best solar access. A larger communal space is located south-east of the building. It consists of two levels of lawn area and visually links with the open space on the adjoining site to the north-east. Disabled access is available to the northern communal open space.

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The proposal is supported with conditions.

Refer to **Conditions 30-41, 83-89 and 97-101.**

Engineering

Council's Engineering Assessment Team Leader, Kathy Hawken, commented on the proposal as follows:

The engineering assessment for development application 301/06 was based on the following documentation:

- *Statement of Environmental Effects, Reservoirs Architecture, April 2006;*
- *Architectural drawings, Reservoirs Architecture, Revision D (received 1 August 2006);*
- *Assessment of Traffic and Parking Implications, Transport and Traffic Planning Associates, March 2006;*
- *Stormwater and Environmental Site Management Concept Plans, AFCE Environment + Building, dated 3/2006;*
- *Report on Preliminary Geotechnical Investigation, Jeffery and Katauskas, 30 November 2005;*
- *BASIX Certificate 63748M.*

Water management

The BASIX Certificate requires 36m³ of roof runoff to be collected for re-use for irrigation only. The score of 40 has been achieved by the use of low water use fixtures, and low water use vegetation in common areas. The combined on site detention / retention tank is shown under the driveway, with a gravity discharge into the street drainage system.

*The site is affected by a drainage easement along the northern boundary of and through the centre of No. 8. The catchment for this system is relatively small. A concept plan showing the overland flowpath along the easement has been submitted. This can be incorporated into the landscaping for the development and is satisfactory. The recommended conditions include measures to protect Council's pipe within the easement. Refer **Conditions 46 and 47.***

Traffic generation

The development is expected to generate some 15 to 21 vehicle trips per peak hour, which is not a significant increase to the existing volumes along the Pacific Highway. Even allowing for the development of 2-6 Clydesdale Place, queuing in Clydesdale Place is not expected to pose a problem due to the gaps in Pacific Highway flow at the Telegraph Road traffic signals.

Parking and vehicular access

The site is further than 400 metres from Pymble Station, so 56 resident and 9 visitor spaces are required. The plans show 67 spaces which comply with the requirements of LEP194.

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*A 5.5 metres wide vehicular crossing and driveway are shown on the plans. It is understood that some minor reconfiguration of the entry may be necessary to reduce impacts on Tree 1, however this will not compromise access. The driveway grades are satisfactory and will allow access for the small waste collection vehicle (refer **Condition No 90**). The dimensions of the parking spaces and aisles comply with AS2890.1 off street car parking.*

Waste collection

*The waste storage and collection area is on Basement Level 1. Access is available for the small waste collection vehicle to enter and leave in a forward direction. No doors or gates are shown on the plans. (Refer to **Condition No 57**). The waste collection arrangements are satisfactory.*

Construction management

*A condition has been included, as requested by the Director Technical Services (also applied to 2-6 Clydesdale Place), that the applicant investigate the provision of No Parking restrictions in Clydesdale Place and Reservoir Road. This is to minimise the effects of construction on residents, because the width of the road pavement is not sufficient to allow two vehicles to pass if both sides of the road are parked. (Refer to **Condition No 105**).*

*The procedure for obtaining approval for a Works Zone is included in the recommended conditions. Given the slope of the land away from Clydesdale Place and the resulting shortage of area for unloading, it is expected that a Works Zone will be required (Refer to **Condition No 106**).*

Geotechnical investigation

*The preliminary report was prepared before plans were available and was based on one borehole at the front of the site, so the report includes recommendations for further work. Deeply weathered shale was encountered, with no groundwater inflow into the borehole. Therefore, excavation support will most likely be by means of anchored piles. Further boreholes when access is available will confirm or discount the need for vibration monitoring. Dilapidation survey is recommended (refer to **Conditions 102 and 103**) for structures within a distance twice the excavation depth. This will include the heritage residence (and garage) at 1202 Pacific Highway and the residence at 6 Clydesdale Place (if not already demolished under DA 1428/05).*

The proposed development is supported subject, to conditions.

Refer to **Conditions 42-60, 88-95 102-108 and 109-127.**

CONSULTATION – OUTSIDE COUNCIL

Sydney Water

As the property has a number of Sydney Water easements traversing it, the DA was referred to Sydney Water. Sydney Water has no objections to the development and required the standard

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Section 73 Compliance Certificate as a condition of development consent. Refer to **Condition No 56.**

Rail Corp

Rail Corp has advised that it does not object to the development, subject to **Conditions 61 to 77.**

Rural Fire Service

The land is zoned bushfire prone vegetation buffer and was referred to the Rural Fire Service pursuant to section 79B of the Environmental Planning and Assessment Act, 1979. The service advised that it had no concerns or conditions to recommend in respect of the development.

STATUTORY PROVISIONS

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

SEPP 65 aims to improve the design quality of residential flat buildings across NSW and to provide an assessment framework and design code for assessing ‘good design’.

A Design Verification Statement has been submitted by registered architect Joshua Brandon (Chartered Architect Licence 6889) of Reservoirs Architecture, in accordance with the requirements of the Policy.

Part 2 sets out design principles against which design review panels and consent authorities may evaluate the merits of a design. This section is to be considered in addition to the complements of Council’s Urban Design Consultant above. The proposal has been assessed against the heads of consideration specified in SEPP 65, as follows:

Principle 1 - Context

Good design responds and contributes to its context. Context can be defined as key natural and built features of an area.

Responding to context involves identifying the desirable elements of a locations current character or in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

The subject site is in a residential area, zoned for residential flat buildings, that is undergoing change from single dwelling houses to multi-unit residential buildings. The site is well located with regard to public transport, shops, service facilities and public open space.

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The proposed design relates to the sloping topography of the site from the north-eastern side to the south-western side of the site. The proposed residential flat building will not compromise the significant federation heritage home 'Colinrobie' located at 1202 Pacific Highway, Pymble.

The existing trees, particularly the significant row of Camphor Laurel trees to the south-east of the site, create a strong sense of enclosure within the natural environment. The proposed building will be higher than the existing dwelling houses but will be compatible with the recently approved residential flat development at 2-6 Clydesdale Place to the north-east of the subject site. The proposed palette of natural light colours and finishes will compliment the natural environment and assist in relating the building to the context.

The core objectives of LEP 194 and DCP 55 are to create new residential flat buildings within a landscaped setting. The topography and location of the site, with many mature trees and the proposed design accord with this objective.

Principle 2 - Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

The scale of the building is articulated by four separate sections stepping down the steep slope in response to the local topography. Deep recesses and a view corridor from the large heritage federation dwelling (Colinrobie) to the city is retained by reducing the building to two storeys. The building then increases to five to six storeys where it has less impact on surrounding buildings.

The building is well set back from the Clydesdale Place cul de sac and side boundaries, with stepped bays following the topography and further setbacks at upper levels. This facade and mass articulation reduces the bulk of the development. Similarly, the low-pitched butterfly roof and top floor setback further reduce the bulk of the development.

The style, proportions and positions of the openings incorporate appropriate facade articulation compatible with the immediate context. All facades are articulated to reflect a residential scale and clearly define both indoor and outdoor spaces. A combination of materials further enhances the scale of the building where heavier brick and stone elements at the building's base and stair tower contrasts with lighter rendered panels and steel frames, pergolas etc.

The scale of the building is considered acceptable.

Principle 3 - Built form

Good design achieves an appropriate built form for a site and the buildings purpose, in terms of building alignment, proportions, building type and the manipulation of building elements.

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Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The proposed building, including ground floor terraces, fits within the existing lot alignment pattern. The building is essentially four connected structures or pavilions. The upper level links reduce a tunnel effect between the two forms. The setback of the upper level roof reduces the bulk and height of the building and has little or no impact when viewed from street level. As a result of the building's form, most of the apartments have been designed to provide a minimum of two aspects, which allow cross ventilation and appropriate levels of solar access.

The development is well articulated by its stepped forms and combination of materials defining its base, middle and top. Adjustable sun and privacy louvers and pergolas set in a steel frame provide visual interest to the building and solar and privacy control.

The proposal provides a clear pedestrian travel route around the steeply sloping site. Pergolas and other screen structures ensure privacy is maintained to both ground floor and upper floor units.

Despite the 75.6 metres building length, its position at the end of the cul de sac and with some of the floors being only 2 storeys in height, the design is suitable for this site.

Principle 4 - Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

The proposal contains 34 apartments and basement parking for 67 vehicles.

The proposed density is supported by the local community facilities, including public transport, road network and shops in close proximity to the subject site.

Large deep soil zones are provided at the front and side of the property for mature landscaping. This will allow for increased amenity to the residents and ensure adequate privacy between the proposed apartments and adjoining buildings.

The FSR 1.247:1 complies with the control in DCP 55 (1.3:1) and is consistent with the envisaged future character and density of the area.

Principle 5 - Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

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Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

The proposal has been designed to be as efficient as possible in terms of the use of natural resources, energy and water throughout the full life cycle of the building.

It is intended to use:

- Water retention and detention tanks for water re-use
- Energy efficient appliances
- AAA rated shower heads
- Passive solar design as the layout enables all apartments to received the required hours of direct sun
- Passive cooling is achieved by using cross ventilation through each unit and appropriate thermal mass
- Prevention of solar radiation from entering the building in summer through the windows is achieved by operable external louvre screens
- Landscape design has endeavored to use landscape planting to screen winter winds, reduce glare and heat intake and to modify ambient temperature

All building and demolition waste will be deposited within a selected waste depot. More than 70% of the apartments achieve 3 hours sunlight to living areas. 78% (29 units) of apartments have natural cross ventilation.

Principle 6 - Landscape

Good design recognises that together landscape and buildings operating as an integrated and sustainable system, resulting in greater aesthetic quality for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the developments natural environmental performance by co-ordinating water and soil management, solar access, and microclimate and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbouring character or desired character.

Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbour's amenity, and provide for practical establishment and long term management.

The proposal provides for a substantial increase in planting on the site. The proposal provides for 51.3% of the site being a deep soil zone and complies with the prescribed standard of 50% in LEP 194.

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The landscape plan incorporates a mixture of native endemic upper canopy trees, with exotic small and feature trees to enhance the existing natural character of the precinct.

The size of these species and appropriate landscape treatment ensures a good level of amenity for the residents and will maintain the amenity of the adjoining residents.

The deep soil zone provides a leafy aspect from the apartments and courtyard and also provides privacy between the proposed apartments and the adjoining buildings.

Principle 7 - Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Over 70% of units would receive more than the required 3.0 hours of sunlight between 9.00am and 3.00pm during the winter solstice. The building design maximises the benefits of solar access during winter and minimises overheating during summer. 78% of apartments have cross ventilation.

Rooms are of adequate size and will accommodate a variety of furniture arrangements. Except for one balcony (unit 508), which is 2.5m² below the requirement, the balconies and terraces are of an appropriate size and can accommodate an outdoor furniture setting.

The development incorporates accessible communal open space for passive recreation. The proposed materials contribute to the energy efficiency of the apartments.

Principle 8 - Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities and clear definition between public and private spaces.

The development complies with the principles of safety and security. Passive surveillance is achieved from the apartments overlooking Clydesdale Place as well as the communal open spaces. The building will have security intercom systems at both basement level and ground level entry

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points. Security lighting is proposed throughout the site, particularly the pedestrian access ways, to maximise safety and security.

Principle 9 - Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or in the case of precincts undergoing transition, provide for the desired future community.

The proposed size and mix of the apartments is appropriate for the area.

The site provides a high amenity to the residents in terms of views, outlook, and easy access to transport, such as bus and train services.

Principle 10 - Aesthetics

Quality aesthetics require the appropriate composition of building elements textures, material and colours and reflect the use, internal design and structure of the development.

Aesthetics should respond to the environment and context, particularly to the desirable elements of the existing streetscape or in precincts undergoing transition, contribute to the desired future character of the area.

The proposed facade treatment, with its combination of materials, is sympathetic of the materials used in neighbouring development (2 to 6 Clydesdale Place).

A long and involved negotiation period with the owners of 1202 Pacific Highway (Colinrobie), Council's Heritage Advisor including other officers and the applicant ensured that the proposed development was compatible with the significant heritage listed dwelling.

External materials in natural and recessive colour tones will make an acceptable contribution to the end of this cul de sac.

Residential Flat Design Code

The considerations contained in the Residential Flat Design Code are as follows:

Relating to the local context:

The proposal sited over three separate allotments will require their consolidation. Refer to **Condition No 88**. This consolidation will result in a site of 3,518m², which is capable of accommodating the development.

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The proposal has four building elements stepping down the relatively steep site, with three basement car parks. The development has an acceptable bulk and scale in relation to the desired future character of the area. The building envelope, in terms of building height, floor area, depth and setbacks, is satisfactory having regard to the desired future character of the locality.

Site analysis:

A satisfactory site analysis plan has been submitted, indicating how the proposal performs in terms of building edges, landscaped response, access and parking and overall building performance in respect of overall energy sustainability.

In terms of site configuration, the proposal will ensure adequate areas for private and common open space and deep soil landscape areas.

The orientation of the development ensures adequate solar access to habitable areas and private open space, both internally and to adjoining residential development, including the heritage listed dwelling (Colinrobie) and it will also provide an appropriate frontage to the end of the Clydesdale Place cul de sac.

Building design:

The proposal is satisfactory in terms of internal configuration and will achieve the objectives of providing function and organised space and a high level of residential amenity. In addition, the proposal provides adequate habitable space, having windows with north-east orientation.

All other relevant matters under 'Building Design' have been assessed elsewhere in the report and are satisfactory.

State Environmental Planning Policy No.55 - Remediation of Land

The provision of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and, as such, it is unlikely to contain any contamination such that further investigation is not warranted in this case.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

| COMPLIANCE TABLE | | |
|---------------------------------------------|----------------------------------|-----------------|
| Development standard | Proposed | Complies |
| Site area (min): 2400 m ² | 3518 m ² | YES |
| Deep landscaping (min): 50% | 1,806.67m ² or 51.3 % | YES |
| Street frontage (min): 30 m | 33.6 m | YES |

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| COMPLIANCE TABLE | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| Development standard | Proposed | Complies |
| Number of storeys (max): 5 storeys and 13.4m, subject to Cl.25K, which permits 25% of the building footprint to have an extra storey and exceed the height limit by 3m if the site has a slope greater than 15% (thereby permitting, in part 6 storeys and a maximum height of 16.4m) | 5 storeys and the 6 th storey occupying 252m ² or 20.4% of the building footprint. Site slope is 1 in 6.66, greater than 15% Max height is 16.32m | YES YES |
| Site coverage (max): 35% | 34.9 % | YES |
| Top floor area (max): 60% of level below | 408.85m ² or 63.9% | NO (SEPP 1) |
| Ceiling height (max): 16.32 m subject to Cl.25K | 16.32 m | YES |
| Car parking spaces (min): <ul style="list-style-type: none"> • 9 (visitors) • 55 (residents) • 64 (total) | 9 58 67 | YES YES YES |
| Zone interface setback (min): 9m | 6m to rear railway reserve | NO (SEPP 1) |
| Manegeable housing (min): 10% | 4 units or 11.1% | YES |
| Lift access: required if greater than three storeys | Lift access available to all levels | YES |

SEPP 1 Objection**Clause 25I(7) – Limit on floor area of top storey**

The proposed development does not strictly comply with the 60% maximum floor area requirement for the top floor, as measured relative to the storey directly below. As proposed, the top floor area will be 63.9% or 25.19m², in excess of the requirement. A SEPP 1 Objection has been lodged in support of this variation.

The basis of the objection is to ensure that an appropriate relationship is provided for between the adjoining heritage item at 1202 Pacific Highway (Colinrobie) and the subject residential flat building, while at the same time ensuring a satisfactory outcome for the apartments with consideration to their surrounding context.

The proposed building has been the subject of a number of meetings between the applicant, the owners of Colinrobie and Council officers. These discussions have sought to resolve the design of the proposed building relative to the heritage values associated with Colinrobie and achieving development yield on the subject site.

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The design approach followed by the applicant was to examine a building envelope of a complying scheme, which is sited to avoid an existing Sydney Water easement. The design approach was then to revise the building envelope to acknowledge the heritage significance of Colinrobie house, located to the east of the site, by stepping the building down to 2 storeys to maintain the west-facing view corridor from the heritage item. The displaced building mass as a result of 'stepping' the design has been moved to other parts of the building. This design response has resulted in a building mass that marginally exceeds the maximum top floor area in parts but this is offset by a design response that acknowledges and is sympathetic to the heritage values of Colinrobie.

In addition, the degree of non-compliance will not have an undue impact on streetscape amenity and adjoining sites in terms of bulk, shading or privacy. This is because the design is suitably articulated and modulated, with low pitched roof forms to reduce bulk. The site is also bounded by the railway corridor to the rear (south-west) and maintains sufficient setbacks relative to the street frontage, Colinrobie (approximately 20m building to building) and the site at 1190A Pacific Highway (approximately 27.2m).

1. Whether the planning control in question is a development standard.

Clause 25I(7) is a development standard.

2. The underlying objective or purpose behind the standard

The purpose of the maximum top floor area control is to restrict the massing of residential flat buildings, especially those that are located adjacent or near to a low density setting that is commensurate with the existing and likely future tree canopy and residential character of the surrounding environment. The objective of this clause is to provide a scale and bulk of development which will not have undue dominance, shading or privacy impacts on adjoining sites or the public domain.

3. Whatever compliance with the development standard is consistent with the aims of the Policy and whether compliance tends to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP & A Act 1979.

The proposal will not hinder the attainment of the object of section 5(a)(i) and (ii) of the environmental Planning and Assessment Act 1979.

4. Whether compliance with the development standard unreasonable or unnecessary in the circumstance.

Compliance is unreasonable and unnecessary in the circumstance for the reasons given under the SEPP 1 assessment.

5. Whether the objection well founded.

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Despite the variation, the development will meet the underlying objectives of this control to provide a scale and bulk of development which will not have undue dominance, shading or privacy impacts on adjoining sites or the streetscape. There are no significant amenity or streetscape impacts. This is supported by the satisfactory design of the building and location adjacent to the railway corridor to the rear (south-west) and separation distances relative to the streetscape, Colinrobie and 1109A Pacific Highway. Consequently, the variation is supported in this instance.

Draft SEPP 1 2004

The applicant has also lodged a written statement under Part 2 clause 7(1) of Draft State Environmental Planning Policy (Application of Development Standards) 2004. The subject application was lodged in April, 2006. Within the draft SEPP 1 savings and transitional provisions, the relevant Policy for consideration would be the current SEPP No.1. However, under the provisions of s.79C of the Environmental Planning & Assessment Act 1979, Council still must take into account draft SEPP 1 until it is either adopted or formally withdrawn.

Having regard to the provisions of draft SEPP 1, the following comments are made:

1. The subject site is zoned 2(d3) which permits residential flat buildings. The proposed development is therefore, consistent with the objectives of the zone by providing an increased housing choice whilst maintaining the natural environment, achieving quality urban design and encouraging the use of public transport. The redevelopment of this site is therefore in the public interest by being consistent with the objectives of the zone.
1. Furthermore, the basis of the design is to ensure an appropriate relationship is provided between the adjoining heritage item (Colinrobie) and the proposed residential flat building, while at the same time ensuring a satisfactory outcome for the surrounding context.

Accordingly, for the above reasons it is considered that the proposal is consistent with the requirements and objectives of the draft SEPP 1, notably in that the proposal results in a better environmental planning outcome. The draft SEPP, if gazetted, contains a savings clause so that it would not be applied in any event, so that minimal if any weight should be given to the draft SEPP. Notwithstanding this, the proposal and variation to the height control has merit pursuant to the draft SEPP 1 cl 7 provisions.

SEPP 1 Objection

Clause 25L(2) – Zone interface setback

The proposal does not strictly comply with Clause 25L(2) of the KPSO. The site is located within the residential 2(d3) zone and adjoins the railway corridor to the south-west, which is noted zoned 2(d3) and is not a road. The proposal does not comply with the required 9m setback for the third and fourth and upper levels of the building for that part of the building adjoining the zone boundary. These levels are set back 6 metres. The non-compliance is therefore 3 metres. A SEPP 1 objection has been submitted with regard to this variation.

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It is clear from the provisions of subclause (2), zone interface setbacks do not apply to roads. In this case, the adjacent 'interface' is with a Special Uses B Railways Zone and involves the land upon which operating railway tracks (North Shore Line) are currently sited. As any future residential development of this railway land is extremely unlikely, compliance with the nominated setback requirements from the railway zone boundary would be unreasonable and unnecessary as no residential development is likely to necessitate the provision of the interface setback. Appropriate landscaping will be provided on the subject site in the building setback zone between the railway and the proposed building. The set back area required by the clause would not contribute to any greater density or depth of landscaping. In addition, there would be no difference in amenity for residence if compliance was achieved.

1. Whether the planning control in question is a development standard.

Clause 25L(2) is a development standard.

2. The underlying objective or purpose behind the standard

The objective of this clause is to provide a transition in the scale of buildings between certain zones.

3. Whether compliance with the development standard is consistent with the aims of the Policy and whether compliance tends to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP & A Act 1979.

The proposal will not hinder the attainment of the object of section 5(a)(i) and (ii) of the environmental Planning and Assessment Act 1979.

4. Whether compliance with the development standard unreasonable or unnecessary in the circumstance.

Compliance is unreasonable and unnecessary in the circumstance for the reasons given under the SEPP 1 assessment.

5. Whether the objection is well founded.

Despite the variation, the development will meet the underlying objectives of this control to provide a reasonable transition of built form between the higher and lower density planning zones. The main component of the building envelope is compliant with the setback requirement, there are no significant amenity or streetscape impacts and the design provides a reasonable transition between the zones. This is supported by the satisfactory landscaping along the common boundary, reasonable articulation of the building provided by the balconies and the minimal overshadowing impacts. Consequently, the variation is supported in this instance.

Draft SEPP 1 2004

The applicant has also lodged a written statement under Part 2 clause 7(1) of Draft State Environmental Planning Policy (Application of Development Standards) 2004. The subject

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application was lodged in April, 2006. Within the draft SEPP 1 savings and transitional provisions, the relevant Policy for consideration would be the current SEPP No.1. However, under the provisions of s.79C of the Environmental Planning & Assessment Act 1979, Council still must take into account draft SEPP 1 until it is either adopted or formally withdrawn.

Having regard to the provisions of draft SEPP 1, the following comments are made:

1. The subject site is zoned 2(d3) which permits residential flat buildings. The proposed development is therefore, consistent with the objectives of the zone by providing an increased housing choice whilst maintaining the natural environment, achieving quality urban design and encouraging the use of public transport. The redevelopment of this site is therefore in the public interest by being consistent with the objectives of the zone.
2. Furthermore, the basis of the design is to ensure an appropriate relationship is provided between the adjoining heritage item (Colinrobie) and the proposed residential flat building, while at the same time ensuring a satisfactory outcome for the surrounding context.

Accordingly, for the above reasons it is considered that the proposal is consistent with the requirements and objectives of the draft SEPP 1, notably in that the proposal results in a better environmental planning outcome. The draft SEPP, if gazetted, contains a savings clause so that it would not be applied in any event, so that minimal if any weight should be given to the draft SEPP. Notwithstanding this, the proposal and variation to the height control has merit pursuant to the draft SEPP 1 cl 7 provisions.

Relevant planning objectives

The objectives of the medium density area within KPSO (as added by LEP 194) are stated in part 3A as follows;

Aims and objectives

25C aims and objectives of Part 3A

- “(1) The relevant aims of this part are as follows:*
(a) to encourage the protection and enhancement of the environmental and heritage qualities of Ku-ring-gai”.

The proposal has been designed to respect the special heritage relationship of ‘Colinrobie’ heritage house within its setting.

- “(b) to encourage orderly development of land and resources in Ku-ring-gai.”*

The proposal seeks to provide a residential flat building within a zone where ‘medium’ density is permitted. The proposal provides for a similar outcome as would an unconstrained site of the same or similar size, without adversely affecting the neighbouring development.

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‘(c) to encourage environmental, economic, social and physical well-being so that Ku-ring-gai continues to be an enjoyable place to live in harmony with the environment.’

The proposal provides a high degree of amenity for the occupiers of the apartments as well as providing for an outlook from the neighbouring development, including ‘Colinrobie’ house.

“(2) The objective of this Part is as follows:

(a) to provide increased housing choice.”

The proposed provides for increased housing choice in the range of 1, 2 and 3 bedroom units.

“(e) to ensure that development for the purposes of residential flat buildings on land within Zone no 2(d3) has regard to its impact on any heritage items in the vicinity of the development.”

The purpose of this objective is to ensure that the optimum outcome is achieved for the neighbouring heritage item (Colinrobie), while at the same time achieving an acceptable built form for the proposed residential flat building.

“(g) to achieve a high level of residential amenity in building design for the occupancy of buildings through sun access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.”

The proposal has been designed to be consistent with SEPP 65 and the NSW Residential Flat Design Code 2002, as verified by Council’s Urban Design Consultant earlier in the report.

Consideration of residential zone objectives and impact on heritage – Clause 25D

The relevant objectives of the residential zone, of which the KPSO (as amended by LEP 194) are as follows;

(1) Heads of consideration for consent authority

“(b) if the application is for consent for a residential flat building in Zone 2(d3), a statement describing the extent, if any, to which carrying out the proposed development would affect the heritage significance of any heritage item in the vicinity of the subject land.’

A Heritage Impact Assessment was prepared and lodged with Council by Robert Staas of Noel Bell Rideley Smith Architects that concluded the proposed design of the residential flat building incorporates the setbacks and lower heights to maintain views from Colinrobie house and is an appropriate and favourable outcome. This was confirmed by Council’s Heritage Advisor and Urban Design Consultant, as discussed earlier in the report.

(2) Objectives for residential zones

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The relevant objectives for residential zones are as follows:

(a) to provide rear setbacks that ensure rear gardens are adjacent to rear gardens of other properties and that sufficient ground area is available for tall tree planting, consistent with the objectives of this Part.

The proposal complies with the canopy tree planting requirement for the site in DCP 55. This has been confirmed by Council's Landscape Officer.

(b) to encourage the protection of existing trees within setback areas and to encourage the provision of sufficient viable deep soil landscaping and tall trees in the rear and front gardens where new development is carried out.

The proposal provides substantial areas available for deep soil landscaping

(c) to provide side setbacks that enable effective landscaping, tree planting between buildings, separation of buildings for privacy and views from the street to rear Landscaping.

The setbacks between the adjoining heritage item and the low scale residential buildings to the south, are adequate relative to both the siting and compliant height of the proposal.

(a) to minimise adverse impacts of car parking on landscape character.

The proposal provides for underground parking and suitable landscaped areas consistent with the existing and desired future character of the area.

(e) to provide built upon are controls to protect the tree canopy of Ku-ring-gai, and to ensure particularly the provision of viable deep soil landscaping in order to maintain and improve the tree canopy in a suitable way, so that tree canopy will be in scale with the built form.

The proposal fully complies with the site coverage, deep soil landscaping and FSR controls.

(k) to ensure sunlight access to neighbours and to provide sunlight access to occupants of the new buildings.

The proposal does not cause any significant overshadowing impacts to any residences.

Residential zone objectives:

The development satisfies the objectives for residential zones as prescribed in clause 25D.

Draft Ku-ring-gai Local Environmental Plan 2006 (Pymble Town Centre) Draft Amendment No 2

On 27 May 2004, the Planning Minister directed Ku-ring-gai Council to prepare plans, pursuant to section 55(1) of the Environmental Planning and Assessment Act 1979, for additional housing in

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and around Ku-ring-gai's key commercial centres and to provide for additional retail and commercial demand to cater for the needs of and the local community.

Ku-ring-gai Council has prepared a draft LEP and DCP consistent with the Ministers' direction. On 30 June 2006, the NSW Department of Planning issued a conditional section 65 certificate permitting public exhibition of Draft Ku-ring-gai Local Environmental Plan 2006 (Town centres). This is the base written instrument for all six town centres in the Ku-ring-gai Council local government area.

Public exhibition of the Pymble Town Centre component of the Draft Plan was completed on the 25 October 2006. The provision of this Draft LEP are a matter for consideration under section 79C of the Environmental Planning and Assessment Act 1979 as the subject site is located within the Pymble Town Centre Map.

The subject property and surrounding properties are all zoned R4 - High Density Residential as per the **attached Pymble Town Centre - Land Zoning Map**. The development standards comply with the residential 2(d3) zoning. The floor space ratio (FSR) in the draft Pymble Town Centre Plan is also compatible with DCP 55, in that it should be less than 1.3:1.

Approval of the subject residential flat building is compatible with the provisions of the draft Pymble Town Centre Plan as is noted in the **attached draft plan**.

POLICY PROVISIONS

Development Control Plan No. 55 – Railway/Pacific Highway Corridor & St Ives Centre

| COMPLIANCE TABLE | | |
|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|------------|
| Development control | Proposed | Complies |
| Part 3 Local context: | | |
| Development adjacent to a heritage item: | 1202 Pacific Highway (Colinrobie) – 20 m | YES |
| • Setbacks 1 st and 2 nd storey – 10m | 1190 Pacific Highway – 60 m | YES |
| • Setbacks 3 rd and 4 th storey – 15m | Pymble Water Reservoir 100 m approx | YES |
| | 1186-1188 Pacific Highway Pymble Town Hall and Presbytery 1188 – 72 m approx | YES |
| | 1186 – 75 m approx | |
| Part 4.1 Landscape design: | | |
| Deep soil landscaping (min) | | |
| • 150m ² per 1000m ² of site area = 527.7 m ² | 635 m ² (One contiguous area to the south-east of the site) | YES |
| No. of tall trees required (min): 14 trees | 41 trees (8 existing canopy trees to be retained and 33 new canopy trees to be planted) | YES |
| Part 4.2 Density: | | |
| Building footprint (max): | | |

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| COMPLIANCE TABLE | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------|
| Development control | Proposed | Complies |
| <ul style="list-style-type: none"> 35% of total site area | 34.9 % | YES |
| Floor space ratio (max): <ul style="list-style-type: none"> 1.3:1 | 1.247:1 | YES |
| Part 4.3 Setbacks: | | |
| Street boundary setback (min): <ul style="list-style-type: none"> 10-12 metres (<40% of the zone occupied by building footprint) | Basement 7.38m - 17 m Above ground– 10-12 m (30%). | NO YES |
| Rear boundary setback (min): <ul style="list-style-type: none"> 6m | Minimum 6 m. | YES |
| Side boundary setback (min): | 6m | YES |
| Setback of ground floor courtyards to street boundary (min): <ul style="list-style-type: none"> 8m/11m | All >8m except one which is 7.4 m | NO |
| % of total area of front setback occupied by private courtyards (max): <ul style="list-style-type: none"> 15% | 20% | NO |
| Part 4.4 Built form and articulation: | | |
| Façade articulation: <ul style="list-style-type: none"> Wall plane depth >600mm | >600mm | YES |
| <ul style="list-style-type: none"> Wall plane area <81m² | <81m ² | YES |
| Built form: <ul style="list-style-type: none"> Building width < 36m | 75.4m | NO |
| <ul style="list-style-type: none"> Balcony projection < 1.2m | < 1.2 m | YES |
| Part 4.5 Residential amenity | | |
| Solar access: | | |

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| COMPLIANCE TABLE | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-------------------|
| Development control | Proposed | Complies |
| <ul style="list-style-type: none"> Habitable rooms and principle portion of outdoor living areas of adjoining houses in 2(c2) zones have at least 3 hours between 9am and 3pm on June 21. | > 3 hours between 9am and 3 pm on June 21 | YES |
| <ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice | 70 % | YES |
| <ul style="list-style-type: none"> >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice | 50% | YES |
| <ul style="list-style-type: none"> <15% of the total units are single aspect with a western orientation | 2 units or 6% | YES |
| Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4 <ul style="list-style-type: none"> 12m b/w habitable rooms 9m b/w habitable and non-habitable rooms 6m b/w non-habitable rooms 5th Storey <ul style="list-style-type: none"> 18m b/w habitable rooms 13m b/w habitable and non-habitable rooms 9m b/w non-habitable rooms | 18m to 2-6 Clydesdale Place 19.7m to 1204-1218 Pacific Highway 19.88 m to 1202 Pacific Highway (Colinrobie) | YES YES YES |
| Internal amenity: <ul style="list-style-type: none"> Habitable rooms have a minimum floor to ceiling height of 2.7m | 2.7m | YES |
| <ul style="list-style-type: none"> Non-habitable rooms have a minimum floor to ceiling height of 2.4m | Min 2.4 m | YES |

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| COMPLIANCE TABLE | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Development control | Proposed | Complies |
| <ul style="list-style-type: none"> 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms Single corridors: <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies | <p>3 m</p> <p>3 m</p> <p>3 units</p> <p>Minimum 1.8m</p> <p>Minimum 1.5m</p> | <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> |
| <p>Outdoor living:</p> <ul style="list-style-type: none"> ground floor apartments have a terrace or private courtyard greater than 25m² in area Balcony sizes: <ul style="list-style-type: none"> - 10m² – 1 bedroom unit - 12m² – 2 bedroom unit - 15m² – 3 bedroom unit <p>NB. At least one space >10m²</p> <ul style="list-style-type: none"> primary outdoor space has a minimum dimension of 2.4m | <p>>25m²</p> <p>> 10 m²</p> <p>> 12m²</p> <p>All Greater than 15m² (except Unit 508 only - 12.5 m²)</p> <p>>2.4m</p> | <p>YES</p> <p>YES</p> <p>YES</p> <p>NO</p> <p>YES</p> |
| Part 4.7 Social dimensions: | | |
| <p>Visitable units (min):</p> <ul style="list-style-type: none"> 70% | 100% | YES |
| <p>Housing mix:</p> <ul style="list-style-type: none"> Mix of sizes and types | Mix of 1,2 and 3 bedroom units | YES |
| Part 4.8 Resource, energy and water efficiency: | | |
| <p>Energy efficiency:</p> <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation single aspect units are to have a maximum depth of 10m 25% of kitchens are to have an external wall for natural ventilation and light | <p>78%</p> <p>100%</p> <p>100%</p> | <p>YES</p> <p>YES</p> <p>YES</p> |

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| COMPLIANCE TABLE | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------|
| Development control | Proposed | Complies |
| <ul style="list-style-type: none"> >90% of units are to have a 4.5 star NatHERS rating with 10% achieving a 3.5 star rating | Complies with BASIX | YES |
| Part 5 Parking and vehicular access: | | |
| Car parking (min): | | |
| <ul style="list-style-type: none"> 55 resident spaces | 58 spaces | YES |
| <ul style="list-style-type: none"> 9 visitor spaces | 9 spaces | YES |
| <ul style="list-style-type: none"> 64 total spaces | 67 spaces | YES |

Part 4.3 Setbacks:

The basement car-park is set back 7.38m at its closest point to the Clydesdale Place boundary. Above ground, the building has a front setback of 10.527m – 12m, which complies.

Notwithstanding a numeric non-compliance to part of the basement level, the proposed setbacks are acceptable as the stepped building configuration provides for a variety of front and side setbacks in order to achieve good articulation and interest to the streetscape, with adequate area for landscaping.

Whilst the setback of one of the ground floor courtyards to the respective street boundary is less than 8 metres, (set back of 7.4 metres) this is only a minor (600mm) departure and the balance of set backs proposed comply. The minor non-compliance does not compromise the provision of deep soil planting in the common area.

Part 4.4 Built form and articulation:

Whilst the total width of the proposed building is 75.6 metres. The 2 storey element is some 20m wide so that the 5-6 storey element has a total width of 54.7m. The building in front of 1202 Pacific Highway (Colinrobie) is only 2 storeys in height and the majority of the higher section of the building is obscured as it is viewed at the end of the Clydesdale Place cul de sac such that only a small portion of the proposed building is visible from the street. The building is sufficiently articulated and modulated over its length and height.

Part 4.5 Residential amenity:

Only one balcony (Unit 508) to a 3 bedroom unit is 12.5 m² as opposed to the required 15 m², the balance comply.

This one non-compliance is regarded as minor and will not compromise the intent of the control.

Development Control Plan 31 - Access

Matters for consideration under DCP 31 have been taken into account in the assessment of this application against DCP 55.

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Development Control Plan 40 - Construction and Demolition Waste Management

Matters for consideration under DCP 40 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan No. 43 - Car Parking

Matters for consideration under DCP 43 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan 47 - Water Management

Matters for assessment under DCP 47 have been taken into account in the assessment of this application against DCP 55.

Section 94 Plan

The proposal involves the demolition of 3 dwellings for which credit is conferred in respect of calculating the financial contribution for the overall development. Accordingly, the financial contribution is based on 31 new dwellings (3 x very large, 8 x large, 13 x medium and 7 x small). The development attracts a section 94 contribution of \$584,711.40, which is required to be paid by **Condition No. 81.**

LIKELY IMPACTS

All likely impacts have been assessed elsewhere in the report.

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

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

PUBLIC INTEREST

The approval of the application is considered to be in the public interest.

CONCLUSION

Having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

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RECOMMENDATION

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, is of the opinion that the objections under *State Environmental Planning Policy No. 1 – Development Standards* to Clauses 25I(7) and 25L(2) of the Ku-ring-gai Planning Scheme Ordinance are well founded. The Council is also of the opinion that strict compliance with the development standards is unreasonable and unnecessary in the circumstances of this case as the two storey element addresses the adjoining heritage item (Colinrobie) and the additional top floor area will result in minimal change in the visual impact of the development. The setback of the development to the railway line is considered acceptable, having no impact beyond the site.

AND

THAT the Council, as the consent authority, being satisfied that the objections under SEPP No. 1 are well founded and also being of the opinion that the granting of consent to DA 301/06 is consistent with the aims of the Policy, grant development consent to DA 301/06 for a residential flat building on land at 3, 5 and 8 Clydesdale Place, Pymble, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans identified within the following table and endorsed with Council's approval stamp, except where amended by the following conditions:

| Dwg No. | Rev. | Description | Author | Dated | Lodged |
|----------------|-------------|------------------------------|---------------------|--------------|---------------|
| DA-101 | E | Basement 3 Plan | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA-102 | E | Basement 2 Plan | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA 103 | E | Basement 1 Plan | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA 104 | D | Ground Floor Plan | Reservoirs Arch | 28/7/2006 | 1/08/2006 |
| DA 105 | D | Level 1 Floor Plan | Reservoirs Arch | 28/7/2006 | 1/08/2006 |
| DA 106 | E | Level 2 Floor Plan | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA 107 | E | Level 3 Floor Plan | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA-108 | E | Level 4 Floor Plan | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA-201 | E | North and South Elev. | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA-202 | E | East and West Elev. | Reservoirs Arch | 16/10/2006 | 18/10/2006 |
| DA-301 | B | Sections AA & BB | Reservoirs Arch | 30/10/20006 | 31/10/2006 |
| DA-302 | B | Sections CC & DD | Reservoirs Arch | 30/10/20006 | 31/10/2006 |
| No.1set 1 | A | Landscape Plan | Ian Jackson Pty Ltd | 7/8/2006 | 14/8/2006 |
| DA 502 | E | Compliance Diagram | Reservoirs Arch | 8/8/2006 | 14/8/2006 |

2. All building works shall comply with the Building Code of Australia.

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3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. Should an electrical substation need to be established on the premises and an area to satisfy Energy Australia's conditions for an electrical substation, such area shall not reduce the deep soil area proposed.
5. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
6. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
7. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
8. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
- 9.. HOURS OF WORK: For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.

10. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.

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11. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
12. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
13. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
14. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
15. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

16. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
17. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dba above the background when measure at the nearest adjoining boundary.
18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.

Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.

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19. A photographic record of the three (3) dwellings which are to be demolished, the general streetscape in this area of Clydesdale Place and the vegetation on site is to be submitted to Council's Heritage Advisor for archival purposes, prior to the issue of the Construction Certificate.
20. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.

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25. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
26. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
27. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
28. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
29. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
30. Removal, or pruning of the following trees is not approved as part of this Development Application. A tree report prepared by Stuart Pittendrigh, dated February 2006, has been submitted. Tree numbers refer to this report.

Tree/ Location

Corymbia citriodora (Lemon Scented Gum) Tree 1

31. Approval is given under this development consent for the following tree works to be undertaken to trees within the subject property:

Tree/Location

Tree Works

| | |
|---------------------------------------------------------|---------|
| <i>Thuja sp.</i> (Arborvitae) Tree 2 | Removal |
| <i>Camellia sasanqua</i> (Chinese Camellia) Tree 6 | Removal |
| <i>Pinus radiata</i> (Monterey Pine) Tree 7 | Removal |
| <i>Hymenosporum flavum</i> (Native Frangipani) Tree 9 | Removal |
| <i>Glochidion ferdinandi</i> (Cheese tree) Tree 11 | Removal |
| <i>Jacaranda mimosifolia</i> (Jacaranda) Tree 16 | Removal |
| <i>Acer palmatum</i> (Japanese Maple) Tree 17 | Removal |
| <i>Acer palmatum</i> (Japanese Maple) Tree 18 | Removal |
| <i>Jacaranda mimosifolia</i> (Jacaranda) Tree 19 | Removal |
| <i>Cornus florida</i> (Dogwood) Tree 20 | Removal |
| <i>Phoenix canariensis</i> (Canary Island Palm) Tree 21 | Removal |
| <i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 30 | Removal |

32. REMOVAL/PRUNING of the following tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.

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Tree/Location

Fraxinus oxycarpa (Desert Ash) Tree 14

Jacaranda mimosifolia (Jacaranda) Tree 15

33. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate

34. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period.

Tree/Location

Radius From Trunk

Corymbia citriodora (Lemon Scented Gum) Tree 1

8m

35. No mechanical excavation for the approved driveway shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Tree/Location

Radius From Trunk

Corymbia citriodora (Lemon Scented Gum) Tree 1

8m

36. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

Tree/Location

Radius From Trunk

Corymbia citriodora (Lemon Scented Gum) Tree 1

8m

37. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

38. To preserve the health and condition of the following trees, all activities, including fencing, excavation and root pruning, within the primary root zone of the following trees, shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.

Corymbia citriodora (Lemon Scented Gum) Tree 1

39. Transplanting of the following trees/shrubs shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

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Species

Magnolia x soulangiana (Magnolia) Tree 13

40. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
41. The following noxious and/or environmental weed species shall be removed from the property prior to completion of the proposed building works

Plant Species

Asparagus densiflorus (Asparagus Fern)
Cotoneaster sp. (Cotoneaster)
Hedera helix (English Ivy)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Phyllostachys sp. (Rhizomatous Bamboo)
Lantana camara (Lantana - Pink Flower)
Tradescantia albiflora (Wandering Jew)
Chlorophytum comosum (Spider Plant)

42. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Council's Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
43. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all relevant BASIX commitments and the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
44. In addition to the mandatory rainwater retention and re-use system provided, an on-site stormwater detention system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
45. It is the Applicants and contractors full responsibility to ascertain the exact location of the Council drainage pipe traversing the site and take measures to protect it. All proposed structures are to be sited fully clear of any Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated flow paths shall

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not be impeded or diverted by fill or structures unless otherwise approved. In the event of a pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to the Council pipe shall be immediately repaired in full and at no cost to Council.

46. No part of the building (including overhangs and footings) shall encroach over any easement and no loadings shall be imposed to the utilities within any easement.
47. To ensure structural stability, footings to be located adjacent to easements and/or Council drainage pipes shall be sited and constructed so that all footings are located outside of easement boundaries. The applicant shall refer to Council Plan 80-011 concerning such works. Footings must extend to at least the depth of the invert of the adjacent pipe within the easement unless the footings are to be placed on competent bedrock. If permanent excavation is proposed beneath the obvert of the pipe within the easement, suitable means to protect the excavation from seepage or other water flow from the pipe and trench, and means to retain the easement and associated pipe cover, are to be provided by the applicant at no cost to Council. Council accepts no liability for such seepage or water flows now or at any time in the future resulting from such excavation.
48. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
49. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
50. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
51. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.

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52. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
53. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
54. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
55. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
56. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
57. In order to allow **unrestricted access at all times** for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be provided in the access driveways to the basement carpark preventing this service.

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58. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:

- Appropriate excavation methods and techniques,
- Vibration management and monitoring,
- Support and retention of excavated faces,
- Hydrogeological considerations,

must be undertaken in accordance with the recommendations of the report 19902Vrpt by Jeffery and Katauskas, the report to be submitted prior to commencement of works and all subsequent geotechnical inspections carried out during the excavation and construction phase. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

59. The geotechnical and hydrogeological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Jeffery and Katauskas. Over the course of the works a qualified Geotechnical/hydrogeological Engineer must complete the following:

- Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
- Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
- Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.

60. To ensure minimal environmental impacts all works are to be carried out in accordance with the commitments set out in **BASIX Certificate Number 63748M** lodged with this application.

Rail Corp conditions

61. The applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of RailCorp's representative.
62. The applicant shall request service searches from RailCorp, to establish the existence and location of any RailCorp services and structures. Where RailCorp services are identified, the Applicant must discuss and agree with RailCorp how these services are to be accommodated in the development.
63. Prior to the commencement of works and prior to the issue of the occupation certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of the existing damage and enable any deterioration during

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construction to be observed. The submission of detailed dilapidation reports may be required as a result.

64. The applicant has responsibilities for future occupants of the development in that they will encounter rail related noise and vibration from the adjacent rail corridor. Rail noise and vibration can seriously affect the residential amenity and comfort, and jeopardise the safety of buildings and must be addressed fully by the applicant in all stages of the development. The applicant to refer to the following RailCorp document:

Guidelines for applicants - consideration of rail noise and vibration in the planning/construction process

65. An acoustic assessment is to be submitted to Council prior to the issue of the construction certificate demonstrating how the proposed development will comply with RailCorp Interim Guidelines for applicants in the consideration of rail noise and vibration from the adjacent rail corridor.
66. The Applicant is to procure a report on the Electrolysis Risk to the development from stray currents, and measures that will be taken to control the risk. The applicant is advised to consult an Electrolysis expert. The expert's report must be submitted to RailCorp for review by the senior Electrolysis Engineer or nominated Electrolysis Section personnel.
67. The Applicant shall provide a Geotechnical Engineering report to RailCorp for review by RailCorp's geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design and details/analysis for review by RailCorp. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on RailCorp Facilities by the development.
68. If the applicant needs track/corridor possession for construction they will need to refer to the Rail Corridor Management Group (RCMG) for further details.
69. A Risk Assessment/Management Plan and detailed Safe Work Method Statement (SWMS) for the proposed works are to be submitted to RailCorp for review and comment prior to the works commencing on site. It should be noted that RailCorp's representative may impose conditions of the methods to be used and require the provisions of on-site Safe Working supervision for certain aspects of the works.

Should, according to RailCorp's representatives, any unforeseen risks to infrastructure become apparent (e.g. falling material) the Applicant/Contractor will be required to submit information relation to the attenuation of that risk for approval by RailCorp's representative.

The use of any crane, plant or machinery shall comply with the RIC electrical safety manual and all relevant RIC Standards and Guidelines. Construction equipment such as scaffolding shall not impinge over the rail corridor

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No metal ladders, tapes, scaffolding and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor. No metal ladders are to be used within the rail corridor.

No excavation or boring is permitted within 2.0 metres (measured horizontally) of high voltage underground cable and 1.0 metre (measured horizontally) for low voltage cables.

No plant or vehicle is permitted to encroach the ballast shoulder without prior arrangements by authorised persons to ensure no impact will occur to rail infrastructure e.g. signal sighting, safety signage, emergency access.

No infrastructure or equipment is to be placed or installed on the rail corridor without proper assessment by authorised persons to ensure no impact will occur to rail infrastructure e.g. signal sighting, safety signage, emergency access.

70. As large-scale excavation is involved, the applicant is required to put in place a vibration monitoring system to monitor vibration levels on the adjoining rail corridor for the duration of the works. The plan for this is to be submitted to Rail Corp for review prior to the commencement of works.

Details of any proposed piling, sheet piling, batter and anchors should be provided to Rail Corp for review and comment prior to work commencing. RailCorp may require the removal of such construction sites.

71. The developer is required to submit to RailCorp a plan showing all craneage and other aerial operations for the development prior to construction.
72. During all stages of the development, environmental legislation and regulations will be complied with.

During all stages of the development extreme care shall be taken to prevent environmental harm within the railway corridor. Any form of environmental harm to areas within the railway corridor or legislative non-compliance that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.

During all stages of the development extreme care shall be taken to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant.

73. Given the site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from RailCorp.

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During excavation the applicant is to observe extreme care to prevent water from collecting on or near RailCorp infrastructure. It is possible that if water were to pond adjacent to infrastructure, services could be interrupted. If this were the case, the applicant/contractor would be liable for the RailCorp expenditure involved with restoring or maintaining alternative services.

74. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Access Deed has been entered into with RailCorp. The Applicant is required to approach RailCorp to determine whether such a deed is required. It should be noted that the cost of supervision, design checks, meetings, approvals and service searches is to be borne by the Applicant.

Should the applicant require access to the rail corridor prior to entering into a rail deed, the Applicant is required to enter into a release and indemnity agreement, which will cover all railway parties from any possible claims whilst the Applicant is carrying out any work within or adjacent to any railway corridor.

All works are to be carried out in accordance with railway Safeworking rule and regulation, including the network rules and procedures. It should be noted that RailCorp's representatives might impose conditions on the method to be used and require the provision of on-site Safeworking supervision for certain aspects of the works.

75. To improve the comfort of future occupants, the landscaping and fencing in the plan should be designed to screen wires of the rail tracks and reduce exposure to passing trains.
76. The current fencing separating this development from the rail corridor is to be replaced with a 2 metres high fence at the developer's cost. Details of the type of fencing and the method of erection are to be submitted to RailCorp for review and comment prior to the fencing work being undertaken. RailCorp will provide supervision for the erection of the new fencing.
77. The developer must provide a plan of future maintenance activities that will require access to RailCorp's Facilities. This plan will be reviewed by RailCorp to ensure that continued access to RailCorp's Facilities by RailCorp is not impeded and that the proposed maintenance activities can be supported.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

78. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

79. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for

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and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

80. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
81. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF THIRTY ONE (31) ADDITIONAL DWELLINGS IS CURRENTLY \$584,711.40. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

| | | |
|----|------------------------------------------------------|------------|
| 1. | Community Facilities | \$1 117.76 |
| 2. | Park Acquisition and Embellishment Works - Lindfield | \$8 223.35 |
| 3. | Sportsgrounds Works | \$1 318.32 |
| 4. | Aquatic / Leisure Centres | \$27.82 |
| 5. | Traffic and Transport | \$150.28 |
| 6. | Section 94 Plan Administration | \$100.04 |

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To obtain the total contribution figure the following table of occupancy rates is to be used:

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

| | |
|--------------------------------------|--------------|
| Small dwelling (under 75 sqm) | 1.27 persons |
| Medium dwelling (75 - under 110 sqm) | 1.78 persons |
| Large dwelling (110 - under 150sqm) | 2.56 persons |
| Very Large dwelling (150sqm or more) | 3.48 persons |
| New Lot | 3.48 persons |
| SEPP (Seniors Living) Dwelling | 1.3persons |

82. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

83. Paving works within the specified radius of the trunk/s of the following tree/s shall be of type and construction to ensure that existing water infiltration and gaseous exchange to the tree/s root system is maintained. Details for the paving shall be prepared by a suitably qualified professional and submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate:

| Tree/Location | Radius From Trunk |
|-------------------------------------------------------|-------------------|
| <i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 1 | 8m |

84. The submitted landscape plan dwg no. 1 of set 1 Rev. A prepared by Ian Jackson Landscape Architect, dated 7/08/06 and lodged with Council on 14/8/2006 is not approved. An amended, detailed plan of the proposed landscape works for the site shall be prepared by a Landscape Architect or qualified Landscape Designer. The plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The landscape works shall be carried out and installed in accordance with the approved landscape plan/s.

The following amendments to the plan shall apply:

- All proposed stormwater pits, grates and tanks to be shown on Landscape Plan.
- Proposed location of transplanted *Magnolia x soulangiana* (Magnolia) Tree 13 to be indicated on Landscape Plan in accordance with arborist recommendations.

85. To preserve the following tree, the stormwater pits and pipes are not to be located within the specified radius. The amended plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.

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| Tree/Location | Radius From Trunk |
|-------------------------------------------------------|-------------------|
| <i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 1 | 4m |

86. A CASH BOND/BANK GUARANTEE of \$10 000 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have been satisfactorily established and maintained.

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

87. A CASH BOND/BANK GUARANTEE of \$5000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

The bond will be returned following issue of the Occupation Certificate, provided the trees are undamaged.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent, or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

| Tree/Location | Bond Value (\$) |
|-------------------------------------------------------|-----------------|
| <i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 1 | \$5000.00 |

88. Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
89. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are

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issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways *inside* the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels. The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

90. Prior to the issue of the Construction Certificate, a longitudinal driveway section is to be prepared by a qualified civil/traffic engineer and be submitted for approval by the Principal Certifying Authority. The profile is to be at 1:100 scale along the *inside trafficked edge* of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:

- Vehicular access can be obtained using grades of 20% (1 in 5) maximum (to allow the laden garbage collection vehicle to exit the site), and
- All changes in grade (transitions) comply with clause 2.5.3 of Australian Standard 2890.1 (2004) –“Off-street car parking” to prevent the scraping of the underside of vehicles, particularly along the inside radius for curved driveways.

If a new driveway crossing is proposed then the longitudinal sections at the boundary alignment **must incorporate the driveway crossing levels as issued by Council** upon prior application.

91. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- a) All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 “Off-street car parking”.
- b) A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.

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- c) No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.

The vehicle access and accommodation arrangements are to be constructed in accordance with the certified plans.

92. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.
93. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
- Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
 - Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments.
 - Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
 - The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on the Stormwater Plan 205126 H1 to H3 Issue B by Demlakian Consulting Engineers submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

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94. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.
95. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

96. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
97. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding the proposed driveway, is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

| Tree/Location | Radius in Metres |
|-------------------------------------------------------|------------------|
| <i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 1 | 8m |

98. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
99. Prior to works commencing tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign shall advise in a clearly legible form, the following minimum information :
 1. Tree Protection Zone
 2. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
 3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works

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4. Name, address, and telephone number of the developer.
100. Prior to works commencing the area of the Tree Protection Zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood, The depth of mulch and type as indicated, to be maintained for the duration of the project & Principal Certifying Authority.
101. Upon completion of the installation of the required tree protection measures you are required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
102. Following demolition of the residences, but prior to commencement of bulk excavation, additional geotechnical investigation is to be carried out as recommended in the report by Jeffery and Katauskas, 19902Vrpt. The report of this investigation is to include recommendations for vibration monitoring, dilapidation survey and excavation support. The report is to be submitted for the approval of the Principal Certifying Authority (PCA) or Council if no PCA has been appointed.
103. Prior to the commencement of any works on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of structures at 1202 Pacific Highway and 6 Clydesdale Place (unless already demolished under a separate approval). The report must be completed by a consulting structural/geotechnical engineer. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.
104. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

A plan view of the entire site and frontage roadways indicating :

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.

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- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible and if not possible, an estimate of the number of on- street parking spaces necessary and an alternative legal on-street location for employee parking.

Traffic Control Plans for the project

- All traffic control plans are to be prepared by a person accredited to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided. Routes for construction vehicles travelling south, or approaching the site from the north are to be indicated.

- Light traffic roads and those subject to a load or height limit must be avoided unless otherwise approved.
- A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.

The *Construction and Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

105. To maintain access in Clydesdale Place and Reservoir Road, the applicant is to install "No Parking" signs along both sides of Clydesdale Place (including turning circle) and on the

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western side of Reservoir Road (from Pacific Highway up to the northern Boundary of No. 11 Reservoir Road) which would be effective for the approved hours of construction. The signs are to be considered by the Ku-ring-gai Traffic Committee and approved by Council (subject to resident concurrence), and installed prior to the commencement of any work on the site. The applicant shall pay for the consideration of the matter by the Ku-ring-gai Traffic Committee, as well as for the installation, maintenance, and removal of the signs following completion of the work and the occupation certificate being issued. If construction activities overlap with another medium density development in Clydesdale Place, the maintenance and subsequent removal of the signs would be carried over to the other developer.

106. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

107. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a photographic record**) of the following public infrastructure:

- Full road pavement width, including kerb and gutter and verge, of Clydesdale Place.
- Intersection of Pacific Highway and Clydesdale Place.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) *existing* damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

108. If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:
 - RTA concurrence to the proposed temporary rock anchors
 - How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
 - That the locations of the rock anchors are registered with Dial Before You Dig

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- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. -The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council 's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

109. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
110. Excavation for the installation of CONDUITS/SEWER/STORMWATER/GAS within the specified radius of the trunk/s of tree/s shall be carried out using the thrust boring method. Documentary evidence of compliance with conditions of consent in this regard shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
111. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
112. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

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113. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:

- New concrete driveway crossing in accordance with levels and specifications issued by Council.
- Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
- Full repair and resealing of any road surface damaged during construction.
- Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.
- Construction of footpath for the Havilah Road frontage of the development.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

114. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.
115. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure

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to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

116. Prior to issue of a final Occupation Certificate, an easement for waste collection must be created. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.

117. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):

- a) A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
- b) A copy of any works-as-executed drawings required under this consent
- c) The Engineer's certification of the as-built system.

This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

118. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
119. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate plans,
- b) That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 "Off-Street car parking" in terms of minimum parking space dimensions provided,
- c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- d) That no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
- e) That the vehicular headroom requirements of:
 - Australian Standard 2890.1 - "Off-street car parking",

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- 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.

120. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:

- a) That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
- b) That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
- c) That retained water is connected and available for the uses specified on the BASIX Certificate.
- d) That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
- e) That all grates potentially accessible by children are secured.
- f) That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
- g) **All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices, particularly adjacent of council's drainage easement.**

The following certification sheets **must be accurately completed and attached** to the certification:

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
- On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.

121. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:

- As built (reduced) surface and invert levels for all drainage pits.
- Gradients of drainage lines, materials and dimensions.
- As built (reduced) level(s) at the approved point of discharge to the public drainage system.

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- As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
- The achieved storage volumes of the installed retention and detention storages and derivative calculations.
- As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
- The size of the orifice or control fitted to any on-site detention system.
- Dimensions of the discharge control pit and access grates.
- The maximum depth of storage possible over the outlet control.
- Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

122. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.
123. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit for approval by the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced civil engineer, that:
 - a. Footings, and any required permanent excavation or drainage easement support, have been constructed in accordance with the conditions of this Consent relating to footings and excavation adjacent to drainage easements and/or drainage pipes, and
 - b. Footings allow for complete future excavation over the full width of the easement to a depth of the invert of the pipe, without the need to support or underpin the subject structure.

A copy of the certificate must also be provided to Council, attention Development Engineer, prior to issue of any Final Certificate.

124. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a registered surveyor that no structures are located over the existing drainage pipeline and/or easement traversing the subject property. A copy of the certification must also be provided to Council, attention Development Engineer, prior to issue of any Final Certificate.

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125. Prior to issue of the Occupation Certificate a suitably qualified and experienced geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :

- According the relevant Australian Standards and guidelines, and
- According to any approved Geotechnical report undertaken for the development, and
- In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.

126. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation by Jeffery and Katauskas Consulting Engineers, subsequent report(s), and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.

127. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed including:

- Full road pavement width, including kerb and gutter and verge, of Clydesdale Place.
- Intersection of Pacific Highway and Clydesdale Place.
- Structures at 1202 Pacific Highway.
- Residence at 6 Clydesdale Place (unless already demolished).

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

BUILDING CONDITIONS

128. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Retaining walls and associated drainage.

129. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.

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130. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - "*Protection of Buildings from Subterranean Termites*" is to be provided.

Council has a non chemical policy for termite control but will consider proposals involving physical barriers in combination with approved chemical systems. Handspraying is prohibited.

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Selwyn Segall
Team Leader
Development Assessment -
North

Mark Leotta
Acting Manager
Development Assessment
Services

Michael Miocic
Director
Development & Regulation

Attachments:

- Site location plan - 691799**
- Zoning extract - 691799**
- Draft Pymble Town Centre Zoning Map – 692358**
- Site analysis plan - 691805**
- Site and roof plan –691805**
- Landscape plan - 691813**
- Elevations - 691808**
- Shadow diagrams and sections – 691810**
- Offer to purchase 1190A Pacific Highway (July 2006) -691827**
- Sketch indicating complying development at 1190A Pacific Highway - 691831**
- Confidential basement plans**
- Confidential floor plans**

DEVELOPMENT APPLICATION No 301/06

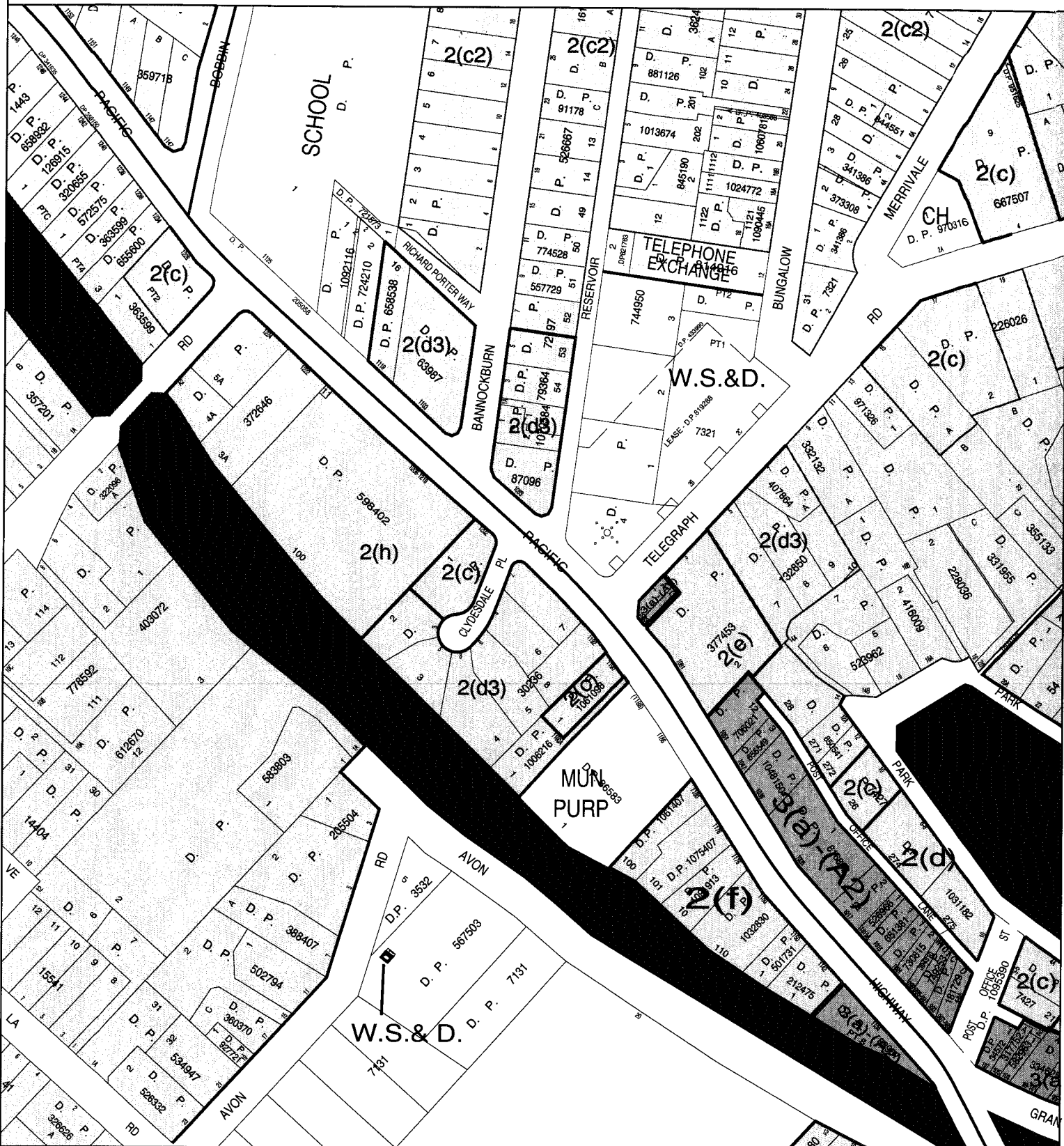


06-11-2006



Zoning Extract

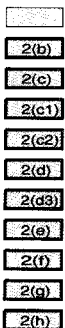
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ZONES

2. RESIDENTIAL

- (a) RESIDENTIAL A
- (b) RESIDENTIAL B
- (c) RESIDENTIAL C
- (c1) RESIDENTIAL C1
- (c2) RESIDENTIAL C2
- (d) RESIDENTIAL D
- (d3) RESIDENTIAL D3
- (e) RESIDENTIAL E
- (f) RESIDENTIAL F
- (g) RESIDENTIAL G
- (h) RESIDENTIAL H



3. BUSINESS

- (a) RETAIL SERVICES
- FLOOR SPACE RATIOS
- A1 2.0:1
- A2 1.0:1
- A3 0.75:1

- (b) COMMERCIAL SERVICES
- FLOOR SPACE RATIOS
- B1 1.0:1
- B2 1.0:1



5. SPECIAL USES

- (a) SPECIAL USES A (Schools etc)
- (a1) SPECIAL USES A1
- (b) SPECIAL USES (Railway)

6. OPEN SPACE

- (a) RECREATION EXISTING
- (b) RECREATION PRIVATE
- (c) RECREATION PROPOSED



RESERVATIONS

OPEN SPACE

- (a) OPEN SPACE (Public Parks & Recreation)
- (b) COUNTY OPEN SPACE

SPECIAL USES

- SPECIAL USES (Parking etc)

ROADS

- (a) COUNTY ROAD PROPOSED
- (b) COUNTY ROAD WIDENING
- (c) LOCAL ROAD PROPOSED
- (d) LOCAL ROAD WIDENING

GENERAL

- EXISTING COUNTY ROAD
- OTHER PLANNING INSTRUMENTS



Scale: 1:3000
Date: 06-11-2006

Zone Description

Residential Zones

Zone R3 - Medium Density Residential

Zone R4 - High Density Residential

Business Zones

Zone B2 - Local Centre

Zone B5 - Business Development

Recreation Zones

RE1 - Public Recreation

Item

Heritage Item

Heritage Conservation Area

Archaeological site

Access across boundaries restricted

Foreshore protection line

Foreshore protection area

Scenic protection area

Environmentally sensitive land

Riparian land

North

SCALE:1:5000

0

50

100

150

200

250

Metres

DRAWN BY: COUNCIL,S LAND INFORMATION DIVISION

PLANNING OFFICER : ANTONY FABBRO

COUNCIL FILE NO.

DEPT. FILE NO.

CERTIFICATE ISSUED UNDER SEC.65 E.P.A.ACT

DATE

GOVT. GAZETTE NO.

DATE

The map displays the Pymble locality with various land zones. Residential zones (R4, R3) are shown in pink, business zones (B2, B5) in blue, and recreation zones (RE1) in green. The map includes street names such as Pacific Highway, Grandview, and various local streets. A scale bar indicates 1:5000, and a north arrow is present. The map is titled 'LOCALITY - PYMBLE'.

ENVIRONMENTAL PLANNING & ASSESSMENT ACT,1979

KU-RING-GAI COUNCIL

DRAFT KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2006 - (TOWN CENTRES)

AMENDMENT NO.2 - SHEET 2

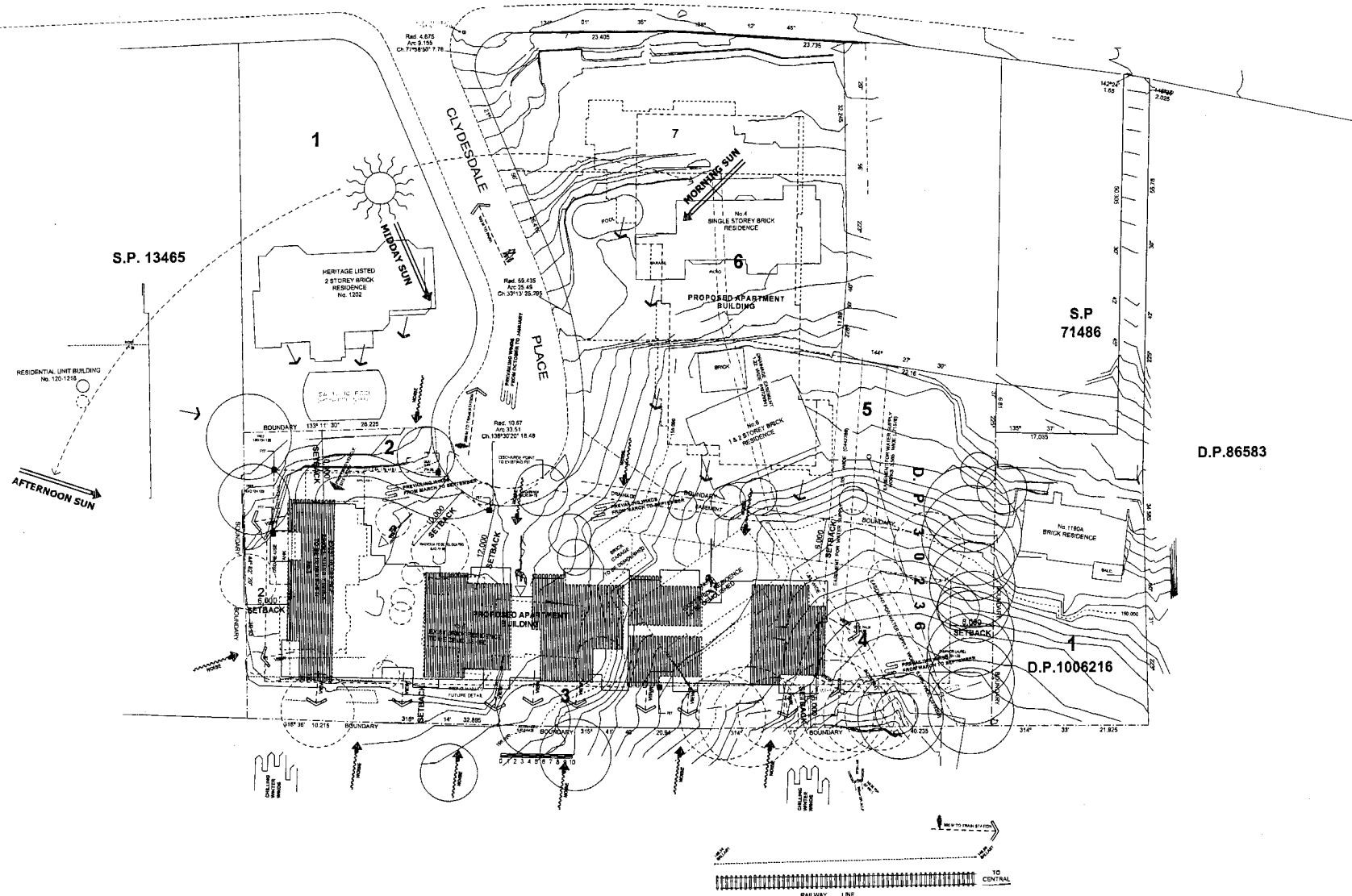
Land Zoning Map (clause 11)

STATEMENT OF RELATIONSHIP WITH OTHER PLANS


AMENDS THE KU-RING-GAI PLANNING SCHEME

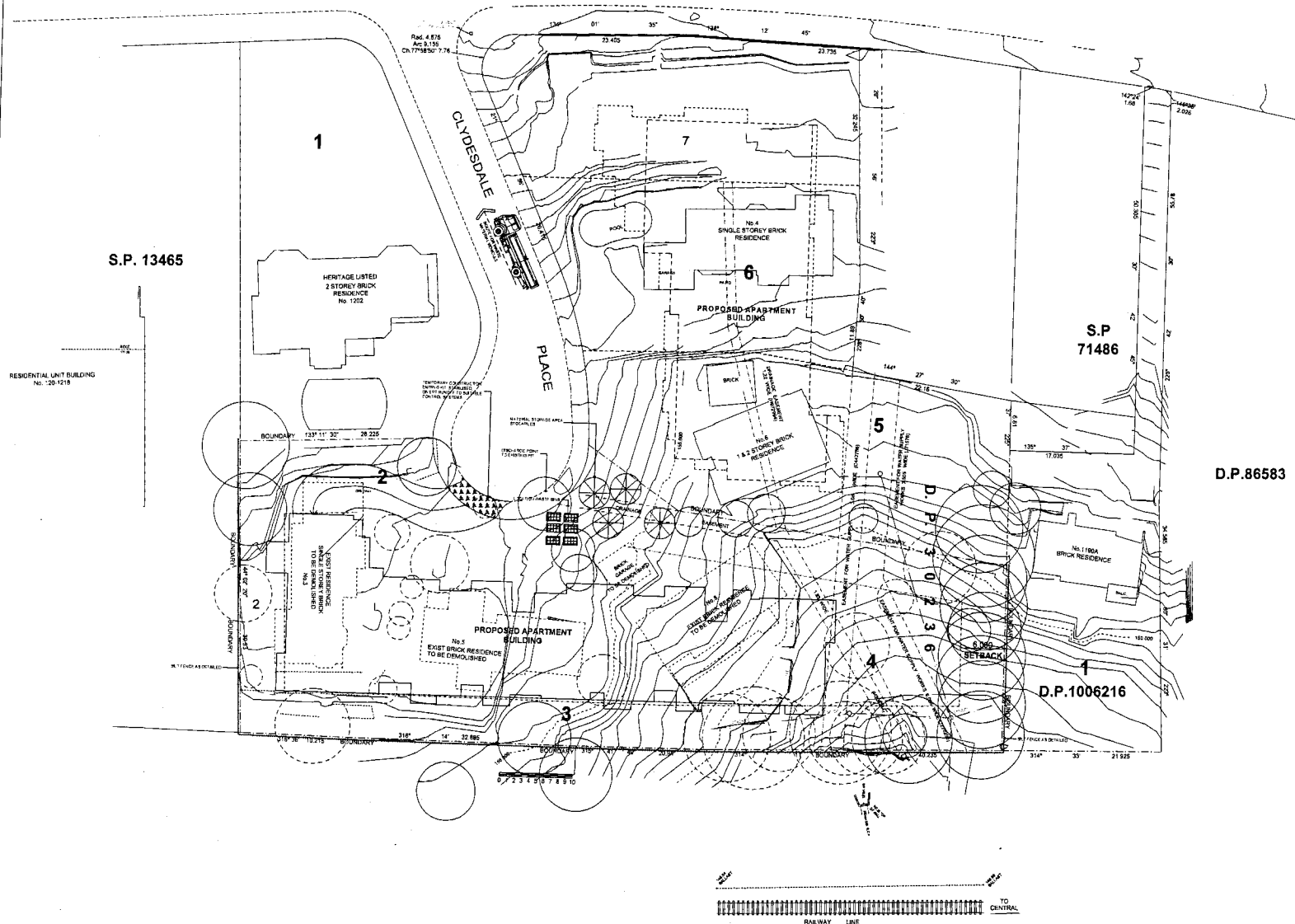
CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS.

GENERAL MANAGER DATE 25 September 2006



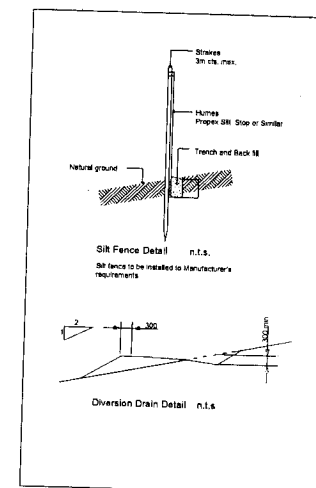
- LEGEND**
- EXISTING TREES TO BE RETAINED
 - EXISTING TREES TO BE REMOVED
 - EXISTING CONTOURS
 - PROPOSED NEW BUILDING FOOTPRINT
 - 100 M TO TRANSPORT
 - 400 M TO SCHOOL
 - PEDESTRIAN ENTRY
 - VIEWS FROM SITE
 - VIEWS TO SITE
 - SEWER TO BE RELOCATED TO SYDNEY WATER REQUIREMENTS

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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|  | This drawing is subject to copyright and must not be used, copied or reproduced without the authority of Reservoirs Pty Ltd ACH 107 524 941. If any discrepancies arise they are to be reported to the Author prior to commencement of work. | | | | | | | | | | client | BERRY STREET PROPERTIES PTY LTD | | | | | | | | | | drawing | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Do not scale from drawings, written dimensions take precedence. | | | | | | | | | | project | Proposed Residential Development Lots 2, 3 + 4 Clydesdale Place, Pymble, NSW | | | | | | | | | | stage DA dwg no 002 revision A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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LEGEND

- EXISTING TREES TO BE RETAINED
- EXISTING TREES TO BE REMOVED
- EXISTING CONTOURS
- PROPOSED NEW BUILDING FOOTPRINT
- SEWER TO BE RELOCATED TO SYDNEY WATER REQUIREMENTS
- SILT FENCE
- STOCKPILES



Legend

- Denotes silt fence - Refer Detail this sheet.
- Denotes earth diversion bank.

All sediment control measures to be installed prior to commencement of excavation.

General Notes

- No vehicle crossing or stockpiling of material on vegetation buffer.
- All sediment control structures to be inspected and maintained in a functional state until the risk of materials being eroded has been dealt with in a permanent manner by landscaping and site rehabilitation sufficient for soil excitation.
- All sediment control structures shall be maintained at not less than 70% of their original design capacity for the duration of the work and whilst there is risk of erosion and sedimentation.
- All existing vegetation will be retained outside the construction site.
- Clean sediments from footpaths, driveways and roads only.
- Foot drainage to be connected to stormwater system immediately on completion of works.
- Send or any loose material not permitted on footpath or roadway.
- All sediment control measures to be carried out in accordance with Council Erosion and Sediment Control Guidelines.



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client

BERRY STREET PROPERTIES PTY LTD

project

Proposed Residential Development
Lots 2, 3 & 4
Clydesdale Place, Pymble, NSW

4 RESERVOIR LANE SURRY HILLS NSW 2010
t 02 9211 1118 f 02 9211 1008 architects@reservoirs.com.au

drawing

ENVIRONMENTAL SITE MANAGEMENT PLAN

stage

DA

dwg no

003

revision

A

job no

05 166

scale

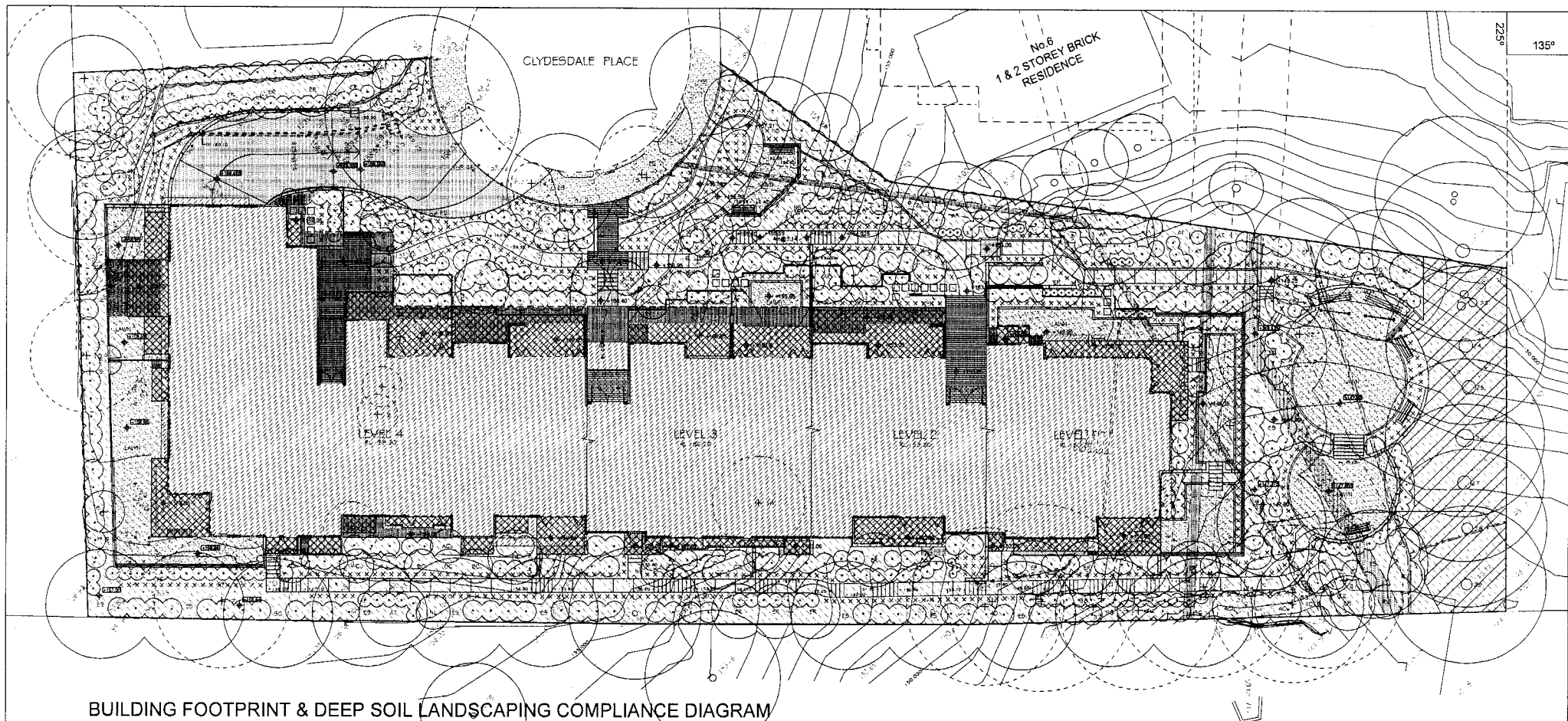
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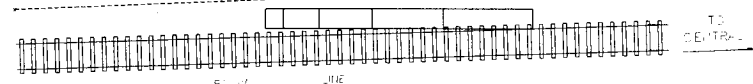
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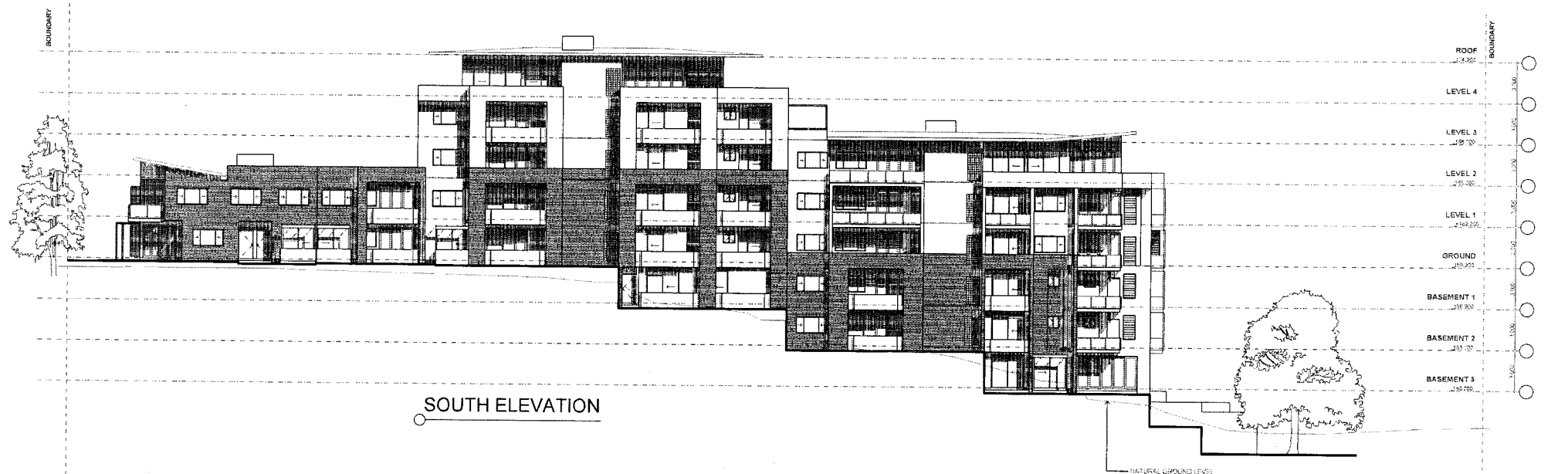
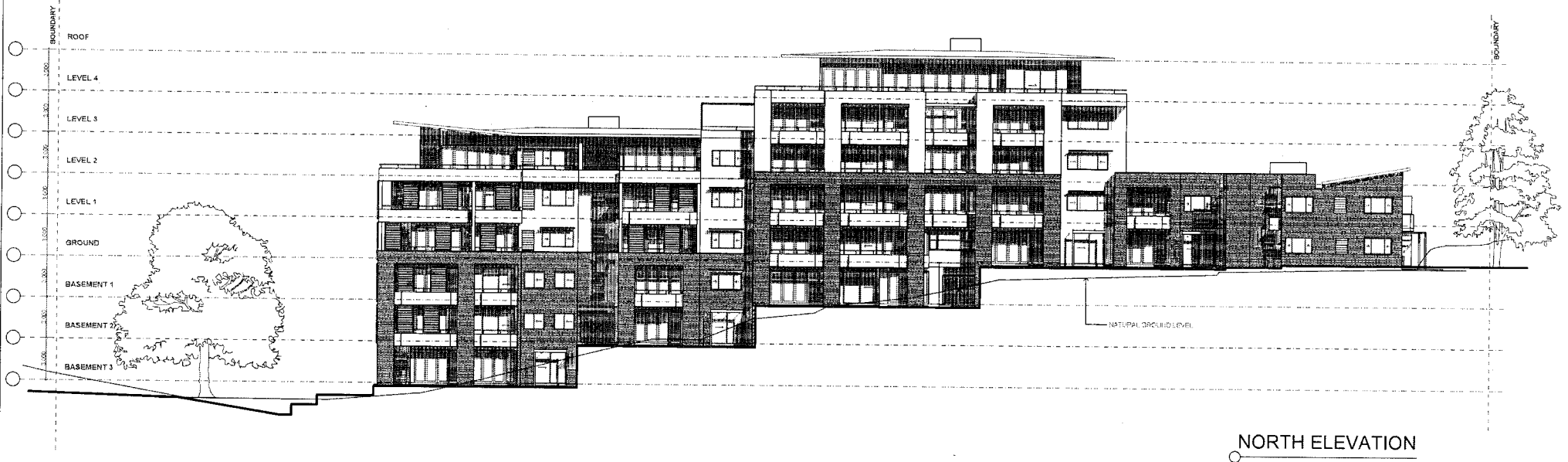
JJ/MMD

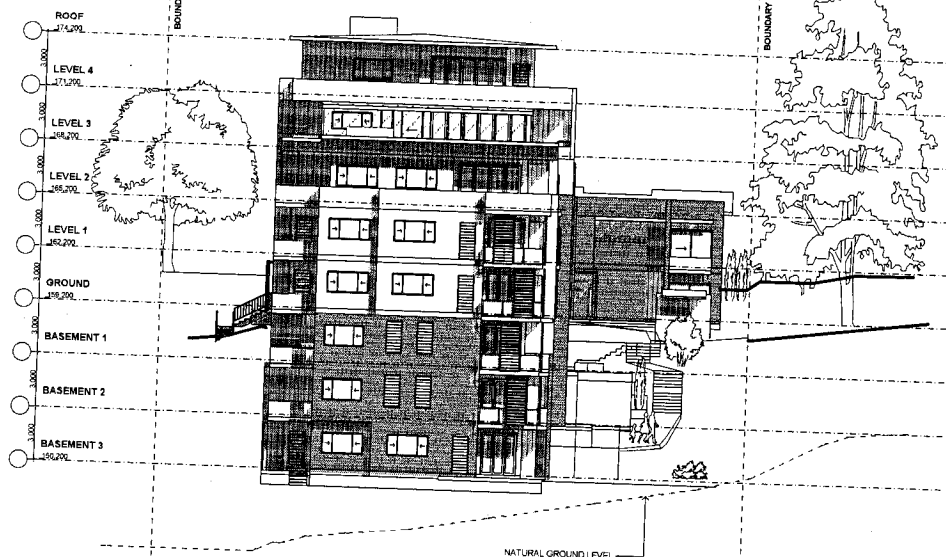


BUILDING FOOTPRINT & DEEP SOIL LANDSCAPING COMPLIANCE DIAGRAM

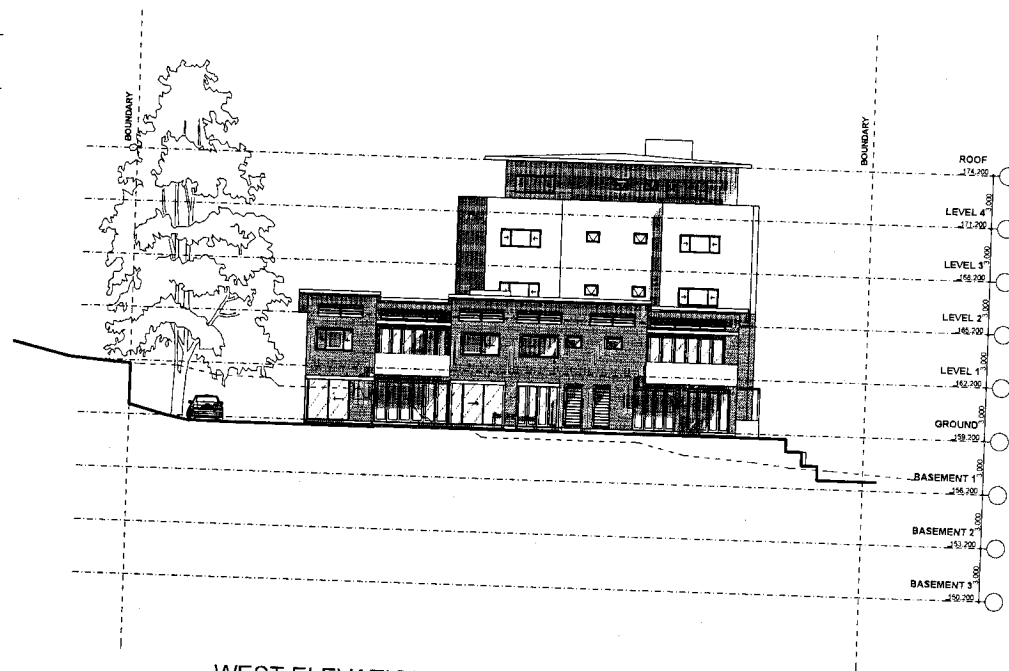
| | |
|------------------------------------------------------|----------------------------------------|
| Site area | 3,518.00 m ² |
| Building footprint / Site coverage | 1,228.68 m ² / 34.9 % |
| Additional basement projection | 134 m ² |
| Additional pavement, driveway & retaining walls | 260.98 m ² |
| Areas less than 2m in width between built structures | 4.99 m ² |
| Underground Pipelines | 85.68 m ² |
| TOTAL BUILT UPON AREA | 1,714.33 m² / 48.7 % |
| Deep soil landscaping area | 1,803.67 m ² / 51.3 % |







EAST ELEVATION



WEST ELEVATION



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| DATE | REV | DESCRIPTION | DATE | REV | DESCRIPTION |
|----------|-----|-------------------|------|-----|-------------|
| 15/10/08 | 1 | COUNCIL AMENDMENT | | | |
| 28/07/08 | 2 | COUNCIL AMENDMENT | | | |
| 11/07/08 | 3 | COUNCIL AMENDMENT | | | |
| 30/06/08 | 4 | COUNCIL AMENDMENT | | | |
| 30/06/08 | 5 | DA | | | |

client
project

BERRY STREET PROPERTIES PTY LTD

Proposed Residential Development
Lots 2, 3 + 4
Clydesdale Place, Pymble, NSW

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t 02 9211 1118 f 02 9211 1008 architects@reservoirs.com.au

drawing

EAST AND WEST ELEVATIONS

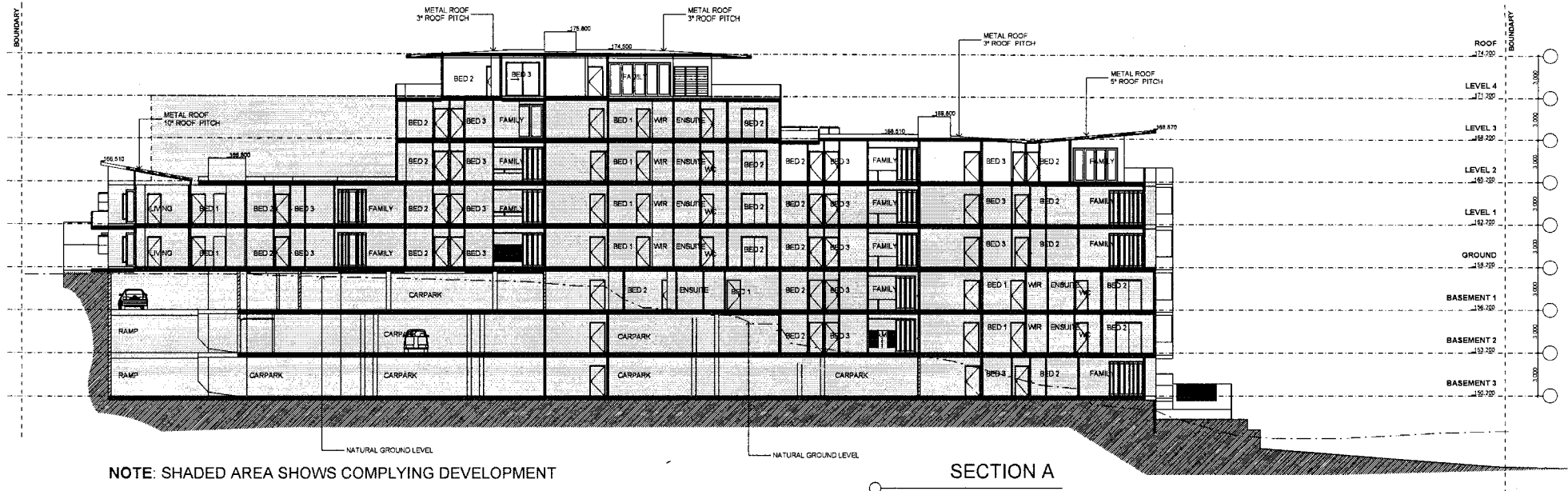
stage DA
job no 05 166
checked by JB
scale 1:100 @ A0
drawn by JJ/MMD

dwg no

202

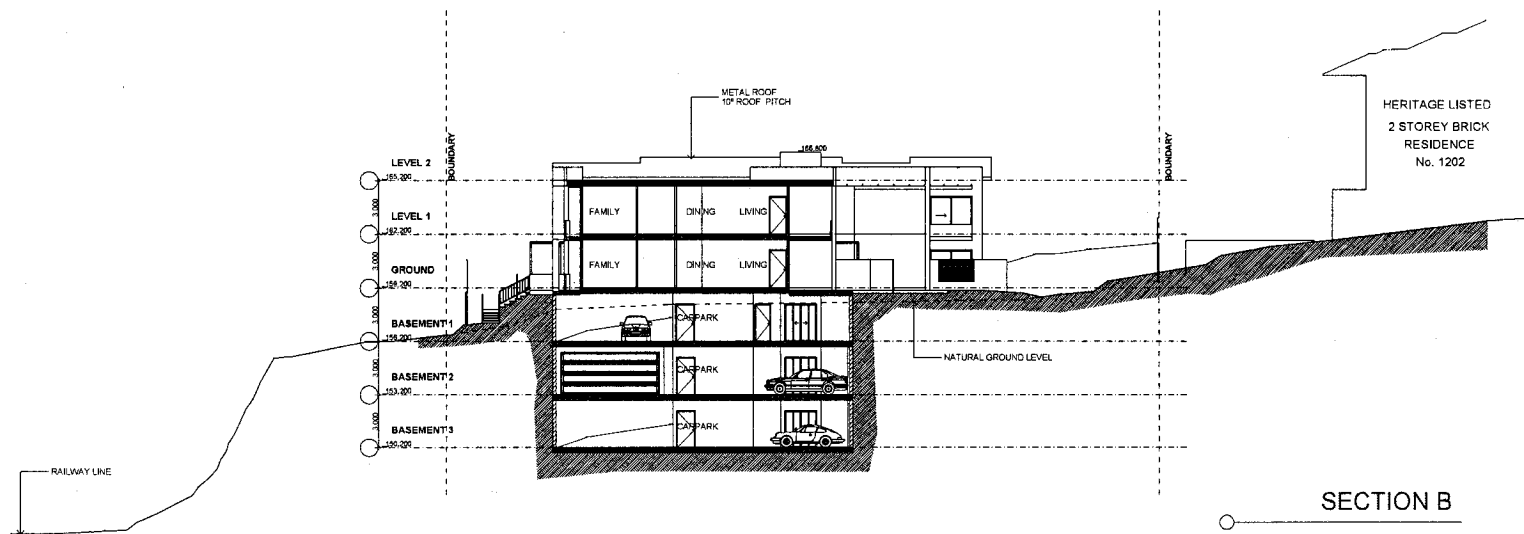
revision

E



SECTION A

NOTE: SHADED AREA SHOWS COMPLYING DEVELOPMENT



SECTION B



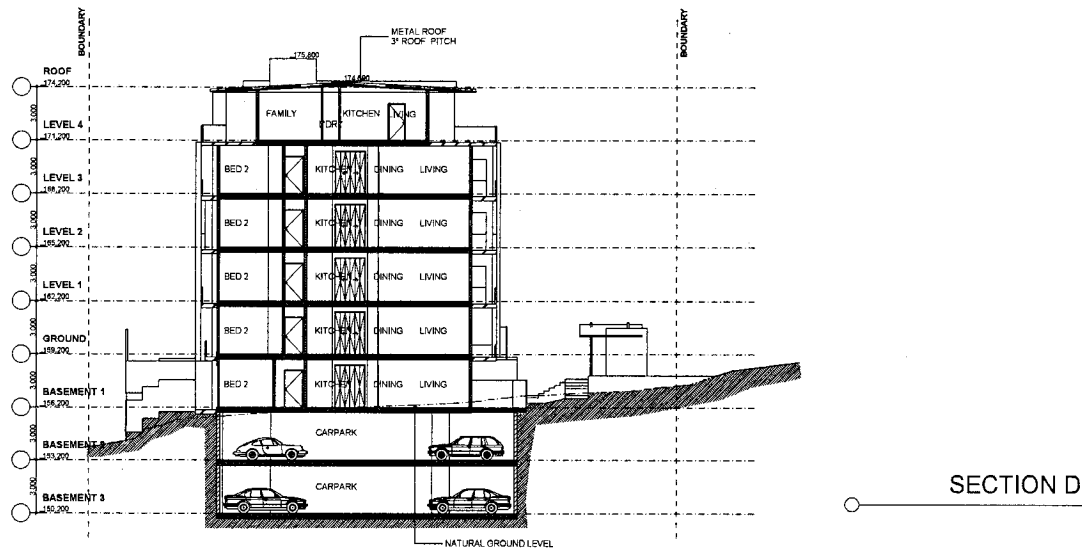
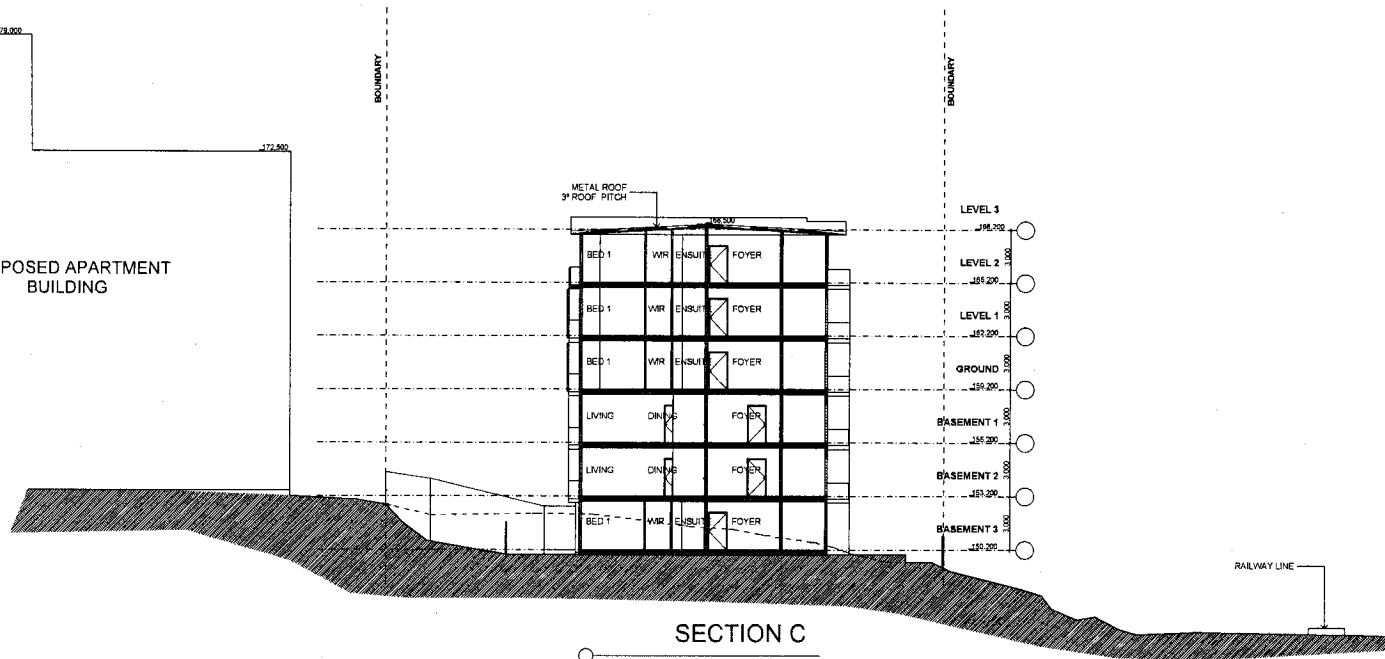
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client
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Lots 2, 3 + 4
Clydesdale Place, Pymble, NSW
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drawing
stage DA dwp no 301 revision B
job no 05 166 scale 1:100 @ A0
checked by JB drawn by JJ/MMD

SECTIONS AA & BB

PROPOSED APARTMENT
BUILDING



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project

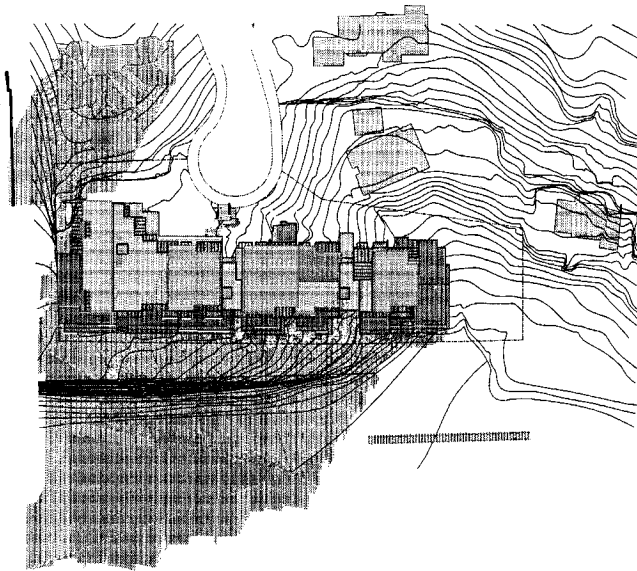
Proposed Residential Development
Lots 2, 3 + 4
Clydesdale Place, Pymble, NSW

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102 9211 1118 102 9211 1008 architects@reservoirs.com.au

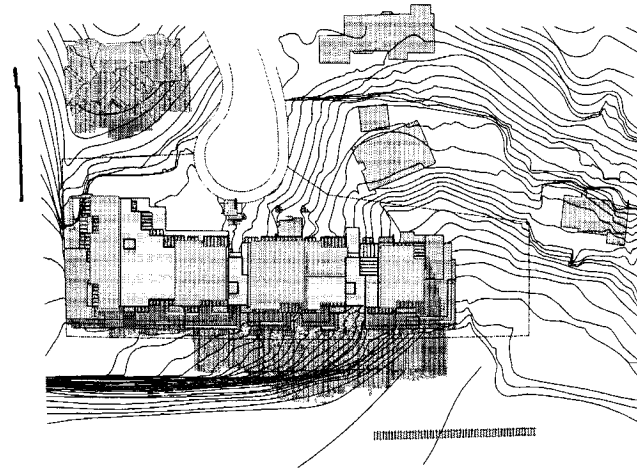
drawing

SECTIONS CC & DD

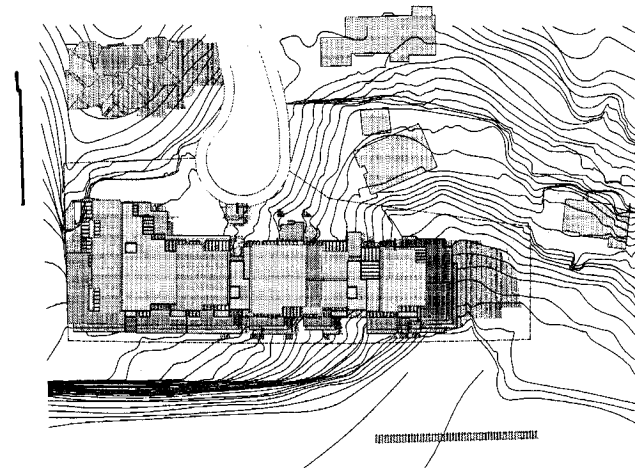
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|------------|--------|----------|------------|----------|---|
| stage | DA | dwg no | 302 | revision | B |
| job no | 05 166 | scale | 1:100 @ A0 | | |
| checked by | JB | drawn by | JJMMD | | |



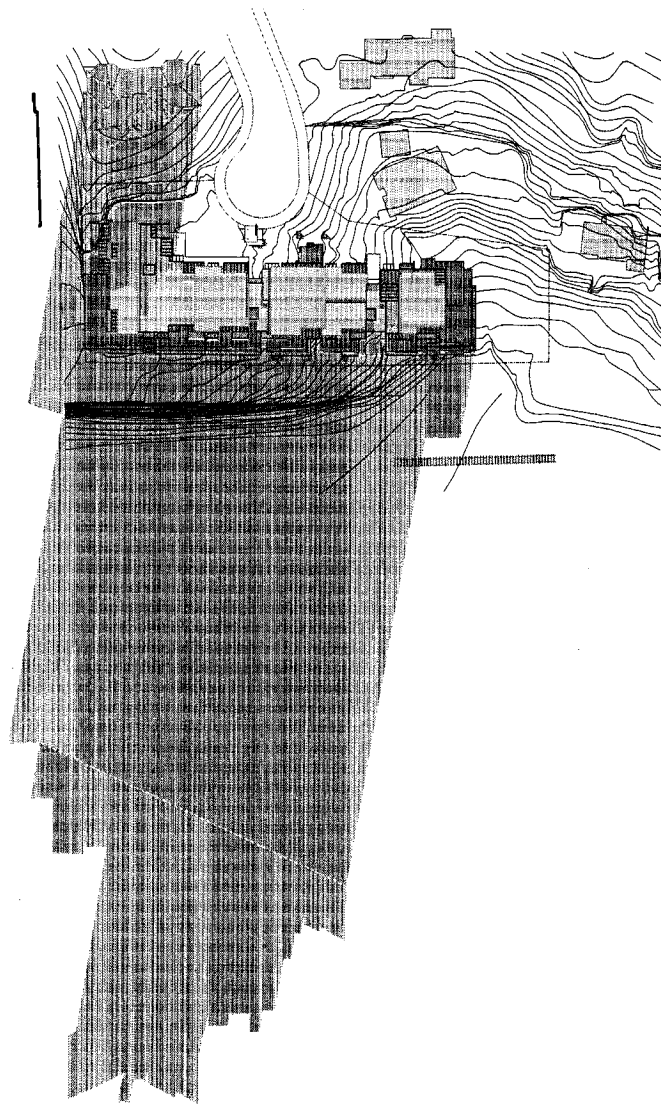
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Scale 1:100



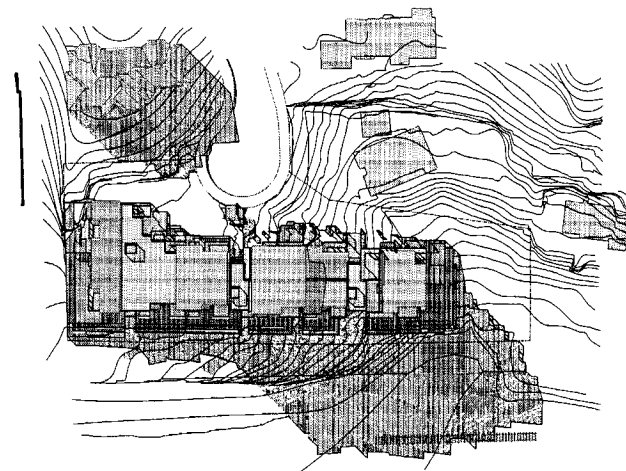
2 March/September 21 - 12:00 pm
Scale 1:100



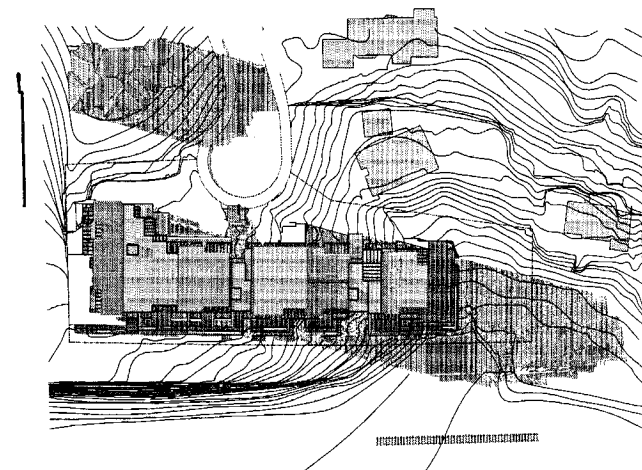
3 March/September 21 - 10:00 pm
Scale 1:100



1 June 22 - 9:00 am
SCA 6 - 408



2 June 22 - 12:00 pm
SCALE 1:100



3 June 22 - 15:00 pm
6000 ft alt



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| | client |
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BERRY STREET PROPERTIES PTY LTD

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Proposed Residential Development
Lots 2, 3 + 4
Clydesdale Place, Pymble, NSW

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| | |
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Shadow Diagrams - June

| | | | |
|------------|----------------------------|----------------------|----------------------|
| stage | DA | dwg no 402 | revision A |
| job no | 05 166 scale | | |
| checked by | JB drawn by <J.J. + M.M.D> | | |



Mr. and Mrs. S and L Christie
1190a Pacific Highway,
Pymble. 2073.

PO Box 539 Balgowlah
NSW 2093 Australia
T: 0408 563 300
F: 02 9948 5466

info@glensidegroup.com.au
ABN 72 003 515 893

Dear Mr. And Mrs. Christie,

Further to discussions held with Meg Levy of Smyth Planning, we confirm our offer to purchase your property by way of a put and call option agreement which, it is proposed, shall be exercisable by either side on the following terms:

1. Purchase Price: \$1,100,000
2. Option Amount: \$10,000
3. Option Period: 18 months
4. Settlement period upon exercise: 3 months
5. Exercise condition: Gazettal by Ku-ring-gai Council of an LEP to include council land to the south of your property in a consolidated site allowing development of your property to achieve an FSR of at least 1.3:1, with access to your land via a driveway from Pacific Highway through council land.
6. Other conditions: Vacant possession on settlement;

Vendor to provide consent to submit applications;

Vendor to provide access for the purchaser's consultants to survey and assess the land as necessary to prepare applications;

Purchaser to provide Option agreement with vendor to provide sale agreement for annexure.

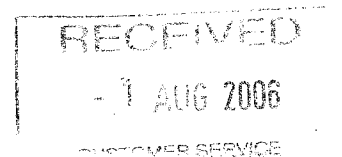
Should you wish to proceed as offered, please sign this letter and return, together with details of your conveyancing solicitor. Please feel free to call me on 0408 56 33 00 should you wish to clarify any aspect of the offer.

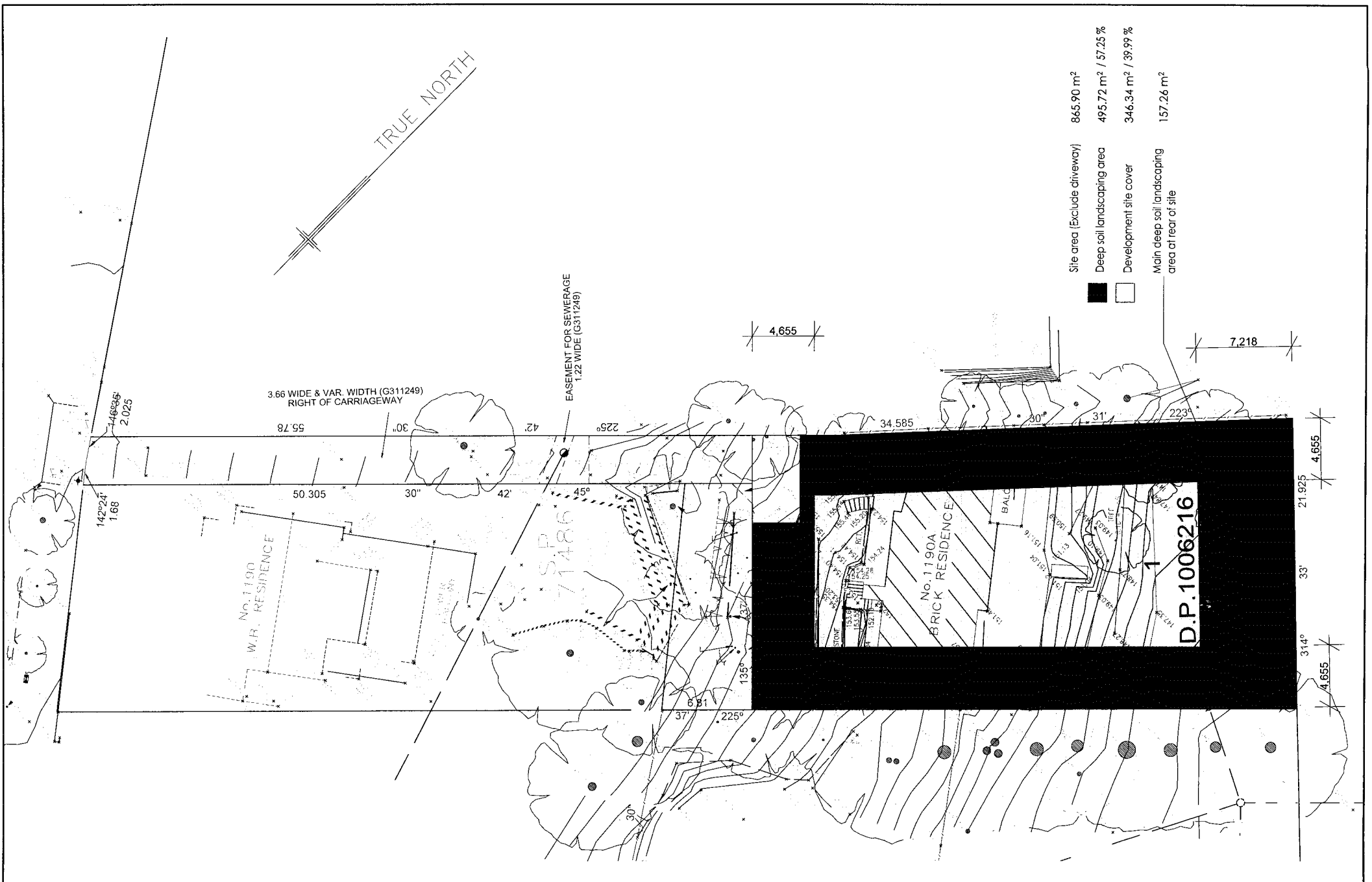
Yours Sincerely,

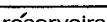
David Hawes.

Director

| | |
|------------|--------|
| FILE No: | 301/06 |
| LETTER No: | 648521 |





| | | | | | | | | |
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| | | project Lots 2, 3 +4 Clydesdale Place, Pymble | job no 05 166 | scale 1:250 | date 03/05/06 | SK | A | |

Item 2

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| REPORT TITLE: | 20 TO 28 TURRAMURRA AVENUE, TURRAMURRA - DEMOLITION OF THE EXISTING STRUCTURES AND CONSTRUCTION OF 38 RESIDENTIAL UNITS WITHIN TWO BUILDINGS |
| WARD: | Wahroonga |
| DEVELOPMENT APPLICATION N^o: | 402/06 |
| SUBJECT LAND: | 20 to 28 Turramurra Avenue, Turramurra |
| APPLICANT: | Carrington Turramurra Two Pty Ltd |
| OWNER: | D&J Hertslet, O Chang & Ai Chu Tien, J Parker, H&J Hodges, M Pierce |
| DESIGNER: | Sandberg Schoffel Architects |
| PRESENT USE: | Residential |
| ZONING: | 2(d3) Residential |
| HERITAGE: | Yes – within close proximity No.2 Nulla Nulla Street, Turramurra. |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | KPSO - 194, DCP 31 - Access, DCP 40 - Waste Management, DCP 43 - Car Parking, DCP 47 - Water Management, DCP 55 - Multi Unit Housing |
| COMPLIANCE WITH CODES/POLICIES: | Yes |
| GOVERNMENT POLICIES APPLICABLE: | SEPP 55, SEPP 65, SREP 20 & BASIX |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 2 May 2006 |
| 40 DAY PERIOD EXPIRED: | 11 June 2006 |
| PROPOSAL: | Demolition of the existing structures and construction of 38 residential units within two buildings |
| RECOMMENDATION: | Approval |

Item 2

DEVELOPMENT APPLICATION N^o 402/06
PREMISES: 20-28 TURRAMURRA AVENUE,
TURRAMURRA
PROPOSAL: DEMOLITION OF THE EXISTING
STRUCTURES AND CONSTRUCTION OF
38 RESIDENTIAL UNITS WITHIN TWO
BUILDINGS
APPLICANT: CARRINGTON TURRAMURRA TWO PTY
LTD
OWNER: D&J HERTSLET, O CHANG & AI CHU TIEN,
J PARKER, H&J HODGES, M PIERCE
DESIGNER SANDBERG SCHOFFEL ARCHITECTS

PURPOSE FOR REPORT

To determine development application No 402/06 which seeks consent for the demolition of the existing structures and construction of 38 residential units within two buildings.

EXECUTIVE SUMMARY

| | |
|---------------------------------------------|----------------------------------------------------------------------------------------|
| Issues: | Minor floor space ratio and façade articulation non compliances. |
| Submissions: | 9 submissions objecting to the development and 1 letter of support with 5 signatories. |
| Land & Environment Court Appeal: | N/A |
| Recommendation: | Approval |

HISTORY

Site history:

The development site has been used for low density residential purposes. There is no history that is relevant to the subject application.

Development application history:

| | |
|-------------|----------------------------------------------------------------|
| 2 May 2006 | Development application lodged. |
| 12 May 2006 | Further information request for: - detailed landscape plan. |

Item 2

| | |
|------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 24 May 2006 | Amended landscape details submitted, showing correct plan reference numbers. |
| 18 July 2006 | Meeting with applicant outlining concerns with landscaping, privacy, wall plane area, basement turning circles and access path. |
| 7 August 2006 | Amended landscaping details received regarding earlier concerns. |
| 22 August 2006 | Meeting with applicant concerning outstanding landscaping issues. |
| 6 September 2006 | Amended landscape plans received addressing earlier concerns raised by Council officers. |

THE SITE AND SURROUNDING AREA

The site

| | |
|----------------------------------|-------------------|
| Zoning: | 2(d3) Residential |
| Visual Character Study Category: | 1920 and 1945 |
| Lot Number: | 1,2,3,4,4,5 |
| DP Number: | 510186 & 11993 |
| Heritage Affected: | Yes |
| Bush Fire Prone Land: | No |
| Endangered Species: | No |
| Urban Bushland: | No |
| Contaminated Land: | No |

The site is located on the western side of Turramurra Avenue, between the intersections of Turramurra Avenue, Null Nulla Street, Turramurra Avenue and Wonga Wonga Street, Turramurra. The site comprises 5 parcels of land and is generally rectangular in shape, measuring 4,347sqm. The site has a frontage of 104.715 metres to Turramurra Avenue. The land falls approximately 6 metres from the south-eastern corner to the north-western corner of the site.

Surrounding development

Development to the north comprises large detached dwellings, predominantly 2 storeys on land zoned 2(c2) Residential. Development to the south comprises single and two storey dwelling's. To the south-east of the site, is 2 Nulla Nulla Street, which is listed as a local heritage item. Further to the south is mixture of single and two storey dwellings. Turramurra Uniting Church is located further south of the subject site, on the western side of Turramurra Avenue. Turramurra retail and commercial precinct, Pacific Highway and the northern railway line are further to the south of the site.

Item 2

THE PROPOSAL

The proposal is for demolition of the existing buildings and structures and the construction of two residential flat buildings, landscaping, stormwater and consolidation of allotments. Strata subdivision is not proposed as part of this development application.

The proposed development is comprised of 36 units within two blocks, as described below:

- Block A will comprise 18 x 3 bedroom apartments
- Block B will comprise 18 x 3 bedroom apartments
- A total of 81 car parking spaces will be provided within 3 basements levels, comprising:
 - 72 residents spaces (including 4 spaces for people with a disability), and
 - 9 visitor spaces (including 1 for people with a disability).
- A single vehicular entry / exit driveway is proposed along Turramurra Avenue between the two buildings.

Amended plans

The applicant amended the design to incorporate additional deep soil landscaping and to address privacy concerns raised by Council staff. This assessment is based on the amended plans, which includes increased planter box width on the upper level, increased deep soil landscaped area and a continuous path/ access around the two buildings.

CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP 56, adjoining owners were given notice of the application. The amended plans were not required to be re-notified, as per Council's Notification DCP 56, as the changes do not result in any greater impacts upon surrounding properties and will result in an improved outcome to that originally proposed. Submissions from the following properties were received:

- *Mr & Mrs Gordon: 18 Turramurra Avenue, Turramurra.*
- *Pantaleo Scalone: 23 Gilroy Road, Turramurra.*
- *C & J Lynch: 16 Turramurra Avenue, Turramurra.*
- *F & J Chen: 21 Gilroy Road, Turramurra.*
- *R Lun & J Lew: 23 Turramurra Avenue, Turramurra.*
- *S McCorquodale: 33 Gilroy Road, Turramurra.*
- *J Treacy: 29 Gilroy Road, Turramurra.*
- *P Hutchinson & S Wrona: 31 Gilroy Road, Turramurra.*
- *R & V Khanna: 30 Turramurra Avenue, Turramurra.*
- *Letter of support with 5 signatories from the property owners of 20-28 Turramurra Avenue, Turramurra*

Item 2

The submissions raised the following issues:

Overshadowing

There will be an increase in overshadowing to the northern elevation of the single dwelling house at 18 Turramurra Avenue. However, existing, sunlight access to the northern elevation windows provides minimal amenity because of the relatively small size of the windows and existing overshadowing, as shown on the shadow diagrams Drawing No. **TR2-AR-CD-024**. The development will improve morning sunlight access to these windows from 1 out of 4 windows receiving sunlight to 3 out of 4 windows because of the increased front and side boundary setbacks.

Some level of increased overshadowing is anticipated given the higher density 2(d3) Residential zoning of the subject site. The impacts have been minimised because of the proposal's compliance with maximum height, side boundary setback and site coverage controls, which, in part, seek to minimise overshadowing impacts.

In addition, this site is also zoned 2(d3) Residential and is likely to be redeveloped in line with surrounding properties which have similar zoning. The development to the west of the subject will retain existing sunlight access on June 21 for a minimum period of three hours from noon. The development will therefore not significantly reduce existing solar amenity.

Privacy

Privacy impacts have been raised by the owners of immediately adjoining properties 21, 23, 31 and 33 Gilroy Road, and 18 and 30 Turramurra Avenue. Privacy concerns have also been raised by the owners of 16 and 23 Turramurra Avenue. The development will not have a significant impact on 16 and 23 Turramurra Avenue properties given the reasonable separation of 18 metres to 30 metres between these properties and the subject site.

The development has compliant side and rear boundary setbacks to ensure there is reasonable separation between the adjoining sites to minimise direct overlooking into private open space and habitable rooms. Boundary planting/ landscaping has also been incorporated to minimise impacts in this regard. The rear balconies have also solid 'up turns' from the floor. This will restrict outlook, particularly from inside the dwelling, further protecting amenity. The rear elevation has a minimum the number of windows which are small in size to reduce impacts. Suitable boundary planting including large and small trees and shrubs will provide reasonable screening. Balconies have been designed to minimise impact, this has been achieved by varying/ minimising their widths and length. This will restrict the number of people using the balconies at any one time. In addition, for the upper levels, planter boxes have been incorporated into the design to reduce the floor area of the balconies, which reduces the usable area and minimised the number of people on the balcony at any one time. To further assist in providing privacy **Condition 51** required fixed windows on the north, southern and western elevation to be of obscure glazing.

Item 2

Impacts during excavation and construction

Conditions of consent are recommended to minimise impacts during the construction process (**Conditions Nos 7, 18, 81**). Such conditions require compliance with noise regulations, suppression of dust during construction and dilapidation reports for the adjoining development. This is also supported by conditions restricting the hours of work and appropriate construction traffic management.

Traffic/ parking

The proposal will not result in any significant detrimental impacts on traffic flow in the surrounding street network. A Construction Traffic Management Plan for the site will be required by condition (**See Condition No 80**). This plan will minimise disruption to traffic on local roads during the construction process including on street car parking.

Building bulk/ scale

LEP 194 and DCP 55 determine the future desired character for land zoned. The building bulk/ scale of the development is satisfactory in this regard as the proposal achieves the key indicators, being the height, maximum number of storeys, site coverage, top floor area, boundary setbacks and deep soil landscaping provisions. These considerations determine the appropriate bulk/ scale of the development. Given its compliance and minimal amenity impacts, the development is acceptable in this regard.

Impacts on heritage items

The impacts to the heritage item are acceptable for the reasons given within this report in the comments from Council's Heritage Advisor.

Setbacks

The setbacks of the development meet the requirements of LEP 194 and DCP 55.

Future development potential of 29 and 33 Gilroy Avenue properties will be reduced

These sites are not 'isolated' from future development in accordance with the provisions of DCP 55. These sites can be development in accordance with the relevant provisions of KPSO and DCP 55. Each application when lodged will be considered against all relevant planning provisions.

Reduced property value

This is not relevant consideration under the EPA Act 1979.

Item 2

Impact on existing trees located on adjoining property (31 Gilroy Avenue)

There is reasonable separation distance of approximately 8m between the proposed construction and the adjoining tree. The building is also located outside the drip line of this tree. In addition, the tree is not indicated for removal and protected under Council's Tree Preservation Order (TPO).

CONSULTATION - WITHIN COUNCIL

Urban Design

Council's Urban Design Consultant made the following comments:

"1.0 Design Review

Principle 1: Context

SEPP 65: Good design responds and contributes to its context.....Responding to context involves identifying the desirable elements of a location's current character, or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies.

Comment:

The proposed site is located one block north of Turramurra Shopping Centre, Turramurra Railway Station and the Pacific Highway.

The site consists of five parcels of land known as 20, 22, 24, 26 and 28 Turramurra Avenue all of which are zoned 2(d3). The site is 104.7 metres wide and has a depth of 41.5 metres.

The built form context is comprised of –

- *On the proposed site, five single and two storey detached residential dwellings fronting Turramurra Avenue.*
- *To the north predominately two storey single detached residential dwellings zoned 2(c2).*
- *To the east, west and south predominately single and two storey single detached residential dwellings zoned 2(d3).*
- *To the south east a heritage listed item under Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.*

The Residential 2(d3) zoning of this site and adjoining sites established the future scale of development on these sites as being 5 storeys maximum. The relationship to the future planned context is acceptable.

Principle 2: Scale

SEPP 65: Good design provides an appropriate scale in terms of the bulk and height

Item 2

that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development.

In precincts undergoing transition proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Comment:

The scale of the proposed building is acceptable, as it complies with the height controls in LEP 194. The proposed buildings each have a length of 34.5 metres to the street front which complies to LEP 194 and DCP 55.

Principle 3: Built form

SEPP 65: Good design achieves an appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.....

Comment:

The building complies with the LEP 194 and DCP 55 setback controls to the lower levels and the top storey.

Principle 4: Density

SEPP 65: Good design has a density appropriate to its site and its context in terms of floor space yields (or numbers of units or residents).....

Comment:

The site coverage is 35%, in compliance with LEP 194. The 5th level occupies 60% of the floor area of the lower floors. There are 36 x 3 bedroom units. The density is acceptable.

Principle 5: Resource, energy and water efficiency

SEPP 65: Sustainability is integral to the design process. Aspects include..... layouts and built form, passive solar design principles,..... soil zones for vegetation and reuse of water.

Comment:

All of living rooms/balconies in the apartments will receive greater than 2 hours sunlight between 9am and 3pm in mid-winter this is above that recommended in the Residential Flat Design Code of 70%. There are no south facing apartments. More than 25% of all the kitchens are located on external walls this complies with the recommendation in the Residential Flat Design Code. All of the apartments are naturally ventilated which is above that recommended

Item 2

in the Residential Flat Design Code of 60%. The development has a deep soil landscaping area of 50% and a water retention system.

Principle 6: Landscape

SEPP 65: Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Comment:

There are insufficient large scale canopied trees in the front setbacks to provide the desired landscape setting for the buildings. The street tree planting is not to be relied upon to provide the landscape setting for the proposed development.

Principle 7: Amenity

SEPP 65: Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts, and service areas, outlook and ease of access for all age groups and degrees of mobility.

Comment:

The proposed development has a high percentage of apartments receiving sunlight and cross ventilation. There are no visual or acoustic issues and the apartments are, overall, efficiently designed.

Principle 8: Safety and security

SEPP 65: Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment:

There are no perceived safety and security issues.

Principle 9: Social dimensions

SEPP 65: Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide

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for the desired future community.

Comment:

The mix of apartments is acceptable.

Principle 10: Aesthetics

SEPP 65: Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Comment:

The proposed development uses a range of material finishes and colours to add interest to the façade. The use of sandstone cladding at the entrance emphasizes the importance of this element. The projecting roof creates a silhouette on the skyline. The aesthetics of the proposed development is acceptable.

2.0 Conclusion and Recommendations

It is recommended that:

- *More large scale canopy trees to be planted in the street setbacks to the proposed buildings (See Conditions 48 and 50).*

The proposal is otherwise acceptable in terms of SEPP 65 design principles, and should be approved in terms of this SEPP 65 assessment."

Heritage

Council's Heritage Advisor made the following comments:

"Applicant's heritage report and existing buildings on the site.

Heritage report is satisfactory and includes a well researched history of the site and has responded to the issues.

Demolition of existing houses is acceptable provided archival recording is undertaken prior to any work commencing. It should be noted that archival recording is a standard condition for all buildings demolished for medium density residential development and it is considered important to prepare records of places in Ku-ring-gai before large scale demolition takes place.

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UCA & CA

The site is not in a UCA but is relatively close to a draft Conservation Area (CA) – “Ku-ring-gai Avenue Turramurra Conservation Area”. The CA is included in draft LEP 21 which has been with the Department of Planning since January 2001. There are no provisions in DCP 55 to deal with sites 'within the vicinity' of a CA. However, the streetscapes in this area are considered to be relatively good quality with a mix of one and two storey buildings set in mature gardens dominated by large gums

Heritage Item at 2 Nulla Nulla Street

This is a single storey Federation house which has an addition (1998) at the northern end that incorporates a lower garage level off Turramurra Avenue. The house is on a large lot with its main entrance in Wonga Wonga Street. The house is set within an attractive garden with a tennis court to the east. The house and garden are in excellent condition.

Other nearby heritage items

Other items are at:

- 40 Turramurra Avenue
- Masonic Hall corner of Pacific Highway and Turramurra Avenue.

Both of these items are out of the visual catchment of this development and, given the controls and guidelines contained in DCP 55, the proposed development would not have any impact on these items. However, the character of the immediate area will go through substantial change consistent with the zoning.

Potential heritage items

The following have been identified as ‘potential items’ but have not been reviewed:

- 18 Turramurra Avenue
- Uniting Church and Manse at 10 Turramurra Avenue

No 18 Turramurra Avenue is similar in age and style to other houses in the street and not particularly distinctive. There appears no reason why it had been identified as a potential item and others not identified. The site had been rezoned 2(d3), and can be developed to a similar density as this development.

The Church and Manse are some distance from the proposed development and it is unlikely that the development would have adverse impacts on it. The adjoining house at No 12 Turramurra Avenue is zoned 2(d3) and its future development may have some impact on the potential heritage item.

Comments

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While the existing houses are similar to others in the street and reflect the type of housing built in the period, they are only representative examples and their loss will not be an issue. Recording of such sites before demolition is appropriate given the level of significance.

Development of this site would impact on the heritage item at 2 Nulla Nulla in that the overall single residential character of the streetscape will change as a result of rezoning. The specific setback controls in DCP 55 do not apply to this development as it is located outside the critical setback area, being located on the opposite side of the street.

With reference to DCP 55, the proposed development would have a scale difference with the nearby heritage item and would be a visually strong element in the streetscape, given the existing low scale of development in the streetscape. The relatively restrained style of these units would assist in fitting into the existing streetscape and having less physical dominance in relation to respecting the heritage item.

The proposed fence relies upon hedges and planting to define the boundaries and this is considered to be an appropriate response to the streetscape context and nearby heritage item.

Conclusions

*Demolition of the existing houses on the site is acceptable provided archival recording of each building is undertaken before works commence on the site (See **Condition No.61**)."*

Landscaping

Council's Landscape Assessment Officer made the following comments

"Site

The site falls gently along Turramurra Avenue to the north from the Pacific Highway approximately 5 metres. Turramurra Avenue has a leafy streetscape and contains remnant eucalypts within the front gardens and along the nature reserve. There are three heritage items within the vicinity of the site, only one of which has a visual link with the proposed development site.

Deep soil

Numerical compliance (50.01%) has been achieved within compliant setbacks.

Tree/ removal/impacts/ tree replenishment

A tree report prepared by Treescan Urban Forest Management, dated April 2006, has been submitted with the following details:

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Number of existing trees to be removed 25 (2 additional street trees on Turramurra Avenue to be removed)

Number of existing trees to be retained 10

Number of canopy trees to be planted 15

Trees to be retained

No significant impacts. Existing levels to be retained within canopy spreads of trees.

Impacts on trees on adjacent properties

Ulmus minor 'Variegata' (Variegated Smooth-leafed Elm) Tree 10/22H, 15S, 600 DBH – canopy pruning will require written permission from adjoining owner.

Trees to be removed

All trees along the front setback are not considered significant and can be removed.

Trees to rear and side boundaries

All other trees around the perimeter and in the middle of the site, proposed to be removed for development are not considered significant. Removal supported.

Street trees– Turramurra Avenue

*Removal of following street trees for underground powerlines is supported. Replacement species to be conditioned (**Refer to Condition 42**).*

Callistemon salignus (Willow Bottlebrush) Tree 1

Acacia baileyana (Cootamundra Wattle) Tree 20

Landscape plan

An on-slab communal courtyard is located between the two buildings. The area has the ramp to the basement car park to its east and a level change of approximately 2 metres to the communal open space area to the west. The area consists of broad steps rising steeply through planted terraces to an upper level, 3 metres higher than the ground floor units of Building A. The proposed terraced walls are 1.5m and 1.7m high which would create a different effect to the terraces shown in the photos. The path crosses a water feature to an area of decking and gravel surrounded by perimeter planting of succulents.

The private ground floor courtyards on the northern side of Building B are 0.5m lower than the communal space. A 1.8m high screen is proposed to provide privacy from the communal open space.

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Private open space

Proposed ground floor private courtyards encroach upon the required 8m setback from the street boundary. To preserve the deep soil planting within the communal area, the private courtyards are to have minimum 8m setback (See Condition No. 74).

Screen planting

Screen planting is proposed as native boundary planting of 5 metres wide along the northern boundary and 3 metres wide along the western and southern boundary. Screen planting to include species 2-4m high. Native shrub and groundcover species to be representative of Blue Gum High Forest Community planting.

General comments

Front fence

Proposed 1.2m high palisade fence to Turramurra Avenue is set back approximately 2 metres from the front boundary to allow for hedge planting along street frontage."

The proposal is supported with conditions.

Engineering

Council's Development Engineer made the following comments:

"The application for the demolition of the existing buildings and structures and the construction and occupation of residential flat buildings comprising 36 dwellings within two detached building each comprising of (18x3br units). Strata subdivision is not proposed.

The following comments are made with regard to engineering and stormwater related issues.

Stormwater disposal

The stormwater disposal system has been prepared by Meinhardt Consulting engineers as shown on drawings 9749 CO102 issue 'C' to 9749 CO105 issue 'A'. The proposal is for a single combined detention and retention tank located under the northern edge of Block A with the system outlet to drain freely to Turramurra Avenue. The calculated retention and detention to be provided is 81m³ and 84m³, respectively, as determined by BASIX and Council's Water Management DCP No.47. A basement pump out system having the rising main directed to the OSD has also been provided. The stormwater disposal system is considered a satisfactory system for this development.

Traffic generation

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A transport report has been prepared by Colston Budd Hunt & Kafes Pty Ltd dated April 2006 Ref. 6230. The development is expected to generate 18 to 24 vehicles per hour two-way during peak hours. This is not expected to have a significant effect on traffic flows in the surrounding street or the amenity of the surrounding road network.

Vehicular access and parking

Vehicular access is proposed from Turramurra Avenue, via a combined entry/exit driveway with site parking provided in basement levels.

Under LEP 194, the parking provisions required for the 36 three bedroom apartments is to have at least one car space per dwelling, one additional car space for each dwelling with three or more bedrooms and at least one additional visitor car space for every four dwellings. The proposal has provided 74 car parking spaces and 9 visitor spaces which comply with the minimum requirements of LEP 194.

All parking space dimensions and minimum height in basement parking areas comply with Australian Standard 2890.1 (2004) "Off-Street car parking".

The parking layout has been revised, with the car spaces near the stair well / electrical switch room to be converted to storage areas. The turning manoeuvrability complies with the B85 design template for vehicles to exit the site in a forward direction.

Waste collection

The garbage room is located at the entry to the basement B0 carpark. The swept paths to access the waste collection area has been designed in accordance with the Council's garbage truck dimensions outlined in DCP No.40 rather than the small rigid truck outlined in (Part 2: Off-Street commercial vehicle facilities) AS 2890.2:2002, which is considered acceptable. The driveway grades are also suitable for the small waste collection vehicle.

Construction management

A detailed Construction and Traffic Management plan will be required prior to commencement of construction detailing the overall construction methodology, process and staging of the works (See Condition No. 73). It is proposed that in order to minimise construction traffic on surrounding residential streets, trucks will approach and depart from the site to/from the Pacific Highway. Traffic control plans will be required for the different stages of the work.

The plan states that on site parking will not be available with on-street work zone anticipated on Turramurra Avenue adjacent to the site. Therefore the site-specific Construction and Traffic Management Plan to be submitted prior to commencement of works is to include an estimate of the number of on-street parking spaces necessary and to nominate an alternative legal on-street location for employee parking.

Geotechnical investigation

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A Geotechnical Report has been prepared by Jeffery and Katauskas Pty Ltd dated 28 April 2006 Ref. 20214SPrpt. As part of the investigation procedure that 5 boreholes were spiral auger drilled to depths between 7.9 and 13.5m below the existing ground surface. The investigation encountered silty clay extending to depths of 2.8m to 3.6m where there was a gradual transition to extremely weathered shale of extremely low strength to becoming very low up to 5.5m in depth.

Excavations for the proposed basement will be required to maximum depths of about 9 metres, which is expected to be readily achievable with conventional earthmoving equipment. The report contains recommendations for vibration monitoring in the event that the use of rock hammers is necessary. All other recommendations during the construction phase shall be carried out as specified within the report.

Recommendations

From an engineering perspective there are no objections to approval of this application. The proposal is supported with conditions.

Building Surveyor

Council's Building Surveyor made the following comments:

"The proposed development is for a residential flat building containing 3 basement car park levels. The proposed development will satisfy the requirements of the Building Code of Australia in regards to construction and fire safety."

STATUTORY PROVISIONS

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development.

Council's Urban Design Consultant has reviewed the application against the 10 design quality principles of SEPP 65 (refer internal referrals). In summary, the development satisfies SEPP 65 in the following ways:

- The development responds to the desired future context given its compliance with the relevant development standards, which direct the desired future natural and built features of the 2(d3) residential zoning,
- The development is of an appropriate scale given its compliance with key indicators; maximum site coverage, maximum height, maximum top floor level and minimum zone interface setback,

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- The development has an appropriate built form given its compliance with the minimum zone interface setback, minimum front boundary setback and for the reasons given by Council's Urban Design Consultant,
- Density is acceptable given the compliance with maximum site coverage, maximum top floor area and number of bedrooms within the units,
- The development is consistent with resource, energy and water efficiency given compliance with BASIX provisions. This will be supported by condition, to ensure all commitments made within BASIX for construction are met,
- Council's Urban Design consultant has requested that more canopied trees be planted in the street setback. **Conditions 48 and 50** ensures appropriate number and size of additional trees are planted to soften the visual impacts of the development. In addition, the development exceeds the minimum number of tall trees to be provided on site, as per DCP 55,
- The development provides reasonable sunlight access, cross ventilation and separation for privacy. There is also minimal impact on adjoining development in terms of privacy and overshadowing impacts,
- The application has been assessed against the Crime Prevention Through Environmental Design 'CPTED' principles there are no significant safety and security concerns. The development in relation to social dimension is acceptable, given the development's close proximity to public transport and Turramurra Shopping centre, particularly within the 2(d3) zone where the housing mix is changing to higher density living, and
- The proposal appropriately responds to the streetscape within the changing environment.

Residential Flat Design Code

The development is consistent with the Residential Flat Design Code (RFDC) given the proposal's general compliance with KPSO and DCP 55. Where there is a non compliance with DCP 55, the development remains consistent with the underlying objectives of the control and the RFDC. The proposal is discussed in more detail under the headings of *SEPP 65*, *KPSO* and *DCP 55*.

State Environmental Planning Policy No.55 – Remediation of Land

SEPP 55 requires Council to consider the development history of a site and its potential for containing contaminated material.

The subject site has historically been used for residential purposes and is unlikely to be affected by contamination.

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Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River.

SREP 20 applies to land within the catchment of the Hawkesbury Nepean River. The general aim of the Plan is to ensure that development and future land uses within the catchment are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

Subject to conditions, the development is will not generate significant additional storm-water and is consistent with the provisions of SREP 20.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

| COMPLIANCE TABLE | | |
|----------------------------------------------------------------------------------------------------|--------------------|----------------------------------------|
| Development standard | Proposed | Complies |
| Site area (min): 1200m ² | 4347m ² | YES |
| Deep landscaping (min): 50% | 50.01% | YES |
| Street frontage (min): 30m Frontage: - Turramurra Avenue | 104.715m | YES |
| Number of storeys (max): 5 | 5 | YES |
| Site coverage (max): 35% or 1521.45m ² | 35% | YES |
| Top floor area (max): 60% of level below | 60% | YES |
| Ceiling height (max): 4 and 13.4m Block A: Max ceiling height: 13.4m | 12.3m | YES |
| Block B: Max ceiling height: 13.4m | 12.3m | YES |
| Car parking spaces (min): 9 (visitors) 36 (residents) 45 (total) | 9 72 81 | YES YES YES |
| Zone interface setback (min): 9m Block A: Third and Fourth Storey (northern boundary) | >9m | YES |
| Manageable Housing (min): 10% | 10% | YES |
| Lift access: required if greater than three storeys | Provided | YES |

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Heritage/ Conservation areas (cl.61D-61I)

To minimise impact to the heritage item at 2 Nulla Nulla Street, Turramurra, Council's Heritage Advisor has suggested that the lower ground floor level of the two buildings be a darker, more recessive, nature to reflect the single storey scale of the item. It was suggested that this could be achieved by using darker colours or face brick construction for the ground floor level.

The applicant has provided varying colours, finishes and materials including a sandstone clad entry which is a characteristic material in the locality. The proposed materials clearly define the building and provide reasonable compatibility with the heritage item. Changing to face brick would not necessarily achieve this goal and would conflict with the remaining finish of the two buildings.

POLICY PROVISIONS**Development Control Plan No.55 – Railway/ Pacific Highway Corridor & St Ives Centre**

| COMPLIANCE TABLE | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|--------------------------|
| Development control | Proposed | Complies |
| Part 4.1 Landscape design: | | |
| Deep soil landscaping (min) <ul style="list-style-type: none"> 150m² per 1000m² of site area = 652.05m² | Approximately 2177.85m ² | YES |
| No. of tall trees required (min): 15 trees | >15 | YES |
| Part 4.2 Density: | | |
| Building footprint (max): <ul style="list-style-type: none"> 35% of total site area | 35% | YES |
| Floor space ratio (max): <ul style="list-style-type: none"> 1.3:1 | 1.365:1 | NO |
| Part 4.3 Setbacks: | | |
| Street boundary setback (min): <ul style="list-style-type: none"> 10-12 metres - Turramurra Ave | 10m-12m | YES |
| Rear boundary setback (min): <ul style="list-style-type: none"> 6m | 6m | YES |
| Side boundary setback (min): <ul style="list-style-type: none"> 6m (southern) >9m (northern) | 6m >9m | YES YES |
| Setback of ground floor courtyards to street boundary (min): | | |

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|----------------------------------|
| <ul style="list-style-type: none"> 8m <p>Turramurra Ave</p> <ul style="list-style-type: none"> - Block A - Block B | <p>8.0m (by condition)</p> <p>8.0m (by condition)</p> | <p>YES</p> <p>YES</p> |
| <p>% of total area of front setback occupied by private courtyards (max):</p> <ul style="list-style-type: none"> 15% - Turramurra Ave | <p>3.13% or 39.35m²</p> | <p>YES</p> |
| Part 4.4 Built form and articulation: | | |
| <p>Façade articulation:</p> <ul style="list-style-type: none"> Wall plane depth >600mm Wall plane area <81m² <p>Building A</p> <ul style="list-style-type: none"> - Turramurra Ave <p>Building B</p> <ul style="list-style-type: none"> - Turramurra Ave | <p>>600mm</p> <p>84m²</p> <p>84m²</p> | <p>YES</p> <p>NO</p> <p>NO</p> |
| <p>Built form:</p> <ul style="list-style-type: none"> Building width < 36m <p>Building A</p> <ul style="list-style-type: none"> - Turramurra Ave <p>Building B</p> <ul style="list-style-type: none"> - Turramurra Ave <ul style="list-style-type: none"> Balcony projection < 1.2m | <p><36m</p> <p><36m</p> <p><1.2m</p> | <p>YES</p> <p>YES</p> <p>YES</p> |
| Part 4.5 Residential amenity | | |
| <p>Solar access:</p> <ul style="list-style-type: none"> >70% of units receive 3+ hours direct sunlight in winter solstice >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice <15% of the total units are single aspect with a western orientation | <p>>70%</p> <p>>50%</p> <p><15%</p> | <p>YES</p> <p>YES</p> <p>YES</p> |
| Visual privacy: | | |

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|-----------------------------------------------------------------------------------------------------|-------------------|-----|
| Storeys 1 to 4 | | |
| • 12m b/w habitable rooms | >12m | YES |
| | >12m | YES |
| • 9m b/w habitable and non-habitable rooms | >6m | YES |
| • 6m b/w non-habitable rooms | | |
| 5th Storey | | |
| • 18m b/w habitable rooms | >30m | YES |
| | >30m | YES |
| • 13m b/w habitable and non-habitable rooms | >30m | YES |
| • 9m b/w non-habitable rooms | | |
| Internal amenity: | | |
| • Habitable rooms have a minimum floor to ceiling height of 2.7m | >2.7m | YES |
| • Non-habitable rooms have a minimum floor to ceiling height of 2.4m | >2.4m | YES |
| • 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms | >3m | YES |
| • Single corridors: - serve a maximum of 8 units | | |
| Block A | | |
| Block B | < 8 units | YES |
| | < 8 units | YES |
| - >1.5m wide | | |
| Block A | | |
| Block B | >1.5m | YES |
| | >1.5m | YES |
| - >1.8m wide at lift lobbies | | |
| Block A | >1.8m | YES |
| Block B | >1.8m | YES |
| Outdoor living: | | |
| • ground floor apartments have a terrace or private courtyard greater than 25m ² in area | >25m ² | YES |

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|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------|
| <ul style="list-style-type: none"> Balcony sizes: - 15m² – 3 bedroom unit NB. At least one space >10m ² | > 15m ² | YES |
| <ul style="list-style-type: none"> primary outdoor space has a minimum dimension of 2.4m | >2.4m | YES |
| Part 4.7 Social dimensions: | | |
| Visitable units (min): <ul style="list-style-type: none"> 70% Manageable Units 10% | 27 or 75% 10% | YES YES |
| Housing mix: <ul style="list-style-type: none"> Mix of sizes and types | 3 bedroom units | YES |
| Part 4.8 Resource, energy and water efficiency: | | |
| Energy efficiency: <ul style="list-style-type: none"> >65% of units are to have natural cross ventilation | > 65% | YES |
| <ul style="list-style-type: none"> 25% of kitchens are to have an external wall for natural ventilation and light | >25% | YES |
| Part 5 Parking and vehicular access: | | |
| Car parking spaces (min): 9 (visitors) 36 (residents) 45 (total) | 9 72 81 | YES YES YES |

Part 3.5 Development within the vicinity of a heritage item:

The development is consistent with the provisions of Part 3.5 by providing the specified setbacks, in that it meets the setback criteria, is sufficient screen planting along boundaries and sufficient separation to ensure the proposal does not dominate the item. The proposed front fence of 1.2m behind hedge planting is not excessive in size and the colours and materials compliment the design of the buildings and streetscape and will not detrimentally affect the item.

Part 4.2 Density:

The proposal exceeds the maximum FSR 1.3:1, by 0.065 or 282m². The applicant has put forward the following justification for the variation:

“The underlying objective of this control is to achieve an appropriate development density that reflects the optimum capacity of the site and the desired future landscape and built character of the area.

The proposal satisfies the underlying objective of the control and is considered satisfactory as outlined below:

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- *The FSR control is a highly prescriptive requirement which does not accurately reflect physical built form. A range of factors determine appropriate built form including height, setbacks, deep soil landscaping and site coverage. The proposal fully complies with the development standards contained within the KPSO for deep soil landscaping and site coverage and the DCP controls for building setbacks and height.*
- *The proposed floor space ratio equates to a variation of approximately 5% compared to the maximum prescribed by the DCP, which is considered insignificant.*
- *The proposal is considered to achieve an appropriate built form and density in response to the characteristics of the site and surrounds."*

The proposed variation of 4.9% is relatively minor. The development still meets the underlying objectives of the control, which are to minimise bulk and scale. This is demonstrated by the proposal's compliance with maximum height and number of storeys, site coverage and deep soil landscape area provisions.

The overall scale of the development is complemented by appropriate landscaping and choice of finished materials, which also serves to reduce the apparent scale/ bulk of the development. In addition, each of the buildings complies with the maximum width requirement and meet and exceed the minimum side boundary set backs requirements. The development is also compliant with the maximum top floor area requirement, which also determines the appropriate bulk and scale of the development.

Despite the non-compliance the development will be comparable to and compatible with the future character of the area, which have been zoned to allow higher density living.

Part 4.4 Built form and articulation:

Built form should be complimented by façade articulation including wall plane depth and area. The development has a wall plane area of greater than 81sqm and is to be constructed of varying materials and finishes. The applicant has put forward the following justification for the variation:

"The underlying objective of this control is to provide an appropriate scale to adjoining development and visually interesting building facades. The proposal satisfies the underlying objective of the control and is considered satisfactory as outline below:

The proposed development is of high architectural quality and provides a variety of articulating elements to create visual interest along the facades of the development, including modulation of colour, texture and materials, large recessed balconies, planters along the edge of the top storey, vertical window orientation and the like.

The proposal provides an appropriate scale which responds to the surrounding lower density development and creates variety and visual interest along all building facades, particularly those facing the street.

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Given the above, the proposal represents an appropriate design response for the site and the minor non compliance with DCP 55 is justified in this regard."

The variation to the maximum wall plane facade is very minor (3m²) and reasonable in this instance. To be consistent with the objectives of this control the design has incorporated a choice of building materials and colours, reasonable articulation of the overall facades, including recessed balconies all of which breaks up the bulk of the facades. Further, both building are less than the maximum width which also minimises the built form/ scale of the building.

In terms of streetscape, the variation is inconsequential. This is supported by Council's Urban Design Consultant, whom accepts the overall design scale/ bulk and aesthetics. In support, there is a reasonable setback of the building from the street and appropriate landscaping of the front boundary setback area, which will obscure the view of the building from the street.

Part 4.5.1 Solar access:

The overshadowing impact is minimal and acceptable for the reasons given earlier in this report.

Part 4.5.2 Visual privacy:

The development is acceptable in this regard for the reasons given under the Privacy objection discussed earlier in this report and subject to **Condition 51**.

Part 5.1 Parking and vehicular access:

The proposal has not provided a car wash bay or bicycle parking. (**Condition 53**) is recommended to ensure compliance with this requirement. There is sufficient area within the basement levels to provide 9 on site bicycle spaces and one car wash bay within a visitor parking space. The proposal is compliant with the remaining considerations under Part 5.1.

Development control Plan 31 - Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against KPSO and DCP 55.

Development Control Plan 40 – Construction and Demolition Waste Management

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55.

Development Control Plan No.43 – Car Parking

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against KPSO and DCP 55.

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Development control Plan 47 – Water Management

Matters for assessment under DCP 47 have been taken into account in the assessment of this application against BASIX and DCP 55. This is supported by recommended conditions of consent.

Section 94 Plan

The development attracts a Section 94 contribution of \$774,958.78 which is based on 36 new apartments (4 x large & 32 x very large dwellings) with credit for 5 existing very large dwellings. This is required to be paid by **Condition No. 56**.

LIKELY IMPACTS

The proposal is unlikely to have any significant impact on the environment, landscape or scenic quality of the locality, threatened species, populations or ecological communities or their habitats or any other protected fauna or protected native plants. The site is neither within a wilderness area nor in an area of critical habit. The site can be adequately landscaped and conditions relating to soil erosion can be imposed. There is unlikely to be any significant impact on the existing or likely future amenity of the neighbourhood.

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

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

PUBLIC INTEREST

The proposal is in the public interest.

CONCLUSION

Having regard to the provisions of s.79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

RECOMMENDATION

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979:

That Council, as the consent authority, grant development consent to for the demolition of existing structures, lot consolidation and the construction of a residential flat development containing two buildings (36 Units), basement car-parking and landscaping at 20-28 Turramurra Avenue,

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Turramurra for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL

- The development must be carried out in accordance with the following stamped approved plans and documentation, except where amended by conditions of consent:

| Plan Nos | Date of Plan | Prepared by: |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------|
| TR2-AR-CD-001 Rev 00, TR2-AR-CD-002 Rev 01 to TR2-AR-CD-008 inclusive, TR2-AR-CD-009 Rev 00 to TR2-AR-CD-010 inclusive, TR2-AR-CD-011 Rev 01, TR2-AR-CD-012 Rev 00 to TR2-AR-CD-021 Rev 00 inclusive, TR2-AR-CD-027 Rev 00, TR2-AR-CD-028 Rev 00 | March 2006 | Sandberg Schoffel Architects |
| <u>Landscape Plans</u> SK01G and SK02E | 23/08/06 & 25/08/06 respectively | EDAW/ AECOM |
| <u>Civil Drawing</u> C0101 Issue C, C0102 Issue C, C0201 Issue B, C0103 Issue A, C0104 Issue A, C0105 Issue A. | 28/04/06 28/04/06 28/04/06 20/04/06 20/04/06 20/04/06 | Meinhardt |

| Document Title | Date of Document | Prepared by: |
|-------------------------------------------|-------------------------|----------------------------------|
| Statement of Environmental Effects | May 2006 | Urbis JHD |
| Arborist Report | April 2006 | Treescan Urban Forest Management |
| Geotechnical | 28 April 2006 | Jeffery and Katauskas Pty Ltd |

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| | | |
|-------------------------------------------|---------------|----------------------------|
| Report- Ref. 20214SPrpt | | |
| BASIX Certificate Cert. No. 68409M | 27 April 2006 | |
| Acoustic Report | 26 April 2006 | Acoustic Logic Consultancy |

2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. To ensure minimal environmental impacts all works are to be carried out in accordance with the BASIX certificate/ commitments lodged for this application.
4. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
5. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
6. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
7. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

 Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.
8. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.

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9. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
10. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
11. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
12. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

13. The developer shall submit to Council a letter from the energy supply authority and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone and power services, prior to the release of the Subdivision Certificate or Occupation. Application may be made to Energy Australia Phone No. 13 1525 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
14. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
15. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
16. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.

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17. Your attention is directed to the operation of the Commonwealth Disability Discrimination Act 1992, which may impose greater obligations on providing access to disabled persons other than compliance with the Building Code of Australia. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone (02) 9284 9600) in respect of your application.
18. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
19. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
20. To ensure minimal streetscape impacts, the lapped and capped front boundary fence and the stone entry wall sign are to be deleted.
21. To ensure minimal streetscape impacts, the side boundary lapped and capped fence forward of the front building line shall have a maximum height of 1.2m. details are to be provided prior to the release of the Construction Certificate

Note: This condition does not relate to the front boundary fence noted on Landscape Plan SKO2E Issue E.

22. Stormwater runoff from all new impervious areas generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. *New* drainage line connections to the street drainage system must conform and comply with the requirements described in sections 5.3 and 5.4 of Ku-ring-gai Council Water Management Development Control Plan 47. The Applicants attention is directed to the requirements for obtaining a *Road Opening Permit* for excavating in the road reserve.

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23. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all relevant BASIX commitments and the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
24. In addition to the mandatory rainwater retention and re-use system provided, an **on-site stormwater detention** system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.
25. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanized grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The channel drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.
26. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.
27. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.
28. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the Applicant receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.
29. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of eth development (including water, phone, gas and the like).

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Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

30. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
31. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
32. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
33. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
34. In order to allow unrestricted access at all times for Ku-ring-gai Council waste collection vehicles into the basement garbage collection area - no doors, grilles, gates or other devices are to be provided in the access driveways to the basement car-park preventing this service.
35. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure. Geotechnical aspects of the development work, namely:
 - Appropriate excavation method and vibration control,
 - Support and retention of excavated faces,
 - Hydrogeological considerations,

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The excavations must be undertaken in accordance with the recommendations of the **Geotechnical Report** prepared by **Jeffery and Katauskas Pty Ltd** dated **28 April 2006 Ref. 20214SPrpt** and all subsequent geotechnical inspections carried out during the excavation and construction phase.

36. Over the course of the works a qualified Geotechnical/hydro-geological Engineer must complete the following:
 - Further geotechnical investigations and testing recommended in the above report(s) and as determined necessary,
 - Further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary,
 - Written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs.
37. Approval must be obtained from all affected property owners, including Ku-ring-gai Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.
38. Removal, or pruning of the following trees is not approved as part of this Development Application. A tree report prepared by Treescan Urban Forest Management, dated April 2006, has been submitted. Tree numbers refer to this report.

Tree/ Location

Ulmus minor'*Variegata*' (Variegated Smooth-leafed Elm)Tree 10

39. Approval is given under this development consent for the following tree works to be undertaken to trees within the subject property:

Tree/Location

Tree Works

| | |
|-----------------------------------------------------------------------|---------|
| <i>Diospyros kaki</i> (<i>Chinese Persimon</i>) Tree 3 | Removal |
| <i>Sapium sebiferum</i> (<i>Chinese Tallow Tree</i>) Tree 7 | Removal |
| <i>Pyrus ussuriensis</i> (<i>Manchurian Pear</i>) Tree 8 | Removal |
| <i>Diospyros kaki</i> (<i>Chinese Persimon</i>) Tree 9 | Removal |
| <i>Acer buegeranum</i> (<i>Trident Maple</i>)Tree 11 | Removal |
| <i>Cupressus torulosa</i> (<i>Bhutan Cypress</i>) Tree 13 | Removal |
| <i>Lagerstroemia indica</i> (<i>Crepe Myrtle</i>) Tree 14 | Removal |
| <i>Acer buegeranum</i> (<i>Trident Maple</i>)Tree 15a | Removal |
| <i>Gleditsia triacanthos</i> (<i>Honey Locust</i>) Tree 16 | Removal |
| <i>Eucalyptus nicholii</i> (<i>Small Leaved Peppermint</i>) Tree 17 | Removal |
| <i>Toona ciliata</i> (<i>Red Cedar</i>) Tree 19 | Removal |
| <i>Leptospermum petersonii.</i> (<i>Tea-tree</i>) Tree 21 | Removal |
| <i>Celtis australis</i> (<i>Nettle Tree</i>) Tree 22 | Removal |
| <i>Acer palmatum</i> (<i>Japanese Maple</i>)Tree 23 | Removal |
| <i>Archontophoenix alexandrae</i> (<i>Alexander Palm</i>)Tree 27 | Removal |

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| | |
|----------------------------------------------------|---------|
| <i>Syzygium paniculatum</i> (Brush Cherry) Tree 32 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 35 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 36 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 37 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 38 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 39 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 40 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 41 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 42 | Removal |
| <i>Acer buegeranum</i> (Trident Maple)Tree 43 | Removal |

40. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work.

Tree/location

Time of inspection

| | |
|---------------------------------------------------|------------------------------------------|
| All existing trees located on site being retained | Prior to demolition |
| | At the completion of demolition |
| | Prior to excavation works |
| | At the completion of excavation works |
| | Prior to the start of construction works |
| | At monthly intervals during construction |
| | At the completion of construction works |
| | At the completion of all works on site |

41. Canopy pruning of the following tree/s which may be necessary to accommodate the approved building footprint shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate. All other branches are to be tied back and protected during construction as recommended in the arborist report, under the supervision of a qualified arborist.

Tree/Location

Fraxinus chinensis (Chinese Ash) Tree 4
Melaleuca styphelioides (Prickly Paperbark) Tree 34
Syzygium paniculatum (Brush Cherry) Tree 31
Syzygium paniculatum (Brush Cherry) Tree 33

42. REMOVAL/PRUNING of the following tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced Tree Removal Contractor/Arborist holding Public Liability Insurance amounting to a minimum cover of \$10,000,000.

Tree/Location

Callistemon salignus (Willow Bottlebrush)Tree 1
Acacia baileyana (Cootamundra Wattle) Tree 20

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43. Root pruning of the following tree/s which may be necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate:

| Tree/Location | Tree Works |
|-----------------------------------------------------------------------|--------------|
| <i>Fraxinus chinensis</i> (Chinese Ash) Tree 4 | Root pruning |
| <i>Ulmus minor</i> 'Variegata' (Variegated Smooth-leafed Elm) Tree 10 | Root pruning |

44. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate

45. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

| Tree/Location | Radius From Trunk |
|---------------------------------------------------------------------------------|-------------------|
| <i>Fraxinus chinensis</i> (Chinese Ash) Tree 4 | 4m |
| <i>Ulmus minor</i> 'Variegata' (Variegated Smooth-leafed Elm) Tree 10 | 7m |
| <i>Cupressus macrocarpa</i> 'Conybearii Aurea' (Weeping Golden Cypress) Tree 15 | 4m |
| <i>Syzygium paniculatum</i> (Brush Cherry) Tree 31 | 4m |
| <i>Syzygium paniculatum</i> (Brush Cherry) Tree 33 | 6m |
| <i>Melaleuca styphelioides</i> (Prickly Paperbark) Tree 34 | 5m |

46. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

47. Following removal of Tree 1 and 20 from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council at no cost to Council.

48. The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Turramurra Ave as an evenly spaced avenue planting. The tree/s used shall be a minimum 25 litres container size specimen/s trees:

| Tree Species | Quantity |
|-----------------------------|----------|
| <i>Angophora floribunda</i> | 6 |

49. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

50. The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's

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Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

CONDITIONS TO BE COMPLIED WITH PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

51. In order to preserve the privacy of adjoining properties to the west, south and north, the following amendment is necessary:

- a) The fixed glazed windows on the northern, southern and western elevations of both buildings must incorporate opaque glazing panels.

Details of the above privacy measures are to be submitted with the application for a Construction Certificate.

52. All overhead electricity and other lines (existing and proposed) shall be under-grounded from the proposed buildings on the site to the appropriate power pole(s) or other connection points, in accordance with the requirements of Energy Australia. Details to be shown on plans submitted with the Construction Certificate (Reason: To provide infrastructure that facilitates future improvement of the streetscape by relocation of overhead lines below ground).
53. To ensure compliance with council's bicycle parking and car wash bay provisions. The development must provide a minimum of eight (8) bicycle parking spaces and one (1) visitor bicycle parking space. The bicycle spaces must be designed in accordance with AS2890.3. At least one visitor parking space is to be provided with a tap for purposes of car washing. Details of the bicycle parking and car wash spaces are to be clearly marked on the plans submitted for the Construction Certificate.
54. A minimum of four (4) of the proposed apartments are to be designed with accessible features for disabled persons, and to incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and level door handles and taps: such features to be designed generally in accordance with AS1428.1 and AS 4299-1995- Adaptable Housing, Details demonstrating compliance are to be submitted with the Construction Certificate (*Reason: to ensure equity of access and availability of accommodation in the future for an ageing population*).
55. Twenty seven (27) of the proposed apartments are to be 'visitable housing units' in accordance with the requirements of AS4299. These apartments are to be visitable by people who use wheelchairs. There must be at least one wheelchair accessible entry and path of travel to the living area and to a toilet that is either accessible (meeting the floor space requirements described in AS 1428.1) or visitable toilet (minimum space of 1250mm in front of the toilet that is either accessible or visitable, Details demonstrating compliance are to be submitted with the Construction Certificate (Reason: to ensure equity of access and availability for disabled persons)).

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56. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF 36 ADDITIONAL DWELLINGS IS CURRENTLY \$774,958.78. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

| | |
|---------------------------------------------------------|------------|
| 1. Community Facilities (If Seniors Living \$412.07) | \$1 117.76 |
| 2. Park Acquisition and Embellishment Works | |
| - Turramurra/Warrawee | \$4 723.00 |
| - Wahroonga | \$6 574.28 |
| 3. Sportsgrounds Works | \$1 318.32 |
| 4. Aquatic / Leisure Centres | \$ 27.82 |
| 5. Traffic and Transport | \$ 150.28 |
| 6. Section 94 Plan Administration | \$ 100.04 |

To obtain the total contribution figure the following table of occupancy rates is to be used:

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

| | |
|--------------------------------------|--------------|
| Small dwelling (under 75 sqm) | 1.27 persons |
| Medium dwelling (75 - under 110 sqm) | 1.78 persons |
| Large dwelling (110 – under 150sqm) | 2.56 persons |
| Very Large dwelling (150sqm or more) | 3.48 persons |
| New Lot | 3.48 persons |
| SEPP (Seniors Living) Dwelling | 1.3persons |

57. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

58. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:

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- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
- b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
- c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
- d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

59. Building Design requirements for Building Code of Australia:

Classification: Class 2 (Residential Portion of building), Class 7 (Basement Car Park Levels)

Rise in Storey: Block A Five (5), Block B Five (5)

Type of Construction: Block A Type A Construction, Block B Type A Construction

60. Prior to the release of the Construction Certificate, the applicant shall provide to Council or an Accredited Certifier a list of Fire Safety feature to be provided to the proposed development. Council or the Accredited Certifier shall issue a **“fire safety schedule”** with the Construction Certificate specifying the fire safety measures that shall be implemented in the building premises.
61. An archival report of the existing dwellings to be demolished is to be submitted to and approved by Council’s Heritage Advisor prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognized consultants or other suitably qualified persons who have knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report. Three copies of the report must be submitted, one copy with negatives.

All photographs to be to be mounted, labeled and cross-referenced to the relevant site plan and floor plans and showing position of camera. Photographs of the following:

- each elevation and selected interiors
- all structures on site such as sheds, outhouses and significant landscape features
- several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

- title page
- statement of reasons the recording was made
- site plan showing all structures on site
- sketch of the floor plan showing the location of the camera for each photograph

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- Black & White archival quality photographs, contact prints and selected prints (one copy of negatives other copies with contact sheets and selected prints).

Digital images and CDs may be submitted as supplementary information.

62. Prior to issue of the Construction Certificate the applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate. This condition is imposed to ensure continuous structures will not be placed across separate titles.
63. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
64. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways *inside* the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels. The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

65. Prior to issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements clearly dimensioned. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

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- a) All parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply in full with Australian Standard 2890.1 – 2004 “Off-street car parking”.
- b) A clear height clearance of 2.5 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement.
- c) No doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area.

The vehicle access and accommodation arrangements are to be constructed in accordance with the certified plans.

- 66. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document “*Managing Urban Stormwater – Soils and Construction, Volume 1*” (2004) . A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.
- 67. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
 - Exact location and reduced level of discharge point to the public drainage system.
 - Full layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems. Where proprietary products are to be used, manufacturer specifications or equivalent shall be provided.
 - Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments.
 - Details of the required **on-site detention** tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, locations, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements).
 - The required basement stormwater pump-out system to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design).

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management

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Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based on the **Stormwater Layout shown on drawings 9749 CO102 issue 'C' to 9749 CO105 issue 'A'** prepared by **Meinhardt Consulting Engineers** submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

68. Prior to issue of the Construction Certificate the Applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate. Any structures or other requirements of Energy Australia shall be reflected on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.
69. Prior to issue of the Construction Certificate the applicant must make contact with all relevant utility providers whose services will be impacted upon by the approved development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifying Authority, must be obtained. All utility services or appropriate conduits for the same, including electricity, gas, telephone, water and sewerage must be provided by the developer in accordance with the specifications of those supply authorities.
70. The Applicant must carry out the following infrastructure works in the Public Road:
 - a. construct a footpath along the frontage from No. 20 to No.28 Turramurra Avenue.

Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*.

To obtain consent under the *Roads Act 1993* for the infrastructure works on Council property, full engineering drawings (plans, sections and elevations) and specifications for the infrastructure works are to be prepared by a suitably qualified and experienced consulting civil engineer. These must be submitted and approved by Council prior to issue of the Construction Certificate. Construction of the works must proceed in accordance with any conditions attached to the Council *Roads Act 1993* approval.

All works are to be designed in accordance with Council's "Specification for Road and Drainage Works". In addition, the drawings must detail existing services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998).

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NOTE 1: A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate.

NOTE 2: An engineering assessment fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees.

NOTE 3: Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

71. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

72. An amended, detailed plan and specification of the proposed landscape works for the site shall be prepared by a Landscape Architect or qualified Landscape Designer. The plan and specification must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The landscape works shall be carried out and installed in accordance with the approved landscape plan/s.

The following amendments to the plan are required:

- Landscape Plan to be drawn at 1:100 scale
- Tree 22 is identified by Council in its Weed Management Policy as an Urban Environmental Weed and is to be removed.
- Existing levels are to be retained beneath the canopy drip lines of all trees to be retained on site and adjoining properties. No retaining walls are permitted other than the ones indicated on the Landscape Plan.
- Proposed planting of all canopy trees to be minimum 5 metres from the building.
- One additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted, to Building A along western site boundary, north of Tree 4.
- One additional tall endemic canopy trees capable of attaining a minimum height of 13m are to be planted, to Building A along western site boundary, west of Unit A102.
- One additional endemic canopy trees capable of attaining a minimum height of 13m are to be planted, to Building A along northern site boundary, north of Unit A103.
- Proposed drainage pits and grates to be shown.
- Proposed planting of *Cupressus sp.* is not to include *Cupressocyparis x leylandii* (Leyland Cypress).

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- Proposed planting of *Angophora costata* (Sydney Red Gum) to front setback to be substituted with *Eucalyptus saligna* (Sydney Blue Gum).
- To improve landscape amenity and privacy of central communal open space, raised planters to continue along entire length of southern boundary of space, excluding access at south-east corner. Proposed shrub planting to be replaced with 4 small evergreen trees interspersed with shrub planting to 2m high. Planting to southern side of communal open space to be in raised planter with 800mm minimum soil depth not including sub surface drainage requirements.
- On-slab planting areas to be shown. Details of on-slab planting to be provided. Tree planting to central communal open space to have 1.3m minimum soil depth not including sub surface drainage requirements.
- Proposed groundcover planting to raised planter at western end of communal open space to be replaced with layered shrub and groundcover planting that can attain 2-3 metres in height.
- Proposed native screen planting to site boundaries of *Banksia ericifolia* and *Banksia serratifolia* to be substituted with species that are representative of Blue Gum High Forest Community such as *Pittosporum revolutum*, *Dodonaea triquetra*, *Notelaea longifolia* and *Ziera smithii*. Screen planting to site boundaries to be layered consisting of medium shrubs(2-4m high), large shrubs (4-6m high), small trees(6-10m high), and large trees(12-20m high).

73. The Construction Certificate shall not be released until an amended Site Management Plan is prepared by a suitably qualified professional and approved by the Principal Certifying Authority. The plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The site works shall be carried out and installed in accordance with the approved Site Management Plan/s.

The plan shall indicate the location of services, erosion and drainage management, tree protection measures including tree protection zones, areas nominated for storing materials, site access, construction access requirements and where vehicle parking is proposed during construction.

The following amendments to the plan shall apply:

To preserve the following tree, site management plan to be amended to located site access from Turramurra Avenue outside specified radius of tree. Tree Protection zones to be amended to comply with conditions of consent.

| Tree/Location | Radius From Trunk |
|-----------------------------------------------------------------------------------|-------------------|
| <i>Cupressus macrocarpa</i> 'Conybearii Aurea' (Weeping Golden Cypress)Tree 15 | 4m |

74. To maximise landscape amenity for the site, the following private courtyards are to be amended to ensure that proposed screen planting and tree replenishment is within the ownership of the body corporate. The amended plan must be submitted to, and approved by the Principal

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Certifying Authority prior to the release of the Construction Certificate. The private courtyards are to be reduced in size as detailed by the following;

- The private courtyard for Units A101 and B101 are to not encroach closer than 8.0m to front boundary. 1.8m high screens are to not encroach closer than 8.0m to front boundary.
 - The private courtyard for Units A104 and B104 are to not encroach closer than 8.0m to front boundary. 1.8m high screens are to not encroach closer than 8.0m to front boundary.
 - The private courtyard for Units A104 and A103 are to not encroach closer than 8.0m to northern site boundary. 1.8m high screens are to not encroach closer than 8.0m to northern boundary.
 - The private courtyard for Units A103 and B103 are to not encroach closer than 4.0m to western site boundary. 1.8m high screens are to not encroach closer than 4.0m to northern boundary.
 - The private courtyard for Units A102 and B102 are to not encroach closer than 4.0m to northern boundary. 1.8m high screens are to not encroach closer than 4.0m to northern boundary.
75. To provide sufficient viable deep soil landscape area, stormwater pipelines are to be located outside of the zone of influence of tree roots at natural growth. The amended plan must be submitted to, and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.
76. The property shall support a minimum number of 15 canopy trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, the existing tree/s, and 12, additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to the Principal Certifying Authority and approved by a Landscape Architect or qualified Landscape Designer prior to release of Construction Certificate. Twenty five percent (25%) of the canopy trees to be planted are to be locally occurring native trees.
77. A CASH BOND/BANK GUARANTEE of \$10 000 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have been satisfactorily established and maintained.

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

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78. A CASH BOND/BANK GUARANTEE of \$10 000 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

The bond will be returned following issue of the Occupation Certificate, provided the trees are undamaged.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent, or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

| Tree/Location | Bond Value (\$) |
|------------------------------------------------------------------------------------|-----------------|
| <i>Cupressus macrocarpa</i> 'Conybearii Aurea' (Weeping Golden Cypress) Tree 15 | \$2500 |
| <i>Syzygium paniculatum</i> (Brush Cherry) Tree 31 | \$2500 |
| <i>Syzygium paniculatum</i> (Brush Cherry) Tree 33 | \$2500 |
| <i>Melaleuca styphelioides</i> (Prickly Paperbark) Tree 34 | \$2500 |

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

79. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
80. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

1. A plan view of the entire site and frontage roadways indicating:

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

2. Traffic Control Plan(s) for the site

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- All traffic control devices installed in the road reserve must be in accordance with the RTA publication "Traffic Control Worksite Manual" and be designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.

- Light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The *Construction and Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

81. Prior to the commencement of any works on site the applicant shall submit to Ku-ring-gai Council a full dilapidation report on the visible and structural condition (**including a photographic record**) of the following public infrastructure:

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- a) Full road pavement width, including kerb and gutter, of Turramurra Avenue over the site frontage, including the full intersection.
- b) All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both via photo and in written format) *existing* damaged areas on the aforementioned infrastructure so that:

- Council is fully informed when assessing any damage to public infrastructure caused as a result of the development, and
- Council is able to refund infrastructure damage bonds, in full or parts thereof, with accuracy.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this respect, the infrastructure damage bond lodged by the subject developer may be used by Council to repair damage regardless. A written acknowledgment from Council engineers must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

82. Prior to the commencement of any works on site the Applicant must submit, for approval by the Principal Certifying Authority (with a copy forwarded to Council) a full dilapidation report on the visible and structural condition of all neighbouring structures at No.18 and No. 30 Turramurra Avenue.

The report must be completed by a consulting structural/geotechnical engineer. Upon submitting a copy of the dilapidation report to Council (or certification that no report is required), a written acknowledgment from Council development engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

83. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s, is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

| Tree/Location | Radius in Metres |
|--------------------------------------------------------------------------------|------------------|
| <i>Acer palmatum</i> (Japanese Maple)Tree 2 | 3m |
| <i>Fraxinus chinensis</i> (Chinese Ash) Tree 4 | 4m |
| <i>Cupressus sempervirens</i> 'Stricta' (Slender Italian Cypress)Tree 5 | 3m |
| <i>Cupressus sempervirens</i> 'Stricta' (Slender Italian Cypress)Tree 6 | 3m |
| <i>Cupressus macrocarpa</i> 'Conybearii Aurea' (Weeping Golden Cypress)Tree 15 | 3m |
| <i>Archontophoenix alexandrae</i> (Alexander Palm)Tree 28 | 3m |
| <i>Archontophoenix alexandrae</i> (Alexander Palm)Tree 29 | 3m |

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| | |
|------------------------------------------------------------|----|
| <i>Syzygium paniculatum</i> (Brush Cherry) Tree 31 | 4m |
| <i>Syzygium paniculatum</i> (Brush Cherry) Tree 33 | 6m |
| <i>Melaleuca styphelioides</i> (Prickly Paperbark) Tree 34 | 4m |
| <i>Macadamia tetraphylla</i> (Macadamia) Tree 44 | 4m |

84. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding the proposed building, is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

| Tree/Location | Radius in Metres |
|-----------------------------------------------------------------------|------------------|
| <i>Ulmus minor</i> 'Variegata' (Variegated Smooth-leafed Elm) Tree 10 | 5m |
| <i>Fraxinus chinensis</i> (Chinese Ash) Tree 4 | 4m |

85. The tree protection fence shall be constructed of galvanised pipe at 2.4 metres spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
86. Prior to works commencing tree protection signage is to be attached to each tree Protection Zone and displayed in a prominent position and the sign repeated at 10m intervals or closer where the fence changes direction. Each sign shall advise in a clearly legible form, the following minimum information:
1. Tree Protection Zone
 2. This fence has been installed to prevent damage to the trees and their growing environment both above and below ground, and access is restricted.
 3. If encroachment or incursion into this Tree Protection Zone is deemed to be essential the consulting Arborist should be informed prior to the undertaking of such works
 4. Name, address, and telephone number of the developer.
87. Prior to works commencing the area of the Tree Protection Zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood, The depth of mulch and type as indicated, to be maintained for the duration of the project & Principal Certifying Authority.
88. Upon completion of the installation of the required tree protection measures you are required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

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CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

89. A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, before a final occupation certificate can be issued for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:

- Forwarded to Ku-ring-gai Council.
- Prominently displayed in the building.

90. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at:

- a) 18 Turramurra Avenue and 30 Turramurra Avenue.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.

91. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:

- New concrete driveway crossing in accordance with levels and specifications issued by Council.
- Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
- Full repair and resealing of any road surface damaged during construction.
- Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.

All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

92. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

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The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

93. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.
94. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):
 - a) A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
 - b) A copy of any works-as-executed drawings required under this consent
 - c) The Engineer's certification of the as-built system.

This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

95. Prior to issue of the Occupation Certificate all approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council stamped *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved to the full satisfaction of Ku-ring-gai Council in the interests of ensuring quality of work involving public assets. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council stamped drawings. The works must be subject to inspections by Council at the hold points noted on the *Roads Act* approval. All conditions attached to the approved drawings for these works must be met in full prior to the Occupation Certificate being issued.

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96. Prior to issue of the Occupation Certificate any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.
97. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.
98. Prior to issue of an Occupation Certificate the applicant must submit certification from a suitably qualified and experienced traffic/civil engineer to the Principal Certifying Authority. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:
- a) That the as-constructed car-park complies with the approved Construction Certificate plans,
 - b) That the completed vehicle access and accommodation arrangements comply in full with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions provided,
 - c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
 - d) That no doors, gates, grilles or other structures have been provided in the access driveways to the basement car-park, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
 - e) That the vehicular headroom requirements of:
 - Australian Standard 2890.1 - “Off-street car parking”,
 - 2.44m height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.
99. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
- a) That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
 - b) That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
 - c) That retained water is connected and available for uses including **BASIX or DCP 47 commitments (all toilet flushing, laundry and garden irrigation)**.
 - d) That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.

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- e) That all grates potentially accessible by children are secured.
- f) That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
- g) All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The following certification sheets **must be accurately completed and attached** to the certification:

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
 - On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.
100. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:
- As built (reduced) surface and invert levels for all drainage pits.
 - Gradients of drainage lines, materials and dimensions.
 - As built (reduced) level(s) at the approved point of discharge to the public drainage system.
 - As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
 - The achieved storage volumes of the installed retention and detention storages and derivative calculations.
 - As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
 - The size of the orifice or control fitted to any on-site detention system.
 - Dimensions of the discharge control pit and access grates.
 - The maximum depth of storage possible over the outlet control.
 - Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

101. Prior to issue of the Occupation Certificate a maintenance regime shall be prepared for the basement stormwater pump-out system and submitted to Principal Certifying Authority. The

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regime shall specify that the system is to be regularly inspected and checked by qualified practitioners.

102. Prior to issue of the Occupation Certificate a suitably qualified and consulting geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :
 - a) According the relevant Australian Standards and guidelines, and
 - b) According to any approved Geotechnical report undertaken for the development, and
 - c) In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.
103. Prior to issue of the Occupation Certificate, a complete record of geotechnical inspections, testing and monitoring with certifications as specified in the Report on Geotechnical Investigation prepared by Jeffery and Katauskas Consulting Engineers and the professional geotechnical input over the course of the works, must be compiled in report format and submitted to the Principal Certifying Authority for approval.
104. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, an easement for waste collection must be provided. This is to permit legal access for Council, and Council's contractors, and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.
105. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of the works) the Applicant shall submit to the Principal Certifying Authority (PCA) a follow up dilapidation report on the visible and structural condition of the existing structures originally assessed at address No.18 and No.30 Turramurra Avenue and including the intersection and driveway opposite the site.

The Report must be completed by a practicing consulting structural engineer and be submitted for Council records prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate.
106. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Inspections by and documentation from the Arborist to the Principal Certifying Authority is required as specified. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Item 2

107. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
108. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

S Garland
Executive Assessment Officer

R Pearson
Acting Team Leader
Development Assessment – North

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

Attachments:

- Location sketch - 691877**
- Zoning sketch - 691877**
- Elevations – 691880**
- Sections – 691883**
- Roof plan - 691884**
- Shadow diagrams - 691886**
- Cut & fill diagram, deep soil landscaping and landscaping plan - 691885**
- Construction and site management plan - 691879**

LOCATION SKETCH

20 - 28 TURRAMURRA AVE TURRAMURRA

DEVELOPMENT APPLICATION No 402/06



Scale : 1:2000

13-10-2006



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



CIRCULATED AREA



Zoning Extract

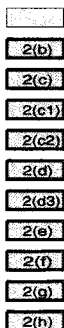
20-28 TURRAMURRA RD TURRAMURRA DA 402/06



ZONES

2. RESIDENTIAL

- (a) RESIDENTIAL A
- (b) RESIDENTIAL B
- (c) RESIDENTIAL C
- (c1) RESIDENTIAL C1
- (c2) RESIDENTIAL C2
- (d) RESIDENTIAL D
- (d3) RESIDENTIAL D3
- (e) RESIDENTIAL E
- (f) RESIDENTIAL F
- (g) RESIDENTIAL G
- (h) RESIDENTIAL H



3. BUSINESS

- (a) RETAIL SERVICES
- FLOOR SPACE RATIOS
- A1 2.0:1
- A2 1.0:1
- A3 0.75:1
- (b) COMMERCIAL SERVICES
- FLOOR SPACE RATIOS
- B1 1.0:1
- B2 1.0:1

5. SPECIAL USES

- (a) SPECIAL USES A (Schools etc)
- (a1) SPECIAL USES A1
- (b) SPECIAL USES (Railway)

6. OPEN SPACE

- (a) RECREATION EXISTING
- (b) RECREATION PRIVATE
- (c) RECREATION PROPOSED

RESERVATIONS

OPEN SPACE

- (a) OPEN SPACE (Public Parks & Recreation)
- (b) COUNTY OPEN SPACE

SPECIAL USES

- SPECIAL USES (Parking etc) PARKING

ROADS

- (a) COUNTY ROAD PROPOSED
- (b) COUNTY ROAD WIDENING
- (c) LOCAL ROAD PROPOSED
- (d) LOCAL ROAD WIDENING

GENERAL

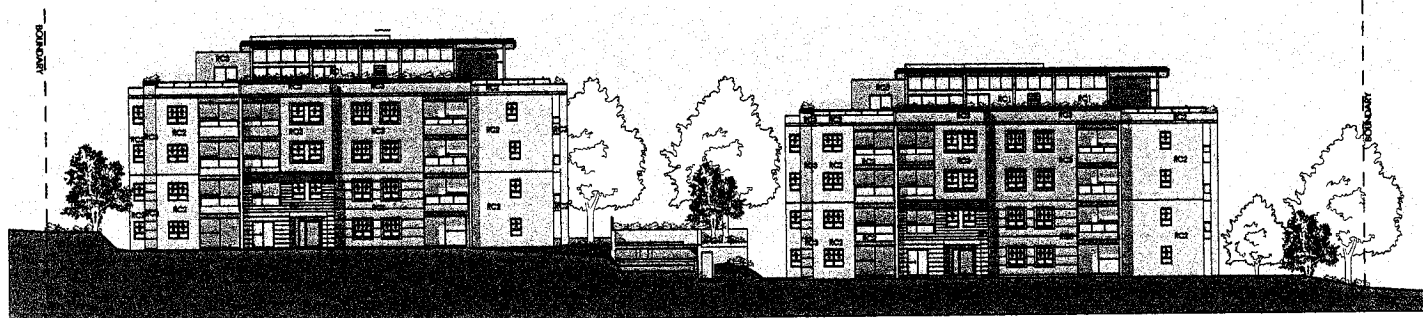
EXISTING COUNTY ROAD

OTHER PLANNING INSTRUMENTS



Scale: 1:2000

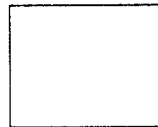
Date: 13-10-2006



1 Turramurra Ave Street Elevation
1:200



2 Site Elevation
1:200



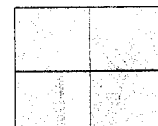
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COLOUR: PCWE7 73412
DULUX ANTIQUE WHITE USA



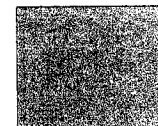
PAINTED RENDER RC2
COLOUR: PCWE7 73412
DULUX GREY PEBBLE



PAINTED RENDER RC3
COLOUR: P12.D2
DULUX NEW FAWN



SANDSTONE CLADDING SC



COLORBOND ROOFING CR
COLOUR:
COLORBOND DUNE



Rev: Date Item
00: 26/04/06 Development Application Issue

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Developer:

CARRINGTON

8/4 Crown Street, Sydney NSW 2000

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Project:

20-28 TURRAMURRA AVENUE

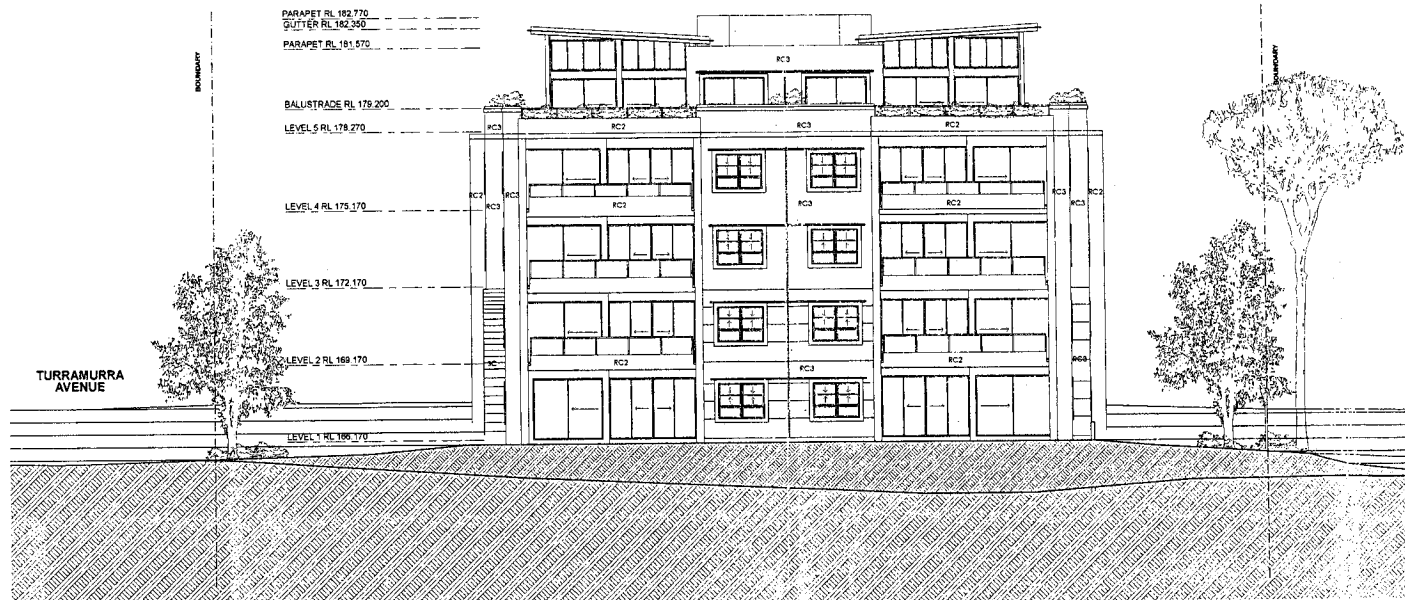
TURRAMURRA

Location:
NBN APPLICANTS
20-28 TURRAMURRA AVENUE, TURRAMURRA

Drawing:

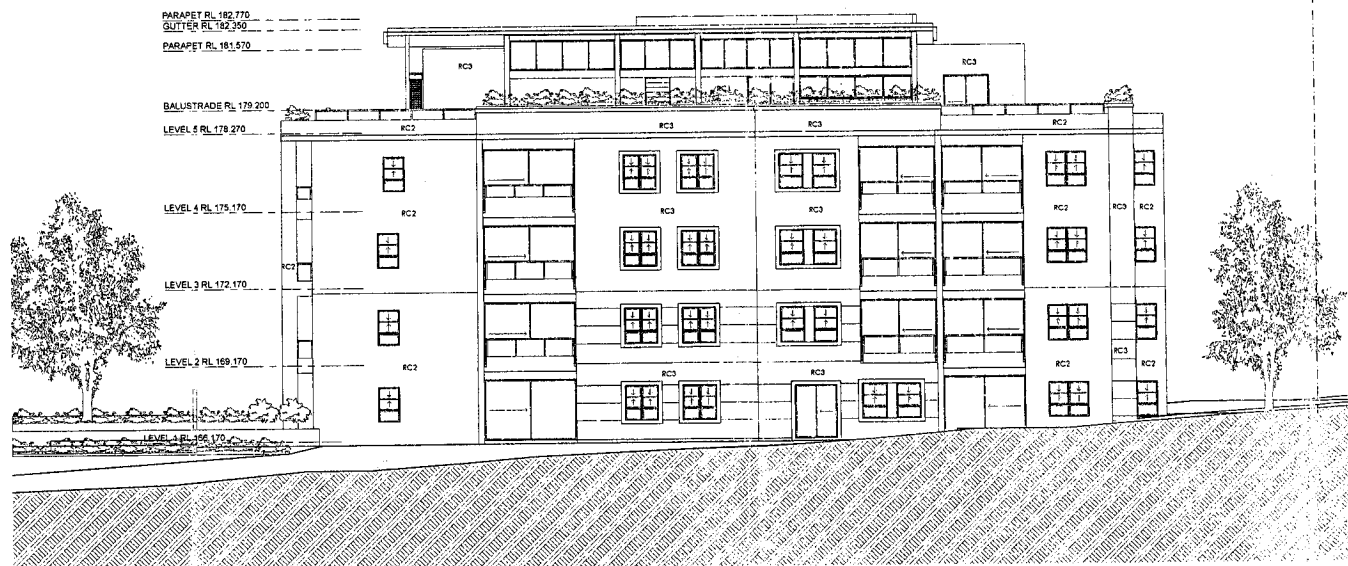
Site Elevations + Colour Board

Scale: AS B2000 Date: 26/04/06 Drawn: Checked:
Job No: 0006 Draw No: TR-AR-CD-027 Rev: 00



2 BLG B - North Elevation
1:100

| COLOURS & FINISHES LEGEND | |
|---------------------------|---------------------------------------|
| RC1 | Painted Render - Wall Colour 1 |
| RC2 | Painted Render - Wall Colour 2 |
| RC3 | Painted Render - Wall Colour 3 |
| SC | Sandstone Cladding - sawn finish |
| CMR | Colorbond Metal Roof |
| WF | Window frames - powdercoated |
| GB | Glass Balustrade with Aluminium Frame |



1 BLG B - West Elevation
1:100

Rev. Date Item
01 28/03/08 Development Application Issue

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22/2011 Millers Rd, Macquarie NSW 2006

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22/2011 Millers Rd, Macquarie NSW 2006

22/2011 Millers Rd, Macquarie NSW 2006

Developer

CARRINGTON

22/2011 Millers Rd, Macquarie NSW 2006

22/2011 Millers Rd, Macquarie NSW 2006

22/2011 Millers Rd, Macquarie NSW 2006

22/2011 Millers Rd, Macquarie NSW 2006

22/2011 Millers Rd, Macquarie NSW 2006

22/2011 Millers Rd, Macquarie NSW 2006

22/2011 Millers Rd, Macquarie NSW 2006

Report

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

20-28 TURRAMURRA AVENUE

Drawing

BLG B Elevations North & West

BLG B Elevations North & West

BLG B Elevations North & West

BLG B Elevations North & West

BLG B Elevations North & West

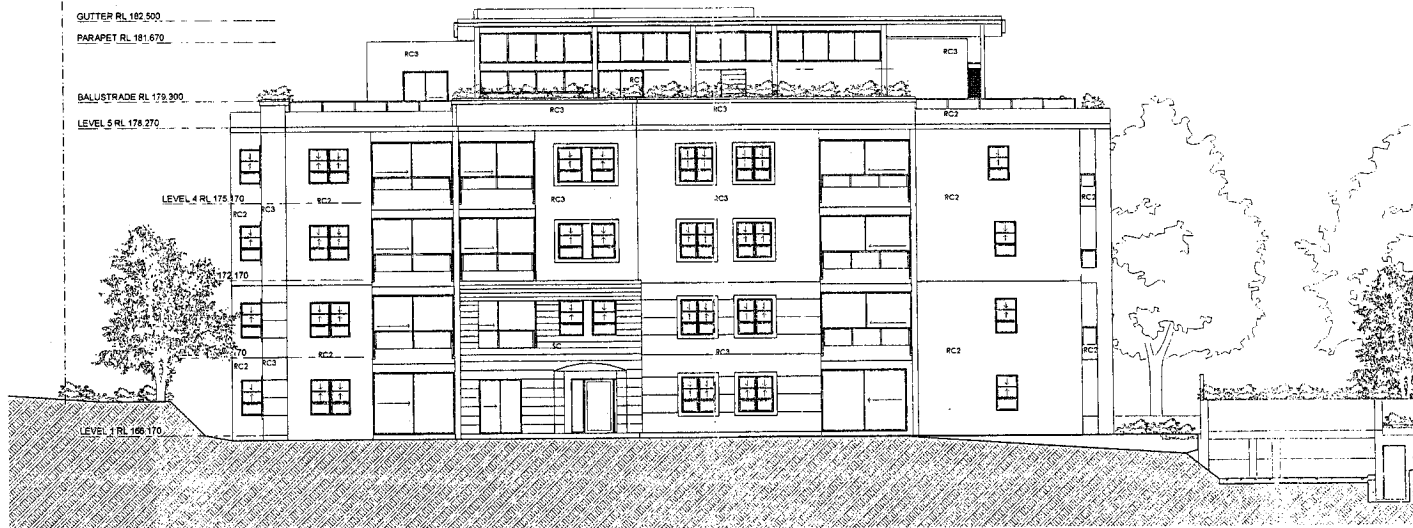
BLG B Elevations North & West

BLG B Elevations North & West

BLG B Elevations North & West

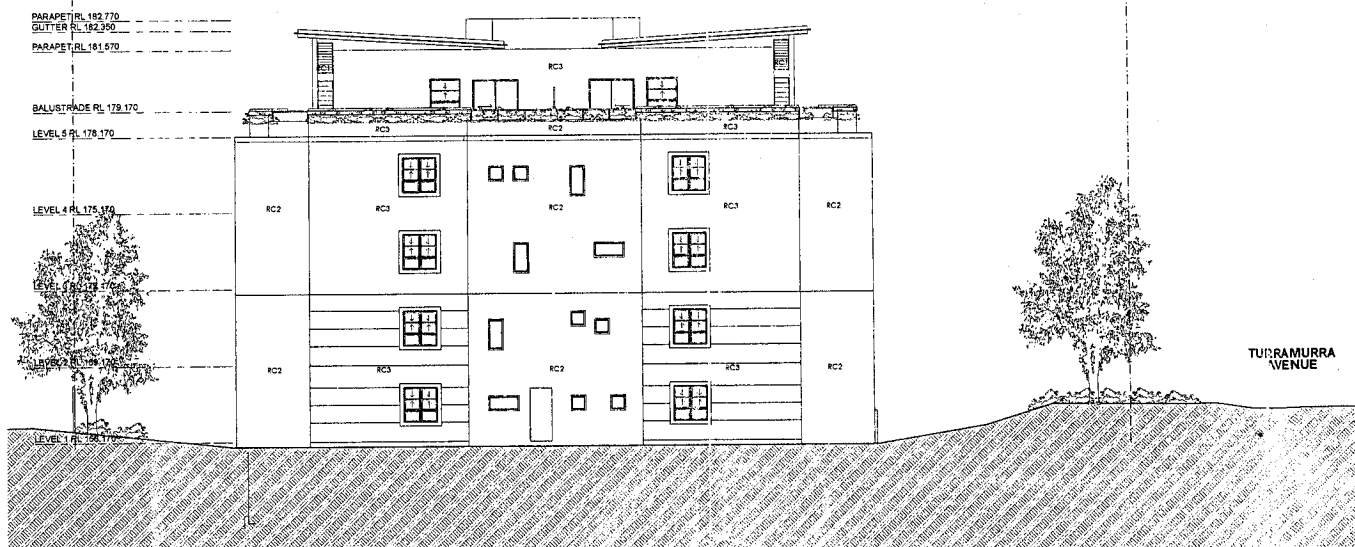
BLG B Elevations North & West

BLG B Elevations North & West



| COLOURS & FINISHES LEGEND | |
|---------------------------|---------------------------------------|
| RC1 | Painted Render - Wall Colour 1 |
| RC2 | Painted Render - Wall Colour 2 |
| RC3 | Painted Render - Wall Colour 3 |
| SC | Sandstone Cladding - sawn finish |
| CMR | Colorbond Metal Roof |
| WF | Window Frames - powdercoated |
| GB | Glass Balustrade with Aluminium Frame |

1 BLG B - East Elevation
1:100



2 BLG B - South Elevation
1:100

Rev: Date: Item:
01: 26/04/08 Development Application Issue

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Developer:

CARRINGTON

Project:

20-28 TURRAMURRA AVENUE

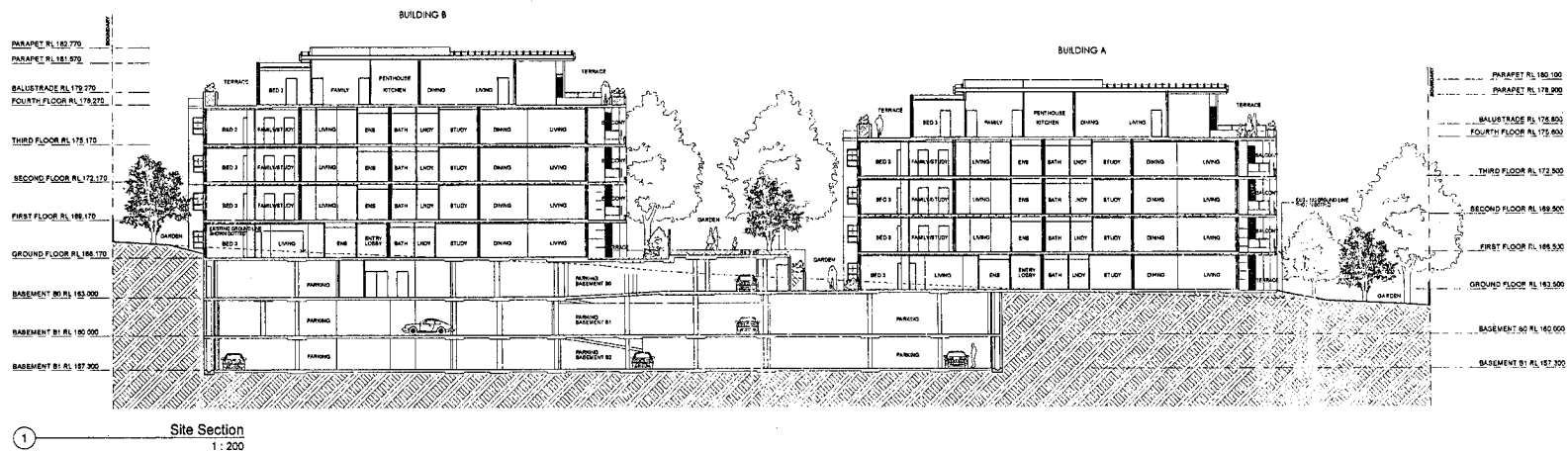
TURRAMURRA

1:1000
1:1000
23 TURRAMURRA AVENUE, TURRAMURRA

Drawing:

BLG B Elevations East & South

Scale: AS SHOWN Date: MARCH 2008 Drawn: Checked:
Job No: 0605 Draw No: TR2-AR-CD-017 Page: 02



Rev: Date: Item:
00 28/04/08 Development Application Issue

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Developed by Sandberg Schöffel Architects Pty Ltd

18/04/08 10:00 AM 100% DEVELOPMENT APPLICATION ISSUE

1. PRELIMINARY DESIGN AND CONCEPT DEVELOPMENT

2. PRELIMINARY DESIGN AND CONCEPT DEVELOPMENT

3. PRELIMINARY DESIGN AND CONCEPT DEVELOPMENT

4. PRELIMINARY DESIGN AND CONCEPT DEVELOPMENT

5. PRELIMINARY DESIGN AND CONCEPT DEVELOPMENT

Developer:

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Project:

20-28 TURRAMURRA AVENUE

SYDNEY, AUSTRALIA

100% DEVELOPMENT APPLICATION ISSUE

18/04/08 10:00 AM 100% DEVELOPMENT APPLICATION ISSUE

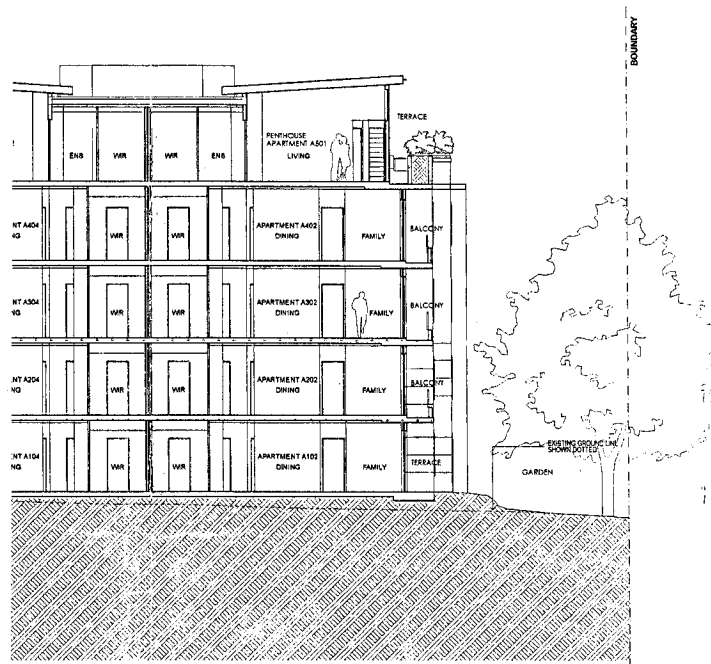
20-28 TURRAMURRA AVENUE, TURRAMURRA

Drawing:

Site Section

Issue: AS SHOWN Date: MARCH 2008 Drawn: CARRINGTON

Job No: 0608 Drawing: TR2-AR-CD-018 Rev: 00



segment Application Issue

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Architects and interior designers for the building industry.
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Developer:

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Project:

20-28 TURRAMURRA AVENUE

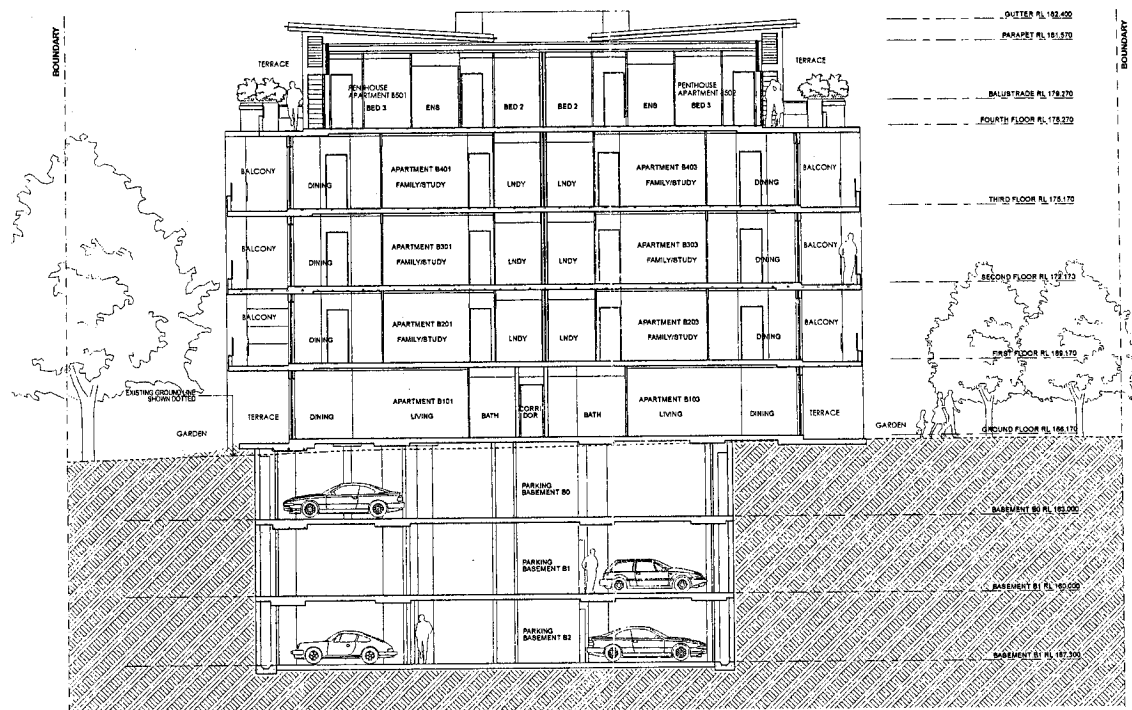
TURRAMURRA

20-28 TURRAMURRA AVENUE, TURRAMURRA

Drawing:

BLG A Section

Scale: AS DRAWN Date: MARCH 2008 Drawn: Check: ksh
Rev No: 0008 Desc No: TR2-AR-CD-019 Rev: 00



1 Section BLG B
1:100

Rev: 006 Item: Development Application Issue
00 20/04/04

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Developer:

CARRINGTON

App-01

20-28 TURRAMURRA AVENUE

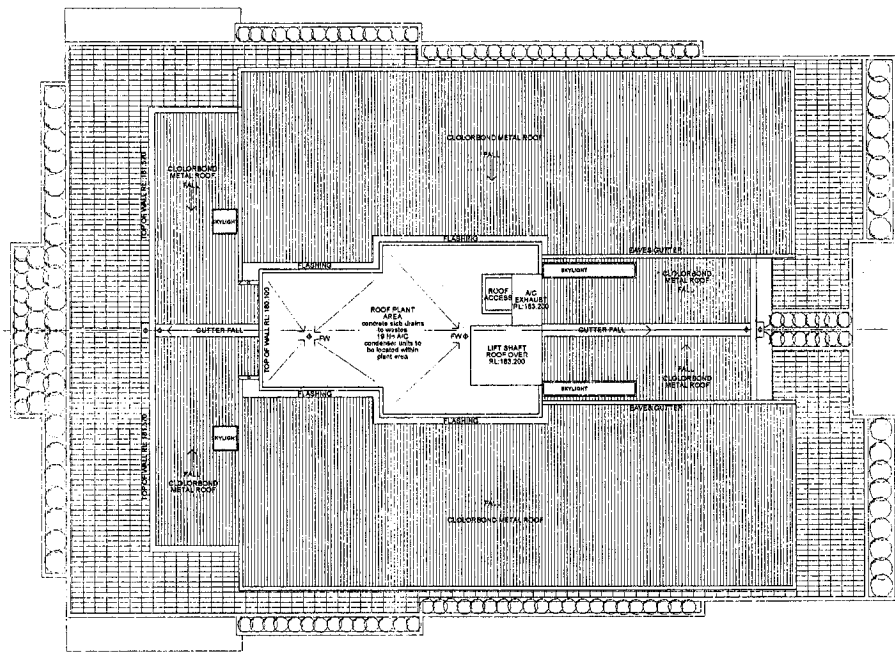
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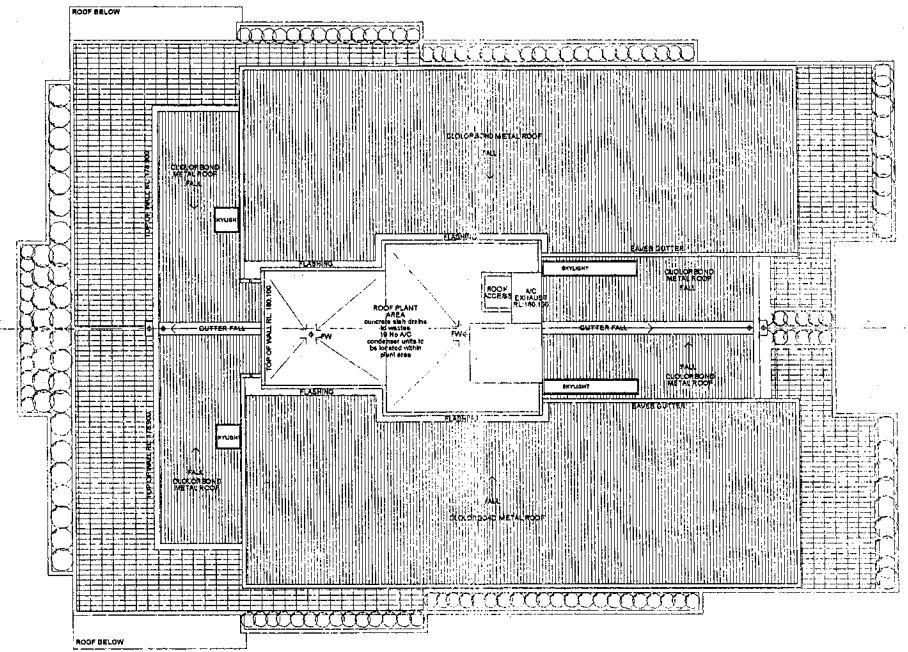
Issue: AS SHOWN Date: MARCH 2004 Drawn: CHEN YH
Rev: 0006 Date: MAY TR2-AR-CD-020 Rev: 00

9/4 Crown Street, Sydney NSW 2010
+61 2 9294 0888 +61 2 9294 8402

URRA-MURRA
URRA-MURRA
URRA-MURRA
URRA-MURRA



① Bldg B Roof
1:100



② Bldg A Roof
1:100



Rev. Date Item
00 20/04/08 Development Application Stage

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Project

20-28 TURRAMURRA AVENUE

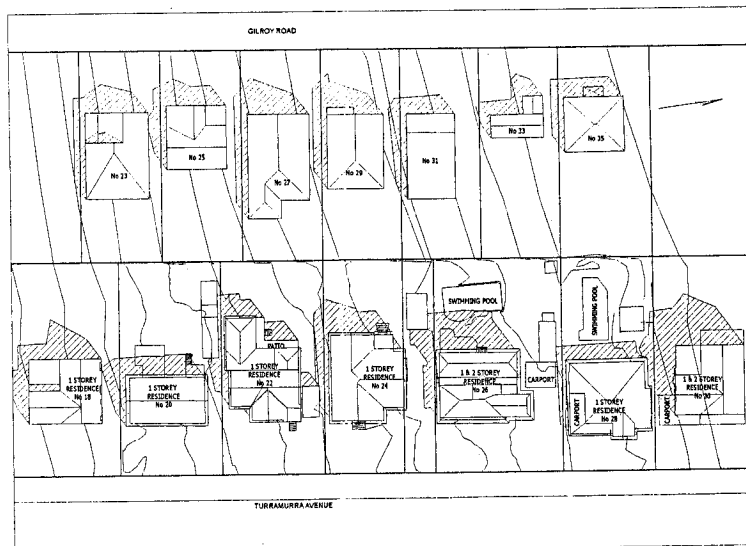
TURRAMURRA

100 APARTMENTS
25-28 TURRAMURRA AVENUE TURRAMURRA

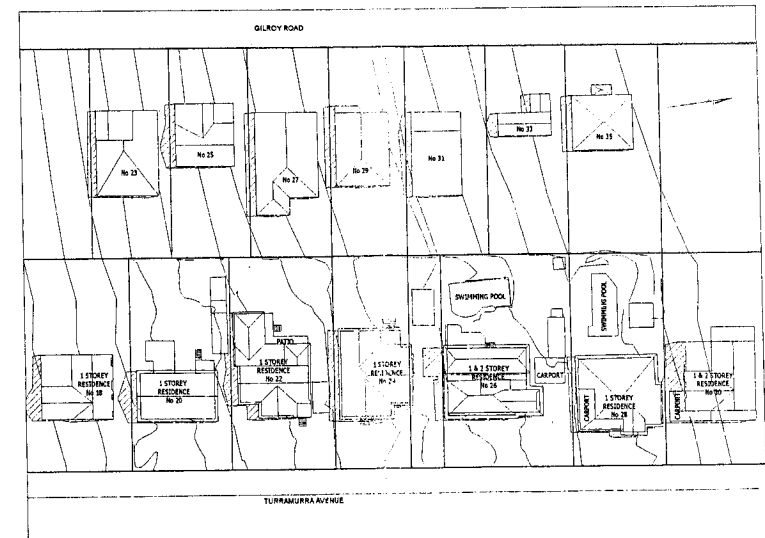
Drawing

BLG A & B Roof Plans

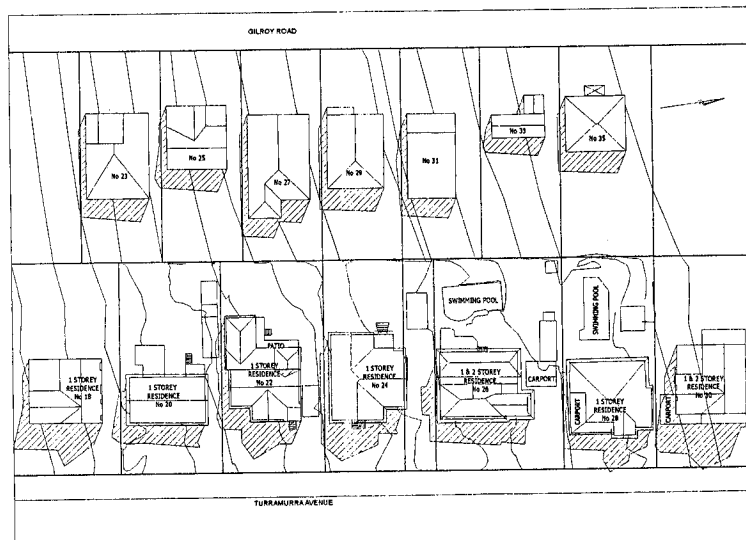
Scale: AS SHOWN Date: MARCH 2008 Drawn: Check: Rev: 00



1 EXISTING SHADOWS MARCH/SEPTEMBER 21 9AM
1:500 AZIMUTH 307
ALTITUDE 35



2 EXISTING SHADOWS MARCH/SEPTEMBER 21 12PM
1:500 AZIMUTH 7
ALTITUDE 54



3 EXISTING SHADOWS MARCH/SEPTEMBER 21 3PM
1:500 AZIMUTH 48
ALTITUDE 36

Rev: Date Item
00 25/04/04 Item Development Application Issue

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Developer:

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8/6 Crown Street Sydney NSW 2010
t 02 9394 0088 f 02 9394 0403

Project:

20-28 TURRAMURRA AVENUE

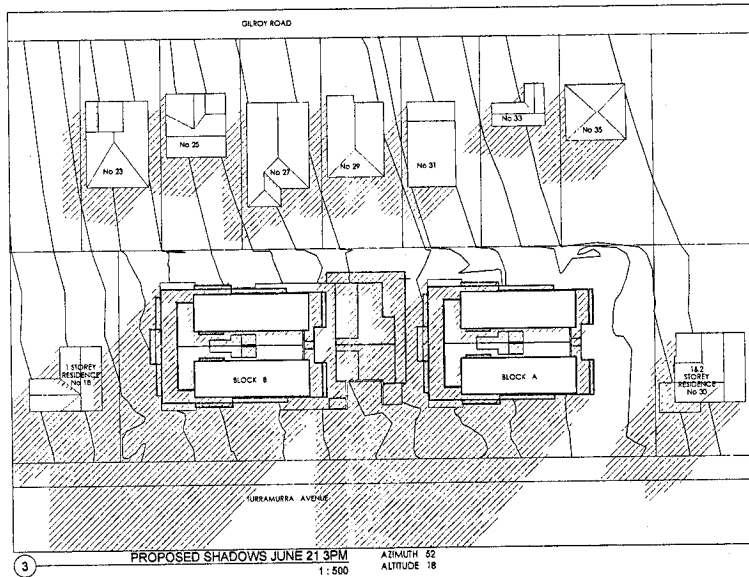
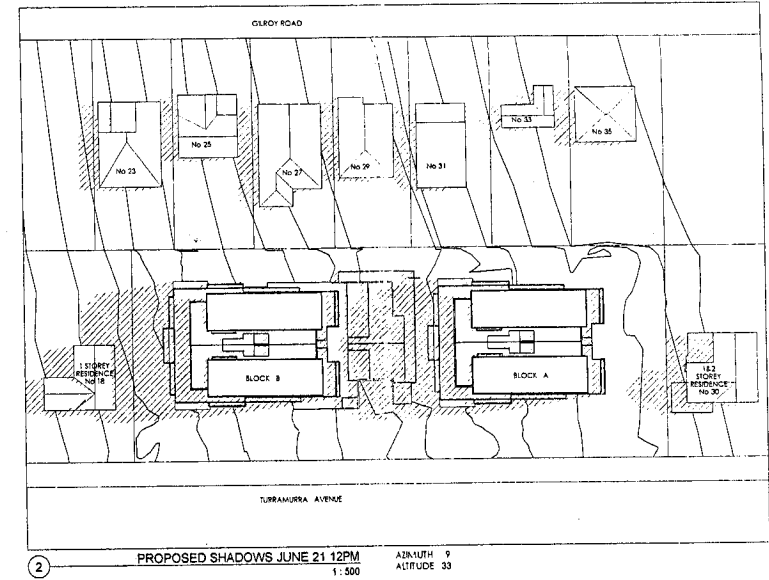
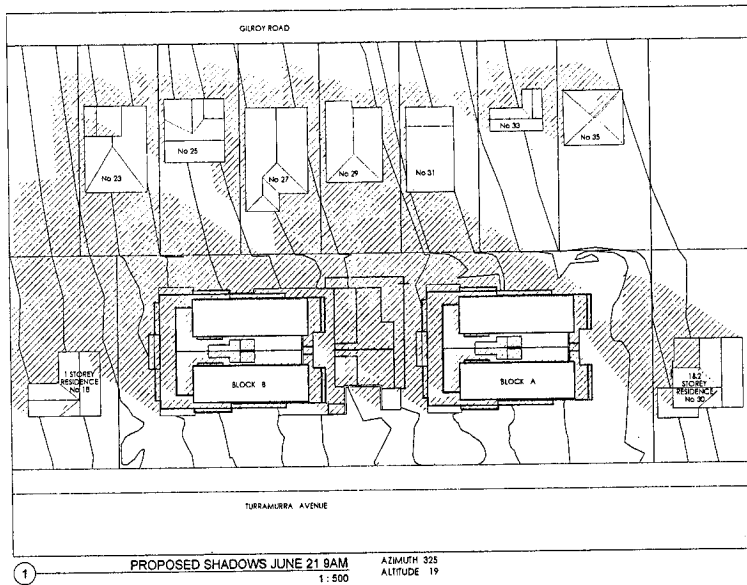
11 PRAMURRA

11 PRAMURRA
11 PRAMURRA
11 PRAMURRA

Drawing:

Existing Shadows MAR/SEPT

Scale: AS SHOWN Date: MARCH 2008 Drawn: Checked:
Job No: 0605 Drawn To: TR2-AR-CD-023 Rev: 00



Rev. Date Item
00 25/03/06 Development Application Issue

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Developer:

CARRINGTON

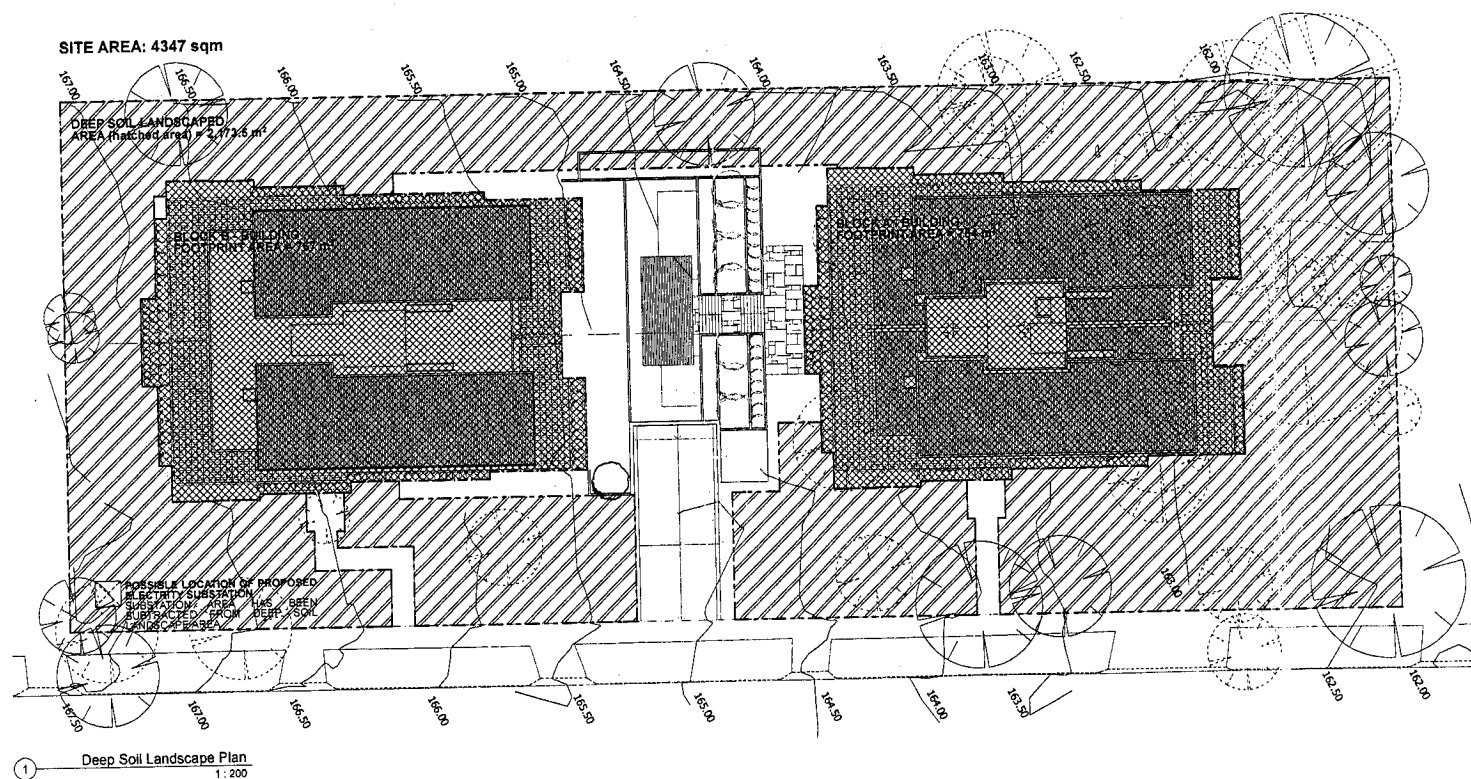
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20-28 TURRAMURRA AVENUE

Proposed Shadows JUNE

Scale: AS SHOWN Date: MARCH 2006 Drawn: CMC/edw
Job No: 0608 Drawn No: TR2.A.R.CD.026 Rev: 00





Rev. Date Item
00 28/04/16 Development Application Issue

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Developer

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8/4 Green Street Sydney NSW 2010
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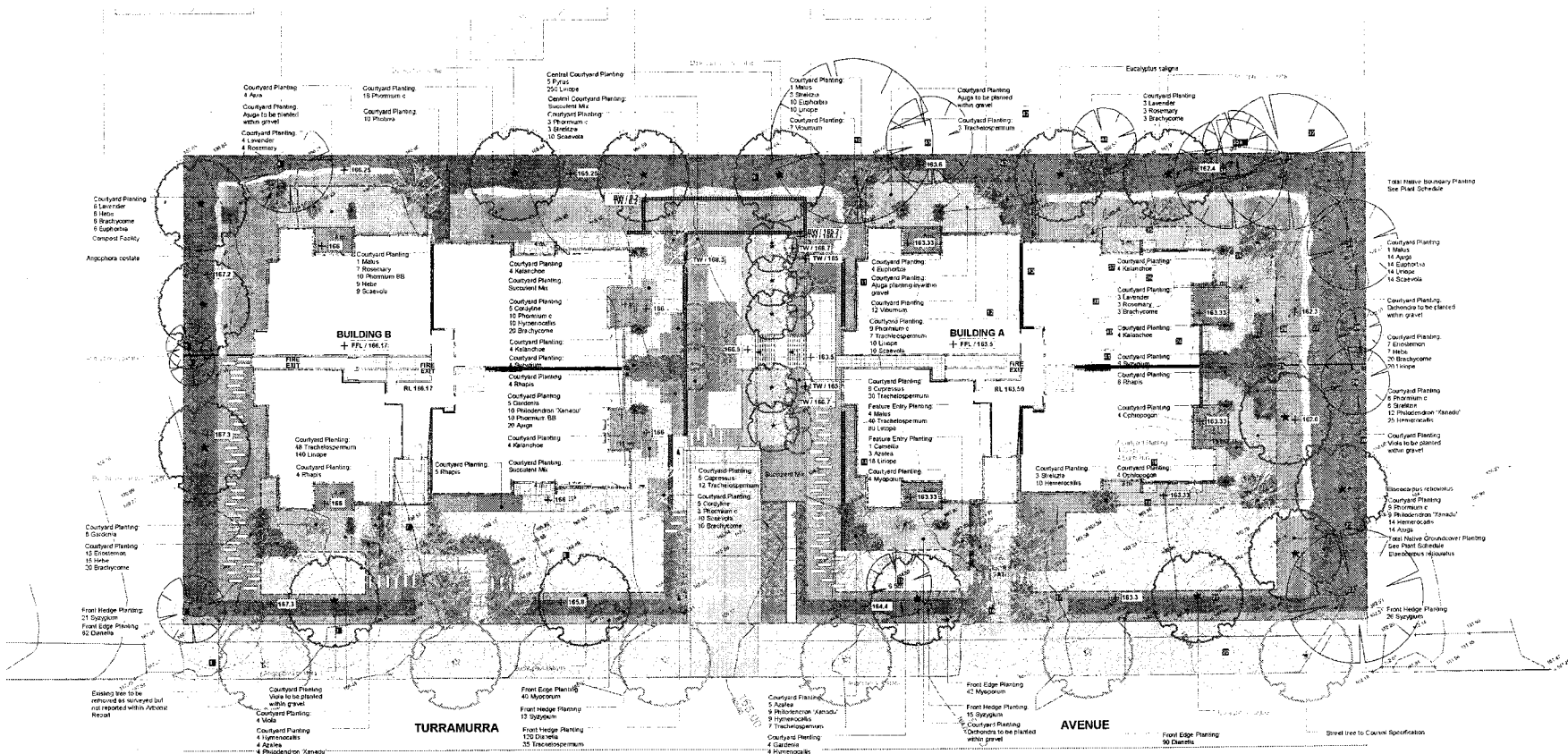
20-28 TURRAMURRA AVENUE

VEERANURRA
1/20/17 PARADE
20-28 TURRAMURRA AVENUE, TURRAMURRA

Drawing

Area of Deep Soil Landscaping

| | | | |
|-----------------|-------------------------|--------|----------|
| Scale: AS SHOWN | Date: FEB 2006 106 | Drawn: | Checked: |
| Job No: 0808 | Drawn By: TR2-AR-CD-022 | Rev: | 05 |

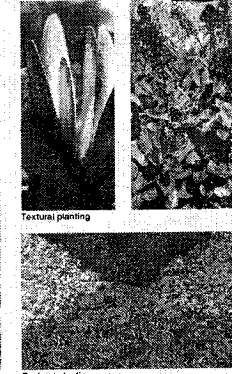
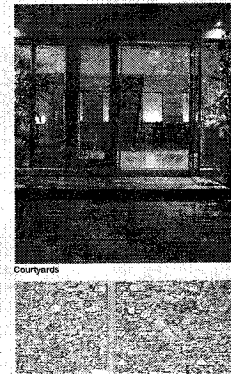
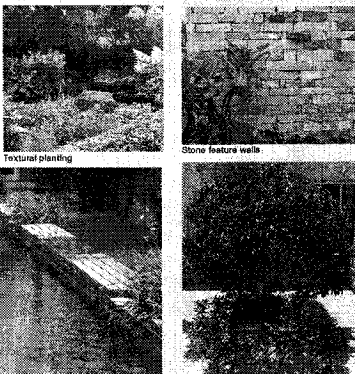
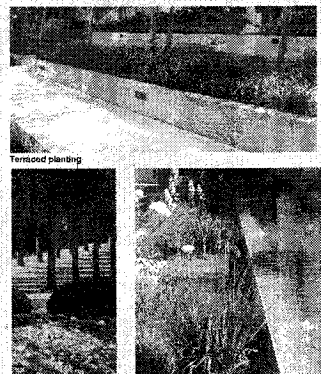
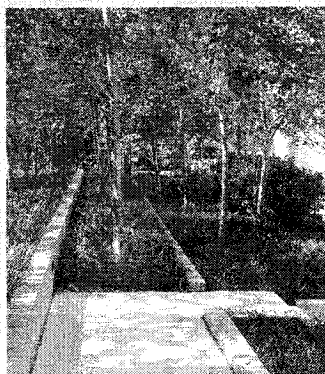


REFERENCES
 COURTESY OF
 Sandberg
 Schaffel
 Architects
 0606 TR2 DA Site
 plan.dwg
 DATE OF REVIEW
 21.07.06

- LEGEND**
- Extent of works
 - Existing tree to be retained
 - Existing tree to be removed
 - Existing Contours +0.5m interval
 - Proposed Top of Wall
 - Proposed Bottom of Wall
 - Proposed Level
 - Paving 1 - Concrete pavers
 - Paving 2 - Primary Concrete pavers
 - Paving 3 - Gravel Metromix crushed quartz
 - Paving 4 - Timber decking
 - Paving 5 - Decomposed granite
 - Paving 6 - Stepping Stones
 - Paving 7 - In-situ concrete footpath
 - Match access path
 - Proposed local tree species
 - Proposed Sapling
 - Proposed Matus
 - Proposed Frangipani
 - Planting 1 - Feature planting
 - Planting 2 - Native boundary planting
 - Planting 3 - Hedge
 - Planting 4 - Native grasses and groundcover planting
 - Turf
 - Waterfeature
 - Fence
 - Screen
 - Retaining Wall
 - Planter Box
 - Timber edge
 - Pl by others

- NOTES**
- Information relating to architectural, electrical, hydraulic, civil and other works as represented on RGS documentation is for reference and PSB no information purpose only. All documentation to these and other works requires PSB scope should be referred to the relevant consultant drawings and specifications for details.
 - This drawing should be read in conjunction with PSB prepared specifications and details. Should a conflict exist between this drawing and the PSB prepared specifications and details, the PSB prepared specifications and details shall prevail.
 - All levels shown are in metres Australian Height Datum and dimensions are in millimetres unless otherwise specified.
- 01.08.2006 F Council Approval, text amended
 25.07.2006 E Council Approval
 - much path added, trees 15 & 34 retained, amended central space
 21.05.2006 D Council Approval
 - plant numbers added
 01.05.2006 C Council Approval
 28.04.2006 B Client Review @ 100%
 11.04.2006 A B-Stage Concept @ 75%
 18.03.2006 JMS NLS
Project T2 20-28 Turramurra Avenue

Client Carrington Group
Drawing Landscape Plan



Terraced planting

Textured planting

Stone feature wall

Courtyards

Textured planting

Textured planting

Landscape Plan

T2 - 20-28 Turramurra Avenue, Turramurra

Carrington Group

PSB

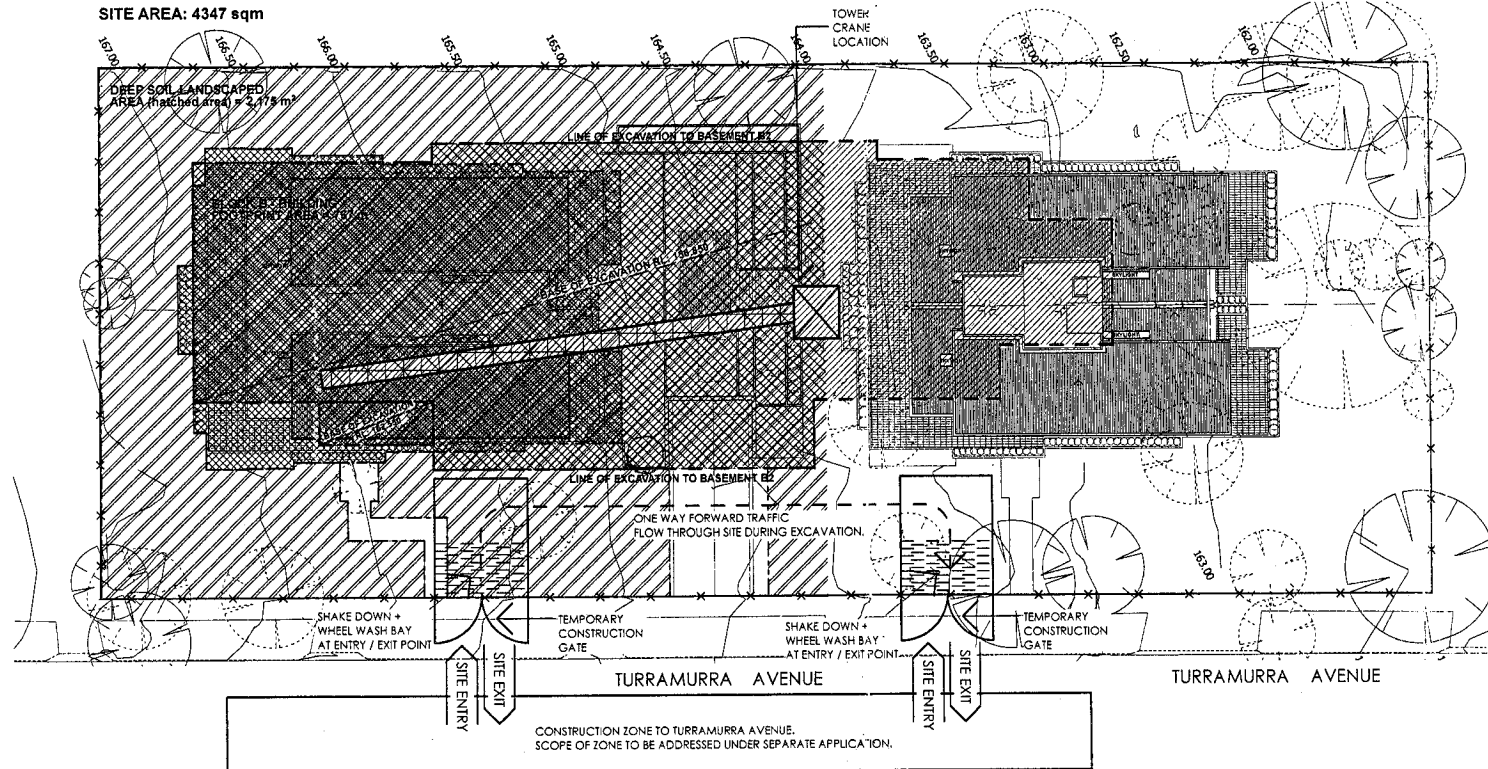
PSB has been prepared in accordance with the PSB 2007
 PSB 2007 0606 TR2 DA Site plan.dwg
 PSB 2007 0606 TR2 DA Site plan.dwg

Scale 1:200 @ A1
Project No. 0606 TR2 DA Site plan.dwg
Drawing SK01F

CARRINGTON

21.07.06

SITE AREA: 4347 sqm



NOTES
THIS PLAN IS CONCEPTUAL ONLY, FOR ISSUE WITH DEVELOPMENT APPLICATION. FINAL DETAILS ARE TO BE SUBMITTED WITH CONSTRUCTION CERTIFICATE APPLICATION.
PEDESTRIAN AND TRAFFIC CONTROL MEASURES TO BE IN ACCORDANCE WITH AUSTRALIAN STANDARDS.
STORMWATER CONTROL TO BE IN ACCORDANCE WITH COUNCIL / EPA REQUIREMENTS.
Excavated material is to be removed from site.

Shakedown & washdown facilities are to be designed by Civil Engineer for Construction Certificate Application.
All existing Gully pits in roadways are to be protected with gravel filled geofabric socks placed to the high side of the pits into the gutter and onto the roadway at least 500mm.

Waste from demolition is to be sorted into stock piles on ground level. All stockpiles are to be fenced with Geofabric staked barriers, base of fabric to be buried 300mm into ground, top of barrier to be at least 600mm above ground level.
Daily Inspections of Sediment Control Devices are to be made by construction staff during the works, damaged or faulty barriers are to be repaired immediately.

AREA OF EXCAVATION
 TEMPORARY CHAINWIRE FENCE WITH SILT PROTECTION TO SITE PERIMETER

Rev. Date Item Development Application Issue

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Developer:

CARRINGTON

594 Crown Street Sydney NSW 1500
Tel: 02 9554 6888 Fax: 02 9554 6800

Project:

20-28 TURRAMURRA AVENUE

12/10 APARTMENTS
22 TURRAMURRA AVENUE, TURRAMURRA

Drawing:

Construction Site Management Plan Management Plan

Drawn: AS SHOFFEL Date: MARCH 2008 Drawn: CHEN
Rev: 001 Date: 2008 Drawn: TR2-AR-CD-028 Rev: 001

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|-----------------------------------------------|-------------------------------------------------------------------------------------------|
| REPORT TITLE: | 27 RICHMOND AVENUE, ST IVES - DEMOLISH EXISTING DWELLING AND CONSTRUCT NEW DWELLING |
| WARD: | St Ives |
| DEVELOPMENT APPLICATION N^o: | 845/06 |
| SUBJECT LAND: | 27 Richmond Avenue, St Ives |
| APPLICANT: | Mr S Rahmani |
| OWNER: | Mr S Rahmani |
| DESIGNER: | Patricia Vandenbruel |
| PRESENT USE: | Dwelling house |
| ZONING: | Residential 2(c) |
| HERITAGE: | Yes |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | KPSO, DCP 38, DCP 47, DCP 43, DCP 17, DCP 40 |
| COMPLIANCE WITH CODES/POLICIES: | No |
| GOVERNMENT POLICIES APPLICABLE: | SEPP 55, SREP 20, SEPP (BASIX) |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 2 August 2006 |
| 40 DAY PERIOD EXPIRED: | 11 September 2006 |
| PROPOSAL: | Demolish existing dwelling and construct new dwelling |
| RECOMMENDATION: | Approval |

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DEVELOPMENT APPLICATION N^o 845/06
PREMISES: 27 RICHMOND AVENUE, ST IVES
PROPOSAL: DEMOLISH EXISTING DWELLING AND
CONSTRUCT NEW DWELLING
APPLICANT: MR S RAHMANI
OWNER: MR S RAHMANI
DESIGNER PATRICIA VANDENBRUEL

PURPOSE FOR REPORT

To determine development application No 845/06, which seeks consent for demolition of the existing dwelling and construction of a new two storey dwelling.

This matter has been called to full Council by Councillor Laura Bennett.

EXECUTIVE SUMMARY

Issues:

- Heritage
- Streetscape
- Parking

Submissions: Five (5) submissions

Land & Environment Court Appeal: No

Recommendation: Approval

HISTORY

The site is used for residential purposes.

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|----------------|----------------------------------------------------------------------------------------------------------|
| 6 October 1989 | Site included as a heritage item in LEP No. 1. |
| 1 March 1991 | Heritage listing removed via LEP No. 2. |
| 16 May 1991 | Addition of a kitchen and dining room approved (BA 91/00926). |
| 14 June 2002 | DA 795/02 lodged - Proposed demolition of existing dwelling and construction of detached dual occupancy. |
| 8 October 2002 | Land and Environment Court appeal lodged against the deemed refusal of DA 795/02. |
| 24 June 2003 | Resolution at Council meeting to refuse DA 795/02 |

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Resolved:

A: That the application be refused based on Clause 32 of SEPP 53 streetscape, visual and acoustic privacy, solar access in respect to 29 Richmond Avenue, St Ives and heritage issues relating to 27 Richmond Avenue, St Ives.

B: That the application does not meet the requirements of KPSO, aims and objectives of Schedule 9.

31 July 2003 Land and Environment Court appeal withdrawn.

3 December 2003 NSW Heritage Council advised of its “notice of intent to consider listing” the Pettit and Sevitt group of houses at Richmond Avenue on the State Heritage Register.

2 June 2004 NSW Heritage Council made a decision not to list the subject Pettit and Sevitt group of houses on the State Heritage Register. The Heritage Council stated the following:

The group is of heritage significance but, in the absence of any conclusive comparative assessments on a state-wide basis, cannot reach any definitive conclusion that the group is of State heritage significance.

23 June 2004 Land and Environment Court appeal re-lodged against the refusal DA 795/02.

Section 82A Review of DA 795/02 lodged with Council - Proposed demolition and detached dual occupancy.

24 August 2004 Resolution at Council meeting to prepare Draft LEP No. 29 to include the No. 27 Richmond Avenue and No. 400 Mona Vale Road in Schedule 7 of the KPSO as a heritage item.

14 September 2004 Resolution at Council meeting to refuse the Section 82A Review of DA 795/02.

Resolved:

That the Section 82A Review of Development Application 0795/02 for the demolition of the existing dwelling and garage and the construction of a detached dual occupancy dwellings at Lot 5, DP220538, being 27 Richmond Avenue, St Ives, be refused for the following reasons:

Heritage

1. *The demolition of No. 27 Richmond Avenue and the erection of the proposed dual occupancy development, results in a detrimental impact upon the heritage value of the Pettit and Sevitt group*

Particulars:

- (1) *No. 27 Richmond Avenue is the subject of a draft LEP (No. 29) to list it as a heritage item within Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.*
- (2) *The development is unsatisfactory having regard to Clause 61E of the KPSO, and pursuant to Clause 32(a)(ii) of SEPP53, in that, the application fails to give adequate regard to the character of the nearby group of heritage listed Pettit and Sevitt Group Project Homes and similar buildings. In particular the:*
 - (i) *The design of the dual occupancy is significantly different to surrounding development, which are listed within KPSO as heritage items.*
 - (ii) *The visual bulk and scale of the dwellings contrast against the neighbouring development; and*
 - (iii) *The placement of the dwellings parallel to the road is not consistent with the pattern of dwellings angled to the street.*
- (3) *Clause 32(a)(ii) of SEPP53 requires that the proposed development, where possible, retains, complements and is in harmony with any relevant heritage items that are identified within the local environmental plan.*
- (4) *The proposed development is set among a number of heritage items listed in the KPSO. These items are of a scale and design in complete contrast with the proposed development.*
- (5) *The development is contrary to Schedule 9 of the KPSO in that the dwellings' form, articulation, size and bulk conflicts with the surrounding Pettit and Sevitt group. This group has been designed so as to be consistent in materials, characteristics, scale and bulk. They were constructed following detailed consideration of design. The merit of this is recognised in the listing of the group. The proposed dwellings do not respond to the design philosophy.*

Insufficient information

2. *Pursuant to Clause 31 and Schedule 5 of SEPP53, the application is not supported by an adequate site analysis.*

Particulars:

- (1) *The 'Ground Floor Layout/Site Layout', accompanied by details within the Statement of Environmental Effects fails to identify:*

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- i. species and heights of existing trees;
- ii. the location of trees and their species and heights on adjoining properties;
- iii. microclimates (prevailing winds);
- iv. the location of the existing building is scarcely discernible;
- v. no features of the site are noted;
- vi. views to and from the site;
- vii. overshadowing from neighbouring structures;
- viii. adjoining private open space;
- ix. living rooms and other habitable rooms within the neighbouring dwellings and their orientation to the site;
- x. views and solar access enjoyed by neighbouring properties.

Streetscape

3. ***Pursuant to Clause 3(2)(b) and the objectives of Clause 15 of SEPP53, the application fails to achieve built form that responds to the characteristics of the site and its location, and has not been designed with a full understanding of the opportunities and constraints of the site. In failing to address these points the proposed development has consequential impact upon the streetscape.***

Particulars:

- (1) *The design of the proposed dwellings does not suggest the site-and-location responsive built form will be achieved.*
- (2) *The failure of the design to address basic contextual responses from the area (such as the house character and the setting or placement of surrounding dwellings) suggests that constraints of the site have not been analysed and understood.*
- (3) *The developments on the north side of Richmond Avenue are generally of single storey form and are set well back in their respective allotments. The front gardens are open in nature with limited front fencing. The proposed development, in particular, proposed Dwelling A, involves a 2 storey structure which is set within 9-11 metres of the street and within that part of the site that provides an important element of the open landscape setting that characterises the site and surrounding development. As a consequence, it will appear as an incongruous element that intrudes into the streetscape and will detract from the visual amenity, character and ambience of the locality.*

- (4) *The location of Dwelling B introduces an uncharacteristic built form into a location that has consequential adverse impacts on the neighbouring properties.*

4. Pursuant to Clause 32(a)(i) of SEPP53, the proposed development will result in adverse impact upon the streetscape.

Particulars:

- (1) *Clause 32(a)(i) of SEPP53 requires that the proposed development contributes to an attractive residential environment with clear character and identity. The proposed development does not achieve this.*
- (2) *The design, scale, and siting of the two dwellings results in a development which is unsympathetic with the surrounding area and fails to create a clear character of identity. This is regardless of the heritage value of the surrounding properties.*

Visual bulk

5. Pursuant to Clause 32(h) of SEPP53, the proposed development will result in significant visual bulk with consequential effect upon the streetscape, adjoining properties and future residents of the proposed dwellings. This is with particular regard to the height, scale, building form and siting of the proposed development.

Particulars:

- (1) *Clause 32(h) of SEPP 53 requires that reasonable neighbour amenity and appropriate residential character is maintained through consideration of the visual bulk of a development. This is separate and distinct from the streetscape provisions of Clause 32(a) of SEPP 53.*
- (2) *The height, scale, form and sitting of both dwellings fails to maintain neighbour amenity and residential character. Due regard has not been given to the characteristics of surrounding development. The application also fails on a number of counts with the Council's Dual Occupancy Code, including setback, FSR (First Floor Ratio) and height. These non-compliances cumulatively provide a useful indicator of the impact of the proposal.*
- (3) *The impacts associated with the inappropriate height, scale and siting of the proposed development are exacerbated by inappropriate building form. The dwellings will present as two storey structures with insufficient modulation and articulation to effectively mitigate the adverse visual impacts resulting from the height, scale, form and siting.*

Acoustic and visual privacy

6. *The proposal fails to provide for adequate visual and acoustic privacy, particularly having regard to the visual and acoustic privacy impacts on:*

- (a) *25 Richmond Avenue, St Ives***
- (b) *29 Richmond Avenue, St Ives***
- (c) *Future residents of the proposed development***

Particulars:

- (1) Clause 32(b) of SEPP 53 requires due consideration of the visual and acoustic privacy of surrounding residences. The siting of the existing residence at No.27 Richmond Avenue in relation to its neighbours at Nos. 25 Richmond Avenue and 29 Richmond Avenue results in good visual and acoustic privacy. The dwellings were sited for this purpose, and so as to retain garden settings and provide good view-sharing;*
- (2) The orientation of No.25 Richmond Avenue provides for views over the foreground setback of No.27 Richmond Avenue. The proposed development will provide for views over the vehicle access-ways and garaging of the new houses, and the front entries to both houses. The windows of No.25 Richmond Avenue and the resultant detached dual occupancy are aligned and provide for sight lines between the properties. The design of the proposed dwellings has not taken the constraints of the area into account.*
- (3) The proposed development (in particular Dwelling B) will adversely impact upon privacy to the east-facing private rear courtyard of No.29 Richmond Avenue,*
- (4) There will be the potential for overlooking from the upper level of Dwelling A into the adjoining property at 29 Richmond Avenue.*
- (5) Dwelling B is to be located in the rear garden area of the subject site and will intrude into the open aspect that is presently experienced from the adjoining properties across their rear gardens.*
- (6) The future residents of the proposed development will experience detrimental impact upon their visual and acoustic privacy. The proposed small courtyard area for Dwelling A is overlooked by Dwelling B and is also overlooked by No.25 Richmond Avenue. It is also in close proximity of the outdoor living area for No.29 Richmond Avenue, with consequent impact upon acoustic privacy. The privacy of the living area within Dwelling A is also jeopardized by the location of windows at close distance in Dwelling B.*

Solar Access

7. ***Pursuant to Clause 32(c) of SEPP53, and pursuant to Council's Dual Occupancy Code (Objective 4.4) the proposed development is considered to provide for insufficient solar access to proposed Dwelling A.***

Particulars:

- (1) *The greater part of the courtyard to the north of proposed Dwelling A, which is the principal area of private open space associated with that dwelling, will be in shadow at mid-winter for the greater part of the 9:00am to 3:00pm period.*
- (2) *The proposed living room to Dwelling A will be in shadow at mid-winter for the greater part of the 9:00am to 3:00pm period.*
- (3) *No information has been submitted demonstrating compliance with Council's Energy Efficiency policies (contained within point 4.4.2 of Council's Dual Occupancy Code).*

Loss of vegetation

8. ***Pursuant to Clause 2(c) of Schedule 9 of the KPSO, the application is considered to have unacceptable impact upon the existing vegetation and trees on site, in particular having regard to the location of the proposed Dwelling B and the proposed excavation adjacent to the Eucalyptus haemastoma (Scribbly Gum).***

Particulars:

- (1) *The plans provided are unclear as to what trees are to be removed.*
- (2) *The involvement of landscape architect Bruce Mackenzie in determining the landscape character for the Richmond Avenue group added to the richness of the houses. The retention of trees on the site, such as the scribbly gum, establish the long term character of the properties. The layout of the two dwellings has failed to take the above into account.*

27 October 2004

Land and Environment Court judgment dismissed the appeal against Council's decision to refuse DA 795/02. The following is an excerpt from the judgment by Commissioner Bly:

The issues

16. *The remaining substantive issues in the case are:*
1. *Whether the existing dwelling house has such heritage*

- significance that it ought not to be demolished.*
2. *Whether the proposed dual occupancy development would have an adverse impact on the streetscape particularly in relation to building line.*

Heritage significance

17. *The expert heritage reports provide an extensive examination of the history and heritage significance of 27 Richmond Avenue and its heritage listed neighbours, which does not need to be comprehensively repeated here. However, the essential and more relevant aspects of this evidence is as follows.*
18. *In the 1950's and 1960's the suburbs of Australian cities were undergoing a transformation that was emerging from prospective homeowners who were increasingly able to afford better designed homes. In this context the so called project home, in many cases architect designed, became popular.*
19. *In 1961, Ron Sevitt and Brian Petitt formed the project home building company Petitt and Sevitt. Shortly after its formation the company engaged Ken Woolley (and others) a highly recognised and awarded architect. Mr Woolley was one of a number of architects instrumental in the provision of radically improved house designs for suburban Sydney, and was an important contributor to the architectural movement known as the Sydney School.*
20. *Architects of the Sydney School were recognised for their approach of designing buildings in a natural landscape with minimal site disturbance. The materials and building forms that were utilised were responsive to native vegetation and natural terrain and reflected a sense of informality.*
21. *Mr Woolley's first house design for Petitt and Sevitt was the "Split Level" home and the sale of this home and the resultant publicity enabled the company to start its first "exhibition centre" in Carlingford. Two homes were built here; a "Split Level" and a "Lowline" and the resulting success allowed them to initiate a larger exhibition centre in 1964 in Richmond Avenue.*
22. *The so-called St Ives Group, began with four homes designed by Ken Woolley: a "Split Level Mk I", a "Split Level Mk II", a "Lowline" and a "Courtyard House". Two more Ken Woolley designs were soon added being the "Two Storey" and the "Mk VII" which was later renamed "The Gambrel".*
23. *The house, which is the subject of this appeal, is the prototype*

"Gambrel" house and is the very first example of this design and was the smallest and cheapest in the Petitt and Sevitt range. The house was, consistent with the Petitt and Sevitt policy; a basic design which was able to be extended in modules of 3 ft. Forty-five contracts for the Gambrel design were issued in the first two years and it is this design that won the Institute of Architects 1967 Project Home Award.

24. *In addition to the Gambrel, three other houses in the Richmond Avenue exhibition group are also prototypes of their designs. The houses in this group, importantly, had a siting relationship with one another, being oriented to the slope and having opportunities to borrow views across the gardens and adjacent landscape. The landscaping of the houses in the group was carried out by landscape designer Bruce MacKenzie, one of Australia's foremost promoters of native landscapes in urban settings.*

Heritage evidence

25. *The NSW Heritage Office has considered the significance of this group and concluded that whilst it is of heritage significance, in the absence of any conclusive comparative assessments on a State wide basis, it cannot reach any definitive conclusion that the group is of State heritage significance. That office did not assess the proposal against local heritage significance criteria.*
26. *The Royal Australian Institute of Architects advised that it supports the retention of this group of homes being one of the project house villages of the past that can be used as an exemplar today. The Institute also advised that the demolition of one of the houses in this group will adversely impact on the significance of this place.*
27. *The three heritage experts and Mr Woolley conferred and prepared a joint report.*
28. *In the joint report Mr Davies explained that there are a number of reasons why No. 27 Richmond Avenue does not presently have sufficient heritage significance to warrant its retention. First the design has been replicated in various forms many times. Second the materials used were low cost and the internal spaces are small, resulting in the design not now being suitable as a single dwelling for this site. The dwelling is not technically significant and has been altered. To achieve liveability today, significant extensions and alterations would be required and such changes would obscure the house from view and confuse its original presentation in its context.*
29. *He contends that the Richmond Avenue group of houses can no longer*

be interpreted as that of a single designer because of the significant alterations that have taken place not only to the houses but also to the landscape setting. The integrity of the original estate has been severely diminished.

30. *Mr Davies also pointed out that the work of Ken Woolley and Bruce MacKenzie is recognised elsewhere in more significant examples, although he did recognise that this group of dwellings has the ability to illustrate physically the work of Petitt and Sevit and their association with Ken Woolley.*
31. *Mr Moore and Miss Burke did not accept Mr Davies' concerns, arguing at length in their reports as to why the facts associated with this house and the group warrant the protection of the house. Mr Moore pointed out that notwithstanding the usual incremental changes over time the group has not lost its significance nor have the individual houses. He agreed with Mr Woolley that the house is capable of extension and change to make it more liveable, and that this could occur in a manner that would recognize and maintain the original design without loss of integrity.*
32. *Miss Burke did not accept that the changes that have occurred to the group would diminish its social significance. She believes that it continues to have a strong influence and interpretability. Mr Moore was of the opinion that the group is significant for the municipality and beyond, being milestones of architectural development having a distinctive nature and integrity. Of considerable importance is the fact that the homes in the group were the product of a coordination of landscape and house designs which had a relationship to one another.*
33. *Mr Davies agreed that there are options available including adding to the house in a manner that would retain its form and layout but does not consider that this would be a successful outcome in heritage terms.*

Court's conclusions

34. *Taking this evidence into account, the thrust of the principle in cl 32 of SREP 32, the listing of the houses in the group as heritage items in the Planning Scheme and the proposed listing of No. 27 Richmond Avenue as heritage item I have not been persuaded that the demolition application should be granted.*
35. *I have reached this conclusion taking into account the following factors:*

- *The house is the prototype of the Pettitt and Sevitt Mark VII design project house later known as the Gambrel which was subsequently replicated many times in various forms.*
- *The houses in the group are early examples of Ken Woolley's domestic work, he being an important architect in the Sydney School of domestic architecture.*
- *The house is part of and an important contributor to the Richmond Avenue exhibition group, a group of listed heritage items, including four prototype designs.*
- *The Gambrel house design was the winner of an RAIA project house design award.*
- *The Richmond Avenue group is different to other display home villages having been designed in a co-ordinated manner by a single architect and landscape architect.*

36. *Whilst the significance of the group is affected by the extent to which the homes in it have been modified, these modifications are not in my opinion sufficient to overcome the above factors that together attract a level of significance sufficient to warrant the retention of No. 27. Nor can the fact that No. 27 is a small low cost building.*

37. *Notwithstanding the heritage significance of the house, the property clearly warrants some form of redevelopment. Whilst I understand the degree of difficulty and the limitations associated with any such redevelopment I am satisfied, particularly taking into account the evidence of Mr Woolley that a sympathetic redevelopment is possible. This may not be able to take place to the extent and scale that the applicant wishes but given the heritage significance of No. 27 and the Richmond Avenue group of houses a restricted form of development can be the only result.*

Conclusion and orders

38. *I have therefore decided that on the basis of heritage considerations, the appeal should be dismissed. In the circumstances there is no utility in any examination of the merits of the proposed dual occupancy development.*

39. *The orders of the Court are therefore:*

1. *The appeal is dismissed.*
2. *Development Application No. 795/02 for the demolition of an existing dwelling house and the erection of a dual occupancy development comprising two, two-storey dwelling houses at 27 Richmond Avenue, St Ives, is determined by the refusal of development consent.*
3. *The exhibits are returned.*

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5 April 2005 Resolution at Council meeting not to list No. 27 Richmond Avenue and No. 400 Mona Vale Road as heritage items under the KPSO.

Resolved:

- A. *That in light of its recommendation to the Heritage Minister of the Heritage Council's State Heritage Register Committee's decision to refuse the listing of the "Petitt and Sevitt Exhibition Centre No 1 Precinct" on the State Heritage Register pursuant to Section 33(1) of the Heritage Act, 1977, this Council is to take no further action to list 400 Mona Vale Road and 27 Richmond Avenue, St Ives located within that precinct, for heritage listing under the Local Ku-ring-gai Planning Scheme Ordinance.*
- B. *That Council notify all affected residents and all people who made a submission of its decision.*

30 May 2005 DA 522/05 lodged - Proposed demolition of existing dwelling and garage.

28 July 2005 DA 522/05 withdrawn.

Development application history (DA 845/06):

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| 2 August 2006 | Application lodged |
| 10 August 2006 | Application processed for relevant referrals at Development Review Unit (DRU). "Stop the clock" letter sent requesting applicant to indicate areas of indigenous or low water use species of vegetation and calculation of these areas to meet BASIX commitments. |
| 10 August 2006 | Neighbour notification (five (5) submissions received). |
| 17 August 2006 | Correspondence and revised landscape plan received from applicant regarding compliance with BASIX requirements. |
| 12 September 2006 | Email request to applicant to submit a plan indicating proposed tree removal and a compliance diagram indicating proposed indigenous or low water use species of vegetation throughout 270.55 sq m of the site. |
| 18 September 2006 | Correspondence and revised plan received from applicant regarding proposed tree removal and compliance with BASIX requirements. |

THE SITE AND SURROUNDING AREA

The site

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|----------------------------------|------------------------------------------|
| Zoning: | Residential 2(c) |
| Visual Character Study Category: | Pre 1920/1945-68/Post 1968 |
| Lot Number: | 5 |
| DP Number: | 220538 |
| Area: | 900.7m ² |
| Side of Street: | Eastern |
| Cross Fall: | North to South |
| Stormwater Drainage: | To street |
| Heritage Affected: | Yes |
| Required Setback: | 12 metres (min) & 14 metres (avg) |
| Integrated Development: | No |
| Bush Fire Prone Land: | Yes - Bush Fire Prone Vegetation Buffer |
| Endangered Species: | Yes - Duffys Forest Ecological Community |
| Urban Bushland: | No |
| Contaminated Land: | No |

Site description

The subject site is legally identified as Lot 5, DP 220538 and is known as 27 Richmond Avenue, St Ives. The site is rectangular in shape and has an area of 900.7m², with a frontage of 20.270m to Richmond Avenue. The property is located on the northern side of Richmond Avenue and falls towards the street. Stormwater is directed to Council's street gutter. The site currently supports a single storey dwelling known as "Gambrel" and an attached double garage is located forward of the building line.

The surrounding area

The following surrounding properties are listed within the Council's heritage register in the KPSO as a group of Pettit and Sevitt Project Homes: No's 17, 19, 21, 25 & 29 Richmond Avenue.

THE PROPOSAL

The proposal involves the demolition of the existing single storey dwelling and garage and construction of a new two storey brick and concrete tile roof dwelling. Details of the proposed dwelling are as follows:

Ground floor Entry, dining area, living area, kitchen, bedroom with walk-in-robe and ensuite, study, laundry, and attached double garage. External features include a front porch and rear patio.

First floor Two (2) bedrooms, each with walk-in-robos and one (1) bathroom.

Vehicular access to the dwelling is provided by a new driveway located in the approximate position of the existing driveway.

Associated landscape and stormwater works are proposed.

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CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP, adjoining owners were given notice of the application. In response, submissions from the following were received:

1. *L R & P T Rossiter, 5/402 Mona Vale Road, St Ives*
2. *M Rampling & R de Sanctis, 29 Richmond Avenue, St Ives*
3. *T Whitmore: Richmond Avenue Action Group, 59 Richmond Avenue, St Ives*
4. *L Lockyer, 17 Richmond Avenue, St Ives*
5. *NSW Department of Planning Heritage Office, 3 Marist Pl, Parramatta*

The submissions raised the following issues:

Objections to proposed demolition on the basis of heritage significance:

- ***Property is part of the first Pettit and Sevitt Exhibition Centre and is located within the immediate vicinity of several heritage items that form part of the Exhibition Centre.***
- ***The Heritage Office has previously advised that potential exists for adaptive reuse of the dwelling to satisfy contemporary lifestyle needs concurrent with the retention of the heritage significance of the dwelling. Accordingly, the Heritage Office does not support the proposed demolition of this dwelling.***
- ***Royal Australian Institute of Architects has undertaken a comprehensive analysis and assessment of the subject property and group of surrounding properties.***
- ***Land and Environment Court judgment on 27 October 2004 found the subject dwelling to be "part of and an important contributor to the Richmond Avenue exhibition group – a group of listed heritage items including four prototype designs". This judgment has not been rescinded therefore issue has not changed.***
- ***Heritage value of the existing dwelling within the group of surrounding heritage items.***
- ***Property previously heritage listed on Council register (deleted in 1991).***
- ***"Important piece of our local history is gone forever".***

In the Land and Environment Court judgment, dated 27 October 2004, under the statutory provisions, Commissioner Bly had taken into account Draft LEP 29 to include No. 27 Richmond Avenue as a heritage item under the KPSO. As such Clause 61D(2) could be applied in principle, which states the following:

61D (1) ...

(2) The council shall not grant consent to a development application under subcl (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

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Notwithstanding the position of the Land and Environment Court in the abovementioned judgment, Council resolved to take no further action to list No. 27 Richmond Avenue under the KPSO (as per Draft LEP 29) at its meeting dated 5 April 2005. As a result, Clause 61D(2) of the KPSO does not apply to the assessment of this application. With regard to Clause 61E, Council's Heritage Advisor is satisfied, subject to conditions, that the proposed replacement dwelling is appropriate taking into consideration the effect it will have on the heritage significance of the items in the vicinity and their setting.

Concerns as to whether the proposed dwelling would be constructed in accordance with the submitted plans should demolition be approved.

In general, in the case of any approval being granted, construction not in accordance with approved plans and consent conditions would be a breach of the Environmental Planning & Assessment Act and would be subject to compliance action/enforcement.

Proposed building should complement the heritage listed items in the vicinity.

Council's Heritage Advisor has recommended conditions to ensure the proposed replacement dwelling will be appropriate with regard to the heritage listed items in the surrounding Pettit and Sevitt group of dwellings (see **Conditions Nos 34 and 35**).

Overlooking from first floor windows to rear garden at No. 5/402 Mona Vale Road. Request that lattice panels on top of boundary fence be required.

The subject windows will not create an unreasonable level of overlooking to the abovementioned property due to the orientation of the windows and screen planting adjacent to the rear boundary.

Any request to alter an approved Development Application not be allowed where it will detrimentally effect the neighbouring properties.

Any future proposal is required to be assessed under the matters for consideration of the Environmental Planning and Assessment Act 1979 and policy provisions therein.

CONSULTATION - EXTERNAL

New South Wales Rural Fire Service

The NSW RFS made the following comment in response to the proposed development:

"Based upon an assessment of the plans and documentation received for the proposal, the NSW Rural Fire Service raises no concerns or special consideration in relation to bushfire matters for the proposed development".

CONSULTATION - WITHIN COUNCIL

Heritage

Council's Heritage Advisor, Paul Dignam, commented on the proposal as follows:

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Background

Currently the following properties are listed as heritage items

*No 17 Richmond Avenue
No 19 Richmond Avenue
No 21 Richmond Avenue
No 25 Richmond Avenue
No 29 Richmond Avenue*

The property at No 23 Richmond Avenue is included as a draft heritage item in a draft LEP.

The property at 27 Richmond Avenue, St Ives was included as a heritage item in LEP No 1 when the LEP was gazetted in 1989. The listing related to a group of houses, the former Pettit & Sevitt Exhibition Centre No 1. The listing of No 27 was removed via LEP No 2, gazetted in 1991 after the then owner claimed it is not a Pettit and Sevitt house and should not be included in the group.

An application for demolition of the house for a dual occupancy was lodged on 14/6/02 and refused on 24/6/03. The applicant appealed and a Land and Environment Court decision dated 27/10/04 dismissed the application. The conclusion by Commissioner Bly was:

“I have therefore decided that on the basis of heritage considerations, the appeal should be dismissed. In the circumstances there is not utility in any examination of the merits of the proposed dual occupancy development”.

The Court came to the conclusion that the heritage significance of the property related to the group of heritage items. Also at that time Council was considering including the property as a heritage item and prepared a draft LEP. In reaching that conclusion the Court considered

- the house is the prototype of the Pettit and Sevitt Mark VII design project house later known as the Gambrel which was subsequently replicated many times in various forms*
- the houses in the group are early examples of Ken Woolley’s domestic work, he being an important architect in the Sydney School of domestic architecture*
- the house is part of an important contributor to the Richmond Avenue exhibition group, a group of listed items, including four prototype designs*
- the Gambrel house design was the winner of an RAIA project house design award*
- the Richmond Avenue group is different to other display villages having been designed in a co-ordinated manner by a single architect and landscape architect.*

Heritage status

The property is classified by the National Trust.

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The property is not listed as a heritage item in Council's heritage schedule. The property is adjacent to No 25 & 29 Richmond Avenue which are listed items. Clause 61 E of the KPSO requires Council to consider the impact of development within the vicinity of the heritage item on the heritage significance of the item and its setting.

In August 2004, Council resolved to prepare a draft LEP to include No 27 Richmond Avenue in Schedule 7 as a heritage item. The draft plan was exhibited from 22/9/04 to 20/10/04. At its meeting of 5/4/05 Council resolved not to list the property.

NSW Heritage Council nomination

Following a number of nominations to include the group of houses on the SHR, the NSW Heritage Council commenced the process to list the whole of the group of buildings, formerly known as the Pettitt & Sevitt Exhibition Village No 1 on the SHR. At their meeting on 2 June 2004, the Heritage Council resolved not to list the group on the State Heritage Register. The decision was made because there was some doubt about the level of heritage significance as not enough research was available to definitively state that the group was of State heritage significance. However, the Heritage Council did find that the group had local heritage significance.

Statement of significance

The following statement of significance is taken from the Heritage Council nomination papers:

"The group of display homes in Richmond Avenue (including 400 Mona Vale Road) are of heritage significance as the first Exhibition Centre built by Pettitt & Sevitt in NSW that remains largely intact and readable in the landscape. Pettitt & Sevitt were market leaders in project house design and the use of well known architects to design and furnish their exhibition house. The village was widely visited by architects and builders as well as prospective owners, and was the most influential exhibition centre of its type in the 1960s, inspiring merchant builders in Melbourne and similar operations in Brisbane and Perth. The houses all represent early examples of architect Ken Woolley's domestic work and as a group of project houses built between 1964-1965, are a significant example of the Sydney School of domestic architecture. The original landscaping associated with the Exhibition Centre is significant as an early design by prominent landscape architect Bruce Mackenzie and represents his then innovative ideas in preserving and using the site's natural landscape and flora. The group demonstrated the close collaboration between Woolley and Mackenzie to maximise the orientation of the houses to retain the existing native landscape and in particular the scribbly gum trees. The Exhibition Centre offered suburban home buyers the opportunity to own an architect-designed home in a landscape architect designed setting that emphasised the unique physical features of the rocky Sydney environment. The survival of the group is indicative of the esteem with which they have been held by residents for some 40 years".

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Comments

The house has been found to have heritage significance as part of the overall group of 8 houses that formed the original Pettit & Sevitt display village. The heritage significance has been acknowledged by the NSW Heritage Council, The National Trust, The RAI A and Docomomo. Although the house is not listed as a heritage item, it's assessed heritage significance should be considered in the assessment of this application.

In my opinion, the group of houses in Richmond Avenue have a high level of heritage significance. No 27 Richmond Avenue has individual heritage significance as a highly successful project house design and is the prototype of many other similar houses throughout Australia. The architectural value of its design is recognised as "The Gambrel" design won an RAI A design award and this building was the prototype. The house also contributes to the intactness of the other group of listed items that form the original Pettit & Sevitt display village. The landscape, which was designed by Bruce Mackenzie, is still readable in the landscape and it also contributes to the heritage significance of the whole group.

Applicant's heritage report

The report is a little confused as it states in the introduction that only partial demolition of the house is proposed, but in the body of the report it states demolition is applied for. It claims that the existing house is:

"A modified single storey Project home dwelling and...has no significant architectural value"

It goes on to state:

'The existing house is not a heritage item and is not located within a conservation area. The building is not contributory in any substantial way to the setting of the heritage items and has no architectural or technological merit. Demolition of the house is considered acceptable in the context.'

With reference to the proposed replacement house the report states:

'The proposed development represents another layer of 'project home style design' within the streetscape in a manner that I consider compatible with the existing houses and streetscape generally. For this reason I consider the heritage impact to be acceptable.'

In conclusion it states:

"... the proposed works described above do not adversely affect the identified heritage significance of the adjoining properties or the role of the place as an element in a group of similar development. I would recommend that heritage aspects of this application be approved."

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Comment

Clearly there is a difference of opinion about the heritage significance of 27 Richmond Avenue between the applicant and the views of several heritage authorities and my opinion as Heritage Advisor for Council.

My opinion is that the application should not be approved because it proposes demolition of the existing house which has heritage significance as part of the group of houses forming the original exhibition village.

The application proposes removing two mature gum trees that were part of the landscape design prepared by Bruce Mackenzie. The landscape scheme is considered to be significant to the property and has significance to the other listed items forming the group.

Proposed replacement house at 27 Richmond Avenue

Although, in my opinion, the existing house is a significant building in its own right and is significant as part of the group of houses forming the original Pettit and Sevitt Exhibition Village No 1 and should not be demolished, I offer the following comments on the proposed replacement house. I also wish to advise Council that if this application is approved and the existing house demolished it would be possible to lodge another application consistent with the zoning of the land and there is no guarantee that this house would be built on the site. The existing house should be recorded before demolition.

The replacement house is sited on the footprint of the existing house and maintains its orientation to the group of houses forming the exhibition village. The houses were set on a ridge, not related to the street boundaries which allowed strategic views over neighbouring gardens extending the concept of 'borrowed amenity'. The landscape layout using native plantings and retaining trees on the site was related to the layout of the houses on their site and provided a consistent character to the group.

Removal of several trees is required. Council's Landscape Officer supports the landscape plan, provided adequate replenishment trees are planted. While there may be health issues associated with the trees to be removed, provided the relationship between the houses and the landscape is retained in the proposed development they would have little impact on the group of houses and the primary significance of the landscape would be retained.

The design of the house draws from a similar palette of architectural elements that were used in the original exhibition village. As the applicant has chosen to follow similar architectural design, it is important to provide similar materials and colours so that the impact on the group of houses would be minimised. Also, the driveway should retain the character of the existing group of houses and it is recommended that gravel or bitumen rather than concrete or brick paving be used.

Conclusions and recommendations

The primary cultural significance of 27 Richmond Avenue is its relationship to the group of 8 houses from 400 Mona Vale Road to 29 Richmond Avenue, which comprised a former

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housing exhibition village. On that basis I do not support demolition. I wish to note that there are many other options for retention of the house and sensitive new additions that would retain its relationship with the other houses forming the group.

With regard to the proposed replacement house, if Council resolves to allow demolition the proposed replacement house is considered acceptable and would not have adverse impact on the group of houses comprising the forming exhibition village.

Council at its meeting of 5 April 2005, resolved against the recommendation of staff to take no further action to list 27 Richmond Avenue, St Ives, for heritage listing under the KPSO. As such Clause 61D of the KPSO (*Development of heritage items*) does not apply to the proposal. Furthermore, refusal of the application on the basis of heritage significance is not available to Council as Council has previously considered the site to not be of any heritage value as an individual item. Under S79C of the EP&A Act, Council can only consider the application against the provisions of Clause 61E of the KPSO. The proposed replacement dwelling is satisfactory, subject to conditions with regard to Clause 61E of the KPSO.

Landscaping

Council's Landscape and Tree Assessment Officer, Susan Read, has commented on the proposal as follows:

An inspection of the property was conducted on 4/9/06

Impacts to trees/ tree removal/ tree replenishment

The proposed development will result in the removal of several trees on site which have not been identified in the application. A plan indicating existing trees to be removed is required. This will be conditioned.

Landscape plan

Adequate tree replenishment has been proposed as detailed on the landscape plan.

Fire

The site is identified as fire prone land. RFS has commented that there are no concerns or special consideration in relation to bushfire matters for the proposed development.

The application can be supported by Landscape Services, subject to conditions (refer to Conditions Nos 43, 44, 45, 46, 53, 55, 56 and 61).

Engineering

Council's Engineering Assessment Officer, Ross Guerrero, commented on the proposal as follows:

The following comments are made with regard to engineering and stormwater issues.

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Stormwater disposal

A concept stormwater drainage plan with supporting hydraulic calculations has been submitted. The subject property has good natural site fall from the rear to the front to which it drains and it is feasible to provide a stormwater disposal system for the site.

The applicant proposes to collect the stormwater runoff and conveyed to a 13,000L rainwater re-use tank located within the garage floor. Re-use will be for irrigation, laundry and toilet use as per BASIX requirements. OSD will not be required as the storage volume has been reduced by modifying the on-site retention volume which is considered satisfactory system for this development.

The applicant will be required to submit full details of the hydraulic evaluation of the entire stormwater drainage system including fully detailed design drawings and calculations of the on-site stormwater retention system (OSR). The design is to be prepared by a suitably qualified civil engineer in accordance with Council's Stormwater Management DCP No.47.

Site access

Access is via the existing vehicular layback and driveway crossover. The driveway within the property complies with Australian Standard 2890.1 (2004) "Off-Street car parking" and Council's Driveway Criteria.

Recommendations

From an engineering perspective there are no objections to approval of this application. The following conditions attached should be placed on any development consent issued (refer to Conditions Nos 36, 37, 38, 39, 40, 41, 42, 51, 52, 58, 59 and 60).

PROVISIONS OF RELEVANT LEGISLATION

STATUTORY PROVISIONS

State Environmental Planning Policy No 55 - Remediation of Land

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and, as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River

SREP 20 applies to land within the catchment of the Hawkesbury Nepean River. The general aim of the plan is to ensure that development and future land uses within the catchment are considered

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in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The development has the potential to impact on water quality and volumes to the catchment.

Council's Development Engineer considers the proposed stormwater system as acceptable. Subject to conditions, the development is unlikely to generate significant additional stormwater and is consistent with the provisions of SREP 20.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

| COMPLIANCE TABLE | | |
|---------------------------------------|-------------------------------------|-----------------|
| Development Standard | Proposals Numeric Compliance | Complies |
| Site Area: 900.7m ² | | |
| Minimum size allotments | | |
| • Site Area: 929m ² (min) | 900.7m ² | NO |
| • Site Width: 18m (min) | 20.27m | YES |
| Building height | | |
| 8m (max) | 5.9m | YES |
| Built-upon areas | | |
| 60%(540.4m ²)(max) | 41.1% (370.6m ²) | YES |

Minimum size allotments (cl.43):

In accordance with Clause 43(5) the subject parcel of land was in existence as a separate parcel of land on the appointed day (29 September 1971). Therefore, nothing in Clause 43 shall operate to prohibit the erection of a dwelling house in Zone No 2(c).

Heritage /conservation areas (cl.61D – 61I):

Clause 61D does not apply to the proposal as the subject site is not a heritage item.

Clause 61E of the KPSO requires Council to assess the effect of the proposed development on the heritage significance of the adjoining heritage items.

Subject to conditions as recommended by Council's Heritage Advisor, the proposed replacement dwelling is acceptable with regard to the effect it will have on the heritage significance of the items in the vicinity and their setting. The proposal satisfies Clause 61E.

POLICY PROVISIONS**Development Control Plan No 38 - Ku-ring-gai Residential Design Manual**

| COMPLIANCE TABLE | | |
|------------------------------------|-------------------------------------|-----------------|
| Development Control | Proposals Numeric Compliance | Complies |
| 4.1 Streetscape: | | |
| Building setbacks (s.4.1.3) | | |

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| COMPLIANCE TABLE | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| Development Control | Proposals Numeric Compliance | Complies |
| <ul style="list-style-type: none"> Front setback: 14m (Ave) – 75% front elevation 12m (min) – 25% front elevation Side setback: Single storey (garage only): 1.8m Ground floor: 2.4m(min) 1st floor: 3.0m (min) Rear setback: 11.1m(min) | <p>>21m</p> <p>11.3m (garage wall)</p> <p>East:</p> <p>1.7m (ground floor)</p> <p>2.1m (1st floor)</p> <p>West:</p> <p>1.5m (garage)</p> <p>1.5m (ground floor)</p> <p>5.1m (1st floor)</p> <p>9.6m</p> | <p>YES</p> <p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p> <p>NO</p> <p>YES</p> <p>NO</p> |
| 4.2 Building Form: | | |
| FSR (s.4.2.1) 0.4:1 (max) | 0.24:1 | YES |
| Height of building (s.4.2.2) | | |
| <ul style="list-style-type: none"> 2 storey (max) and 7m (site <20° slope) | 2 storey & 5.9m | YES YES |
| Building height plane (s.4.2.3) 45° from horizontal at any point 3m above boundary | 2.5m breach (chimney – eastern side) & 0.2m breach (first floor eaves – eastern side) | NO |
| First floor (s.4.2.4) | | |
| <ul style="list-style-type: none"> FSR: < 40% total FSR | 30% | YES |
| Roof Line (s.4.2.6) | | |
| <ul style="list-style-type: none"> Roof height (3m – two⁺ storey) Roof pitch 35° (max) | 2.5m 20.5° | YES YES |
| Built-upon area (s.4.2.7) 54% (486.4m ²) (max) | 41.1% (370.6m ²) | YES |
| Unrelieved wall length (s.4.2.8) 8m (max) walls > 4m height 12m (max) walls < 4m height | 7.3m | YES |
| Solar access (4.2.11) 4h solar access to adjoining properties between 9am to 3pm | > 4 hours | YES |
| External noise sources (s.4.2.12) 14m Setback to main roads or 40dba compliance | >14m setback | YES |
| Cut & fill (s.4.2.14) | | |
| <ul style="list-style-type: none"> Max cut 900mm max cut & fill across building area of 1800mm no cut or fill within side setbacks | 500mm 1000mm | YES YES YES |
| 4.3 Open space & landscaping: | | |
| Soft landscaping area (4.3.3) 46% (414.3m ²) (min) | 58.9% (530.1m ²) | YES |
| Tree replenishment (s.4.3.6) 5 Trees required | 5 trees provided | YES |

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| COMPLIANCE TABLE | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|----------------|
| Development Control | Proposals Numeric Compliance | Complies |
| Landscaping cut & fill (s.4.3.7) <ul style="list-style-type: none"> max cut or fill 500mm relative to natural ground no cut & fill within 2m of boundary | 0mm | YES YES |
| Useable open space (s.4.3.8) Min depth 5m and min area 50m ² | Depth > 5m & Area > 50m ² | YES |
| 4.5 Access & parking: | | |
| No. of car parking spaces (s.4.5.1) 2 spaces behind building line | 2 spaces forward of building line | NO |
| Size of car parking space (s.4.5.2) 5.6m x 5.4m | 4.3m x 4.8m | NO |
| Design of carports and garages (s.4.5.3) Where forward of the building line, front setback complies with s4.1.3: 14m (Ave) – 75% front elevation 12m (min) – 25% front elevation | >21m 11.3m | YES NO |
| Driveway width (s.4.5.6) 3.5m (max crossing width) | 3.4m | YES |

Part 3.1 Site Planning and environmental constraints:***Heritage items and conservation areas (s.3.1.8)***

As discussed in relation to Clause 61E of the KPSO, the proposed development is satisfactory having regard to the heritage significance of heritage items in the vicinity of the site.

Part 4.1 Streetscape:***Front setback (s.4.1.3)***

The proposed garage is located in approximately the same position as the existing garage, however encroaches into the 12 metres (minimum) front setback control and is forward of the proposed dwelling. The extent of non-compliance is limited to the western wall of the garage, which encroaches only marginally beyond the required setback (0.7 metres) and is acceptable as it will not create any undue visual impact on the streetscape.

The principal garage structure complies with the minimum front setback requirement and the dwelling is well in excess of the average setback requirement as indicated in the above compliance table. Furthermore, the proposed front setback is greater than that of the adjoining heritage listed property to the east (No. 25 Richmond Avenue) and is sympathetic to the overall streetscape character.

Side setbacks (s.4.1.3)

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The proposed development fails to satisfy the numerical side setback requirements to the ground floor and to the eastern side of the first floor as specified in Section 4.1.3 of DCP 38. Notwithstanding these departures, the side setbacks are commensurate with those of the existing dwelling and those adjoining and will not compromise the privacy or amenity of neighbouring properties taking into consideration the building height and resultant shadows, articulation of walls, boundary fencing and placement of windows. Adequate provision remains to facilitate screen planting adjacent to side boundaries to soften the appearance of built form as viewed from adjoining properties.

Rear setback (s.4.1.3)

The 9.6 metres rear setback to the proposed dwelling fails to comply with the required minimum of 11.1 metres. The extent of the departure is negligible as the subject wall complies with the required setback for a distance of 11.5 metres, which represents approximately 75% of the total rear wall length. The proposed rear setback exceeds that of the existing dwelling and incorporates screen planting adjacent to the boundary to enhance privacy and soften the appearance of the new dwelling. An open sided patio also extends into the rear setback area by a range of 6.4 metres to 10.3 metres, however will not present undue overlooking or aural privacy impacts to adjoining properties due to the existing 1.8 metres high boundary fencing and landscaping proposed.

Part 4.2 Building form:

Building height plane (s.4.2.3)

The chimney and first floor eaves to the proposed dwelling breach the building height plane by 2.5 metres and 0.2 metres, respectively. The proposal is acceptable in this regard as the eastern side of the chimney has a length of only 1.6m and the first floor eaves do not present a significant breach. These components will not create undue shadow and do not result in significant visual bulk or dominance to neighbouring properties.

Part 4.4 Privacy and security:

The proposed dwelling is sited and designed to provide reasonable visual and acoustic privacy to neighbouring dwellings and private open spaces. Reasonable setbacks are provided as discussed above, and existing 1.8 metres high boundary fencing along both side boundaries adjacent to the dwelling and along the rear boundary will prevent overlooking from ground floor level to adjoining properties. First floor windows are proposed to the front (south) and rear (north) elevations only, which present views to the front and rear open spaces of the subject site.

Proposed screen planting in the rear yard will mitigate any overlooking to adjoining properties. Security to the subject site and neighbouring properties will not be compromised.

Part 4.5 Access and parking:

No. of car parking spaces (s.4.5.1)

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The provision of two (2) car spaces behind the building line is required for a single dwelling under Section 4.5.1 of DCP 38. Notwithstanding this control, the proposed double garage located forward of the dwelling is sympathetic to the character of the existing streetscape given the existence of car parking structures located forward of the respective dwellings at numerous other properties in close proximity, namely at No's 25, 23, 21, 20, 18, 18A, 17 and 16 Richmond Avenue. The existing garage at the subject site is also located forward of the dwelling and the proposal will maintain the existing streetscape amenity.

Size of car parking space (s.4.5.2)

The proposed internal dimensions of the garage (4.3 metres x 4.8 metres) are inadequate by virtue of a raised step located to the north-eastern corner of the garage. The minimum required internal dimensions under DCP 43 are 5.6 metres x 5.4 metres. Council's Development Engineer has recommended a condition of consent to ensure the garage complies with AS2890.1 (**see Condition No 42**).

Design of Carports and Garages (s.4.5.3)

The proposed front setback to the garage is acceptable as discussed with regard to Section 4.1.3 of DCP 38.

Part 5 Managing construction:

Aspects of construction management are satisfactory with regard to the matters for consideration under DCP 38. An acceptable waste management has been submitted with the application.

Development Control Plan No 47 - Water Management

Council's Development Engineer, Ross Guerrero, is satisfied with the water management aspects of the proposal with regard to DCP 47, subject to conditions.

Development Control Plan No 43 - Car Parking

The proposal fails to comply with the minimum internal dimensions for a double garage as required by Section 4.1 of DCP 43. However, this is addressed by **Condition No 42**.

Development Control Plan No. 40 - Waste Management

A satisfactory waste management plan has been submitted with the application in accordance with the guidelines of DCP 40.

LIKELY IMPACTS

All likely impacts of the proposal have been assessed and are considered satisfactory.

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

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

PUBLIC INTEREST

The approval of the application is considered to be in the in the public interest.

ANY OTHER RELEVANT MATTERS NOT ALREADY ADDRESSED

There are no other matters for consideration.

CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

RECOMMENDATION

APPROVAL

THAT the Council, as the consent authority, grant development consent to DA 845/06 for demolition of the existing dwelling and construction of a new dwelling on land at 27 Richmond Avenue, St Ives, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

GENERAL CONDITIONS

1. The development must be carried out in accordance with plans numbered 1/2 & 2/2, dated 1 July 2006, drawn by Patricia Vandenbruel, lodged with Council on 2 August 2006, and endorsed with council's approval stamp, except where amended by the following conditions:
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.

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5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
8. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
12. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

13. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

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- a. must preserve and protect the building from damage, and
- b. if necessary, must underpin and support the building in an approved manner, and
- c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

14. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
15. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
16. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
17. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
18. Where a new development is not commencing immediately following demolition, the demolition shall be limited to the extent of the footprint of the building/s on the site and no excavation shall be carried out.
19. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
20. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

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21. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
22. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
23. Soil on vacant sites is to be stabilised as soon as possible to prevent erosion and the site shall be kept clear of excess vegetation.
24. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
25. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
26. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
27. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safely stockpiled and not likely to become a harbourage for vermin.
28. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
29. Fire hoses are to be maintained on site during the course of demolition.
30. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.

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31. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
32. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
33. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
34. To ensure that the replacement house has a complementary relationship to the other listed heritage items which forms the Pettit and Sevitt Exhibiting Village No 1, external joinery and weatherboards should be oiled or painted timber and should match the colour (mission brown) of the other listed items. The masonry walls should be bagged and painted white to match the other listed items. The roof tiles should match the profile and colour of the other listed items (brown). The driveway should be gravel or bitumen.
35. Demolition of a non-heritage item or not in a UCA.

A report is to be submitted to and approved by Council's Heritage Advisor prior to commencement of the work and prior to issue of a Construction Certificate.

The report is to be prepared by a heritage consultant included in the NSW Heritage Office list of recognised consultants or other suitably qualified person who has knowledge and experience in preparing archival recording documents.

The report is to be a bound A4 report. Three copies of the report must be submitted, one copy with negatives.

All photographs to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. Photographs of the following:

- Each elevation and selected interiors
- Photographs of timber joinery
- All structures on site such as sheds, outhouses and significant landscape features
- Several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings.

Minimum requirements:

- Title page
- Statement of reasons the recording was made
- Site plan showing all structures and site elements
- Sketch of the floor plan showing the location of the camera for each photograph.
- Black & White archival quality photographs, contact prints and selected prints (one copy of negatives other copies with contact sheets and selected prints)

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Digital images and CDs may be submitted as supplementary information.

36. Stormwater runoff from all new impervious areas and subsoil drainage systems must be piped to the street drainage system. *New* drainage line connections to the street drainage system must conform and comply with the requirements described in sections 5.3 and 5.4 of Ku-ring-gai Council Water Management Development Control Plan 47. The Applicants attention is directed to the requirements for obtaining a *Road Opening Permit* for excavating in the road reserve.
37. A mandatory rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all relevant BASIX commitments and the requirements specified in chapter 6 of Ku-ring-gai Council Water Management Development Control Plan 47 (DCP47).
38. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.
39. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
40. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
41. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".

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42. To ensure adequate provision for parking within the garage, the step within the garage is to be reduced in order to allow for a B85 vehicle to be parked and satisfy the requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".
43. Removal, or pruning of the following trees, is not approved as part of this Development Application:
Tree/ Location
Eucalyptus sp. X2
Located north-east of existing driveway
Eucalyptus sp.
Located east within the rear yard
44. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
45. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
46. The following noxious and/or environmental weed species shall be removed from the property prior to completion of the proposed building works.
Plant Species
Cotoneaster lacteus (Cotoneaster)
Located eastern side of front yard

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

47. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.
Note: Required if cost of works exceed \$25,000.00.
48. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an

Item 3

Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

49. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
50. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
51. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004). A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management Development Control Plan 47.
52. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
 - Exact location and reduced level of discharge point to the public drainage system.
 - Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, pits, grated drains, swales, kerbs, flushing facilities,

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subsoil drainage and all ancillary plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).

- Location(s), dimensions and specifications for the required rainwater storage and reuse tank systems. Where proprietary products are to be used, manufacturer specifications and details must be provided.
- Full details of the hydraulic evaluation of the entire stormwater drainage system including fully detailed design drawings and calculations of the on-site stormwater retention system (OSR).
- Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the BASIX commitments.
- Details of any required on-site detention tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, location, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 for volume, PSD and design requirements).

The above construction drawings and specifications are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based upon the **Stormwater Management Plan SRIC-A** prepared by **WaterPlan Pty Ltd** submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

53. A CASH BOND/BANK GUARANTEE of \$2000.00 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have been satisfactorily established and maintained.

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

54. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
55. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.

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56. Existing trees and vegetation on the site shall not be disturbed except with the written approval of Council and the following tree/s shall be fenced off before demolition commences.

| Tree/Location | Radius From Trunk |
|-------------------------------------------------------------|-------------------|
| <i>Eucalyptus sp.</i> X2 Located NE of existing driveway | 2.0m |
| <i>Eucalyptus sp.</i> Located East within the rear yard | 4.0m |

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

57. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
58. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.
59. Prior to issue of the Occupation Certificate any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.
60. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:
- That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.

Item 3

- b) That the minimum retention and on-site detention volume storage requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
- c) That retained water is connected and available for uses including **BASIX commitments (all toilet flushing, laundry and garden irrigation)**.
- d) That the drainage system has been installed by a licensed contractor in accordance with the Plumbing and Drainage code AS3500.3 (2003) and the BCA.
- e) That all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The *rainwater retention certification sheet* contained at appendix 13 of Ku-ring-gai Council Water Management DCP 47 must be completed and attached to the certification. Where an on-site detention system has been constructed, the *on-site detention certification sheet* contained at appendix 4 of DCP 47 must also be completed and attached to the certification.

61. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

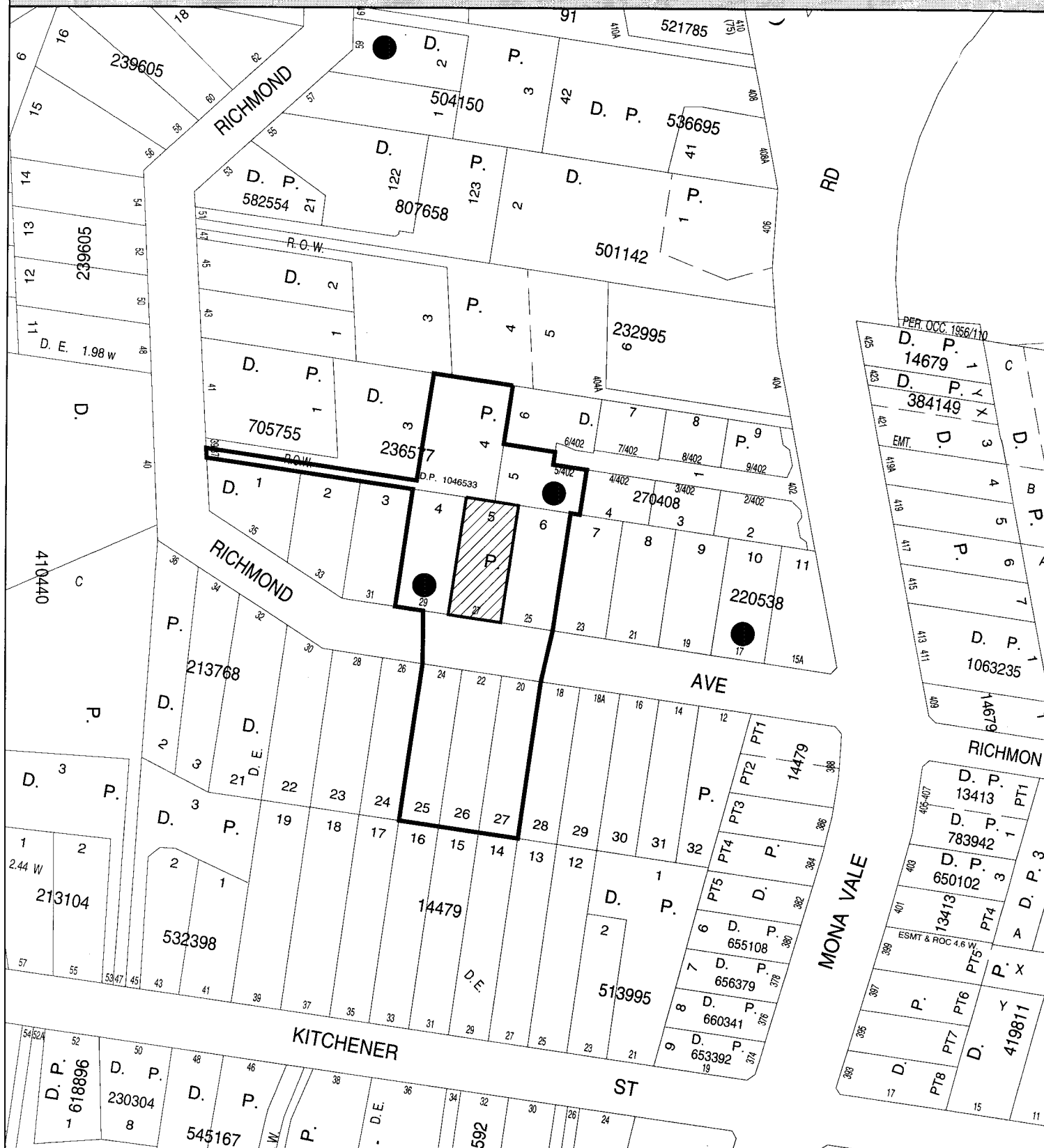
Josh Daniel
Development Assessment Officer

R Kinninmont
Team Leader
Development Assessment - Central

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Development & Regulation

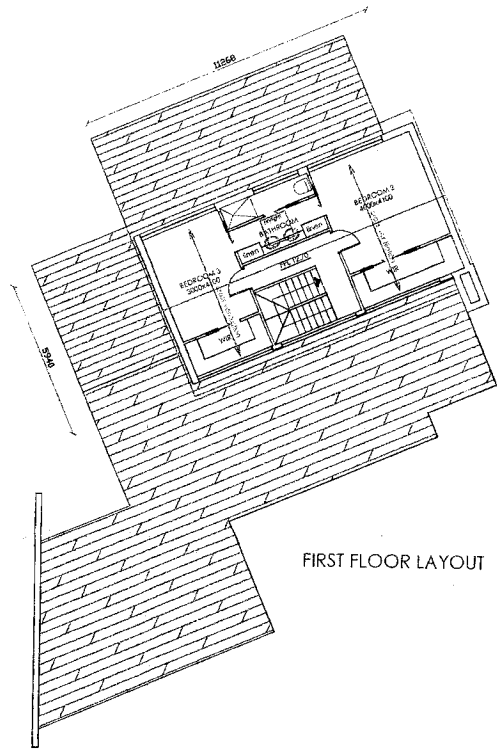
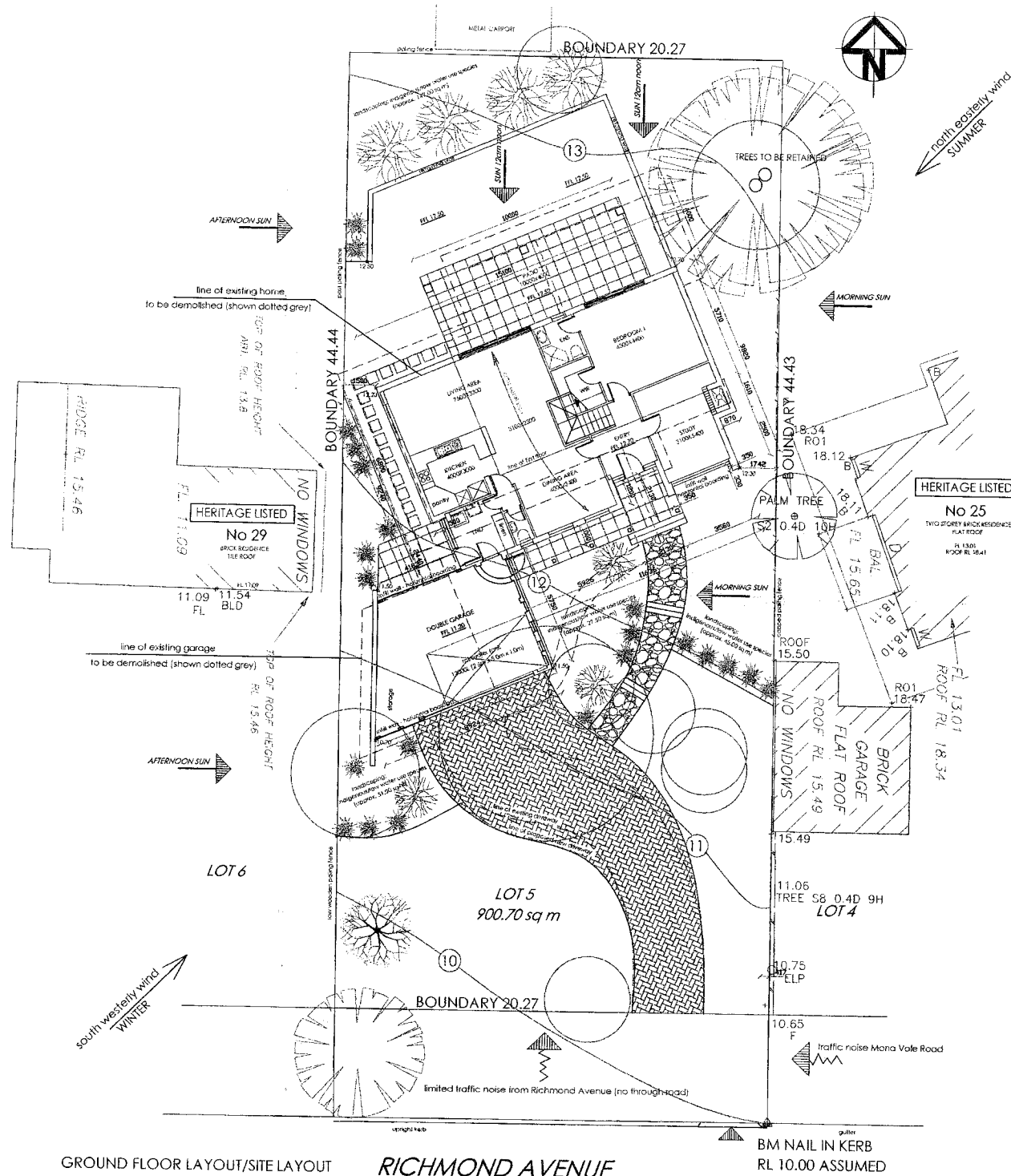
Attachments: **Location sketch & Zoning Extract - 691843**
 Site Plan - 691845
 Elevations - 691845
 Landscape Plan - 691845
 Judgment of Commissioner Bly - 691847
 Shadow Diagrams - 691848
 Survey Plan - 691848

DEVELOPMENT APPLICATION No 847/06

27 RICHMOND AVE ST IVES DA 845/06



- Scale:1:2000**
Date:31-10-2006



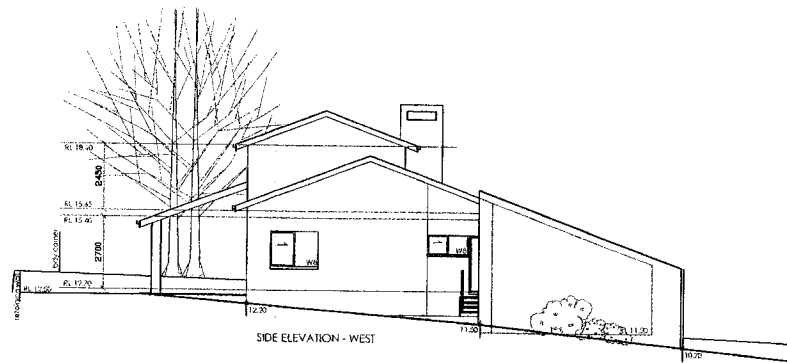
FIRST FLOOR LAYOUT

GROUND FLOOR LAYOUT/SITE LAYOUT

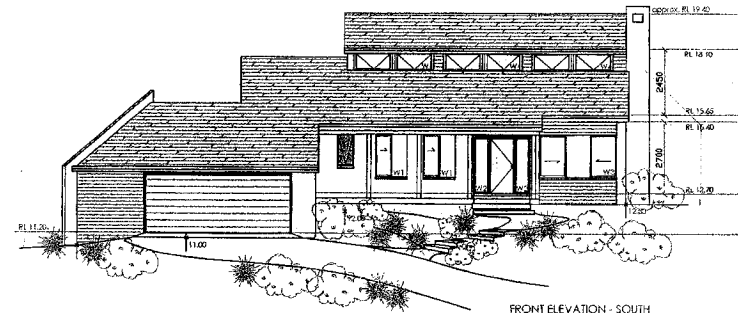
RICHMOND AVENUE

BM NAIL IN KERB
RL 10.00 ASSUMED

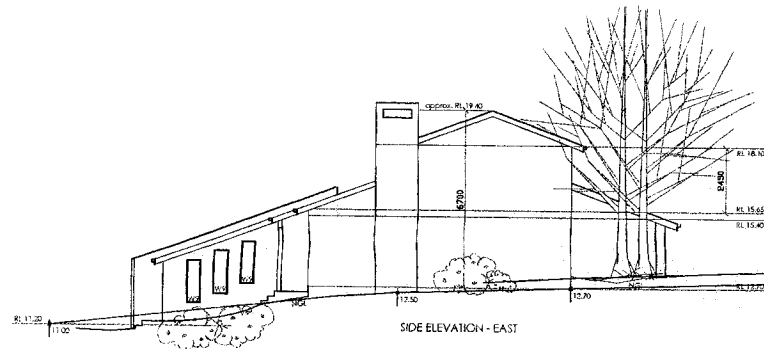
| | | | | |
|----------------------------------------------------------------------------------------------------------------|--|--|------------------------------------------------------------------------------------------------------------------------|------------------|
| PROPOSED NEW DWELLING FOR Mr Saman Rahmani AT 27 Richmond Ave (Lot 5), DP 220538 ST IVES | | | Patricia Vandenberg (B Arch) 75 Dalshaven Rd Edensor Heights NSW 2067 Ph (02) 9975 2311 Fax (02) 9975 2044 | |
| GROUND FLOOR/SITE LAYOUT SITE ANALYSIS FIRST FLOOR LAYOUT | | | DATE 01/07/2006 | |
| DEVELOPMENT APPLICATION | | | SCALE 1/100 DRAWN | SHEET No. 1/2 |



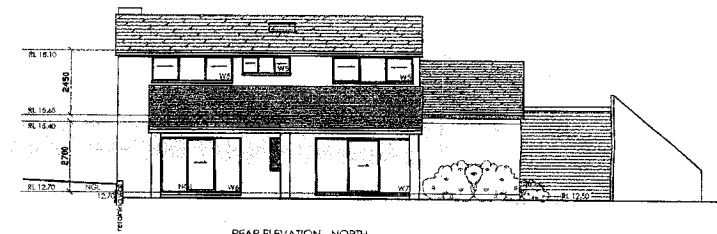
SIDE ELEVATION - WEST



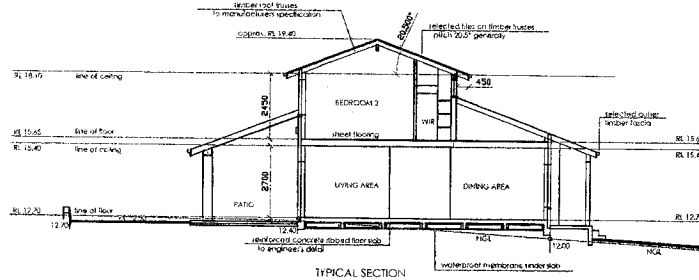
FRONT ELEVATION - SOUTH



SIDE ELEVATION - EAST



REAR ELEVATION - NORTH



TYPICAL SECTION

SITE CALCULATIONS

SITE AREA: 900.70 sq m

Proposed New Home

ground floor area: 152.75 sq m
(excluding garage: 31 sq m)
first floor area: 66.93 sq m

Total building area: 219.68 sq m
(excluding garage: 31 sq m)

FLOOR SPACE RATIO

Floor Space Ratio: 0.24:1 of site or 219.68 sq m

BUILT UPON AREA

Footprint home + garage: 183.75 sq m
Patio: 40 sq m
Front Porch: 21.87 sq m
Paving: approx. 40 sq m
Driveway: approx. 85 sq m
Total Built Upon Area: 370.62 sq m or 41% of site

BASIX REPORT - notes

Landscaping: 270.55 sq m of indigenous/low water use species
Rainwater tank: total of 13000 litres, for use in laundry and garden
Walls of cavity brick construction (R 0.50) &
walls of framed (weatherboard, fibro, metal clad) construction (R 1.30)
Ceiling and roof - raked ceiling: ceiling (R 0.74 up), roof foil backed blanket of 100mm
Roof tiles: medium (solar absorbance: 0.475 - 0.70)
Skylight: 1 sq m, timber, double clear/air fill with adjustable awning of blind
Windows: improved aluminium, single glazing - clear
Windows: W 5 (as marked on elevations): improved aluminium, single glazing - toned
Hot water system: gas instantaneous - 6 star

PROPOSED NEW DWELLING

FOR
Mr Saman Rahmani
AT

27 Richmond Ave (Lot 5), DP 220538
ST IVES

Patricia Vandenberg (B Arch)
73 Belconnen Rd
Katherine Territory NT 0807

Ph (08) 9978 2011
Fax (08) 9978 2044

ELEVATIONS TYPICAL SECTIONS CALCULATIONS

DATE
01/07/2016

SCALE
1/100

SHEET NO.

NEW SOUTH WALES LAND AND ENVIRONMENT COURT

CITATION: Rahmani v Ku-ring-gai Council [2004] NSWLEC 595

PARTIES:
APPLICANT
Rahmani S

RESPONDENT
Ku-ring-gai Council

CASE NUMBER: 10721 of 2004

CATCH WORDS: Designated Development

LEGISLATION CITED:
State Environmental Planning Policy No. 53 - Metropolitan Residential Development
Ku-ring-gai Planning Scheme Ordinance
Draft (Heritage Conservation) Local Environmental Plan No. 29

CORAM: Bly C

DATES OF HEARING: 27-28/09/2004

DECISION DATE: 27/10/2004

LEGAL REPRESENTATIVES

APPLICANT
Mt P Clay, barrister
SOLICITORS
McKees Legal Solutions

RESPONDENT
Mr P Rigg, solicitor
SOLICITORS
Deacons

JUDGMENT:

27 October 2004

10721 of 2004

Rahmani S v Ku-ring-gai Council

JUDGMENT

1. This appeal relates to the refusal by the Ku-ring-gai Council of Development Application No. 795/02 which is for the demolition of an existing dwelling house and the erection of a dual occupancy development comprising two two-storey dwelling houses at 27 Richmond Avenue, St Ives.

2. The site, which comprises Lot 5 in DP 220538, is situated on the northern side of Richmond Avenue, has an area of a little over 900 m sq and a frontage of about 20 m. It has a fall of approximately 3 m towards the street. It is located in an area predominantly developed with detached dwelling houses plus some medium density development.

Statutory provisions

3. The application was made pursuant to *State Environmental Planning Policy No. 53 - Metropolitan Residential Development* which policy aims to broaden housing that efficiently uses existing infrastructure, and reduces the consumption of land. Such housing is to be of good design. To these ends, cl 3 of SEPP 53 makes references to planning controls which provide for a variety of housing types and design principles to achieve built forms which are responsive to the characteristics of individual sites and their location.

4. Clause 18 of SEPP 53 permits dual occupancy development subject to obtaining development consent. Clauses 19 and 20 contain development standards relating to lot size, floor space ratio and car parking and these standards are met by the proposal.

5. Relevant to this application, cl 32 requires that regard must be given to the following principle:

(a) Streetscape

The proposed development should:

(i) contribute to an attractive residential environment with clear character and identity, and

(ii) where possible, retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan.

6 Under the *Ku-ring-gai Planning Scheme Ordinance* ("the Planning Scheme") the site is included in a Residential zone. Clause 61E of the planning scheme requires that:

61E The council shall not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

7 Relevantly Sch 7 of the Planning Scheme identifies heritage items in Ku-ring-gai including Nos. 19, 21, 23, 25 and 29 Richmond Avenue. With No. 27 being located in the midst of this group, cl 61E is applicable. This requirement can effectively be met by the Court's consideration of the various heritage reports prepared by the experts who gave evidence in these proceedings.

7 In 1989 No. 27 together with the above-mentioned properties in Richmond Avenue was listed in Sch 7 of the Planning Scheme as a heritage item. However in 1991 it was removed from this schedule on an understanding that the basis for its

original inclusion was wrong. Accepting now that the heritage listing for this property should be reinstated, council has prepared *Draft (Heritage Conservation) Local Environmental Plan No. 29* ("draft LEP 29") to this effect.

8 Whilst the house at No. 27 is not at this time a heritage item, I am satisfied that it has heritage significance hence, taking also into account draft LEP 29, cl 61D(2) of the Planning Scheme can, in principle, be applied:

61D (1) ...

(2) The council shall not grant consent to a development application under subcl (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

10. As with cl 61E, cl 61D of the Planning Scheme can effectively be met by the Court's consideration of the expert heritage reports.

Advertising and council's decision

11. The application was advertised and 14 objections were received. Matters of concern raised in these objections include loss of visual privacy, adverse acoustic impacts, heritage significance, streetscape impacts, setbacks, stormwater disposal, traffic impacts, excessive density and tree removal. A number of residents gave evidence elaborating these concerns when the hearing began on site.

12. Notwithstanding a supporting report prepared by council officers the council refused the application for reasons relating to streetscape, impacts on neighbouring properties and the heritage significance of the existing dwelling house on the site.

The evidence

13. Expert town planning evidence was provided by Miss K Gordon, the Court appointed town planner.

14. On behalf of the respondent council evidence was provided by:

- Miss S Burke - heritage consultant
- Mr R Moore - heritage consultant
- Mr K Woolley - architect

15. On behalf of the applicant expert evidence was provided by:

- Mr S Davies - heritage consultant
- Mr S Pittendrigh - landscape architect

The issues

16. The remaining substantive issues in the case are:

1. Whether the existing dwelling house has such heritage significance that it ought not to be demolished.
2. Whether the proposed dual occupancy development would have an adverse impact on the streetscape particularly in relation to building line.

Heritage significance

17. The expert heritage reports provide an extensive examination of the history and heritage significance of 27 Richmond Avenue and its heritage listed neighbours, which does not need to be comprehensively repeated here. However, the essential and more relevant aspects of this evidence is as follows.

18. In the 1950's and 1960's the suburbs of Australian cities were undergoing a transformation that was emerging from prospective homeowners who were increasingly able to afford better designed homes. In this context the so called project home, in many cases architect designed, became popular.
19. In 1961, Ron Sevitt and Brian Petitt formed the project home building company Petitt and Sevitt. Shortly after its formation the company engaged Ken Woolley (and others) a highly recognised and awarded architect. Mr Woolley was one of a number of architects instrumental in the provision of radically improved house designs for suburban Sydney, and was an important contributor to the architectural movement known as the Sydney School.
20. Architects of the Sydney School were recognised for their approach of designing buildings in a natural landscape with minimal site disturbance. The materials and building forms that were utilised were responsive to native vegetation and natural terrain and reflected a sense of informality.
21. Mr Woolley's first house design for Petitt and Sevitt was the "Split Level" home and the sale of this home and the resultant publicity enabled the company to start its first "exhibition centre" in Carlingford. Two homes were built here; a "Split Level" and a "Lowline" and the resulting success allowed them to initiate a larger exhibition centre in 1964 in Richmond Avenue.
22. The so-called St Ives Group, began with four homes designed by Ken Woolley: a "Split Level Mk I", a "Split Level Mk II", a "Lowline" and a "Courtyard House". Two more Ken Woolley designs were soon added being the "Two Storey" and the "Mk VII" which was later renamed "The Gambrel".
23. The house, which is the subject of this appeal, is the prototype "Gambrel" house and is the very first example of this design and was the smallest and cheapest in the Petitt and Sevitt range. The house was, consistent with the Petitt and Sevitt policy; a basic design which was able to be extended in modules of 3 ft. Forty-five contracts for the Gambrel design were issued in the first two years and it is this design that won the Institute of Architects 1967 Project Home Award.
24. In addition to the Gambrel, three other houses in the Richmond Avenue exhibition group are also prototypes of their designs. The houses in this group, importantly, had a siting relationship with one another, being oriented to the slope and having opportunities to borrow views across the gardens and adjacent landscape. The landscaping of the houses in the group was carried out by landscape designer Bruce MacKenzie, one of Australia's foremost promoters of native landscapes in urban settings.

Heritage Evidence

25. The NSW Heritage Office has considered the significance of this group and concluded that whilst it is of heritage significance, in the absence of any conclusive comparative assessments on a State wide basis, it cannot reach any definitive conclusion that the group is of State heritage significance. That office did not assess the proposal against local heritage significance criteria.
26. The Royal Australian Institute of Architects advised that it supports the retention of this group of homes being one of the project house villages of the past that can be used as an exemplar today. The Institute also advised that the demolition of one of the houses in this group will adversely impact on the significance of this place.
27. The three heritage experts and Mr Woolley conferred and prepared a joint report.
28. In the joint report Mr Davies explained that there are a number of reasons why No. 27 Richmond Avenue does not presently have sufficient heritage significance to warrant its retention. First the design has been replicated in various forms many times. Second the materials used were low cost and the internal spaces are small, resulting in the design not now being suitable as a single dwelling for this site. The dwelling is not technically significant and has been altered. To achieve liveability today, significant extensions and alterations would be required and such changes would obscure the house from view and confuse its original presentation in its context.
29. He contends that the Richmond Avenue group of houses can no longer be interpreted as that of a single designer because of the significant alterations that have taken place not only to the houses but also to the landscape setting. The integrity of the original estate has been severely diminished.

30. Mr Davies also pointed out that the work of Ken Woolley and Bruce MacKenzie is recognised elsewhere in more significant examples, although he did recognise that this group of dwellings has the ability to illustrate physically the work of Petitt and Sevitt and their association with Ken Woolley.

31. Mr Moore and Miss Burke did not accept Mr Davies' concerns, arguing at length in their reports as to why the facts associated with this house and the group warrant the protection of the house. Mr Moore pointed out that notwithstanding the usual incremental changes over time the group has not lost its significance nor have the individual houses. He agreed with Mr Woolley that the house is capable of extension and change to make it more liveable, and that this could occur in a manner that would recognize and maintain the original design without loss of integrity.

32. Miss Burke did not accept that the changes that have occurred to the group would diminish its social significance. She believes that it continues to have a strong influence and interpretability. Mr Moore was of the opinion that the group is significant for the municipality and beyond, being milestones of architectural development having a distinctive nature and integrity. Of considerable importance is the fact that the homes in the group were the product of a coordination of landscape and house designs which had a relationship to one another.

33. Mr Davies agreed that there are options available including adding to the house in a manner that would retain its form and layout but does not consider that this would be a successful outcome in heritage terms.

Court's conclusions

34. Taking this evidence into account, the thrust of the principle in cl 32 of SREP 32, the listing of the houses in the group as heritage items in the Planning Scheme and the proposed listing of No. 27 Richmond Avenue as heritage item I have not been persuaded that the demolition application should be granted.

35. I have reached this conclusion taking into account the following factors:

- The house is the prototype of the Petitt and Sevitt Mark VII design project house later known as the Gambrel which was subsequently replicated many times in various forms.
- The houses in the group are early examples of Ken Woolley's domestic work, he being an important architect in the Sydney School of domestic architecture.
- The house is part of and an important contributor to the Richmond Avenue exhibition group, a group of listed heritage items, including four prototype designs.
- The Gambrel house design was the winner of an RAI A project house design award.
- The Richmond Avenue group is different to other display home villages having been designed in a co-ordinated manner by a single architect and landscape architect.

36. Whilst the significance of the group is affected by the extent to which the homes in it have been modified, these modifications are not in my opinion sufficient to overcome the above factors that together attract a level of significance sufficient to warrant the retention of No. 27. Nor can the fact that No. 27 is a small low cost building.

37. Notwithstanding the heritage significance of the house, the property clearly warrants some form of redevelopment. Whilst I understand the degree of difficulty and the limitations associated with any such redevelopment I am satisfied, particularly taking into account the evidence of Mr Woolley that a sympathetic redevelopment is possible. This may not be able to take place to the extent and scale that the applicant wishes but given the heritage significance of No. 27 and the Richmond Avenue group of houses a restricted form of development can be the only result.

Conclusion and orders

38. I have therefore decided that on the basis of heritage considerations, the appeal should be dismissed. In the circumstances there is no utility in any examination of the merits of the proposed dual occupancy development.

39. The orders of the Court are therefore:

1. The appeal is dismissed.
2. Development Application No. 795/02 for the demolition of an existing dwelling house and the erection of a dual occupancy development comprising two, two-storey dwelling houses at 27 Richmond Avenue, St Ives, is determined by the refusal of development consent.
3. The exhibits are returned.

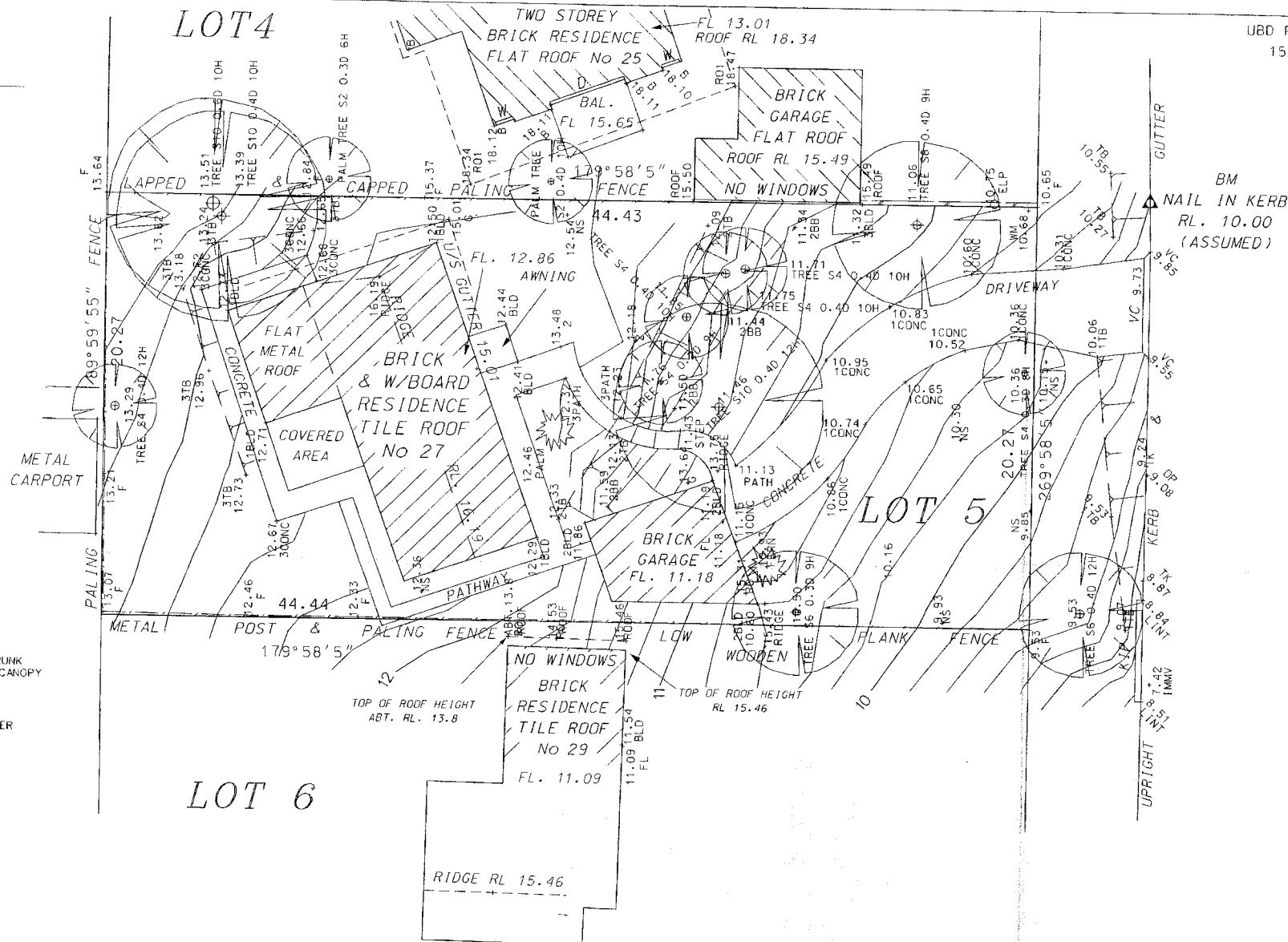
T A Bly
Commissioner of the Court
rjs



UBD REF: MAP
155 E.4

RICHMOND AVENUE

- LEGEND**
- BENCH MARK
 - TELEPHONE PIT
 - WATER METER
 - TREE D= DIAMETER TRUNK
S= SPREAD OF CANOPY
H= HEIGHT
 - STOP VALVE
 - SEWER ACCESS CHAMBER
 - ELECT LIGHT POLE
 - CLOTHES HOIST
 - GULLY PIT



NOTES:

- 1) This plan does not define the boundaries.
 - 2) Boundary dimensions are obtained from subject DP 220538
 - 3) Origin of levels, ASSUMED
 - 4) Contour intervals 0.2m.
 - 5) All dimensions & areas are subject to final survey.
- © COPYRIGHT 2002
LOVEGROVE OXLEY CONSULTANTS.

L.C.A.

KU-RING-GAI

CLIENT

MR SAMAN RAHMANI

LOVEGROVE OXLEY CONSULTANTS

CONSULTING SURVEYORS ENGINEERS & TOWN PLANNERS
LEVEL 1/ 111 MAIN STREET, BLACKTOWN NSW 2148
Telephone (02) 9831 4167 Fax (02) 9622 9116

Datum:
ASSUMED

Date of Survey:
7/9/04

Reduction Ratio:

Job No:

CAD File:

1:200

JOB TITLE

PLAN OF
CONTOURS, LEVELS & DETAIL
27 RICHMOND AVE, ST IVES
LOT 5 IN DP 220538

CLIENTS REF:

CLIENTS REF*:

Surveyor: BS

Drawn By: DB

Plan No.:

67672

Sheet 1 of 1
Sheets

DEVELOPMENT APPLICATION

SUMMARY SHEET

| | |
|-----------------------------------------------|------------------------------------------------|
| REPORT TITLE: | 4 GLEN ROAD, ROSEVILLE - NEW DOUBLE CARPORT |
| WARD: | Roseville |
| DEVELOPMENT APPLICATION N^o: | 1178/04 |
| SUBJECT LAND: | 4 Glen Road, Roseville |
| APPLICANT: | Charles Drummond |
| OWNER: | Charles and Diana Drummond |
| DESIGNER: | T H West |
| PRESENT USE: | Residential |
| ZONING: | Residential 2(a) |
| HERITAGE: | No |
| PERMISSIBLE UNDER: | Ku-ring-gai Planning Scheme Ordinance |
| COUNCIL'S POLICIES APPLICABLE: | KPSO, DCP 40, DCP 43, DCP 47, DCP 38 |
| COMPLIANCE WITH CODES/POLICIES: | No |
| GOVERNMENT POLICIES APPLICABLE: | SEPP 55 |
| COMPLIANCE WITH GOVERNMENT POLICIES: | Yes |
| DATE LODGED: | 12 May 2006 |
| 40 DAY PERIOD EXPIRED: | 21 June 2006 |
| PROPOSAL: | New double carport |
| RECOMMENDATION: | Approval |

| | |
|----------------------------------------------|-----------------------------------|
| DEVELOPMENT APPLICATION N^o | 1178/04 |
| PREMISES: | 4 GLEN ROAD, ROSEVILLE |
| PROPOSAL: | NEW DOUBLE CARPORT |
| APPLICANT: | CHARLES DRUMMOND |
| OWNER: | CHARLES AND DIANA DRUMMOND |
| DESIGNER | T H WEST |

PURPOSE FOR REPORT

To review the refusal of development application No 1178/04, which sought consent for the construction of a double carport and front fence. This application has been called to Council by Councillor Shelley.

The review is required to be determined by full Council in any event, pursuant to S82A of the Environmental Planning and Assessment Act.

EXECUTIVE SUMMARY

| | |
|---------------------------------------------|-----------------------------------------------------------------------------|
| Issues: | Streetscape Amended provisions of DCP 38 regarding garages and carports. |
| Submissions: | One (1) submission received. |
| Land & Environment Court Appeal: | No appeal to the Land & Environment Court has been lodged. |
| Recommendation: | Approval |

HISTORY

Site history:

The site is used for residential purposes. There is no history of the site relevant to the subject development application.

Development application history:

DA 1178/04

19 JULY 2005: Council at its meeting of 19 July 2005 refused development consent to DA 1178/04 for the erection of a double carport and front fence. The basis for the refusal was as follows:

- 1 The double carport and associated driveway and paving forward of the building façade of the house results in an adverse streetscape impact.

Item 4

2. The proposed driveway, paving, retaining wall and steps will have a detrimental impact on the Jacaranda located in the front setback.

DA 1259/05

19 JANUARY 2006: Council approved alterations and additions to the rear of the existing dwelling.

THE SITE AND SURROUNDING AREA

The site

| | |
|----------------------------------|----------------------------------------------------------|
| Zoning: | Residential 2(a) |
| Visual Character Study Category: | 1945 to 1968 |
| Lot Number: | 3 and 4 |
| DP Number: | 325554 |
| Area: | 817.6m ² |
| Side of Street: | Northern |
| Cross Fall: | North-west to south-east |
| Stormwater Drainage: | To street |
| Heritage Affected: | No |
| Required Setback: | The existing building line of the dwelling is 8.0 metres |
| Integrated Development: | No |
| Bush Fire Prone Land: | Yes |
| Endangered Species: | No |
| Urban Bushland: | No |
| Contaminated Land: | No |

The site

The site is a single residential lot and is legally described as Lots 2 & 3 in DP 325554. The site is of rectangular configuration, having a frontage of 16.8 metres to Glen Road and depth of 48.8 metres. The site has a total area of 817.6m² and contains a single storey detached dwelling set back from its boundaries, as follows:

| | |
|----------------------------------------|---------------------------------------------------------|
| Front setback | 8.0 metres |
| Rear setback | 23.2 metres |
| Side set back (north-eastern boundary) | 2.4 metres |
| Side setback (south-western boundary) | 1.1 metres (dwelling), nil (existing garage - attached) |

There is an existing attached single car garage located along the south-east elevation of the dwelling, with a zero metre setback to the side boundary. The garage has an external width of 3.2 metres and a depth of 6.4 metres.

The front setback consists of an open grassed area, with a number of small trees located on the front boundary and a stone paved driveway located adjacent to the south-eastern side boundary. The site has cross fall of approximately 1.5 metres. The site drains to the street.

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Surrounding development

The surrounding area is described in the Ku-ring-gai Visual Character Study as being characterised by single dwellings on single lots, with the majority of construction being within the period 1945 to 1968. A mix of architectural styles and periods are evident within the wider streetscape.

The predominant housing style in the street is a mix of one and two storey dwellings where garages/carports are either set back behind the building line or incorporated within the lower level of the building flush with the front building line.

There are 2 (two) exceptions in this part of Glen Road, they are long established and pre-date the current DCP:

| Address | Setback to Glen Road |
|--------------|----------------------|
| 18 Glen Road | Nil |
| 23 Glen Road | 5.0 metres |

The prevailing setback along the north-eastern side (high side) of Glen Road is greater than 8-9 metres from the street boundary. The existing dwelling on No. 4 is situated closer to the street than either adjoining property (No. 2 & 8) and is forward of the building line in the street.

THE PROPOSAL

This applicant seeks a review of the refusal of DA 1178/04.

This application excludes the front fence and landscaping within the front yard that was proposed in the original application.

The proposal is to construct a detached double carport and new driveway within the front yard. The proposed carport will measure 6.1 metres in width x 5.6m in depth and be set back 3.1 metres from the front boundary and extends up to the south-eastern site boundary. The proposed carport incorporates a pitched gable roof with a maximum height of 3.9 metres to the ridge.

Some excavation is proposed to provide a suitable grade for the carport and associated driveway. Excavation at the front boundary will have a maximum depth of approximately 300mm and will require the removal of the *Citharexylum spinosum* (Fiddlewood) tree located adjacent to the southern site boundary.

CONSULTATION - COMMUNITY

In accordance with Council's DCP No 56, adjoining owners were given notice of the application. In response, one submission was received from:

Narelle Fay of 6 Glen Road, Roseville.

The submission raised the following issues:

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No objection to the carport, however there is concern in relation to the proximity of the structure to the site boundary and whether the excavation for the brick columns will remain within the property.

A condition has been recommended requiring that the carport structure (including the footings) to be constructed entirely within the boundaries of the property. **(Refer Condition No 23).**

CONSULTATION - WITHIN COUNCIL

Landscaping

Council's Landscape Development Assessment officer, Robyn Askew advised that the proposal is acceptable, subject to conditions.

Impact on tree

The proposed retaining wall and steps have been deleted, from the northern side of the proposed carport which will greatly reduce the impact on the Jacaranda mimosifolia (Jacaranda) located on the front boundary.

It is noted that whilst the retaining wall has been deleted, the amended plan still indicates raised levels along the northern side of the carport. I presume that this is an oversight by the applicant as the retention of fill will not be possible without a retaining wall.

Provided the carport is constructed as per the arborist's report by Landscape Matrix dated 17 July 2006, the construction of the carport is considered acceptable in relation to its impact on the Jacaranda tree.

Impact on streetscape - reduced side setback

The proposed carport has not been relocated and does not allow for screen planting along the southern side boundary. The architectural merits of the applicant's reasons for maintaining the reduced setback should be considered by the Development Assessment Officer.

Should the DCO be willing to support the application then it is recommended that screen planting be carried out along the northern side of the carport and a small tree planting on the front boundary in the south-western corner to reduce the visual impact of the carport on the streetscape.

Conclusion

The Landscape Section finds the proposal acceptable in relation to landscape issues, subject to conditions.

Conditions Nos 29 & 30 are recommended, pursuant to the Landscape Assessment Officer's suggestion.

Engineering

Council's Development Control Engineer supports the proposal, subject to conditions. (**Refer Conditions Nos 19, 20, 21, 22, 31 and 41**).

CONSULTATION - EXTERNAL REFERRAL BODIES

Rural Fire Service

The site is identified as being bush fire prone land and, as such, any development application for the site requires consultation with the Rural Fire Service. The Rural Fire Service have been consulted and in this case have provided a condition to be imposed should the application be approved. (**Refer Condition No 2**).

SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Under the provisions of S82A of the EPAA 1979, an applicant may make amendments to the development described in the original application, where Council is satisfied that the amendments result in a development that is substantially the same development as the original development application.

The proposal in the S82A application is marginally different to that in the original DA, to the extent that the proposed front fence has been deleted. The deletion of the front fence still results in the development being substantially the same as that originally determined by Council.

Clause (6)(b) of Section 82A of the Environmental Planning and Assessment Act 1979 requires that where Council reviews the determination, if the determination was made by the Council, the review must be made by the Council.

STATUTORY PROVISIONS

State Environmental Planning Policy No 55 - Remediation

The site has a history of residential use. There are no concerns related to potential contamination.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

| COMPLIANCE TABLE | | |
|---------------------------------------------------|-------------------------------|----------|
| Development Standard | Proposals Numeric Compliance | Complies |
| Site Area: 817.6m ² | | |
| Building height 8m (max) | 2.7m | YES |
| Built-upon area 60%(490.6m ²)(max) | 50.9% (416.75m ²) | YES |

Aims and objectives for residential zones

The development:

- (i) provides satisfactory levels of solar access and privacy to surrounding properties;
- (ii) is of a bulk, scale and design, characteristic of the area;

Item 4

- (iii) maintains adequate levels of landscaping;
- (iv) provides suitable egress/ingress for vehicles; and
- (v) maintains the landscape quality of the municipality.

Consequently, the aims and objectives for residential development as outlined by Schedule 9 have been satisfied.

POLICY PROVISIONS

DCP 38 - Ku-ring-gai Residential Design Manual

| COMPLIANCE TABLE | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|--------------------------|
| Site Area: 817.6m ² | | |
| Development Control | Proposals Numeric Compliance | Complies |
| 4.1 Streetscape: | | |
| Building Setbacks (s.4.5.3) <ul style="list-style-type: none"> Front Setback: <ul style="list-style-type: none"> 14m (avg) - 75% front elevation 12m (min) - 25% front elevation | 3.1m (carport) | NO |
| 4.2 Building Form: | | |
| Building Height Plane (s.4.2.3) 45° from horizontal at any point 3m above boundary | Complies | YES |
| Roof Line (s.4.2.6) <ul style="list-style-type: none"> Roof Height (5m - single storey) | 1.5m | YES |
| <ul style="list-style-type: none"> Roof Pitch 35° (max) | <35° | YES |
| Built-Up Area (s.4.2.7) 58% (474m ²) (max) | 50.9% (416.75m ²) | YES |
| Cut & Fill (s.4.2.45) <ul style="list-style-type: none"> max cut 900mm max cut & fill across building area of 1800mm and 900mm | 300mm 600mm | YES YES |
| 4.3 Open Space & Landscaping: | | |
| Soft Landscaping Area (4.3.3) 42% (476m ²) (min) | 49.1% (400.85m ²) | YES |
| Useable Open Space (s.4.3.8) Min depth 5m and min area 50m ² | Depth >5m Area >100m ² | YES |
| 4.5 Access & Parking: | | |
| No. of Car Parking Spaces (s.4.5.1) 2 spaces behind building line | 2 spaces forward of building line | NO |
| Size of Car Parking Space (s.4.5.2) 5.4m x 5.4m | 6.1m x 5.6m | YES |

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| | | |
|--------------------------------------------------------------------------------------------------------------------|------|------------|
| Width of Carport (s.4.5.3) Not greater than 6 metres or 40% of the site frontage whichever is the lesser | 6.0m | YES |
| Driveway Width (s.4.5.6) 3.5m (max) as measured at front site boundary | 3.5m | YES |

Building setback and parking behind the building line

When Council originally considered this application, DCP 38 restricted car parking to behind the building line and only allowed car parking structures forward of the house where it was not possible to provide parking behind the building line. The purpose of the control was to ensure an attractive streetscape as it was considered that carports and garages forward of the building line were foreign elements that competed with the presentation of the house within the streetscape.

On 28 April 2006, DCP 38 was amended, specifically in respect of provisions relating to car parking structures.

DCP 38 as amended now permits a reduced front setback for carports where, owing to limited side setback space (less than 3.6 metres), or topographical constraints it is not possible to locate the parking space behind the minimum permissible setback or the building line:

In such instances:-

- the structure must be open sided
- the structure must be located at the maximum possible distance from the front property boundary, and
- the design of the structure must be of a scale and form that is compatible with the streetscape character.

When assessed against the new car parking structure criteria of DCP 38, the proposed double carport has merit because of the following:

1. The side setback from the southern boundary to the existing dwelling is 3.1 metres and is considered limiting.
2. The structure is open sided.
3. The carport is located the maximum possible distance from the front boundary.
4. The design of the structure is of a scale and form that is compatible with the streetscape character, given the amendments to DCP 38.
5. The carport has a width of 6 metres and is less than 40% of the site frontage.
6. The structure compliments the design of the dwelling as the gable roof of the carport compliments the gable roof of the dwelling.
7. The carport is located at the low, southern, side of the site and does not obscure the presentation of the dwelling in the streetscape.

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8. The existing driveway and associated front lapped and capped timber paling fence to the adjoining battle-axe property at No.6 Glen Road, provides separation between built forms and assist in the preservation of the streetscape character.
9. The existing landscape planting located in front of the dwelling and the additional landscape screen planting required by Council's Landscape Development Officer (**refer Conditions Nos 29 and 30**) will assist in the preservation of the landscaped nature of the streetscape and will soften the appearance of the carport.
10. The setbacks in Glen Road are varied, including two garages located at the southern end of Glen road, fronting the street.
11. It is not functional to locate the carport behind the setback line due to the location of the existing undersized single garage.
12. The existing street access is being utilised and the existing street tree is being retained.

Review against reasons for refusal

a. Streetscape

- 1. The double carport and associated driveway and paving forward of the building façade of the house results in an adverse streetscape impact.*

The proposal, considering the site constraints, and its compatibility with existing development, is acceptable under the amended provisions of DCP 38.

b. Impact on Jacaranda tree

The proposed driveway, paving, retaining wall and steps are likely to have a detrimental impact on the Jacaranda located at the front boundary.

The proposed retaining wall and steps have been deleted from the northern side of the proposed carport which will greatly reduce the impact on the Jacaranda to an acceptable level.

This issue has been satisfactorily addressed in the application for review of determination.

LIKELY IMPACTS

The likely impacts of the proposed carport have been considered and are found to be satisfactory, subject to conditions.

SUITABILITY OF THE SITE

The site is currently used as a dwelling house and would be suitable for the proposed development.

CONCLUSION

Item 4

After consideration of the development against section 79c of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. Therefore, it is recommended that Council review its refusal of the development application and grant development consent.

RECOMMENDATION

Pursuant to Section 82(A) of the Environmental Planning and Assessment Act, 1979.

THAT Council, as the consent authority, having considered the application for review of its determination, approve the Section 82A Review to Development Application No 1178/04 for a detached double carport on land at 4 Glen Road, Roseville, as shown on plans referenced Drawing No. A/01/B, dated 8 November 2004, drawn by T H West, and grant development consent for a period of 2 years from Notice of Determination, subject to the following conditions:

GENERAL

1. The development to be in accordance with Development Application No 1178/04 and Development Application plans prepared by TH West, reference number A01-B, dated 8 November 2004 and lodged with Council on 20 July 2006.
2. The construction shall comply with AS3959 Level 1 'Construction of Buildings in bushfire prone areas.'
3. All building works shall comply with the Building Code of Australia.
4. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
7. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
8. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive:

Item 4

7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.

9. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
10. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
11. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
12. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
14. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
15. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
16. No mechanical excavation of the proposed structure shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

| Species /Location | Radius From Trunk |
|------------------------------------------|-------------------|
| <i>Jacaranda mimosifolia</i> (Jacaranda) | 4m |
| / Front boundary | |

17. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

| Species /Location | Radius From Trunk |
|------------------------------------------|-------------------|
| <i>Jacaranda mimosifolia</i> (Jacaranda) | 4m |

Item 4

/ Front boundary

18. To preserve the following tree, any works carried out within the specified distance shall be carried out in accordance with Section 4 of the arborists report by Landscape Matrix Pty Ltd dated 17 July 2006.

| Species /Location | Radius From Trunk |
|------------------------------------------|-------------------|
| <i>Jacaranda mimosifolia</i> (Jacaranda) | 4m |
| / Front boundary | |

19. Stormwater runoff from new hard surfaces generating runoff or landscaped areas that are not at natural ground level shall be piped to the street drainage system. New drainage line connections to the street system shall conform and comply with the requirements described in sections 5.3 and 5.4 of Councils Water Management Development Control Plan 47, available in hard copy at Council and on the Council website.
20. Where required, the adjustment of any utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants responsibility to ascertain impacts of the proposal upon utility services and Council accepts no responsibility for any matter arising from its approval to this application involving an influence upon utility services provided by another authority.
21. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**
22. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
23. The carport structure, including footings shall be constructed entirely within the boundaries of No.4 Glen Road, Roseville.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Item 4

24. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
25. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
26. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
 - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
 - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
27. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

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A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

28. A CASH BOND/BANK GUARANTEE of \$1,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

The bond will be returned following issue of the Occupation Certificate, provided the trees are undamaged.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent, or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

Species /Location /Bond
Jacaranda mimosifolia (Jacaranda)
/ Front boundary
/ \$1,000.00

29. A plan, detailing screen planting of the northern side of the carport, shall be submitted to the Principal Certifying Authority and approved by a Landscape Architect or qualified Landscape Designer prior to the release of the Construction Certificate. The plan shall incorporate species of type suitable for the site conditions and location and capable of attaining a height of 2.5 metres.
30. To enhance the streetscape, the screen planting plan shall indicate the planting of a small tree on the front boundary in the south-western corner.
31. Prior to issue of the Construction Certificate footpath and driveway levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.**

Item 4

- Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.
- Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

32. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
33. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
34. To preserve and enhance the natural environment, the downslope side of the proposed construction area of the site is to be enclosed with a suitable erosion control barrier (e.g. straw bales or geofabric fence) along contour before any other work on the site commences.
35. To preserve the following tree, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

| Species /Location | Radius in Metres |
|------------------------------------------|------------------|
| <i>Jacaranda mimosifolia</i> (Jacaranda) | 2m |
| / Front boundary | |

36. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
37. Upon completion of the installation of the required tree protection measures you are required to arrange for an inspection of the site by the Principal Certifying Authority to verify that tree protection measures comply with all relevant conditions. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION/FINAL COMPLIANCE CERTIFICATE

38. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any

Item 4

construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.

39. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.
40. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.
41. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

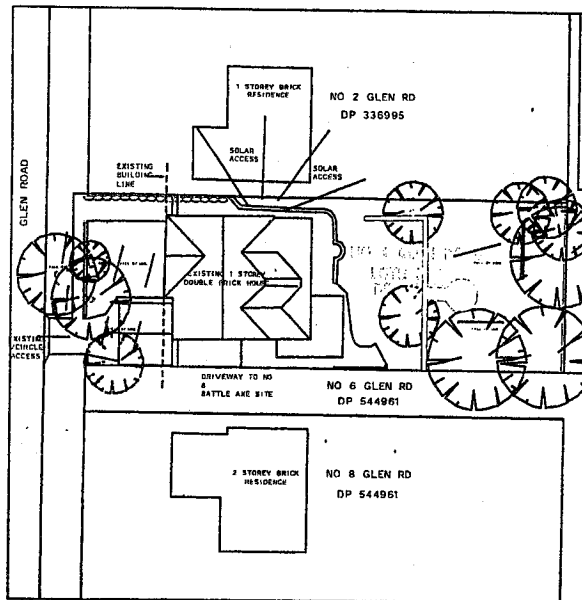
G Bolton
Executive Assessment Officer

R Kinninmont
Team Leader
Development Assessment - Central

M Prendergast
Manager
Development Assessment Services

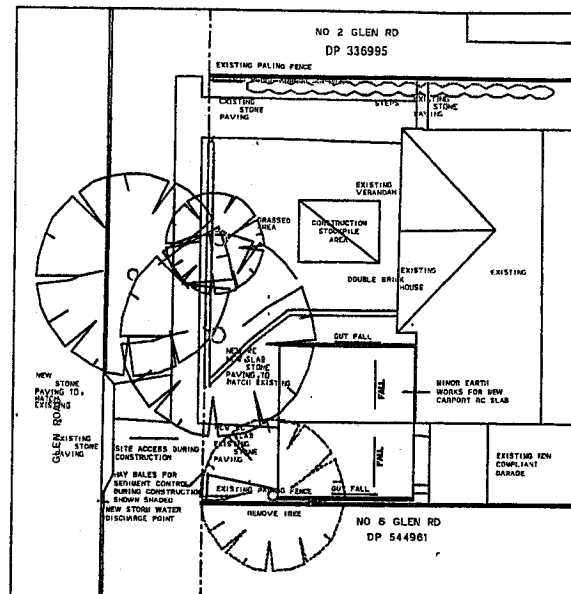
M Miocic
Director
Development & Regulation

Attachments: **Plans - 691711**
 Locality Map - 691709
 Notification Sketch - 691709



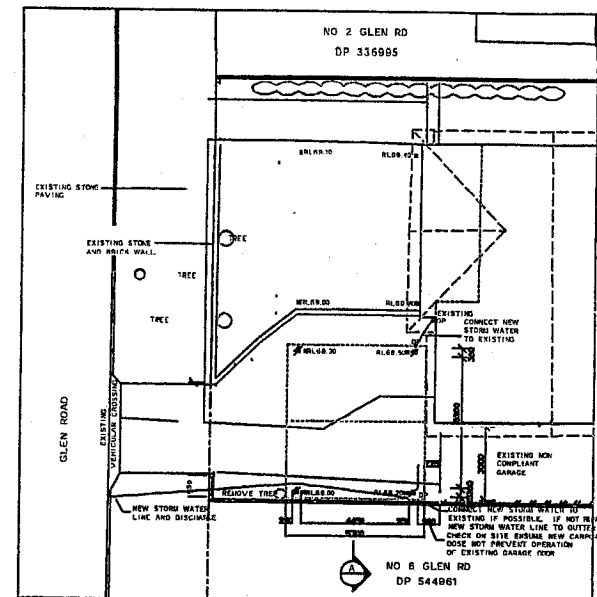
LOCATION PLAN, SITE ANALYSIS PLAN
AND SITE PLAN

SCALE 1:250



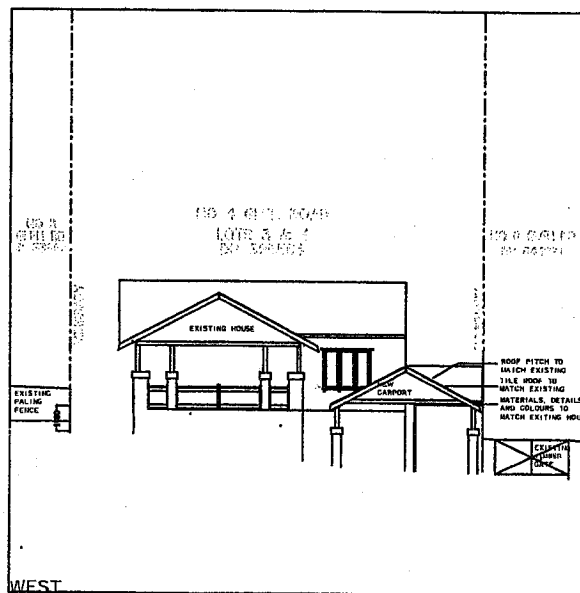
ENVIRONMENT SITE MANAGEMENT PLAN
AND ROOF PLAN

SCALE 1:100



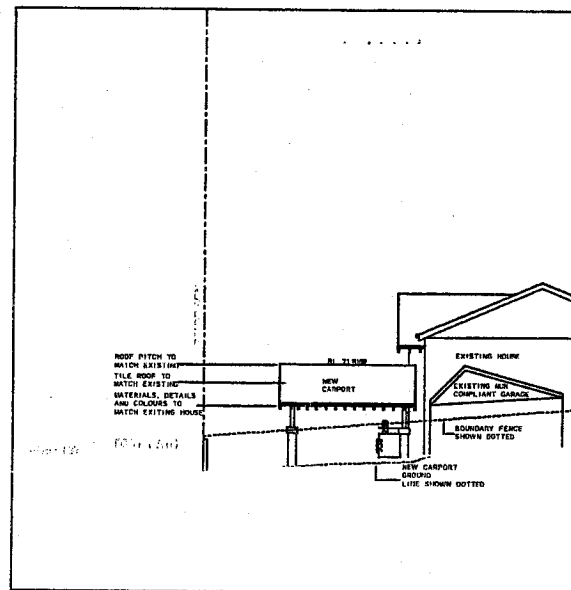
FLOOR PLAN

SCALE 1:100



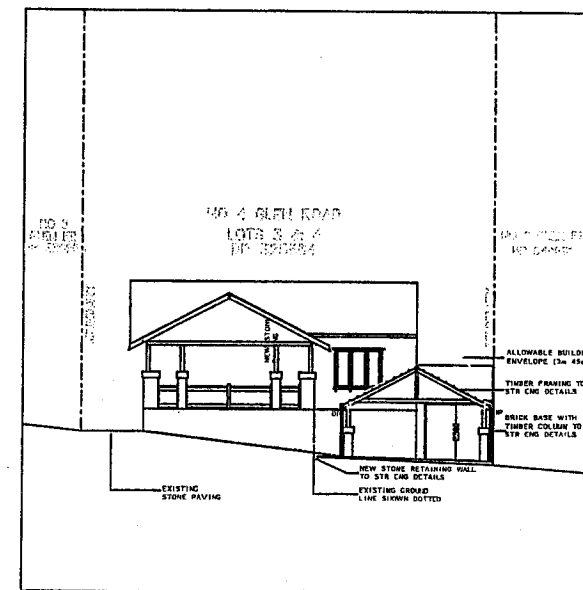
WEST
ELEVATION

SCALE 1:100



SOUTH ELEVATION

SCALE 1:100



SECTION AA

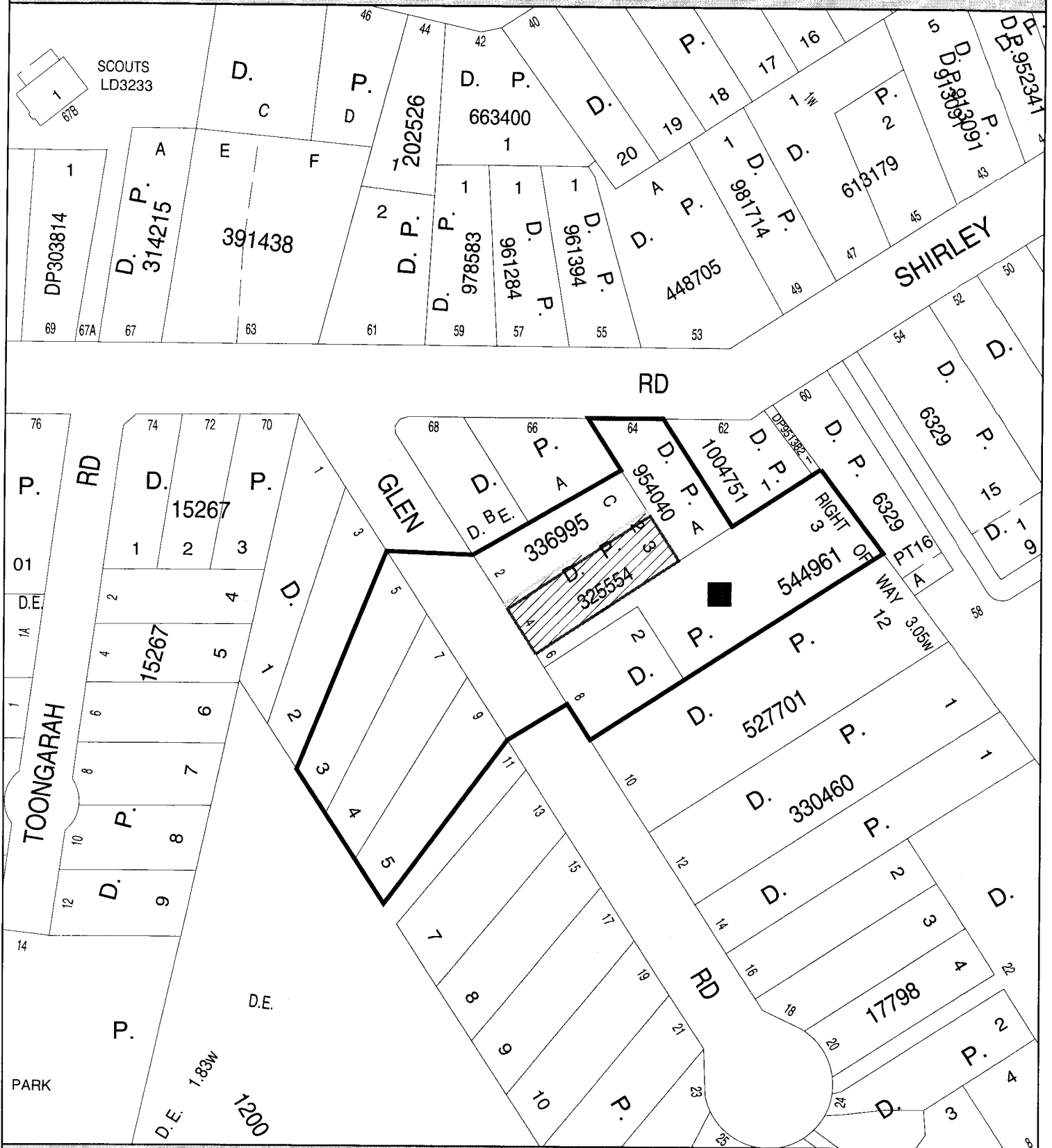
SCALE 1:100

| | | | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------|--|
| DESIGNER T H West PO Box 491 Roseville 2059 M. 0905190400 F. 0905190400 P. 0905190400 | | ENGINEER WOOLACOTT'S ENGINEERS 24 BRIDGEMAN ROAD ADELAIDE SA 5005 P. 8412 1399 F. 8412 1122 | | CLIENT CHARLES DRUMMOND 4 GLEN RD ROSEVILLE NSW 2059 P. 02 9081 8306 F. 02 9081 8306 | | APPLICATION FOR DEVELOPMENT ALTERATIONS AND ADDITIONS TO 4 GLEN ROAD ROSEVILLE | | APPENDIX 1 GENERAL ARRANGEMENT DWGS SCALE 1:100 / 1:250 ARCH W DRAWING NUMBER A 01 DATE 08/10/04 ISSUE B | |
|--------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------|--|

LOCATION SKETCH

4 Glen Road, ROSEVILLE (82A REVIEW)

DEVELOPMENT APPLICATION No 1178/04



Scale : 1:1500

13-10-2006



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



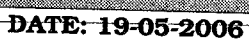
SUBMISSION



CIRCULATED AREA



4 Glen Road, ROSEVILLE



INVESTMENT & LOAN LIABILITY AS AT 30 SEPTEMBER 2006

EXECUTIVE SUMMARY

| | |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PURPOSE OF REPORT: | To present to Council investment allocations, returns on investments and details of loan liabilities for September 2006. |
| BACKGROUND: | Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 18 July 2006 (Minute No.254). |
| COMMENTS: | The Reserve Bank of Australia (RBA) maintained the official cash rate at 6.00% during the month of September. |
| RECOMMENDATION: | That the summary of investments and loan liabilities for September 2006 be received and noted. |

PURPOSE OF REPORT

To present to Council investment allocations, returns on investments and details of loan liabilities for September 2006.

BACKGROUND

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (Financial Management) Regulation (1999) and Council's Investment Policy which was adopted by Council on 18 July 2006 (Minute No. 254).

This policy allows Council to utilise the expertise of external fund managers or make direct investments for the investment of Council's surplus funds.

COMMENTS

During the month of September, Council had a net cash inflow of \$550,000 and gross interest and capital appreciation on Council's investments was \$243,900.

Council's total investment portfolio at the end of September 2006 is \$45,800,000. This compares to an opening balance of \$36,366,900 as at 1 July 2006.

Council's interest on investments for September year to date is \$633,500. This is less than the year to date budget of \$690,800. Council is achieving higher than the budgeted rate of return, however the below budget result is due to funds from the sale of Council's Depot not being received as anticipated.

Council's total debt as at 30 September 2006 is \$11,155,400. There were no debt repayments during the month of September.

PERFORMANCE MEASUREMENT

Council's investment portfolio is monitored and assessed based on the following criteria:

- **Management of General Fund Bank Balance**

The aim is to keep the general fund bank balance as low as possible and hence maximise the amount invested on a daily basis.

Item 5

S02722
28 September 2006

▪ **Performance against the UBS Bank Bill Index**

This measures the annualised yield (net of fees and charges) for each of Council's portfolios. The weighted average return for the total portfolio of funds is compared to the industry benchmark of the UBS Bank Bill Index.

▪ **Allocation of Surplus Funds**

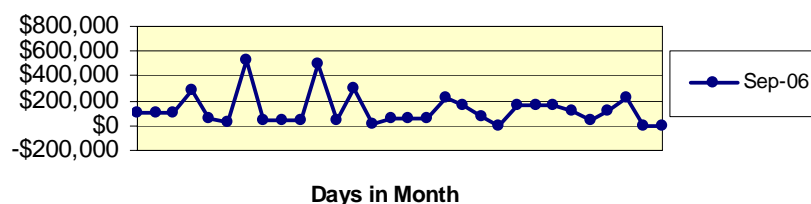
This represents the mix or allocation of surplus funds with each of Council's Fund Managers and direct securities.

Council's Investment Policy requires that not more than 35% of funds are to be with any one Fund Manager. All funds are kept below this required level of 35%.

Management of General Fund Bank Balance

During September, Council had an inflow of funds of \$550,000.

Management of General Fund Bank Balance



Funds Performance against the UBS Bank Bill Index

The weighted average return for the total portfolio year to date was 6.21% compared to the benchmark of the UBS Bank Bill Index of 6.18%.

Item 5

S02722
28 September 2006

| Issuer | Investment Name | Investment Rating | Invested at 30-Sep-06 \$'000's | Period Return (%) | YTD Return (%) | % of Total Invested |
|---------------------------------|---------------------------|-------------------|--------------------------------|-------------------|----------------|---------------------|
| Macquarie Bank | Macquarie Income Plus | A | 11,373 | 6.46 | 6.19 | 24.82 |
| Select Access Investments | Titanium AAA | AAA | 2,000 | 7.08 | 6.97 | 4.36 |
| Deutsche Bank | Deutsche Income | A | 11,523 | 6.13 | 6.13 | 25.15 |
| Perpetual | Perpetual Credit Income | A | 8,164 | 6.41 | 6.11 | 17.82 |
| Bankers Trust | BT IMC | AAA | 312 | 6.10 | 5.89 | 0.68 |
| Bendigo Bank | Turrumurra Community Bank | BBB | 528 | 5.95 | 5.95 | 1.15 |
| CBA | CBA Offset No1 | AA- | 780 | 5.96 | 5.83 | 1.70 |
| CBA | CBA Offset no 2 | AA- | 1,040 | 5.96 | 5.83 | 2.27 |
| Adelaide Bank | AAA SAVER | AAA | 5,100 | 6.40 | 6.40 | 11.13 |
| CBA/Helix Capital Jersey | Oasis Portfolio Note | AAA | 2,000 | 7.82 | 7.82 | 4.36 |
| Longreach/Rabobank | Longreach CPWF | AAA | 3,000 | 1.51 | 1.51 | 6.55 |
| TOTALS/WEIGHTED AVERAGES | | | 45,820 | 6.36 | 6.21 | 100 |

Matured/Traded Investments - Weighted YTD Average Return (%)

0.00

Weighted Average Overall Return Year To Date (%)

6.21

** Benchmark Return: UBSWA Bank Bill Index(%)

6.18

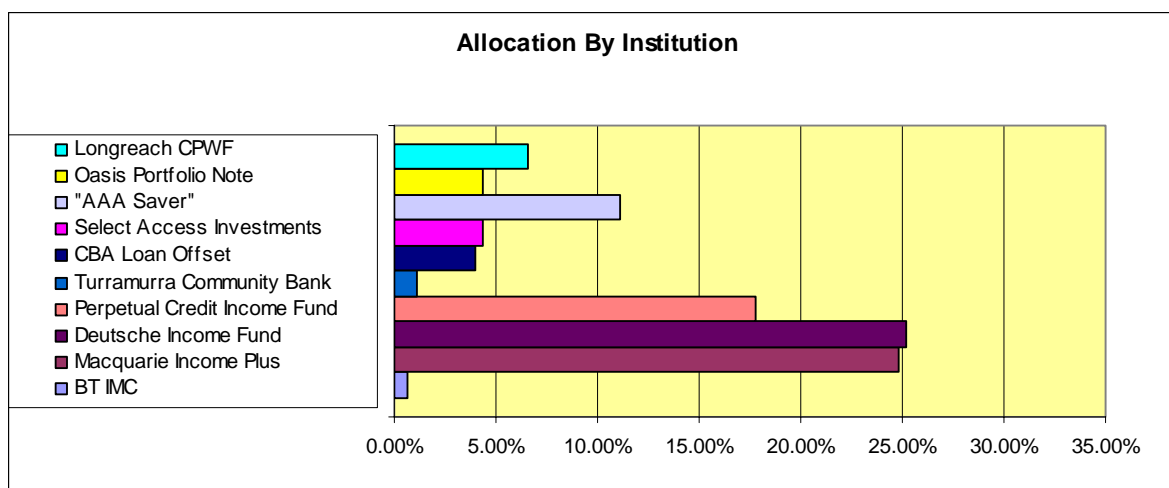
Variance From Benchmark (%)

0.03

Comment on Individual Investment Performance

Longreach/Rabobank:- This investment is in property, Infrastructure and Utilities. The fund was made on 29 September and has not reported on performance. The return shown reflects the guaranteed minimum level of 2% pa.

Council's funds during September were allocated as follows:

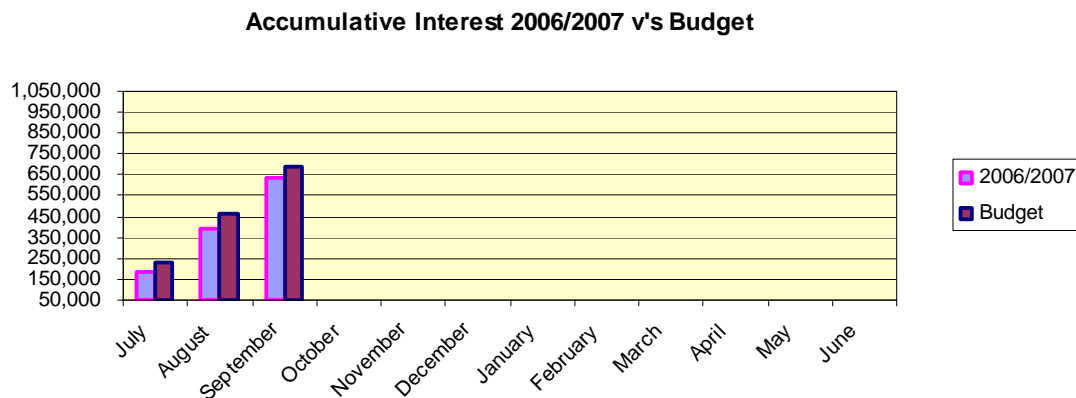


Item 5

S02722
28 September 2006

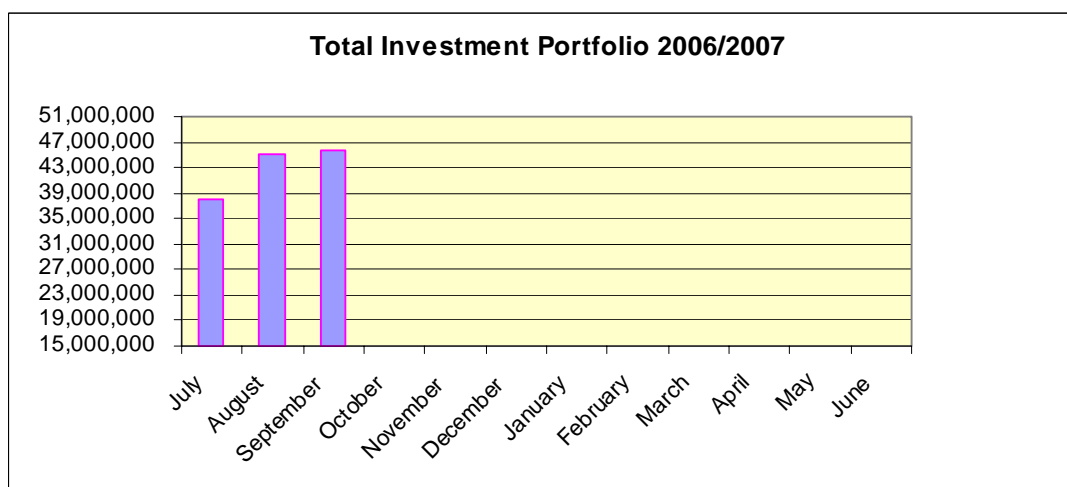
Accumulative Interest

The following chart compares the interest earned on an accumulative monthly basis against the budgeted year to date forecast. At the end of September, year to date interest earnings totalled \$633,500 against a budget of \$690,800, a negative variance of \$57,300.



Total Investment Portfolio

The following chart tracks the year to date investment portfolio balances for 2006/2007.



During September 2006 Council's investment portfolio increased by \$550,000.

Council's closing investment portfolio after interest and fees of \$45,800,000 in September 2006 is \$9,433,100 higher than the July 2006 opening balance of \$36,366,900.

Item 5

S02722
28 September 2006**Summary of Borrowings**

There were no loan repayments made in September leaving total debt at \$11,155,400.

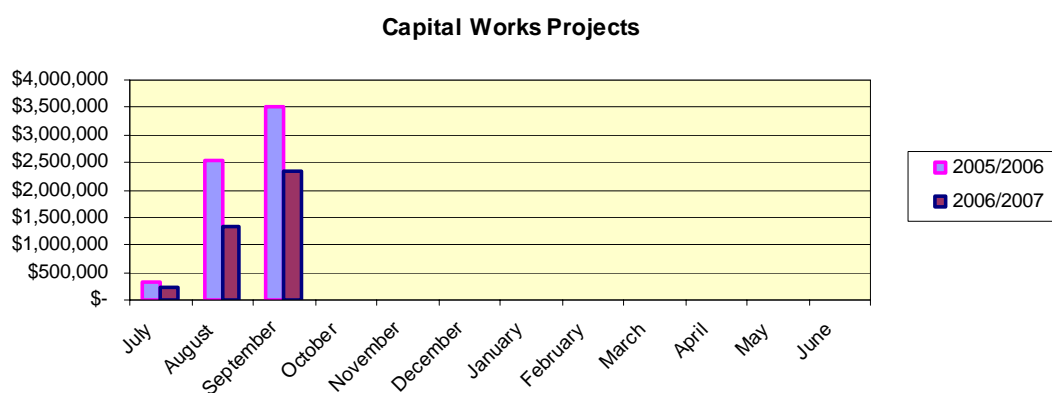
| Lender | Loan Number | Original Principal | Principal Repayments | Balance Outstanding | Interest Rate | Draw Down Date | Maturity Date |
|-----------------|-------------|---------------------|----------------------|---------------------|---------------|----------------|---------------|
| Westpac | 127 | \$1,000,000 | \$747,409 | \$252,591 | 6.32% | 29-Jun-98 | 29-Jun-08 |
| CBA Offset No 1 | 128 | \$2,600,000 | \$1,820,000 | \$780,000 | 5.87% | 29-Jun-99 | 13-Jun-09 |
| CBA Offset No 2 | 129 | \$2,600,000 | \$1,560,000 | \$1,040,000 | 5.87% | 13-Jun-00 | 14-Jun-10 |
| CBA | 130 | \$2,600,000 | \$1,099,393 | \$1,500,607 | 6.32% | 26-Jun-01 | 28-Jun-11 |
| NAB | 131 | \$2,600,000 | \$835,742 | \$1,764,258 | 6.85% | 27-Jun-02 | 27-Jun-12 |
| Westpac | 132 | \$1,882,000 | \$467,466 | \$1,414,534 | 5.16% | 27-Jun-03 | 27-Jun-13 |
| CBA | 133 | \$1,800,000 | \$276,017 | \$1,523,983 | 6.36% | 23-Jun-04 | 23-Jun-14 |
| Westpac | 134 | \$1,600,000 | \$120,575 | \$1,479,425 | 6.05% | 29-Jun-05 | 30-Jun-15 |
| NAB | 135 | \$1,400,000 | | \$1,400,000 | 6.48% | 30-Jun-06 | 29-Jun-16 |
| TOTAL | | \$18,082,000 | \$6,926,602 | \$11,155,398 | | | |

Capital Works Projects

During September 2006, Council expended \$1,023,600 on capital works, which compares to \$1,543,400 during September 2005, a decrease of \$519,800.

Council's 2006/2007 total revised budget for capital works is \$25,174,600, which leaves funds of \$22,829,800 unexpended at the end of September.

The following graph compares the gross accumulative monthly expenditure totals for capital works for financial years 2005/2006 and 2006/2007.



CONSULTATION

Not applicable

FINANCIAL CONSIDERATIONS

The Reserve Bank of Australia (RBA) maintained the official cash rate at to 6.00% during the month of September.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

As at 30 September 2006:

- Council's total investment portfolio is \$45,800,000. This compares to an opening balance of \$36,366,900 as at 1 July 2006, an increase of \$9,433,100.
- Council's interest on investments totals \$633,500. This compares to the year to date budget of \$690,800.
- Council's total debt stands at \$11,155,400.

RECOMMENDATION

That the summary of investments and loan liabilities for September 2006 be received and noted.

CERTIFICATE OF THE ACTING DIRECTOR FINANCE & BUSINESS

I certify that as at the date of this report the investments listed have been made and are held in compliance with Council's Investment Policy and appropriate legislation.

John Clark
Acting Director Finance & Business
Responsible Accounting Officer

ANALYSIS OF LAND & ENVIRONMENT COURT COSTS 1ST QUARTER 2006/2007

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To provide information in relation to proceedings to which Council is a party in the Land & Environment Court for the quarter ended 30 September 2006.

BACKGROUND:

An applicant may commence proceedings in the Land and Environment Court for an application which has either been refused by Council or is deemed to have been refused. An appeal may also be commenced in relation to conditions in any consent granted by Council.

COMMENTS:

For the first quarter 2006/2007, Council's legal costs and associated expenses in relation to Land & Environment Court matters were \$187,800. This compares to the revised year to date budget of \$400,000.

RECOMMENDATION:

That the analysis of Land & Environment Court costs for the first quarter ended September 2006, be received and noted.

PURPOSE OF REPORT

To provide information in relation to proceedings to which Council is a party in the Land and Environment Court for the first quarter 2006/2007, including appeals commenced, costs incurred by Council and outcomes.

BACKGROUND

Pursuant to the *Environmental Planning and Assessment Act 1979*, an applicant may commence proceedings in the Land and Environment Court in respect of an application for which Council was the relevant consent authority and which has either been refused by Council or is deemed by the Act to have been refused (a development application is deemed to have been refused if it has not been determined within a period of 40 days or such longer period that may be calculated in accordance with the Act). An appeal may also be commenced in relation to conditions imposed in relation to consent granted by Council. Council is a respondent to such proceedings.

Under Section 428 of the *Local Government Act 1993*, Council is required to report legal costs, and the outcome of each case in its Annual Report.

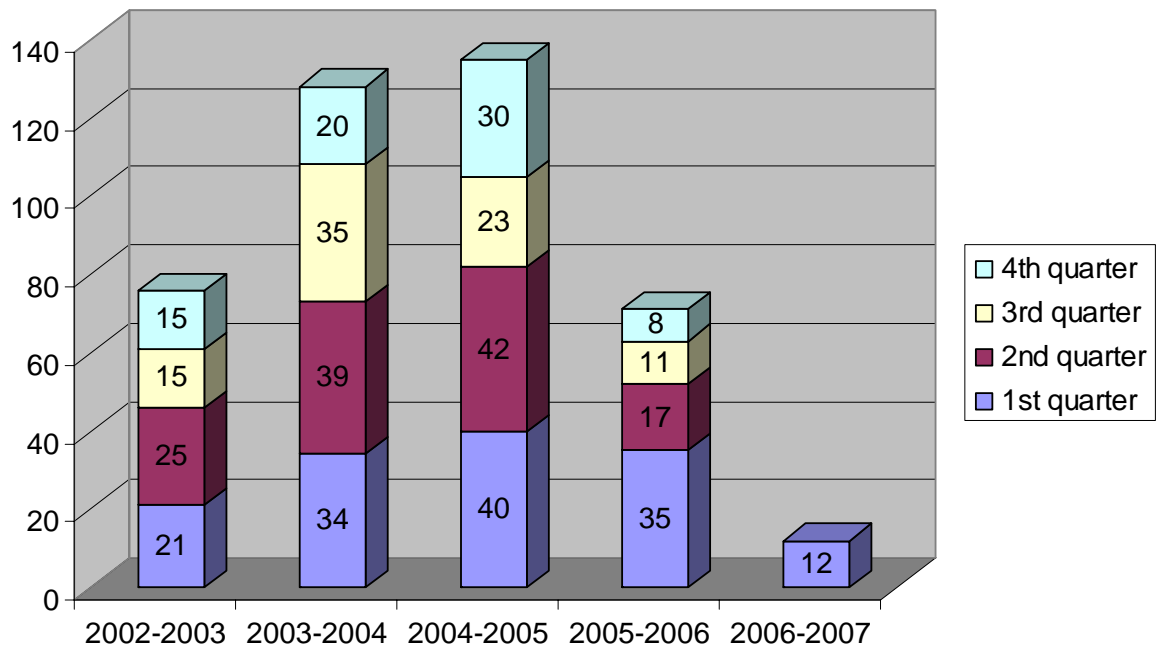
COMMENTS

APPEALS LODGED

In the quarter ended September, there were 12 new appeals lodged in respect of development applications with the Land and Environment Court, 3 of which incurred costs to Council. This represents a decrease in the number of appeals compared to previous years. The number of appeals received in prior years is as follows:

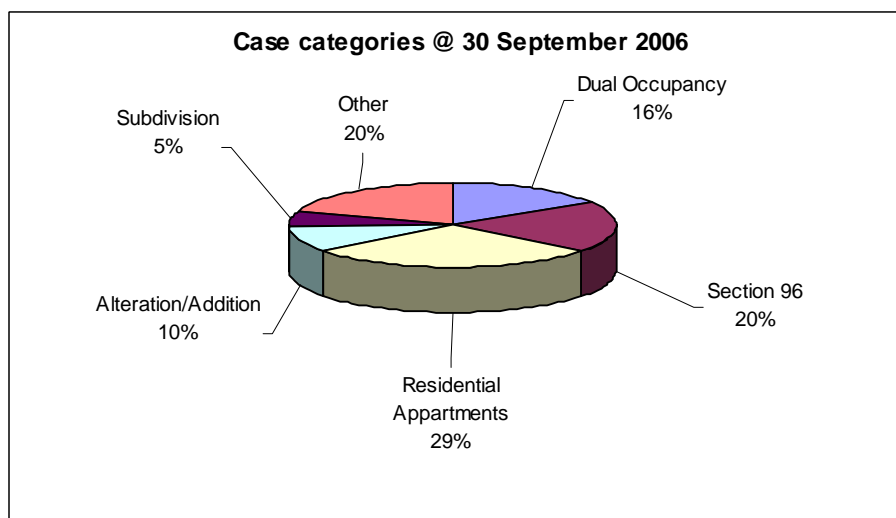
| Financial year | Number of appeals received (whole year) |
|--------------------------|-----------------------------------------|
| 2002/2003 | 76 |
| 2003/2004 | 128 |
| 2004/2005 | 135 |
| 2005/2006 | 71 |
| 2006/2007 @ 30 September | 12 |

Number of Appeals Commenced



Eleven (11) of the twelve (12) new appeals lodged during the period were in relation to deemed (as opposed to actual) refusal of an application. This proportion (92%) represents a higher percentage of deemed refusal appeals compared to earlier periods. However, as the number of appeals is small, this figure is not seen as strongly indicative of a trend. The percentage of deemed refusal appeals in the year 2005-2006 was 60%.

Appeals commenced for the quarter ended September 2006 are made up of the following development categories:



Item 6

S02466
25 October 2006

The larger categories are appeals in respect of residential apartments (29%), Section 96 (20%) and dual occupancy (16%).

The “Other” category in the previous chart comprises single dwellings, fences, demolition, telecommunications structures, and appeals against conditions of consent.

COSTS

During the first quarter 2006/2007, Council expended \$187,800 on legal costs and associated expenses in relation to Land & Environment Court matters. This is \$212,200 less than the revised budget of \$400,000, and \$150,550 less than the same period in 2005/2006 and \$86,200 less than the same period in 2004/2005. It should be noted that these costs are low in comparison to previous first quarter costs as a majority of cases commenced in June 2006 and costs were accrued in the last financial year.

These costs are made up of legal fees, fees charged by consultants retained as expert witnesses (largely court-appointed experts) and other costs incurred as a result of Council’s role in the proceedings. In addition to expenditure on appeals, a further amount of \$3,600 was spent on expert legal advice regarding development assessment matters.

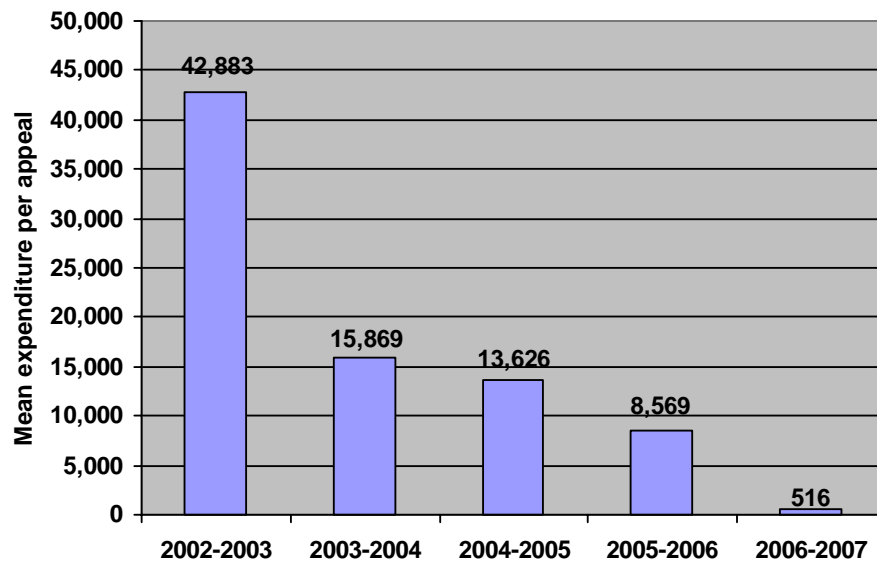
| Legal Costs and Associated Expenses 2002/2003 - 2006/2007 | | | | | |
|--------------------------------------------------------------|--------------------|----------------------------------|---------------------------------|------------------------------|-----------------------------|
| <i>Financial Year</i> | <i>Total Costs</i> | <i>1st quarter September</i> | <i>2nd quarter December</i> | <i>3rd quarter March</i> | <i>4th quarter June</i> |
| 2002/2003 (76 appeals lodged) | \$2,252,000 | \$302,000 | \$452,000 | \$665,000 | \$833,000 |
| 2003/2004 (128 appeals lodged) | \$2,205,000 | \$468,000 | \$378,000 | \$605,000 | \$754,000 |
| 2004/2005 (135 appeals lodged) | \$1,867,000 | \$274,000 | \$562,000 | \$314,000 | \$717,000 |
| 2005/2006 (71 appeals lodged) | \$1,239,900 | \$338,350 | \$362,950 | \$329,300 | \$209,300 |
| 2006/2007 (12 appeals @Sept) | \$187,800 | \$187,800 | | | |

The above table indicates that despite the number of appeals having reduced, there has also been a significant reduction in costs incurred compared to the same period in the previous year.

Item 6

S02466
25 October 2006

A comparison of the average total costs incurred in relation to matters commenced in the past four years indicates that the cost per appeal incurred by Council has reduced substantially. In relation to the following table, it should be noted that the figure of \$516 for the current financial year is unusually low and is influenced by the very small number of appeals for this period that have been concluded.



Factors which may be regarded as contributing to this reduction in costs are:

- More efficient processing of development applications that are subject to deemed refusal appeals so that they are determined at an earlier stage of Court proceedings;
- More efficient management of the process of instructing Council's external legal representatives;
- Faster progress and determination of appeals by the Court as a result of the revised practice directions;
- The practice of the Court of frequently appointing Court-appointed experts to provide expert opinion/evidence rather than allowing the parties to call their own witnesses, which results in the parties sharing the cost of the witness.

A total of \$6,200, or 3.30% of the total costs, was incurred in relation to 3 matters that commenced in the current financial year. The balance relates to appeals that were commenced prior to 1 July 2006.

SUMMARY BY WARD

A summary of Land & Environment Court costs by ward is shown in the following table:

| Land & Environment Court costs by Ward for the financial year 2006/2007 | | |
|------------------------------------------------------------------------------------|------------------|---------------|
| Comenarra | \$4,475 | 2.4% |
| Gordon | \$6,457 | 3.4% |
| Roseville | \$56,290 | 30.0% |
| St Ives | \$72,555 | 38.6% |
| Wahroonga | \$48,004 | 25.6% |
| Total Costs | \$187,781 | 100.0% |

OUTCOMES

At an early stage of each appeal, Council as respondent, is required to file with the Court a Statement of Issues outlining the grounds which Council asserts as warranting refusal of a development, or alternatively, that may be addressed by way of conditions of consent.

In cases where issues raised by Council are capable of resolution by the provision by the applicant of additional information or amendment of the proposal, it is the Court's expectation that this should occur. The Court's current practice of appointing a Court-appointed expert witness, rather than allowing the parties to call their own expert evidence, strongly encourages this.

In this context, any of three outcomes can be regarded as favorable, namely:

1. If the appeal is in relation to a deemed refusal of an application which, upon assessment, is appropriate for approval: that the development is determined by Council, allowing the appeal to be discontinued by the applicant and avoiding as much as is practicable the incurring of unnecessary legal costs;
2. If the issues raised by Council are capable of resolution by the applicant providing further information, or amending the proposal: that this occurs, so that development consent should be granted, either by Council or the Court;
3. If the issues raised by Council are either not capable of resolution, or the applicant declines to take the steps that are necessary to resolve them: that the appeal is either discontinued by the applicant, or dismissed (refused) by the Court.

Of the 12 appeals commenced in the quarter ended September 2006, only 2 appeals, were resolved in that period. Both appeals were discontinued by the applicant.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Land & Environment Court legal costs form part of Council's recurrent operating budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report has been developed with input from Council's Corporate Lawyer, Finance & Business and Development & Regulation department Directors.

SUMMARY

For the quarter ended September 2006 Council has expended \$187,800 on legal costs and associated expenses in relation to Land & Environment Court matters. This compares to the revised annual budget of \$1,600,000, a positive variation of \$212,200 for the quarter.

Actual expenditure for the first quarter 2006/2007 was \$150,550 less than in the first quarter 2005/2006.

RECOMMENDATION

That the analysis of Land & Environment Court costs for the first quarter of the financial year 2006/2007 be received and noted.

Jamie Taylor
Corporate Lawyer

John Clark
Acting Director Finance &
Business

Michael Miocic
Director Development and
Regulation

Attachment: Individual Case Recommendations September 2006 (Confidential)

| No | Date Lodged | Appeal # | Appellant | Property Address | Solicitor for Appellant | DA No | Decision Appealed Against | Solicitor | Hearing Date | Decision Date | Result | Staff Rec | Council Decision | 2006/2007 Costs \$ |
|-------------------------|-------------------------------|------------|------------------------------------|---------------------------------|--------------------------------|-------------|----------------------------------------------------------------------------------|---------------|------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------------------------------------------------------|-----------|------------------|--------------------|
| Alterations & Additions | | | | | | | | | | | | | | |
| 1 | April 15, 2005 | 10349/2005 | David Johnson & M | 14 Coronga Crescent Killara | Maddocks | DA0120/05 | Deemed Refusal of additions and alterat | Abbot Tout | July 5, 2005 | August 5, 2005 | Appeal upheld in relation | Refused | Not to Council | -18 |
| 2 | June 17, 2005 | 40607/2005 | David McGovern & | 49 Telegraph Road Pymble | N/A | DA1417/04 | Class 4 Challenge to validity of consent. | Deacons | 4, 5 and 6 September 2006 | | Reserved | N/A | N/A | 57601 |
| 3 | December 5, 2005 | 11433/2005 | Thomas Ho & Cath | 3 Elgin Street Gordon | Farmer Campbell Edmunds | DA0937/05 | Refusal of demoliton of existing structure | Deacons | | | Amended proposal appri | Refused | Not to Council | -336 |
| 3 | Total Alterations & Additions | | | | | | | | | | | | | 57,247 |
| Dual Occupancy | | | | | | | | | | | | | | |
| 1 | November 5, 2004 | 11366/2004 | Mark Shaynd | 86 Kitchener Street St Ives | Hones Lawyers | DA0688/04 | Deemed Refusal - Dual Occupancy | Abbott Tout | April 28, 2005 | | Amended proposal appri | Refused | Not to Council | -399 |
| 2 | July 6, 2005 | 10721/2005 | BCE Investments (A | 4 Munderah St, Wahroonga | Hones Lawyers | DA0532/02 A | Deemed refusal of subdivision of one lot | Deacons | September 29 & 30, 2005 (vacated 23 September 2005); 23 & 24 November 2005; 9 March 2006; 24 march 2006; 28 March 2006 | April 7, 2006 | Consent Orders in relation | Refused | Not to Council | 1795 |
| 3 | September 6, 2005 | 11029/2005 | Ray Fitz-Gibbon Architects Pty Ltd | 406 Mona Vale Road St Ives | Staunton Beattie | DA0355/05 | Deemed Refusal of Subdivision and additions and alteration to existing residence | Phillips Fox | 7, 8, 9 December 2005 | 9 December 2005; 3 January 2005 | Amended plans directed to be prepared. Amended proposal upheld. | Refused | Not to Council | 3555 |
| 4 | December 20, 2005 | 11560/05 | Complete Consultan | 2 Luton Place St Ives | Steven Klinger | DA1021/05 | Deemed refusal of attached Dual Occup | Wilshire Webb | March 31, 2006 - changed to 14 March 2006 | May 26, 2006 | Amended proposal appri | Refused | Not to Council | 1925 |
| 5 | June 5, 2006 | 10475/2006 | Gabriel Pedruco | 69 Junction Rd Wahroonga | Hones Lawyers | DA0736/05 | Refusal of proposed demolition of existi | Wilshire Webb | | | Discontinued | | | 12177 |
| 5 | TotalDual Occupancy | | | | | | | | | | | | | 19,053 |
| Other | | | | | | | | | | | | | | |
| 1 | March 27, 2006 | 10258/06 | Jose Vieira | 29 Lucinda Ave Wahroonga | N/A | DA1369/05 | Refusal of Tennie Court Lighting | Deacons | 8 & 23 June 2006 | June 23, 2006 | 5 year limited Consent | Refused | Not to Council | 18065 |
| 2 | November 9, 2005 | 11323/2005 | David Mepstead | 12 Winton Street Warrawee | McKees | DA0877/05 | Deemed refusal of proposal to demolish | Wilshire Webb | | | Discontinued | Refused | Not to Council | 7846 |
| 3 | June 26, 2006 | 10542/2006 | Geoffrey Stott | 27 Warrimoo Street St Ives | N/A | DA0984/05 | Refusal of proposed carport and front fence | Deacons | September 6 & October 16 2006 | October 16, 2006 | Amended proposal appri | Refused | Refused | 6505 |
| 4 | August 15, 2006 | 10717/2006 | Charleston Homes | Lot 28 Squadron Court Lindfield | Steven Klinger | DA0039/06 | Deemed refusal of two-storey dwelling | Phillips Fox | | | Discontinued | Refused | Approved | 390 |
| 5 | July 12, 2006 | 10601/2006 | Aussie Glo Pty Ltd | 18 Fiddens Wharf Road Killara | Maddocks Michie, Shehadie & Co | DA0265/06 | Deemed refusal of additions and alteration | Wilshire Webb | 1 & 2 November 2006 | | | Refused | Not to Council | 1353 |
| 6 | October 19, 2005 | 11230/2005 | Kuna Sivasamy | 2 Fiddens Wharf Road Killara | Hones Lawyers | DA0610/05 | Refusal of demolition of existing residen | Wilshire Webb | 21 & 22 March 2006 (vacated on 15 March 2006); 30 May 2006 | May 30, 2006 | 3rd set of amended plans approved | | | 5564 |
| 6 | Total Other | | | | | | | | | | | | | 39,723 |

| Section 96 | | | | | | | | | | | | | | |
|------------------------|--------------------|------------|-----------------------------------------------------|-----------------------------------------------|--------------------------|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------------------------------------------------------------------------------------------------|-------------------|-------------------------------------------------|----------|----------------|--------|
| 1 | October 5, 2005 | 11165/2005 | Mirvac Projects Pty Limited | 10, 10a, 12, 14 & 16 Marian Street Killara | Lindsay Taylor Lawyers | DA1388/04 (s96) | Deemed refusal of Section 96 application to modify contribution under section 94 | Phillips Fox | February 8, 2006 | February 8, 2006 | Consent Orders | | | -40 |
| 2 | October 1, 2005 | 11248/2005 | Meriton Apartments Pty Ltd | 1580-1596 Pacific Highway Wahroonga | Hunt & Hunt | DA1081/04 | Appeal against condition of approval requiring section 94 contribution | Phillips Fox | | | Discontinued | | | 4745 |
| 3 | March 8, 2006 | 10184/06 | Fiona Barton | 45 Springdale Rd Killara | Maddocks | DA1122/03 A | Refusal of Section 96 application to modify contribution | Abbott Tout | May 8, 2006; June 27, 2006 (vacated 6/6/06); 13 July 2006; 23 August 2006 | September 8, 2006 | Consent modified | Refused | Not to Council | -2846 |
| 4 | February 7, 2006 | 10086/06 | Ashley Adams | 26 Mudies Rd St Ives | Maddocks | DA0965/04 | Refusal of S 96 application to alter conditions | Phillips Fox | April 4, 2006 | April 4, 2006 | Consent Orders | Refusal | Not to Council | -78 |
| 5 | March 30 2006 | 33-3-2006 | Mirvac Projects Pty | 9-25 Tryon Road Lindfield | 146-6-2006 | | Seeking approval to ammend S 94 | Phillips Fox | | May 29 2006 | Appeal Dismissed | Refusal | Not to Council | -3708 |
| 6 | May 20, 2006 | 10451/2006 | David Sandig | 1 & 3 Salerno Place St Ives | McKees | DA0918/04 A | Refusal of Section 96 application seeking contribution | Phillips Fox | July 27, 2006 | July 27, 2006 | Consent Orders | Refused | Not to Council | 3851 |
| Total Section 96 | | | | | | | | | | | | | | 1,924 |
| Subdivision | | | | | | | | | | | | | | |
| 1 | December 14, 2004 | 11572/2004 | Ashley Webb | 6 Eastern Arterial Road St Ives | Hones Lawyers | DA0243/04 | Appeal in relation to Conditions | Deacons | February 17, 2005 | February 17, 2005 | One condition only press | N/A | N/A | -406.5 |
| 2 | March 17 2006 | 10214/06 | John Ross Reid | 35 Spencer Road Killara | N/A | DA0061/06 | Deemed refusal of additions and alterations | Wilshire Webb | June 13, 2006 | June 13, 2005 | Appeal upheld, subject to | Refused | Not to Council | 5843 |
| Total Subdivisions | | | | | | | | | | | | | | 5,437 |
| Residential Apartments | | | | | | | | | | | | | | |
| 1 | February 16, 2005 | 10110/2005 | Urban Peninsula Pty Ltd | 2-6 Buckingham Road Killara | DG Briggs and Associates | DA1353/04 | Deemed refusal of demolition of detached dwellings and construct building containing 35 apartments and basement car parking (LEP194) | Deacons | 20/06/2005 (vacated); 22-23 August 2005 (vacated on 17 August 2005); 7-8 December 2005; 15 February 2005 | April 21, 2006 | Amended proposal approved | Refusal | Refused | 1666 |
| 2 | April 22, 2005 | 10387/2005 | Red Sea Investment | 2A-2B Killara Avenue Killara | DG Briggs and Associates | DA1334/04 | Deemed refusal of dmolition of 2 dwellings | Phillips Fox | July 5, 2005 | July 5, 2005 | Refused. Appeal dismissed | Refusal | Refused | -57 |
| 3 | May 3, 2005 | 10418/2005 | I.P.M. Pty Ltd | 11-19 Moree Street Gordon | Lateral Law | DA0240/05 | Deemed refusal of construction of two five-storey residential flat buildings over basement car parking containing 42 apartments and 81 car spaces | Abbott Tout | August 2, 2005 | October, 4, 2005 | Amended proposal approved subject to conditions | Refusal | refused | -5 |
| 4 | June 20, 2005 | 10611/2005 | Arkibuilt Pty Ltd | 2-8 Milray Street & 10 Havilah Lane Lindfield | Maddocks | DA0282/05 | Deemed Refusal of demolition of five existing dwellings and construction of a Residential Flat Building of 72 units and basement parking | Deacons | 2, 3 & 4 November 2005 | December 23, 2005 | Amended proposal approved subject to conditions | Refusal | Refused | 44872 |
| 5 | July 15, 2005 | 10780/2005 | Project Venture Development No 11 Pty Ltd | 589 Pacific Highway & 32 Marian St Killara | N/A | DA1415/04 | Deemed refusal of demolition of 2 houses and construction of a residential block of 16 units pursuant to LEP 194 | Abbott Tout | 3 & 4 November 2005 | November 3, 2005 | Upheld | Refusal | Refused | 1339 |
| 6 | September 15, 2005 | 11068/2005 | Pyramid Pacific Pty Limited [formerly Grant Rickey] | 8-12 Nola Road Roseville | Maddocks | DA1333/04 | Refusal of residential flat building (LEP194) | Deacons | 16 & 17 February 2006 | May 3, 2006 | Appeal Upheld with modifications | Approval | Refused | 7820 |

| | | | | | | | | | | | | | | |
|-------------------|-------------------------------|------------|-----------------------|--------------------------------------------------------------------|-----------------------------|-------------|-------------------------------------------|--------------|--------------------|-------------|-----------------------|----------|----------|---------|
| 7 | October 19, 2005 | 11234/2005 | Tenacity Investment | 2-4 Everton Street & 2 Pymble Avenue, Pymble | Sattler Associates | DA0657/05 | Deemed refusal of townhouses and resid | Phillips Fox | 21 & 22 March 2006 | May 3, 2006 | Amended proposal appr | Refusal | Refused | 4475 |
| 8 | February 15, 2006 | 10120/06 | Chris Irwin | 8-18 McIntyre Street Gordon | Bourke Love McCartney Young | DA1360/05 | Deemed refusal of demolition of 6 dwellin | Abbott Tout | | | Discontinued | Approval | Approved | 911 |
| 9 | May 12, 2006 | 10378/2006 | Carrington Turramurra | 15-19 Turramurra Avenue, and 1 & 1A Wonga Wonga Street, Turramurra | Hunt & Hunt | DA0068/2006 | Deemed refusal of demolition of existing | Deacons | | | Discontinued | Approval | Approved | 3376 |
| 9 | Total Residential Appartments | | | | | | | | | | | | | 64,397 |
| Total Legal Costs | | | | | | | | | | | | | | 187,782 |

I

TENDER FOR GENERAL STATIONERY, PAPER, TONERS & ENVELOPES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek Council's approval to accept the NSROC tender for general stationery and paper for the period 2006/2009.

BACKGROUND:

Tenders for general stationery, paper, toners and envelopes were called by NSROC in August 2006 on behalf of all member Councils.

COMMENTS:

Tenders received for 2006/2009 resulted in Complete Office Supplies being the preferred candidate for general stationery and paper.

RECOMMENDATION:

That the tender rates be accepted, tenderers be advised of Council's decision and that the Common Seal be affixed to the contract.

PURPOSE OF REPORT

To seek Council's approval to accept the NSROC tender for general stationery and paper for the period 2006/2009.

BACKGROUND

Tenders for general stationery, paper, toners and envelopes were called in August 2006 by the Northern Sydney Regional Organisation of Councils (NSROC) and advertised in the framework of the NSW Government Tendering Regulations.

Although the tender was called by NSROC, each Council will enter into individual contracts with the successful tenderers. Tenders were received from the following 12 companies:

1. Complete Office Supplies
2. Corporate Express
3. Moore Business Systems
4. Ram Office Products
5. Surry Office National
6. Protone Office Supplies
7. Vital Office Supplies
8. Enigma
9. National Laser Consumables
10. Fuji Xerox
11. Michael May Pty Ltd
12. Candida Envelopes Pty Ltd

It should be noted that some companies did not bid for all categories.

COMMENTS

The tenders have been assessed by a Tender Review Committee from Finance & Business. Complete Office Supplies has provided the best value for money over the life of the agreement considering commercial, quality, delivery and relevant technical criteria. As part of the evaluation process, mandatory and weighted supplies selection criteria were developed by the regional teams. Complete Office Supplies have offered additional incentive discounts for use of the Cosnet web-based ordering system. Complete Office Supplies offer the following benefits to Council:

- Cost savings for categories
- Incentive discount

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S03845
6 November 2006

- Complete Office Supplies is the current incumbent supplier for Council and understands Council's requirements and are also able to provide support to the buy on line programme by providing compatible URL graphics and pricing information.
- Complete Office Supplies will work with Council in investigating supplies of any alternative products if relevant.
- Improved Account Management. Complete Office Supplies has allocated a new representative to Council's account to form a better strategic alliance between Council and Complete Office Supplies.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The rate supplied will be utilised to provide the best value for money for Council during the whole of life period.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Complete Office Supplies are proposed to be the supplier for the general stationery and paper for the period 2006/2009. It should be noted that Complete Office Supplies has carried out their role in a professional manner in past years and offers cost savings to Council. It should be further noted that Council will not be entering into agreements for toners and envelopes and will be staying with our current suppliers.

RECOMMENDATION

- A. That the tender submitted by Complete Office Supplies for general stationery and paper for the period 2006/2009 be accepted.
- B. That the tenderers be advised of Council's decision.
- C. That authority be given to the Mayor and General Manager to affix the Common Seal of the Council to the Contract for general stationery and paper.

Bill Bright
Manager Procurement/Accounts Payable

John Clark
Acting Director Finance & Business

Attachments: Weighted Criteria Matrix (Confidential)

COMMEMORATIVE COUNCIL MEETING

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To request Council to hold an Extraordinary Meeting of Council on Friday, 8 December 2006 to commemorate 100 years since the first Council Meeting was held in Ku-ring-gai.

BACKGROUND:

The first Meeting of the Council of the Shire of Ku-ring-gai was held on 8 December 1906.

COMMENTS:

An Extraordinary Meeting of Council will mark exactly 100 years since the first meeting of the Ku-ring-gai Shire Council.

RECOMMENDATION:

That an Extraordinary Meeting of Council be held at 5.30pm on Friday, 8 December 2006 to commemorate 100 years since the first Council Meeting was held in Ku-ring-gai.

PURPOSE OF REPORT

To request Council to hold an Extraordinary Meeting of Council on Friday, 8 December 2006 to commemorate 100 years since the first Council Meeting was held in Ku-ring-gai.

BACKGROUND

The first meeting of Ku-ring-gai Shire Council was held on December 8, 1906, at the parish hall at Gordon. On significant anniversaries of Council, a special or extraordinary meeting has been held to mark the milestone.

COMMENTS

An Extraordinary Meeting of Council will mark exactly 100 years since the first meeting of the Ku-ring-gai Shire Council. The Governor of NSW will be in attendance. The meeting will follow a similar format to previous commemorative meetings in acknowledging and appreciating the role played by Councillors, Staff and the community in the shaping of the local government area. Minutes of the Meeting will be taken as per normal practice.

This meeting will be followed by the launch of the historical publication 'Under the Canopy', the awarding of the winners of the Centenary Schools Essay Competition and a dramatic interpretation of Ku-ring-gai's history by a young person's theatre group.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

That an Extraordinary Meeting of Council be held on Friday, 8 December 2006 commencing at 5.30pm on Friday, 8 December 2006 to commemorate 100 years since the first Council Meeting was held in Ku-ring-gai.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

NOTICE OF MOTION

COMMUNITY RELATIONSHIP WITH A COUNTRY COUNCIL

Notice of Motion from Councillor E Malicki dated 31 October 2006.

In line with a decision made unanimously by delegates present at the Local Government Association Conference at Leura, 31st October 2006.

I move:

"That Ku-ring-gai Council enters into a Community Relationship with a NSW Country Council with a view to assisting that community in the current drought conditions.

That we do this in consultation with the Local Government and Shires Associations who can assist us in selecting a suitable country community with whom to join in such a relationship.

I further move that we set up a committee to facilitate this process and include members of our community in the planning".

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cr Elaine Malicki
Councillor for Comenarra Ward